

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



**Published by the Chief Electoral Officer
May 2010**

Introduction

This guide provides a basic overview for prospective candidates and may be revised or updated at anytime. It was not intended to provide nor does it provide the level of detail that is necessary to ensure compliance with the *Elections Act*, the *Members and Public Employees Disclosure Act*, or the *Political Contributions Disclosure Regulations*, 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>.

Christine McCulloch, Q.C.
Chief Electoral Officer
May 2010

Table of Contents

	Page
Considering running for election	1
Election administration	1
Becoming a candidate	1
Who cannot be a candidate?	2
Responsibilities before the call of an election	
1. Appointment of official agent and auditor	2
2. Provision of candidate information to the Chief Electoral Officer	2
3. Filing the Annual Statement of Political Contributions	3
Responsibilities after the call of an election	
1. How does someone become an officially nominated candidate?	4
2. Political contributions and election expenses	4
3. Only an official agent may handle campaign funds	5
4. Reimbursement following election	5
5. Payment of auditor	6

Considering running for election

This guide has been prepared by Elections Nova Scotia for those considering running as a candidate in an election, whether 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 general election as in a by-election. 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 (MLAs) is elected from one of the 52 electoral districts. Each electoral district has a returning officer appointed by either Cabinet or the Chief Electoral Officer to administer the election or by-election, as the case may be, in that district.

The Chief Electoral Officer provides overall direction and supervision of returning officers and the administrative conduct of the electoral process throughout the Province under the *Elections Act*. The Office of the Chief Electoral Officer (Elections Nova Scotia) is a non-partisan, independent agency coordinating the electoral process in the Province of Nova Scotia.

Becoming a candidate [*Elections Act*, s. 65, c. 3(d)]

A person can be a candidate of a recognized political party (recognized party) following a nomination contest or an endorsement by the party anytime between elections. There are currently 5 recognized political parties in Nova Scotia, namely the Green Party of Nova Scotia, the Nova Scotia Liberal Party, the Nova Scotia New Democratic Party, The Progressive Conservative Association of Nova Scotia and the Atlantica Party Association of Nova Scotia. A person may also declare their intention to run as an independent candidate anytime between elections.

However, whether or not a person has been nominated by a recognized party or intends to run as an independent candidate, the person must be officially nominated as a candidate in accordance with the *Elections Act* before being eligible to run for a seat in the Legislative Assembly.

To be officially nominated as a candidate, you must be:

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

Who cannot be a candidate?

Senators, MPs, 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 the Chief Electoral Officer and to record and disclose political contributions. The following steps must be taken:

- 1. Appointment of official agent and auditor [*Elections Act*, ss.66(4), 178(1), 191(1)]**

Although the notice of appointment of a candidate's official agent and of a candidate's auditor is not required until the filing of a nomination paper under the *Elections Act*, a candidate must appoint an official agent in order to accept contributions or start spending on a campaign. A candidate cannot manage their own campaign finances or accept political contributions personally. That is the job of the official agent. Candidate election expenses must also be audited. A candidate is required to have contributions audited if they exceed \$5,000 in a non-election year. A candidate must appoint an auditor should this circumstance occur.

There is no particular form to appoint an official agent; a letter will suffice. Both the candidate and the official agent should keep a copy of the appointment. A sample letter is included at the end of this guide.

When the official agent is appointed, the *Handbook for the Official Agent of a Candidate* should be obtained from Elections Nova Scotia. It and other information relating to electoral finance is also found on the Elections Nova Scotia 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.

Elections Nova Scotia typically conducts training for candidate official agents between the call of an election and the close of nominations. It is strongly recommended that your official agent attend this training.

- 2. Provision of candidate information to the Chief Electoral Officer**

Once a candidate has determined that they are going to run for political office, the candidate must file candidate information with the Chief Electoral Officer. This must be done at the earlier of:

- a. the time political contributions are accepted, or

b. the time that the nomination paper is filed.

This is a requirement of the *Members and Public Employees Disclosure Act (MPEDA)*. Form 1, Candidate Information, made under the *Political Contributions Disclosure Regulations*, is used to provide candidate information to the Chief Electoral Officer. The information required on the form includes the name, address, and telephone number of the candidate's official agent and also of the candidate's auditor, if one has been appointed. The candidate must also show on the form the name of the financial institution and the account number in which all political contributions are to be deposited. This form is available from the candidate's returning officer during an election or through the Elections Nova Scotia website.

3. Filing the Annual Statement of Political Contributions (MPEDA s.10, 11 & 14)

All political contributions received by the official agent must be recorded in a ledger including the name and full civic address of the contributor as well as the amount of the contribution. Should a candidate's official agent receive any political contributions in a year in which an election is not held, these contributions must be disclosed by March 31st of the next year. Form 2, Candidate's Financial Statements and Supporting Schedules found in the *Political Contributions Disclosure Regulations*, is to be used for that purpose.

Effective January 1, 2010, only residents of Nova Scotia may make contributions. An organization (corporations, partnerships and trade unions) cannot make political contributions. Contributions from an individual who contributes over \$50 must be disclosed. The disclosure requirement applies to any political contributions a candidate receives between elections or after the candidate's official nomination. Disclosures are made on the "B" Schedules to Form 2.

The names disclosed in a candidate's statement are subsequently published by Elections Nova Scotia. Where there has been an election, Form 2 is submitted to the Chief Electoral Officer together with the candidate's election expense reports (Form 601) and the candidate's statement of contributions for which official tax receipts were issued (Form 604). These reports must be filed not later than 60 days after election day. All or some of these reports require an audit by a qualified auditor.

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

A candidate can 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 a candidate contributing to their own campaign.

Candidates must also be aware of the residency requirement that applies to individuals

making political contributions. Only residents of Nova Scotia may contribute to a candidate's campaign.

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 with the returning officer during the period starting the date of proclamation day (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 can be officially nominated until after the election is called.

A completed nomination paper contains the following information:

- the candidate's name and address, both civic and mailing
- name of the recognized 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 can 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)
- appointment of the candidate's official agent and auditor
- if the candidate is endorsed by a recognized 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 \$100 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 [MPEDA s.10, *Elections Act* ss.175(1)]

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 ordinary polling day.

4. Reimbursement following election (*Elections Act*, s.181 & 182)

Following a general election a candidate's campaign is entitled to receive reimbursement for all or a portion of the candidate's election expenses (that term is defined in clause 3(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 used is based on the number of electors in the electoral district and is indexed using the consumer price index (CPI). For information, the rebate in the most recent general election (2009) was \$1.38 per elector.

Not all expenses incurred by a candidate meet the definition of "election expenses" in clause 3(i) of 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 Chief Electoral Officer for determination of approved election expenses. Before the campaign begins, a candidate should establish with the party or electoral district association which 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. However, 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 Elections Nova Scotia in the amount of: the actual cost of the audit up to \$450 or 2% of actual election expenses to a maximum of \$750. These fees are found in the *Tariff of Fees and Expenses* made under the *Elections Act*.

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 *Members and Public Employees Disclosure Act*, the *Political Contributions Disclosure Regulations*, 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/> and 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:

Elections Nova Scotia

7037 Mumford Road, Suite 6
P.O. Box 2246
Halifax, Nova Scotia
B3J 3C8

Telephone and Fax

Business: 902.424.8584

Toll Free 1.800.565.1504

Fax: 902.424.6622

E-mail: elections@gov.ns.ca

Website: www.electionsnovascotia.ns.ca

Sample letter when appointing an official agent

Date

Address letter to name
and full mailing address
of person being appointed
as official agent

Dear _____,

I am a candidate for the election to the Legislative Assembly in the electoral district of [correct name of electoral district].

I appoint you as my official agent to fulfill all the responsibilities required of an official agent under the *Elections Act*, the *Members and Public Employees Disclosure Act* and *Political Contributions Disclosure Regulations*.

Yours sincerely,

signed by candidate
XYZ Party (or independent)
name of electoral district