



ELECTIONS BC

A non-partisan Office of the Legislature

CONSTITUENCY ASSOCIATION GUIDE TO REGISTRATION



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General

This guide is only a summary of the constituency association registration requirements. It is not a substitute for the relevant provisions of the *Election Act*.

Where possible, section references to the *Election Act* are noted.

The *Election Act* is available for viewing on the Elections BC website (www.elections.bc.ca) and can be purchased from Crown Publications.

What is a Constituency Association?

s. 157 The *Election Act* defines a constituency association as an organization that is formed for an electoral district as the local organization of a registered political party (or one currently applying for registration) or a local organization formed to support an independent Member of the Legislative Assembly (MLA) for the electoral district.

Generally, only one constituency association for an electoral district can be registered for each registered political party or independent MLA. However, registered constituency associations may have multiple branches or clubs within an electoral district. The financial activities of the branches as well as any other organizations primarily controlled by the constituency association must be included in the financial reports of the registered constituency association.

A registered political party or independent MLA can have two registered constituency associations if an enactment has been made establishing new electoral districts, even if the new electoral districts do not come into force until a future time.

In such a case, a constituency association may be registered for an independent MLA in a future electoral district only if at least some part of the existing electoral district is the same as at least some part of the future electoral district. That is, there must be some overlap between the existing electoral district of the independent MLA and the future electoral district.

Benefits of Registration

- s. 154 Registration brings many benefits. Registered constituency associations may:
- issue income tax receipts for eligible political contributions
 - incur election expenses on behalf of a candidate, under specific circumstances
 - transfer money, goods and services to its political party or candidates

Unregistered constituency associations are not entitled to do any of these things.

Obligations Associated with Registration

- s. 159 Registered constituency associations assume certain obligations. Once registered, your organization is required to:
- ensure all registration information filed with the Chief Electoral Officer is kept up to date by filing notice of any changes within 60 days
 - comply with the reporting and financing requirements under Parts 9 and 10 of the *Election Act*, including the filing of annual, election and deregistration financial reports

Failure to meet these obligations can result in suspension, deregistration or prosecution. For more information on suspension and deregistration, see pages 12 to 17.

Applying for Registration

Qualifications for Registration

- s. 157 To register as a constituency association, an organization must:
- be the local organization of a registered political party (or a party that is currently applying for registration), or the local organization formed to support an independent MLA for an electoral district
 - have a financial agent appointed in accordance with section 176 of the *Election Act*
 - have an auditor appointed in accordance with section 179 of the *Election Act*
 - file a completed application (package) for registration with the Chief Electoral Officer

Constituency associations of political parties can apply for registration at any time if the political party:

- is registered
- has a registration application pending with the Chief Electoral Officer
- is applying for registration at the same time as the constituency association

Registration packages, including all the required registration forms, are available on the Elections BC website at www.elections.bc.ca or from Elections BC.

What Must be Included in an Application for Registration?

- s. 157 The *Election Act* specifies the information that must be contained in an application for registration. The application must be made on forms provided by Elections BC and be signed by two principal officers of the constituency association. The following information must be included:
- the full name of the constituency association
 - the name of the political party or independent MLA which the association supports
 - the address of the place or places where records of the constituency association are kept
 - the name and address of the person to whom communications to the constituency association may be addressed
 - the names and mailing addresses of the principal officers of the constituency association
 - the names and addresses of the auditor and the financial agent provided on the required appointment forms
 - the names and addresses of the savings institutions and the account numbers used by the constituency association for depositing all money received and for paying all expenditures made
 - the names of the signing officers for those saving institution accounts
 - a statement of the assets and liabilities of the constituency association as of a date not earlier than 90 days before the date the application for registration is made. This statement must have a solemn declaration by the constituency association's financial agent as to its accuracy.
 - a signed statement of a principal officer of the political party, or independent MLA, authorizing the constituency association's application for registration

When Does Registration Take Effect?

s. 158 Except during an election period, after receiving an application, the Chief Electoral Officer has 30 days to determine if the constituency association meets the requirements for registration.

If the application for registration is approved, the Chief Electoral Officer will notify the constituency association of the date of registration and will assign the constituency association a registration number. This registration number must be included on all income tax receipts issued by the constituency association. The Chief Electoral Officer will also publish a notice of the constituency association's registration in the *B.C. Gazette*.

If an organization applies for registration during an election, the application cannot be considered until after General Voting Day. If an election is called after a constituency association application for registration is filed with the Chief Electoral Officer, but before registration is complete, the Chief Electoral Officer has until 30 days after General Voting Day to determine if the constituency association meets the requirements for registration.

If an organization does not meet the constituency association registration requirements, the Chief Electoral Officer will provide the organization with a written explanation of the reasons why the organization could not be registered. The constituency association has 30 days from receiving this notice to amend its application for registration. If the organization does not meet the requirements for constituency association registration within this 30 day period, the application ceases to be effective.

Updating Registration Information

- s. 159, 161 If any of the registration information changes, the constituency association must file a notice of the change within 60 days after the change occurs. A notice to update information must be made in writing and must be signed by two principal officers of the constituency association and by a principal officer of the political party or by the independent MLA, as applicable.

A principal officer of the constituency association (i.e., a table officer) is an individual identified as such in the documentation previously filed with the Chief Electoral Officer or identified in a notice to update registration information.

The Chief Electoral Officer may suspend the registration of a constituency association if the constituency association does not file the updated registration information within 60 days of the change occurring. The suspension of the constituency association continues until all required information has been filed.

The same forms used for registering a constituency association can be used to update the registration information. If unsure about which forms to submit, contact Elections BC.

Public Access to Registration Information

- s. 162, 275 The information in the application for registration is available for public inspection at the Elections BC office. Individuals whose home phone number is identified in the registration documentation may request that the phone number be removed or obscured for the purposes of public inspection.

The required account numbers are automatically obscured for public inspection purposes.

Appointing a Financial Agent

- s. 157, 175, 176, 178 In order to register, a constituency association must appoint a financial agent. An appointment form is included in the registration package.

A constituency association may only appoint one financial agent at a time; however, an individual can be a financial agent for more than one individual or organization. This means that the constituency association's financial agent may also be the financial agent for the political party and/or its candidates.

The financial agent may appoint one or more deputy financial agents to assist in receiving of political contributions and issuing income tax receipts. If a financial agent is absent or incapable of filing reports, a deputy financial agent may file the required financing reports.

Qualifications for Financial Agents

- s. 176 To act as a financial agent, an individual must be capable of entering into contracts. While the *Election Act* does not specify any other qualifications, the selection of the financial agent requires careful consideration. The statutory obligations of the financial agent are significant and require certain skills. The individual must be capable of managing the organization's finances in accordance with the *Election Act*.

The following individuals are disqualified from acting as financial agents:

- election officials, voter registration officials or employees of Elections BC
- individuals who do not have full capacity to enter into contracts (e.g., a minor child)
- the constituency association's auditor
- individuals who are members of that auditor's firm
- individuals who have been convicted of an offence under the *Election Act* or the *Recall and Initiative Act* within the last seven years

Role of the Financial Agent

- s. 177 The financial agent is the person responsible for ensuring compliance with Part 10 of the *Election Act* (Election Financing). The financial agent's responsibilities include but are not limited to:
- accepting and recording contributions
 - issuing income tax receipts for eligible contributions
 - determining the monetary value of "in-kind" contributions (goods and services)
 - incurring and recording expenses
 - keeping complete and accurate financial records
 - filing annual and election financing reports
 - filing financial reports upon deregistration

Appointment Process for Financial Agents

- s. 175, 176 The appointment of a financial agent must:
- be made in writing
 - include the name, mailing address and telephone number of the individual appointed and an effective date of the appointment
 - be signed by a principal officer of the constituency association
 - be signed by the financial agent

An appointment of financial agent form is included in the registration package.

If the appointment of a financial agent ends for any reason, the constituency association must appoint a new financial agent and file a new appointment form with Elections BC within 60 days.

If the financial agent resigns, they must notify Elections BC in writing. The outgoing financial agent is responsible for the reporting of the financial affairs that occurred during their term as financial agent.

Appointing an Auditor

- s. 157, 179 To register, the constituency association must also appoint an auditor. An auditing firm, rather than an individual, may be appointed as the auditor.

An auditor can be appointed as the auditor for more than one organization or individual. For example, a political party could retain one firm to act as auditor for the party, as well as for all the political party's constituency associations and candidates.

Qualifications for Auditors

- s. 179 An auditor must be authorized to be the auditor of a company under sections 205 and 206 of the *Business Corporations Act*. Generally, this means that the individual is a Chartered Accountant (C.A.), Certified General Accountant (C.G.A.) or has been certified by the Auditor Certification Board.

The following persons are disqualified from acting as an auditor:

- election officials, voter registration officials or employees of Elections BC
- individuals who do not have full capacity to enter into contracts
- the constituency association's financial agent
- an individual who is a member of the same firm as the constituency association's financial agent or a firm of which the constituency association's financial agent is a member
- individuals who have been convicted of an offence under the *Election Act* or the *Recall and Initiative Act* within the last seven years

Role of an Auditor

- s. 170, 213, 214 The auditor is required to conduct an audit, in accordance with generally accepted auditing standards, of the constituency association's annual or election financing reports if total political contributions are \$10,000 or more.

An auditor's report may also be required for certain deregistration financial reports which must be filed if the constituency association is deregistered.

The auditor must also file reports as requested by the Chief Electoral Officer. The Chief Electoral Officer has the authority to request an audit of any report filed by the constituency association.

The auditor must also make any additional reports they consider necessary if they have not received all the information and explanations required or if proper accounting records have not been kept by the financial agent.

Appointment Process for Auditors

- s. 179 The appointment of an auditor must:
- be made in writing
 - include the name, mailing address and telephone number of the individual or firm appointed and an effective date of the appointment
 - be signed by a principal officer of the constituency association
 - be signed by the auditor

An appointment form is included in the registration package.

If the appointment of the auditor ends for any reason, the constituency association must appoint a new auditor and file a new appointment form with Elections BC within 60 days.

Constituency Association Deregistration

A constituency association can be deregistered for several reasons, both voluntarily and involuntarily.

Voluntary Deregistration

- s. 164 A constituency association may only voluntarily request to deregister if:
- the constituency association has filed the required annual and election financing reports under Part 10 of the *Election Act* (Election Financing)

Applications for voluntary deregistration must be made in writing and must be signed by two principal officers of the constituency association and a principal officer of the political party or the independent MLA, as applicable.

A political party or independent MLA can apply directly to the Chief Electoral Officer to deregister its constituency associations. The political party or independent MLA must notify the constituency association of its intention to deregister the constituency association. The request to deregister must be signed by two principal officers of the political party or the independent MLA, as applicable.

Voluntary deregistration of a political party results in the automatic deregistration of all the political party's registered constituency associations.

Involuntary Deregistration

- s. 165, 166, 169, 223, 227
- Constituency associations can be deregistered by the Chief Electoral Officer, if:
- deregistration is requested by the political party or the independent MLA
 - the electoral district is disestablished (i.e. new electoral districts come into force)
 - the constituency association fails to file an annual or election financing report, unless court relief from filing obligations is granted
 - the constituency association is convicted of filing a false or misleading financing report
 - the political party is deregistered, voluntarily or otherwise
 - for constituency associations of independent MLAs, if the MLA ceases to be an MLA, dies or becomes a representative of a political party

The Chief Electoral Officer gives advance warning of any contravention to the *Election Act* that may result in deregistration. For example, in the case of failing to file financing reports, the Chief Electoral Officer's notice of non-compliance provides the constituency association and the political party or independent MLA with sufficient time to file the required reports or to seek court relief from the filing obligations before deregistration occurs.

When a constituency association is deregistered, the Chief Electoral Officer must give notice of the deregistration, including the effective date, and reasons for deregistration, to the constituency association and the political party or independent MLA. Notice is also published in the *B.C. Gazette*.

Obligations of a Deregistered Constituency Association

- s. 170, 171,
173 A deregistered constituency association must file a financial report for the period from the date of the constituency association's last annual financial report up to and including the last day the constituency association was registered. The report must be received by Elections BC within six months of deregistration.

The financial report must be audited, unless:

- the deregistration is due to the disestablishment of the electoral district
- the constituency association received \$5,000 or less in political contributions and incurred \$5,000 or less in expenses during the period from the date of the last annual financial report up to and including the last day the constituency association was registered

Deregistered constituency associations must transfer to the Chief Electoral Officer all funds not required to pay outstanding debts. Any such funds must be transferred within six months of deregistration.

If there are no remaining funds after the payment of debts, the constituency association must inform Elections BC in writing.

The deregistered constituency association is also required to file an audited financial report for the period from the date of deregistration to the date on which any remaining funds are transferred to the Chief Electoral Officer or on which the constituency association reports that there are no funds to be transferred. The audit requirement is waived if:

- the deregistration is due to the disestablishment of the electoral district
- the constituency association received \$5,000 or less in political contributions and incurred \$5,000 or less in expenses during the period from the date of the last annual financial report up to and including the last day the constituency association was registered

Funds transferred to the Chief Electoral Officer are held in trust for three years from the date of deregistration. If the constituency association reregisters within three years, the funds, including accumulated interest, will be paid to the registered constituency association.

If the constituency association for a political party does not reregister within three years, the funds are paid to the registered political party, if the political party is still registered. Otherwise the funds are paid to the consolidated revenue fund.

An exception to the above is made when a constituency association is deregistered due to the disestablishment of electoral districts. In this case, at the discretion of the political party, any remaining funds of the deregistered constituency association, not required to pay outstanding debts, may be paid to a new registered constituency association or the political party.

Funds held in trust for the constituency association of an independent MLA will be paid to the financial agent if the individual runs as an independent candidate in a provincial election within the three year period. If the individual is not an independent candidate within this period, the funds are paid to the consolidated revenue fund.

Reregistration of a Constituency Association

s. 174 A constituency association that voluntarily deregisters or is deregistered at the request of its party or independent MLA, may apply for reregistration at any time provided its political party is registered or its independent MLA is still eligible to have a registered constituency association.

If the constituency association is deregistered because of a conviction for filing a false or misleading financial report, the constituency association cannot reregister for two years following the date on which the deregistration reports were filed and if applicable, any funds transferred.

In the case of involuntary deregistration for any other reason, the constituency association may apply for registration one year from the date on which the deregistration reports were filed and if applicable, any funds transferred.

How Does a Constituency Association Reregister?

s. 174 To reregister, a constituency association must:

- submit a new constituency association application for registration
- satisfy the Chief Electoral Officer that it is the same constituency association that was previously registered
- fulfill any unfulfilled obligations (i.e., file any outstanding reports, pay any outstanding penalties)
- file a report detailing political contributions received during the period of deregistration

Additionally, the Chief Electoral Officer may request a report on the constituency association's financial activities during the period of deregistration.

Circumstances for Suspension of Constituency Association Registration

- s. 154, 159, 167 The registration of a constituency association will be suspended if:
- the constituency association's political party is suspended for any reason
 - the constituency association fails to file the required updated registration information with 60 days of the change occurring

During a period of suspension, an organization is prohibited from incurring election expenses, issuing income tax receipts, or making political contributions, including transferring money, goods or services to a candidate, political party or another constituency association. After the suspension ends, the organization must not issue any tax receipts for political contributions received by the organization while it was suspended.

Notice of suspension is given to the constituency association and its political party or independent MLA and published in the *B.C. Gazette*.

Questions?

For more information

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or contact

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