



**ELECTIONS BC**

A non-partisan Office of the Legislature

# **MEDIA OBLIGATIONS UNDER THE *ELECTION ACT***

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## **Introduction**

The *Election Act* sets the rules for the provincial electoral process. This guide explains the sections of the Act that apply to the media. In particular, it clarifies the Act's provisions about election advertising and opinion polls.

This guide is intended only as an aid to understanding the *Election Act*. How the Act applies to any particular case will depend on the individual circumstances of the case, and may change in light of new legislative and judicial developments. Where there is an inconsistency between this guide and the *Election Act*, the Act will prevail.

Where possible, references to specific sections of the Act are included.

You can view the *Election Act* on the Elections BC website ([www.elections.bc.ca](http://www.elections.bc.ca)) or you can buy a copy of the Act from Crown publications ([www.crownpub.bc.ca](http://www.crownpub.bc.ca)).

A glossary of the election-related terms in this guide begins on page 9.

## Election advertising

s. 228 **What is election advertising?**

Election advertising is the transmission, by any means, of an advertising message to the public that:

- is transmitted during the period that begins 60 days before a campaign period and ends at the close of general voting for the election, and
- promotes or opposes, directly or indirectly, a registered political party or the election of a candidate. This includes taking a position on an issue with which a candidate or registered political party is associated.

**Important:**

1. **The 60 day pre-campaign period does not apply to election advertising sponsored by third party advertising sponsors;** it applies only to election advertising sponsored by registered political parties and candidates.
2. **The 60-day pre-campaign period only applies for a fixed date general election;** it does not apply to a by-election or a general election not conducted in accordance with section 23(2) of the *Constitution Act*.

This definition of election advertising is broad, and in some cases it can be difficult to determine if an item or activity is election advertising. Election advertising certainly includes signs, posters, leaflets, billboards, brochures, and advertisements in newspapers, magazines, newsletters, and on television, radio, and the Internet.

s. 228 **What election advertising does not include**

Election advertising does not include:

- news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary published without charge in a bona fide periodical, on a radio or television program, or in a bona fide Internet publication or program
- the distribution or promotion of a book for no less than its commercial value, if the book was planned to be made public regardless of whether there was to be an election (this exception extends to e-books, documentaries, movies, plays and other similar works or performances)
- documents sent by a person or a group directly to their members, employees or shareholders, or
- the transmission by an individual of their personal political views, on a non-commercial basis on the Internet, or by telephone or text messaging

Personal social networking pages and blogs are generally not election advertising, unless they are created to promote or oppose a candidate or a registered political party, or the blogger is operating their site on a commercial basis. If they are, the sponsor of the content must be registered with Elections BC.

### **How to request an opinion from Elections BC**

On request, Elections BC will review a message and provide an opinion on whether our office considers the message to be election advertising.

To request an opinion, call Elections BC at 1-800-661-8683, or email [electoral.finance@elections.bc.ca](mailto:electoral.finance@elections.bc.ca).

Obtaining an opinion from Elections BC is not the same as obtaining a legal opinion. If you require greater certainty, you should obtain independent legal advice.

s. 239

### **Who can sponsor election advertising?**

The *Election Act* limits who can sponsor election advertising.

Election advertising can only be sponsored by:

- candidates,
- registered political parties,
- registered constituency associations, and
- individuals and organizations who are registered as advertising sponsors with Elections BC. Also called third party advertisers, registered advertising sponsors must be independent of registered political parties, registered constituency associations, candidates and their agents, and must not sponsor election advertising on behalf of or together with them.

s. 229

### **How to determine who the sponsor is**

The sponsor of election advertising is:

- the individual or organization who pays for it, or
- the individual or organization who receives the services of conducting the advertising without charge as a contribution.

If election advertising is paid for or the services are provided without charge on another individual or organization's behalf, the other individual or organization is the sponsor.

s. 230

### **No indirect election advertising**

Election advertising cannot be sponsored indirectly. This means that election advertising cannot be sponsored through another individual or organization, or with another individual or organization's property.

The current list of registered advertising sponsors and registered political parties is available on Elections BC's website, [www.elections.bc.ca](http://www.elections.bc.ca).

s. 229, 231, 283 **Conditions for publishing election advertising**

Media outlets (e.g., radio, newspapers, television, magazines) must not sponsor, or publish, broadcast or transmit, election advertising unless it:

- identifies the name of the sponsor, or:
  - in the case of a candidate, identifies the name of their financial agent or the financial agent of their registered political party
  - in the case of a numbered corporation or unincorporated organization, identifies the name of the organization and the name of a principal officer
- states that it was authorized by the identified sponsor or financial agent,
- gives a British Columbia telephone number or mailing address where the sponsor or financial agent can be contacted, and
- in the case of a third party advertiser, indicates that they are registered under the *Election Act*.

For example:

*Authorized by Jane Doe, financial agent, 250-123-4578*

*Authorized by Jane Doe, registered sponsor under the Election Act, 250-234-5678*

*Authorized by Good Guys Club; Jane Doe, registered sponsor under the Election Act, 250-234-5678*

*Authorized by XYZ Political Party, 604-123-4567*

The Chief Electoral Officer can exempt certain classes of election advertising from these requirements, including items that may reasonably be considered:

- clothing
- a novelty item, or
- an item intended for personal use

For a current list of exempted items, visit the Elections BC website ([www.elections.bc.ca](http://www.elections.bc.ca)) or contact Elections BC.

For Internet election advertising, the authorization statement is not required to be contained within the advertising message **if** selecting (i.e. clicking, finger-tapping) the advertising message sends the viewer to a website, landing page or profile page which contains the sponsor's required authorization statement.

s. 232

### **Rates for election advertising**

Media outlets must charge registered political parties, registered constituency associations and candidates equivalent rates for equivalent advertising.

Specifically, a media outlet cannot charge these clients more for election advertising than the lowest rate it charged for equivalent advertising in the same medium during the same campaign period.

This restriction applies to election advertising sponsored by registered political parties, registered constituency associations and candidates. Registered advertising sponsors may be charged any rate for election advertising.

s. 233

### **Election advertising on General Voting Day**

On General Voting Day, media outlets must not publish, transmit or broadcast election advertising in an electoral district until the close of all voting stations in the electoral district. Voting stations close at 8 p.m. (Pacific time), unless the District Electoral Officer extends the time for voting.

This restriction does not apply to:

- a notice of an event the leader of a registered political party plans to attend
- an invitation to meet or hear the leader of a registered political party
- a message transmitted to the public on the Internet before General Voting Day that is not changed before the close of voting stations, or
- the distribution of pamphlets, or the posting of signs, posters or banners

s. 231,  
234

### **Authority to remove unauthorized and restricted advertising**

If an election advertising message does not have the required authorization statement, Elections BC may require the advertising to be discontinued or removed and destroyed. Elections BC can remove and destroy unauthorized election advertising without notice.

Similarly, if election advertising or any material that identifies a candidate, registered political party or registered constituency association is located within 100 metres of a building that contains a District Electoral Office or a voting place where advance or general voting is taking place, a District Electoral Officer (DEO), or someone authorized by a DEO, may enter the property and remove or cover or obscure the election advertising or material.

s. 234

### **Election advertising near election offices and voting places**

#### Election offices

During a campaign period, there is a 100-metre no-campaigning zone around the building where the office of the District Electoral Officer (DEO) is located. Within this zone, no one may post, display or distribute:

- election advertising, or
- any material that identifies a candidate, registered political party or registered constituency association, unless it is with the authorization of the DEO.

#### Voting places

There is a similar 100-metre zone around voting places during advance voting and general voting. Within this zone, no one may:

- post, display or distribute election advertising,
- post, display or distribute any material that identifies a candidate, registered political party or registered constituency association, unless it is with the authorization of the DEO,
- canvass or solicit votes or attempt to influence how a voter votes,
- carry, wear or supply flags, badges or anything else that indicates support for a candidate or registered political party, or
- post, display, distribute or openly leave a representation of a ballot marked for a candidate or registered political party.

While the 100-metre zone is in effect, no one may publish, broadcast or transmit election advertising by means of a public address system or loudspeaker that is within hearing distance of the voting place.

## Election opinion surveys

s. 233.1(1) **Definition of election opinion surveys**

An election opinion survey is an opinion survey respecting an election or a matter of public discussion in relation to the election. This includes opinion surveys respecting an issue discussed publicly in the election.

A legitimate opinion survey which is conducted in good faith in accordance with accepted standards is not election advertising.

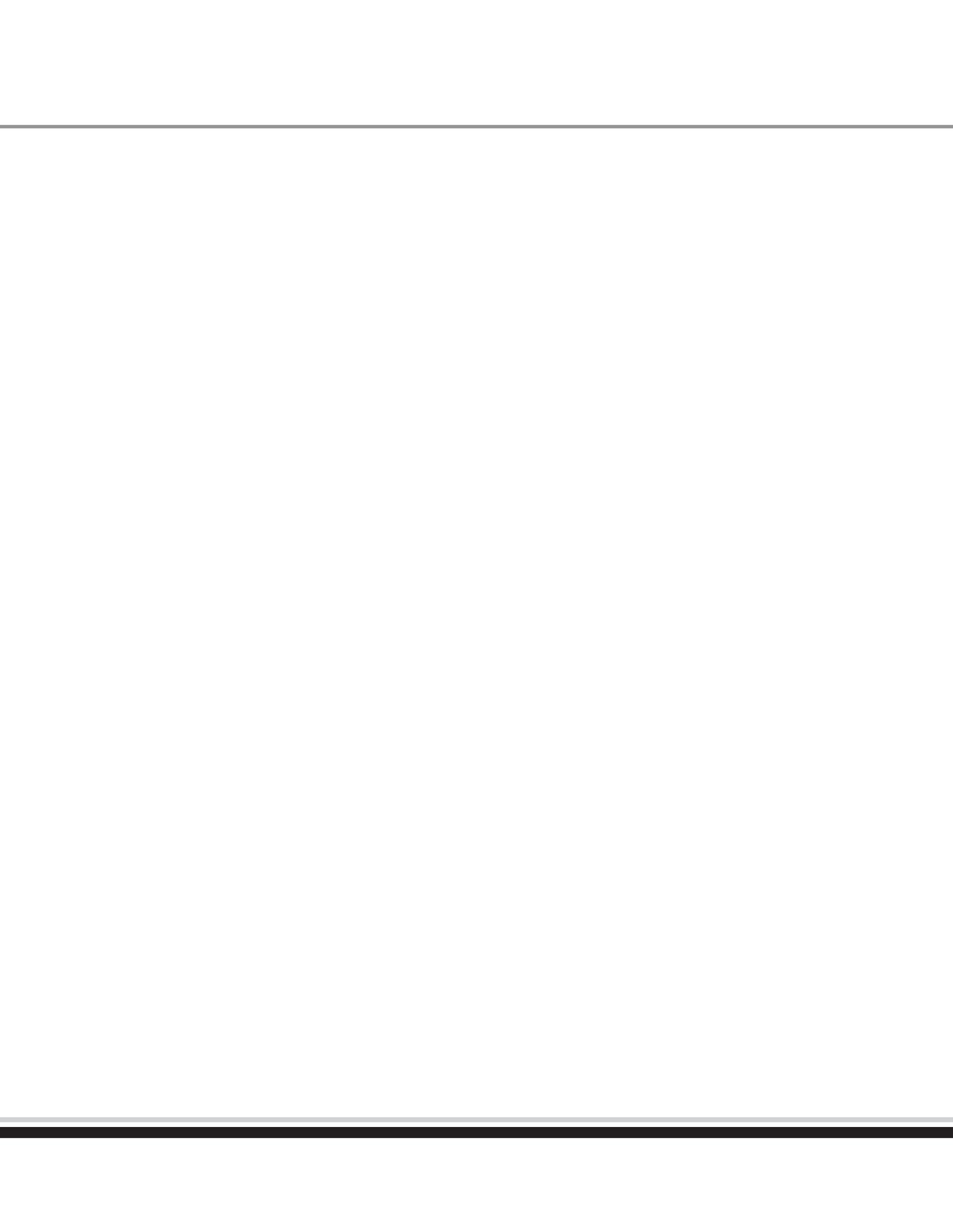
s. 233.1(2) **Publishing election opinion surveys on General Voting Day**

On General Voting Day, media outlets must not publish, broadcast or transmit the results of election opinion surveys that have not previously been made public until all of the voting stations in the electoral district are closed.

## Offences and penalties

s. 264 **Election advertising and election opinion survey offences**

It is an offence to contravene the election advertising and opinion survey sections of the *Election Act*. If convicted, individuals and organizations are liable to a fine of up to \$10,000 or imprisonment for up to one year, or both.



## **Glossary**

<b>Advance voting</b>	<p>An opportunity to vote before General Voting Day. Advance voting is held between 8 a.m. and 8 p.m. on the Wednesday, Thursday, Friday and Saturday of the week before General Voting Day.</p> <p>[<i>Election Act</i>, s. 76, 97]</p>
<b>Campaign period</b>	<p>The time between when an election is called and the close of voting on General Voting Day.</p> <p>[<i>Election Act</i>, s. 1]</p>
<b>Candidate</b>	<p>An individual who stands for election to the Legislative Assembly. To become a candidate, an individual must meet the requirements of the <i>Election Act</i>, file nomination documents, and receive a certificate of candidacy from Elections BC.</p> <p>For election financing and election advertising purposes, a candidate includes an individual who becomes a candidate or who was a candidate.</p> <p>[<i>Election Act</i>, s. 1, 52-68]</p>
<b>Chief Electoral Officer (CEO)</b>	<p>An independent Officer of the Legislature appointed by the Lieutenant Governor on the recommendation of the Legislative Assembly. The Chief Electoral Officer supervises and administers the provincial electoral process.</p> <p>[<i>Election Act</i>, s. 1, 4-13]</p>
<b>Constituency association</b>	<p>An organization formed for an electoral district as the local organization of a political party or as the local organization to support an independent Member of the Legislative Assembly for that electoral district.</p> <p>[<i>Election Act</i>, s. 157]</p>
<b>District Electoral Officer (DEO)</b>	<p>A person appointed by the Chief Electoral Officer to conduct elections in an electoral district.</p> <p>[<i>Election Act</i>, s. 18-21, 88]</p>

<b>Elections BC (EBC)</b>	The usual name for the Office of the Chief Electoral Officer. Elections BC administers the electoral process in B.C. This includes provincial general elections and by-elections, provincial referendums, and recall and initiative petitions and votes.
<b>Electoral district (ED)</b>	A geographic area represented by a single Member of the Legislative Assembly (MLA). Electoral districts are also called constituencies or ridings. [ <i>Constitution Act</i> , s. 18; <i>Electoral Districts Act</i> ]
<b>Financial agent</b>	An individual appointed to manage the finances of an individual or group. Registered political parties, registered constituency associations, candidates, leadership contestants, and recall and initiative participants must appoint a financial agent. [ <i>Election Act</i> , s. 175-178; <i>Recall and Initiative Act</i> , s. 29, 59, 107]
<b>General election</b>	Elections called on the same date for all the electoral districts in the province. [ <i>Election Act</i> , s. 1, 24, 26-28]
<b>General Voting Day (GVD)</b>	The day when an election is held. General Voting Day is Day 28 (the 28th day after the election is called). If it is a holiday, then General Voting Day is the next day that is not a holiday. [ <i>Election Act</i> , s. 27]
<b>Member of the Legislative Assembly (MLA)</b>	A person elected to represent an electoral district in the Legislative Assembly. [ <i>Constitution Act</i> , s. 18]
<b>Political party</b>	An organization that has as a primary purpose the fielding of candidates for election to the Legislative Assembly. [ <i>Election Act</i> , s. 155]
<b>Pre-campaign period</b>	The period beginning 60 days before a campaign period and ending when the writs are issued for a general election conducted in accordance with section 23(2) of the <i>Constitution Act</i> (i.e., a fixed-date general election).

<b>Third party advertiser</b>	<p>Another name for individuals and organizations, other than candidates, registered political parties and registered constituency associations, who sponsor election advertising. Third party advertisers cannot sponsor election advertising unless they are registered with Elections BC.</p> <p>[<i>Election Act</i>, s. 239]</p>
<b>Time</b>	<p>All times referred to in the <i>Election Act</i> are local times, except for the close of nominations and voting hours on General Voting Day, which are Pacific time.</p> <p>[<i>Election Act</i>, s. 2]</p>
<b>Voting place</b>	<p>The building or facility where advance voting is held or where voters of one or more voting areas are assigned to vote on General Voting Day.</p> <p>[<i>Election Act</i>, s. 1, 81]</p>
<b>Value of election advertising</b>	<p>The value of election advertising is:</p> <ul style="list-style-type: none"><li>▪ the price paid for preparing and conducting the election advertising (including applicable taxes), or</li><li>▪ the market value of preparing and conducting the election advertising (including applicable taxes), if no price is paid, or if the price paid is lower than the market value.</li></ul> <p>[<i>Election Act</i>, s. 228]</p>
<b>Writ of election</b>	<p>A formal order signed by the Chief Electoral Officer and the Lieutenant Governor that directs a District Electoral Officer to conduct an election. An election is called when the writ of election has been issued. In a general election, a writ is issued for every electoral district in the province.</p> <p>[<i>Election Act</i>, s. 1, 26]</p>



## Questions?

**For more information**

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**or contact**

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