



Electoral Reform Referendum 2018 Act

**ELECTORAL REFORM
REFERENDUM 2018 REGULATION**

B.C. Reg. 125/2018

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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

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This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

Prepared by:
Office of Legislative Counsel
Ministry of Attorney General
Victoria, B.C.

Electoral Reform Referendum 2018 Act

**ELECTORAL REFORM
REFERENDUM 2018 REGULATION**

B.C. Reg. 125/2018

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**PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION
OF *ELECTION ACT* GENERALLY**

Definitions

1 (1) In this regulation:

“**Act**” means the *Electoral Reform Referendum 2018 Act*;

“**applicant**” means an applicant to be the opponent group or the proponent group;

“**campaign contribution**” has the same meaning as in the *Local Elections Campaign Financing Act*;

“**close of voting**” means the end of voting under section 7 [*voting in referendum closes on November 30, 2018*];

“**deputy financial agent**” means a deputy financial agent within the meaning of section 41 [*deputy financial agents*];

“**director**”, in relation to an organization, means

(a) an individual director of the organization, or

(b) if there are no individual directors of the organization, the principal officers or principal members of the organization;

“**Dual Member Proportional (DMP)**” means the Dual Member Proportional (DMP) voting system described in the report titled “How We Vote: 2018 Electoral Reform Referendum Report and Recommendations of the Attorney General” dated May 30, 2018;

“**elector organization**” has the same meaning as in the *Local Elections Campaign Financing Act*;

“**general local election**” has the same meaning as in the *Local Government Act*;

“**local election advertising**” has the same meaning as election advertising in the *Local Elections Campaign Financing Act*;

“**local third party advertising**” has the same meaning as third party advertising in the *Local Elections Campaign Financing Act*;

“**Mixed Member Proportional (MMP)**” means the Mixed Member Proportional (MMP) voting system described in the report titled “How We Vote: 2018 Electoral Reform Referendum Report and Recommendations of the Attorney General” dated May 30, 2018;

“**opponent group**” means the opponent group established under section 29 [*establishment of opponent group and proponent group*];

“**preference**” means an indication on a referendum ballot of the ranking of a proportional representation voting system of a voter in the referendum;

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Part 1 – Definitions, Interpretation and Application of *Election Act* Generally

“**proponent group**” means the proponent group established under section 29 [*establishment of opponent group and proponent group*];

“**provincial election advertising**” has the same meaning as election advertising in the *Election Act*;

“**provincial third party advertising**” means provincial election advertising that is sponsored by an individual or organization, other than a candidate in an election under the *Election Act*, registered political party or registered constituency association;

“**public money**” means the money paid to the opponent group and the proponent group under section 30 [*public money for opponent group and proponent group*];

“**referendum advertising**” means the transmission to the public by any means, during the referendum campaign period, of an advertising message that promotes or opposes, directly or indirectly, a specific response to a referendum question, but does not include the following:

- (a) the publication without charge of news, an editorial, an interview, a column, a letter, a debate, a speech or a commentary in a bona fide periodical publication or a radio or television program;
- (b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be a referendum;
- (c) the transmission of a document directly by a person or a group to their members, employees or shareholders;
- (d) the transmission by an individual, on a non-commercial basis on the internet, or by telephone or text messaging, of his or her personal views respecting the referendum;

“**referendum advertising limit**” means the applicable limit under section 49 [*referendum advertising limit*];

“**referendum advertising sponsor**” means an individual or organization, other than the opponent group or the proponent group, that sponsors referendum advertising;

“**referendum ballot**” means a ballot, substantially in the form of the ballot set out in the Schedule to this regulation;

“**referendum campaign period**” means, in relation to the referendum, the period beginning on July 1, 2018, and ending at the close of voting;

“**referendum contribution**” means,

- (a) in relation to the opponent group or the proponent group, a contribution that the opponent group or the proponent group, as applicable, receives in addition to public money, whether provided before or after the organization is established as the opponent group or the proponent group in relation to the referendum, and

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(b) in relation to a referendum advertising sponsor, a referendum contribution within the meaning of section 47 [*referendum contributions to referendum advertising sponsors*], whether provided before or after the individual or organization acts as a referendum advertising sponsor;

“**referendum expense**”, in relation to the opponent group and the proponent group, means a referendum expense within the meaning of section 2 [*referendum expenses*];

“**referendum expenses limit**” means the limit under section 37 (2) [*referendum expenses limit*];

“**referendum official**” means

- (a) the chief electoral officer, or
- (b) an individual appointed by the chief electoral officer to act as a referendum official;

“**referendum official responsible**” means, in relation to referendum proceedings, the referendum official assigned responsibility for those proceedings by or under this regulation;

“**referendum questions**” means the questions to be stated on the referendum ballot for the referendum set out in section 5 [*questions to be placed on referendum ballot*];

“**registered voter**” means a registered voter within the meaning of the *Election Act*;

“**Rural-Urban Proportional (RUP)**” means the Rural-Urban PR voting system described in the report titled “How We Vote: 2018 Electoral Reform Referendum Report and Recommendations of the Attorney General” dated May 30, 2018;

“**Service BC Centre**” means an office administered by the Ministry of Citizens’ Services that provides a variety of government services to the public;

“**voter in the referendum**” includes a registered voter.

(2) Except in relation to sections 228.1 and 231 of the *Election Act*, as those sections are adopted and adapted under section 51 [*referendum communications*] of this regulation, the transmission of an advertising message, for the purposes of the definition of “referendum advertising”, includes the following activities, if the activities are conducted on a commercial basis:

- (a) canvassing voters in the referendum, in person or by telephone, to attempt to influence how voters vote;
- (b) mailing material that contains advertising messages.

(3) Subject to this regulation, the definitions in the *Election Act* apply to this regulation.

Referendum expenses

- 2** (1) A referendum expense is the value of property or services used during the referendum campaign period, by or on behalf of the opponent group or the

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proponent group, to oppose or promote, directly or indirectly, proportional representation, including the proportional representation voting systems on the referendum ballot.

- (2) A deficit incurred in holding a fundraising function during the referendum campaign period is a referendum expense.
- (3) The value of the following is not a referendum expense:
 - (a) services and property referred to in subsection (4);
 - (b) goods produced or services provided by an individual as a volunteer from the property of the individual.
- (4) The value of the following is not a referendum expense:
 - (a) services provided by a volunteer, being an individual who
 - (i) voluntarily performs the services, and
 - (ii) receives no compensation, directly or indirectly, in relation to the services or the time spent providing the services;
 - (b) property of a volunteer if it is provided or used in relation to the services of the individual as a volunteer;
 - (c) property or services provided by a referendum official, an election official, a voter registration official or any other member of the staff of the chief electoral officer in that official capacity;
 - (d) publishing without charge news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program;
 - (e) broadcasting time provided, without charge, as part of a bona fide public affairs program;
 - (f) producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the referendum.

Value of referendum advertising and referendum expenses

- 3** (1) The value of referendum advertising is
 - (a) the price paid for preparing and conducting the referendum advertising, or
 - (b) the market value of preparing and conducting the referendum advertising, if no price is paid or if the price paid is lower than the market value.
- (2) The rules in subsections (3) to (5) apply for the purposes of determining the value of referendum expenses.
- (3) The value of any property or services is
 - (a) the price paid for the property or services, or
 - (b) the market value of the property or services, if no price is paid or if the price paid is lower than the market value.

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- (4) If the property is a capital asset, the value of the property is the market value of using the property.
- (5) For the purposes of this regulation, the value of free advertising space in a periodical publication and free broadcasting time provided to
 - (a) the opponent group if the space or time is also made available on an equitable basis to the proponent group, is to be considered nil, and
 - (b) the proponent group if the space or time is also made available on an equitable basis to the opponent group, is to be considered nil.

Application of *Election Act* generally

- 4 (1) Subject to any modifications made by this regulation, the following provisions of the *Election Act* are adopted and apply to the referendum as if it were an election for a candidate in the general election:
 - (a) section 1 [*definitions*];
 - (b) section 2 [*time*];
 - (c) section 17 [*individuals prohibited from being appointed as election officials*];
 - (d) section 20 [*oath of office*];
 - (e) section 32 [*rules for determining where an individual is resident*];
 - (f) section 90 [*voting to be by secret ballot*];
 - (g) section 265 [*offences in relation to election and other officials*];
 - (h) section 275 (1) to (3.1), (3.3), (4) and (4.3) to (6) [*access to and use of information in records*];
 - (i) section 277 [*complaints regarding contraventions of this Act*];
 - (j) section 279 [*enforcement of Act by court injunction*];
 - (k) section 280 [*emergencies and other extraordinary circumstances*].
- (2) For the purposes of applying section 280 of the *Election Act*, the reference “under section 13” must be read as “under section 7 of the *Electoral Reform Referendum 2018 Act*”.
- (3) Section 12 [*duties and powers of the chief electoral officer*] of the *Election Act* applies to the extent necessary to enable the chief electoral officer to conduct the referendum in accordance with this regulation.
- (4) Section 283 [*regulations of the chief electoral officer*] of the *Election Act* applies to the extent necessary to apply the provisions of the *Election Act* adopted and adapted by this regulation and to enable the chief electoral officer to conduct the referendum in accordance with this regulation.
- (5) Subject to this regulation, for the purposes of applying provisions of the *Election Act* to the referendum in accordance with this regulation, the expressions in that

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Part 2 – Referendum Ballot and Date for Referendum

Act referred to in column 1 of the following table are to be read as references to the indicated expressions in column 2 of the table:

Column 1 <i>Election Act</i> expressions	Column 2 to be read as
ballot	referendum ballot
campaign period	referendum campaign period
campaign period election advertising	referendum advertising
campaign period election advertising limit	referendum advertising limit
candidate, candidate for a particular political party	response to a referendum question
district electoral officer	chief electoral officer
election	referendum
election advertising	referendum advertising
election advertising disclosure report	referendum advertising disclosure report
election official	referendum official
in a calendar year	in relation to the referendum
in the applicable calendar year	in relation to the referendum
general election	referendum
general voting day	close of voting
office of the district electoral officer	Service BC Centre, a location designated by the chief electoral officer
registered third party sponsor	registered referendum advertising sponsor
regulation	regulation under the <i>Election Act</i> or the Act
sponsorship contribution	referendum contribution
third party sponsor	referendum advertising sponsor, opponent group or proponent group
this Act	the <i>Election Act</i> , the Act or a regulation under the Act

[am. B.C. Reg. 164/2018, s. 1.]

PART 2 – REFERENDUM BALLOT AND DATE FOR REFERENDUM

Questions to be placed on referendum ballot

- 5** (1) The questions to be placed on the referendum ballot are the following:
1. Which system should British Columbia use for provincial elections?

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(Vote for only one.)

The current First Past the Post voting system

A proportional representation voting system

2. If British Columbia adopts a proportional representation voting system, which of the following voting systems do you prefer?

(Rank in order of preference. You may choose to support one, two or all three of the systems.)

Dual Member Proportional (DMP)

Mixed Member Proportional (MMP)

Rural-Urban Proportional (RUP)

- (2) The referendum ballot is to be substantially in the form set out in the Schedule.
- (3) The referendum ballot must meet the following specifications:
- (a) be on paper 8 1/2 inches by 11 inches in size;
 - (b) all information on the referendum ballot must be depicted in black on a white background;
 - (c) contain a bar code used to identify the electoral district in which the individual to whom the referendum ballot is distributed resides.

How questions may be answered

- 6 A voter in the referendum may do any of the following:
- (a) answer both questions on the referendum ballot;
 - (b) answer only question 1 on the referendum ballot;
 - (c) answer only question 2 on the referendum ballot.

Voting in referendum closes on November 30, 2018

- 7 (1) Distribution of the voting packages must commence no later than October 22, 2018.
- (2) The close of voting in the referendum is 4:30 p.m. on November 30, 2018.
- (3) For a referendum ballot to be considered, the certification envelope containing a marked referendum ballot must be received by Elections BC, a Service BC Centre or a location designated by the chief electoral officer not later than the close of voting.

PART 3 – CONDUCT OF REFERENDUM**Division 1 – Voting in Referendum****Referendum to be conducted by mail-in ballot**

- 8** The referendum must be conducted by distribution of a voting package
- (a) to each registered voter, and
 - (b) to each individual who
 - (i) is eligible to vote under section 8 [*who may vote in referendum*] of the Act, and
 - (ii) applies to Elections BC requesting a voting package in accordance with section 9 [*how to apply for voting package*] of this regulation.

How to apply for voting package

- 9** (1) An individual who
- (a) is not a registered voter, and
 - (b) is qualified to register as a voter in the referendum under section 10 [*who may register to vote in referendum*]
- may apply to Elections BC to register as a voter in the referendum and request a voting package.
- (2) An individual who is a registered voter, but who did not receive a voting package, may apply to Elections BC to request a voting package.
- (3) An application to Elections BC
- (a) under subsection (1) may be made at any time between September 4, 2018, and 11:59 p.m. on November 23, 2018, and
 - (b) under subsection (2) may be made at any time between October 22, 2018, and 11:59 p.m. on November 23, 2018.
- (4) Subject to section 14 [*how to arrange for replacement of voting package*], an individual must not apply for more than one voting package.

Who may register to vote in referendum

- 10** For the purposes of section 8 (1) (d) of the Act [*who may vote in referendum*], an individual must meet all of the following qualifications in order to register as a voter in the referendum:
- (a) the individual must be a Canadian citizen;
 - (b) the individual must be 18 years of age or older on November 30, 2018;
 - (c) the individual must have been a resident of British Columbia for the 6 months immediately before November 30, 2018;

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- (d) the individual must not be disqualified by the *Election Act* or any other enactment from voting in an election under that Act or be otherwise disqualified by law.

How to update voter registration information in conjunction with referendum voting

- 11** (1) If a voter in the referendum has changed the place where he or she is resident, the voter may apply to update his or her residential address in conjunction with the referendum voting by entering his or her correct residential address in the space provided on the certification envelope.
- (2) If the name of a voter in the referendum is inaccurate on the outer envelope for shipping or certification envelope, the voter may
- (a) notify Elections BC by telephone of the inaccurate name, and
 - (b) once Elections BC has been notified under paragraph (a) and has updated the voter's registration information, vote using the voting package, including signing the declaration on the certification envelope.
- (3) Section 266 [*offences in relation to false or misleading information*] of the *Election Act* as it applies to the referendum does not apply in relation to a declaration of a voter who signs a declaration in accordance with subsection (2) of this section.

What is included in voting package

- 12** (1) A voting package must include all of the following:
- (a) an outer envelope for shipping the voting package;
 - (b) a referendum ballot;
 - (c) a secrecy sleeve for the marked referendum ballot;
 - (d) a certification envelope;
 - (e) instructions advising the voter in the referendum on the procedure for marking the referendum ballot and how the secrecy sleeve and certification envelope are to be used;
 - (f) information referred to in section 17 [*information to be available*] that the chief electoral officer considers advisable;
 - (g) a postage-paid return envelope.
- (2) Certification envelopes
- (a) must be prepared as follows:
 - (i) with a space in which to record the date of birth of the individual who is voting;
 - (ii) with a printed declaration, to be signed by the individual who is voting, stating as follows:

“I am the voter identified above. I am eligible to vote and have not already voted in this referendum.”;

- (iii) with a space for change of residential address, and
 - (b) may include any other information that the chief electoral officer considers advisable.
- (3) If the chief electoral officer considers it advisable for the purposes of conducting the referendum, the chief electoral officer may, on the certification envelope, request further information from the individual who is voting.

How to vote using voting package

- 13** (1) To vote using a voting package, a voter in the referendum must do all of the following:
- (a) review for accuracy the voter’s name and residential address printed on the certification envelope;
 - (b) mark the referendum ballot in accordance with the instructions referred to in section 12 (1) (e) [*what is included in voting package*];
 - (c) place the referendum ballot in the secrecy sleeve provided;
 - (d) place the secrecy sleeve in the certification envelope provided and seal the certification envelope;
 - (e) complete the certification envelope by
 - (i) providing the date of birth of the individual voting, and
 - (ii) signing the declaration printed on the certification envelope;
 - (f) place the certification envelope in the return envelope provided;
 - (g) seal the return envelope;
 - (h) deliver the sealed return envelope containing the voting materials referred to in the previous paragraphs to
 - (i) Elections BC at the official address printed on the return envelope,
 - (ii) a Service BC Centre, or
 - (iii) another location designated by the chief electoral officerso that it is received by close of voting.
- (2) If it appears to the chief electoral officer that there is an error on a certification envelope received under subsection (1) (h), the chief electoral officer
- (a) may give notice to the individual voting in the referendum, in the manner and within the time determined by the chief electoral officer, and
 - (b) after considering submissions, if any, and examining the evidence, may correct the error.

How to arrange for replacement of voting package

- 14** (1) A voter in the referendum who

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Part 3 – Conduct of Referendum

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- (a) receives a voting package with a misspelled name of the voter or a former name of the voter recorded on the outer envelope for shipping or certification envelope,
 - (b) loses, mutilates or destroys his or her voting package,
 - (c) spoils a referendum ballot or certification envelope before it is received under section 13 (1) (h) [*how to vote using voting package*], or
 - (d) has applied requesting a voting packing in accordance with section 9 [*how to apply for voting package*], but who did not receive a voting package may apply to Elections BC to request a replacement voting package.
- (2) An application to Elections BC under subsection (1) may be made at any time between October 22, 2018, and close of voting.
 - (3) Elections BC is not required to distribute a voting package to a voter in the referendum referred to in subsection (1) if the chief electoral officer considers that there is insufficient time for the voting package to be received by the voter before the close of voting.
 - (4) If Elections BC distributes a replacement voting package under this section, the referendum official responsible must
 - (a) designate the replaced voting package as cancelled on the record maintained for that purpose, and
 - (b) instruct the voter in the referendum on what is to be done with the cancelled voting package.

Individuals needing assistance

- 15** (1) Subject to this section, a voter in the referendum who
- (a) is unable to vote or request a voting package because of physical disability or difficulty with reading or writing, or
 - (b) requires the assistance of a translator to read the referendum ballot and the instructions for voting
- may be assisted by another individual including a referendum official.
- (2) Except as permitted under subsection (3), an individual other than a referendum official who provides assistance referred to in subsection (1) must not provide such assistance to more than one voter in the referendum.
 - (3) An individual may assist more than one member of the individual's family to whom subsection (1) (a) or (b) applies.
 - (4) An individual who is assisting under this section must
 - (a) preserve the secrecy of the referendum ballot in accordance with section 90 [*voting to be by secret ballot*] of the *Election Act* as it applies to the referendum,

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- (b) if needed, mark the referendum ballot in accordance with the directions of the voter in the referendum, and
 - (c) refrain from attempting in any manner to influence the voter in the referendum as to how the voter should vote.
- (5) If a voter in the referendum referred to in subsection (1) (a) is unable to sign the declaration on the certification envelope, the person assisting the voter must sign and provide the information required on the certification envelope.
- (6) For the purposes of section 16 [*proof of vote and voting in referendum*] of this regulation, the signature of the person assisting the voter in accordance with subsection (5) is considered to be the signature of an individual who is assisted in voting under this section.
- (7) An individual must not provide assistance as a translator under this section unless the individual is able to make the translation and makes it to the best of his or her abilities.
- (8) An individual is not considered to have voted or to have applied for a voting package by providing assistance under this section.

Proof of vote and voting in referendum

- 16** (1) The signed declaration of the voter on the certification envelope, received as required under section 13 (1) (h) [*how to vote using voting package*], is proof for the purposes of this regulation that the individual to whom the voting package was distributed has voted in the referendum.
- (2) An individual must not vote more than once in the referendum.

Division 2 – Voting System Information**Information to be available**

- 17** (1) The chief electoral officer must ensure that information respecting the referendum, including the voting systems on the referendum ballot, is available for voters in the referendum during the referendum campaign period.
- (2) To the extent practicable, the chief electoral officer must ensure that the information provided under subsection (1) does not support or oppose any voting system.

Division 3 – Counting Referendum Vote**Initial review of return envelopes for referendum**

- 18** (1) A return envelope received as required under section 13 (1) (h) [*how to vote using voting package*] must be dealt with by the referendum official responsible as follows:
- (a) on receipt, the referendum official must open the return envelope;

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Part 3 – Conduct of Referendum

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- (b) the certification envelope must remain unopened and any referendum ballot in it must not be considered or counted if one or more of the following applies:
- (i) the envelope is not completed as required under this regulation, unless the chief electoral officer corrects an error in accordance with section 13 (2);
 - (ii) the individual identified on the envelope as using the envelope to vote is not the individual to whom the envelope was issued;
 - (iii) the individual identified on the envelope as using the envelope to vote is not entitled to vote in the referendum;
 - (iv) the individual identified on the envelope as using the envelope to vote appears to be voting more than once in the referendum.
- (2) If a certification envelope is to remain unopened under subsection (1) (b), the referendum official responsible must mark this on the envelope, together with the applicable reason under subparagraph (i), (ii), (iii) or (iv) of that subsection.
- (3) A return envelope that is not received as required in section 13 (1) (h) must be dealt with by the referendum official responsible as follows:
- (a) on receipt, the referendum official must open the return envelope and record the date and time of receipt on the certification envelope;
 - (b) the certification envelope must remain unopened and must not be considered in the referendum.

Consideration of certification envelopes accepted for opening

- 19** (1) Subject to section 18 [*initial review of return envelopes for referendum*], the certification envelopes must be opened one at a time and dealt with as follows:
- (a) if a certification envelope contains more than one secrecy sleeve,
 - (i) the secrecy sleeves must be resealed in the certification envelope,
 - (ii) the certification envelope must be marked as having been dealt with under this section, and
 - (iii) the certification envelope must not be reopened and the secrecy sleeves must remain in the certification envelope and any referendum ballots in them must not be considered or counted;
 - (b) if a certification envelope contains a referendum ballot but no secrecy sleeve, the referendum official responsible must place the referendum ballot with other referendum ballots to be counted, taking care to conceal any marking on the referendum ballot from other individuals present;
 - (c) if a secrecy sleeve is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter in the referendum could reasonably be identified, the referendum official responsible must open the secrecy sleeve, remove the referendum ballot and place it with other referendum ballots to

- be counted, taking care to conceal any marking on the secrecy sleeve and referendum ballot from other individuals present;
- (d) if not otherwise dealt with under paragraphs (a) to (c), a secrecy sleeve must be removed from its certification envelope in accordance with subsection (2).
- (2) The remaining secrecy sleeves referred to in subsection (1) (d) are to be opened one at a time and dealt with as follows:
- (a) if a secrecy sleeve contains more than one referendum ballot,
- (i) the referendum ballots must be sealed in the secrecy sleeve,
 - (ii) the secrecy sleeve must be marked as having been dealt with under this provision, and
 - (iii) the secrecy sleeve must not be reopened and the referendum ballots in it must not be considered or counted;
- (b) if a secrecy sleeve contains only one referendum ballot, the referendum ballot must be placed with other referendum ballots to be counted.

Criteria for accepting or rejecting referendum ballot

- 20** (1) Subject to subsection (2) of this section and section 22 [*counting referendum vote*], a referendum ballot is to be considered and counted as a vote if the referendum ballot is marked in such a manner that the referendum ballot clearly indicates the intention of the voter in the referendum respecting the referendum questions.
- (2) Under any of the following circumstances, a referendum ballot must be rejected by the referendum official responsible:
- (a) the referendum ballot does not clearly indicate the intention of the voter in the referendum for the first question and the second question on the referendum ballot;
 - (b) the referendum ballot is uniquely marked, or has been otherwise uniquely dealt with, in such a manner that the voter in the referendum could reasonably be identified;
 - (c) the referendum ballot has been altered in any way such that the referendum ballot does not clearly indicate the intention of the voter in the referendum respecting the referendum questions, including, without limitation,
 - (i) by the amendment of the wording of either of the referendum questions, and
 - (ii) by any written comments;
 - (d) the referendum ballot physically differs from the referendum ballots officially provided for the referendum.

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- (3) For certainty, a referendum ballot that clearly indicates the intention of the voter in the referendum for at least one of the referendum questions must not be rejected.

Counting using electronic tabulation system

- 21** (1) The chief electoral officer may approve the use of an electronic tabulation system for the purpose of counting the referendum ballots if the chief electoral officer is satisfied that the use of the electronic tabulation system will result in an accurate count of the referendum ballots.
- (2) If the chief electoral officer approves the use of an electronic tabulation system under subsection (1), the chief electoral officer must conduct an audit of a statistically valid random sample of referendum ballots after the counting of the referendum ballots is complete and before the chief electoral officer reports and announces the result of the referendum under section 7 [*results of referendum count*] of the Act.
- (3) If the chief electoral officer determines in the audit conducted under subsection (2) that any referendum ballots were counted incorrectly, the chief electoral officer must conduct an audit of additional referendum ballots and continue to do so until the chief electoral officer is able to certify that the referendum outcome is correct, or all referendum ballots have been manually counted.

Counting referendum vote

- 22** (1) In this section:
- “**continuing ballot**” means a referendum ballot that counts towards a continuing proportional representation voting system;
- “**continuing proportional representation voting system**” means a proportional representation voting system that has not been eliminated;
- “**exhausted ballot**” means a referendum ballot that cannot be transferred because
- (a) it only indicates a first preference, or
- (b) there are gaps or repetitions on the referendum ballot in the order of numbering preferences;
- “**majority of votes**” means more than 50% of the votes cast on continuing ballots;
- “**round**” means a step in the counting process during which votes for continuing proportional representation voting systems are tabulated for the purposes of determining whether a proportional voting system has received a majority of votes and, if not, which proportional representation voting system must be eliminated.
- (2) The referendum vote for question 1 on the referendum ballot must be counted separately from the referendum vote for question 2 on the referendum ballot.
- (3) The referendum vote for question 1 must be counted as follows:

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- (a) all validly cast ballots that are in favour of the First Past the Post voting system must be counted;
 - (b) all validly cast ballots that are in favour of a proportional representation voting system must be counted.
- (4) The referendum vote for question 2 must be counted as follows:
- (a) the referendum ballots must be counted in rounds;
 - (b) after a round, if a proportional representation voting system receives the majority of votes from the continuing ballots, the counting is completed;
 - (c) on the first round,
 - (i) for each validly cast ballot, the first preference vote for each proportional representation voting system on the referendum ballot must be counted, and
 - (ii) if the referendum ballot does not include a first preference vote or includes more than one first preference vote, that referendum ballot must not be counted;
 - (d) if, after the first round, no proportional representation voting system receives a majority of votes, a second round must take place;
 - (e) on the second round,
 - (i) subject to subsection (5), the proportional representation voting system that received the fewest first preference votes must be eliminated,
 - (ii) each continuing ballot must be transferred to the continuing proportional representation voting system that is second in the order of the voter's preference, and
 - (iii) the referendum ballot must be counted as a vote for that proportional representation voting system.
- (5) If, after the first round,
- (a) no proportional representation voting system receives a majority of votes,
 - (b) two or more proportional representation voting systems receive the same number of first preference votes, and
 - (c) that same number is the smallest number of first preference votes received by any one proportional representation voting system,
- the proportional representation voting system that will be eliminated will be decided by lot.

Who may be present at counting proceedings

- 23** The only individuals who may be present at a place where counting proceedings are being conducted are
- (a) referendum officials, and
 - (b) individuals authorized to be present by the chief electoral officer.

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Ballot account for referendum

- 24** The chief electoral officer must prepare a ballot account for the referendum with the following information:
- (a) the referendum for which it is prepared;
 - (b) the number of certification envelopes received under section 13 (1) (h) [*how to vote using voting package*];
 - (c) the number of certification envelopes that remain unopened under section 18 (1) (b) [*initial review of return envelopes for referendum*];
 - (d) the number of certification envelopes resealed under section 19 (1) (a) [*consideration of certification envelope accepted for opening*];
 - (e) the number of secrecy sleeves sealed under section 19 (2) (a);
 - (f) the number of ballots rejected under section 20 (2) [*criteria for accepting or rejecting referendum ballot*];
 - (g) in relation to question 1 on the referendum ballot,
 - (i) the number of valid votes counted in favour of the First Past the Post voting system,
 - (ii) the number of valid votes counted in favour of a proportional representation voting system, and
 - (iii) the number of invalidly cast votes;
 - (h) in relation to question 2 on the referendum ballot,
 - (i) the number of valid first preferences for each proportional representation voting system,
 - (ii) the number of invalidly cast votes at round 1, and
 - (iii) if no proportional representation voting system receives a majority of valid first preferences,
 - (A) the number of continuing ballots at round 2,
 - (B) the number of valid votes for each continuing proportional representation voting system at round 2, and
 - (C) the number of exhausted ballots at round 2;
 - (i) any other information the chief electoral officer considers advisable.

Referendum materials to be retained for one year

- 25** (1) The referendum ballots, opened certification envelopes, unopened or resealed certification envelopes and unopened or sealed secrecy sleeves must be retained by the chief electoral officer for one year after the close of voting.
- (2) During the retention period under subsection (1), the ballot account for the referendum under section 24 must be available for public inspection in the office of the chief electoral officer during its regular office hours.

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- (3) At the end of the retention period under subsection (1), the materials referred to in that subsection must be destroyed unless a court orders otherwise.

PART 4 – OPPONENT AND PROPONENT GROUPS**Division 1 – Establishment of Groups****Who may be opponent group or proponent group**

- 26** (1) Subject to subsection (2), an organization is eligible to be the opponent group or the proponent group if all of the following apply:
- (a) the organization is a society incorporated under the *Societies Act*;
 - (b) the members and directors of the organization are not compensated for being members or directors of the organization;
 - (c) membership in the organization is voluntary and open to all;
 - (d) at least two-thirds of the directors of the organization have been residents of British Columbia for at least 6 months immediately before the beginning of the referendum campaign period.
- (2) An organization is not eligible to be the opponent group or the proponent group if any of the following apply:
- (a) the organization is a political party or a constituency association, whether or not the party or association is registered;
 - (b) the organization is an elector organization;
 - (c) any of the directors of the organization
 - (i) is a candidate in an election under the *Election Act* that is held during the referendum campaign period,
 - (ii) is a member of the Legislative Assembly,
 - (iii) is a candidate in the general local election in 2018, including an individual who intends to be a candidate in the general local election in 2018,
 - (iv) is an election official, referendum official, voter registration official or member of the staff of the chief electoral officer, or
 - (v) has been convicted at any time during the previous 7 years of an offence under the *Election Act*, the *Local Elections Campaign Financing Act*, Division 18 [*Election Offences*] of Part 3 [*Electors and Elections*] of the *Local Government Act* or the *Recall and Initiative Act* or a regulation under any of those Acts;
 - (d) more than one-third of the members of the organization are not ordinarily residents of British Columbia.

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How to apply to be opponent group or proponent group

- 27** (1) An organization that wishes to be the opponent group or the proponent group must apply to the chief electoral officer in accordance with this section on or before a date set by the chief electoral officer.
- (2) An application must
- (a) if the chief electoral officer specifies the form of the application, be in that form,
 - (b) include the name of the organization and, if different from the name of the organization, the name that the opponent group or the proponent group proposes to use,
 - (c) include a statement of the organization's mandate or mission and a copy of the organization's constitution and bylaws,
 - (d) include the mailing address and telephone number to which notices and other communications under the Act and other communications may be delivered or made,
 - (e) include a list of the directors of the organization, including their names, residential addresses and titles,
 - (f) include the name of the proposed financial agent for the organization,
 - (g) include a written statement that the applicant,
 - (i) if the applicant is applying to be the opponent group,
 - (A) opposes proportional representation voting systems, and
 - (B) intends to use, in accordance with this regulation, any public money received under this regulation for the purposes of opposing proportional representation, including the proportional representation voting systems on the referendum ballot, or
 - (ii) if the applicant is applying to be the proponent group,
 - (A) supports proportional representation voting systems, and
 - (B) intends to use, in accordance with this regulation, any public money received under this regulation for the purposes of supporting proportional representation, including the proportional representation voting systems on the referendum ballot,
 - (h) include information respecting the matters set out in section 28 (2) [*selection of opponent group and proponent group*], and
 - (i) include a written statement, signed by 2 directors of the organization, that the information contained in the application is, to the best of their knowledge and belief, true and complete.
- (3) An application is not complete unless the individual who is proposed as the financial agent files the following with the chief electoral officer on or before a date set by the chief electoral officer:

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- (a) his or her signed consent to act as financial agent if the organization that proposed the individual is approved to be the opponent group or the proponent group, as applicable;
- (b) his or her name, mailing address and telephone number;
- (c) an address to which, if the individual is designated, notices may be delivered to the financial agent or the opponent group or the proponent group for whom he or she is acting as financial agent;
- (d) a signed statement that he or she is eligible to be a financial agent.

Selection of opponent group and proponent group

- 28**
- (1) As soon as practicable after the date set by the chief electoral officer under section 27 (1) [*how to apply to be opponent group or proponent group*], the chief electoral officer must assess the applications received under that section.
 - (2) An assessment under subsection (1) must, based on the information contained in the applications, take into account all of the following criteria:
 - (a) the eligibility of the organization under section 26 [*who may be opponent group or proponent group*] to be the opponent group or the proponent group;
 - (b) the eligibility of the proposed financial agent under section 39 [*who may be financial agent*] to be a financial agent;
 - (c) the structure of the organization;
 - (d) the experience of the organization or its directors in conducting public information campaigns;
 - (e) the capacity of the organization to conduct a public information campaign across the province in relation to the referendum, including respecting
 - (i) the Westminster model of parliamentary government,
 - (ii) the First Past the Post voting system, and
 - (iii) the proportional representation voting systems on the referendum ballot;
 - (f) the extent to which members of the organization are actively involved in delivering the mandate or mission of the organization.
 - (3) The chief electoral officer may
 - (a) publish information respecting how the criteria set out in subsection (2) may be assessed, and
 - (b) request one or more applicants to provide further information in respect of how the organization or its directors meet the criteria set out in subsection (2).
 - (4) The chief electoral officer may approve as the opponent group one applicant that the chief electoral officer is satisfied best meets the criteria set out in subsection (2).

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- (5) The chief electoral officer may approve as the proponent group one applicant that the chief electoral officer is satisfied best meets the criteria set out in subsection (2).
- (6) In giving approval under subsection (4) or (5), the chief electoral officer may approve the proposed name of the opponent group or the proponent group, or require the approved group to use another name.

Establishment of opponent group and proponent group

- 29** An organization is established as the opponent group or the proponent group for the purposes of the Act when the chief electoral officer has done all of the following:
- (a) given written notice to the organization approved under section 28 [*selection of opponent group and proponent group*] to be the opponent group and the organization approved under that section to be the proponent group, as applicable,
 - (i) that the organization has been approved as the opponent group or the proponent group,
 - (ii) that the individual proposed as the financial agent for the organization has been designated as the financial agent and has the powers and duties of a financial agent, and
 - (iii) of the name the organization is required to use when acting as the opponent group or the proponent group;
 - (b) published the names of the opponent group, the proponent group and their financial agents on an Elections BC authorized internet site.

Division 2 – Public Funding for Groups**Public money for opponent group and proponent group**

- 30** (1) After the opponent group and the proponent group are established under section 29 [*establishment of opponent group and proponent group*] of this regulation, but not earlier than the start of the referendum campaign period, the chief electoral officer may, under section 4 [*funding for opponent and proponent groups*] of the Act, pay
- (a) to the opponent group \$500 000, in total, and
 - (b) to the proponent group \$500 000, in total.
- (2) The chief electoral officer
- (a) may pay the amounts under subsection (1) (a) and (b) in one or more payments, and
 - (b) must make the payments to the financial agents of the opponent group and the proponent group.

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How public money may be used

- 31** (1) For the purposes of this section:
- “**disqualified person**” means
- (a) an organization that is not eligible under section 26 [*who may be opponent group or proponent group*] to be the opponent group or the proponent group, or
 - (b) an individual described in section 26 (2) (c);
- “**member of the opponent group**” or “**member of the proponent group**” includes the financial agent and the deputy financial agent of the opponent group or the proponent group, as applicable.
- (2) A member of the opponent group must not use public money except for the purposes of opposing proportional representation, including the proportional representation voting systems on the referendum ballot.
 - (3) A member of the proponent group must not use public money except for the purposes of supporting proportional representation, including the proportional representation voting systems on the referendum ballot.
 - (4) A member of the opponent group or the proponent group must not use public money except to do one or more of the following:
 - (a) to sponsor referendum advertising without charge to the public, but not to incur a capital expense;
 - (b) to hold or sponsor an event that any member of the public may attend without charge, but not to incur a capital expense;
 - (c) to fund or recover administrative expenses incurred in relation to an activity referred to in paragraph (a) or (b);
 - (d) to pay for services provided by an auditor in that capacity.
 - (5) A member of the opponent group or the proponent group must not use public money for the purposes of any of the following:
 - (a) sponsoring provincial third party advertising;
 - (b) making political contributions;
 - (c) sponsoring local third party advertising;
 - (d) making campaign contributions;
 - (e) making sponsorship contributions,even if the advertising or contribution would be used to oppose or support proportional representation, including the proportional representation voting systems on the referendum ballot.
 - (6) A member of the opponent group or the proponent group must not use public money to sponsor referendum advertising in combination with one or more referendum advertising sponsors.

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- (7) A member of the opponent group or the proponent group must not use public money in a manner that a reasonable person would consider
- (a) is primarily for the benefit of a disqualified person, or
 - (b) features
 - (i) the name of a disqualified person,
 - (ii) the face or voice of a disqualified person, or
 - (iii) a slogan, a logo or another thing that is associated with a disqualified person,
- regardless of whether the public money is also used to oppose or support proportional representation, including the proportional representation voting systems on the referendum ballot.
- (8) The chief electoral officer may issue directions respecting what are administrative expenses and capital expenses for the purposes of this section.

Repayment of unused public money

- 32** (1) A financial agent must repay to the chief electoral officer public money held by the financial agent as follows:
- (a) if the financial agent receives a notice of repayment under subsection (3), repayment must be made in the amount and within the time stated by the notice;
 - (b) if any public money is not used, repayment of the amount of unused public money must be made
 - (i) within 90 days of the end of the referendum campaign period, or
 - (ii) if debts are outstanding or in dispute, within such longer period as the chief electoral officer permits;
 - (c) if, after repayment is made under paragraph (b), public money is returned to the financial agent from any source, such as from a rebate or refund, the amount of the returned public money must be repaid within 15 days of its receipt.
- (2) The chief electoral officer may require a financial agent to repay all or part of the unused public money held by the financial agent if the chief electoral officer has made a determination that any of the following applies:
- (a) the organization on behalf of which the financial agent is acting is not eligible to be the opponent group or the proponent group;
 - (b) the person is not eligible to be a financial agent, or has contravened any provision of the Act or this regulation;
 - (c) the opponent group or proponent group, or a member of either of these, on behalf of which the financial agent is acting, has contravened any provision of the Act or this regulation.

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- (3) The chief electoral officer may require repayment under subsection (2) by delivering to the financial agent a notice of repayment setting out
 - (a) the amount owed,
 - (b) the time in which the amount must be repaid,
 - (c) the reason for the repayment, and
 - (d) the manner in which repayment must be made.
 - (4) If a financial agent does not repay public money in accordance with this section, the amount that is not repaid is a debt due to the government by the financial agent.

[am. B.C. Reg. 164/2018, s. 2.]

Misused public money

- 33**
- (1) If a financial agent has reason to believe that public money was used for a purpose or in a manner contrary to section 31 [*how public money may be used*], the financial agent must report to the chief electoral officer, within 15 days of becoming aware that the public money may have been misused,
 - (a) the amount of public money that may have been misused,
 - (b) the reason the financial agent believes that public money may have been misused,
 - (c) if known, the person who may have been responsible for the misuse,
 - (d) whether the public money that may have been misused has been repaid to the financial agent, and
 - (e) any other information the chief electoral officer requires.
 - (2) If the chief electoral officer makes a determination that public money was, or was likely, used for a purpose or in a manner contrary to section 31 [*how public money may be used*], the chief electoral officer may require a financial agent to report to the chief electoral officer, within the time stated by the chief electoral officer, the information required by the chief electoral officer.
 - (3) If the chief electoral officer makes a determination that public money was, or was likely, misused by the opponent group or the proponent group, or a member of either of these, the chief electoral officer
 - (a) must notify the financial agent of the opponent group or the proponent group, as applicable, and
 - (b) may require the financial agent to repay all or part of the amount that was misused.
 - (4) For the purposes of subsection (3),
 - (a) the chief electoral officer may require repayment by delivering to the financial agent a notice of repayment setting out
 - (i) the amount owed,
 - (ii) the time in which the amount must be repaid,

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- (iii) the reason for the repayment, and
 - (iv) the manner in which repayment must be made,
- (b) the financial agent must repay the amount as required in the notice, and
- (c) if
- (i) the chief electoral officer has reason to believe that the financial agent knew or ought to have known at the time of disbursing public money that the public money would be, or would likely be, misused,
 - (ii) the chief electoral officer includes in the notice of repayment the reasons for the belief in subparagraph (i), and
 - (iii) the financial agent does not repay public money in accordance with this subsection,
- the amount that is not repaid is a debt due to the government by the financial agent.

Reconsideration of repayment notice

- 34** (1) A financial agent who receives a notice of repayment under section 32 [*repayment of unused public money*] or 33 [*misused public money*] may, within 15 days of receiving the notice, request the chief electoral officer to reconsider the notice by submitting to the chief electoral officer
- (a) a written request for reconsideration in the form required by the chief electoral officer, and
 - (b) the reasons why the chief electoral officer should reconsider one or more of the following:
 - (i) the issuance of the notice;
 - (ii) the amount set out in the notice;
 - (iii) the time for repayment set out in the notice.
- (2) After considering a request for reconsideration, the chief electoral officer may confirm, rescind or vary the notice.
- (3) The chief electoral officer must provide written reasons for a decision to confirm or vary the notice.
- (4) Following a decision made under subsection (2),
- (a) if the notice is confirmed or varied, the financial agent must repay to the chief electoral officer public money held by the financial agent in accordance with the decision and, for this purpose, section 32 (4) or 33 (4) applies, as applicable, and
 - (b) no further request for reconsideration may be made.

Division 3 – Other Funding for Groups**Other funding**

- 35** For the purposes of opposing or supporting the proportional representation voting systems on the referendum ballot, as applicable, the opponent group and the proponent group may, through their financial agents,
- (a) receive referendum contributions and other income in addition to public money received under this regulation, and
 - (b) incur referendum expenses, to be paid from the referendum contributions and other income.

Referendum contributions to opponent group and proponent group

- 36**
- (1) Division 1 [*Sponsorship Contributions*] of Part 11 [*Third Party Advertising*] of the *Election Act*, except for sections 235.05, 235.071 and 235.08, is adopted and applies to referendum contributions of the opponent group and the proponent group except as set out in this section.
 - (2) For the purposes of applying section 235.02 (1) [*sponsorship contributions*] of the *Election Act*, the phrase “for the purpose of sponsoring election advertising” must be read as “in relation to the referendum”.
 - (3) For the purposes of applying section 235.021 (1) [*loans and guarantees to third party sponsors*] of the *Election Act*, the reference to section 244 must be read as a reference to section 44 [*reporting requirements for opponent group and proponent group*] of this regulation.
 - (4) For the purposes of applying section 235.03 (1) [*debts*] of the *Election Act*, the phrase “in relation to sponsoring election advertising” must be read as “in relation to the referendum”.
 - (5) For the purposes of applying section 235.04 (2) and (3) [*making and using sponsorship contributions*] of the *Election Act*, the phrase “to sponsor election advertising” must be read as “to pay for a referendum expense”.
 - (6) For the purposes of applying section 235.051 (3) [*restrictions on sponsorship contributions*] of the *Election Act*, the phrase “under section 241 (2)” must be read as “under the Electoral Reform Referendum 2018 Regulation”.
 - (7) For the purposes of applying section 235.06 [*limits on anonymous sponsorship contributions*] of the *Election Act*, subsections (1) (a) (i) and (b) and (2) do not apply.
 - (8) An eligible individual must not, in relation to the referendum, make referendum contributions to the opponent group or the proponent group that have a total value greater than \$1 200.
 - (9) The opponent group and the proponent group must not accept

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- (a) from an eligible individual, in relation to the referendum, referendum contributions that have a total value greater than \$1 200, or
- (b) a referendum contribution that the group has reason to believe is made in contravention of the Act or this regulation.

[am. B.C. Reg. 164/2018, s. 3.]

Referendum expenses limit

- 37**
- (1) In respect of the referendum, the opponent group and the proponent group must not incur a referendum expense if this will result in the referendum expenses of the opponent group or the proponent group exceeding the referendum expenses limit set out in subsection (2).
 - (2) In respect of the referendum, the total value of referendum expenses incurred
 - (a) by the opponent group must not exceed
 - (i) \$500 000 from the payments received under section 30 [*public money for opponent group and proponent group*], and
 - (ii) \$200 000 from referendum contributions and other income, and
 - (b) by the proponent group must not exceed
 - (i) \$500 000 from the payments received under section 30, and
 - (ii) \$200 000 from referendum contributions and other income.
 - (3) The following expenses are not to be included as referendum expenses for the purpose of determining whether the opponent group or the proponent group has complied with the referendum expenses limit set out in subsection (2):
 - (a) legal or accounting services provided to comply with this regulation;
 - (b) expenses incurred in holding a fundraising function if no deficit is incurred;
 - (c) interest on a loan obtained for referendum expenses;
 - (d) cost of a communication sent exclusively to the group's members.
 - (4) For certainty, a referendum expense that is not included for the purpose of determining whether there has been compliance with the referendum expenses limit under subsection (2) remains a referendum expense and is subject to all other provisions of this regulation.

Division 4 – Financial Agent for Groups**Requirement for financial agent**

- 38**
- (1) The opponent group and the proponent group must each have a financial agent.
 - (2) The opponent group and the proponent group may not have more than one financial agent at the same time.
 - (3) If the designation of a financial agent for the opponent group or the proponent group ends for any reason, the group must propose a new financial agent within

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30 days to the chief electoral officer for designation under section 42 (2) [changes in financial agent].

Who may be financial agent

- 39** An individual is eligible to be a financial agent for the opponent group or the proponent group unless any of the following circumstances apply:
- (a) any of the circumstances set out in section 26 (2) (c) [*who may be opponent group or proponent group*] apply to the individual;
 - (b) the individual is a financial agent for a candidate in an election under the *Election Act*, a registered political party or a registered constituency association;
 - (c) the individual is a financial agent for a candidate or elector organization in an election in the general local election in 2018;
 - (d) the individual
 - (i) is an undischarged bankrupt,
 - (ii) was discharged from bankruptcy within the past 7 years, or
 - (iii) made a proposal under Part III [*Proposals*] of the *Bankruptcy and Insolvency Act* (Canada) that was approved, or deemed to be approved, by the court, within the meaning of the *Bankruptcy and Insolvency Act* (Canada), and in relation to which
 - (A) no certificate of full performance, within the meaning of the *Bankruptcy and Insolvency Act* (Canada), was issued, or
 - (B) a certificate of full performance, within the meaning of the *Bankruptcy and Insolvency Act* (Canada), was issued within the past 7 years;
 - (e) the individual has been convicted at any time within the previous 7 years, in or out of British Columbia, of an offence involving fraud;
 - (f) the individual has not been a resident of British Columbia for at least 6 months immediately before the beginning of the referendum campaign period;
 - (g) the individual does not have full capacity to enter into contracts;
 - (h) the individual is not 18 years or older at the beginning of the referendum campaign period;
 - (i) the individual is not a Canadian citizen;
 - (j) the individual's designation as a financial agent is rescinded under this regulation.

Duties of financial agent

- 40** (1) A financial agent must administer in accordance with this regulation the finances of the opponent group or the proponent group for whom the financial agent is acting.

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- (2) Without limiting subsection (1), a financial agent must do all of the following:
- (a) ensure that all payments under section 30 [*public money for opponent group and proponent group*] are properly recorded to allow compliance with the reporting requirements of this regulation;
 - (b) ensure that all referendum contributions, income, referendum expenses, loans and other expenditures of the group for whom the financial agent is acting are properly recorded to allow compliance with the reporting requirements of this regulation;
 - (c) ensure that all records required to be kept for the purposes of the Act and this regulation by the financial agent or the group for whom the financial agent is acting are maintained in British Columbia;
 - (d) ensure that all financial records and receipts of the group for whom the financial agent is acting are retained for at least 5 years from the date of filing of any report under this regulation required in relation to them;
 - (e) make every reasonable effort to ensure that every expenditure greater than \$25 that is incurred by the group for whom the financial agent is acting is documented by a statement setting out the particulars of the expenditure;
 - (f) ensure that all expenditures of the group are paid either from the account that is required to be established under subsection (3) (a) or from the account that is required to be established under subsection (3) (b), as applicable.
- (3) Without limiting subsection (1), a financial agent must,
- (a) in relation to public money,
 - (i) establish a separate account in a savings institution for the group for whom the financial agent is acting for the public money,
 - (ii) ensure that all payments received under section 30 are deposited in that account, and
 - (iii) maintain the account until the public money is used or repaid in accordance with this regulation, and
 - (b) in relation to referendum contributions and other income,
 - (i) establish a separate account in a savings institution for the group for whom the financial agent is acting for the referendum contributions and other income, and
 - (ii) ensure that all referendum contributions and other income are deposited in that account.
- (4) A financial agent is not personally liable for any liability of the group for whom the financial agent is acting unless the liability is personally guaranteed by the financial agent.

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Part 4 – Opponent and Proponent Groups

Deputy financial agents

- 41** (1) Subject to subsections (4) and (5), a financial agent for the opponent group or the proponent group may authorize one or more individuals to accept referendum contributions and other income and file reports required under this regulation on behalf of the financial agent.
- (2) An individual who is authorized under subsection (1) to accept referendum contributions and other income and file reports has, for those purposes, all the powers, duties and protections of the financial agent.
- (3) As soon as practicable after an authorization under subsection (1) is made, a copy of the authorization must be delivered to the chief electoral officer.
- (4) A financial agent may authorize an individual to act as a deputy financial agent only if the individual
- (a) is eligible under section 39 [*who may be financial agent*] to be a financial agent, and
 - (b) files the following with the chief electoral officer:
 - (i) his or her signed consent to act as a deputy financial agent;
 - (ii) his or her name, mailing address and telephone number;
 - (iii) a signed statement that he or she is eligible to be a financial agent.
- (5) The duties of a financial agent under sections 32 [*repayment of unused public money*] and 33 [*misused public money*] of this regulation must not be delegated to a deputy financial agent.

Changes in financial agent

- 42** (1) If the chief electoral officer rescinds the designation of a financial agent under section 43 [*rescission of designation of financial agent*], or receives notice from an individual designated as a financial agent or a person acting on that individual's behalf that the individual is unable or unwilling to act as financial agent, the chief electoral officer may
- (a) establish a process for selecting that other individual, and
 - (b) designate another individual as financial agent for the opponent group or the proponent group on whose behalf the financial agent was acting.
- (2) The chief electoral officer may designate another individual as financial agent for the opponent group or the proponent group if the chief electoral officer receives
- (a) from at least two-thirds of the directors of the organization notice that
 - (i) the proposed individual should be replaced, and
 - (ii) another named and eligible individual is willing and able to act as financial agent, and
 - (b) from the individual referred to in paragraph (a) (ii) of this subsection the consent and information required under section 27 (3) [*how to apply to be opponent group or proponent group*].

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Part 4 – Opponent and Proponent Groups

- (3) If another individual is designated as a financial agent under this section, the former financial agent must immediately transfer to the newly designated financial agent all public money, referendum contributions and other income and records required to be kept under this regulation.
- (4) Despite no longer being a financial agent,
 - (a) whether an individual is designated as a new financial agent or not, the duties set out in sections 32 [*repayment of unused public money*] and 33 [*misused public money*] continue to apply to a former financial agent in respect of matters related to the period when that individual was a financial agent, and
 - (b) if no individual is designated as a new financial agent, all of the duties in sections 32 and 33 continue to apply to a former financial agent.
- (5) A deputy financial agent may continue to exercise powers and perform duties during any transition period between financial agents.

Rescission of designation of financial agent

- 43**
- (1) If the chief electoral officer
 - (a) has made a determination that a financial agent
 - (i) is not eligible to be a financial agent, or
 - (ii) has committed an offence under the Act or this regulation, or
 - (b) delivers to a financial agent a notice of repayment under section 32 [*repayment of unused public money*] or 33 [*misused public money*],
 the chief electoral officer may rescind the designation of the financial agent by delivering to the financial agent a notice of rescission setting out the reason for the rescission and the date on which it is to take effect.
 - (2) A financial agent who receives a notice of rescission may request the chief electoral officer to reconsider the notice by submitting to the chief electoral officer
 - (a) a written request for reconsideration in the form required by the chief electoral officer, and
 - (b) the reasons why the chief electoral officer should reconsider the rescission.
 - (3) The chief electoral officer
 - (a) must consider a request for reconsideration as soon as practicable, and
 - (b) may, after considering the request for reconsideration under subsection (2)
 - (a), confirm, rescind or vary the notice.
 - (4) The chief electoral officer must provide written reasons for a decision to confirm or vary the notice.
 - (5) Following a decision made under subsection (3),

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- (a) if the decision is to rescind an individual's designation, the designation of the financial agent is rescinded on the date set out in the notice under subsection (1), and
 - (b) no further request for reconsideration may be made.
- (6) If the designation of a financial agent is rescinded, a new financial agent may be designated under section 42 [*changes in financial agent*] for the opponent group or the proponent group for whom the financial agent was acting.

Division 5 – Reporting by Groups**Reporting requirements for opponent group and proponent group**

- 44**
- (1) The financial agent for the opponent group and the financial agent for the proponent group must file with the chief electoral officer a referendum financing report within 90 days after the close of voting.
 - (2) The financial agent must file a supplementary report with the chief electoral officer if any of the information required to be disclosed in a referendum financing report changes or if the financial agent, or the group on whose behalf the report was filed, becomes aware that the report does not accurately and completely disclose that information.
 - (3) A supplementary report under subsection (2) must be filed within 30 days after the financial agent, or the group on whose behalf the report was filed, becomes aware of the circumstances requiring the report to be filed.
 - (4) The referendum financing report under this section must be in a form specified by the chief electoral officer and must include the following information:
 - (a) the referendum contributions accepted by the group, reported in accordance with this section;
 - (b) all other income of the group;
 - (c) the amount of all the group's assets, other than assets received by way of contributions reported under paragraph (a), that was used to pay for the referendum expenses of the group;
 - (d) the value of the referendum advertising sponsored by the group reported by class as required by the chief electoral officer;
 - (e) the referendum expenses incurred and paid for with public money, showing separately those referendum expenses that are not included for the purposes of determining whether or not the group has exceeded the referendum expenses limit;
 - (f) the referendum expenses incurred and paid for with referendum contributions and other income, showing separately those referendum expenses that are not included for the purposes of determining whether or not the group has exceeded the referendum expenses limit;

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- (g) for fundraising functions held by or on behalf of the group in relation to the referendum, the following information:
 - (i) a description of the function;
 - (ii) the date of the function;
 - (iii) the cost, the gross income and the net income or loss arising from the function;
 - (h) any loans or guarantees received by the group in relation to the referendum and any conditions attached to them, including
 - (i) the date the loan is due, and
 - (ii) for permissible loans, the information required to be recorded under section 190 (4) and (4.1) [*financial agent must record each political contribution*] of the *Election Act*;
 - (i) any referendum contributions received by the group in relation to the referendum but returned or otherwise dealt with in accordance with section 235.061 [*prohibited sponsorship contributions must be returned*] of the *Election Act* as adopted and adapted under section 36 [*referendum contributions to opponent group and proponent group*] of this regulation;
 - (j) the amount of public money not used by the group;
 - (k) the amount of public money that must be repaid under section 32 [*repayment of unused public money*];
 - (l) any other information required by the chief electoral officer.
- (5) Sections 243.01 and 246 to 250, except section 247 (1) (a), of the *Election Act* are adopted and apply in relation to the reporting by the opponent group and the proponent group.
- (6) For the purposes of applying section 243.01 (3) [*disclosure reporting by third party sponsor*] of the *Election Act*, the phrase “since the most recent general election” must be read as “in relation to the referendum”.
- (7) For the purposes of applying section 250 [*information to be open to the public*] of the *Election Act*, the information available for public inspection must not include the address of a contributor.
- (8) For the purposes of subsection (4) (a), amounts accepted from anonymous contributors must be reported separately.
- (9) For anonymous referendum contributions, the report must include the dates on which the referendum contributions were received, the amounts received on each date and, if applicable, the events at which they were received.
- (10) A report under this section must
- (a) be prepared in accordance with generally accepted accounting principles, and

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Part 5 – Referendum Advertising Sponsors

- (b) be filed with a signed declaration of the financial agent or other individual filing it as to its accuracy.

Requirement for audit

- 45**
- (1) The opponent group and the proponent group must each appoint an auditor.
 - (2) Section 179 (2) to (5) [*appointment of auditor*] of the *Election Act* applies to an appointment under subsection (1) of this section.
 - (3) As soon as practicable after an appointment is made under this section, the opponent group and the proponent group must deliver to the chief electoral officer a copy of the appointment and the auditor's consent to act.
 - (4) The referendum financing report of the opponent group and the proponent group must be audited.
 - (5) The opponent group and the proponent group must give the auditor access at all reasonable times to the records of the group and must provide the auditor with any information the auditor considers necessary to enable the auditor to make a report under this section.

PART 5 – REFERENDUM ADVERTISING SPONSORS**Registration of referendum advertising sponsors**

- 46**
- (1) The following provisions of the *Election Act* are adopted and apply in relation to the registration requirements for referendum advertising sponsors except as set out in this section:
 - (a) Division 3 [*Registration of Sponsors*] of Part 11 [*Third Party Advertising*];
 - (b) section 250.07 [*monetary penalties for failing to register*];
 - (c) section 250.08 [*court order for relief respecting sponsorship contributions*];
 - (d) section 250.09 [*publication of names*].
 - (2) For the purposes of applying section 239 [*third party sponsors must be registered*] of the *Election Act*,
 - (a) subsection (2) of that section does not apply, and
 - (b) a reference to candidate in subsection (3) of that section must be read as a reference to candidate as defined in the *Election Act*.
 - (3) An individual or organization who is a referendum advertising sponsor must be independent of the opponent group, the proponent group and the financial agents of those groups, and must not sponsor referendum advertising on behalf of or together with any of these.
 - (4) Section 240 (8) [*registration with chief electoral officer*] of the *Election Act* does not apply.

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- (5) Section 242 (5) [*voluntary deregistration*] of the *Election Act* does not apply and instead, as a limit on section 242 (4) of the *Election Act* as adopted by this regulation, if during the referendum campaign period a registered referendum advertising sponsor has sponsored referendum advertising, the referendum advertising sponsor must not be deregistered until the referendum financing report for the referendum advertising sponsor has been filed.

Referendum contributions to referendum advertising sponsors

- 47** (1) Subject to section 48 [*treatment of referendum contributions to specified referendum advertising sponsors*] of this regulation, Division 1 [*Sponsorship Contributions*] of Part 11 [*Third Party Advertising*] of the *Election Act* is adopted and applies to referendum contributions in relation to referendum advertising sponsors except as set out in this section.
- (2) For the purposes of applying section 235.06 [*limits on anonymous sponsorship contributions*] of the *Election Act*, in relation to the referendum subsections (1) (a) (i) and (b) (i) and (2) of that section do not apply.
- (3) An eligible individual must not, in relation to the referendum, make referendum contributions to a referendum advertising sponsor that have a total value greater than \$1 200.
- (4) A referendum advertising sponsor must not accept
- (a) from an eligible individual, in relation to the referendum, referendum contributions that have a total value greater than \$1 200, or
 - (b) a referendum contribution that the sponsor has reason to believe is made in contravention of the Act or this regulation.
- (5) If 2 or more referendum advertising sponsors sponsor referendum advertising in combination, the sponsors must not use referendum contributions from a single contributor that exceed \$1 200.

Treatment of referendum contributions to specified referendum advertising sponsors

- 48** If a registered political party, a registered constituency association or a candidate within the meaning of section 63 [*when an individual is a candidate*] of the *Election Act* receives and uses a contribution to sponsor referendum advertising, the contribution
- (a) is a political contribution and must be dealt with as a political contribution under the *Election Act* and the regulations under that Act, and
 - (b) must be reported in accordance with section 50 [*reporting by referendum advertising sponsors*] of this regulation.

Referendum advertising limit

- 49** In relation to the referendum, a referendum advertising sponsor must not sponsor, directly or indirectly, referendum advertising during the referendum campaign period

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- (a) such that the total value of the referendum advertising is greater than \$200 000 overall, or
- (b) in combination with one or more referendum advertising sponsors such that the total value of that referendum advertising is greater than \$200 000.

Reporting by referendum advertising sponsors

- 50** (1) The following are adopted and apply in relation to reporting requirements for referendum advertising sponsors except as set out in this section:
- (a) Division 4 [*Reporting by Third Party Sponsors*] of Part 11 [*Third Party Advertising*] of the *Election Act*;
 - (b) the Third Party Sponsor Advertising Report Regulation, B.C. Reg. 431/99.
- (2) For the purposes of applying section 243.01 (3) [*disclosure reporting by third party sponsor*] of the *Election Act*, the phrase “since the most recent general election” must be read as “in relation to the referendum”.
- (3) For the purposes of applying section 250 [*information to be open to the public*] of the *Election Act*, the information available for public inspection must not include the address of a contributor.
- (4) For the purposes of applying the Third Party Sponsor Advertising Report Regulation, sections 2 and 3 (1) of that regulation do not apply and instead the referendum advertising disclosure form and the supplementary form must be in a form specified by the chief electoral officer.

PART 6 – REFERENDUM ADVERTISING**Referendum communications**

- 51** (1) The following sections of Part 10.1 [*Election Communications*] of the *Election Act* are adopted and apply in relation to referendum advertising:
- (a) section 228.1 [*tenant and strata election advertising*];
 - (b) section 229 [*sponsorship of election advertising*];
 - (c) section 230 [*no indirect sponsorship of election advertising*];
 - (d) section 231 [*election advertising must identify sponsor*];
 - (e) section 231.01 [*identification of sponsor – activities*], except that the phrase “described in section 1 (3) (a)” must be read as “described in section 1 (2) (a) of the Electoral Reform Referendum 2018 Regulation” and the phrase “described in section 1 (3) (b)” must be read as “described in section 1 (2) (b) of the Electoral Reform Referendum 2018 Regulation”;
 - (f) section 231.02 [*monetary penalties for failure to identify sponsor*];
 - (g) section 234 (1) and (3) [*restriction on election campaigning near election offices and voting places*], except that the reference to “subsection (1) or (2)” must be read as a reference to “subsection (1)”.

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- (2) The Election Advertising Regulation, B.C. Reg. 329/2008, is adopted and applies in relation to referendum advertising.

[am. B.C. Reg. 164/2018, s. 4.]

Referendum advertising rules

- 52** (1) If an advertising message or communication could be considered
- (a) to be both referendum advertising and either local election advertising or local third party election advertising, or
 - (b) to be both referendum advertising and either provincial election advertising or provincial third party advertising,
- the chief electoral officer may make a determination whether the advertising message or communication is referendum advertising, local election advertising, local third party election advertising, provincial election advertising or provincial third party advertising.
- (2) In making a determination under subsection (1), the chief electoral officer must determine and identify which one of the following the advertising message or communication is:
- (a) referendum advertising;
 - (b) local election advertising;
 - (c) local third party election advertising;
 - (d) provincial election advertising;
 - (e) provincial third party advertising.

Prohibited referendum advertising

- 53** Referendum advertising must not
- (a) directly promote or oppose a registered political party or the election of a candidate, as defined in the *Election Act*, in an election under the *Election Act*,
 - (b) directly promote or oppose an elector organization or the election of a candidate, as defined in the *Local Elections Campaign Financing Act*, in an election to which the *Local Elections Campaign Financing Act* applies, or
 - (c) be combined with advertising described in paragraph (a) or (b).

PART 7 – OFFENCES AND PENALTIES**Division 1 – Penalties****Monetary penalties for misuse of public money**

- 54** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 31 (2) to (5) [*how public money may be used*], the chief electoral officer must notify the financial agent of the opponent group or the

financial agent of the proponent group, as applicable, of the non-compliance and the related penalty.

- (2) Unless relief is granted by a court on an application under section 59 [*court order relief*], if the chief electoral officer gives notice under subsection (1), the financial agent must pay to the chief electoral officer a penalty in the amount of up to double the amount of the public money that was misused, as determined by the chief electoral officer.

**Monetary penalties in relation to
combined referendum advertising**

- 55**
- (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 31 (6) [*how public money may be used*] or 46 (3) [*registration of referendum advertising sponsors*], the chief electoral officer must notify the financial agent of the opponent group, the financial agent of the proponent group or the referendum advertising sponsor, as applicable, of the non-compliance and the related penalty.
 - (2) Unless relief is granted by a court on an application under section 59, if the chief electoral officer gives notice under subsection (1), the financial agent or referendum advertising sponsor must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

**Monetary penalties in relation to
how public money must not be used**

- 56**
- (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 31 (7) [*how public money may be used*], the chief electoral officer must notify the financial agent of the opponent group or the financial agent of the proponent group, as applicable, of the non-compliance and the related penalty.
 - (2) Unless relief is granted by a court on an application under section 59, if the chief electoral officer gives notice under subsection (1), the financial agent must pay to the chief electoral officer a penalty in the amount of up to \$20 000, as determined by the chief electoral officer.

Monetary penalties in relation to referendum expenses limit

- 57**
- (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 37 [*referendum expenses limit*], the chief electoral officer must notify the financial agent of the opponent group or the financial agent of the proponent group, as applicable, of the non-compliance and the related penalty.
 - (2) Unless relief is granted by a court on an application under section 59, if the chief electoral officer gives notice under subsection (1), the financial agent must pay to the chief electoral officer a penalty of 10 times the amount by which the value of the referendum expenses incurred exceeds the referendum expenses limit.

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Monetary penalties in relation to prohibited referendum advertising

- 58** (1) Within 7 days of the chief electoral officer making a determination of non-compliance with section 53 [*prohibited referendum advertising*], the chief electoral officer must notify the financial agent of the opponent group, the financial agent of the proponent group or the referendum advertising sponsor, as applicable, of the non-compliance and the related penalty.
- (2) Unless relief is granted by a court on an application under section 59, if the chief electoral officer gives notice under subsection (1), the financial agent must pay to the chief electoral officer a penalty in the amount of up to double the amount of the value of the referendum advertising, as determined by the chief electoral officer.

Court order relief

- 59** (1) A person who is subject to a monetary penalty under sections 54 to 58 may apply to the Supreme Court in accordance with this section for relief from the monetary penalty for non-compliance with the applicable section.
- (2) An application may be made only within 30 days after the chief electoral officer notifies the person of the non-compliance and related penalty.
- (3) The petition commencing an application must be served on the chief electoral officer within 7 days after the petition is filed if the chief electoral officer is a party to the application.
- (4) 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 person has acted in good faith;
 - (b) make any order the court considers appropriate to secure compliance with the applicable section to the extent the court considers reasonable in the circumstances;
 - (c) refuse to grant relief.

Monetary penalties in relation to referendum contributions

- 60** (1) Division 5 [*Monetary Penalties for Third Party Sponsors*] of Part 11 [*Third Party Advertising*] of the *Election Act*, except for section 250.07, is adopted and applies in relation to referendum contributions to the opponent group, the proponent group and referendum advertising sponsors except as set out in this section.
- (2) For the purposes of applying section 250.02 (1) [*monetary penalties respecting sponsorship contribution limits*] of the *Election Act*, a reference to section 235.05 must be read as a reference to section 36 (8) and (9) [*referendum contributions to opponent group and proponent group*] or 47 (3) to (5) [*referendum contributions to referendum advertising sponsors*] of this regulation, as applicable.

ELECTORAL REFORM REFERENDUM 2018 REGULATIONPart 7 – Offences and Penalties

- (3) For the purposes of applying section 250.04 (1) [*monetary penalties respecting anonymous sponsorship contributions*] of the *Election Act*, a reference to section 235.06 [*limits on anonymous sponsorship contributions*] must be read as a reference to section 235.06 as adapted under sections 36 (7) and 47 (2) of this regulation, as applicable.
- (4) In relation to a penalty under this section, the chief electoral officer may issue and file with the Supreme Court a certificate specifying, as applicable,
- (a) the name of the organization included on the application under section 27 [*how to apply to be opponent group or proponent group*] of the opponent group or of the proponent group and the amount owed by the opponent group or the proponent group, or
 - (b) the name of the referendum advertising sponsor and the amount owed by that referendum advertising sponsor.
- (5) A certificate filed under subsection (4) has the same effect and is enforceable in the same manner as a judgment of the Supreme Court in favour of the government for the recovery of a debt in the amount specified in the certificate.

Monetary penalties in relation to referendum advertising limit

- 61** (1) Sections 235.2 (1) (b), (2) and (3) [*penalties for exceeding advertising limit*] and 235.3 [*court order for relief from advertising limit*] of the *Election Act* are adopted and apply in relation to referendum advertising limits.
- (2) In relation to a penalty under this section, the chief electoral officer may issue and file with the Supreme Court a certificate specifying the name of the referendum advertising sponsor and the amount owed by that referendum advertising sponsor.
- (3) A certificate filed under subsection (2) has the same effect and is enforceable in the same manner as a judgment of the Supreme Court in favour of the government for the recovery of a debt in the amount specified in the certificate.

Enforcement of penalties

- 62** Section 276 [*enforcement of penalties*] of the *Election Act* is adopted and applies in relation to penalties, except
- (a) subsection (1) (a) of that section and instead the chief electoral officer may conduct investigations of the financial affairs of the opponent group, the proponent group and any referendum advertising sponsor for the purpose of ensuring compliance with the Act and this regulation, and
 - (b) subsection (2) of that section and instead, for the purposes of this section, the chief electoral officer or a representative of the chief electoral officer may inspect and make copies of the records of the opponent group, the proponent group or a referendum advertising sponsor.

ELECTORAL REFORM REFERENDUM 2018 REGULATIONPart 7 – Offences and Penalties

Division 2 – Offences**Offences in relation to referendum**

- 63** (1) Part 12 [*Offences*] of the *Election Act*, except for the provisions referred to in subsection (2) of this section, is adopted and applies in relation to the referendum as if it were an election for a candidate in the general election.
- (2) The following provisions of Part 12 of the *Election Act* do not apply in relation to the referendum:
- (a) section 255 (6) [*special contributions or special donations*];
 - (b) section 259 [*offences in relation to candidates*];
 - (c) section 261 (1) (c) [*offences in relation to voting and counting proceedings*];
 - (d) section 262 [*offences in relation to the registration of political parties and constituency associations*];
 - (e) section 263 (1) (d) to (i) [*offences in relation to election financing*];
 - (f) section 265 (1) (b) and (d) [*offences in relation to election and other officials*];
 - (g) section 266 (2) [*offences in relation to false or misleading information*];
 - (h) section 267 [*offence in relation to use of information*].
- (3) For the purposes of applying section 264 (1) (k) [*offences in relation to election advertising and other promotion*] of the *Election Act*, in relation to the referendum a reference to section 235.05 must be read as a reference to section 36 (8) and (9) [*referendum contributions to opponent group and proponent group*] or 47 (3) to (5) [*referendum contributions to referendum advertising sponsors*] of this regulation, as applicable.

SCHEDULE

[section 5]

2018 Referendum on Electoral Reform

Ballot

Instructions: To vote, fill in the oval ○ to the right of your choices, like this: ●
 Use black pen or marker. Do **not** use pencil.

Question 1
Which system should British Columbia use for provincial elections? (Vote for only one.)
The current First Past the Post voting system ○
A proportional representation voting system ○

Question 2			
If British Columbia adopts a proportional representation voting system, which of the following voting systems do you prefer? (Rank in order of preference. You may choose to support one, two or all three of the systems.)			
	1 <small>1st Choice</small>	2 <small>2nd Choice</small>	3 <small>3rd Choice</small>
Dual Member Proportional (DMP)	○	○	○
Mixed Member Proportional (MMP)	○	○	○
Rural-Urban Proportional (RUP)	○	○	○