

**BILL C-18: AN ACT TO AMEND THE CANADA
ELECTIONS ACT (VERIFICATION OF RESIDENCE)**

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LEGISLATIVE HISTORY OF BILL C-18

HOUSE OF COMMONS

Bill Stage	Date
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First Reading:	2 November 2007
Second Reading:	16 November 2007
Committee Report:	12 December 2007
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SENATE

Bill Stage	Date
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Second Reading:	14 December 2007
Committee Report:	14 December 2007
Report Stage:	
Third Reading:	14 December 2007

Royal Assent: 14 December 2007

Statutes of Canada 2007, c. 37

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-18: AN ACT TO AMEND THE CANADA
ELECTIONS ACT (VERIFICATION OF RESIDENCE) *

BACKGROUND

Bill C-18, An Act to amend the Canada Elections Act (verification of residence), was introduced in the House of Commons on 2 November 2007 by the Leader of the Government, the Honourable Peter Van Loan, PC, MP. The bill permits voters whose identification documents do not show a complete address, but show, for example, a post office box or “general delivery” as the address, to use that piece of identification as proof of residence when voting, registering to vote, or vouching for another elector, provided that the information is otherwise consistent with the information shown on the list of electors.

The bill responds to concerns expressed by the Chief Electoral Officer that a significant number of Canadians do not have identification showing a civic address. He estimated that over one million voters listed in the National Register of Electors would be ineligible to vote because they live in areas where civic addressing is not used or where addresses do not usually appear on driver’s licences or other documents that would be acceptable as identification at the polls.⁽¹⁾ The problem is particularly pronounced in Saskatchewan, where 27% of voters could be prevented from voting, as well as in the Northwest Territories (27.76%), Nunavut (80.75%) and Newfoundland (23.321%). In total, 4.36% of Canadians could be prevented from voting because of a lack of identification showing a civic address.⁽²⁾

* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

- (1) Office of the Leader of the Government and Minister for Democratic Reform, “Government of Canada Solves Problem of Verifying the Residence of Voters,” News release and backgrounder, 2 November 2007, p. 3, <http://www.marketwire.com/mw/release.do?id=788197> (accessed 13 November 2007).
- (2) B. Vongduangchanh, “Tories to introduce bill to address potential rural disenfranchisement,” *Hill Times*, 29 October 2007, p. 25.

DESCRIPTION AND ANALYSIS

A. Requirements for Providing Proof of Residence

Section 143 of the *Canada Elections Act* sets out the requirements for identification at the polls and prescribes the kinds of identification that are acceptable under the Act. As a result of amendments brought about by Bill C-31 in the first session of the 39th Parliament, section 143 of the Act requires an individual who wishes to vote to produce a government-issued piece of identification that contains his or her photograph, name and address (section 143(2)(a)).⁽³⁾ Alternatively, the individual may provide two pieces of identification that have been authorized by the Chief Electoral Officer, each of which provides the elector's name, and at least one of which provides the elector's address (section 143(2)(b)). The Chief Electoral Officer is required, each year and within three days of the issue of an election writ, to publish a list of the types of identification that are adequate alternatives to government-issued photo identification. Such alternatives include a health card, social insurance number card, birth certificate, driver's licence, and Canadian passport.⁽⁴⁾

If the voter lacks the required identification, he or she may take a prescribed oath, provided that he or she is vouched for by a person who is listed on the list of electors in the same polling division as the voter, has the identification required in sections 143(2)(a) or (b), and vouches for the voter by taking an oath. A voter may vouch for only one voter, and a voter who has been vouched for may not, in turn, vouch for another voter.

1. When Voting on Polling Day (clause 1)

Section 143 of the *Canada Elections Act* is amended by Bill C-6 with the addition of proposed subsection (3.1) to permit voters with otherwise acceptable identification to vote where the identification lacks a civic address. In such a circumstance the voter will be permitted to vote if the address that appears on the identification document(s) being presented at a voting

(3) Bill C-31 An Act to amend the Canada Elections Act and the Public Service Employment Act (as enacted by S.C. 2007, c. 21). See also Michel Bédard and Sebastian Spano, *Bill C-31: An Act to Amend the Canada Elections Act and the Public Service Employment Act*, LS-542E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, revised 22 June 2007, <http://www.parl.gc.ca/LEGISINFO/index.asp?Language=E&query=4851&Session=14&List=ls>.

(4) For a complete list of Elections Canada's approved alternatives to photo identification, see <http://www.elections.ca/content.asp?section=ele&dir=2007/ids&document=index&lang=e&textonly=false#two>.

station is consistent with the information related to the elector that appears on the list of electors. The residence of the voter is by this means deemed to have been proven (proposed subsection 143(3.1), to be renumbered as subsection 143(3.3) with the coming into force of Bill C-6 – see part B2, below).

The amendment will also permit a voter to vouch for another voter where the otherwise acceptable identification of the former lacks a civic address. The vouching voter's residence will be deemed to have been proven if the address appearing on his or her identification document(s) is consistent with that appearing on the voters' list.

A voter whose proof of residence is established under the proposed subsection 143(3.1) may still be challenged by an election official or a candidate or his or her representative if these individuals have "reasonable doubts" concerning the residence of the voter. Where challenged, a voter must take a prescribed oath. Residence is deemed to have been proven only if the voter takes the oath (new subsection 143(3.2), to be renumbered as subsection 143(3.4) with the coming into force of Bill C-6 – see part B2, below).

2. When Registering to Vote on Polling Day (clause 2)

Section 161 deals with registering on voting day. Currently, the identification requirements for registering to vote mirror the requirements for voting in section 143. That is, when registering to vote, the voter must provide identification in accordance with section 143, or take a prescribed oath and be vouched for by a voter who has the required identification (see part A, above).

Bill C-18 does not extend the deemed residence provision to voters who register on polling day. If an individual does not have identification documents with a civic address, he or she may not register on voting day unless he or she is vouched for by a voter with acceptable identification. This would be consistent with the overall logic of allowing proof of identification where the address provided on the identification document is consistent with that found in the voters' list. The rationale behind not extending the deemed residence provision is that the voter's name and address do not appear on the voters' list and thus no address comparison that can be made.

Bill C-18 does, however, amend section 161 such that a voter who wishes to vouch for another voter, but lacks identification containing a civic address, may so vouch if the address contained in his or her identification document(s) is consistent with that found in the list of electors. Bill C-18 will also require that the prescribed oath include a statement as to the address of both the voter and the voucher.

Another amendment to section 161 adds a slight refinement to the identification requirements. Paragraph 161(1)(a) is amended by the requirement that at least one of the pieces of identification provided by the voter contain an address that proves his or her residence.

3. When Registering to Vote at an Advance Poll (clause 3)

The amendments to the identification requirements for registering at a poll on polling day are repeated in section 169(2), which addresses identification at an advance poll for the purpose of registering to vote.

B. Coordinating Amendments (clauses 4, 5)

1. Registering to Vote on the Last Day of Advance Polling – Coordinating Amendment with Bill C-16 (clause 4)

Bill C-18 contains an amendment to coordinate this bill with what is now Bill C-16, An Act to amend the Canada Elections Act (expanded voting opportunities) and to make a consequential amendment to the *Referendum Act*, which was introduced on 1 November 2007. Bill C-16 reinstates Bill C-55 from the last session of Parliament. It increases the number of advance polling days from three to five and provides for an increased number of advance polling stations on the last day of advance polling. Bill C-16 also provides that all polling stations that are open on polling day will also be open on the *last day of advance* polling.⁽⁵⁾

The coordinating amendment in Bill C-18 states that if a bill is introduced that is in the same form as Bill C-55 and with the same title, the revised identification provisions found in Bill C-18 to deem an address to be proven in the circumstances noted above shall apply to voters who register on the last day of an advance poll. The coordinating amendment in Bill C-18, therefore, will form part of a new section 176.2 in Bill C-16. The coordinating amendment would replace the proposed 176.2(2).

With respect to registering on the last day of advance polling, the voter must have the prescribed pieces of identification or be vouched for by a voter who has the required identification. An address will not be deemed to be proven for voters without a civic address.

(5) See Michel Bédard, *Bill C-55: An Act to Amend the Canada Elections Act (Expanded Voting Opportunities) and to make a Consequential Amendment to the Referendum Act*, LS-560E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 25 July 2007, <http://www.parl.gc.ca/39/1/parlbus/chambus/house/bills/summaries/c55-e.pdf>.

The person who will be vouching can prove his or her address where he or she lacks identification without a civic address if the address that appears on his or her identification document(s) is consistent with the address found in the electors' list.

2. Renumbering the Newly-Created Provisions in Section 143 –
Coordinating Amendment with Bill C-6 (clause 5(2))

Because of the introduction in the current session of Parliament of two bills that affect section 143 of the Act at the same time, some renumbering will be necessary to avoid confusion. Bill C-6, An Act to amend the Canada Elections Act (visual identification of voters), would create new subsections 143(3.1) and (3.2) to require the removal of any face covering when voting, registering to vote, or vouching for a voter. Bill C-18 will amend the Act with the addition of a set of provisions that are also numbered as subsections 143(3.1) and (3.2). It is necessary to use the same numbering in both bills because the reference point is always to the current *Canada Elections Act* numbering and not to any proposed numbering in a bill.

Bill C-18 provides that when the provisions of both bills are in force subsection 143 will be renumbered as follows. The proposed subsections 143(3.1) and (3.2) in the *Canada Elections Act* will be numbered according to Bill C-6. The proposed subsections 143(3.1) and (3.2) in Bill C-18 will become the new subsections 143(3.3) and (3.4) in the *Canada Elections Act*.

3. Receiving a Special Ballot While Residing in Canada –
Coordinating Amendment with Bill C-6 (clause 5(3))

Bill C-6, An Act to amend the Canada Elections Act (visual identification of voters), will require that voters *residing in Canada* who are entitled to vote with a special ballot present identification in accordance with section 143(2)(a) or (b) if they go to the office of a returning officer to receive the special ballot (proposed section 237.1(1)(a)).⁽⁶⁾

If the elector goes to the office of the returning officer for the electoral district in which the elector resides, the elector may prove his or her identity and residence by presenting identification as prescribed in paragraphs 143(2)(a) or (b), or by taking the prescribed oath and being vouched for by an elector residing in the same polling division as the elector who is able to

(6) See Sebastian Spano, *Bill C-6: Act to amend the Canada Elections Act (visual identification of voters)*, LS-572E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 5 November 2007.

provide suitable identification in accordance section 143. The vouching elector must do so by taking the prescribed oath (new section 237.1)(1)(b). The elector receiving the special ballot and the elector vouching for another elector who lacks the requisite identification must remove any face covering when proving his or her identity or providing identification (new section 237.1(2)).

Bill C-18 will further amend section 237.1 as proposed in Bill C-6 to enable a voter whose identification does not contain a civic address to prove his or her residence if the address shown on the identification document is consistent with that shown in the voters' list (proposed subsection 237.1(1.1)).

COMMENTARY

The problem identified by the Chief Electoral Officer whereby more than a million voters could be ineligible to vote because their identification documents do not provide a civic address was widely reported in the news media.⁽⁷⁾ Early media reaction to the bill is largely descriptive. One newspaper article reported that New Democratic Party Member of Parliament Charlie Angus criticized the bill as a “band-aid” solution and lamented that it does nothing to enable homeless people, transients, and some students to vote, as these individuals have difficulty obtaining and maintaining the required identification.

(7) Vongduangchanh (2007).