

Guide to the Registration of a New Political Party in New Brunswick



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Registration of a New Political Party in New Brunswick

The process to register a new political party is detailed in the *Elections Act*, in sections 130 to 153. This document outlines that process in order to provide clarification.

Prerequisites for Registration

Under paragraph 131(d) of the *Elections Act*, to register a new political party, the following prerequisites must be met prior to applying for registration as a political party:

1. Have District Associations in at least 10 electoral districts

Under the *Elections Act*, a “district association” is defined as an association of persons supporting a political party in an electoral district.

To register a new party, there is no requirement to actually register these district associations. However, registration permits a district association to solicit contributions and incur non-election expenditures and requires it to report all financial activities to the Supervisor. The process to register a district association is described later in this document.

2. Undertake to present official candidates in at least ten electoral districts at the next general election

“Undertaking” to present 10 official party candidates in the next general election means that the party intends to run 10 candidates, although it may not yet have the names at the time of registration. The deadline to present 10 official candidates is the close of nominations in a general election. In a scheduled general election this deadline occurs at 2 p.m. on the Tuesday, twenty days before ordinary polling day.

3. Elect the leader of the party by a convention

This requirement is straightforward although there is no definition of what constitutes a “convention”. This would be a matter of the new party’s constitution.

Registering a New Party

Once the prerequisites for registration have been met under section 131(d) of the *Elections Act*, the process to actually register the new party is as follows:

Application Form

As detailed in section 133 of the *Elections Act*, the new party must submit an application for registration, signed by the leader of the party. The *P 04 801, Application for Registration of a New Political Party*, must set out:

1. The full name of the party in one or both official languages (which must not be so close to the name of an existing party as to be confusing);
2. the party name or abbreviation to be used on election documents or official records;
3. the name and address of the party leader;
4. the address where communications to the party should be sent;
5. the address where the books and records are maintained; and
6. the name and address of officers of the party.

Additional Information

In addition to the application for registration, the new party must include Appendices that:

1. furnish, to the satisfaction of the Chief Electoral Officer, proof of the existence of its district associations;
2. establish, by a statement supported by an affidavit of the new party's leader, statements of the amount of money and other property at its disposal; and
3. establish, by a statement supported by an affidavit of the new party's leader, that it has complied with section 47 of the *Political Process Financing Act*.

The application for registration includes one supporting affidavit for all of these from the party leader. It is best to have a lawyer prepare these documents. If not prepared by a lawyer, the affidavits will need to be sworn before a lawyer, a notary public, or another commissioner of oaths.

Information concerning each of these requirements will be expanded upon below:

1. Furnish, to the satisfaction of the Chief Electoral Officer, proof of the existence of the party's district associations:

The Chief Electoral Officer will be satisfied of the existence of a new party's district associations by having the party submit the following information:

- a) the full name of the district association;
- b) the names and addresses of the officers of the district association;

- c) the names and addresses of at least two persons residing within the electoral district who support the new political party and who constitute the district association in each electoral district (who may be the officers of the district association).

2. Establish the amount of money and other property at the new party's disposal:

The new party's leader must submit an affidavit stating the amount of money and other property at the new party's disposal. No details of the amounts donated to, or the expenses incurred by, the new party during its formation are required. The affidavit must also include the money and other property, if any, of the new party's district associations.

3. Establish the new party has complied with section 47 of the Political Process Financing Act:

While the new party is being formed, donations may be received by the new party. While these donations do not qualify as contributions under the *Political Process Financing Act (PPFA)*, in order to become a registered party the rules of contributions must be applied to these donations *as if they were contributions*.

As outlined in the *Political Process Financing Act*, the rules of contributions include:

1. Only individuals may make contributions. (*PPFA, ss.37(1)*)
2. An individual may, during a calendar year, make a contribution to each political party and its district associations taken together, that is not in excess of \$3000 on or after January 1, 2018. (*PPFA, ss.39(1), 39(2)*)
3. An individual may make a contribution only out his or her own property. (*PPFA, ss.38(1)*)
4. Contributions must be made (to use the common expression) "without any strings attached" from any source. (*PPFA, ss.38(3)*)
5. Contributions may be made by cash (if \$100 or less), credit card, debit card, or other order of payment drawn by the contributor on a chartered bank, trust company or credit union on an account in the name of the contributor. (*PPFA, s.43.1, and ss.44(1)*)
6. No anonymous contributions may be accepted. (*PPFA, ss.47(2)*)
7. A political party shall not knowingly accept any contribution made in contravention of the Act. (*PPFA, s.39.3*)

Section 47 of the *Political Process Financing Act* requires that the value of every contribution made contrary to the Act must be returned to the contributor or, if the identity of the contributor is not known, remitted to the Supervisor of Political Financing. Any such funds remitted to the Supervisor are then remitted to the Minister of Finance and paid into the Province's "Consolidated Fund".

This requirement implies that the new party must keep detailed records of any donations received during its formation so that any donations received in contravention of the "contributions" provisions of the Act may be returned to the original donor.

Because the new party is not yet a registered political party under the *Elections Act*, any donations made to the new party during its formation will not be eligible for an income-tax receipt. Receipts may only be issued for contributions made after the party is registered.

Registration by the Chief Electoral Officer

Once the application for registration, proof of district associations and affidavits are received and accepted by the Chief Electoral Officer, he shall register the new party forthwith in the *Registry of Political Parties*. The date the entry occurs is the date the party is officially registered. This Registry is posted on the website of Elections New Brunswick.

Refusal of registration

Under subsection 143(1) of the *Elections Act*, where the Chief Electoral Officer proposes to refuse to register a political party, he shall give such party notice of that proposal, along with the written reasons for it and he shall provide a reasonable opportunity to be heard before he makes his final decision.

In the event the new party's registration is refused, any funds donated to the party must be returned to the donors. Following the refusal, the new party would just be a group of persons. Since such a group would not qualify to make contributions under section 37(1) of the *Political Process Financing Act*, (Contributions may only be made by individuals), the refused party could not, for example, transfer funds to one of the persons who intended to run as a candidate of the new party. Any of these persons who still wished to run as a candidate would have to register as an independent candidate. Registration of independent candidates is addressed later in this document.

Under subsection 146.1(1) of the *Elections Act*, a political party whose application for registration has been refused may re-apply for registration after a period of sixty days from the time the previous application was refused.

Registration of a Party's Official Representative

Subsection 137(2) of the *Elections Act* requires that each registered political party must, within ten days after the party becomes registered, file with the Chief Electoral Officer a notice signed by the leader of the party setting out the name and address of its official representative. This information may be sent in with the new party's application for registration if the official representative is known at that time.

Subsection 137(8) of the *Elections Act* requires that a registered party's official representative must:

1. be fully nineteen years of age;
2. be a Canadian citizen;
3. be a resident in the Province;
4. not be disqualified from voting under the *Elections Act*; or
5. not be a candidate or an election officer.

A P 04 807, *Appointment of Official Representative of Registered Political Party*, may be downloaded from the Elections NB website.

Registration of a Party's Chief Agent

Section 138 of the *Elections Act* requires that each registered political party must, within ten days after the party becomes registered, file with the Chief Electoral Officer a notice signed by the leader of the party setting out the name and address of the party's chief agent. This may be the same person as the party's official representative but separate notices must be filed for the two positions.

Sections 138(9) and 137(8) of the *Elections Act* require that a registered political party's chief agent must:

1. be fully nineteen years of age;
2. be a Canadian citizen;
3. be a resident in the Province;
4. not be disqualified from voting under the Elections Act; or
5. not be a candidate or an election officer.

A P 04 811, Appointment of Chief Agent of Registered Political Party, may be downloaded from the Elections NB website.

Appointment of Auditor

Sections 51 to 53 of the *Political Process Financing Act* requires that the official representative of each registered political party shall, within sixty days of the party being registered under the *Elections Act*, appoint an accountant practicing in the Province to serve as the auditor of that party. The official representative shall give written notice to the Supervisor of Political Financing (who is the Chief Electoral Officer) of the name and address of the auditor within thirty days of such appointment.

Registration of a District Association

Once the registration of a political party is complete, this allows that party's district associations to be registered. Note that there is no requirement to register district associations (even the ten required at the time of a party applying for registration); however, registration permits a district association to solicit contributions and incur non-election expenditures. It also requires it to report all financial activities to the Supervisor on an annual basis. The process to register a district association is as follows:

Application Form

As detailed in section 135 of the *Elections Act*, the district association must submit an application for registration, signed by the leader of the registered political party associated with that association. The application must set out:

1. the full name of the district association;
2. the district association name or the abbreviation, if any, of the district association name to be shown in any election documents or other official materials;
3. the address to which communications intended for the district association may be addressed and where its books, records and accounts, including those pertaining to contributions to and expenditures by the district association, are maintained; and
4. the names and addresses of the officers of the district association. A minimum of one officer is required.

A P 04 821, Application for Registration of a District Association and Appointment of Official Representative, may be downloaded from the Elections NB website.

Registration

Once the application for registration of a district association is received, the Chief Electoral Officer shall register the district association forthwith in the *Registry of District Associations*.

Registration of a District Association's Official Representative

Section 137(3) of the *Elections Act* requires that each registered district association must, within twenty days after the association becomes registered, file with the Chief Electoral Officer a notice signed by the leader of the associated party setting out the name and address of the registered district association's official representative. This appointment is made on the *P 04 821, Application for Registration of a District Association and Appointment of Official Representative*.

Subsection 137(8) of the *Elections Act* requires that a registered district association's Official Representative must:

1. be fully nineteen years of age;
2. be a Canadian citizen;
3. be a resident in the Province;
4. not be disqualified from voting under the Elections Act; or

5. not be a candidate or an election officer.

Registration of a District Association's Electoral District Agent

The chief agent of a registered political party may, on the written authorization of the leader of that party, appoint at any time not more than one electoral district agent for that party for each electoral district. Under subsection 69(2) of the *Political Process Financing Act*, an electoral district agent shall be the official agent of the official candidate of that party in that district. The candidate may, during an election, dismiss his official agent and appoint another by a writing signed by him and filed with the Chief Electoral Officer.

The chief agent must file the names and addresses of such appointments with the Chief Electoral Officer. An electoral district agent of a registered political party may be the same person as the official representative of a registered district association of that party; however, separate notices must be filed for the two positions.

A P 04 831, Appointment of Electoral District Agent, may be downloaded from the Elections NB website.

Cancellation of the registration of a political party

In the event that less than ten candidates are officially nominated for a general election by the newly-registered political party, section 140 of the *Elections Act* requires the Chief Electoral Officer to cancel the registration of the new party registered under subsection 131(d). Also, should the number of candidates fall below ten before ordinary polling day (as would be the case in the event of a withdrawal or death of such a party's candidate), the Chief Electoral Officer is, again, required to cancel the registration of the party.

Under section 143 of the *Elections Act*, the Chief Electoral Officer will give notice of a proposed cancellation to the party along with written reasons for the proposal, and to "*provide a reasonable opportunity to be heard before he makes his final decision*".

There are significant implications for the political party, its district associations, and its candidates should a party's registration be cancelled:

Implications for Political Party

If a registered political party ceases to be registered under the *Elections Act*, subsection 30(1) of the *Political Process Financing Act* requires all assets still held by or on behalf of the party at the time of the cessation of registration to be remitted forthwith to the Supervisor of Political Financing. The political party would also be required to submit forthwith a financial return with the Supervisor of Political Financing.

Under section 146.1(1) of the *Elections Act*, a political party whose registration has been cancelled may re-apply for registration after a period of sixty days from the time of cancellation.

Implications for District Associations

Under subsection 139(3) of the *Elections Act*, where the registration of a political party is cancelled, the registration of all district associations associated with that party shall also be cancelled. This means that the district association must immediately cease soliciting contributions and incurring non-election expenditures and may no longer support the election of the candidate it was promoting. Subsection 30(1) of the *Political Process Financing Act* requires all assets still held by or on behalf of the party at the time of the cessation of registration to be remitted forthwith to the Supervisor of Political Financing. It would also be required to submit forthwith a financial return to the Supervisor of Political Financing.

Implications for Candidates

A candidate only exists during an election period, after that candidate's nomination paper has been accepted by a returning officer.

From a practical standpoint, the procedural safeguards provided to political parties subject to possible cancellation under s. 143, and in particular, the obligations to provide reasons and to provide a reasonable opportunity to be heard, have the effect of requiring that the cancellation of the registration of a political party under s. 140 cannot take place before the ordinary polling day in a general election.