

## Canada

<b>Background</b>	<p><b>Name of EMB:</b> The Office of the Chief Electoral Officer of Canada, commonly known as Elections Canada</p> <p><b>Status:</b> Permanent</p>
<b>Establishment of the EMB</b>	<p><b>Number of commissioners:</b> No commissioners; headed by the Chief Electoral Officer of Canada.</p> <p><b>Number of full-time EMB staff:</b> The office through which the Chief Electoral Officer carries out his or her mandate normally comprises a group of some 500 employees working in the National Capital Region (Ottawa/Gatineau). During a general election, more than 285,000 positions are filled by election workers across the country.</p> <p><b>Constitutional and/or legislative provisions for establishment of the EMB:</b> Electoral Rights; the Canadian Charter of Rights and Freedoms (see: <a href="http://laws-lois.justice.gc.ca/eng/const/page-15.html">http://laws-lois.justice.gc.ca/eng/const/page-15.html</a>). Canada Elections Act (see: <a href="http://laws-lois.justice.gc.ca/eng/acts/e-2.01/page-1.html">http://laws-lois.justice.gc.ca/eng/acts/e-2.01/page-1.html</a>). Electoral Boundaries Readjustment Act (see: <a href="http://laws-lois.justice.gc.ca/eng/acts/E-3/index.html">http://laws-lois.justice.gc.ca/eng/acts/E-3/index.html</a>). Federal Elections Fees Tariff (see: <a href="http://www.elections.ca/content.aspx?section=res&amp;dir=loi/fel/trf/trf2016&amp;document=index&amp;lang=e">www.elections.ca/content.aspx?section=res&amp;dir=loi/fel/trf/trf2016&amp;document=index&amp;lang=e</a>). Referendum Act (see: <a href="http://laws.justice.gc.ca/eng/acts/R-4.7/">http://laws.justice.gc.ca/eng/acts/R-4.7/</a>).</p>
<b>EMB's mandate:</b>	<p>Elections Canada's mandate is to:</p> <ul style="list-style-type: none"> <li>• be prepared to conduct a federal general election, by-election or referendum;</li> <li>• administer the political financing provisions of the Canada Elections Act;</li> <li>• monitor compliance with electoral legislation;</li> <li>• conduct public information campaigns on voter registration, voting and becoming a candidate;</li> <li>• conduct education programmes for students on the electoral process;</li> <li>• provide support to the independent commissions in charge of adjusting the boundaries of federal electoral districts following each decennial census;</li> <li>• carry out studies on alternative voting methods; and</li> <li>• with the approval of parliamentarians, test alternative voting processes for future use during electoral events.</li> </ul>
<b>EMB model:</b>	<p>Elections Canada is an independent, non-partisan agency that reports directly to parliament.</p>

	<p><b>What standards are established in the constitution or other legislation for democratic legitimacy?</b></p>	<p>Electoral Rights: the Canadian Charter of Rights and Freedom (Constitution Act, 1982: <a href="http://laws-lois.justice.gc.ca/eng/const/page-15.html">http://laws-lois.justice.gc.ca/eng/const/page-15.html</a>;</p> <ul style="list-style-type: none"> <li>Democratic rights of citizens (Article 3): <i>Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.</i></li> <li>Maximum duration of legislative bodies (Article 4.1): <i>No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.</i></li> <li>Continuation in special circumstances (Article 4.2): <i>In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.</i></li> <li>Annual sitting of legislative bodies (Article 5): <i>There shall be a sitting of parliament and of each legislature at least once every twelve months.</i></li> </ul>
<p><b>Appointment, tenure and removals</b></p>	<p><b>Provisions for the appointment of commissioners:</b></p> <p><b>Political status of commissioners:</b></p> <p><b>Chair qualifications:</b></p> <p><b>Commissioner qualifications:</b></p> <p><b>Tenure of chair and commissioners:</b></p> <p><b>Provisions for the removal of commissioners:</b></p> <p><b>Provisions for the appointment of EMB senior staff:</b></p>	<p>The position of chief electoral officer (CEO) was created in 1920 by the Dominion Elections Act. The CEO is appointed for a ten-year non-renewable term by a resolution of the House of Commons. He or she reports directly to parliament and is thus completely independent of the government of the day and all political parties. He or she can be removed from office only for cause, by the Governor-General after a joint request following a majority vote by the House of Commons and Senate.</p> <p>The CEO must not have any political affiliation.</p> <p>None specified</p> <p>None specified</p> <p>The CEO is appointed for a ten-year non-renewable term by a resolution of the House of Commons.</p> <p>The CEO can be removed from office only for cause, by the Governor-General after a joint request following a majority vote by the House of Commons and Senate.</p> <p>The three deputy chief electoral officers, as well as all the executive members, are not appointed. These positions are staffed based on a competitive process following Federal Public Service Policy on recruitment. They are considered public servants with no political affiliation.</p>

	<p><b>Tenure of EMB senior staff:</b>  <b>Provisions for the removal of EMB senior staff:</b></p>	<p>Until they resign from their position or are removed.  They could be removed from office if there is a breach of the Elections Canada Code of Conduct (see: <a href="http://www.elections.ca/content.aspx?section=abo&amp;dir=eth&amp;document=index&amp;lang=e">www.elections.ca/content.aspx?section=abo&amp;dir=eth&amp;document=index&amp;lang=e</a>) or if they do not meet the objectives of their annual performance agreement.</p>
<p><b>Funding arrangements</b></p>	<p><b>Setting and control of EMB's budget:</b></p>	<p>Elections Canada is funded by, and operates under, two separate budget authorities. The first is a statutory authority that draws directly from the Consolidated Revenue Fund. This authority funds all Elections Canada expenditures, other than the salaries for permanent positions, and is not subject to annual parliamentary approval. The statutory authority serves to recognise Elections Canada's independence from the government. It also ensures that Elections Canada has access to the funds required for elections that may occur at any time. The second budget authority is an annual parliamentary appropriation that covers only the salaries for permanent positions. This appropriation can be increased only with Treasury Board approval. Elections Canada participates in the estimates process. This includes submitting Main Estimates, the Report on Plans and Priorities, the Departmental Performance Report and the Quarterly Financial Reports. In addition, the financial statements of the Office of the CEO are subject to annual audits by the Office of the Auditor-General. The agency is also subject to the reporting requirements of the Receiver-General, including those related to the Public Accounts.</p>
	<p><b>Financial autonomy:</b>  <b>Legal provisions for financial autonomy:</b></p>	<p>Refer to the above-mentioned information.  Canada Elections Act (see: <a href="http://laws-lois.justice.gc.ca/eng/acts/e-2.01/page-89.html#h-231">http://laws-lois.justice.gc.ca/eng/acts/e-2.01/page-89.html#h-231</a>). Payments out of Consolidated Revenue Fund (Canada Elections Act) amounts to be paid out of CRF 553. The following shall be paid out of unappropriated moneys forming part of the Consolidated Revenue Fund:</p> <ul style="list-style-type: none"> <li>• any amount payable under Section 15;</li> <li>• the remuneration paid to a person employed under Section 20, any additional remuneration paid to staff referred to in subsection 19(1) for overtime work to enable the chief electoral officer to exercise his or her powers and discharge his or her duties under this Act and any administration expenses that are incurred for that purpose;</li> <li>• any expenses incurred by the chief electoral officer to acquire information referred to in paragraph 46(1)(b);</li> <li>• any fees, costs, allowances or expenses referred to in subsection 542(1) or (4);</li> <li>• any expenses incurred by the chief electoral officer for preparing and printing</li> </ul>

<p><b>Electoral system</b></p>	<p><b>Number of chambers/houses within the legislature:</b></p> <p><b>Voting system:</b></p>	<p>Bicameral.</p> <p>Canada's electoral system is referred to as a 'single-member plurality' system (also commonly called a 'first-past-the-post' system). In every electoral district, the candidate with the highest number of votes wins a seat in the House of Commons and represents that electoral district as its Member of Parliament. An absolute majority (more than 50 per cent of the votes in the electoral district) is not required for a candidate to be elected. The Canada Elections Act only governs the election of Members of Parliament to the House of Commons, which has 338 seats. Senators in Canada are appointed by the Governor-General of Canada on the advice of the prime minister.</p>
<p><b>Amendments to electoral laws:</b></p>	<p>The CEO makes recommendations to parliament on legislative changes that he or she considers beneficial through his/her post-election report, usually called CEO's Recommendations for Improving Canada's Electoral Framework. The CEO appears regularly before the committees of the House and Senate responsible for electoral matters, namely the Standing Committee on Procedure and House Affairs in the House of Commons and the Standing Committee on Legal and Constitutional Affairs in the Senate, and any other committee upon request. The CEO also provides technical advice to committees, upon request, on legislation and any other issue the committee is studying.</p>	

	<p><b>Drafting of electoral regulations:</b></p>	<p>Section 16.1 of the Canada Elections Act requires Elections Canada to issue guidelines and interpretation notes on the application of the act to registered parties, registered associations, nomination contestants, candidates and leadership contestants. Elections Canada issues guidelines and interpretation notes at its discretion or on application by the chief agent of a registered party. Section 16.2 of the act requires Elections Canada to issue written opinions on the application of any provision of the act to an activity or practice that a registered party, registered association, nomination contestant, candidate or leadership contestant of a registered party proposes to engage in. Elections Canada issues these opinions on application by the chief agent of a registered party. Subsection 17(1) of the Canada Elections Act authorises the chief electoral officer to adapt any provision of the act during the election period or within 30 days after the election. To exercise this authority, the chief electoral officer must be satisfied that the adaptation is necessary due to an emergency, an unusual or unforeseen circumstance, or an error. Adaptations made pursuant to this authority are reported to the Speaker of the House of Commons in accordance with Section 534 of the Canada Elections Act. Section 179 of the Canada Elections Act authorises the chief electoral officer to issue an instruction to adapt a provision of Part 11 of the Act (Special Voting Rules) in respect of a particular circumstance. The instruction is issued where the chief electoral officer considers that it is necessary in order to execute the intent of the provision.</p>
<p><b>Electoral disputes</b></p>	<p><b>Electoral dispute resolution mechanisms:</b></p>	<p><i>Judicial recounts:</i> A judicial recount is a new tabulation of the votes cast for an electoral district, presided over by a judge of a superior court of the province or territory. A judicial recount must take place if the leading candidates in an electoral district receive the same number of votes after the validation of the results, or if they are separated by less than one one-thousandth of the total votes cast. Any elector can also request it, if there is evidence of errors made at the original count. Judicial recounts deal solely with the counting and tabulation of votes.</p>

		<p><i>Contested elections:</i> All concerns respecting the regularity of an election – other than matters that are handled through judicial recounts – are addressed through the contested election process. This includes concerns about fraud or irregularities in the electoral process. After a person is declared elected, any elector who was eligible to vote in a district, or any candidate in that district, may bring an application for a contested election before a judge. In a contested election proceeding, a judge is required to determine whether the person who won the election was eligible to be a candidate or whether there were any other irregularities, fraud, or corrupt or illegal practices that affected the result of the election. The CEO, the Attorney-General, the relevant returning officer, the candidates in the election and the person bringing the application are all parties to a contested election proceeding. At the end of the court proceeding, the judge either dismisses the application or invalidates the result of the election. This decision can be appealed directly to the Supreme Court of Canada.</p> <p><i>Commissioner of Canada Election</i> (see: <a href="https://www.cfc-cc.gc.ca/content/asp?document=home&amp;lang=e">https://www.cfc-cc.gc.ca/content/asp?document=home&amp;lang=e</a>): The Commissioner of Canada Election is the independent officer responsible for ensuring compliance with, and enforcement of, the Canada Elections Act and the Referendum Act.</p>
<p><b>Other issues:</b></p> <p><b>Secretariat</b></p>	<p><b>Administrative autonomy:</b></p> <p><b>Women in senior positions:</b></p> <p><b>Administrative structure:</b></p>	<p>Yes, subject to public service policies.</p> <p>Four (36 per cent) women out of 11 members sit on the Executive Committee of Elections Canada. At the director + level, representation is around 40 per cent (13 positions out of 32).</p> <p>Elections Canada Organisational Chart (see: <a href="http://www.elections.ca/content.aspx?section=abo&amp;dir=org&amp;document=index&amp;lang=e">http://www.elections.ca/content.aspx?section=abo&amp;dir=org&amp;document=index&amp;lang=e</a>).</p>