



Guide for private intervenors

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Introduction

This guide is designed to help electors or groups of electors interested in acting as a private intervenor. It explains the relevant provisions of the *Election Act* with the aim of facilitating compliance. The guide is available on the Élections Québec website, at **electionsquebec.qc.ca**.

The interpretations expressed in this guide do not take precedence over the provisions of the *Act* and are not intended to replace its official text. When interpreting or applying the *Election Act*, you should always refer to the text published by the Québec Official Publisher, available **legisquebec.gouv.qc.ca**. Where applicable, references to the provisions of the *Act* are given in parentheses.

Questions about how the *Election Act* applies to a private intervenor can be directed to the Chief Electoral Officer, via the Direction du financement politique, using the contact information provided below.

Direction du financement politique

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1 Authorization of private intervenors

1.1 Definitions

Private intervenor

Any qualified elector may act as a private intervenor. A group of natural persons, the majority of whom are qualified electors, can also act as a private intervenor, provided that the group is not incorporated. The natural persons making up such a group work together to achieve a common goal (s. 457.2).

→ An individual elector or a group of electors needs to obtain authorization as a private intervenor before incurring advertising expenses during an election period, whether to express views on a matter of public interest or obtain support for such views, or to advocate abstention or the spoiling of ballots. Such activities must not directly promote or oppose a candidate or party (s. 404[13]).

Elector

Any Canadian citizen of full age who has been domiciled in Québec for at least six months may be an elector, provided that he or she is not under curatorship and has not been deprived of election rights pursuant to the *Election Act*, the *Referendum Act*, the *Act respecting elections and referendums in municipalities* or the *Act respecting school elections to elect certain members of the boards of directors of English-language school service centres* (s. 1).

Group representative

A group representative represents a group of natural persons, the majority of whom are qualified electors, interested in acting as a private intervenor. Indeed, the qualified electors belonging to such a group are required to designate a representative from among themselves. The group representative is responsible for completing and submitting an application for authorization on behalf of the group. Only the group representative may incur advertising expenses on behalf of a group (s. 457.16). A person may only act in this capacity for a single group (s. 457.9).

Political party

A political party is an organization that normally runs candidates in elections with the aim of governing or participating in the exercise of power.

An authorized political party with no candidates running in a general election or by-election and interested in acting as a private intervenor must notify the Chief Electoral Officer of this intent. The party is deemed to be authorized as a private intervenor from the date the notice is received. The Chief Electoral Officer will assign an authorization number to the party.

Sections 457.7 to 457.9 and 457.13 to 457.21 of the *Election Act* apply to such parties, with the necessary modifications. For the purposes of these sections, the party leader is deemed to be the elector representing the private intervenor.

An authorized political party that avails of sections 419 and 420 during an election period cannot obtain the status of private intervenor during that period (s. 457.2).

Election period

An election period begins the day after the date of the election order and runs until the close of the poll (s. 401). It lasts between 33 and 39 days.

1.2 Application forms for authorization

→ Before incurring advertising expenses during an election period, an elector or group representative needs to apply for authorization to the office of the returning officer of the electoral division where he or she is domiciled (s. 457.5). The person in question should complete and submit the appropriate form: “Application for authorization of a private intervenor: elector” (DGE-705) or “Application for authorization of a private intervenor: group” (DGE-706).

1.3 Applicants

The following persons may complete, sign and submit an application for authorization of a private intervenor:

- The elector, in cases where the private intervenor is a natural person;
- The group representative, in cases where the private intervenor is a group.

Such persons should submit their application for authorization to the office of the returning officer of the electoral division where they are domiciled between the 27th and 13th day before polling day (s. 457.5).

A person applying for authorization as an elector should complete the form titled “Application for authorization of a private intervenor: elector” (DGE-705), where he or she must:

1. Indicate his or her name, date of birth, domiciliary address and telephone number;
2. Declare that he or she is a qualified elector;
3. Declare that he or she does not intend to directly promote or oppose any candidate or party;
4. State briefly the purpose of the application, specifying, where applicable, the matter of public interest on which he or she intends to express his or her views;
5. Declare that he or she is not a member of any party;
6. Declare that he or she is not acting directly or indirectly on behalf of any candidate or party;
7. Declare that, to his or her knowledge, he or she is not a member of a group that has obtained authorization as a private intervenor for a similar purpose or whose application for authorization is pending.

The elector must support his or her application with an oath and undertake to comply with the applicable provisions of the *Act* (s. 457.3).

A group applying for authorization should complete the form titled “Application for authorization of a private intervenor: group” (DGE-706), on which it must:

1. Indicate the group’s name, address, telephone number, date of formation and objects;
2. Indicate the name, domiciliary address and telephone number of the group’s leaders;
3. Indicate the actual or approximate number of members of the group and declare that the majority of the members are qualified electors;
4. Indicate the name, date of birth, domiciliary address and telephone number of the elector who is to act as the group representative;
5. Declare that the group does not intend to directly promote or oppose any candidate or party;
6. State briefly the purpose of the application, specifying, where applicable, the matter of public interest on which the group intends to express its views;
7. Declare that the group is not acting directly or indirectly on behalf of any candidate or party;
8. Declare that the group representative is not a member of any party;
9. Declare that, to the group’s knowledge, none of its members have obtained authorization as a private intervenor for a similar purpose or made an application for authorization that is pending.

The elector designated as group representative is responsible for completing the application form. He or she must support the application with an oath and undertake to comply with the applicable provisions of the *Act* (s. 457.4).

If the group representative dies, resigns, is dismissed or is unable to act, the group leader is responsible for appointing another representative and for immediately notifying the returning officer of the change in writing (s. 457.11).

During an election period, neither an individual elector acting as a private intervenor nor a group representative may become a member of a party (s. 457.12).

1.4 Acceptance of applications for authorization

In cases where an application complies with the *Act*, the returning officer is responsible for issuing the requested authorization without delay. The returning officer should inform the applicant that the application has been accepted and assign an authorization number (s. 457.6).

In cases where an application does not meet the requirements of the *Act*, the returning officer should, before rejecting the application, allow the applicant to present observations or, where applicable, to make any necessary corrections. If the application must be rejected, the returning officer's decision must be in writing and contain reasons (s. 457.6).

Any person whose application for authorization is rejected may, by way of an application, appeal the decision before a judge of the Court of Québec (s. 457.21).

→ During the same election period, an individual elector or group of electors may obtain only one authorization. The authorization is valid only for that election period (s. 457.9).

1.5 Disclosure of authorizations granted

During an election period, not later than the 10th day before polling day, the returning officer is responsible for preparing a list of the authorizations he or she has granted and for transmitting the list to the authorized parties represented in the Assemblée nationale, to any other party that makes such a request and to each candidate.

The list must provide the name of each private intervenor, the name of the group representative, where applicable, and the number and date of the authorization. The list must also indicate if a private intervenor intends to express views on a matter of public interest or to advocate abstention or the spoiling of ballots (s. 457.8).

1.6 Withdrawal of authorization

Only the Chief Electoral Officer may withdraw the authorization granted to a private intervenor, after determining that:

- The application for authorization contains false or inaccurate information;
- The private intervenor (or, where applicable, the group representative) no longer qualifies for such authorization;
- The private intervenor (or, where applicable, the group representative) has contravened an applicable provision of the *Election Act*.

However, before withdrawing authorization, the Chief Electoral Officer must allow the private intervenor to present observations or, where applicable, to make any necessary corrections. A decision by the Chief Electoral Officer to withdraw authorization must be in writing and contain reasons (art. 457.20).

Any person whose authorization is withdrawn may, by way of an application, appeal the decision before a judge of the Court of Québec (s. 457.21).

1.7 Resignation of a group representative

A group representative may resign at any time. In such a situation, the group representative is responsible for notifying both the group leader and the returning officer. Within five days of his or her resignation, the group representative should also submit a return of expenses incurred, along with supporting documents (s. 457.10). The group leader should then name a new representative and immediately notify the returning officer (s. 457.11).



2 Advertising expenses

2.1 Definitions

Advertising

Advertising involves the publication or broadcast of a message, through any medium, with the aim of sharing a private intervenor's views on the matter of public interest specified in the application for authorization or with the aim of advocating abstention or the spoiling of ballots, without directly promoting or opposing any candidate or party.

Advertising expenses

Advertising expenses include the cost of all goods and services used to produce an advertisement and to acquire the means of its publication or broadcast. The cost of acquiring airtime, space in a newspaper or periodical, or any other form of advertising constitutes an advertising expense.

→ A private intervenor may not incur advertising expenses that are not related to the purpose stated in the application for authorization, or that directly promote or oppose a candidate or party (s. 457.13).

When purchasing goods or services whose cost wholly or partially constitutes an advertising expense, no person may claim or receive a price different from the regular price for similar goods or services outside the election period. Nor may payment be waived, except in the case of volunteer work. Any volunteer work must be performed personally, voluntarily and without consideration (s. 88[1] and 417).

If an advertising expense covers the time before and during an election period, that portion of the cost that constitutes an election expense must be determined by comparing the frequency of use before and during the election period. The determining factor is the time when the advertisement was published or broadcast, regardless of when the costs associated with producing the message or acquiring the means of publication or broadcast were incurred or paid (s. 403).

Under certain conditions, the following costs, which do not constitute election expenses, are not considered advertising expenses when incurred by a private intervenor:

- The cost of publishing articles, editorials, news, reports or letters to the editor in a newspaper, periodical or other publication, provided that they are published in the same manner and under the same rules as outside the election period, without payment, reward or promise of payment or reward; that the newspaper, periodical or other publication is not established for the purposes or in view of the election; and that the circulation and frequency of publication are the same as outside the election period (s. 404[1]);
- The cost of broadcasting by a radio or television station of a public affairs, news or public opinion program, provided that the program is broadcast in the same manner and under the same rules as outside the election period, without payment, reward or promise of payment or reward (404[3]).

2.2 Advertising expense limit

The *Election Act* sets a limit on the amount of advertising expenses that a private intervenor may incur. Over the election period, a private intervenor may not pay or incur more than \$300 in advertising expenses to express views on a matter of public interest or to advocate abstention or the spoiling of ballots. Such expenses must not directly promote or oppose any candidate or party. In this context, such expenses are not considered election expenses (s. 404[13]).

No person may accept or fulfill an order for advertising expenses that are not made or authorized by a private intervenor (s. 416).

The cost of goods or services used to produce and publish or broadcast advertisements for a private intervenor cannot exceed \$300.

No private intervenor may circumvent the advertising expense limit, including by paying or incurring an expense jointly with any person, or by incurring an expense individually but in agreement, collusion or association with any person (s. 457.14).

In cases where the private intervenor is a group of electors, only the group representative may make or incur expenses on its behalf (s. 457.16).

2.3 Identification of advertising

The *Election Act* requires that all advertising by private intervenors be identified.

Accordingly, any advertising copy, object or material concerning the matter of public interest for which the private intervenor has received authorization must indicate the name of the printer or manufacturer, the name of the elector or group representative who had it produced, his or her title as private intervenor, and the authorization number that the returning officer has assigned to the private intervenor.

Any advertisement concerning the matter of public interest for which the private intervenor has received authorization and published in a newspaper or other publication must include the name of the elector or the group representative who had it published, his or her title as private intervenor, and the authorization number assigned to the private intervenor.

Where an advertisement concerning the matter of public interest for which the private intervenor has received authorization is broadcast on radio, on television or by means of any other medium or information technology, the name of the elector or the group representative, his or her title as private intervenor, and the authorization number assigned to the private intervenor must be mentioned at the beginning or at the end of the advertisement (ss. 421 and 421.1).

We recommend using one of the following templates:

Authorized by _____
Elector's name

Private intervenor in the electoral division of _____
Electoral division

Name of printer or manufacturer (where applicable) _____
Name

OR

Authorized by _____
Group representative's name

For the group _____
Group's name

Private intervenor in the electoral division of _____
Electoral division

Name of printer or manufacturer (where applicable) _____
Name

2.4 Paying expenses

An individual elector acting as a private intervenor is required to pay the cost of any expenses out of his or her own funds. In cases where the private intervenor is a group of electors, the electors belonging to the group are required to pay the cost of any expenses out of their own funds.

A private intervenor must discharge all expenses by means of a cheque or order of payment drawn on the private intervenor's account in a bank, trust company or financial services cooperative having an office in the province of Québec. Such a cheque or order of payment must be signed by the private intervenor himself or herself, in the case of an individual elector, or by the representative, in the case of a group of electors (s. 457.15).

An individual elector acting as a private intervenor or group representative may not pay an expense of \$25 or more without acquiring a supporting document, namely an itemized invoice. Such an invoice must list the goods or services provided, as well as their rate or unit price (s. 457.17).



3

Return of expenses

→ Within 30 days following polling day, a private intervenor is required to provide the Chief Electoral Officer with a return of all expenses incurred, using the form titled “Return of expenses of a private intervenor” (DGE-708). In the case of a group, the group representative is responsible for submitting this return (s. 457.18).

The return of expenses must be accompanied by invoices, receipts and other supporting documents, or by certified copies of such documents (s. 457.18).

The return must be signed by the individual elector acting as a private intervenor or by the group representative.

A return of expenses needs to be filed with the Chief Electoral Officer even in cases where no advertising expenses have been incurred. The private intervenor simply needs to enter “zero” in the appropriate boxes.

The Chief Electoral Officer will publish a report summarizing the returns of expenses within 90 days following the deadline for filing the form titled “Return of expenses of a private intervenor” (ss. 457.19 and 435).

The Chief Electoral Officer will keep the returns on file permanently. He or she will also retain declarations, invoices, receipts and other supporting documents for a period of seven years after they are received. During this time, he or she is required to make such documents available for consultation and copying by the public. At the end of the retention period, the Chief Electoral Officer is required to return the invoices, receipts and other supporting documents to the private intervenor upon the latter’s request. In the absence of such a request, the documents may be destroyed (ss. 457.19 and 436).



4 Forms to use

- Application for authorization of a private intervenor: elector (DGE-705)
- Application for authorization of a private intervenor: group (DGE-706)
- Return of expenses of a private intervenor (DGE-708)

These forms are available on the Élections Québec website, at **electionsquebec.qc.ca**.