

Election Advertising

Important information for broadcasters, publishers, printers, candidates, registered parties and their official agents, and third party advertisers.

The *Elections Act* (the "Act") specifies that certain information must be included in election advertising during an election period in Nova Scotia.

Election advertising means the transmission of any advertising message that promotes or opposes a registered party or the election of a candidate, including any advertising message that takes a position on an issue with which a candidate or registered party is associated, whether printed, published or broadcast. Election advertising must comply with the *Act* and includes all paid print, radio and television advertising, campaign literature, campaign signs and posters, prospectus, placards, pamphlets, handbills or circulars relating to an election.

Section 271 of the *Act* requires that all election advertising must indicate that it has been authorized by the official agent of the registered party or candidate. Similarly, Section 277 of the *Act* requires that a third party identify itself on any election advertising placed by it and indicate that it has authorized the advertising. These rules apply whether an advertisement is published on behalf of a candidate, a registered party or a third party. The *Act* stipulates that it is an offence to transmit any election advertising that does not comply with these advertising rules.

The authorization must be readable on signs and printed material and understandable at the beginning or end of electronic advertising messages.

It is recommended that television and radio broadcasters obtain and review circulars issued by the Canadian Radio-television and Telecommunications Commission (CRTC) regarding broadcasting during a provincial election. Candidates, political parties and their official agents should also be informed about CRTC regulations regarding automated telephone calling.

The official agent and election advertising

Candidates and registered parties are required under the *Act* to appoint official agents.

Under the *Act*, only an official agent or a person authorized in writing to act on behalf of an official agent may authorize election expenses, including expenses for election advertising. The *Act* also prohibits anyone from executing or accepting an order for election expenses on behalf of a candidate or registered party that is not given by an official agent or by a person authorized in writing to act on behalf of an official agent.

If advertisements or campaign materials are being produced on behalf of a candidate, the person authorizing the materials must be the official agent of the candidate.

Third party election advertising

Any individual, group or organization that is not a candidate, registered party, or electoral district association is a third party.

Third parties sponsoring election advertising must register with Elections Nova Scotia.

The *Act* stipulates that a third party can spend no more than \$2,188.75 (updated April 2017) on election advertising in an electoral district during a general election or by-election. In total, a third party can spend no more than \$10,943.77 (updated April 2017) on election advertising during a general election. A third party cannot subdivide or join together with another third party in order to sidestep these spending limits.

Third party advertising expenditure limits are adjusted at the beginning of each year by the percentage increase in the Consumer Price Index and are posted on the Elections Nova Scotia website. The values in the previous paragraph include the 2016 CPI adjustment.

Rules about election day advertising and other activities

Legislation requiring an advertising blackout on election day was repealed in 2016. However, the *Act* still prohibits certain advertising and other activities during the hours of voting on election day.

The following rules are set out in the *Act*:

- Near a returning office or polling station: Materials of a political nature, including posters, flags or banners, are prohibited within 60 metres of any entrance to a building in which a returning office or polling station is located.
- Parades or demonstrations: No parades or demonstrations supporting a candidate or political party may be held during the hours of polling on election day or during an advance poll. Use of a loud speaker, public address system, flag or banner to support a candidate or political party is also prohibited.
- Display of buttons or emblems: It is prohibited to carry or wear any flag, ribbon, emblem badge or button with the intent that it be used to distinguish the user as a supporter of a candidate or registered party, within 60 metres of any entrance to a building in which a polling station is located. The objective of this provision is to ensure that no partisan materials are brought inside the polling station.

Persons and activities permitted at a poll

Section 94 (1) of the *Act* states that media representatives must be authorized by the Chief Electoral Officer to be present and to film or photograph registered party leaders and the candidates running against them, as they cast their ballots.

The only other persons permitted to be in a polling station while the polls are open are:

- (a) election officers authorized by the Chief Electoral Officer;
- (b) candidates;
- (c) up to two scrutineers for each candidate or, in their absence, two electors to represent each candidate;
- (d) an elector and a friend or relative who is helping the elector only for the period necessary to enable the elector to vote;
- (da) a child of the elector;
- (e) any person necessarily present in order to comply with any other provision of this Act;
- (f) at the discretion of and on such terms and conditions as specified in writing by the Chief Electoral Officer, any person or group of persons for educational purposes;

Without disturbing the conduct of the election, a scrutineer may convey the information obtained at the polling station electronically by photographing or copying it and transmitting it to a representative of the candidate who is on duty outside the polling station, per section 95(3)(c) of the *Act*. In addition, with the exception of election officers as prescribed by the Chief Electoral Officer and authorized media present to record a leader casting a ballot, none of the persons present in a polling location during voting hours shall use a recording, communication or other electronic device, per section 94(4) of the *Act*.

False statement respecting candidate

Section 307 of the *Act* states that every person is guilty of an offence who, during an election, knowingly makes, distributes or publishes a false statement of fact about a candidate's character or conduct for the purpose of influencing the election.

This overview is provided by the Chief Electoral Officer for your information. It is recommended that you refer to the *Elections Act* and consult your legal counsel before undertaking or accepting political advertising to ensure you fully understand your legal obligations.

If you have any questions regarding the contents of this interpretation circular, please contact:

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The views expressed in this information sheet are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Nova Scotia reserves the right to reconsider any interpretations expressed in information sheets, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.