

POLITICAL ADVERTISING DURING A NOVA SCOTIA GENERAL ELECTION

IMPORTANT INFORMATION FOR BROADCASTERS, PUBLISHERS, PRINTERS, CANDIDATES, REGISTERED PARTIES AND THEIR OFFICIAL AGENTS AND THIRD-PARTY ADVERTISERS

This overview summarizes the rules governing political advertising during a Nova Scotia general election.

Here are the questions addressed in this circular:

- What information must be included in political advertisements?
- What information must be included on printed campaign materials?
- What is the role of the official agent in political advertising?
- Is third-party political advertising restricted during Nova Scotia provincial elections?
- Is there an advertising blackout period during Nova Scotia provincial elections?
- What advertising and other activities are restricted on election day?

Please read this overview carefully. It is also 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.

What information must be included in political advertisements?

The *Elections Act* (271) requires that any advertisement relating to an election published or broadcast shall indicate that it has been authorized by the official agent of the registered party or the registered or nominated candidate or the financial agent of a third-party. This rule applies to **all** paid print, radio and television advertising relating to an election regardless of whether an advertisement is published on behalf of a candidate, a political party or a third-party. The Act also stipulates that it is an offence to transmit any election advertising that does not comply.

What information must be included on printed campaign materials?

The *Elections Act* requires that any advertisement, prospectus, placard, poster, pamphlet, handbill or circular relating to an election shall contain:

- Authorization by the official agent of the party, candidate on whose behalf it has been printed
- The name of the third-party and that it is authorized by the third party on whose behalf it has been printed

This requirement applies to all advertising materials relating to an election including all campaign literature, campaign signs and posters, printed or electronic. The authorization is to be readable on signs and printed material and understandable at the beginning or end of electronic advertising messages.

What is the role of the official agent in political advertising?

Individual candidates and political parties are required under the *Elections Act* to appoint official agents.

Under the *Elections 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 advertising or for campaign materials of an advertising nature. Further, the *Elections Act* prohibits anyone from accepting an order for election expenses 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.

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

Is third-party political advertising restricted during Nova Scotia provincial elections?

Any individual, group or organization that is not a candidate or a political party is a third-party.

Third-parties sponsoring political advertising must register with Elections Nova Scotia. As noted above, any advertisement relating to an election, including any advertising that takes a position on an issue with which a candidate or registered party is associated, whether printed or published or broadcast must comply with the rules for that type of advertising set out above and contained in the *Elections Act*.

A third-party can spend no more than \$2,093 (as of 2013) on advertising that promotes or opposes the election of one or more candidates in an electoral district. In total, a third party can spend no more than \$10,465 (as of 2013) on advertising during a general election. A third party cannot subdivide or join together with another third party in order to sidestep the spending limits.

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

Is there an advertising blackout period during Nova Scotia provincial elections?

Yes. One of the changes introduced in the new *Elections Act* is an advertising blackout on election day. Section 273 (1) of the *Elections Act* reads that no person shall knowingly transmit election advertising to the public in an electoral district on election day before the close of all of the polling stations in the electoral district.

Broadcasters and publishers must not accept to publish political advertisements on election day. As noted above, it is recommended that television and radio broadcasters obtain and review any circulars issued by the Canadian Radio-television and Telecommunications Commission (CRTC) regarding broadcasting during a provincial election.

The blackout period does not apply to the transmission of a message that was transmitted to the public on the Internet before the blackout period described in that subsection and that was not changed during that period; or to the distribution of pamphlets or the posting of messages on signs, posters or banners.

What advertising and other activities are restricted on election day?

The *Elections Act* prohibits advertising and certain activities during the hours of polling on election day.

The following rules are set out in the *Elections Act*.

- *Materials prohibited within 60 metres of any entrance to a building in which a polling station is located*

No materials of a political nature, such as posters, flags or banners, may be posted or displayed within 60 metres of any entrance to a building in which a polling station is located.

- *Parades or demonstrations*

No parade or demonstration supporting a candidate or political party may be held during the hours of polling on election day.

Further, it is prohibited to use a loud speaker, public address system, flag or banner with the intent that it be used to support a candidate or political party.

- *Display or 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 political organization. The

objective of this provision is to ensure that no partisan materials are brought inside the polling station.

Election public opinion poll

Section 358 of the *Elections Act* states that the first person who transmits the results of an election public opinion poll to the public during an election period and any person who transmits them to the public within twenty-four hours after they are first transmitted to the public must provide the following information together with the results

- (a) the name of the sponsor of the public opinion poll;
- (b) the name of the individual or organization that conducted the public opinion poll;
- (c) the date on which or the period during which the public opinion poll was conducted;
- (d) the population from which the sample of respondents was drawn;
- (e) the number of people who were contacted to participate in the public opinion poll; and
- (f) the margin of error, if any, in respect of the data obtained.

(2) In addition to the information referred to in subsection (1), the following must be provided in the case of a transmission to the public by means other than broadcasting:

- (a) the wording of the public opinion poll questions in respect of which data is obtained; and
- (b) the means by which a report referred to in subsections (3) and (4) may be obtained.

(3) A sponsor of an election public opinion poll shall, at any time during an election after the results of the public opinion poll are transmitted to the public, provide, on request, a copy of a written report on the results of the public opinion poll, as transmitted under subsection (1).

Public opinion poll not based on recognized polling methods

Section 359 of the *Elections Act* states that the first person who transmits the results of an election public opinion poll that is not based on recognized polling methods to the public during an election period and any person who transmits them within twenty-four hours after the results are first transmitted to the public must indicate that the public opinion poll was not based on recognized polling methods.

No new public opinion poll results on election day

No person shall knowingly cause to be transmitted to the public on election day the results of a public opinion poll that have not previously been transmitted to the public.

Persons and activities permitted at a poll

Section 94 of the *Elections 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.

With the exception of election officers as prescribed by the Chief Electoral Officer, and authorized media present to record a leader cast a ballot, none of the persons present in a polling location during voting hours shall use a recording or communication device.

If you have any questions about this overview, please contact Elections Nova Scotia at doirondp@gov.ns.ca or call 902.424.3275.

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