

Country: Canada

Theme: Enhancement of Participation by Special Categories of Voters

Sub Theme: Overseas Citizens

Title of The Best Practice / Case Study: Special Voting Rules in Canada for Expatriates

Area of Coverage: Across Canada and Internationally

Period of implementation: Special arrangements for electors unable to vote because of disability, occupation or assignment abroad were introduced gradually to improve access to the vote: the postal ballot (1915), advance polling (1920), proxy voting (1970) and level access at polling stations (1992). Note that in 1993 proxy voting was repealed when the use of special ballots under the Special Voting Rules was expanded.

Background: In 1970, public servants, mainly diplomats, and their dependents posted outside Canada became eligible to use the Special Voting Rules. These rules were previously available only to military personnel and their dependents since their introduction during the First World War. Civilian employees of the military (usually teachers and administrative support staff at schools on Canadian Forces bases) gained this eligibility in 1977. On the other hand, ordinary Canadians who happened to be away from home and unable to vote, either on polling day or at advance polls, could not cast a ballot until 1993. It is now possible to do so in accordance with the Special Voting Rules of the Elections Act.

Brief Description of Best Practice: The special ballot is essentially a registration and voting system for Canadians away from their home ridings, people with disabilities, prison inmates and any other elector who cannot vote in person on Election Day or at an advance poll. All Canadians living or travelling outside the country are eligible to vote, provided that (1) they have not been absent from Canada for more than five years, (2) they intend to return home at some time and (3) they have applied for the special ballot prior to the deadline. A mail-in special ballot voting system is mainly used by expatriates and military personnel, while an in-person special ballot voting system is available according to the elector's circumstances, in a number of locations across the country. Elections Canada also maintains the International Register of Electors, a database containing the names of Canadian electors living outside Canada. Once an election or referendum is called, Elections Canada sends a personalized special ballot voting kit to every elector in the international register of electors to the mailing address on file for them. Qualified electors may apply at any time to be added to the International Register. If an election has been called, applications for the International Register must reach Elections Canada in Ottawa by 6:00 p.m. Eastern Time on the Tuesday before election day in order to qualify the elector to vote by special ballot in that election.

Furthermore, to facilitate registration and voting for Canadians living abroad, instructions are sent by Elections Canada to Canadian diplomatic missions to outline the role they must play during a federal general election period as agreed upon by the Office of the CEO (Elections Canada) and Global Affairs Canada. For examples, electors can chose to use the diplomatic bag to send back their mail-in ballot to Elections Canada - there is no polling station within Canadian diplomatic missions. In addition, for the first time for the 2015 general election, Elections Canada provided to electors living abroad the option of applying online for a special ballot. This reduced significantly the delays caused by postal mail. CHALLENGES: In May 2014, the “intent to return” and “five-year rule” provisions associated with the use of a special ballot by Canadians living abroad were invalidated by a provincial Superior Court of Justice ruling. As such, Elections Canada stopped applying those provisions across Canada and had been preparing for all Canadian citizens living abroad to be allowed to vote, based on the May 2014 decision. However, on July 20, 2015, the provincial Court of Appeal reversed the lower court decision, reinstating these criteria. The ruling meant reversing those procedures less than two weeks before the call of the election. This situation resulted in confusion among electors and hardships in managing the registration and voting processes for Canadians living abroad. Timing is also of the essence in the use of special ballot by Canadian living abroad. For example, in the case of an election, the elector must wait to obtain the names of the candidates in his or her electoral district after the candidates have been confirmed, on the 19th day before polling day. The electors must then ensure to return his mail-in ballot in time to Elections Canada. The Canada Elections Act prohibits counting ballots received after the deadline on polling day at a specific time. For the 2015 general election, 1,285 ballots were received late from Canadians living abroad and members of the Canadian forces. OUTCOME The use of Special voting rules has enabled eligible Canadian electors to vote, who would be unable to otherwise. For the 2015 general election, 40,248 Canadians living abroad and members of the Canadian forces casted their votes by special ballots. In addition, as electors had immediate online access to the registration process to the International Register, many electors were better able to meet the deadline for document submission as they did not experience delays related to postal deliveries. In addition, the 2015 electoral campaign was the longest in the country’s history, lasting 78 days, in comparison to the established minimum campaign length of 36 days. This extended amount of time also better enabled electors to receive and submit all documentation prior to the deadline, as it allowed for additional time for procedures and processes to be communicated and completed. Moving forward, the recent decision of the Supreme Court of Canada to hear the appeal and the media coverage of the case will undoubtedly bring attention over the voting right of Canadians expatriates. It is estimated that a million Canadians living abroad could be impacted by the decision.

TOOLS USED: All diplomatic missions receive an election poster and registration kits that should be displayed prominently in the reception area in both official languages (English and French) during the election period. Procedures for voting by special ballots are also now available on-line.

1) Voting by Special Ballot
<http://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90540&lang=e>

2) Voting by Special Ballot for Canadian Forces Electors
<http://www.elections.ca/content.aspx?section=vot&dir=bkg&document=ec90550&lang=e>

Once registered, a special ballot voting kit is sent to the electors abroad and includes: • a blank ballot on which the elector writes the name of the candidate of his or her choice • an unmarked inner envelope • an outer envelope identifying the elector and his/her electoral district, and a declaration that the elector must sign and date, stating that his/her name is as shown on the envelope, and that he/she has not already voted and will not attempt to vote again in the current electoral event • a return envelope • an instruction flyer

Challenges : Court decisions reversed two weeks before the call of the election. Logistics and tight deadline for mail-in ballot.

Outcome: Special Voting Rules used by 11,001 international electors and 29,247 Canadian Forces Members.