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Legislative Assembly of British Columbia

BILL 11

ELECTION AMENDMENT ACT, 2023

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Explanatory Notes

CLAUSE 1: *[Election Act, section 1]*

- adds definitions for “authorized drop-off location” and “secrecy enclosure”;
- updates language.

CLAUSE 2: *[Election Act, section 1]* makes a housekeeping amendment.

CLAUSE 3: *[Election Act, section 1]* adds references to electronic and internet transmissions with respect to the canvassing of voters.

CLAUSE 4: *[Election Act, section 17]* makes a housekeeping amendment.

CLAUSE 5: *[Election Act, section 28]* provides that a notice of an election must be published as soon as possible.

BILL 11 – 2023

ELECTION AMENDMENT ACT, 2023

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 *Section 1 (1) of the Election Act, R.S.B.C. 1996, c. 106, is amended*

(a) by adding the following definition:

“authorized drop-off location” means any of the following:

- (a) the office of a district electoral officer;
- (b) a voting place;
- (c) a location specified by the chief electoral officer at which voters may return mail-in voting packages; ,

(b) in paragraph (d) of the definition of “campaign period election advertising” and in paragraph (d) of the definition of “pre-campaign period election advertising” by striking out “by telephone or text messaging” and substituting “by telephone or other means of electronic communication”, and

(c) by adding the following definition:

“secrecy enclosure” means a secrecy envelope, secrecy sleeve or other means of keeping a ballot or other document secret; .

2 *Section 1 (3) is amended by striking out “283 (m.1)” and substituting “283 (1) (m.1)”.*

3 *Section 1 (3) (a) and (b) is repealed and the following substituted:*

- (a) canvassing voters, in person or by telephone or other means of electronic communication, to attempt to influence how voters vote;
- (b) mailing, or transmitting on the internet, material that contains advertising messages.

4 *Section 17 (c) is amended by striking out “Her Majesty’s Privy Council of Canada” and substituting “the King’s Privy Council for Canada”.*

5 *Section 28 (1) is amended by striking out “Within 8 days after an election is called,” and substituting “As soon as possible after an election is called,”.*

CLAUSE 6: *[Election Act, section 32]* makes a housekeeping amendment.

CLAUSE 7: *[Election Act, section 41]* sets out what document a resident in a residence that is a site-based voting area is required to provide when applying for registration.

CLAUSE 8: *[Election Act, section 78]* sets out how a voter may return a mail-in voting package.

6 **Section 32 (2) (a) is amended by striking out “or Canada” and substituting “or the government of Canada”.**

7 **Section 41 is amended**

(a) by repealing subsection (2) (b) and substituting the following:

(b) satisfy that election official of the applicant’s identity and residential address in accordance with subsection (3). ,

(b) by repealing subsections (3) and (3.1) and substituting the following:

(3) For the purposes of subsection (2) (b),

(a) an applicant may produce to the election official

(i) one document, issued by the government of British Columbia or the government of Canada, that contains the applicant’s name, photograph and residential address,

(ii) one document, issued by the government of Canada, that certifies that the applicant is registered as an Indian under the *Indian Act* (Canada), or

(iii) at least 2 documents of a type authorized by the chief electoral officer, both of which contain the applicant’s name and at least one of which contains the applicant’s residential address, and

(b) an applicant who resides in a residence that is in a site-based voting area established under section 80 (4) and who attends voting proceedings conducted at the site-based voting area may produce one document of a type authorized by the chief electoral officer that contains the applicant’s name.

(3.1) The chief electoral officer must publish, on an Elections BC authorized internet site, a notice setting out the types of documents that are authorized for the purposes of subsection (3) (a) (iii) and (b). , **and**

(c) by adding the following subsection:

(3.2) The information published under subsection (3.1) must continue to be published on the Elections BC authorized internet site.

8 **Section 78 is amended by adding the following subsections:**

(3) A voter may return a mail-in voting package

(a) by mail to the address printed on the outer envelope included in the mail-in voting package provided to the voter, or

(b) to an authorized drop-off location.

CLAUSE 8: *[Election Act, section 78 – continued]*

CLAUSE 9: *[Election Act, section 79.01]* makes housekeeping amendments.

CLAUSE 10: *[Election Act, section 86]* is consequential to the amendments made by this Bill to section 123 of the Act.

CLAUSE 11: *[Election Act, section 87]* provides for the use of a secrecy enclosure in mail-in voting packages.

CLAUSE 12: *[Election Act, section 91]* adds the option to write the name of the leader of a registered political party in a write-in ballot.

CLAUSE 13: *[Election Act, section 105]* is consequential to the amendments made by this Bill to section 106 of the Act.

- (4) If the chief electoral officer specifies locations for the purposes of paragraph (c) of the definition of “authorized drop-off location”, the chief electoral officer must publish, on an Elections BC authorized internet site, the location and office hours of each authorized drop-off location as soon as reasonably possible after voting by mail-in voting is available under subsection (2).
- (5) Despite sections 25 (3) and (4) and 25.5 (1) and (2) of the *Interpretation Act* and any other provision of this Act, an individual or organization responsible for an authorized drop-off location is not required to collect a mail-in voting package outside the location’s regular office hours.

9 *Section 79.01 (4) and (5) (b) is amended by striking out “authorized Elections BC internet site” and substituting “Elections BC authorized internet site”.*

10 *Section 86 (5) is repealed and the following substituted:*

- (5) Write-in ballots must be prepared in the form prescribed by regulation to permit the voter to vote by writing in the name of the candidate, registered political party of the candidate or leader of the registered political party of the candidate for whom the individual wishes to vote.

11 *Section 87 (3) (b) is repealed and the following substituted:*

- (b) a secrecy enclosure; .

12 *Section 91 (2) is repealed and the following substituted:*

- (2) In the case of a write-in ballot, an individual votes by writing in the blank space provided on the ballot
 - (a) the name of the candidate for whom the voter wishes to vote,
 - (b) the name of the registered political party of the candidate for whom the individual wishes to vote, or
 - (c) the name of the leader of the registered political party of a candidate for whom the individual wishes to vote.

13 *Section 105 (5) is repealed and the following substituted:*

- (5) The chief electoral officer or the district electoral officer is not required to provide a mail-in voting package to an individual who has applied if the officer considers that there is insufficient time for the mail-in voting package
 - (a) to be received by the individual, and
 - (b) to be delivered in accordance with section 106 (1) (g).

CLAUSE 14: *[Election Act, section 105.01]* is consequential to the amendments made by this Bill to section 106 of the Act.

CLAUSE 15: *[Election Act, section 106]*

- provides for the use of secrecy enclosures;
- requires an individual voting with a mail-in voting package to provide the individual's date of birth;
- removes the requirement that a mail-in voting package be completed in the presence of a witness;
- provides for regulations to prescribe verification requirements;
- removes the requirement to provide originals with an application for registration or for updating voter registration information.

14 Section 105.01 (3) is repealed and the following substituted:

- (3) The chief electoral officer or the district electoral officer is not required to provide a mail-in voting package to an individual referred to in subsection (1) if the officer considers that there is insufficient time for the mail-in voting package
 - (a) to be received by the individual, and
 - (b) to be delivered in accordance with section 106 (1) (g).

15 Section 106 is amended

(a) in subsection (1) by repealing paragraphs (b), (c), (e) and (g) and substituting the following:

- (b) place the marked ballot in the secrecy enclosure provided and, if the secrecy enclosure is a secrecy envelope, seal the secrecy envelope;
- (c) follow the directions provided in the mail-in voting package in respect of
 - (i) completing the certification envelope, and
 - (ii) including the individual's date of birth on the certification envelope;
- (e) if the individual is registering as a voter in conjunction with voting or is updating voter registration information, fulfill the prescribed verification requirements for registering as a voter or updating voter registration information;
- (g) arrange for the sealed outer envelope containing the applicable materials referred to in paragraphs (a) to (d) of this subsection to be delivered to
 - (i) the address printed on the outer envelope, or
 - (ii) an authorized drop-off location. ,

(b) by repealing subsection (2) and substituting the following:

- (2) For the purposes of subsection (1) (e), the individual may fulfill the prescribed verification requirements in the period between the date of the request for a mail-in voting package and the date of the return of the mail-in voting package. , **and**

(c) by adding the following subsection:

- (3) If it appears to the chief electoral officer that there is an error in materials received under subsection (1) (g), the chief electoral officer
 - (a) may give notice to the individual, in the manner and within the time period established by the chief electoral officer, and
 - (b) may correct the error, after considering submissions, if any, and examining the evidence.

CLAUSE 16: *[Election Act, section 107]*

- makes amendments consequential to the amendments made by this Bill to section 106 of the Act;
- changes the time requirement for an election official opening the outer envelope and recording specified information.

CLAUSE 17: *[Election Act, section 108]* is consequential to the amendments made by this Bill to section 41 of the Act.

CLAUSE 18: *[Election Act, section 108.01]* amends language to be consistent with that of other provisions in the Act.

CLAUSE 19: *[Election Act, section 109]* establishes that voters who need assistance with voting can receive assistance at the office of the district electoral officer.

CLAUSE 20: *[Election Act, section 109.01]* requires an individual who is assisting a voter with mail-in voting to write the individual’s name on the certification envelope.

CLAUSE 21: *[Election Act, section 120]* is consequential to the definition of “secrecy enclosures”, as added by this Bill to the Act.

CLAUSE 22: *[Election Act, section 120.02]* is consequential to the amendments made by this Bill to section 129 of the Act.

16 Section 107 is amended

- (a) in subsection (1) by striking out “section 106 (1) (g) (i)” and substituting “section 106 (1) (g)”**,
- (b) in subsection (1) (a) by striking out “immediately on receipt,” and substituting “as soon as possible after receipt,” and**
- (c) by repealing subsection (2).**

17 Section 108 (4) is repealed and the following substituted:

- (4) As an exception to section 106 (1) (e), the election official has the authority to verify the applicant’s identity in accordance with section 41 (3) or 41.1.

18 Section 108.01 (1) is amended by striking out “a district electoral office” and substituting “the office of a district electoral officer”.

19 Section 109 (1) (a) is repealed and the following substituted:

- (a) who vote by attending at a voting opportunity or at the office of a district electoral officer, and .

20 Section 109.01 (5) is amended by striking out “and” at the end of paragraph (b) and by adding the following paragraph:

- (b.1) write the individual’s name on the certification envelope of the voter’s mail-in voting package, and .

21 Section 120 (1) (b.1) is amended by striking out “secrecy envelope” wherever it appears and substituting “secrecy enclosure”.

22 Section 120.02 is amended

- (a) in subsection (2) by striking out “The chief electoral officer must” and substituting “The chief electoral officer or the district electoral officer, as applicable, must”**,
- (b) in subsection (3) by adding the following paragraph:**
 - (c) one individual designated by a registered political party that has received notice under section 117 (1.2). , **and**

CLAUSE 22: *[Election Act, section 120.02 – continued]*

CLAUSE 23: *[Election Act, section 122.02]* is consequential to the definition of “secrecy enclosures”, as added by this Bill to the Act.

CLAUSE 24: *[Election Act, section 123]* is consequential to the amendments made by this Bill to section 91 of the Act.

CLAUSE 25: *[Election Act, section 124]* is consequential to the amendments made by this Bill to section 129 of the Act.

CLAUSE 26: *[Election Act, section 128]* is consequential to the amendments made by this Bill to section 129 of the Act.

(c) by repealing subsection (4) and substituting the following:

- (4) If the results of the quality assurance process indicate that the vote-counting equipment did not process ballots accurately in accordance with section 123, the chief electoral officer or the district electoral officer must consider whether to exercise the chief electoral officer's or the district electoral officer's discretion under section 136 (1) (a) to recount some or all of the ballots.

23 *Section 122.02 is amended*

(a) in subsections (2) and (3) by striking out “secrecy envelope” wherever it appears and substituting “secrecy enclosure” and by striking out “secrecy envelopes” wherever it appears and substituting “secrecy enclosures”,

(b) in subsection (2) (d) by striking out “on the envelope” and substituting “on the enclosure”, and

(c) in subsection (3) (a) (ii) (A) by striking out “must be resealed in” and substituting “must be placed in”.

24 *Section 123 is amended*

(a) in subsection (1) by adding the following paragraph:

- (h) the ballot is a write-in ballot marked for both a registered political party and the leader of the registered political party, but the name of the person on the ballot is not the name of the leader of the registered political party. , ***and***

(b) in subsection (3) by adding the following paragraphs:

- (b.1) the name of the leader of a registered political party marked in accordance with section 91 (2);
- (d) an indication of the name of the leader of the registered political party of the candidate marked on the ballot in accordance with section 91 (2) that, although misspelled or abbreviated, clearly indicates the intention of the voter.

25 *Section 124 (3) is amended by striking out “by the district electoral officer”.*

26 *Section 128 (2) and (3) is repealed and the following substituted:*

- (2) The final count must be conducted, as applicable,
- (a) at the office of the chief electoral officer unless the chief electoral officer gives notice under subsection (3) that the final count is to be conducted at another location, or

CLAUSE 26: *[Election Act, section 128 – continued]*

CLAUSE 27: *[Election Act, sections 129 and 130]*

- provides that the final count and the sorting of envelopes under section 131 may be conducted by the chief electoral officer in specified situations;
- provides that an additional person may be present at the final count and preparations under section 131;
- makes amendments consequential to the amendments made by this Bill to section 129 of the Act.

- (b) at the office of the district electoral officer unless the district electoral officer gives notice under subsection (3) that the final count is to be conducted at another location.
- (3) The chief electoral officer or the district electoral officer, as applicable, must notify the candidates of the date and time and, if the place that the final count is to be conducted is not the office of the chief electoral officer or the district electoral officer, the place that the final count and the sorting of certification envelopes referred to in section 131 are to be conducted.

27 Sections 129 and 130 are repealed and the following substituted:

Who conducts final count

- 129**
- (1) The final count and the sorting of certification envelopes referred to in section 131 must be conducted by
 - (a) the chief electoral officer, or
 - (b) the district electoral officer.
 - (2) The chief electoral officer or the district electoral officer may, subject to subsection (3),
 - (a) be assisted in the final count and preparations by other election officials, and
 - (b) for the purpose of paragraph (a), delegate authority under this Division to those election officials.
 - (3) On the final count, the district electoral officer must personally deal with any ballots or envelopes that are subject to an objection under section 124 as that section applies to section 134 or 135.

Who must and may be present at final count and preparations

- 130**
- (1) Subject to subsection (2), at the final count and preparations referred to in section 131,
 - (a) the chief electoral officer, the district electoral officer or an election official to whom a delegation was made under section 129 (2) (b), as applicable, and at least one other election official must be present,
 - (b) candidates are entitled to be present,
 - (c) each candidate is entitled to have
 - (i) if no vote-counting equipment is used, one candidate representative present, and
 - (ii) if vote-counting equipment is used, one candidate representative present for each electronic vote-counting machine for which the count is being separately conducted,

CLAUSE 27: *[Election Act, sections 129 and 130 – continued]*

CLAUSE 28: *[Election Act, section 132]* is consequential to the amendments made by this Bill to section 129 of the Act.

CLAUSE 29: *[Election Act, section 133]* is consequential to the amendments made by this Bill to section 129 of the Act.

CLAUSE 30: *[Election Act, section 135]* is consequential to the definition of “secrecy enclosure”, as added by this Bill to the Act.

- (d) if ballots have been divided for the purpose of having different election officials counting them at the same time during the final count, each candidate is entitled to have one additional candidate representative present for each set of ballots that is being counted, and
 - (e) each registered political party that designated a person under section 119 (2) (d) is entitled to have the person present.
- (2) If, in the chief electoral officer’s opinion, it is necessary to do so in the public interest, the chief electoral officer may limit the number of individuals permitted to be present under subsection (1).
 - (3) Individuals other than election officials and those permitted to be present under subsection (1) may not be present during the final count or the preparations unless permitted by the chief electoral officer or the district electoral officer, as applicable.

28 Section 132 is amended

- (a) in subsections (1) (f) and (3) by striking out “the district electoral officer” and substituting “the chief electoral officer or the district electoral officer, as applicable,” and**
- (b) in subsection (2) by striking out “The district electoral officer” and substituting “The chief electoral officer or the district electoral officer, as applicable,”.**

29 Section 133 is amended

- (a) in subsections (1) and (4) by striking out “The district electoral officer” and substituting “The chief electoral officer or the district electoral officer, as applicable,”,**
- (b) in subsections (2) and (3) by striking out “the district electoral officer” and substituting “the chief electoral officer or the district electoral officer, as applicable,” and**
- (c) by repealing subsection (2) (c) and substituting the following:**
 - (c) the number of secrecy enclosures that remain unopened, or that were placed into the certification envelope, or into which ballots were placed under section 135.

30 Section 135 is amended

- (a) in subsections (1) and (2) by striking out “secrecy envelope” wherever it appears and substituting “secrecy enclosure” and by striking out “secrecy envelopes” wherever it appears and substituting “secrecy enclosures”,**

CLAUSE 30: *[Election Act, section 135 – continued]*

CLAUSE 31: *[Election Act, section 136]* is consequential to the amendments made by this Bill to section 129 of the Act.

CLAUSE 32: *[Election Act, section 138]* is consequential to the amendments made by this Bill to section 129 of the Act.

CLAUSE 33: *[Election Act, section 139]* is consequential to the definition of “secrecy enclosures”, as added by this Bill to the Act.

CLAUSE 34: *[Election Act, section 149]*

- makes amendments consequential to the definition of “secrecy enclosure”, as added by this Bill to the Act;
- makes a housekeeping amendment.

CLAUSE 35: *[Election Act, sections 207 and 210]* amends language to be consistent with that of other provisions in the Act.

(b) in subsection (1) (c) by striking out “the envelope” wherever it appears and substituting “the enclosure”, and

(c) in subsection (2) (a) (ii) (A) by striking out “must be resealed in” and substituting “must be placed in”.

31 Section 136 is amended

(a) in subsections (0.1), (1) and (3) by striking out “the district electoral officer” and substituting “the chief electoral officer or the district electoral officer, as applicable,”, and

(b) by repealing subsection (1) (b) (ii) and substituting the following:

- (ii) the basis that the preliminary election results reported under section 125 show a difference of 100 votes or fewer between the number of votes for the candidate with the highest number of votes and the number of votes for the candidate with the next highest number of votes, .*

32 Section 138 is amended

(a) in subsection (0.1) by striking out “secrecy envelopes” and substituting “secrecy enclosures”, and

(b) in subsections (1), (2) and (3) by striking out “the district electoral officer” and substituting “the district electoral officer or the election officials who assisted the chief electoral officer in the final count and preparations, as applicable,”.

33 Section 139 (2) (b) is amended by striking out “certification or secrecy envelopes” and substituting “certification envelopes or secrecy enclosures”.

34 Section 149 is amended

(a) in subsection (1) by striking out “certification and secrecy envelopes” and substituting “certification envelopes, secrecy enclosures”,

(b) in subsection (2) by striking out “ballots accounts” and substituting “ballot accounts”, and

(c) in subsection (3) by striking out “certification and secrecy envelopes” and substituting “certification envelopes and secrecy enclosures”.

35 Sections 207 (3.1) and 210 (2.1) are amended by striking out “registered constituency organization” and substituting “registered constituency association”.

- CLAUSE 36: *[Election Act, section 231]* alters the existing prohibition to provide additional means of contacting a sponsor or financial agent and to include a requirement that election advertising meet any form and content requirements established by regulation of the chief electoral officer.
- CLAUSE 37: *[Election Act, section 231.01]* is consequential to the amendments made by this Bill to section 231 of the Act.
- CLAUSE 38: *[Election Act, section 231.03]* authorizes the chief electoral officer to notify an individual or organization that transmits to the public election advertising or information that is not in compliance with the Act that the individual or organization is to take all necessary measures to stop the transmission and to remove, discontinue and, if applicable, destroy the advertising message or information.

36 Section 231 (1) is amended by striking out “and” at the end of paragraph (c) and by repealing paragraph (d) and substituting the following:

- (d) specifies a means of contacting the sponsor or financial agent, such as a telephone number, mailing address or email address, or other means prescribed by the chief electoral officer by regulation, and
- (e) meets any form and content requirements established by the chief electoral officer by regulation.

37 Section 231.01 (2) is amended by striking out “section 231 (1) (a) to (d)” and substituting “section 231 (1) (a) to (e)”.

38 The following section is added:

Notice to stop transmitting

231.03 (1) For the purposes of this section,

- (a) in relation to an election, election advertising includes the transmission to the public, during a pre-campaign period or an election period, of advertising messages that would be considered campaign period election advertising if the advertising messages had been transmitted during a campaign period, and
 - (b) transmitting election advertising or other information to the public includes sponsoring or otherwise arranging for an individual or organization to transmit, by any means, the election advertising or information to the public.
- (2) In the circumstances described in subsection (3), the chief electoral officer may give a written notice to an individual or organization requiring the individual or organization to take the measures necessary to
- (a) stop the transmission of the election advertising or other information to the public, and
 - (b) remove, discontinue and, if applicable, destroy the election advertising or information.
- (3) For the purposes of subsection (2), the circumstances are as follows:
- (a) if the chief electoral officer has reason to believe that an individual or organization is, during a pre-campaign period or a campaign period, transmitting to the public by any means election advertising or other information that does not comply with section 234.1 or 234.3;
 - (b) if the chief electoral officer has reason to believe that an individual or organization is, during a pre-campaign period or an election period, transmitting to the public by any means election advertising or other information that does not comply with section 234.2, 234.4 or 234.5 or any other provision of this Act.

CLAUSE 38: *[Election Act, section 231.03 – continued]*

- (4) The notice referred to in subsection (2) that is given in circumstances described in subsection (3) must
 - (a) describe the election advertising or other information that the chief electoral officer has reason to believe is not in compliance with this Act,
 - (b) identify the provisions of this Act that the chief electoral officer has reason to believe the election advertising or other information is not in compliance with,
 - (c) advise the recipient that a monetary penalty may be imposed by the chief electoral officer if the election advertising or other information continues to be transmitted to the public by the recipient,
 - (d) advise the recipient of the period set out in subsection (5) within which the recipient must comply with the notice, and
 - (e) advise the recipient of the ability to make a request under subsection (6) for an extension of the period set out in subsection (5).
- (5) The recipient of a notice referred to in subsection (2) must comply with the notice as soon as reasonably possible but, in any event, no later than 24 hours after receiving the notice.
- (6) The chief electoral officer may extend the period referred to in subsection (5) if the recipient of the notice referred to in subsection (2) makes a written request for an extension within 12 hours after receiving the notice.
- (7) Within 7 days of the chief electoral officer making a determination of non-compliance with a notice given under subsection (2) by an individual or organization, the chief electoral officer must give written notice to the individual or organization of the non-compliance and the amount of the monetary penalty, calculated in accordance with subsection (8), payable to the chief electoral officer on receipt of the notice given under this subsection.
- (8) Unless relief is granted under subsection (15), if the chief electoral officer gives notice to an individual or organization under subsection (7), the individual or organization must pay to the chief electoral officer a penalty in the amount of up to \$50 000, as determined by the chief electoral officer, for each day that the individual or organization fails to comply with a notice given under subsection (2).
- (9) If, after receiving a notice under subsection (7), an individual or organization continues to fail to comply with the applicable notice given under subsection (2), the individual or organization is subject to additional monetary penalties calculated in accordance with subsection (8).
- (10) If an individual or organization is subject to additional monetary penalties under subsection (9), the chief electoral officer must give written notice to the individual or organization of the amount that is payable to the chief electoral officer in respect of those additional monetary penalties.

CLAUSE 38: *[Election Act, section 231.03 – continued]*

CLAUSE 39: *[Election Act, sections 234.1 to 234.7]* adds provisions to establish

- prohibitions in respect of misrepresentations and the transmission of false statements to affect election results, false statements about election officials, false election information and unauthorized material or information,
- monetary penalties for misrepresentation and certain false statements, and
- a requirement for the chief electoral officer to publish the names of individuals and organizations that have received a monetary penalty under section 231.02, or under section 231.03 or 234.6, as added by this Bill to the Act.

- (11) An individual or organization that is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance.
- (12) An application may be made only within 30 days after the chief electoral officer, under subsection (7) or (10), notifies the individual or organization of the non-compliance and the related penalty.
- (13) A petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed with the Supreme Court, and the chief electoral officer is a party to the application.
- (14) If an application is made for relief from a monetary penalty imposed under this section, and additional monetary penalties have been imposed under this section in relation to the transmission of the same election advertising or other information by the same individual or organization, the court may extend the scope of the application to include all of the monetary penalties.
- (15) On the hearing of an application, the court may do the following:
 - (a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the individual or organization has acted in good faith;
 - (b) make any order the court considers appropriate to secure compliance with this section to the extent the court considers reasonable in the circumstances;
 - (c) refuse to grant relief.

39 *The following sections are added:*

Transmission of false statement to affect election results

- 234.1** During a pre-campaign period or a campaign period, an individual or organization must not, with the intention of affecting the result of an election, transmit by any means a statement knowing that it is false, or having a reckless disregard as to whether it is false,
- (a) that a candidate, a nomination contestant, the leader of a registered political party or a public figure associated with a candidate or a registered political party has committed or been charged with an offence, or has been required to pay an administrative monetary penalty, under an Act of Parliament, a regulation made under an Act of Parliament or an enactment of British Columbia or another province, or
 - (b) that relates to the citizenship, place of birth, education, professional qualifications or membership, in a group or association, of a candidate, a nomination contestant, the leader of a registered political party or a public figure associated with a registered political party.

CLAUSE 39: *[Election Act, sections 234.1 to 234.7 – continued]*

Transmission of false statement about election official and voting administration tools

- 234.2** During a pre-campaign period or an election period, an individual or organization must not, with the intention of undermining public confidence in the result or the administration of an election, transmit by any means a statement knowing that it is false, or having a reckless disregard as to whether it is false,
- (a) that an election official has committed or been charged with an offence, or has been required to pay an administrative monetary penalty, under an Act of Parliament, a regulation made under an Act of Parliament or an enactment of British Columbia or another province,
 - (b) that relates to the citizenship, place of birth, education, professional qualifications or membership, in a group or association, of an election official, or
 - (c) that relates to an individual or organization that provides, to Elections BC, voting administration tools within the meaning of section 79.01 or services in relation to voting administration tools.

Transmission of false election information

- 234.3** During a pre-campaign period or a campaign period, an individual or organization must not, with the intention of affecting the results of an election, transmit by any means any material or information, regardless of its form, that provides false or misleading information about voter eligibility, voter registration procedures or election proceedings, including voting options and voting opportunities available to the voter.

Transmission of unauthorized material or information

- 234.4** (1) During a pre-campaign period or an election period, an individual or organization must not transmit by any means any material or information, regardless of its form, that purports to be transmitted by or under the authority of the chief electoral officer, an election official, a candidate, a nomination contestant, a registered political party or a registered constituency association if
- (a) the individual or organization is not authorized by the chief electoral officer or that election official, candidate, nomination contestant, registered political party or registered constituency association to transmit the material or information, and
 - (b) the individual or organization intends to mislead the public that the material or information was transmitted by or under the authority of the chief electoral officer or that election official, candidate, nomination contestant, registered political party or registered constituency association.

CLAUSE 39: *[Election Act, sections 234.1 to 234.7 – continued]*

- (2) In determining whether an individual or organization has complied with subsection (1), consideration may be given to whether the material or information included the use of
 - (a) a name, logo, likeness of a logo, social media account identifier, user name or domain name that is distinctive and commonly associated with Elections BC, the chief electoral officer, an election official, a candidate, a nomination contestant, a registered political party or a registered constituency association,
 - (b) the name, voice, image, likeness, physical description or signature of the chief electoral officer, an election official, a candidate, a nomination contestant or a public figure who is associated with a candidate or a registered political party, or
 - (c) any other matter or thing prescribed by regulation.
- (3) An individual or organization does not fail to comply with subsection (1) if the individual or organization establishes that the material or information was transmitted for the purpose of parody or satire.

Misrepresentation

- 234.5** (1) An individual or an organization must not, in relation to an election, falsely purport to be
- (a) a candidate or an individual authorized to act on behalf of a candidate,
 - (b) an individual authorized to act on behalf of a registered political party or a registered constituency association, or
 - (c) a registered political party or a registered constituency association.
- (2) An individual or organization does not fail to comply with subsection (1) if the individual or organization establishes that the representation was for the purpose of parody or satire.

Penalties for certain false statements and misrepresentation

- 234.6** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with any of sections 234.1 to 234.5 by an individual or organization, the chief electoral officer must notify the individual or organization of the non-compliance and the related penalty.
- (2) Unless relief is granted by a court on an application under this section, if the chief electoral officer gives notice under subsection (1), the individual or organization must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.
- (3) An individual or organization that is subject to a monetary penalty under this section may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.

CLAUSE 39: *[Election Act, sections 234.1 to 234.7 – continued]*

CLAUSE 40: *[Election Act, section 239]* makes housekeeping amendments and adds criteria to be considered by the chief electoral officer in determining the independence of an individual or organization that has applied for registration as a third party sponsor.

- (4) An application under this section may be made only within 30 days after the chief electoral officer, under subsection (1), notifies the individual or organization of the non-compliance and the related penalty.
- (5) The petition commencing an application under subsection (3) must be served on the chief electoral officer within 7 days after the petition is filed with the Supreme Court, and the chief electoral officer is a party to the application.
- (6) On the hearing of an application, the court may do the following:
 - (a) grant relief from a penalty if the court considers that, in relation to the non-compliance, the individual or organization has acted in good faith;
 - (b) make any order the court considers appropriate to secure compliance with sections 234.1 to 234.5, as applicable, to the extent the court considers reasonable in the circumstances;
 - (c) refuse to grant relief.

Publication of names in relation to monetary penalties

- 234.7** (1) The chief electoral officer must
- (a) publish on an Elections BC authorized internet site
 - (i) the names of the individuals and organizations on whom the chief electoral officer has imposed a monetary penalty under section 231.02, 231.03 or 234.6,
 - (ii) the section under which the chief electoral officer has imposed the monetary penalty, and
 - (iii) the amount of the monetary penalty, and
 - (b) have notice of the information described in paragraph (a) published in the Gazette.
- (2) The information published under subsection (1) (a) must continue to be published on the Elections BC authorized internet site until one year after final voting day for the next general election.
- (3) Publication of the notice under subsection (1) (b) must take place as soon as possible after the chief electoral officer imposes the monetary penalty.

40 Section 239 (3) is repealed and the following substituted:

- (3) An individual or organization that is registered or required to be registered as a third party sponsor must be independent of registered political parties, registered constituency associations, candidates, official agents, financial agents and deputy financial agents and must not sponsor election advertising on behalf of or together with any of these.

CLAUSE 40: *[Election Act, section 239 – continued]*

- (4) In determining whether an individual who applies for registration as a third party sponsor is independent in accordance with the requirements set out in subsection (3), the chief electoral officer may consider whether the individual is
- (a) a candidate,
 - (b) an individual who resides with a candidate and who is the candidate's spouse, parent or child or a relative of the candidate or the candidate's spouse,
 - (c) an authorized canvasser within the meaning of section 228.01,
 - (d) an official agent, financial agent or deputy financial agent of a candidate, a registered political party or a registered constituency association,
 - (e) an individual who was the official agent, financial agent or deputy financial agent of a candidate, a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began,
 - (f) a principal officer, principal member or employee of a registered political party or a registered constituency association,
 - (g) an individual who was a principal officer, principal member or employee of a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began, or
 - (h) an individual, or a member of a class of individuals, prescribed by regulation.
- (5) In determining whether an organization that applies for registration as a third party sponsor is independent in accordance with the requirements set out in subsection (3), the chief electoral officer may consider
- (a) whether the organization has one or more principal officers or principal members in common with a registered political party or a registered constituency association,
 - (b) whether the organization has one or more principal officers or principal members who are employees, financial agents, deputy financial agents or official agents of a candidate, a registered political party or a registered constituency association,
 - (c) whether the organization has one or more principal officers or principal members who were employees, financial agents, deputy financial agents or official agents of a candidate, a registered political party or a registered constituency association during the 60 day period immediately before the day on which the campaign period began, or
 - (d) any other matters prescribed by regulation.

CLAUSE 40: *[Election Act, section 239 – continued]*

CLAUSE 41: *[Election Act, section 240]* adds requirements to the statement that must be signed by an applicant in an application for registration as a third party sponsor and authorizes the chief electoral officer to deregister a registered third party sponsor if the third party sponsor does not meet the applicable independence requirements.

CLAUSE 42: *[Election Act, Division 4.1 of Part 11]* establishes prohibitions against third party sponsors acting in collusion with, under the direction of or with advice from a candidate, a registered political party or a registered constituency association.

- (6) The chief electoral officer may require an applicant to provide any information or evidence that the chief electoral officer considers necessary to make a determination under subsection (4) or (5).

41 Section 240 is amended

(a) in subsection (3) (b) by striking out “and” at the end of subparagraph (i) and by repealing subparagraph (ii) and substituting the following:

- (ii) undertakes not to sponsor election advertising on behalf of or together with registered political parties, registered constituency associations, candidates, official agents, financial agents or deputy financial agents,
- (iii) undertakes not to sponsor election advertising for any purpose related to circumventing the provisions of this Act that limit the value of election expenses that may be incurred by a candidate or registered political party, and
- (iv) undertakes not to act in collusion with a candidate or a registered political party, including by sharing information, in order to influence a third party sponsor with respect to the third party’s election advertising. , **and**

(b) by adding the following subsections:

- (9) Subject to subsection (10), the chief electoral officer may deregister any individual or organization that is registered as a registered third party sponsor under subsection (5) if the chief electoral officer determines that the individual or organization does not meet the independence requirements set out in section 239 (3).
- (10) A third party sponsor that is deregistered during a pre-campaign period or campaign period must file an election advertising disclosure report in accordance with sections 244 and 245.

42 The following Division is added to Part 11:

Division 4.1 – Independence of Third Party Sponsors

Prohibition against collusion

250.002 A third party sponsor must not, in respect of election advertising conducted by the third party sponsor,

- (a) act in collusion with a candidate, a registered political party or a registered constituency association, including by sharing information, or
- (b) act under the direction of, or in accordance with advice from, a candidate, a registered political party or a registered constituency association.

CLAUSE 43: *[Election Act, section 250.071]* establishes a monetary penalty in respect of collusion by a third party sponsor.

CLAUSE 44: *[Election Act, section 250.08]* is consequential to the addition by this Bill of section 250.071 to the Act.

CLAUSE 45: *[Election Act, section 250.09]* is consequential to the addition by this Bill of section 250.071 to the Act.

CLAUSE 46: *[Election Act, sections 266.1 and 266.2]* is consequential to the addition by this Bill of sections 234.1 to 234.5 to the Act.

43 *The following section is added:*

Monetary penalties for collusion

- 250.071** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 250.002, the chief electoral officer must notify the third party sponsor of the non-compliance and the related penalty.
- (2) Unless relief is granted by a court on an application under section 250.08, if the chief electoral officer gives notice under subsection (1) of this section, the third party sponsor that is the recipient of the notice must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

44 *Section 250.08 (1) is amended by striking out “sections 250.01 to 250.07” and substituting “sections 250.01 to 250.071”.*

45 *Section 250.09 (1) (a) (i) is amended by striking out “sections 250.01 to 250.07” and substituting “sections 250.01 to 250.071”.*

46 *The following sections are added:*

Offences in relation to false statements and unauthorized material or information

- 266.1** (1) An individual or organization that does any of the following commits an offence:
- (a) transmits a statement in contravention of section 234.1;
 - (b) transmits a statement in contravention of section 234.2;
 - (c) transmits material or information in contravention of section 234.3;
 - (d) transmits material or information in contravention of section 234.4.
- (2) An individual or organization that commits an offence under this section is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

Offences in relation to misrepresentation

- 266.2** An individual or organization that contravenes section 234.5 commits an offence and is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

CLAUSE 47: *[Election Act, section 274]*

- provides that depositing a ballot into a ballot box is proof a voter has voted;
- clarifies when a voter using a mail-in voting package has voted.

CLAUSE 48: *[Election Act, section 276.01]* amends language for consistency with that of other provisions of in the Act.

CLAUSE 49: *[Election Act, section 283]* adds to the regulation-making powers of the chief electoral officer.

47 Section 274 is repealed and the following substituted:

When has individual voted and proof that individual has voted

- 274** (1) A voter has voted when
- (a) the voter has deposited a ballot in a ballot box, or
 - (b) if the voter is voting using a mail-in voting package, the outer envelope included in the mail-in voting package provided to the voter is deposited
 - (i) in the mail to be delivered to the address of the office printed on the outer envelope, or
 - (ii) at an authorized drop-off location.
- (2) The following is proof for the purposes of this Act that an individual has voted:
- (a) the record of an election official that the individual has been provided with a ballot;
 - (b) the receipt of an envelope as required by section 106 (1) (g) before the time set by section 75 (3) for the close of final voting.
- (3) As an exception to subsection (2), for voting under section 106, the record of late receipt after the time set by section 75 (3) in the voting book under section 107 is proof for the purposes of this Act that the individual to whom the mail-in voting package was provided has voted.

48 Section 276.01 is amended

- (a) in subsection (1) by striking out “an election advertising message” wherever it appears and substituting “election advertising”,**
- (b) in subsection (3) by striking out “an election advertising message” and substituting “election advertising” and by striking out “the election advertising message” wherever it appears and substituting “the election advertising”, and**
- (c) in subsection (3) (f) by striking out “the advertising message” and substituting “the election advertising”.**

49 Section 283 is amended

- (a) in subsection (1) by adding the following paragraphs:**
 - (h.5) prescribing verification requirements for the purposes of section 106 (1) (e);
 - (m.2) prescribing additional content and format standards for the purposes of section 231 (1);

CLAUSE 49: *[Election Act, section 283 – continued]*

CLAUSE 50: *[Election Act, Schedule]* updates references to His Majesty the King.

CLAUSE 51: *[Election Act, various sections]* makes housekeeping amendments in respect of ordinal numbers.

- (m.3) establishing requirements in respect of any information referred to in section 231 (1) (a) to (d) and any information that is required under a regulation made for the purposes of section 231 (1) (e);
- (m.4) prescribing other matters and things for the purposes of section 234.4 (2) (c);
- (m.5) prescribing individuals and classes of individuals for the purposes of section 239 (4) (h);
- (m.6) prescribing matters for the purposes of section 239 (5) (d); , *and*

(b) by adding the following subsections:

- (2) Subject to section 16 (2), for the purposes of section 215.02, the chief electoral officer may make regulations respecting annual allowances to a merged political party, including defining what a merged political party is and establishing the amount of the annual allowance and the payment schedule.
- (5) In making a regulation under subsection (4), the chief electoral officer may prescribe different forms of write-in ballots to be included in mail-in voting packages.

50 *Form 1 of the Schedule to the Act is amended by striking out “Elizabeth II, by the Grace of God, of the United Kingdom, Canada and Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith” and substituting “Charles III, by the Grace of God, of the United Kingdom, Canada and His Other Realms and Territories, King, Head of the Commonwealth, Defender of the Faith”.*

51 *The provisions listed in column 1 of the Schedule to this Act are amended by striking out the text listed opposite them in column 2 and substituting the text listed opposite them in column 3.*

Commencement

52 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 2	November 30, 2017

SCHEDULE

Item	Column 1 Provisions of the <i>Election Act</i>	Column 2 Text to be struck out	Column 3 Text to be substituted
1	section 27 (1) (a)	28th day	twenty-eighth day
2	section 27 (1) (b)	32nd day 38th day	thirty-second day thirty-eighth day
3	section 37 (1)	2nd day	second day
4	section 56 (1) (a)	7th day	seventh day
5	section 56 (1) (b)	3rd day 11th day	third day eleventh day
6	section 56 (1) (c)	3rd day 7th day	third day seventh day
7	section 65 (1) (b)	6th day	sixth day
8	section 66 (2)	4th day	fourth day
9	section 128 (1)	4th day	fourth day