



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

ELECTION EXPENSES ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to June 12, 2018. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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ELECTION EXPENSES ACT

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ELECTION EXPENSES ACT

CHAPTER E-2.01

1. Definitions

In this Act

- (a) “**by-election**” means an election other than a general election;
- (b) “**campaign period**” means the period commencing with the issue of the writ of election and terminating three months after polling day;
- (c) “**candidate**” means
 - (i) a person who is duly nominated as a candidate for an electoral district in accordance with the *Election Act* R.S.P.E.I. 1988 Cap. E-1.1 by filing nomination papers with the returning officer for that electoral district following the issue of a writ of election, or
 - (ii) a person who, on or after the date of the issue of a writ for an election in an electoral district, declares himself or herself to be an independent candidate at the election in the electoral district;
- (d) “**contribution**” includes
 - (i) any money donated to a political party or candidate or for the benefit of a political party or candidate,
 - (ii) any other property or services provided free of charge or at less than market value, when provided to a political party or candidate or for the benefit of a political party or candidate, and
 - (iii) any fees paid to a political party for membership in the political party,but does not include
 - (iv) any voluntary unpaid labour, and
 - (v) any money, other property or services solicited by or donated to a political party or candidate for purposes other than the purposes set out in section 7 or subsection 9(2), respectively;
- (e) “**election**” means an election to elect a member or members to serve in the Legislative Assembly;
- (f) “**election expenses**” means all expenses incurred during an election period for the purpose of promoting or opposing, directly or indirectly, the election of a candidate, or a person who becomes or is likely to become a candidate, or the program or policy of a candidate or party, and includes
 - (i) expenditures incurred before an election for literature, objects or materials of an advertising nature used during the election for a purpose above referred to,but does not include:
 - (ii) expenses incurred by a candidate in seeking nomination in accordance with the *Election Act*,

- (iii) the necessary cost of holding a convention in respect of an electoral district for the selection of a candidate including the reasonable expenses of the candidates at the convention, the cost of renting a hall and the convening of delegates but not including publicity costs up to \$1,000,
- (iv) reasonable expenses incurred by a candidate or any other person, out of his or her own money, for his or her lodging and food during a journey for election purposes if those expenses are not reimbursed to him or her,
- (iv) a candidate's transportation costs,
- (v) the transportation costs of any person other than a candidate, paid out of his or her own money if those costs are not reimbursed to him or her,
- (vi) a candidate's deposit as required under the *Election Act*,
- (vii) audit fees,
- (viii) expenses incurred for "**victory**" or "**thank-you**" parties,
- (ix) expenses incurred in relation to the administration of the registered party, but shall be deemed to include the value of any goods held in inventory or any fees or expenses for services for any candidate or political party, and any contribution of goods and services to the political party or candidate registered under this Act, for use in whole or in part during the election period;
- (g) "**election period**" means the period between the issue of the writ of election and the day preceding ordinary polling day;
- (h) "**general election**" means an election in respect of which election writs are issued for all electoral districts;
- (i) "**news reporting**" includes interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication or broadcast on the facilities of any broadcasting undertaking without charge to any registered party or registered candidate;
- (j) "**official agent**" means an official agent of a registered party appointed under subsection 15(1);
- (k) "**outdoor advertising facilities**" means facilities, other than radio and television and newspapers, magazines and other periodical publications, of any person or corporation that is in the business of providing such facilities on a commercial basis for advertising purposes;
- (l) "**person**" includes a candidate but does not include a corporation or trade union;
- (m) "**polling day**" means the day fixed under the *Election Act* for holding the poll at an election;
- (m.1) "**potential candidate**" means a person who publicly puts himself or herself forward for nomination to become a candidate;
- (n) "**registered candidate**" means a candidate registered under this Act;
- (o) "**registered party**" means a political party registered under the *Election Act*;
- (p) "**trade union**" means a trade union as defined by the *Labour Act R.S.P.E.I. Cap. L-1* or the *Canada Labour Code R.S.C.1985 Chap.L-2* that holds bargaining rights for employees in Prince Edward Island to whom either of those Acts apply,
- (q) "**year**" means calendar year. *1996, c.13, s.1; 2018, c.24, s.1.*

2. Staff

- (1) The Chief Electoral Officer may employ legal counsel, auditors and such staff as he or she considers necessary to properly carry out his or her functions under this Act.



Office accommodation and supplies

- (2) The Chief Electoral Officer may lease such premises and acquire such equipment and supplies as he or she considers necessary to properly carry out the responsibilities under this Act. 1996, c.13, s.2.

3. Functions

- (1) The Chief Electoral Officer, in addition to other functions under this Act, shall
- (a) assist registered parties and registered candidates in preparation of returns required under this Act;
 - (b) examine all financial returns filed with the Chief Electoral Officer;
 - (c) conduct such investigations and examinations of the financial affairs and records of registered parties and registered candidates as he or she considers necessary in relation to election campaigns;
 - (d) reimburse candidates for election expenses in accordance with section 22;
 - (e) report to the Minister of Justice and Public Safety and Attorney General any apparent contravention of this Act;
 - (f) approve forms and the contents thereof for use under this Act and provide for their use;
 - (g) prepare, print and distribute forms for use under this Act;
 - (h) provide such guidelines for the proper administration of this Act as he or she considers necessary for the guidance of official agents, auditors, political parties, candidates, potential candidates and any of the officers thereof.

Report of Chief Electoral Officer

- (2) The Chief Electoral Officer may, before or within ten days after the commencement of a session of the Legislative Assembly, make a report to the Speaker on
- (a) any matter which has occurred in connection with the administration of his or her office since the date of his or her last report and which he or she considers should be brought to the attention of the Legislative Assembly; and
 - (b) any amendments which are, in his or her opinion, desirable for the more convenient administration of this Act.

Report to be tabled

- (3) The Speaker shall submit the report received from the Chief Electoral Officer to the Legislative Assembly.

Application of guidelines

- (4) Where an official agent, auditor, political party, candidate, or other person acting under the direction of any of them, applies the provisions of the Act respecting contributions or election expenses in accordance with guidelines issued by the Chief Electoral Officer pursuant to clause (1)(h), that official agent, auditor, political party, candidate, or other person acting under the direction of any of them, shall be deemed to be acting in accordance with the provisions of the Act. 1996, c.13, s.3; 2010, c.14, s.3; 2012, c.17, s.2; 2015, c.28, s.3; 2018, c.24, s.2.

4. Powers of Commission under *Public Inquiries Act*

For the purpose of carrying out any investigation or examination under this Act, the Chief Electoral Officer has the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. Cap. P-31. 1996, c.13, s.4.

5. Powers of inspection

For the purposes of an investigation or examination under this Act, a representative of the Chief Electoral Officer, upon production of an authorization from the Chief Electoral Officer to enter the premises (referred to in the authorization) in which the books, papers and documents of a registered party or candidate relevant to the subject-matter of the investigation or examination are kept, may at any reasonable time enter such premises and examine such books, papers and documents. *1996, c.13, s.5.*

6. Information

Such information with respect to the election expenses of a registered party or registered candidate that is reasonably required in respect of their duties under this Act as the Chief Electoral Officer may request shall be provided by the registered party or registered candidate within thirty days after receiving a written request therefor from the Chief Electoral Officer or within such extended period as the Chief Electoral Officer may determine. *1996, c.13, s.6.*

REGISTRATION

7. Registered parties may accept contributions

No political party and no person, corporation or trade union acting on behalf of the political party shall accept contributions for the purposes of the political party or for the candidacy of any person at an election or for an election campaign of any person unless the political party is a registered party. *1996, c.13, s.7.*

8. Deregistration of parties on application

- (1) The Chief Electoral Officer may deregister a registered party on an application therefor by the registered party.

For non-compliance with certain provisions of Act

- (2) The Chief Electoral Officer may deregister, a registered party where the registered party fails to comply with subsection 15(2) or where the official agent of the registered party fails to comply with section 20 or 21.

Notice of proposal to deregister party or association

- (3) Where under subsection (2) the Chief Electoral Officer proposes to deregister a registered party, he or she shall send by registered mail notice of his or her proposal with written reasons therefor to the registered party, and the registered party so notified, within thirty days after the sending of the notice, may request the Chief Electoral Officer in writing to review his or her proposal.

Review

- (4) Where the Chief Electoral Officer receives a written request to review his or her proposal, he or she shall review the proposal and give the registered party notified under subsection (3) an opportunity to make representation to the Chief Electoral Officer and following a review of the proposal the Chief Electoral Officer may withdraw his or her proposal or deregister the registered party as the case may be, and shall notify it in writing of his or her decision.



Registration

- (5) Where a registered party is deregistered for failure to comply with section 20 or 21, it may not apply for registration until the financial statements as required by section 20 or 21, together with the auditor's report thereon as required by subsection 19(4), that were not filed have been filed with the Chief Electoral Officer.

Disposition of funds upon deregistration

- (6) Where a registered party is deregistered, all funds of the registered party not required to pay any outstanding debts thereof shall be paid over to the Chief Electoral Officer and held by the Chief Electoral Officer in trust for the political party and, if the party does not become registered within a period of two years following its deregistration, the funds shall escheat to the Crown and the Chief Electoral Officer shall pay the funds into the Operating Fund.

Duty of official agent

- (7) Where a registered party applies to the Chief Electoral Officer for deregistration under subsection (1), the official agent of the registered party shall, at the same time, file with the Chief Electoral Officer financial statements, which include the balance sheet, statement of income and a statement of changes in financial condition, of the party for which he or she acted for the most recent fiscal year of the party and financial statements, which include the balance sheet, statement of income and a statement of changes in financial condition, from the date of the last fiscal year end date and ending on the last day upon which any financial activity of the party, has occurred, together with the auditor's report thereon as required by subsection 19(4). 1996, c.13, s.8.

9. Registration of candidate

- (1) Every candidate shall, prior to the polling day, file with the Chief Electoral Officer an application for registration under this Act.

Idem

- (2) No person and no person, corporation or trade union acting on behalf of such person and, except as provided under section 7, no political party or association or organization thereof acting on behalf of such person, shall accept contributions for the candidacy of such person at an election or for an election campaign of such person unless such person is a registered candidate.

Application for registration

- (3) The Chief Electoral Officer shall maintain a register of candidates in relation to each election and, subject to this section, shall register therein any candidate who files an application for registration with the Chief Electoral Officer setting out
- (a) that the candidate
 - (i) has been duly nominated in accordance with the *Election Act*, by filing nomination papers with the returning officer in an electoral district following the issue of a writ of election, together with the name of the electoral district, or
 - (ii) has not been so nominated in accordance with the *Election Act*, but, after the issue of a writ for an election in an electoral district, has declared as an independent candidate at the election in that electoral district, together with the name of the electoral district;
 - (b) the full name and address of the candidate;
 - (c) the political party affiliation if any, of the candidate;

- (d) the address of the place in Prince Edward Island where records of the candidate are maintained and of the place in Prince Edward Island to which communications may be addressed;
- (e) the name of the auditor and official agent of the candidate.

Effective date of registration

- (4) A candidate who files an application under subsection (3)
 - (a) prior to the issue of a writ for an election, shall be deemed to be registered with effect from the issue of the writ; and
 - (b) after the issue of a writ for an election, shall be deemed to be registered on the day of filing.

Mailing of application deemed filing

- (5) An application under subsection (3) may be filed with the Chief Electoral Officer by registered mail-in which case it shall be deemed to be filed on the day it is mailed.

Where candidate withdraws, etc.

- (6) Where a registered candidate withdraws his or her candidacy prior to polling day or fails to file nomination papers with the returning officer under the *Election Act*, or dies prior to polling day, the campaign period with respect to that candidate is deemed to expire on the day of the withdrawal of the candidacy, on nomination day or on the day of his or her death, whichever first occurs, and the official agent for that candidate shall file with the Chief Electoral Officer the statement referred to in section 21 within sixty days after the expiration of the campaign period with respect to that candidate.

Variation of register

- (7) Where any of the information referred to in clauses (3)(b) to (e) is altered, the candidate shall forthwith notify in writing the Chief Electoral Officer of any such alteration, and upon receipt of any such notice, the Chief Electoral Officer shall vary the register of candidates accordingly. *1996, c.13, s.9.*

10. Inspection of documents

- (1) All documents filed with the Chief Electoral Officer are public records and may be inspected by any elector upon request at the office of the Chief Electoral Officer during normal office hours.

Extracts

- (2) Any elector may take extracts from the documents referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the Chief Electoral Officer may determine.

Not to be used for commercial solicitation

- (3) No elector, corporation or trade union shall use any of the information contained in any document filed with the Chief Electoral Officer for purposes of commercial solicitation. *1996, c.13, s.10.*



CONTRIBUTIONS

11. Contributors and how contributions to be made

- (1) Contributions to registered parties and registered candidates may be made only by individuals who are ordinarily resident in the province.

Receipts

- (2) Where a contribution of more than \$25 is made to a registered party or registered candidate, the official agent of the party or candidate shall issue a receipt therefor in the form prescribed under the *Income Tax Act* R.S.P.E.I. 1988, Cap. I-1.

Anonymous contributions not permitted

- (3) No one shall make an anonymous contribution under this Act.

Other contributions not permitted

- (4) No one shall make a contribution under this Act if not permitted by this Act to make the contribution.

Contributions to associations or organizations of registered parties

- (5) Any contribution made to an association or organization of a political party is a contribution made to the political party.

Certain transfers not affected by Act

- (6) Nothing in this Act limits or prohibits a political party, an association or organization of the political party and a candidate affiliated with the political party from transferring to or accepting from each other, money, other property or services, including the undertaking of advertising as described in subsection 13(1), but these transfers shall be recorded and reported as election expenses if required by this Act.

Certain transfers not contributions

- (7) For the purposes of this Act, transfers described in subsection (6) shall not be considered to be contributions. *1996, c.13, s.11; 2018, c.24, s.3.*

11.1 Meaning of “ordinarily resident”

- (1) For the purposes of section 11, the place where an individual is ordinarily resident is the place where the individual lives and to which, when absent, the individual intends to return.

Only one place of ordinary residence

- (2) For the purposes of section 11 and subsection (1), an individual can have only one place of ordinary residence and it cannot be lost until another is gained. *2018, c.24, s.4.*

12. Anonymous, etc. contributions

Any contribution from an anonymous donor received by a registered party or registered candidate shall not be used or expended, but shall be paid over to the Operating Fund. *1996, c.13, s.12.*

12.1 Definition related to contributions

- (1) In this section, “limit” means \$3,000, as adjusted in accordance with section 12.2.

Contribution deemed to be contribution to registered party

- (2) For the purposes of this section and the application of the limit to an individual's contributions to a registered party, a contribution made to a registered candidate who is affiliated with a registered party is deemed to be a contribution to the registered party.

Limit on contributions

- (3) The value of an individual's aggregate contributions, in any calendar year, to any single registered party or to any single registered independent candidate shall not exceed the limit.

Clarification

- (4) For greater certainty, the limit applies separately to an individual's contributions to each registered party and to each registered independent candidate.

Deemed limit for current calendar year

- (5) Despite subsection (3), where an individual has contributed, prior to the coming into force of this section, aggregate contributions for the 2018 calendar year that, when calculated as provided in this section, exceed the limit, the limit for that individual for the 2018 calendar year is deemed to be the value of the aggregate contributions contributed by that individual before the date of the coming into force of this section.

Value is fair market value

- (6) The value of a contribution of property or services referred to in subclause 1(d)(ii) is its market value when the contribution is made.

Calculation

- (7) Where property or services referred to in subclause 1(d)(ii) are provided at less than market value, the value of the contribution is the difference between the market value of the property or services when provided and the amount charged by the person providing the property or services. *2018, c.24, s.5.*

12.2 Adjustment of limit

- (1) Effective January 1 after ordinary polling day of the first general election following the coming into force of this section, the Chief Electoral Officer shall adjust the \$3,000 amount referred to in subsection 12.1(1) by adding \$50 to the amount.

Annual adjustment

- (2) Effective each January 1 after the January 1 referred to in subsection (1), the Chief Electoral Officer shall adjust the amount determined under this section for the previous January 1 by adding \$50 to the amount.

Limit for year

- (3) The amount determined under subsection (1) or (2), as applicable, shall be the limit for the purposes of section 12.1 for the calendar year in which it is determined.

Publication of limit information

- (4) The Chief Electoral Officer shall publish the amount determined under this section in the manner that the Chief Electoral Officer considers appropriate as soon as reasonably possible after January 1 in each year. *2018, c.24, s.5.*



13. Advertising as contribution

- (1) Where anyone, with the knowledge and consent of a registered party or registered candidate, promotes the registered party or the election of the registered candidate or opposes any other registered party or the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking or by publishing an advertisement in any newspaper, magazine or other periodical publication or printed leaflets, pamphlets or other documents or through the use of the Internet or any outdoor advertising facility, the amount of the cost, if any, shall be considered to be a contribution and, if done during the election period, an election expense for the purposes of this Act of the registered party or registered candidate with whose knowledge and consent the political advertising was done.

Subsections (1) and (3) do not permit prohibited contributions

- (1.1) For greater certainty, subsections (1) and (3) do not permit anyone who is not permitted to make a contribution under section 11 or a transfer referred to in subsection 11(6) to undertake advertising as described in subsection (1).

Where not considered to be a contribution

- (2) Despite subsection (1), where political advertising is provided on the facilities of any broadcasting undertaking without charge to registered parties or to registered candidates in particular electoral district in accordance with the provisions of the *Broadcasting Act* (Canada) R.S.C. 1985 Chap. B-9.01, the regulations thereunder and guides published in accordance therewith, such political broadcasts shall not be considered to be a contribution or an election expense for the purposes of this Act to such registered parties or registered candidates.

Identification

- (3) No person, corporation, trade union or registered party shall cause any political advertisement to be broadcast on the facilities of any broadcasting undertaking or published in any newspaper, magazine or other periodical publication or through the use of the Internet or any outdoor advertising facility unless he, she or it furnishes to the broadcaster or publisher of the political advertisement his, her's or its identification in writing, together with the identification, in writing, of any person, corporation or trade union or registered party sponsoring the political advertisement.

Records

- (4) Any broadcaster who broadcasts or any publisher who publishes a political advertisement shall maintain records for a period of two years after the date of the broadcast or publication setting forth such advertisement, the charge therefor and any material relating to identification furnished to the broadcaster or publisher in connection therewith and shall permit the public to inspect such records during normal office hours.

Reference to persons, etc., authorizing advertising

- (5) All political printed advertising, handbills, placards, posters and broadcast or telecast advertisements shall bear or make reference to
- (a) the official agent and the registered party or registered candidate authorizing the political advertisement or;
 - (b) in the case of an advertisement done without the knowledge and consent of the registered party or registered candidate, the name of the person, corporation or the trade union authorizing the political advertising.

Definition

- (6) For the purposes of this section, “political advertisement” and “political advertising” means any matter promoting or opposing any registered party or the election of any registered candidate for which a fee is paid, but does not include any news reporting. *1996, c.13, s.13; 2018, c.24, s.6.*

14. Who may accept contributions

- (1) No contribution shall be accepted by a registered candidate otherwise than through his or her official agent or a person authorized in writing by such agent to accept contributions.

Authorization

- (2) Where an official agent, in accordance with subsection (1), has authorized a person to accept contributions, a copy of such authorization shall be sent, as soon as practicable, to the Chief Electoral Officer. *1996, c.13, s.14.*

15. Official agent, of party or candidate

- (1) Every political party or independent candidate applying for registration under this Act or the *Election Act*, before filing its application with the Chief Electoral Officer, shall appoint an official agent.

Appointment of new official agent

- (2) Where the official agent of a registered party or candidate ceases for any reason to hold office as such, the registered party or candidate, as the case may be, shall forthwith appoint another official agent and shall immediately give notice in writing to the Chief Electoral Officer of the name of the new official agent.

Responsibilities

- (3) The official agent of a registered party or independent candidate registered under this Act in relation to the affairs of the party or candidate who appointed him or her shall be responsible for ensuring that
- (a) proper records are kept of all receipts and expenditures;
 - (b) proper receipts are completed and dealt with in accordance with this Act;
 - (c) the financial statements as required by sections 20 and 21 together with the auditor’s report thereon are filed with the Chief Electoral Officer in accordance with this Act; and
 - (d) contributions consisting of goods or services are valued and recorded in accordance with this Act. *1996, c.13, s.15.*

16. Recording of contributions

- (1) Where any person acting on behalf of
- (a) a registered party accepts in any year; or
 - (b) a registered candidate accepts in any campaign period,
- a single contribution in excess of \$25 or contributions from a single source that in the aggregate exceed \$25, the official agent of such registered party or registered candidate, as the case may be, shall record all such contributions and, in the case of a single contribution in excess of \$250 or contributions from a single source that in the aggregate exceed \$250, the name and address of the contributor. *1996, c.13, s.16.*



CAMPAIGN ADVERTISING

17. Period of campaign advertising limited

- (1) No registered party or registered candidate and no one acting with its, his or her knowledge and consent shall, except during the election period,
- (a) advertise on the facilities of any broadcasting undertaking; or
 - (b) procure for publication, cause to be published or consent to the publication of, an advertisement in a newspaper, magazine or other periodical publication or through the use of the Internet or outdoor advertising facilities,

for the purpose of directly promoting the election of a registered candidate or opposing any other registered party or candidate.

Registration required before advertising permitted

- (1.1) No political party, association or organization of a political party, candidate or potential candidate and no one acting with its, his or her knowledge and consent shall advertise as set out in clauses (1)(a) or (b) for the purpose of directly promoting a political party or the election of a candidate or potential candidate or opposing a political party or the election of a candidate or potential candidate before
- (a) the political party that is being promoted or opposed becomes a registered party; or
 - (b) the candidate or potential candidate whose election is being promoted or opposed becomes a registered candidate.

Exceptions

- (2) Subsection (1) does not apply to
- (a) announcing the location of the headquarters of a party or candidate;
 - (b) advertising for volunteer campaign workers;
 - (c) announcing services for electors by parties or candidates respecting enumeration and voter registration of electors;
 - (d) announcing services for electors on polling day; or
 - (e) any other matter respecting administrative functions of the party or candidate, if the advertisements, announcements and other matters are done in accordance with the guidelines of the Chief Electoral Officer

Rates to be charged to parties, and candidates for broadcasting time and advertising space

- (3) No person or corporation shall
- (a) charge a registered party, registered candidate, or any person acting with its, his or her knowledge and consent, a rate for broadcasting time on any broadcasting undertaking in the election period, that exceeds the lowest rate charged by the person or corporation for an equal amount of equivalent time on the same facilities made available to any other person in that period; or
 - (b) charge a registered party, registered candidate, or any person acting with its, his or her knowledge and consent, a rate for an advertisement in a periodical publication published or distributed and made public in the election period that exceeds the lowest rate charged by the person or corporation for an equal amount of equivalent advertising space in the same issue of the periodical or in any other issue thereof published or distributed and made public in that period. *1996, c.13, s.17; 2018, c.24, s.7.*

ELECTION EXPENSES

18. Limitation on election expenses of political party

- (1) The total election expenses incurred by a registered party and any person, corporation, trade union, unincorporated association or organization acting on behalf of that party during any campaign period shall not exceed the aggregate amount determined by multiplying \$6.00 by
 - (a) in relation to a general election, the number of electors entitled to vote, as certified by the Chief Electoral Officer under the *Election Act*, in the electoral districts in which there is an official candidate of that party; and
 - (b) in relation to a by-election in an electoral district, the number of electors entitled to vote, as certified by the Chief Electoral Officer under the *Election Act*, in that electoral district.

Idem, candidate

- (2) The total election expenses incurred by a registered candidate, and any person, corporation, trade union, unincorporated association or organization acting on behalf of that candidate during any campaign period shall not exceed \$1.75 for each elector entitled to vote, as certified by the Chief Electoral Officer under the *Election Act*, in the candidate's electoral district.

Reduction of subsidy

- (3) Where the total election expenses incurred by a registered party and any person, corporation, trade union, unincorporated association or organization acting on behalf of that party exceed the amount determined under subsection (1) or where the total election expenses incurred by a registered candidate, and any person, corporation, trade union, unincorporated association or organization acting on behalf of that candidate exceed the amount determined under subsection (2), the amount of the subsidy, if any, payable to the registered party's official agent or to the candidate's official agent under subsection 22(1), as the case may be, shall be reduced by an amount equal to such excess.

Approval of official agent

- (4) During an election no person other than the official agent or a representative of such an agent authorized in writing by the agent shall incur or authorize election expenses.

Time for submission of payment claims

- (5) Every person, corporation or trade union who has any claim for payment in relation to a election expense shall submit such claim within thirty days after polling day to the official agent of the registered party or registered candidate that incurred the election expense.

Payment of expenses by chief financial officer

- (6) Every payment of a election expense shall be authorized by the official agent of the registered party or registered candidate that incurred the election expense and such election expense shall be vouched for by a statement setting forth the particulars and proof of payment.

Disputed claims

- (7) Where the official agent of a registered party or registered candidate disputes or refuses to pay any claim for payment in relation to an election expense, such claim shall be considered to be a disputed claim and the claimant may bring an action for payment in any court of competent jurisdiction.



Consumer Price Index adjustment

- (8) The amounts set out in subsection (1) and (2) shall be increased or decreased in accordance with the Consumer Price Index (Charlottetown/ Summerside) published by Statistics Canada using the annual 1995 index as the base and the latest available index, as determined by the Chief Electoral Officer, as the current index. *1996, c.13, s.18.*

AUDITORS**19. Appointment of auditor**

- (1) Every independent candidate at the time of appointment of his or her official agent, and every registered party upon becoming registered under the *Election Act*, shall appoint an auditor licensed under the *Public Accounting and Auditing Act* R.S.P.E.I. 1988 Cap. P-28 or a firm whose partners resident in Prince Edward Island are licensed under that Act and shall forthwith advise the Chief Electoral Officer of the name and address of such auditor or firm.

Idem

- (2) Where an auditor or firm appointed under subsection (1) ceases for any reason, including resignation, to hold office as such, ceases to be qualified as provided in subsection (1) or becomes ineligible as provided in subsection (3), the candidate or registered party, as the case may be, shall forthwith appoint another similarly qualified auditor or firm and shall forthwith advise the Chief Electoral Officer of the name and address of such auditor or firm.

Persons not eligible

- (3) No returning officer, deputy returning officer or election clerk and no candidate or official agent of a candidate or registered party shall act as the auditor for the candidate or registered party.

Auditor's report

- (4) The auditor or firm appointed under subsection (1) or (2) shall make a report to the official agent of the candidate or registered party that appointed the auditor or firm in respect of the financial statements as required by sections 20 and 21 and shall make such examination of the financial statements and supporting documentation as is necessary to enable the auditor or firm to report thereon in accordance with generally accepted auditing standards.

Where statement required

- (5) An auditor, in the report under subsection (4), shall make such statements as the auditor considers necessary in any case where
- (a) the auditor has not received from the official agent all the information and explanation that he or she has required; or
 - (b) proper accounting records have not been kept by the official agent so far as appears from the auditor's examination.

Right of access

- (6) An auditor appointed under subsection (1) or (2) shall have access at all reasonable times to all records, documents, books, accounts and vouchers of the candidate or registered party that appointed the auditor and is entitled to require from the official agent such information and explanation as in the auditor's opinion may be necessary to enable the auditor to report as required by subsection (4). *1996, c.13, s.19.*

FINANCIAL REPORTS

20. Annual filing of financial statement and report

- (1) The official agent of every registered party and registered candidate shall, within one hundred and twenty days after the day fixed for the return of writs of election, file with the Chief Electoral Officer
 - (a) a financial report of election expenses in a form approved by the Chief Electoral Officer, accompanied by the invoices, receipts and other vouchers and an affidavit of the official agent verifying the report and stating that no payment not permitted by the Act was made with his or her knowledge and consent and that to the best of his or her knowledge and belief every expense incurred is entered in the report of the registered party or candidate for which the official agent acts, and
 - (b) the auditor's report thereon as required by subsection 19(4).

Annual filing of record of contributions

- (2) The official agent of every registered party shall, on or before May 31 in each year, file with the Chief Electoral Officer a record of contributions, setting out all the information required to be recorded under subsection 16(1) for the preceding calendar year. *1996, c.13, s.20.*

21. Failure of candidate not elected to file statement and report

Where the official agent of a registered candidate fails to file a financial report and the auditor's report thereon as required by subsection 20(1), the candidate, in addition to any other penalty, is ineligible to stand as a candidate at any election up to and including the next general election unless prior thereto he or she or the official agent has filed such financial report and the auditor's report thereon with the Chief Electoral Officer. *1996, c.13, s.21.*

PUBLIC FUNDING OF CANDIDATE AND PARTY EXPENSES

22. Reimbursement of election expenses

- (1) Every registered candidate in an electoral district who receives at least 15 per cent of the popular vote in such electoral district is entitled to be reimbursed by the Chief Electoral Officer for the lesser of election expenses for the election period as shown on the financial reports filed with the Chief Electoral Officer, in accordance with section 21, together with the auditor's report in accordance with subsection 19(4), or an amount equal to one dollar for each elector whose name was on the official list of electors in the electoral district, subject to a minimum payment of \$2,000 and a maximum payment of \$4,000.

No reimbursement unless financial statement and report filed

- (2) A candidate is not entitled to be reimbursed for expenses under subsection (1) unless the candidate or his or her official agent has filed the financial reports as required by section 21, together with the auditor's report thereon as required by subsection 19(4), and the Chief Electoral Officer is satisfied that such statements meet the requirements of this Act.

Approval of reimbursement

- (3) After the official agent has reported the election expenses of the candidate as required by this Act the Chief Electoral Officer shall



- (a) approve, as soon as possible, payment of seventy-five per cent of the reimbursement to which a candidate is entitled when the Chief Electoral Officer is satisfied that election expenses in at least that amount have been incurred; and
- (b) approve the remaining amount of reimbursement to which a candidate is entitled when the Chief Electoral Officer has determined that the report is accurate and that the expenses claimed are election expenses as defined in section 1.

Definitions

- (4) In this section
 - (a) “independent candidate” means a person referred to in subclause 1(c)(ii);
 - (b) “popular vote” means the total counted ballots cast in favour of all candidates in an electoral district and does not include any rejected, cancelled, declined or unused ballots.

Adjustments

- (5) The amounts set out in subsection (1) shall be increased or decreased in accordance with the Consumer Price Index (Charlottetown\ Summerside) published by Statistics Canada using the annual 1995 index as the base and the latest available index, as determined by the Chief Electoral Officer, as the current index.

Calculation and payment

- (6) The Chief Electoral Officer shall calculate the reimbursement pursuant to this section and provide the calculation to each official agent, and shall pay the amount of the reimbursement to the official agent. *1996, c.13, s.22; 2018, c.24, s.8.*

23. Annual allowance

- (1) An annual allowance in the prescribed amount shall be payable to each registered party holding one or more seats in the Legislative Assembly.

Prescribed amount

- (2) In subsection (1) the “prescribed amount” means an amount obtained by multiplying the number of valid votes cast for official candidates of the party at the immediately preceding general election by a sum not exceeding \$2.00 determined by the Lieutenant Governor in Council after consultation with the Leader of the Opposition.

Adjustments

- (3) The sum determined by the Lieutenant Governor in Council under subsection (2) shall be increased or decreased in accordance with the Consumer Price Index (Charlottetown\Summerside) published by Statistics Canada using the annual 1995 as the base and the latest available index, as determined by the Chief Electoral Officer, as the current index. *1996, c.13, s.23.*

FORMS**24. Forms**

All applications, returns, reports, and other documents required to be filed with the Chief Electoral Officer shall be filed in the form determined by the Chief Electoral Officer. *1996, c.13, s.24.*

OFFENCES

25. Offence by official agent

- (1) The official agent of a registered party or registered candidate who contravenes section 20 or 21 is guilty of an offence and on summary conviction is liable to a fine of not less than \$2,000 and not more than \$5,000.

Offence by party or candidate

- (2) Where any contravention of this Act that is an offence by virtue of subsection (1) is committed by an official agent of a registered party or registered candidate, the registered party or registered candidate for which the official agent acts is guilty of an offence and on summary conviction is liable
- (a) in the case of a registered party, to a fine of not less than \$5,000 and not more than \$10,000; and
- (b) in the case of a registered candidate, to a fine of not less than \$2,000 and not more than \$5,000. *1996, c.13, s.25.*

26. Offence by corporation or union

Every corporation or trade union that contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000. *1996, c.13, s.26.*

27. General offence

Every person, registered party that contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. *1996, c.13, s.27.*

28. Offence for obstructing investigation

No person shall obstruct a person making an investigation or examination under this Act or withhold from him or her or conceal or destroy any books, papers, documents or things relevant to the subject matter of the investigation or examination. *1996, c.13, s.28.*

29. Offence for false statement

No person shall knowingly make a false statement in any application, return, financial report or other document filed with the Chief Electoral Officer under this Act. *1996, c.13, s.29.*

30. Offence for false information

No person shall knowingly give false information to a official agent or other person authorized to accept contributions. *1996, c.13, s.30.*

31. Style of prosecution of party, or union

- (1) A prosecution for an offence under this Act may be instituted against a registered party or trade union and for the purposes of any such prosecution, a registered party or trade union shall be deemed to be a person.



Vicarious responsibility

- (2) Any act or thing done or omitted by an officer, official or agent of a registered party or trade union within the scope of his or her authority to act on behalf of the registered party or trade union shall be deemed to be an act or thing done or omitted by the registered party or trade union. *1996, c.13, s.31.*

32. Consent of Chief Electoral Officer and limitation

No prosecution shall be instituted under this Act without the consent of the Chief Electoral Officer and no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Chief Electoral Officer. *1996, c.13, s.32.*

33. Repeal

Act repealed. *1996, c.13, s.33.*