

Information for Prospective Candidate- January 2013

**Information for Prospective
Candidates in Provincial
Elections & By-elections**



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Introduction

This guide provides a basic overview for prospective candidates and may be revised or updated at any time. It is not intended to provide nor does it provide the level of detail that is necessary to ensure compliance with the *Elections Act*, should the reader become a candidate. Candidates should also refer to the *Candidate's Handbook* and the *Handbook for the Official Agent of a Candidate*. Forms and handbooks are available on the Elections Nova Scotia website or by using other contact information found at the end of this guide. Statutes are available on the website of the Office of the Legislative Counsel at <http://www.gov.ns.ca/legislature/legc/> and regulations on the Department of Justice Registry of Regulations site at <http://www.gov.ns.ca/just/regulations/consregs.htm>.

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January, 2013

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Considering running for election

This guide has been prepared by Elections Nova Scotia (ENS) for those considering running as a candidate in a Nova Scotia general election or by-election. It includes basic electoral information, the steps that must be taken to become a candidate, and the responsibilities of a candidate. In general, the same rules and responsibilities apply to a candidate in a by-election or a general election, however one main difference is that sometimes the period in which election expenses relating to advertising may be incurred is longer in the case of a by-election than a general election.

Election administration

Each member of the Nova Scotia Legislative Assembly (MLA) is elected from one of the 51 electoral districts. Each electoral district has a returning officer (RO) appointed by the Chief Electoral Officer of Nova Scotia (CEO), normally for a period of 10 years, to administer elections, and by-elections as the case may be, in that district.

The CEO provides overall direction and supervision of returning officers and the electoral process throughout the province under the *Elections Act*. Elections Nova Scotia is a non-partisan, independent agency managing the electoral process in the Province of Nova Scotia.

Becoming a candidate [*Elections Act*, s. 203]

A person may be a registered candidate of a registered political party (registered party) following a nomination contest or an endorsement by the party anytime between elections. There are currently four registered political parties in Nova Scotia, namely:

- The Green Party of Nova Scotia,
- The Nova Scotia Liberal Party,
- The Nova Scotia New Democratic Party, and
- The Progressive Conservative Association of Nova Scotia.

A person may also register as an independent candidate anytime between elections.

However, whether or not a person has been nominated by a registered party or intends to run as an independent candidate, and is registered with Election Nova Scotia, the person must be officially nominated as a candidate after the call of an election in accordance with the *Elections Act* to be eligible to run for a seat in the Legislative Assembly.

To be officially nominated as a candidate, you must:

- be a Canadian citizen,
- be 18 years or older, and
- not be disqualified or ineligible to be a candidate under the *Elections Act*, the *House of Assembly Act*, or any other act to be a candidate or a member of the House of Assembly.

Nominations are accepted after an election is called.

Elections Nova Scotia will publish the name of the candidate and their agent, when the nomination documents are accepted.

Who cannot be a candidate?

Senators, Members of Parliament, holders of certain government contracts, individuals rendered ineligible by the courts, and those serving certain long-term sentences are disqualified from sitting as MLAs by the *House of Assembly Act*.

Responsibilities before the call of an election

Even before the call of an election, it is necessary for candidates to register with ENS and to record all financial transactions including disclosure of political contributions. The following steps must be taken:

1. Candidate Registration

Once a candidate has determined that they wish to run for political office, the candidate must file Form 1-1 Candidate Registration with the CEO. This must be done at the earlier of:

- a. the time a political contribution is accepted,
- b. the time a transfer is accepted from a registered party or an electoral district association; or
- b. the time an official agent of a candidate incurs an expense in anticipation of an election.

This is a requirement of the *Elections Act*. Form 1-1, Candidate Registration is used to provide candidate information to the CEO. The candidate must also show on the form the name of the financial institution and the account number to which all political contributions will be deposited. This form is available on the ENS website.

2. Appointment of official agent and auditor [*Elections Act*, ss.65(1)(a),172(3)]

When a candidate registers with ENS, the candidate's official agent must be appointed in order to accept contributions or start incurring expenses. A candidate must not manage their own campaign finances or accept political contributions personally. That is the job of the official agent.

Every registered candidate who files nomination documents shall appoint an auditor, and a registered candidate who receives contributions in excess of five thousand

dollars (\$5,000.00) in a calendar year in which a writ of election is not issued in the registered candidate's electoral district or a writ of election is issued in the registered candidate's electoral district and the registered candidate does not become a candidate in the election, must appoint an auditor.

Both the candidate and the official agent should keep a copy of Form 1-1.

When the official agent is appointed, the *Handbook for the Official Agent of a Candidate* should be obtained from ENS. It and other information relating to electoral finance is also found on the ENS website. This handbook details the rules concerning political contributions, disclosure of political contributions, income tax receipts, election spending limits, disposal of excess political contributions, and all reporting requirements and offences imposed by law.

ENS typically conducts training for official agents of a candidate between the call of an election and the close of nominations. This may be delivered electronically. It is strongly recommended that your official agent attend this training.

3. **Filing the Annual Financial Statements (*Elections Act* s.235, 236)**

All contributions and expenditures are to be reported to ENS before March 31st in a non-election year. The prescribed forms are available on the ENS website. This includes all political contributions received by the official agent. Contributions must be recorded in a ledger including the name and full residential address of the contributor as well as the amount of the contribution.

Only individual residents of Nova Scotia may make contributions. Organizations (corporations, partnerships and trade unions) are not permitted to make political contributions. Contributions from an individual who contributes \$200 or more must be disclosed.

Nova Scotia has a \$5,000 limit on contributions by individuals. The limit applies to political contributions received by a registered party, its candidates and its electoral district associations in a calendar year.

Candidates may contribute to their own campaign, but this contribution must be deposited into the campaign account and recorded and disclosed in the same manner as any other contribution. The contribution limit of \$5,000 applies to candidates contributing to their own campaign.

The disclosure requirement applies to any political contributions a candidate receives between elections or after the candidate's official nomination. Disclosures are recorded on Form 2-3A.

The names disclosed in a candidate's statement are subsequently published by

ENS. Annually, or after an election, Form 2-3A is submitted to the CEO together with the candidate's election expense reports (Form 2-3E) and the candidate's statement of contributions for which official tax receipts were issued (Form 2-5). These reports must be filed not later than 80 days after election day. In a non-election year, these are due March 31 for the prior year's activity. All or some of these reports require an audit by a qualified auditor.

Responsibilities after the call of an election

1. How does someone become an officially nominated candidate? (*Elections Act, s. 66*)

If a person wishes to be officially nominated as a candidate, he or she must file their nomination paper (Form 303) with the returning officer during the period starting the date of the notice of election (which is not later than five days from the date of the writ) and **ending at 2:00 pm on nomination day which is the Tuesday, 14 days before the election.**

No one may be officially nominated until after the election is called.

A completed nomination paper contains the following information:

- the candidate's full name and address, both civic and mailing
- name of the registered party, if any, that has endorsed the candidate
- name of the candidate as it is to appear on the ballot (there are rules about how names appear on a ballot)
- **signatures of AT LEAST 5 electors** who are eligible to vote for the candidate (more names than that are recommended to allow for the situation of an ineligible person signing the nomination paper)
- signature and oath of the attesting witness, who is the person who witnessed the signing of the nomination paper by the nominators
- consent and oath of the candidate (must contain an original signature of the candidate)
- the prospective candidate's official agent's name and residential address
- the prospective candidate's auditor's name and business address
- if the candidate is endorsed by a registered party, the nomination paper must be accompanied by a letter from the leader of the party stating that the party endorses the candidate's nomination as a representative of the party
- a deposit of \$200 in a certified cheque or money order must accompany the nomination paper (the use of cash is discouraged) made payable to the Minister of Finance. (If a candidate receives not less than 10% of the valid votes cast in the electoral district where the candidate ran for election, the deposit will be returned upon filing of the official agent's reports).

2. **Political contributions and election expenses**

There are laws and regulations governing political contributions and election expenses.

The laws have four main features:

- recording and disclosing political contributions
- spending limits on candidate election expenses
- public subsidy of eligible election expenses for candidates who receive not less than 10% of the valid votes cast in their electoral district in the election or by-election, and
- a system of income tax credits for contributions made to candidates during an election.

3. **Only an official agent may handle campaign funds [*Elections Act* s.171]**

A candidate is not allowed to receive contributions or incur election expenses. Only a candidate's official agent is authorized to receive contributions, issue income tax receipts, and incur election expenses. A candidate is not permitted to handle campaign funds.

Income tax receipts for contributions to a candidate's election campaign are issued by the candidate's official agent during the campaign period. Only certain contributions received between the time the candidate is officially nominated and the end of ordinary polling day are eligible for an official tax receipt. The candidate's official agent will receive tax receipts from the returning officer when the candidate's nomination is approved by the returning officer. All tax receipts must be accounted for when each candidate's official agent returns unused receipts to the returning officer not later than 30 days after election day.

4. **Reimbursement following election (*Elections Act*, s.267)**

Following a by-election or a general election, a candidate's campaign is entitled to receive reimbursement of all or a portion of the candidate's election expenses (that term is defined in s.166(i) of the *Elections Act*) if the candidate receives not less than 10% of the valid votes cast in the electoral district in the election. In order to qualify for reimbursement, the candidate's official agent must first submit reports documenting political contributions and election expenses, along with a statement of contributions for which official tax receipts have been issued.

The maximum reimbursement is calculated using a formula in the *Elections Act*, but it cannot exceed the total of the candidate's approved election expenses. The formula is \$1.43 (2010 index as stated in the *Elections Act*) per elector in the electoral district and is indexed using the consumer price index (CPI). (Note: in 2013, there will be two years of inflation applied to this rate)

Not all expenses incurred by a candidate meet the definition of “election expenses” in the *Elections Act*. Some personal expenses such as wardrobe enhancement, family care expenses, or salary replacement are not expenses that will be accepted by the CEO for determination of approved election expenses. Before the campaign begins, a candidate should establish with the party or electoral district association which, if any, of these expenses will or will not be covered by the party or electoral district association.

5. Payment of auditor

Each candidate is responsible for paying their auditor. The actual fees for the required audit (of political contributions exceeding \$5,000 in a calendar year and of candidate election expenses) are reimbursed by ENS in the amount of either the actual cost of the audit up to \$459.90 or 2% of actual election expenses to a maximum of \$766.50 (2012 rates). These fees are found in the *Tariff of Fees and Expenses*, and are subject to indexing.

Important Note:

A Candidate is deemed to be Registered when the Nomination paper is filed.

Additional resource materials are available

This guide provides a basic overview. It does not provide the level of detail that is necessary to ensure compliance with the *Elections Act*, the *Income Tax Act* and the *Deduction Regulations*. Candidates should also reference the *Candidate’s Handbook* and the *Handbook for the Official Agent of a Candidate*.

Handbooks and forms are available on the Elections Nova Scotia website at

<http://www.electionsnovascotia.ns.ca>

Statutes are available on the website of the Office of the Legislative Counsel at

<http://www.gov.ns.ca/legislature/legc/>

Regulations are available on the Department of Justice Registry of Regulations site at

<http://www.gov.ns.ca/just/regulations/consregs.htm>.

To request documents or for general enquiries, please contact:

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