

PRELIMINARY VERSION

UNEDITED

The preliminary version of this legislative summary is made available to parliamentarians, parliamentary staff and the public to ensure timely access to the information, research and analysis needed to study the bill in question. The official version of the legislative summary, which may differ from this unedited version, will replace this document on the Parliament of Canada website.



Legislative Summary

BILL C-65: AN ACT TO AMEND THE CANADA ELECTIONS ACT

44-1-C65-E

24 May 2024

Andre Barnes and Laurence Brosseau

Research and Education

PRELIMINARY VERSION

UNEDITED

AUTHORSHIP

24 May 2024	Andre Barnes	Legal, Social and Indigenous Affairs
	Laurence Brosseau	Legal, Social and Indigenous Affairs

ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

For clarity of exposition, the legislative proposals set out in the bill described in this legislative summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the Senate and House of Commons and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent and come into force.

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2024

Legislative Summary of Bill C-65
(Preliminary version)

44-1-C65-E

Ce document est également publié en français.

CONTENTS

1	BACKGROUND	1
2	DESCRIPTION AND ANALYSIS.....	2
2.1	Alternative Voting (Clauses 3 and 115).....	2
2.1.1	Tests Relating to Alternative Voting	2
2.1.2	Transitional Provision.....	2
2.2	List of Returning Officers in the <i>Canada Gazette</i> (Clause 4)	3
2.3	Scheduling the Election Date and Alternate Days (Clauses 5, 6 and 8).....	3
2.3.1	Election Dates (Clause 5)	3
2.3.2	Alternate Dates for a General Election (Clause 6)	3
2.4	Nomination of Candidates (Clauses 7, 8, 9, 10 and 11).....	4
2.4.1	Collecting Signatures from Electors (Clause 7)	4
2.4.2	Differentiated Periods for Filing of Nomination Papers (Clause 8)	5
2.4.3	Earlier Closing Day for Nominations (Clause 9)	5
2.4.4	Longer Period to Confirm or Refuse Nomination Papers (Clause 10)	5
2.4.5	Longer Period for Production of Notice of Name to Appear on Ballot (Clause 11)	5
2.5	Lists of Electors (Clauses 14, 16, 18 and 19).....	6
2.5.1	Conditions for Receipt by Eligible or Registered Parties of Preliminary Lists (Clause 14)	6
2.5.2	Lengthened Period for Revision of Preliminary Lists of Electors (Clause 16)	6
2.5.3	Revised Timelines for Lists of Electors (Clause 18)	7
2.5.4	Electors May Request Exclusion from Lists Used by Parties, Members or Candidates (Clause 19)	7
2.6	Materials to Be Provided to Election Officers (Clause 20)	8

PRELIMINARY VERSION

UNEDITED

2.7	Transfer Certificates for Electors (Clauses 28 and 30).....	8
2.8	Reporting on Regulated Fundraising Events (Clauses 63 and 64).....	8
2.8.1	Location of Regulated Fundraising Events (Clause 63)	8
2.8.2	Eliminating the Return of Non-compliant Contributions (Clause 64)	9
2.9	Eliminating Quarterly Allowances to Eligible Registered Parties (Clause 72)	9
2.10	Additional Days When Advance Polling Stations to Be Open (Clauses 29, 31, 32 and 33).....	9
2.11	Polling Stations Consisting of a Long-Term Care Institution or Part of an Institution (Clauses 2, 15, 17, 21, 22, 23, 24, 26 and 107)	10
2.11.1	Constituting a Polling Station in a Long-Term Care Institution or Part of an Institution (Clauses 2 and 21).....	10
2.11.2	Days and Hours a Polling Station in an Institution May Be Open (Clause 21)	11
2.11.3	Notice for Electors Whose Polling Station Is in an Institution (Clause 15(2))	11
2.11.4	Opening and Closing a Polling Station Constituted in a Long-Term Care Institution (Clauses 26 and 83).....	11
2.11.5	Voter Identification at a Polling Station Constituted at a Long-Term Care Institution: Proving a Voter's Identity Only and Not Their Residence (Clause 23)	13
2.11.6	Consequential Amendments (Clauses 15(1), 17, 22, 24 and 107).....	17
2.12	Electors Requiring Assistance to Vote (Clauses 27, 38, 43 and 84).....	17
2.13	Rules Relating to Special Ballots (Clauses 34, 35, 36, 37, 40, 41, 42 and 109).....	18
2.13.1	Application for Registration and Special Ballot (Clauses 34 and 35).....	18
2.13.2	Exceptions for Electors Voting by Special Ballot (Clause 36)	19
2.13.3	Solemn Declaration for Special Ballot Voting (Clauses 109(1) and 109(2)).....	19
2.13.4	Transmission of Special Ballots (Clause 37)	20
2.13.5	Installation of Ballot Boxes for Special Ballots (Clause 37)	20

PRELIMINARY VERSION
UNEDITED

2.13.6	Ballot Boxes for Special Ballots at the Close of Polling Stations (Clause 37)	20
2.13.7	Rejection of Ballots (Clause 40)	21
2.13.8	Added Prohibitions Related to Special Ballots (Clauses 42(1) and 42(2))	21
2.14	Voting on the Premises of Post-secondary Educational Institutions (Clause 39)	22
2.14.1	Establishing Offices for Special Ballot Voting at Post-secondary Educational Institutions	22
2.14.2	Days and Hours of Operation of Offices	22
2.14.3	Application and Voting in Offices	22
2.15	Protection by Parties of Personal Information and Privacy	23
2.15.1	Definition, Purpose, Allowance and Compliance (Clauses 65 and 71)	23
2.15.2	Required Contents of a Party's Policy for the Protection of Personal Information (Clauses 66 and 71)	24
2.15.3	Significant Harm: Definition and Factors (Clause 71)	25
2.15.4	Meetings Convened by the Chief Electoral Officer Regarding Protecting Personal Information (Clause 71)	25
2.15.5	Protection of Personal Information Policy and Registration (Clauses 67 and 68)	26
2.15.6	Yearly Confirmation of Registration (Clause 69)	27
2.15.7	Transitional Provisions (Clauses 116 and 117)	27
2.16	New Prohibitions and Modification to Existing Prohibitions	28
2.16.1	False or Misleading Information, Impersonation and Unauthorized Use of a Computer (Clauses 12, 13 and 78 to 82)	28
2.16.1.1	New and Expanded Prohibitions and Offences	28
2.16.1.2	Applicable Offences, Regardless of the Manner or Medium	29
2.16.2	Foreign Influence in the Electoral Process (Clauses 44 and 46)	30
2.16.3	Acceptance or Use of Certain Contributions (Clauses 61, 70, 73 to 75, 77 and 88)	30
2.16.4	Regulated Fundraising Events (Clause 89)	31
2.17	Regime Applicable to Third-Party Expenses	31
2.17.1	Expansion of Certain Definitions (Clauses 48, 50 and 55)	32
2.17.2	Prohibition on the Use of Certain Contributions (Clauses 47, 49 and 85)	32

PRELIMINARY VERSION

UNEDITED

2.17.3	Registration Threshold and Source of Contributions (Clauses 51 to 54, 56, 58, 59, 86 and 87).....	33
2.17.3.1	Pre-election Period.....	33
2.17.3.2	Election Period.....	34
2.17.4	Third-Party Expense Returns (Clauses 52, 57 and 60).....	35
2.17.4.1	Pre-election Period (First Interim Third-Party Expenses Return)	35
2.17.4.2	Election Period (Third Interim Third-Party Expenses Return)	35
2.17.4.3	Post-election Period (Third-Party Expenses Return).....	36
2.18	Provisions Related to the Administration and Enforcement of the <i>Canada Elections Act</i>	36
2.18.1	Punishment (Clause 90)	36
2.18.2	Regime of Administrative Monetary Penalties (Clauses 92 and 94).....	37
2.18.3	Conspiracy, Attempt, Accessory After the Fact or Counselling in Relation to an Offence (Clauses 76, 91, 92, 96 to 102, 106 and 108).....	38
2.18.4	Related Amendments (Clauses 95, 103 and 104).....	40
2.19	Chief Electoral Officer Reports to the House of Commons (Clauses 110 to 114).....	41
2.19.1	Three-Day Polling Period (Clause 110)	41
2.19.2	Allowing Electors to Vote at Any Place in Their Polling Station (Clause 111)	41
2.19.3	Allowing Electors to Vote at Any Polling Station in Their Electoral District (Clause 112)	41
2.19.4	Determining Whether a Political Party Has Among Its Fundamental Purposes the Promotion of Hatred (Clause 113)	42
2.20	Interpretation (Clause 118)	42
2.21	Application and Coming into Force (Clauses 119 and 120).....	42

LEGISLATIVE SUMMARY OF BILL C-65: AN ACT TO AMEND THE CANADA ELECTIONS ACT

1 BACKGROUND

Bill C-65, An Act to amend the Canada Elections Act (short title: Electoral Participation Act), was introduced in the House of Commons on 20 March 2024 by the Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs.¹

The bill amends the *Canada Elections Act* (CEA) to accomplish several distinct legislative objectives, including:

- providing for two additional days of advance polling;
- moving the next fixed election date;
- regulating voting at long-term care institutions;
- updating the process for voting by mail (special ballot);
- regulating voting at post-secondary educational institutions;
- amending the requirements relating to political parties' policies for the protection of personal information;
- amending or creating new prohibitions pertaining to the electoral process;
- amending the regime applicable to third-party financing;
- granting new powers to the Commissioner of Canada Elections (CCE); and
- requiring the Chief Electoral Officer (CEO) to report to Parliament on potential changes to the electoral process.

Some of the amendments made to the CEA by the bill stem from or are based on recommendations from the CEO's report *Meeting New Challenges: Recommendations from the Chief Electoral Officer of Canada following the 43rd and 44th General Elections*² and the CCE's report *Recommendations Report: 2019 and 2021 General Elections*³.

Further, certain elements found in Bill C-65 were originally contained in Bill C-19, An Act to amend the Canada Elections Act (COVID-19 response),⁴ which was introduced in the 2nd Session of the 43rd Parliament but did not receive Royal Assent. These elements include the process for in-person voting for electors who live at institutions where seniors or persons with a disability reside, special ballot voting rules for electors residing in Canada, and extending election day to a three-day period.

2 DESCRIPTION AND ANALYSIS

Bill C-65 consists of 120 clauses. This section describes the bill's key legislative amendments, but does not examine each individual provision.

2.1 ALTERNATIVE VOTING (CLAUSES 3 AND 115)

2.1.1 Tests Relating to Alternative Voting

Currently, the CEO is authorized under section 18.1 of the CEA to carry out studies on voting for future use in an election. The areas of study include alternative voting means and voting technology for electors with a disability.

Clause 3 amends current sections 18.1(1), 18.1(2) and 18.1(3) of the CEA to stipulate that the CEO's tests may be used in "one or more future elections," as compared to the current "in an election."

Under current section 18.1(4) of the CEA, any alternative voting process and/or voting technology resulting from such tests may not be used in an election without receiving the prior approval of the designated committees of the Senate and House of Commons. Clause 3 revises this requirement to include that an alternative voting process or voting technology that has received the approval for use by the designated Senate and House committees may be used in one or more elections held within six years after the approval was granted.

In addition, clause 3 creates new section 18.1(5) of the CEA, which requires the CEO to notify the designated Senate and House committees of the election in which an alternative voting process or new voting technology will be used and how it will be used. Further, new section 18.1(6) allows the CEO to make minor technical or operational modifications to an approved alternative voting process or new voting technology.

2.1.2 Transitional Provision

Clause 115 ensures that any alternative voting process or voting technology approved for use under section 18.1(4) of the CEA during the 44th Parliament may be used in one or more elections held within six years after the day on which the approval is granted. The use of such processes or technology is contingent on their adherence to new sections 18.1(5) and 18.1(6) of the CEA, as amended by clause 3.

2.2 LIST OF RETURNING OFFICERS IN THE *CANADA GAZETTE*
(CLAUSE 4)

Clause 4 amends section 25 of the CEA to prescribe the information that must be published in the *Canada Gazette* about every returning officer (RO), yearly between 1 and 20 January. Under current section 25 of the CEA, the list must contain the RO's name, address and occupation. Clause 4 amends this requirement to be their name, municipality (or equivalent) and province of residence.

2.3 SCHEDULING THE ELECTION DATE AND ALTERNATE DAYS
(CLAUSES 5, 6 AND 8)

2.3.1 Election Dates
(Clause 5)

Under current section 56.1 of the CEA, the fixed election date is the third Monday of October in the fourth calendar year following the date of the last general election, notwithstanding the Governor General's discretionary power to dissolve Parliament at any time.

Clause 5 amends current section 56.1(2) of the CEA to prescribe that a fixed date election held in 2025 is to occur on Monday, 27 October 2025, instead of Monday, 20 October 2025. The reason given for this change is that 20 October 2025 falls during the religious holiday of Diwali.⁵ A notable effect of pushing back the fixed date of a 2025 general election to 27 October 2025 is that, under the terms of the *Members of Parliament Retiring Allowances Act*, a number of current members of the House of Commons could qualify to receive a pension, who would not otherwise qualify for one, if the election were held on 20 October 2025. This is because a member of the House qualifies to receive a pension upon accumulating six years of service. The 2019 federal general election was held on 21 October 2019.

Members of Parliament (MPs) receive a pension, but in order to be vested in the plan they must have at least six years of service. Any MP elected in 2019 would need to have reached that six-year mark if the election were held on 20 October 2025, but will have reached that cut-off on 27 October, the new proposed date.

2.3.2 Alternate Dates for a General Election
(Clause 6)

Clause 6 makes several changes to the CEO's power to recommend an alternate date for a general election. Current section 56.2(1) empowers the CEO to recommend to the Governor in Council an alternate election date in cases where the Monday, provided by section 56.1(2), is not suitable for a general election (e.g., in conflict with a day of cultural or religious significance, or a provincial or municipal election).

Clause 6 adds that in recommending an alternate date, the CEO must do so no later than 1 March in the year prior to the year in which the election is to be held, and must provide reasons for this recommendation.

Clause 6 creates new section 56.2(1.1), which clarifies that, prior to recommending an alternate election date, the CEO may hold any consultations considered appropriate.

Under current section 56.2(2), the CEO's recommended alternative date must be published in the *Canada Gazette*. Clause 6 adds that the reasons for the recommendation must also be so published.

Further, clause 6 expands the limitations on the date that the CEO may select as an alternate election date. Current section 56.2(4) of the CEA provides that the alternate date can be only one of two days: either the Tuesday immediately following the Monday that would otherwise be election day, or the Monday of the following week. Clause 6 adds that, in addition to the Tuesday, the alternate election date may also be on a Monday two weeks before or after the week in which the election would otherwise be held.

Under current section 56.2(5) of the CEA, the Governor in Council has until 1 August in the year of the election to accept the CEO's recommendation, and make an order to that effect. Clause 6 amends this deadline to 1 September in the year of the election.

New section 56.2(6) adds that, in the case where the CEO's recommended alternate election date is rejected by the Governor in Council, the CEO will exercise any powers conferred to that role by the CEA to enable electors to exercise their right to vote.

2.4 NOMINATION OF CANDIDATES (CLAUSES 7, 8, 9, 10 AND 11)

2.4.1 Collecting Signatures from Electors (Clause 7)

Clause 7 amends sections 66(1)(e) to 66(1)(g) to remove the obligation to have a witness present when a prospective candidate collects the names, addresses and signatures of electors' resident in the relevant electoral district. Further, it reduces the number of signatures required, from 100 to 75, from electors residing in electoral districts not found in Schedule 3 of the CEA.⁶

2.4.2 Differentiated Periods for Filing of Nomination Papers
(Clause 8)

Current section 67(1) of the CEA provides that nomination papers must be filed at any time between the date of the issue of the Notice of Election and the close of nominations. Clause 8 amends section 67(1) to create two distinct periods during which a prospective candidate must file their nomination paper with the relevant RO, depending on whether the general election is held on the fixed date prescribed by section 56.1(2) or 56.2 of the CEA.

Clause 8 retains the period for elections held outside of the prescribed fixed date (i.e., any time between the date of the issue of the Notice of Election and the close of nominations). It further adds that, for a general election held on the fixed date prescribed by the CEA, nomination papers must be filed during the period that begins on the first day of the pre-election period and ends on the closing day for nominations.

2.4.3 Earlier Closing Day for Nominations
(Clause 9)

Clause 9 amends section 69 of the CEA to move up the closing day for candidates to file their nomination papers. Under current section 69 the CEA, the closing day for nominations is Monday, the 21st day before election day. Clause 9 amends section 69 to make the closing day Saturday, the 23rd day before election day.

2.4.4 Longer Period to Confirm or Refuse Nomination Papers
(Clause 10)

Clause 10 amends current section 71(1) of the CEA to lengthen the period for a RO to give a prospective candidate notice of the confirmation of their nomination or the refusal of it. Under current section 71(1) of the CEA, the RO must confirm or refuse a prospective candidate's nomination within 48 hours after the papers are filed. Clause 10 amends section 71(1) of the CEA to make this period 96 hours.

Further, clause 10 adds new section 71(4) to the CEA and prescribes that a confirmation of a nomination given during the pre-election period does not have effect until the date of the issue of the Notice of Election.

2.4.5 Longer Period for Production of Notice of Name to Appear on Ballot
(Clause 11)

Clause 11 amends section 71.1(5) of the CEA to lengthen the current period for an RO to give notice to a prospective candidate about whether the name that they are commonly known by (e.g., a nickname) will appear on the ballot instead of their name.

Currently, section 71.1(5) of the CEA prescribes that an RO has 48 hours after the nomination papers are filed to provide the prospective candidate with such a notice. Clause 10 amends section 71.1(5) of the CEA to make this period 96 hours.

2.5 LISTS OF ELECTORS
(CLAUSES 14, 16, 18 AND 19)

2.5.1 Conditions for Receipt by Eligible or Registered Parties of Preliminary Lists
(Clause 14)

Currently, section 93(1.1) allows all registered or eligible parties to request and receive preliminary lists of electors from the CEO.

Clause 14 amends section 93(1.1) of the CEA to add qualifications that must be met for a registered or eligible party to request and receive, from the CEO, preliminary lists of electors for an electoral district in which a writ has been issued. As amended by clause 14, section 93(1.1) adds that these parties may only receive preliminary lists if they:

- held a seat in the House of Commons on the day before the day the writ was issued;
- endorsed a candidate in one of the last two elections in a given electoral district; or
- endorsed candidates in at least two-thirds of all electoral districts in the preceding general election.

Further, clause 14 adds new section 93(1.2) to clarify the boundaries that a given electoral district may have had during one of the last two general elections. Section 93(1.2) allows that a candidate may have been endorsed by a party in an electoral district that was subsequently revised or created by the representation order under the *Electoral Boundaries Readjustment Act*. In these cases, the party is considered eligible to receive preliminary lists of electors, under amended section 93(1.1), should the electoral district coincide with all or part of the revised electoral district or new electoral district.

2.5.2 Lengthened Period for Revision of Preliminary Lists of Electors
(Clause 16)

Clause 16 amends current section 96(1) of the CEA to provide the CEO with an additional day to complete the revision of the preliminary lists of electors. Amended section 96(1) sets the end of the revision period as 6:00 p.m. on the 5th day before election day, whereas current section 96(1) requires this period to end at 6:00 p.m. on the 6th day before election day.

2.5.3 Revised Timelines for Lists of Electors
(Clause 18)

Clause 18 amends sections 105 and 106 of the CEA to revise dates of commencement or completion on which versions of the lists of electors must commence to be prepared by, be completed by, or the names therein determined by. The revised deadlines are for:

- the revised list of electors prepared by each RO for each polling division in an electoral district for use at the advance poll, which are amended by clause 18 to be on the 12th day before election day, instead of the 11th day under current section 105(1) of the CEA;
- the publication by the CEO of the number of names appearing on the revised lists of electors for each electoral district, which are amended by clause 18 to be not later than the 6th day before election day, instead of the 7th day under current section 105(2) of the CEA; and
- the preparation by each RO of the official list of electors for each polling station for use on election day, which is amended by clause 18 to commence after the 6th day before election day, instead of the 7th day under current section 106 of the CEA, while the date for completion remains as at current (i.e., no later than the 3rd day before election day).

2.5.4 Electors May Request Exclusion from Lists
Used by Parties, Members or Candidates
(Clause 19)

Current section 109 of the CEA requires the CEO to prepare the final lists of electors for each electoral district, as soon as possible after election day. The CEO must make these final lists available, in a format that includes electronic format, to each registered party that has endorsed a candidate in the electoral district and to the member who was elected for the electoral district in the last election.

Clause 19 adds new section 109.1(1) to the CEA, under which an elector may request in writing to have their name, address, and assigned identifier excluded, for five years, from lists made available to registered parties, eligible parties, members or candidates under enumerated sections of the CEA.

Clause 19 also adds new section 109.1(2) to the CEA, which requires the CEO to publish, yearly, in a manner that the CEO considers appropriate, the number of requests received by Elections Canada in the preceding year under section 109.1(1).

2.6 MATERIALS TO BE PROVIDED TO ELECTION OFFICERS
(CLAUSE 20)

Clause 20 amends sections 119(1)(g) and 119(1)(h) of the CEA to add to the materials an RO must provide to the election officers assigned to a polling station in the RO's electoral district. Amended section 119(1)(g) sets out that the RO must provide one or more ballot boxes for advance polling, rather than a single, separate ballot box for each day of advance polling. Amended section 119(1)(h) of the CEA sets out that the RO must provide the text of the oaths to be administered to electors, rather than the text of the solemn declarations to be made by electors.

2.7 TRANSFER CERTIFICATES FOR ELECTORS
(CLAUSES 28 AND 30)

Currently, under the CEA, the only persons eligible to request a transfer certificate to vote at another polling station are candidates, election officers, electors whose polling stations have moved, and electors who have a disability.

Clause 28 adds new section 158(3.1) to the CEA to allow an elector whose name appears on the list of electors for a polling station to request and receive a transfer certificate to vote at another polling station. The request may be granted provided the transfer certificate is for a polling station in the same electoral district, and the elector makes the requisite solemn declaration affirming that they are unable to attend their assigned polling station before its close.

Similarly, clause 30 adds new section 168.1(5) to the CEA, which operates identically to new section 158(3.1), except it is for an elector whose name appears on the list of electors for an advance polling station.

2.8 REPORTING ON REGULATED FUNDRAISING EVENTS
(CLAUSES 63 AND 64)

2.8.1 Location of Regulated Fundraising Events
(Clause 63)

Current section 384.3(13) of the CEA requires the CEO to publish reports, in the manner they consider appropriate, setting out information provided by registered parties about regulated fundraising events.

Clause 64 amends section 384.3(13) to circumscribe the information that can be published by the CEO concerning the location of previously held regulated fundraising events. Information on the location of the event can only provide the municipality, or its equivalent, and the province in which the event took place.

2.8.2 Eliminating the Return of Non-compliant Contributions
(Clause 64)

Clause 64 repeals section 384.4 of the CEA. This section requires that any contribution received at a regulated fundraising event that is not compliant with the required reporting and publishing obligations (sections 384.2 and 384.3 of the CEA) is to be returned to the contributor or paid to the CEO, on behalf of the Receiver General, within 30 days of becoming aware of the non-compliance.

2.9 ELIMINATING QUARTERLY ALLOWANCES
TO ELIGIBLE REGISTERED PARTIES
(CLAUSE 72)

Clause 72 repeals sections 445 and 446 of the CEA to eliminate the quarterly allowance payable to registered parties. Current section 445 sets out a computation for an allowance payable to registered parties whose candidates, in the most recent general election, garnered at least 2% of the number of valid votes cast in the country or 5% of the number of valid votes cast in an electoral district. Current section 446 sets out the process for payments of the quarterly allowances. This entails that registered parties, eligible to receive a quarterly allowance, must provide the documents required under the CEA to the CEO, the CEO providing a certificate to the Receiver General that contains an amount payable to a registered party, the Receiver General paying the registered party, and the party's ability to disburse the funds, in whole or in part, to any provincial or territorial division of the party.

2.10 ADDITIONAL DAYS WHEN ADVANCE POLLING STATIONS TO BE OPEN
(CLAUSES 29, 31, 32 AND 33)

Currently, advance polling stations are open for four days: on Friday, Saturday, Sunday and Monday, which are the 10th, 9th, 8th and 7th days, respectively, before election day.

Clause 31 amends section 171(2) of the CEA to provide for two additional days when advance polling stations will be open. It adds that an advance polling station will be open on the Thursday, the 11th day before election day, and the Tuesday, the 6th day before election day. Further, consequential amendments are made to the following sections of the CEA:

- clause 32(1) adds a 5th and 6th day to the process for opening an advance polling station (section 175(1)(b) of the CEA);
- clause 32(2) replaces four days of advance polling with six days, in respect of closing an advance polling station (section 175(2) of the CEA);

- clause 32(3) replaces four days of advance polling with six days, in respect of checking ballot box seals (section 175(4)(a) of the CEA); and
- clause 33 replaces Monday the 7th day with Tuesday the 6th day before election day, in respect of collecting the record of votes cast at an advance polling station (section 176(1) of the CEA).

Similarly, clause 29 amends section 168(8) of the CEA. Currently, it provides for advance polling stations in polling districts that consist of, or includes, remote, isolated or low-density communities. Clause 29 adds that, in those communities, an RO, who has received the approval from the CEO, may establish the advance polling station for that district, which will be open during the period that begins on the 11th day before election day and ends on the 6th day before election day, for the days and hours that the RO considers necessary to give electors in the district a reasonable opportunity to vote.

2.11 POLLING STATIONS CONSISTING
OF A LONG-TERM CARE INSTITUTION OR PART OF AN INSTITUTION
(CLAUSES 2, 15, 17, 21, 22, 23, 24, 26 AND 107)

Bill C-65 amends the current provisions of the CEA that relate to voting in long-term care institutions. Currently, the CEA sets out a process that allows voting by electors who live at institutions where seniors or persons with a disability reside. Section 538(5) of the CEA sets out that an RO, with the approval of the CEO, may constitute polling divisions that consist of two or more such institutions. Under current section 125(1) of the CEA, the RO can then establish a mobile polling station, to be located inside each of those institutions, which services the electors residing in them successively (i.e., the polling station moves from one facility to another).

2.11.1 Constituting a Polling Station in a Long-Term Care Institution
or Part of an Institution
(Clauses 2 and 21)

Clause 2 amends section 2(1) of the CEA (the interpretation and definitions section) to add, to the current definition of “polling station,” that a polling station can consist of a long-term care institution or part of the institution.

Clause 21 replaces the previously repealed section 124 of the CEA to provide for the establishment of polling stations, which consist of a single long-term care institution or part of that institution. New section 124(1) of the CEA requires the RO to constitute such a polling station upon receiving the approval to do so from the CEO under newly amended section 538(5) of the CEA.

Clause 21 also adds new section 124(4) to the CEA, which prescribes that the provisions in the CEA that relate to polling stations will, insofar as they are applicable, apply to a polling station established under new section 124(1), along with the instructions from the CEO and new section 125.01 of the CEA (proof of residency).

2.11.2 Days and Hours a Polling Station in an Institution May Be Open
(Clause 21)

New section 124(2) of the CEA provides that a polling station, established under section 124(1), can be open during a period starting on the 13th day before election day and ending on election day. The days and hours that such a polling station will be open are determined by the RO, having considered affording electors residing in the institution or part of the institution, as the case may be, a reasonable opportunity to vote. However, a polling station established under new section 124(1) cannot be open for a total of more than 12 hours during that period. New section 124(3) of the CEA requires the RO to give notice, in accordance with the instructions of the CEO, to the relevant candidates of the days and hours of such polling stations.

2.11.3 Notice for Electors Whose Polling Station Is in an Institution
(Clause 15(2))

Clause 15(2) creates new section 95(2.1) of the CEA and it prescribes the contents of the notice provided to electors whose polling station is in an institution. The form of the notice is established by the CEO and it must indicate:

- the address of the elector's polling station, and the accessibility status of the premises;
- the dates and hours during which the polling station is open;
- the dates, voting hours and locations of advance polling stations;
- the identification requirements to be allowed to vote; and
- a telephone number to call for more information.

2.11.4 Opening and Closing a Polling Station
Constituted in a Long-Term Care Institution
(Clauses 26 and 83)

Clause 26 creates new section 140.1 of the CEA to provide processes for the opening and closing of a polling station, and matters related to the use and handling of ballot boxes, in long-term care institutions.

PRELIMINARY VERSION

UNEDITED

New section 140.1(1) of the CEA assigns duties to an election officer assigned to a polling station in a long-term care institution, when opening the polling station. These duties must be carried out in full view of the candidates or their representatives who are present. On the first day the polling station is open, an election officer must:

- open the ballot box and ascertain that it is empty;
- seal the ballot box with the seals provided by the CEO; and
- place the ballot box on a table in full view of all present and, subject to section 157 of the CEA (elector who is confined to a bed), ensure that the box remains there until the polling station closes on that day.

On any subsequent day that the polling station is open, an election officer must place the ballot box on a table in full view of all present and, subject to section 157, ensure that the box remains there until the polling station closes on that day.

New section 140.1(2) of the CEA provides that upon closing the polling station in an institution, on each day that it is open, an election officer assigned to the polling station must, in full view of the candidates or their representatives who are present, take the measures necessary to ensure the integrity of the vote in accordance with the instructions given by the CEO.

New section 140.1(3) of the CEA allows for an additional ballot box to be used at a polling station in an institution, in cases where an election officer assigned to the polling station determines that, in accordance with the CEO's instructions, another ballot box is needed. In such cases, an election officer carries out the duties that are set out in sections 140.1(1) and 140.1(2) of the CEA (i.e., opening, sealing and placing the ballot box), while in full view of the candidates or their representatives who are present.

New section 140.1(4) of the CEA allows candidates or their representatives to make note of the serial numbers of the seals on ballot boxes at designated times. For a ballot box used at a polling station, note may be taken of the seals when the polling station closes and when votes are counted on election day. Further, for a ballot box placed on the table in a polling station, note may be taken of the seals upon it being placed there.

Under new section 140.1(5) of the CEA, an election officer must, in accordance with the CEO's instructions, keep in their custody any sealed ballot boxes until the time for counting of ballots on election day. Further, new section 140.1(6) makes other sections in the CEA applicable to ballot boxes used at polling stations in institutions. These sections concern the power given to an RO to recover a ballot box from an election officer, where the RO considers the action necessary to ensure the integrity of the vote.

Additionally, these sections concern the power given to the RO to obtain a warrant or telewarrant from a justice of the peace, upon satisfying conditions set out in the CEA, to enter a dwelling or vehicle without the occupant's or owner's consent, while being accompanied by a peace officer.

Section 489(3) of the CEA currently sets out voting offences requiring intent on the part of the perpetrator. Clause 83 creates new section 483(3)(b), currently repealed, to create an offence for an election officer who, with the intention of causing the non-reception of a vote that should have been cast or causing the reception of a vote that should not have been cast, fails to take required measures with respect to polling in a long-term care facility (contravention of new section 140.1(1), 140.1(2), 140.1(3) or 140.1(5)).

2.11.5 Voter Identification at a Polling Station
Constituted at a Long-Term Care Institution:
Proving a Voter's Identity Only and Not Their Residence
(Clause 23)

Currently, under the requirements in the CEA, a person must establish their identity and residence in order to register to vote, and vote. A person can establish their identity and residence by providing an election officer with:

- one piece of identification, issued by any level of government, containing a photograph and the name and address of the elector; or
- two pieces of identification, each of which establishes the elector's name, and at least one of which establishes the elector's address.

In the absence of acceptable identification, a person may still prove both their identity and residence by being administered a two-stage process:

- The elector can make a solemn declaration in writing in the form prescribed by section 549.1(1) of the CEA.
- Another elector whose name appears on the list of electors for the same polling station can vouch for the elector's identity and residence by making a solemn declaration in writing in the form prescribed by section 549.1(2) of the CEA.

Bill C-65 creates new section 125.01 of the CEA (clause 23) to provide for exceptions to the proof of residence requirements. A series of rules are established for electors whose place of ordinary residence is in an institution or part of an institution, in which a polling station is established. These rules apply to electors who wish to

PRELIMINARY VERSION

UNEDITED

vote, vouch for another elector, or register their name on the list of electors in person at the polling station. These rules are:

- An elector is not required to provide proof of residence under the following current sections of the CEA:
 - Section 143(2) – Whereby an elector must give their name and address to an election officer, or candidate’s representative upon request, in order to receive a ballot.
 - Section 161(1)(a) – Under which an elector, whose name is not on the list of electors, may register in person on election day before an election officer by providing the required piece or pieces of identification.
- An elector is not required to prove their residence under the following current sections of the CEA:
 - Section 143(3) – Under which the elector’s name and address appear on the list of electors, but that person does not have the requisite piece or pieces of identification. Instead, the elector may prove their identity and residence by making a solemn declaration in writing and another elector whose name appears on the list of electors for the same polling station can vouch for the elector’s identity and residence by making a solemn declaration in writing.
 - Section 144 – Under which an election officer, candidate or a candidate’s representative, having reasonable doubts about an elector’s qualifications to vote, may request that the person make the requisite solemn declaration in writing.
 - Section 147(1) – Which applies in cases where a person is disallowed from voting unless they make the requisite written solemn declaration because the person has asked for a ballot at a polling station after someone else has voted under that person’s name.
 - Section 148 – Which applies in cases where a person is disallowed from voting unless they make the requisite solemn declaration in writing because the person claims that their name has been crossed off in error from an official list of electors.
 - Section 161(1)(b) – Under which an elector whose name is not on the list of electors and is seeking to register in person on election day before an election officer but that person does not have the requisite piece or pieces of identification. Instead, the elector may prove their identity and residence by making a solemn declaration in writing and another elector whose name appears on the list of electors for the same polling station can vouch for the elector’s identity and residence by making a solemn declaration in writing.
 - An elector is not required to provide pieces of identification that contain that person’s address, establish the elector’s address, or contain an address that

PRELIMINARY VERSION

UNEDITED

proves the elector's residence or is consistent with information on the list of electors about the elector, under the following current sections of the CEA:

- Sections 143(2)(a) and 143(2)(b) – Under which the elector's name and address appear on the list of electors, and that person may receive a ballot after they provide the election officer with the required piece or pieces of identification.
 - Section 143(3)(a) – Under which the elector's name and address appear on the list of electors and the elector is allowed to vote but that person does not have the requisite piece or pieces of identification. Instead, the elector may prove their identity and residence by making a solemn declaration in writing and another elector whose name appears on the list of electors for the same polling station can vouch for the elector's identity and residence by making a solemn declaration in writing.
 - Section 161(1)(a) – Under which an elector whose name is not on the list of electors and is seeking to register, in person, on election day, before an election officer, and that person has the requisite piece or pieces of identification.
 - Section 161(1)(b)(i) – Under which an elector whose name is not on the list of electors and is seeking to register in person on election day before an election officer but that person does not have the requisite piece or pieces of identification. Instead, the elector may prove their identity and residence by making a solemn declaration in writing and another elector, whose name appears on the list of electors for the same polling station, can vouch for the elector's identity and residence by making a solemn declaration in writing.
- An elector who makes a solemn declaration in writing is not required to include the statement that the elector resides at the address at which they claim, when doing so under current section 143(3), 144, 147(1), 148 or 161(1)(b) of the CEA (these sections are explained above).
 - An elector who vouches for another elector by making a solemn declaration in writing is not required to include the statement that the other elector resides in a polling division assigned to the polling station, when doing so under current sections 143(3)(b) and 161(1)(b)(ii) of the CEA (these sections are explained above).
 - An elector is allowed to prove only their identity and not their residence under the following current sections of the CEA:
 - Section 143(3.01) – Under which an elector who vouches by a solemn declaration in writing for a person who resides in an institution and who wishes to prove their identity and residence to vote, may be an employee of the institution and resident in the elector's electoral district or an adjacent electoral district.
 - Section 143.1(1) – The requirement that an election officer advise the elector, in writing, of the qualifications for electors to vote and the penalty for fraudulent voting, prior to making a solemn declaration in writing.
 - Section 161.1(1) – The requirement that an election officer advise a person, seeking to register to vote on election day, in writing, of the qualifications for

electors to vote and the penalty for fraudulent voting, prior to making a solemn declaration in writing.

- Section 161(2) – Under which an elector, who vouches by a solemn declaration in writing for a person who resides in an institution and, who wishes to prove their identity and residence to register on election day, may be an employee of the institution and resident in the elector’s electoral district or an adjacent electoral district.
- An election officer is deemed to be satisfied, for the purposes of current section 143(4) of the CEA, that an elector’s residence has been proven and they may have their name crossed off the list of electors and be permitted to vote. Under section 143(4), an elector is not permitted to vote until the election officer is satisfied that their identity and residence have been proven under the mechanisms provided by the following current sections of the CEA:
 - Section 143(2) – Providing proof of identification and residence.
 - Section 143(3) – Proving identification and residence by making a solemn declaration in writing while being vouched for by an eligible elector.
 - Section 143(3.1) – Having an elector’s residence deemed proven should that person’s piece or pieces of identification be consistent with the information found on the list of electors.
 - Section 143(3.2) – Proving an elector’s residence by making a solemn declaration in writing while being vouched for by an eligible elector, in cases where an election officer, candidate or candidate’s representative has doubts about the elector’s residence.
- A solemn declaration in writing made by an elector does not need to include the statement that the person resides at the address at which they claim to reside under the following current sections of the CEA:
 - Section 146 – Under which a person asking for a ballot must take a solemn declaration, in writing, to be eligible to vote, should their name and address not appear on the list of electors but a different name and address in that list corresponds so closely as to suggest that they are intended to refer to that person.
 - Section 161(4) – Under which an elector, who registers to vote on election day by proving their identity and residence, receives from an election officer a registration certificate that includes a solemn declaration in writing, which authorizes them to vote.
- An elector may be given a ballot and be allowed to vote, under current section 148.1(1) of the CEA, by only proving their identity, and not their residence. Under current section 148.1(1), those who do not prove their identity and residence by using a piece or pieces of identification and refuse to make a solemn declaration in writing while being vouched for by an eligible elector, cannot receive a ballot or be allowed to vote.

2.11.6 Consequential Amendments
(Clauses 15(1), 17, 22, 24 and 107)

Bill C-65 also makes a series of consequential amendments to the CEA to allow voting at a polling station that consists of a long-term care institution or part of an institution. These are:

- clause 15(1) amends section 95(2) of the CEA (form of notice of confirmation of registration) to add a reference to the newly created section 95(2.1);
- clause 17 amends section 102 of the CEA (notice of confirmation of registration – name has been added to a preliminary list of electors during the revision period) to add a reference to the newly created section 95(2.1);
- clause 22 amends section 125(4) of the CEA (provisions applicable to mobile polls) to add a reference to newly created section 125.01 and to replace the term “ordinary polls” with “polling stations”;
- clause 24 amends section 127(a) of the CEA (voting opportunities – manner of voting) to add that a person may also vote at a polling station established in an institution or part of an institution; and
- clause 107 amends section 538(5) of the CEA (polling divisions – institutions) to reflect that an RO, with the approval of the CEO, may constitute polling divisions that consist of one or more institutions or part of an institution.

2.12 ELECTORS REQUIRING ASSISTANCE TO VOTE
(CLAUSES 27, 38, 43 AND 84)

Current section 155(1) of the CEA requires that for a person to assist an elector who requires assistance to vote, that person must be a friend, spouse or common-law partner, or a relative or the relative of their spouse or common-law partner. Clause 27(1) amends section 155(1) to remove the personal relationship requirements for a person to qualify as someone who may give assistance to an elector who requires it to vote. Under the amendment, any person may assist an elector to vote.

Clause 43 repeals section 282(1) of the CEA to remove the prohibition against the same person, acting as a friend, from assisting more than one elector who requires assistance to vote, at a polling station, on election day. It also removes the prohibition against a person who assists an elector who requires assistance to vote from, directly or indirectly, disclosing the name of the candidate for whom the elector voted or that candidate’s political affiliation.

Clause 27(2) amends section 155(3) of the CEA to delete, from the solemn declaration form, the statement that an elector, who assists another elector to vote, cannot have assisted another person, as a friend, to mark a ballot. Clause 38(2) amends section 243.01(1) of the CEA in an identical fashion as clause 27(2), except its application is for voting by special ballot.

Clauses 27(1) and 38(1) make identical consequential amendments, to sections 155(1) and 243.01(1) of the CEA, respectively, to replace the wording “one of the following persons” with “a person.”

Clause 84 repeals section 491.1(i) of the CEA to remove the prohibition against a person having assisted more than one elector who needs assistance to vote, at a given election, from the list of offences under the CEA.

2.13 RULES RELATING TO SPECIAL BALLOTS
(CLAUSES 34, 35, 36, 37, 40, 41, 42 AND 109)

Part 11 of the CEA, “Special Voting Rules,” currently provides a separate process of voting during a general election for the following groups of electors who vote by a special ballot:

- Canadian Forces electors (Part 11, Division 2);
- Canadian electors temporarily residing outside of Canada (Part 11, Division 3);
- electors residing in Canada who wish to vote in accordance with the special voting rules (Part 11, Division 4); and
- incarcerated electors (Part 11, Division 5).

Of these divisions, Bill C-65 amends aspects of Division 4 of Part 11 of the CEA, which enables voters residing in Canada to vote by special ballot. The special ballot is available to electors who cannot or do not wish to cast a ballot at an ordinary or advance poll. With a special ballot, an elector residing in Canada can vote, by mail or in person, at any Elections Canada office.

2.13.1 Application for Registration and Special Ballot
(Clauses 34 and 35)

To vote under Division 4 of Part 11 of the CEA, an elector must complete an application for registration and special ballot, which must then be accepted by the RO or the special voting rules administrator.

Clause 35 amends section 232(1) of the CEA to provide that an elector may submit their application for registration and special ballot in writing or in electronic form, provided that it is received by the RO or the special voting rules administrator before 6:00 p.m. on the 6th day before election day.

Clause 34 amends section 224 of the CEA to change the wording in the application for registration and special ballot, from “The address chosen” as the elector’s place of ordinary residence in Canada to “The address indicated” as the elector’s place of ordinary residence in Canada.

2.13.2 Exceptions for Electors Voting by Special Ballot
(Clause 36)

Current section 235 of the CEA sets out that once an elector’s application for registration and special ballot under Division 4 has been accepted, they may only vote by special ballot under this Division.

Clause 36 amends section 235 to provide exceptions to this rule. Thus, even if an elector’s application for registration and special ballot under Division 4 has been accepted, the elector may vote under another Division of the CEA if authorized to do so by the RO, makes a solemn declaration in writing, or if the elector returns their special ballot to a designated election officer in person at one of three authorized places. These places are:

- the RO’s office in the elector’s electoral district;
- the elector’s advance polling station; or
- the elector’s polling station.

2.13.3 Solemn Declaration for Special Ballot Voting
(Clauses 109(1) and 109(2))

Current section 549.1 of the CEA prescribes the application and contents of the solemn declaration by which an elector can prove their identity and residence, residence only, that they are qualified as an elector or that they have not previously voted at the election.

Clause 109(1) amends section 549.1(1) to add a reference to making a solemn declaration in writing to vote using a special ballot. Clause 109(2) amends section 549.1(1)(d) of the CEA to amend the statement in which the elector solemnly declares in writing that they have not previously voted in the election. The amendment adds that the elector will not vote more than once in the election, including by using a special ballot.

2.13.4 Transmission of Special Ballots
(Clause 37)

Current section 239(2) of the CEA provides that an elector whose application for registration and special ballot was accepted in their electoral district must ensure that the ballot is received at the office of the RO who accepted their application before the close of the polling stations on polling day. However, current section 239(2) does not provide how the special ballot is to be transmitted to that RO.

Moreover, as part of the process for voting by special ballot, the elector is required to place the completed special ballot in an unmarked inner envelope, provided by Elections Canada, and seal then seal the envelope. Next, the elector places this inner envelope into an outer envelope, which displays information about the elector including a declaration, date and the elector's signature, and then seals the outer envelope.

Clause 37 amends section 239(2) of the CEA to provide that an elector voting by special ballot may send the sealed outer envelope of the special ballot to the RO by mail or any other means. Further, the elector may deposit the sealed outer envelope in a ballot box designated for the deposit of outer envelopes at a polling station in the elector's polling district before the closing of the polling stations on election day.

2.13.5 Installation of Ballot Boxes for Special Ballots
(Clause 37)

Clause 37 adds new section 239(2.1) to the CEA to require the RO to install a ballot box for use by electors who are depositing outer envelopes of special ballots. These ballot boxes can be accessed during voting hours on election day in each polling station in the electoral district, except polling stations within locations specified by the CEO.

In respect of locations that do not have ballot boxes for special ballots, the CEO must, prior to the 6th day before election day, publish a list of locations where a ballot box for the deposit of outer envelopes is not to be installed. The list must be published on Elections Canada's website and in the *Canada Gazette*.

2.13.6 Ballot Boxes for Special Ballots at the Close of Polling Stations
(Clause 37)

Clause 37 adds new section 239(2.3) to the CEA to provide a process for handling outer envelopes deposited in ballot boxes for special ballots at the close of a polling station. An election officer who is assigned to the polling station must, in full view of the candidates or their representatives who are present, fulfill the measures set out in the instructions provided by the CEO, which the CEO considers necessary to ensure the integrity of the vote.

2.13.7 Rejection of Ballots
(Clause 40)

When voting by special ballot, the elector must write the name of the candidate that they are voting for in the blank space provided. Candidates' names do not appear on special ballots as candidates are not currently required, under the CEA, to file their nomination papers until three weeks before election day. As such, only the ballots at advance polls and on election day have the candidate's names on them.

Special ballots that are duly received are counted by special ballot officers, under the supervision of the Special Voting Rules Administrator and staff at Elections Canada. Currently, section 269(1) of the CEA provides following reasons for which special ballot officers may reject a special ballot:

- has not been supplied by the CEO;
- is not marked;
- is marked with a name other than the name of a candidate;
- is marked with the names of more than one candidate; or
- there is any writing or mark on it by which the elector could be identified.

Section 269(2) CEA further notes that a special ballot cannot be rejected for the sole reason that the elector has incorrectly written the name of a candidate, if the ballot clearly indicates the elector's intent.

Clause 40 adds new section 269(2.1) of the CEA to provide that a special ballot, being counted by officials from Elections Canada, cannot be rejected for the sole reason that the elector has written, instead of the name of a candidate, the name of a registered party that has endorsed a candidate in the elector's electoral district, provided the ballot clearly indicates the elector's intent. Any such ballot is deemed to have the name of the candidate endorsed by that party written on it.

Further, clause 41 adds new section 279(4) of the CEA, with identical provisions added by clause 40 to new section 269(2.1), except its application is for special ballots being counted at the office of an RO.

2.13.8 Added Prohibitions Related to Special Ballots
(Clauses 42(1) and 42(2))

Clause 42(1) amends section 281.7(1)(f) of the CEA to add to the prohibitions that special ballots duly deposited at a polling division or advance polling district cannot be altered, defaced or destroyed. Similarly, clause 42(2) amends section 281.7(1)(i) of the CEA to add a prohibition against a person destroying, taking, opening or otherwise interfering with the inner or outer envelope of special ballots.

2.14 VOTING ON THE PREMISES
OF POST-SECONDARY EDUCATIONAL INSTITUTIONS
(CLAUSE 39)

Currently, the CEA contains no special provisions that apply only to electors attending post-secondary educational institutions. Rather, those students may vote by using the voting opportunities available to all eligible electors resident in Canada. For the 2015 and 2019 general elections, Elections Canada conducted pilot projects in which they opened temporary voting offices on selected post-secondary campuses to offer additional options for registering and voting electors.⁷

2.14.1 Establishing Offices for Special Ballot Voting
at Post-secondary Educational Institutions

Clause 39 amends the CEA to add new sections 243.2(1) and 243.2(2). Section 243.2(1) requires the CEO to determine at which post-secondary educational institutions it would be appropriate to open offices for voting by special ballot and to provide notice to the institutions that such offices may be established on their premises in a general election.

Under new section 243.2(2) of the CEA, before an RO may establish an office for voting by special ballot on the premises of a post-secondary educational institution, certain steps must be followed. The RO must receive the approval of the CEO to open such an office and must follow the CEO's instructions for opening the office. In addition, the post-secondary educational institution must either:

- request that the RO establish an office for voting by special ballot on its premises; or
- have been an institution where an office for voting by special ballot was established for the 2019 general election and the institution agrees to the establishment of an office for voting by special ballot on its premises.

2.14.2 Days and Hours of Operation of Offices

Clause 39 amends the CEA (new section 243.2(5)) to provide that offices established for special ballot voting at post-secondary educational institutions may be open on the 15th day before election day and ends at 6:00 p.m. on the 8th day before election day. However, the office cannot be open for more than 12 hours each day during that period.

2.14.3 Application and Voting in Offices

Clause 39 amends the CEA to add new sections 243.2(3) and 243.2(4). These new sections concern applying to vote and voting at offices established for special ballot voting on the premises of a post-secondary educational institution.

Under new section 243.2(3), an elector may apply to vote at such an office, be given a special ballot, vote according to the procedures for special ballot voting found in sections 227(2) and 227(3) of the CEA, and return the outer envelope to an election officer at any such office.

New section 243.2(4) applies to electors who have applied for and received a special ballot, but did make their application at an office established for special ballot voting on the premises of a post-secondary educational institution. In this case, the elector may vote in person at the office by following the procedure for voting set out in sections 227(2) and 227(3) of the CEA and return the outer envelope to an election officer at that office.

2.15 PROTECTION BY PARTIES OF PERSONAL INFORMATION AND PRIVACY

2.15.1 Definition, Purpose, Allowance and Compliance (Clauses 65 and 71)

Clause 65 amends the CEA to retain the definition of personal information found in current section 385.2(1) of the CEA, but renumbers the section as section 384.9. This definition of personal information is information about an identifiable individual.

Clause 71 renumbers and supplements parts of the CEA related to the personal information collected by political parties. It amends the CEA to add new Subdivision C under Division 2, entitled “Personal Information Collected by Political Parties.” The need for a party to have a policy for the protection of personal information forms part of a longer list of items, under current section 385(2) of the CEA, which needs to be provided by the leader of a political party to the CEO in order to become a registered party.

Clause 71 amends the CEA to renumber the following current sections:

- Current section 385.2(3) sets out the purpose of the subdivision as providing for a personal information regime applicable to eligible and registered parties. It is renumbered as new section 444.1.
- Current section 382.2(2) provides that eligible and registered parties may, subject to the CEA and any other federal Act, collect, use, disclose, retain and dispose of personal information in accordance with the party’s policy for the protection of personal information. It is renumbered as new section 444.2.

Clause 71 creates new section 444.3(1) of the CEA. It requires that an eligible or registered party, as well as any person or entity acting on the party’s behalf, including the party’s candidates, electoral district associations, officers, agents, employees, volunteers and representatives, must comply with the party’s policy for the protection

of personal information. Under new section 444.3(2), a person or entity who does not so comply contravenes section 444.3(1) and commits a violation referred under section 508.1 of the CEA (i.e., violations liable to an administrative penalty).

2.15.2 Required Contents of a Party's Policy
for the Protection of Personal Information
(Clauses 66 and 71)

Currently, sections 385(2)(k)(i) to 385(2)(k)(vi) of the CEA set out the required contents of a party's policy for the protection of personal information. Clause 66 deletes the provisions listed in sections 385(2)(k)(i) to 385(2)(k)(vi), while retaining that a party must have such a policy.

Clause 71 creates new section 444.4(1) of the CEA to replace the deleted required contents of a party's policy. New section 444.4(1) preserves the substance of the deleted sections, with at least one notable exception (i.e., a new prohibition on a party selling personal information under its control), while also adding to the list of requirements.

Under section 444.4(1), the policy for the protection of personal information of a registered party or of an eligible party must:

- be publicly available in both official languages and be written in plain language;
- designate a privacy officer responsible for overseeing the party's compliance with the policy, while including that person's name and contact information;
- state the types of personal information that the party collects, retains, uses, discloses and disposes of;
- explain, using illustrative examples, how the party collects, retains, uses, discloses and disposes of personal information, including gaining information through online activities or the use of cookies;
- describe the training related to the protection of personal information that is offered to the party's employees and volunteers;
- protect the personal information that is under its control through proportionate physical, organizational and technological security safeguards;
- take appropriate steps in the case of an unauthorized access, breach or disclosure of personal information that is under its control, including informing the individual whose personal information was affected when it is reasonable to believe that the breach created a real risk of significant harm to the individual;

- ensure, by contract or otherwise, that any person or entity to which it transfers personal information provides a level of protection of the personal information equivalent to that which the party is required to provide under the policy; and
- require the privacy officer or their delegate to attend at least one meeting per year with the CEO relating to the protection of personal information.

Additionally, section 444.4(1), prohibits the party, as well as any person or entity acting on the party's behalf, from:

- providing false or misleading information to individuals about the purposes for which the party collects personal information;
- selling personal information under the party's control; or
- disclosing personal information under the party's control to the public for the purpose of causing harm.

2.15.3 Significant Harm: Definition and Factors
(Clause 71)

Clause 71 creates new section 444.4(3) of the CEA to define the term “significant harm,” in relation to a case of an unauthorized access, breach or disclosure of personal information that is under a party's control. It is defined as including bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the credit record and damage to or loss of property.

Further, clause 71 creates new section 444.4(2) of the CEA to identify the factors that are relevant to determine whether a breach of security safeguards has created a real risk of significant harm to an individual. These are:

- the sensitivity of the personal information involved in the breach; and
- the probability that the personal information has been, is being or will be misused.

2.15.4 Meetings Convened by the Chief Electoral Officer
Regarding Protecting Personal Information
(Clause 71)

Clause 71 creates new section 444.5 of the CEA to require the CEO to hold at least one meeting each calendar year relating to the protection of personal information by eligible and registered parties.

2.15.5 Protection of Personal Information Policy and Registration
(Clauses 67 and 68)

Currently under the CEA, a party's application to be eligible to register as a party, its eligibility to be registered as a party and its status as a registered party are all conditional on, among other things, the party fulfilling requirements enumerated under the CEA related to its policy for the protection of personal information.

Bill C-65 repeals the current process by which a party provides the CEO its policy for the protection of personal information to the CEO for the purposes of registration and replaces it with a new one. Clause 68 adds new section 387(d) of the CEA to state that, in addition to fulfilling other listed requirements, a party becomes eligible for registration if the CEO is satisfied that the party's policy meets the requirements set out in new section 444.4(1).

Clause 67 repeals current sections 385.1 and 385.2 of the CEA. Current section 385.1(1) requires the leader of a party to provide the CEO with the party's policy for the protection of personal information, along with the party's Internet address on which the policy is published, within a time period designated in the CEA, provided that party has applied to be eligible for registration, is eligible for registration, or is registered.

Current section 385.1(2) sets out that parties whose leader does not comply with section 385.1(1) will in the case of:

- a party that has applied to be eligible for registration, will not be eligible for registration;
- a party, eligible for registration, will not become a registered party; and
- a registered party will be subject to non-voluntary deregistration.

Current section 385.1(3) deals with a party having their policy and Internet address deemed included in its application for registration.

Also repealed by clause 67 are the following current sections of the CEA:

- section 385.2(1), dealing with the definition of personal information;
- section 385.2(2), dealing with the collection, use, disclosure, retention and disposal of personal information; and
- section 385.2(3), dealing with the purpose of having a personal information applicable to eligible and registered parties.

2.15.6 Yearly Confirmation of Registration
(Clause 69)

Clause 69 adds new section 407(1)(c) of the CEA to include that the provision to the CEO of a statement regarding a party's policy for the protection of personal information forms part of a party's yearly confirmation of registration. Eligible and registered parties must, on or before 30 June of every year provide a statement certified by its privacy officer that the party complies with its policy for the protection of personal information.

2.15.7 Transitional Provisions
(Clauses 116 and 117)

Clause 116(1) provides transitional obligations for parties in respect of their protection of personal information policy and their registration under the CEA with Elections Canada.

The leader of a political party that has either applied to be eligible for registration, is eligible for registration, or is registered must provide the CEO with the party's policy for the protection of personal information, as set out in new section 444.4(1) of the CEA, within three months after the day on which clause 116 comes into force of the CEA.

Under clause 116(2), failure to provide the CEO with the party's policy by the stated deadline will result in the punishments set out in current section 385.1(2) and described under subheading "Protection of Personal Information Policy and Registration (Clauses 67 and 68)."

In addition, under clause 116(3), the deeming provision set out in current section 385.1(3) of the CEA, which deals with a party having their policy and Internet address deemed included in its application for registration, is applicable to parties under clause 116(1).

Clause 117 provides that new section 387(d) of the CEA will not apply until the day on which clause 117 comes into force. Section 387(d) sets out that a party becomes eligible for registration under section 385(1) if the CEO is satisfied that the party's policy for the protection of personal information meets the requirements set out in new section 444.4(1), in addition to the party fulfilling other listed requirements under the CEA.

2.16 NEW PROHIBITIONS AND MODIFICATION TO EXISTING PROHIBITIONS

Bill C-65 creates new prohibitions and modifies existing prohibitions in the CEA, as well as their corollary offences. In addition to the various prohibitions discussed in the preceding sections, the bill broadens or creates prohibitions on the provision of false or misleading information respecting elections, foreign influence in the electoral process and the acceptance or use of certain contributions.

Note that amendments to certain prohibitions and offences applicable to third parties (contraventions of Part 17 of the CEA) will be dealt with in section 2.17.

2.16.1 False or Misleading Information, Impersonation and Unauthorized Use of a Computer (Clauses 12, 13 and 78 to 82)

2.16.1.1 New and Expanded Prohibitions and Offences

Clause 13 creates two new prohibitions concerning false or misleading information:

- Prohibition on conveying false or misleading information to be included in a nomination paper (new section 92.1 of the CEA). Under new sections 486(3)(e) and 486(4)(c) of the CEA, created by clause 82, knowingly contravening this prohibition constitutes an offence. These offences can be indictable or summary (hybrid) offences.
- Prohibition on including false or misleading information in nomination papers (new section 92.2 of the CEA). Pursuant to new section 486(3)(f) of the CEA, created by clause 82, knowingly contravening this prohibition constitutes a hybrid offence.

Current section 481 of the CEA provides for an offence relating to the publication of material falsely appearing to originate from various electoral stakeholders, including the CEO or a candidate. Clause 79(1) amends the offence so that it applies at all times, rather than just during the election period. The bill also expands the list of individual electoral stakeholders to include nomination contestants, potential candidates and leadership contestants.

Current section 482 of the CEA provides for an offence relating to the fraudulent use of a computer system with the intention of affecting the results of an election. Clause 80 amends this offence to extend its scope to include the intention of disrupting the conduct of an election, rather than just its results.

Clause 81(1) creates a new offence relating to false statements pertaining to certain aspects of the electoral process. New section 482.01 of the CEA prohibits the making or publishing, with the intention of affecting the results or disrupting the conduct of an election, a statement that is known to be false or misleading in respect of:

- who may vote;
- the process by which an individual may register to vote;
- the manner in which an individual may vote (e.g., where, when, or the manner of voting at an advance poll or by special ballot);
- whom an individual may vote for;
- the process by which an individual becomes a candidate; or
- the process by which votes at an election are counted or the results are validated, and the results themselves.

2.16.1.2 Applicable Offences, Regardless of the Manner or Medium

The bill amends the CEA to specify that several offences apply, regardless of the method, place or medium used to commit them. According to the briefing note accompanying the bill,⁸ the new wording is intended to cover certain developments in the field of artificial intelligence, including deepfakes. Therefore:

- Current section 91 of the CEA prohibits the publication of false statements during an election period for the purpose of affecting the results of an election. Clause 12 amends section 91(2) of the CEA to clarify that the prohibition applies regardless of manner or medium in which the statement is made or published.
- Current section 480.1 of the CEA provides for an offence relating to the impersonation of various stakeholders in the electoral process, including the CEO or a candidate. Clause 78 adds a third paragraph to section 480.1, specifying that the offence applies regardless of the manner, place or medium used.
- Clause 79(2) creates section 481(4) of the CEA, which specifies that the offence of publishing misleading material applies regardless of the manner, place or medium used.
- Under clause 81(2) of the bill, the offence set out in new section 482.01 of the CEA relating to false statements about certain aspects of the electoral process applies, regardless of the manner, place or medium used to issue the statement.

2.16.2 Foreign Influence in the Electoral Process
(Clauses 44 and 46)

The bill expands the scope of certain prohibitions aimed at preventing foreign influence in the Canadian electoral process so that they apply beyond the election period and to extend their reach.

Current section 282.4 of the CEA prohibits foreign persons and entities from unduly influencing an elector during an election period to vote or refrain from voting, or to vote or refrain from voting for a particular candidate or registered party. It also prohibits the sale of advertising space to these same persons or entities to transmit an election advertising message. Clause 44 amends the various parts of this prohibition so that it applies at all times and extends its scope to foreign influence aimed at voting for a potential candidate or an eligible party. It also amends the list of entities to which this prohibition applies to cover entities whose main activity in Canada is to influence an elector; in the current version, the entity must have such influence as its sole main purpose. Lastly, it extends the prohibition on advertising space to prohibit the sale for the purpose of enabling the person or entity to transmit an election advertising message or to cause a partisan advertising message, in addition to an election advertising message, to be transmitted.

Current section 330(1) of the CEA prohibits the use of a broadcasting station outside Canada during an election period for the purpose of influencing an elector to vote or refrain from voting, or to vote or refrain from voting for a particular candidate or registered party. Clause 46 amends this prohibition to apply at all times, and extends its scope to cover influence involving voting for a potential candidate or an eligible party.

2.16.3 Acceptance or Use of Certain Contributions
(Clauses 61, 70, 73 to 75, 77 and 88)

Clause 61 creates new sections 372.1 and 372.2 of the CEA, relating to the acceptance or use of certain types of contributions.

New section 372.1 prohibits registered parties, registered associations, nomination contestants, candidates and leadership contestants from accepting contributions in the form of:

- a cryptoasset;⁹
- a money order; or
- a prepaid payment product, such as a prepaid credit card or gift card.

New section 497(1)(h.1) of the CEA, created by clause 88(1), provides that a contravention of new section 372.1 is a summary conviction offence.

New section 372.2 of the CEA provides that, as the case may be, the chief agent of the party, the financial agent of the association, the official agent of the candidate, the financial agent of the nomination contestant or leadership contestant must act within 30 days after becoming aware of the receipt of such a contribution. It requires that the contribution be either returned to the contributor or, if this is not possible, destroyed. If neither of these options is feasible, the contribution must be paid to the CEO, who will forward that amount to the Receiver General.

New section 497(1)(h.2) of the CEA, created by clause 88(1), provides that a contravention of new section 372.2 is an offence punishable on summary conviction. However, if the contravention is deliberate, then it is a hybrid offence under new section 497(2)(m.1) of the CEA, created by clause 88(2).

Clause 70 creates section 432(2.1) of the CEA, which specifies that the financial transactions return of a registered party that has received such contributions must include a list of the measures taken by the chief agent of the party under new section 372.2 of the CEA. Clause 73 creates the same obligation for the financial transactions return of a registered association (new section 475.4(2.1) of the CEA); clause 74 does the same for the nomination campaign return of a nomination contestant (new section 476.75(2.1) of the CEA), clause 75 for a candidate's electoral campaign return (new section 477.59(2.1) of the CEA) and clause 77 for the leadership campaign return of a leadership contestant (new section 478.8(2.1) of the CEA).

2.16.4 Regulated Fundraising Events (Clause 89)

Clause 89 repeals sections 497.01(a) to 497.01(d) and 497.01(k) of the CEA, removing several offences relating to the failure to notify, provide or publish certain information about a regulated fundraising event, or the failure to return or pay contributions relating to a regulated fundraising event.

2.17 REGIME APPLICABLE TO THIRD-PARTY EXPENSES

Bill C-65 makes several amendments to the regime applicable to third-party expenses, particularly to prevent the use of foreign funds to pay for regulated events.

2.17.1 Expansion of Certain Definitions
(Clauses 48, 50 and 55)

Current section 349.01(1) of the CEA sets out certain definitions applicable, in particular, to the prohibition on third parties using funds from foreign entities for partisan activity, advertising, election advertising or an election survey. Clause 48 amends the definition of “foreign entity” to include a corporation whose primary activities that it carries on in Canada are intended to influence electors (in the current version, the entity’s only activities in Canada must be to exert such influence). In addition, the current definition, which deals with influencing a person to vote or refrain from voting for a particular candidate or registered party, is expanded to include voting for a potential candidate or eligible party.

Current section 349.4(2) of the CEA defines a “foreign third party” for the purposes of prohibiting them from incurring certain expenses during a pre-election period (partisan activity, partisan advertising and election surveys). Clause 50 amends this definition to broaden it in the same way as the above clause.

Current section 351.1(2) of the CEA sets out the definition of “foreign third party” applicable to the prohibition on foreign third parties incurring certain expenses during an election period (partisan activity, election advertising and election surveys). Clause 55 amends the definition to broaden it in the same way as in the above clause.

2.17.2 Prohibition on the Use of Certain Contributions
(Clauses 47, 49 and 85)

Clause 47 amends section 349 of the CEA so that the definition of “third party” applicable to the prohibition on using foreign funds for regulated events is also applicable to the new prohibition on accepting certain contributions.

Clause 49 creates new sections 349.04 and 349.05 of the CEA. New section 349.04 of the CEA prohibits third parties from accepting certain contributions for partisan activities, partisan or election advertising and election survey purposes. The contributions in question are in the form of:

- a cryptoasset;
- a money order; or
- a prepaid payment product, such as a prepaid credit card or gift card.

New section 349.05 of the CEA stipulates that the third party receiving such a contribution must act within 30 days after becoming aware of its receipt. The contribution must be either returned to the donor or, if this is not possible, destroyed.

If neither of these options is feasible, the contribution is to be paid to the CEO, who will forward it to the Receiver General.

New section 495.22 of the CEA is created by clause 85. New section 495.22(1) of the CEA provides that a contravention of new section 349.04 or 349.05 constitutes a strict liability offence, punishable on summary conviction. However, under new section 495.22(2) of the CEA, a wilful contravention of section 349.05 constitutes a hybrid offence.

2.17.3 Registration Threshold and Source of Contributions
(Clauses 51 to 54, 56, 58, 59, 86 and 87)

2.17.3.1 Pre-election Period

Section 349.6 of the CEA requires third parties to register with the CEO as soon as they incur \$500 or more in partisan activity, partisan advertising or election survey expenses during the pre-election period. Clause 51 raises the threshold for registration from \$500 to \$1,500.

Current section 349.94 of the CEA prohibits a third party from using a contribution intended for partisan activities, partisan advertising or election survey purposes during the pre-election period from contributors whose name, address or class of contributor is unknown to the third party. Clause 53 amends this section to remove the reference to donor classes.

Clause 54 creates a new section 349.95 of the CEA, which requires a third party to use only contributions from Canadian individuals to pay for partisan activity expenses, partisan advertising expenses or election survey expenses during the pre-election period. For the purposes of this section, “Canadian individual” means a Canadian citizen or permanent resident.

If the third party wishes to use its own funds, it is subject to the following rules:

- the third party may use its own funds to pay regulated expenses if the total amount of contributions received during the previous year is equal to or less than 10% of its revenues for that year;
- grants and contributions received from the Government of Canada, a province or a municipality are not included in determining revenue for the previous year;
- if it uses its own funds, the third party must include financial statements for the previous year in its expenses return referred to in section 359 of the CEA;

- the previous year means, at the choice of the third party, the calendar year that precedes the calendar year in which a pre-election period falls, or the fiscal year that precedes the fiscal year in which a pre-election period occurs; and
- these rules do not apply in respect of individuals or third parties who are not required to register, as they do not meet the \$1,500 expense threshold.

Section 495.3(1) of the CEA provides for certain strict liability offences for third parties during the pre-election period, punishable on summary conviction. Clause 86 adds the contraventions in section 349.95(1) of the CEA to this list of offences.

2.17.3.2 Election Period

Current section 353 of the CEA requires third parties to register with the CEO immediately after having incurred \$500 in partisan activity, election advertising or election survey expenses during the election period. Clause 56 raises the threshold for registration from \$500 to \$1,500.

Section 357.1 of the CEA prohibits third parties from using a contribution for partisan activity, election advertising or survey purposes if the third party does not know the name and address of the contributor or is otherwise unable to determine the class of contributor. Clause 58 amends the section to remove the reference to the class of contributor.

Clause 59 creates a new section 358 of the CEA (currently repealed). New section 358 creates an obligation for the third party to use only contributions from Canadian individuals to pay for partisan activities, election advertising or election surveys (regulated expenses) during the election period. For the purposes of this section, “Canadian individual” means a Canadian citizen or permanent resident.

If the third party wishes to use its own funds, it is subject to the following rules:

- the third party may use its own funds to pay regulated expenses if the total amount of contributions received during the previous year is equal to or less than 10% of its revenue for that year;
- grants and contributions received from the Government of Canada, a province or a municipality are not included in determining the revenue for the previous year;
- if it uses its own funds, the third party must include its financial statements for the previous year in its expenses return referred to in section 359 of the CEA;

- the previous year means, at the choice of the third party, the calendar year that precedes the calendar year in which a pre-election period falls, or the fiscal year that precedes the fiscal year in which a pre-election period occurs; and
- these rules do not apply in respect of individuals or third parties who are not required to register, as they do not meet the \$1,500 expense threshold.

Section 496(1) of the CEA provides for certain strict liability offences for third parties during the election period, punishable on summary conviction. Clause 87 adds the contraventions in section 358(1) of the CEA to this list of offences.

2.17.4 Third-Party Expense Returns (Clauses 52, 57 and 60)

2.17.4.1 Pre-election Period (First Interim Third-Party Expenses Return)

Current section 349.91 of the CEA provides that a third party required to register must file a first interim expenses return with the CEO in certain circumstances, such as when it has incurred expenses of \$10,000 or more during a given period.

Clause 52(1) creates new section 349.91(2.1), which stipulates that, when section 349.95 of the CEA applies to the third party expenses return, it must include certain information for each Canadian individual who has made contributions of \$200 or more, including their name and address.

Clause 52(2) replaces sections 349.91(4)(a) to 349.91(4)(c) of the CEA, which list certain information that must be included in the first interim return. According to the new sections, the first interim expenses return must indicate the amount of contributions for regulated events during a given period, as well as the name, address, date and amount of contributions of each Canadian individual whose contribution of a total amount of more than \$200 was used for regulated expenses. Clause 52(3) repeals section 349.91(7) of the CEA, which listed certain classes of contributors.

2.17.4.2 Election Period (Third Interim Third-Party Expenses Return)

Current section 357.01 of the CEA requires, in certain circumstances, a registered third party to file a third interim expenses return during the election period, which is the 21st day before polling day. Clause 57(1) creates a new section 357.01(2.1), which specifies that the interim return to which section 349.95(1) or 358(1) applies must contain the amount of contributions for regulated events during the given period, and the name, address, date and amount/property and services of each Canadian individual whose contributions of a total amount of more than \$200 were used to pay for the regulated expenses. Clause 57(2) amends sections 357.01(4)(a) to 357.01(4)(c) of the CEA, which specify other items that must be disclosed in the return, notably to remove references to donor classes. Lastly, clause 57(3) repeals section 357.01(7) of the CEA, which listed the classes of donors for the purposes of sections 4(a) and 4(b).

2.17.4.3 Post-election Period (Third-Party Expenses Return)

Under section 359 of the CEA, every third party that is required to be registered in accordance with section 349.6(1) (pre-election period) or 353(1) (election period) is to file an expenses return with the CEO within four months after polling day. Clause 60(1) creates new sections 359(3.1) to 359(3.3) of the CEA, which stipulate that:

- where section 349.05 of the CEA applies, the third-party expenses return must include a list of the measures that the third party has taken with respect to contributions in the form of cryptoassets, money orders or prepaid payment products;
- where section 349.95(2) or 358(2) of the CEA applies (use of the third party's own funds for regulated expenses), the third-party expenses return must include the financial statements referred to in that section; and
- where section 349.95(1) or 358(1) apply (use of contributions received from Canadian individuals), the third-party expenses return must include, for each individual who contributed \$200 or more, their name, address, the amount of the contribution, a list of the property or services contributed, and the date of each contribution.

Clause 60(2) amends sections 359(4)(a) to 359(4)(b.1) of the CEA, which specify other information that the third-party expenses return must mention. Clause 60(3) repeals section 359(6) of the CEA, which listed classes of donors.

Lastly, section 60(4) replaces section 359(7) of the CEA, specifying that if the third party is unable to identify which contributions were received for partisan activity, partisan, election advertising or election survey purposes, the third-party expenses return must include the names and addresses of every contributor who contributed a total of more than \$200 to it during the period in question.

2.18 PROVISIONS RELATED TO THE ADMINISTRATION
AND ENFORCEMENT OF THE *CANADA ELECTIONS ACT*

2.18.1 Punishment
(Clause 90)

Current section 500(1) of the CEA provides that every person who is guilty of certain strict liability offences is liable on summary conviction to a fine of not more than \$2,000 and/or to imprisonment for a term not more than three months. Clause 90(1) adds the new offences set out in section 495.22(1) of the CEA (acceptance by third party of certain contributions or failure to return a contribution in the form of a cryptoasset, money order or payment product) to the list of offences covered by section 500(1) of the CEA.

Under current section 500(5) of the CEA, every person who is guilty of an offence under the CEA requiring intent is liable on summary conviction to a fine of not more than \$20,000 and/or imprisonment for up to one year, or on conviction on indictment to a fine of not more than \$50,000 and/or imprisonment for a term not more than five years. Clause 90(2) adds the offences set out in new section 482.01 (false statement with the intention of influencing the results of or disrupting the conduct of an election) and new section 495.22(2) (wilful failure of a third party to return contributions made in the form of a cryptoasset, money order or payment product) to the list of offences covered by section 500(5) of the CEA.

2.18.2 Regime of Administrative Monetary Penalties
(Clauses 92 and 94)

Section 508.1 of the CEA establishes a regime of administrative monetary penalties regulated by the CCE for certain contraventions of the CEA. Clause 92 amends this regime to extend its scope to the following contraventions:

- contravention of section 43.1 (refusal to give access to building or gated community);
- contravention of any of sections 56(a) to 56(d) (forbidden acts regarding the Register of Electors or Register of Future Electors);
- contravention of section 81 (refusal to give access to building or gated community during an election campaign), 81.1 (refusal to give access to place open to the public during an election campaign), 92.1 (conveying false or misleading information – nomination paper) or 92.2 (filing nomination paper – false or misleading information);
- contravention of section 136(4) (photographs, recordings and communications devices at a polling station by a candidate’s representative); and
- contravention of section 166 (prohibition on election material) or 281.8 (photograph, video or copy of marked ballot).

Under section 508.5(1) of the CEA, the maximum administrative monetary penalty for a violation is \$1,500 in the case of an individual, and \$5,000 in the case of a corporation or entity. These maximums are subject to an exception that applies to a contravention of section 363 (contributions) or 367 (contribution limits) of the CEA. In these cases, individuals are subject to an amount equal to twice the amount that was contributed in contravention of section 363 or 367 of the CEA, plus \$1,500, while corporations and entities are subject to an amount equal to twice the amount that was contributed in contravention of section 363 of the CEA, plus \$5,000.

Clause 94 extends this exception to a contravention of section 349.04, 349.05, 372.1 or 372.2 of the CEA, all relating to contributions in the form of cryptoassets, money orders or payment products. Clause 94 also creates a second exception to the maximums, which applies to a contravention of section 349.95(1) or 358(1) of the CEA, relating to the third party's obligation to use contributions from Canadian sources. In this case, the maximum penalty is \$5,000 and double the amount of the contribution used in contravention of the section in question.

2.18.3 Conspiracy, Attempt, Accessory After the Fact
or Counselling in Relation to an Offence
(Clauses 76, 91, 92, 96 to 102, 106 and 108)

The scope of several offences and violations is expanded to include conspiracy, attempt, accessory after the fact or counselling to commit an offence or a contravention of the CEA, rather than just its commission. Therefore:

- The scope of the regime of administrative monetary penalties described above is extended to include conspiracy, attempt, accessory after the fact or counselling to commit a contravention of the enumerated provisions (new sections 508.1(b) to 508.1(d) of the CEA, created by clause 92).
- Under section 477.94 of the CEA, the CEO shall retain in their possession statements filed by a candidate regarding the receipt of any gift or other advantage of more than \$500. Section 477.94(3) allows the CCE to inspect the statements and to provide them to the Director of Public Prosecutions for the purpose of a prosecution for an offence under the CEA. Clause 76 amends section 477.94(3) of the CEA to specify that such a statement may be provided to the Director of Public Prosecutions for conspiracy, attempt, accessory after the fact or counselling to commit such an offence.
- Section 508 of the CEA provides that, in a prosecution for an offence under the CEA, the written statement of the returning officer is, in the absence of evidence to the contrary, sufficient evidence of the holding of the election and of any person named in the certificate having been a candidate. Clause 91 amends this section to extend its scope to include prosecutions for conspiracy, attempt, accessory after the fact or counselling to commit such an offence under the CEA.
- Under section 510.01(1) of the CEA, a judge, on application of the CCE or their representative, may, if there are reasonable grounds to believe that there has been or will be a contravention of the CEA, order an individual likely to have information to attend or to make a written return under oath. Clause 96 amends section 510.01(1) of the CEA to expand its scope; an order may therefore be issued if there are reasonable grounds to believe that there has been or will be a conspiracy, attempt, accessory after the fact or counselling to commit such a contravention. Clause 96 also creates section 510.01(a.1) of the CEA, which states that the judge may order the production to the CCE or their representative of the records or other items mentioned in the order.

Lastly, section 510.01(3), which specifies that such an order may not be made against the alleged offender, is also amended to cover an individual who is alleged to have conspired, attempted, been an accessory after the fact or counselled to commit such a contravention.

- Section 510.1(2)(d) of the CEA authorizes the CCE to disclose information that is required to be disclosed in the course of a prosecution of an offence under the CEA. Clause 97 amends this section to extend its scope to prosecutions for conspiracy or attempt to commit, or being an accessory after the fact or counselling in relation to the commission of such an offence.
- Section 511 of the CEA authorizes the CCE to institute a prosecution or cause one to be instituted if they believe on reasonable grounds that an offence under the CEA has been committed. Clause 98 extends the scope of section 511 to authorize the CCE to institute a prosecution if they believe on reasonable grounds that there has been a conspiracy or an attempt to commit, or an accessory after the fact or counselling to commit such an offence.
- Section 512(1) of the CEA provides that no prosecution for an offence under the CEA may be instituted by a person, other than the CCE or a person acting under their direction, without the consent of the Director of Public Prosecutions provided after consultation with the CCE. Clause 99 extends the scope of section 512(1) to cover prosecutions for a conspiracy or attempt to commit, being an accessory after the fact or counselling to commit such an offence.
- Section 514(1) of the CEA provides that proceedings in respect of certain strict liability CEA offences (offences not requiring intent) may be commenced at any time within, but not later than, six years after the day on which the subject-matter of the proceedings arose. Section 514(3) provides that proceedings in respect of certain offences requiring intent may be commenced at any time. Clause 100 amends these two sections so that they also apply to prosecutions for a conspiracy or an attempt to commit, or being an accessory after the fact or counselling to commit the offences to which each section applies respectively.
- Section 516 of the CEA allows the CCE to apply to the court for an injunction during an election period to stop an offence or to compel a person to comply with the CEA, in order to ensure fairness of the electoral process and the public interest. Clause 101 amends section 516 to allow an application for an injunction subject to the same conditions for a conspiracy or an attempt to commit, or being an accessory after the fact or counselling to commit an offence under the CEA.
- Section 517 of the CEA allows the CCE to enter into a compliance agreement to ensure compliance with the CEA if they believe on reasonable grounds that the person or entity has committed, is about to commit or is likely to commit an act or omission that could constitute an offence. Clause 102 amends section 517 to also allow a compliance agreement to be entered into if the CCE believes on reasonable grounds that a conspiracy or an attempt to commit, or being an accessory after the fact or counselling to commit an offence under the CEA exists, is imminent or likely.

- Section 540(4.1) of the CEA provides an exemption from confidentiality requirements for certain election documents or documents relating to the Register of Electors. Under this exemption, the CEO may disclose such documents to the CCE for the purposes of the exercise or performance of the Commissioner's powers, duties and functions, and the CCE may, in turn, disclose the documents to the Director of Public Prosecutions, who may produce them for the purpose of a prosecution for an offence under the CEA. Clause 108 extends this exemption to prosecutions for a conspiracy or an attempt to commit, or being an accessory after the fact or counselling to commit such an offence.

Under section 521.27 of the CEA, if an entity commits a violation, any of the entity's directors, officers or agents or mandataries who authorized or assented to the violation is a party to and liable for the violation whether or not the entity that actually committed the violation is proceeded against under the CEA. Clause 106 amends section 521.27 as follows:

- It creates new section 521.27(1), which specifies that a person who does or omits to do anything for the purpose of aiding the commission of a violation, who abets the commission of the violation or who counsels the commission of the violation is considered a party to the violation and is liable for it.
- The current section 521.27 becomes in large part section 521.27(2), and is amended to specify that parties to the violation are liable.
- Section 521.27(3) specifies that sections 521.27(1) and 521.27(2) apply whether or not the person or entity that actually committed the violation is proceeded against under the CEA.

2.18.4 Related Amendments (Clauses 95, 103 and 104)

Section 509.22 of the CEA provides that the CCE, if they consider it in the public interest, may take any measures, including incurring expenses. Clause 95 creates section 509.22(2), which specifies that the CCE may, in the exercise of their powers, duties and functions, enter into memoranda of understanding or other arrangements with departments and bodies having technical or specialized knowledge in national security or other matters.

Section 521.11 of the CEA provides that if the CCE has reasonable grounds to believe that a violation has occurred, they may issue a notice of violation. Section 521.11(1)(b) stipulates that the notice of violation must identify the provision of the CEA that was contravened or the requirement, or the provision of the compliance agreement or undertaking, that was not complied with. Clause 103 amends section 521.11(1)(b) to state that the notice of violation must identify the provision of the CEA that was contravened or the requirement, or the provision of the compliance agreement or undertaking to which the violation relates.

Clause 104 makes similar changes to section 521.13(3)(a) and the English version of section 521.13(3)(b) of the CEA, which deal with undertakings with the CCE.

2.19 CHIEF ELECTORAL OFFICER REPORTS TO THE HOUSE OF COMMONS
(CLAUSES 110 TO 114)

Clauses 110 to 113 require the CEO to make reports to the Speaker of the House of Commons on legislative changes that could be implemented in future elections.

Clause 114 provides that the Speaker must submit the reports received to the House of Commons without delay.

2.19.1 Three-Day Polling Period
(Clause 110)

Clause 110 requires the CEO to make a report on the implementation of a three-day polling period for general elections starting in 2029. The report must set out the CEO's opinion respecting the costs, the necessary technology and any challenges related to implementing this measure, and the various time frames this would entail.

The report must be made as soon as feasible after the first general election following the coming into force of clause 110.

2.19.2 Allowing Electors to Vote at Any Place in Their Polling Station
(Clause 111)

Clause 111 requires the CEO to make a report on the measures that need to be taken to allow electors to vote “at any place” in their polling station (i.e., at any polling table).

The report is to be made as soon as feasible, and in any event no later than 120 days before the next fixed election date.

2.19.3 Allowing Electors to Vote at Any Polling Station in Their Electoral District
(Clause 112)

Clause 112 requires the CEO to make a report on the feasibility of enabling electors to vote at any polling station in their electoral district. The report must set out the CEO's opinion respecting the measures that need to be taken to enable electors to vote in this way, including any necessary legislative amendments, and the associated time frames. The CEO must specify whether they believe that it is feasible to enable electors to vote in this way in 2029. Before submitting the report, the CEO must consult with the Advisory Committee of Political Parties, a body established by section 21.1(1) of the CEA.

The report must be submitted by 1 January 2027.

2.19.4 Determining Whether a Political Party Has Among Its Fundamental Purposes the Promotion of Hatred (Clause 113)

Clause 113 requires the CEO to make a report setting out a proposed process to determine whether a registered party or an eligible party has as one of its fundamental purposes the promotion of hatred against an identifiable group of persons. The report must also set out the proposed consequences of such a determination. Before making the report, the CEO must consult with the Commissioner of Canada Elections and the Advisory Committee of Political Parties.

The report must be made as soon as feasible, and in any event no later than 120 days before the next fixed election date.

2.20 INTERPRETATION
(CLAUSE 118)

Clause 118(1) specifies that the words and expressions used in sections 110 to 117 have the same meaning as in the CEA.

Clause 118(2) specifies that in sections 111, 113(3) and 120, the expression “next fixed election date” means the date set in accordance with section 56.1(2) of the CEA for the holding of the first general election after the day on which the bill receives Royal Assent.

2.21 APPLICATION AND COMING INTO FORCE
(CLAUSES 119 AND 120)

Under clause 120, clause 6 (alternate day) comes into force on the day after the next federal election. Outside of this exception, the provisions come into force on Royal Assent.¹⁰

It should be noted that section 554(1) of the CEA stipulates that no amendment to this Act applies in an election for which the writ is issued within six months after the passing of the amendment. Despite this provision, and in accordance with clause 119, the amendments to the CEA made by the following clauses would nevertheless apply to an election for which the writ is issued within six months after their passing:

- clause 62, relating to reports;
- clauses 65 to 69 and 71, dealing with political parties’ policies for the protection of personal information; and
- clause 89(1), which repeals offences relating to information about a regulated fundraising event.

PRELIMINARY VERSION

UNEDITED

NOTES

1. [Bill C-65, An Act to amend the Canada Elections Act](#), 44th Parliament, 1st Session. At the time of writing, a [Charter Statement](#) does not appear to have been tabled.
2. Elections Canada, [Meeting New Challenges: Recommendations from the Chief Electoral Officer of Canada following the 43rd and 44th General Elections](#).
3. Commissioner of Canada Elections, [Recommendations Report: 2019 and 2021 General Elections](#).
4. [Bill C-19, An Act to amend the Canada Elections Act \(COVID-19 response\)](#).
5. Democratic Institutions, [Proposed amendments to the Canada Elections Act](#), Backgrounder.
6. While not described in the *Canada Elections Act*, electoral districts listed in Schedule 3 are, in general, electoral districts that are sparsely populated, rural and/or in northern regions of the province, along with the ridings of each territory.
7. Elections Canada, [Vote on Campus Program](#).
8. Democratic Institutions, [Proposed amendments to the Canada Elections Act](#), Backgrounder.
9. “Cryptoasset” is defined as “a digital asset protected by cryptographic measures.”
10. Kate Sinnott, [“Coming into Force of Federal Legislation: A Practical Guide”](#), *HillNotes*, Library of Parliament, 4 October 2022.