

CONSOLIDATION OF NUNAVUT ELECTIONS ACT

S.Nu. 2002,c.17

In force September 8, 2003: SI-005-2003

(Current to: May 1, 2014)

The following provisions have been deleted for the purposes of this consolidation:
s.273 to 278 (Consequential Amendments)

AS AMENDED BY:

S.Nu. 2005,c.3,s.11

s.11 in force March 22, 2005

S.Nu. 2005,c.14

In force December 2, 2005

S.Nu. 2007,c.3

In force March 29, 2007

S.Nu. 2008,c.9

In force June 4, 2008

S.Nu. 2008,c.10,s.45

s.45 in force April 1, 2013: SI-001-2013

S.Nu. 2010,c.26

In force November 4, 2010

S.Nu. 2011,c.6,s.19

s.19 in force February 25, 2011

S.Nu. 2011,c.11,s.1

s.1 in force March 10, 2011

S.Nu. 2011,c.17

In force June 9, 2011

S.Nu. 2011,c.24,s.2

s.2 in force September 23, 2013

S.Nu. 2012,c.17,s.21

s.21 in force June 8, 2012

S.Nu. 2012,c.21,s.1

s.1(1),(5) in force November 5, 2012

s.1(2),(3),(6) in force September 23, 2013

s.1(4) NIF

S.Nu. 2013,c.6

In force March 19, 2013

S.Nu. 2013,c.18,s.12

s.12 in force September 23, 2013

S.Nu. 2013,c.26,s.89

s.89 in force September 17, 2013

S.Nu. 2014,c.5,s.2

s.2 in force March 19, 2014

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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Schedule

NUNAVUT ELECTIONS ACT

PART I

GENERAL PROVISIONS

Purpose of this Act

Main purpose

1. (1) The purpose of this Act is to establish a regime for the election of members of the Legislative Assembly that promotes the meaningful exercise of the democratic rights and freedoms of the residents of Nunavut and the equality of opportunity to participate in determining the outcome of elections and the formation of the government.

Basic principles

(2) To achieve its purpose, this Act revises and consolidates the legislation respecting elections on the basis of the following principles:

- (a) the electoral system should encourage participation by every voter in Nunavut and help make it easy for every voter to vote if they wish to, taking into consideration the unique circumstances in Nunavut;
 - (b) the rules governing elections should minimize barriers for potential candidates;
 - (c) candidates have the responsibility of being role models and leaders for their community;
 - (d) there should be public awareness of all aspects of elections;
 - (e) information at every stage of the election process should be in the Official Languages of Nunavut;
 - (f) there should be as much cooperation as possible with other jurisdictions and levels of government, and among organizations administering elections within Nunavut, to share information and resources, to learn together, to pool and train staff and to deliver better election services to Nunavummiut;
 - (g) elections should be run as effectively and efficiently as possible;
 - (h) the rules governing elections should incorporate flexibility to address unique circumstances in Nunavut as they arise, be they geographic, demographic, linguistic, or otherwise, in addition to new technologies; and
 - (i) the election process should be evaluated frequently, to learn from experience and ensure it is meeting the needs of Nunavummiut.
- S.Nu. 2008,c.10,s.45(2).

Interpretation

Definitions

2. (1) In this Act,

"advance vote" means a poll held before election day; (*scrutin par anticipation*)

"approved" means as approved by the Chief Electoral Officer; (*approuvé*)

"campaign" means to make public statements or issue campaign material promoting or opposing a candidate in an election; (*faire campagne*)

"campaign manager" means a campaign manager appointed under section 76; (*directeur de campagne*)

"campaign material" means any advertisement, including advertisements on the radio, television and the Internet as well as placards, posters or banners, in favour of or on behalf of a candidate or against a candidate; (*matériel utilisé au cours de la campagne électorale*)

"candidate" means a person whose declaration of candidacy at an election is accepted under subsection 75(4); (*candidat*)

"charitable organization" means

- (a) a society as defined in the *Societies Act*, in good standing,
- (b) a charitable organization within the meaning of the *Income Tax Act* (Canada), or
- (c) a municipal corporation; (*organisme de charité*)

"Chief Electoral Officer" means the Chief Electoral Officer appointed under section 188; (*directeur général des élections*)

"close of candidacy" means 2:00 p.m. on the 31st day before election day; (*clôture des candidatures*)

"constituency" means a geographic area, described in accordance with section 31, that is represented by a member of the Legislative Assembly; (*circonscription*)

"contribution" includes money, services and goods but does not include volunteer labour or any goods produced by volunteer labour; (*contribution*)

"court" means the Nunavut Court of Justice, except in paragraph 11(2)(b); (*Cour*)

"election" means an election of a member to the Legislative Assembly; (*élection*)

"election day" means the day fixed by a writ for the holding of an election; (*jour du scrutin*)

"election expense" means any amount paid or liability incurred during an election period to campaign in an election, including

- (a) any contribution of services or goods, and
- (b) the costs of any staff working for a candidate, including a financial agent and any campaign manager; (*dépense électorale*)

"election officer" means

- (a) the Chief Electoral Officer,
- (b) any person acting as the Chief Electoral Officer,
- (c) a returning officer,
- (d) an assistant returning officer,
- (e) a supervisory deputy returning officer,
- (f) a deputy returning officer,
- (g) a poll clerk, and
- (h) a registration clerk; (*officier d'élection*)

"election period" means the period commencing with the date of a writ for an election and terminating at the close of polls on election day or the day the writ is withdrawn; (*période électorale*)

"family", when used with reference to a person, means

- (a) his or her spouse and minor children, and
- (b) anyone who is related to the person or his or her spouse, shares a residence with the person and is primarily dependent on the person or spouse for financial support; (*famille*)

"financial agent" means the person appointed by a candidate to be responsible for managing the financial and reporting requirements for the candidate; (*agent financier*)

"financial return" means the return respecting election contributions and expenses required under section 180, including the declarations by the candidate and financial agent required by that section; (*rapport financier*)

"Integrity Commissioner" means the Integrity Commissioner as defined in the *Integrity Act*; (*commissaire à l'intégrité*)

"liquor" means liquor as defined in the *Liquor Act*; (*boisson alcoolisée*)

"Management and Services Board" means the Management and Services Board under the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

"polling place" means any place for voting under this Act, including a central polling place, a polling station, a mobile poll and the office of the returning officer when used for voting; (*lieu de scrutin*)

"polling record" means the document containing the name and other particulars of every person on the voters list and to which other voting particulars are added by the poll clerk; (*cahier du scrutin*)

"polling station" means premises secured by a returning officer for the taking of the votes on election day or the day of the advance vote and to which some or all of the voters list is allotted; (*bureau de scrutin*)

"post election period" means the 60 day period after election day; (*période postélectorale*)

"pre-election expense" means any amount paid or liability incurred during a pre-election period to promote or oppose the election of a person who may be a candidate at a future election, and includes any contribution of services or goods; (*dépenses préélectorales*)

"pre-election period" means

- (a) in the case of a general election held in accordance with the fixed election day under subsection 36(3.1), the 90 day period before the writ is issued, or
- (b) in the case of any other election, the period beginning from the day when the date of election is publicly announced and ending on the day when the writ is issued; (*période préélectorale*)

"satisfactory evidence of identity" means documentary evidence of a person's identity approved as being satisfactory by the Chief Electoral Officer; (*preuve suffisante d'identité*)

"send" means to send by mail, hand delivery, courier, facsimile transmission, or where specifically authorized, by electronic transmission; (*envoyer*)

"Speaker" means the Speaker of the Legislative Assembly under the *Legislative Assembly and Executive Council Act*; (*président*)

"vote" means to vote in an election; (*vote*)

"voter" means a person who has the right to vote in an election under section 7; (*électeur*)

"writ" means a writ of election. (*décret*)

Local time

(2) For the purposes of this Act, all references to time shall be interpreted as a reference to the local time in the relevant place, unless otherwise provided.

Overlapping time zones

- (3) In a constituency in which two or more local times are observed,
- (a) the returning officer shall determine the hours of the day for every activity under this Act with the approval of the Chief Electoral Officer;
 - (b) the returning officer shall give public notice of the uniform hour; and
 - (c) those hours, after public notice to that effect has been given, shall be uniform throughout the constituency.
- S.Nu. 2005,c.14,s.2; S.Nu. 2007,c.3,s.2; S.Nu. 2011,c.17,s.2;
S.Nu. 2013,c.6,s.2(1); S.Nu. 2011,c.24,s.2(2).;
S.Nu. 2014,c.5,s.2(2).

Application

Application

- 3.** (1) This Act applies to the election of members to the Legislative Assembly.

Government bound

- (2) This Act is binding on the Government of Nunavut.

Determining Residence

Residence rules

- 4.** (1) For the purposes of this Act, the place of residence of a person shall be determined by reference to all the facts of the case and by the provisions of this section, as far as they are applicable.

Place of home or dwelling

- (2) The residence of a person is the place of the person's home or dwelling in which he or she actually resides.

Absence for temporary purpose

- (3) A person does not lose residence in the place of the person's home or dwelling by leaving it for a temporary purpose, including
- (a) the pursuit of education at an educational institution, whether inside or outside Nunavut; or
 - (b) temporary employment at a place, whether inside or outside Nunavut.

Limit on absence for temporary purpose

- (4) A person who leaves his or her home or dwelling for more than 10 months is considered to have lost residence in that place, except in the case of a full time student who is attending an educational institution and working toward a degree, diploma or certificate.

Selection of residence

(5) A person to whom subsection (3) applies may, instead of the place of the person's home or dwelling, select the place where the person is temporarily residing as his or her place of residence.

Homeless persons

(6) The residence of a person who has no home or dwelling is any place offering food or lodging where the person usually sleeps or takes meals.

Single residence

(7) A person may have a residence in only one place and, if a person maintains a home or dwelling in more than one place, the person must select one home or dwelling as his or her place of residence.

Prisoners

(8) Despite subsections (3), (4) and (5), a person who is confined to a penal or correctional institution shall select one of the following places of residence:

- (a) the person's place of residence before being confined; or
- (b) the place where the person's family resides.

Deemed residence

(9) A place of residence selected by a person under this section shall be deemed to be the place in which the person resides.

Change of residence during general election

(10) A person who changes his or her place of residence from one constituency to another after the day the writ is issued in a general election may vote in the constituency to which he or she moved by registering to vote in that new place in accordance with section 65.

Residence for by-election

(11) No person is entitled to vote at a by-election unless he or she is resident in the constituency on the day the writ is issued and continues to be resident in the constituency until election day.

Seasonal residence

(12) No person is to be considered resident in a home or dwelling that the person occupies seasonally for a period not exceeding a total of 180 days a year, unless at the time of an election the person has no residence in any other place. S.Nu. 2005,c.14,s.3; S.Nu. 2007,c.3,s.3, S.Nu. 2011,c.17,s.3.

Official Languages

Use of official languages

5. (1) The Official Languages of Nunavut apply in respect of each constituency at an election.

Materials for translation

(2) The Chief Electoral Officer shall ensure that all election materials for public use must be provided to the returning officer in the Official Languages.

Late transmission

(3) Where it is not possible to prepare and deliver a copy of a document in an Official Language within the required time, the Chief Electoral Officer shall ensure that it is delivered at the earliest possible time. S.Nu. 2008,c.10,s.45(3),(4),(5).

Languages of election officers

6. (1) Election officers should be appointed to represent the languages spoken in the community in which they will be performing their functions.

Interpreters

(2) Where a deputy returning officer or poll clerk does not understand the language spoken by a voter, the deputy returning officer shall, where possible, appoint and swear in an interpreter, who shall translate communications between the deputy returning officer and the voter.

Validity of election

(3) The failure to comply with any provision of this section shall not affect the validity of an election.

PART II

DEMOCRATIC RIGHTS

Voting Rights

Right to vote

7. (1) Every person has a right to vote in an election if, on election day, the person is or would be

- (a) a citizen of Canada;
- (b) at least 18 years of age; and
- (c) a resident in Nunavut for a consecutive period of at least 12 months.

Disqualification

(2) A person who is otherwise qualified to be a voter is not entitled to vote if, on election day, the person

- (a) is subject to a regime established to protect the person or the person's property, pursuant to the law of Nunavut, a province or a

- territory, because the person is incapable of understanding the nature and appreciating the consequences of the person's acts;
- (b) is involuntarily confined to a psychiatric or other institution as a result of being acquitted of an offence under the *Criminal Code* by reason of a mental disorder; or
 - (c) had been convicted, within the previous five years, of an offence under this Act or an elections offence under an enactment of Canada, Nunavut, a province or another territory.
- S.Nu. 2005,c.14,s.4.

Secret ballot

- 8.** A voter has a right to vote by secret ballot.

One vote

- 9.** (1) The right to vote may only be exercised once in an election.

Voting in a constituency

- (2) A voter may only vote in the constituency in which the voter is considered to reside under this Act.

Right to time to vote

- 10.** (1) A voter has a right to two consecutive hours for the purpose of casting his or her vote and, if the hours of employment of the voter do not allow for two consecutive hours, the employer shall allow the voter any additional time for voting that may be necessary to provide these two consecutive hours.

Convenience of employer

- (2) The time off work for voting shall be granted at the convenience of the employer and no employer shall penalize the voter for not working during that time.

Deduction in pay or penalties

- (3) No employer shall make any deduction from the pay of an employee or impose on or exact from an employee any penalty by reason of the absence of the employee from work during these consecutive hours.

Hourly and piece-work workers

- (4) A voter who is paid on an hourly, piece-work or other basis and who would normally work during the period of time off work that an employer is required to grant under this section has a right to be paid for that time at the voter's average rate of pay for equivalent time.

Deemed deduction in pay

- (5) For the purposes of this section, an employer shall be deemed to have made a deduction from the pay of an employee if the employer does not pay the employee the amount that the employee would normally have earned during the time the employee was absent for the purpose of casting his or her vote.

Exempted voters

(6) This section does not apply to any election officer or member of the staff of Elections Nunavut or to any employee who, by reason of employment, is so far away from a polling place that the employee would be unable to reach a polling place during the hours it is open. S.Nu. 2013,c.6,s.25.

Rights of Candidacy

Right to be a candidate

11. (1) Subject to this section, every person has a right to be a candidate in an election if, on election day, the person is qualified to vote in the election.

Eligibility of non-resident candidates

(1.1) Despite being prohibited from voting in a constituency pursuant to subsection 9(2), a person who does not reside in the constituency is eligible to be a candidate in the constituency if, on election day, the person otherwise meets the requirements of section 7 and subsections (2) to (4).

Disqualification

(2) A person who is otherwise qualified is not entitled to be a candidate if, on the day the person files his or her declaration of candidacy, the person

- (a) is a member of the House of Commons or the Senate or a member of the legislature of any province or of another territory;
- (b) is a judge of any court, other than a citizenship court;
- (c) is a member of the staff of the Office of the Chief Electoral Officer;
- (d) is an election officer;
- (e) is prohibited under the *Public Service Act*; or
- (f) **repealed, S.Nu. 2011,c.17,s.4(3)(b);**
- (g) is confined to a penal or correctional institution.
- (h) **repealed, S.Nu. 2007,c.3,s.5(2).**

Ineligible candidates — no financial return

(2.1) A person is not eligible to be a candidate if, on the day the person files his or her declaration of candidacy,

- (a) the person was a candidate or financial agent in a previous election;
- (b) the financial return required for the previous election was not prepared, sent to and received by the Chief Electoral Officer in accordance with this Act, as it read at that time; and
- (c) the period of time between the deadline for sending the financial return, including any lawful extension of time, and election day is five years or less.

Ineligible candidates – non-compliance

(2.2) A person is not eligible to be a candidate if, on the day the person files his or her declaration of candidacy,

- (a) the person signed a compliance agreement in respect of a previous election;
- (b) the person did not comply with the compliance agreement; and
- (c) the period of time between the date of non-compliance, as determined by the Integrity Commissioner, and election day is five years or less.

Ineligible candidates — convicted members

(3) A member of the Legislative Assembly who has been charged or convicted of an offence under a statute of Nunavut or Canada and who, as a result of that charge or conviction, has ceased to be a member is not eligible to be a candidate until five years after the member's successor has been elected.

Meaning of "as a result of that charge or conviction"

(4) For the purposes of subsection (3), a member ceases to be a member as a result of that charge or conviction if

- (a) the person ceases to be a member under subsection 11(1) of the *Legislative Assembly and Executive Council Act*;
- (b) the member's seat was declared vacant by the Legislative Assembly under subsection 11(2) of the *Legislative Assembly and Executive Council Act*; or
- (c) the person resigns as a member of the Legislative Assembly, where the reason, or one of the reasons, for resigning is that the member was charged with or convicted of the offence.

S.Nu. 2005,c.14,s.55; S.Nu. 2007,c.3,s.5 ; S.Nu. 2011,c.17,s.4.

Single candidacy

12. (1) No person may be a candidate in more than one constituency at the same time.

Prohibited pledges

(2) A person forfeits the right to be a candidate if they sign any document prohibited by section 259.

Election void

13. The election of any person who is ineligible to be candidate is void.

Campaigning in Election**Prohibited campaigning**

13.1 (1) Subject to subsection (2), the following persons or entities shall not campaign in an election:

- (a) any individual who is not resident in Nunavut;
- (b) any corporation or other entity that
 - (i) is not incorporated, established or continued by or under the laws of Nunavut, and
 - (ii) does not carry on business in Nunavut in compliance with any registration or licensing requirements applicable to it under the laws of Nunavut.

Exceptions

(2) Subsection (1) does not prohibit a person or entity from merely declaring support for a candidate, making general statements on an issue of public policy or personally displaying campaign material, if done in good faith and not for any purpose related to the manipulation or oppression of a voter or to circumvent the provisions of this Act respecting contributions and election expenses.

No interference at work

(3) No person shall, at his or her place of work, influence or induce an employee, worker or person under his or her supervision or control to campaign in an election, unless campaigning is within the duties of that employee, worker or person.

Prohibition

(4) No election officer or member of the staff of Elections Nunavut shall campaign in an election. S.Nu. 2013,c.6,s.3.

PART III

CONSTITUENCIES AND POLLING STATIONS

Electoral Boundaries Commission

Decennial adjustment

14. A Boundaries Commission must be established for Nunavut every 10 years commencing in 2022. S.Nu. 2011,c.17,s.5.

15. Repealed, S.Nu. 2011,c.17,s.6.

Establishment of Boundaries Commission

16. (1) The Legislative Assembly shall, by resolution, establish a Boundaries Commission where one is required.

Duty of Commission

(2) A Boundaries Commission is responsible for proposing to the Legislative Assembly the boundaries and names of the constituencies in Nunavut in accordance with this Act.

Termination of Commission

(3) A Boundaries Commission terminates upon the tabling of its report in the Legislative Assembly.

Membership

17. (1) A Boundaries Commission is composed of a presiding member and two other persons appointed by the Commissioner on the recommendation of the Legislative Assembly.

Presiding member

(2) A judge or retired judge of the Nunavut Court of Justice or the Court of Appeal must be appointed as the presiding member of a Boundaries Commission.

Two other members

(3) Two persons entitled to vote must be appointed as the other two members of a Boundaries Commission.

Deputy presiding member

(4) A Boundaries Commission may appoint one of its members to act as a deputy presiding member where the presiding member is absent, incapable or unable to act or where the office of presiding member is vacant.

Termination of office

(5) The term of office for each member of a Boundaries Commission ends when the report of a Boundaries Commission is tabled in the Legislative Assembly.

Ineligibility of members

(6) No member of the Parliament of Canada, the Legislative Assembly, a municipal council or a member of the legislature of a province or another territory is eligible to be appointed as a member of a Boundaries Commission.

Vacancy

(7) Where there is a vacancy in the membership of a Boundaries Commission at a time when the Commission is performing or is required to perform any duty under this Act, the vacancy shall be filled as soon as possible, and if the Legislative Assembly is not then sitting, the appointment must be made on the recommendation of the Management and Services Board.

Effect of vacancy

(8) A vacancy in the membership of a Boundaries Commission does not impair its power.

Remuneration of members

18. A member of a Boundaries Commission is entitled to be paid

- (a) such remuneration as may be fixed by the Management and Services Board, unless the member receives a salary under the *Judges Act*; and
- (b) such reasonable living and travelling expenses as may be incurred by the member while performing the member's duties away from home.

Quorum

19. (1) The quorum of a Boundaries Commission is the presiding member and one other member.

Deciding vote

(2) The presiding member shall preside over a Boundaries Commission and shall have a second deciding vote in case of an equality of votes at any of its meetings.

Powers

- 20.** (1) A Boundaries Commission
- (a) has all the powers of a Board established under Part I of the *Public Inquiries Act*;
 - (b) may establish rules to regulate its proceedings and the conduct of its affairs, including the conduct of its public hearings; and
 - (c) may employ such staff as it considers necessary.

Not agent of government

(2) A Boundaries Commission is not an agent of the Government of Nunavut and its members are not members of the public service by virtue of their appointment.

Staff

(3) The Clerk of the Legislative Assembly shall hire and fix the remuneration and terms of employment of the staff of a Boundaries Commission.

Mapping services

(4) The Chief Electoral Officer shall provide such maps, mapping services and data as are required by a Boundaries Commission.

Factors for constituency boundaries

21. (1) A Boundaries Commission shall establish the boundaries of constituencies on the basis of the following factors:

- (a) geographic and demographic considerations, including the density or rate of growth of the population of any part of Nunavut and the accessibility, size or shape of any part of Nunavut;
- (b) the need for the populations of the constituencies to be of similar size;
- (c) any special community or diversity of interests of the inhabitants of any part of Nunavut;
- (d) the means of communication among various parts of Nunavut;

- (e) the minimum number of members of the Legislative Assembly authorized by the *Nunavut Act* (Canada);
- (f) Inuit Qaujimajatuqangit;
- (g) any guidelines or criteria proposed for the consideration of the Commission by resolution of the Legislative Assembly;
- (h) section 15 of the *Canadian Charter of Rights and Freedoms*; and
- (i) any other relevant factors that the Commission considers appropriate.

Single areas

- (2) The constituencies shall be established so that
 - (a) each constituency is a single area and not composed of isolated areas that are separated from one another by another constituency; and
 - (b) no area of Nunavut lies outside the boundaries of a constituency.

Proposing names

22. (1) A Boundaries Commission may, in accordance with Inuit Qaujimajatuqangit, propose the name for a constituency.

Request for names

(2) Before proposing a name for a constituency, a Boundaries Commission shall consult with any affected municipal council and with the toponymist for Nunavut.

Public Hearings

Public hearing

23. (1) A Boundaries Commission shall hold public hearings to receive representations from interested persons before making its report.

Publication of notice

(2) A Boundaries Commission shall give reasonable notice of the public hearing by such means as it considers appropriate in the circumstances.

Content of public notice

(3) The public notice shall contain the prescribed information.

(4) **Repealed, S.Nu. 2010,c.26,s.2(2).**
S.Nu. 2010,c.26,s.2.

Place of hearings

24. (1) A Boundaries Commission may conduct its public hearings in any place or places it considers appropriate.

Conduct of public hearings

(2) The public hearings shall be conducted in accordance with such rules as may be made by a Boundaries Commission.

Representations

25. Any person, including any member of the Legislative Assembly, may make representations at a public hearing or submit written submissions to it.

Report of a Boundaries Commission

Commission's report

26. (1) After considering any submissions and representations made to it, a Boundaries Commission shall prepare a report that

- (a) specifies the number of constituencies;
- (b) divides Nunavut into constituencies;
- (c) includes a map of the boundaries of each constituency;
- (d) describes the boundaries of each constituency;
- (e) estimates the population in each proposed constituency;
- (f) gives the reasons justifying the new boundaries in the light of the factors upon which the boundaries are to be based; and
- (g) proposes the name of each constituency and the reasons for any change to the name of a constituency.

Deadline

(2) The report shall be completed within 250 days of the day the Boundaries Commission is established.

Extension of deadline

(3) The Legislative Assembly may grant an extension to the deadline for completion of the report, not exceeding a further six months, where a general election is held before the report is completed.

Forwarding copies of the report

27. (1) A Boundaries Commission shall forward certified copies of its report to the Chief Electoral Officer, the Speaker and the Clerk of the Legislative Assembly.

Availability of report

(2) The Clerk shall

- (a) deliver a copy of the Commission report to each member of the Legislative Assembly; and
- (b) make copies of the Commission report available to the public at the office of the Clerk.

Report available to public

(3) The Chief Electoral Officer shall make copies of the Commission report available to the public at his or her office.

Laying report before Legislative Assembly

(4) The Speaker shall, at the first opportunity, lay a copy of the Commission report before the Legislative Assembly.

Consideration by Legislative Assembly

(5) The Legislative Assembly must consider the report of the Commission as soon as practicable. S.Nu. 2005,c.14,s.6.

Constituencies Bill

Preparation of draft bill

28. Upon receiving the report of a Boundaries Commission, the Chief Electoral Officer shall, when necessary, prepare for the Speaker a draft bill that, in accordance with the report of the Boundaries Commission,

- (a) specifies the number of constituencies;
- (b) divides Nunavut into constituencies;
- (c) describes the boundaries of each constituency; and
- (d) specifies the name of each constituency.

Introduction of bill

29. (1) The draft bill must be introduced in the Legislative Assembly at the earliest opportunity after the day the Speaker receives it.

Commencement

(2) Any Act respecting the boundaries of constituencies comes into force on the 1st day following the day the Legislative Assembly dissolves, but no earlier than six months after the day the bill was enacted.

Effective date

(3) Any Act respecting the boundaries of constituencies shall be effective on the day it is enacted for the purpose of enabling the appointment of returning officers.

Interpretation

30. Any Act respecting the boundaries of constituencies shall be interpreted so that

- (a) no part of Nunavut lies outside a constituency;
- (b) geographical names are as specified in the report of a Boundaries Commission, as of the date specified in that report, unless the context otherwise requires; and
- (c) any inaccurate reference to the municipal status of a place does not invalidate the reference.

Constituencies

Constituencies

31. (1) Nunavut is divided into 22 constituencies with the names set out in Part 1 of the Schedule. Each language version of those names is equally authoritative.

Authoritative descriptions of constituencies

(2) The authoritative descriptions of the areas and boundaries of the constituencies are contained in the DVD entitled *Official Digital Version of Nunavut's Constituencies Maps 2011*, prepared by the Chief Electoral Officer in accordance with subsection 20(4) and the *Report of the 2011 Nunavut Electoral Boundaries Commission* dated June 7, 2011 and the Addendum to that report dated August 8, 2011, as revised in accordance with subsection (2.1).

Amendments to constituency names

(2.1) Where the constituency names appearing in Part I of the Schedule are amended, the Chief Electoral Officer shall, without delay, revise the DVD referred to in subsection (2) to reflect the new constituency names.

Maps for convenience

(3) For the purpose of convenience only, maps of the constituencies are included in Part 2 of the Schedule.

Availability

(4) The Chief Electoral Officer shall ensure that copies of the DVD referred to in subsection (2) and the maps in Part 2 of the Schedule are available to the public without charge. *See* S.Nu. 2011,c.24,s.2(3); S.Nu.2012,c.21,s.1(2),(3).

Establishment of Polling Stations

Polling stations for election day

32. (1) A returning officer shall establish at least one polling station for the constituency, at such place or places as best suit the convenience of voters for voting on election day and at the advance vote.

Basis of polling stations

(2) A returning officer shall organize the voters for the purpose of each polling station and shall

- (a) consider whether the groupings of voters previously established for the constituency need to be changed;
- (b) ensure that no polling station serves more than 550 voters, unless necessary; and
- (c) take into account any geographic or other factors that might affect the convenience of voters.

Mobile polling stations

(3) A returning officer shall, when required under this Act and in accordance with the directives of the Chief Electoral Officer, establish a mobile polling station on the day of the advance vote. S.Nu. 2005,c.14,s.7.

Descriptions to Chief Electoral Officer

33. (1) After establishing polling stations, a returning officer shall forward to the Chief Electoral Officer a description of the location and identification of each polling station.

Informing candidates

(2) As soon as possible after the close of candidacy, a returning officer shall forward to all candidates in the constituency a description of the location and identification of each polling station.

Mobile poll

(3) A returning officer shall give notice to the candidates of the itinerary of any mobile poll in accordance with the directives of the Chief Electoral Officer. S.Nu. 2007,c.3,s.36.

Central polling place

34. If it is more convenient for the voters, a returning officer may establish a central polling place consisting of two or more polling stations, instead of having several polling stations separately located in a single community.

Furnishing a polling station

35. (1) Every polling station shall be furnished with

- (a) a table with a hard smooth surface;
- (b) at least one voting compartment arranged so as to preserve the secrecy of the vote; and
- (c) a ballot box supplied by the Chief Electoral Officer and a sharpened pencil.

Registration station

(2) A returning officer shall, in any polling place, provide a place where voters who are not on the voters list may register on election day. S.Nu. 2013,c.6,s.25.

PART IV

ISSUE OF WRIT AND VOTER REGISTRATION

Proclamation and Writs

Proclamation

36. (1) The holding of an election in a constituency is instituted on instructions of the Commissioner, which must be in the form of a proclamation.

Contents of proclamation

(2) The proclamation shall

- (a) specify the election day and, in the case of a general election, the day of the return of the writs;
- (b) direct the Chief Electoral Officer to issue a writ of election to the returning officer of each constituency where an election is to be held; and
- (c) specify the date on which the writ of election is to be issued.

Consistency

(3) In the case of a general election, every constituency shall have the same election day and the same date of the return of the writs.

Fixed election day

(3.1) Subject to section 17 of the *Nunavut Act* (Canada), the election day for a general election must be the last Monday in October in the fourth calendar year following the election day for the most recent general election.

Election day

(4) Election day shall be a Monday that is not later than the 35th day after the date of the writ, but if that day is a holiday, election day shall be Tuesday the 36th day after the date of the writ.

If Tuesday is election day

(5) If election day is a Tuesday, the time limits in this Act shall be read as if election day were a Monday. S.Nu. 2014,c.5,s.2(3).

Issuance of writs

37. (1) The Chief Electoral Officer shall, without delay and in accordance with the proclamation, issue a writ of election to the returning officer of each constituency where an election is to be held.

Contents of the writ

(2) Each writ shall be in the prescribed form and shall

- (a) bear the date of its issue; and
- (b) specify the election day and, in the case of a general election, the date of the return of the writ.

Vacancy in Legislative Assembly

38. (1) Where the seat of a member becomes vacant for any reason, the Commissioner, on being informed of the vacancy, shall issue a proclamation for the issue of a writ for the election of a member to fill the vacancy, requiring that the election be held as soon as reasonably practicable and not later than six months after a seat becomes vacant.

Exception

(2) No proclamation shall be issued under subsection (1) where the vacancy in the Legislative Assembly occurs within six months before

- (a) the day on which the Legislative Assembly is to expire; or
- (b) the day announced for the holding of a general election.

Revocation of proclamation

(3) Where the Legislative Assembly is dissolved after the issue of a proclamation under subsection (1) and before an election is held to fill the vacancy, the proclamation and any writ that may have been issued under it are deemed to be withdrawn.

Office of the Returning Officer

Office of returning officer

- 39.** (1) A returning officer shall, no later than the date he or she receives a writ,
- (a) establish an office in a place that is easily accessible to most of the voters in the constituency; and
 - (b) keep the office open to the public and be available there during the election period in accordance with the directions of the Chief Electoral Officer.

Additional or shared offices

(2) A returning officer may, with the approval of the Chief Electoral Officer, establish additional offices or share an office with another returning officer.

Attendance in office

(3) A returning officer shall ensure that either the returning officer or the assistant returning officer is on duty in the office of the returning officer at all times during the normal business hours and those hours that the polls are open. S.Nu. 2005,c.14,s.8.

Public notice

40. A returning officer shall, in accordance with the regulations and the directions of the Chief Electoral Officer, give public notice concerning details of the election.

Writ Withdrawn or Superseded

Withdrawal of the writ

41. (1) The Commissioner in Executive Council may order the withdrawal of a writ for a constituency if, after consulting with the Chief Electoral Officer, the Commissioner in Executive Council is of the opinion that it is impracticable to hold an election in the constituency because of a disaster or similar event.

Notice of withdrawal

(2) The Chief Electoral Officer shall publish notice of any withdrawal of a writ in a special issue of the *Nunavut Gazette*.

Public notice

(3) The Chief Electoral Officer shall, without delay, send a notice of the withdrawal of the writ to the returning officer who shall, without delay, take all reasonable steps to give public notice of the withdrawal.

New writ

(4) The Chief Electoral Officer shall, no later than the 90th day after publication of the withdrawal of a writ in the *Nunavut Gazette*, issue a new writ to hold an election in the constituency.

Writ superseded by a general election

42. (1) A writ issued for a by-election shall be deemed to be withdrawn where a proclamation ordering the holding of a general election is issued before the election day for the by-election.

Deemed end of election period

(2) Where a writ is withdrawn or superseded, the election period shall end on the day notice of the withdrawal is published in the *Nunavut Gazette* or the date of the writ in the general election, as the case may be.

Collection of Information for Voters Lists

Preparation of voters lists

43. (1) The Chief Electoral Officer shall ensure the preparation of the voters lists for each constituency.

Methods available

(2) Voters lists may be compiled with information from any combination of the following sources:

- (a) direct registration of voters from time to time;
 - (b) lists of voters from Elections Canada;
 - (c) information from a previous final voters list;
 - (d) lists of voters used by municipalities and other local authorities;
 - and
 - (e) such other sources as the Chief Electoral Officer considers reliable.
- S.Nu. 2011,c.17,s.7.

Agreements

44. The Chief Electoral Officer may enter into agreements with the providers of information on voters respecting the privacy of that information, the provision of reciprocal information and other related matters.

Direct Registration of Voters

Direct registration

45. (1) The Chief Electoral Officer may at any time direct that voter information be collected by the direct registration of voters in a constituency and designate the periods during which the registration shall take place.

Notifying returning officers

(2) The Chief Electoral Officer shall notify each returning officer if a direct registration of voters in the constituency is required and shall specify the registration period.

Extension of registration period

(3) The Chief Electoral Officer may extend the registration period in respect of all or part of a constituency at the request of the returning officer.

Appointment of registration clerks

46. (1) If the direct registration of voters is required, a returning officer shall appoint sufficient registration clerks for the constituency and assign them responsibility for various areas in the constituency.

Eligible persons

(2) Any competent person is eligible to be appointed as a registration clerk.

Replacement

(3) A returning officer may revoke the appointment of a registration clerk at any time and appoint another. S.Nu. 2013,c.6,s.4.

List of registration clerks

47. (1) A returning officer shall prepare a list of the names and addresses of the registration clerks.

Access to list

(2) A returning officer shall, without delay after completing the list of registration clerks,

- (a) send a copy of the list to the Chief Electoral Officer; and
 - (b) permit any person to inspect the list at all reasonable times.
- S.Nu. 2011,c.6,s.19(2).

Duties of returning officer

48. (1) A returning officer shall supervise the registration clerks during the registration period and take all reasonable steps to ensure that every voter in the constituency is registered.

Notice

(2) At the beginning of the registration period, the returning officer shall give public notice that registration clerks will register voters.

Responsibility of registration clerks

49. (1) A registration clerk shall, during the registration period, make his or her best efforts to register every voter in the area or group for which the registration clerk is responsible by such methods as the returning officer and Chief Electoral Officer consider effective.

Record of information

(2) A registration clerk shall obtain and record information in respect of each voter in accordance with the regulations.

Registration card

50. (1) A returning officer may make registration cards available to the public to send to the returning officer if the registration clerk is unable to obtain information from voters personally.

Contents of registration card

(2) The registration card must contain the prescribed information.

Notice to disabled voters

(3) Where a registration clerk believes that a voter may have a disability that would interfere with voting at a polling station, the registration clerk shall give the voter written notice of the opportunities for special ballots and other special voting opportunities.

Using registration cards

51. (1) Any voter who is not directly or personally registered by a registration clerk may register by

- (a) filling in the voter's full name, sex, date of birth and such other information as may be required on the registration card;
- (b) signing the certification on the accuracy of the information set out on the card; and
- (c) sending the card to the returning officer at the address noted on the card or any other office of the returning officer.

Deadline

(2) Each voter who completes a registration card should allow sufficient time for delivery of the card to the returning officer before the end of the registration period.

Late card

(3) Where a registration card is received after the date referred to in subsection (2), a voter may still register and vote on election day in accordance with section 65. S.Nu. 2013,c.6,s.5.

Identification of registration clerks

52. (1) A registration clerk shall, while conducting the registration, wear or carry approved identification.

Entry into apartment buildings

(2) A registration clerk has, upon showing the approved identification, authority to enter any apartment building or other multiple residence for the purpose of registering the voters residing there.

Submission of information

53. (1) A registration clerk shall submit the voter information gathered during the registration process to the returning officer in such form and at such times and at such frequency as the returning officer may determine.

Certification of voter information

(2) A registration clerk shall, in the prescribed form, certify the voter information submitted to the returning officer.

Completion of registration

- (3) A registration clerk shall, by the end of the registration period,
- (a) complete the registration of voters; and
 - (b) submit to the returning officer any remaining voter information gathered.

Voters Lists

Issue of voters list

54. (1) The Chief Electoral Officer shall compile the voters list for each constituency without delay after the writ is issued.

Contents of voters lists

(2) The voters list must set out the qualified voters in the constituency, based on the most accurate information compiled under subsection 43(2).

Accuracy of information

(3) The Chief Electoral Officer shall take reasonable measures to verify the accuracy of information incorporated into a voters list.

Form of voters list

(4) The voters list shall be in the approved written or electronic form and arranged by alphabetical order, address or whatever other method is most convenient.

S.Nu. 2011,c.17,s.8.

Sending copies of voters list

55. (1) The Chief Electoral Officer shall, after compiling the voters list, send copies of it as follows:

- (a) one copy to each candidate in the constituency who requests it;
- (b) one copy to each returning officer.

Posting copy of list

(2) A returning officer shall, after receiving the voters list from the Chief Electoral Officer, post a copy of it in his or her office. S.Nu. 2011,c.17,s.9.

Voter Information Card

Sending the card

56. (1) A returning officer shall send a voter information card to every voter who is included on a voters list no later than the 34th day before election day.

Contents of voter information card

(2) The voter information card shall contain the prescribed information.

Changes to Voters List

Notice of voters list

57. A returning officer shall, immediately upon issue of the writ, give public notice of the voters list that includes

- (a) the name of the returning officer;
- (b) the place and times where voters can inspect the voters list;
- (c) the manner of making changes or objections to the voters list; and
- (d) the place and times for the determination of objections to the voters list.

S.Nu. 2011,c.17,s.10.

Duty of returning officer

58. (1) A returning officer shall, during the election period, continually revise the voters list for the constituency by

- (a) recording voters who were omitted from the voters list;
- (b) correcting voter information in the voters list; and
- (c) striking persons who are not entitled to be on the voters list.

Adding to voters list

(2) A returning officer shall add a voter to the voters list, or correct the information on the voters list, where

- (a) a proper registration card for the voter is received by the returning officer; or

- (b) the voter applies in person to the returning officer, provides identification and establishes that he or she is qualified to vote and is entitled to be on the voters list.

Striking from voters list

(3) A returning officer shall, in accordance with the directions of the Chief Electoral Officer, strike a person from the voters list where it is established to the satisfaction of the returning officer that

- (a) the person desires to be struck from the voters list;
 - (b) the person has moved from the constituency;
 - (c) the person is being added to a voters list for another constituency;
 - (d) the person is not qualified to vote in the constituency;
 - (e) the person has died; or
 - (f) the name of the person appears more than once on a voters list.
- S.Nu. 2005,c.14,s.9; S.Nu. 2007,c.3,s.7; S.Nu. 2011,c.17,s.11.

Objection to Voters List

Objection to voters list

59. (1) Any individual who believes that a person on a voters list is not qualified to vote may object to the inclusion of that person on the voters list by applying to the Chief Electoral Officer before the 20th day before election day.

Objection

- (2) An application under subsection (1) must be in the approved form and include
- (a) the name of the applicant;
 - (b) the postal address and phone number of the applicant;
 - (c) the name of the person to be struck; and
 - (d) the grounds for striking the person from the voters list.

Burden of proof

(3) Any individual objecting to the inclusion of a person on a voters list has the burden of proving that the person should be struck from the voters list.
S.Nu. 2011,c.17,s.12.

Notice to person

60. (1) Where an apparently valid objection is made under section 59, the Chief Electoral Officer shall, by the most expeditious means available, take reasonable steps to notify the person who is the subject of the objection of

- (a) the name of the individual making the objection;
- (b) the grounds for the objection;
- (c) the time and manner of responding to the objection; and
- (d) the evidence necessary to override the objection.

Determination of objection

(2) The Chief Electoral Officer shall, no later than the 17th day before election day,

- (a) consider the objection and any response made to it;
- (b) make whatever investigation the Chief Electoral Officer considers necessary;
- (c) make a decision on whether the person should be struck from the voters list; and
- (d) give written notice of the decision to the individual making the objection and the person who was the subject of the objection.

Revision of voters list

(3) The voters list must be revised where necessary to accord with the decision of the Chief Electoral Officer. S.Nu. 2011,c.17,s.13.

General power

61. The Chief Electoral Officer may revise the voters list in any case where the Chief Electoral Officer is satisfied that it is necessary to strike duplicate names or to correct inaccurate information. S.Nu. 2011,c.17,s.14.

62. Repealed, S.Nu. 2011,c.17,s.15.

Sending Voters List to Candidates**Distribution of voters list**

63. No later than the 20th day before election day, the Chief Electoral Officer or the returning officer shall send a copy of the most accurate voters list to each candidate in the constituency. S.Nu. 2011,c.17,s.16.

64. Repealed, S.Nu. 2011,c.17,s.17.

Registration at Place of Voting**Right to register to vote**

65. (1) Any voter who is not on the voters list for the constituency may register to vote if the voter

- (a) attends a polling place; and
- (b) establishes his or her identity, place of residence and right to vote in the constituency and signs a registration form, in accordance with the regulations.

Registering voters

(2) Where a voter complies with subsection (1), the deputy returning officer, or other election officer designated for this purpose, shall

- (a) complete the registration form in accordance with the regulations;

- (b) add the voter to the voters list; and
 - (c) send the attached copies of the registration form in accordance with the distribution requirements of the form.
- S.Nu. 2011,c.17,s.18; S.Nu. 2013,c.6,s.25.

Final Voters List

Final voters list

- 66.** (1) The Chief Electoral Officer shall, as soon as possible after election day, prepare a final voters list for the constituency by
- (a) recording voters who were omitted from the voters list, including those who registered in accordance with section 65;
 - (b) correcting voter information in the voters list; and
 - (c) striking persons who are not entitled to be on the voters list.

Distribution to member

- (2) The Chief Electoral Officer shall send a copy of the final voters list to the member elected for the constituency. S.Nu. 2011,c.17,s.19.

Administrative Matters

Public Access

- 67.** (1) Subject to subsection (2), a returning officer shall keep available in the returning officer's office a copy of the voters list and shall permit any person to inspect it during office hours during the election period.

Protection of voter information

- (2) The Chief Electoral Officer may issue directions that the address of voters or other information about voters on a voters list be removed or obscured to protect their privacy or security. S.Nu. 2011,c.17,s.20.

Restricted use of voters lists

- 68.** (1) No person shall copy or use a voters list prepared under this Act for any purpose other than an election or plebiscite under this Act, the *Plebiscites Act* or another enactment, or an election or referendum under the *Canada Elections Act* or the *Referendum Act* (Canada).

Access to Information and Protection of Privacy Act

- (2) This section applies despite any provisions to the contrary in the *Access to Information and Protection of Privacy Act*. S.Nu. 2013,c.6,s.6.

Marks in lieu of signatures

- 69.** A voter who must sign a document under this Act but is unable to write may place a distinctive mark on the document instead if a witness who can attest to the voter's identity also signs the document.

PART V

HOLDING AN ELECTION

Declaration of Candidacy

Declaration of candidacy

70. (1) Any person eligible to be a candidate may make a written declaration of candidacy in the approved form that he or she intends to be a candidate for a constituency in which an election is to be held.

Filing period

(2) The declaration of candidacy must be filed at the office of the returning officer any time between the day the writ is issued and 2:00 p.m. on the 31st day before election day. S.Nu. 2007,c.3,s.8.

Delegation of power

71. (1) With the prior approval of the Chief Electoral Officer, a returning officer may, on the approved form, delegate to a person in a community the power of the returning officer to accept declarations of candidacy.

Powers of delegate

(2) Where a returning officer delegates the power to accept declarations of candidacy, the delegate shall

- (a) have all the powers of the returning officer to accept declarations of candidacy; and
- (b) comply with this Act and any instructions given by the returning officer.

S.Nu. 2007,c.3,s.36.

Financial agent

72. (1) A prospective candidate shall, in the declaration of candidacy, appoint a person as his or her financial agent.

Eligibility to act as financial agent

(2) The following persons are not eligible to act as financial agents:

- (a) a candidate;
- (a.1) an individual not resident in Nunavut;
- (a.2) a corporation, unless it is authorized to carry on the business of accounting in Nunavut;
- (b) a returning officer, assistant returning officer, deputy returning officer or poll clerk; or

- (c) a person prohibited under the *Public Service Act*.

Effective date

(3) The appointment of a person as a financial agent takes effect from the moment the person signs the declaration of candidacy in that capacity.

Change in financial agent

(4) A candidate shall give written notice to the returning officer of any appointment of a new financial agent. S.Nu. 2005,c.14,s.10; S.Nu. 2007,c.3,s.36.

Declaration of candidacy

73. (1) The declaration of candidacy must be in the approved form and must include the prescribed information.

- (2) **Repealed, S.Nu. 2007,c.3,s.9.**

Signature by candidate

(3) A prospective candidate shall sign the declaration of candidacy in the presence of a voter who shall also sign the declaration of candidacy as witness to the prospective candidate's signature.

Declaration of financial agent

(4) A financial agent shall

- (a) declare, in writing, on the approved form, that he or she is aware of and accepts a financial agent's duties under this Act; and
- (b) sign the declaration of candidacy in the presence of a voter who shall also sign the declaration of candidacy as witness to the financial agent's signature.

- (5) **Repealed, S.Nu. 2007,c.3,s.9.**

S.Nu. 2007,c.3,s.9,36.

Candidate photographs

73.1. If a candidate wishes to assist the voters by having his or her photograph displayed in each polling station in the constituency,

- (a) the candidate shall, before the close of candidacy, provide a digital photograph to the Chief Electoral Officer in accordance with the regulations; and
 - (b) despite any prohibition against the display of campaign material in a polling station, the Chief Electoral Officer shall ensure that the photograph is displayed in accordance with the regulations.
- S.Nu. 2007,c.3,s.36.

Deposit

74. (1) A deposit valued at \$200 must be given to the returning officer along with the declaration of candidacy.

Form of deposit

(2) The deposit must be in the form of a money order, certified cheque, Northern Stores draft or Co-op draft payable to the Government of Nunavut.

Transfer of deposit

(3) The returning officer shall, without delay, transfer the deposit to the Chief Electoral Officer for deposit in trust into the Consolidated Revenue Fund.

S.Nu. 2007,c.3,s.36.

Refusal of candidacy

75. (1) A returning officer shall refuse to accept a declaration of candidacy and shall reject the candidacy of a person where the returning officer is aware that

- (a) the declaration of candidacy is not properly completed or is filed after the close of candidacy;
- (b) the person has declared himself or herself as a candidate in more than one constituency; or
- (c) the person is ineligible to be a candidate under paragraph 11(2)(a), (b), (c) or (d) or subsection 11(2.1), (2.2) or (3).

Corrections

(2) Where a declaration of candidacy is rejected because it is not properly completed, the declaration of candidacy may be corrected, completed or replaced with a new one before the close of candidacy.

Multiple declarations

(3) If a person files a declaration of candidacy in more than one constituency, all the declarations for that person are void and the person shall not be a candidate in the election.

Acceptance certificate

(4) Unless the declaration of candidacy is rejected under subsection (1), the returning officer shall accept the declaration of candidacy and issue to the prospective candidate a certificate indicating the acceptance of the declaration of candidacy.

S.Nu. 2005,c.14,s.11; S.Nu. 2007,c.3,s.10; S.Nu. 2011,c.17,s.21.

Notice of suspected ineligibility

75.1. (1) If the returning officer or the Chief Electoral Officer has reason to suspect that the candidacy of a person should be rejected on grounds other than those listed in subsection 75(1), he or she shall immediately notify the prospective candidate of the suspicion and the reasons for it in the approved form.

Notice to Chief Electoral Officer

(2) A returning officer must also send a copy of any notice he or she makes under subsection (1) to the Chief Electoral Officer at the same time.

Time for submission

(3) The prospective candidate must make any submissions to the Chief Electoral Officer immediately on being notified of the suspicion of being ineligible.

Decision of Chief Electoral Officer

(4) The Chief Electoral Officer shall, after considering any submissions on behalf of the prospective candidate and no later than two days after the close of candidacy, make a decision on whether the person is ineligible and his or her candidacy is to be rejected.

Ballots

(5) The Chief Electoral Officer shall prepare the ballots on the basis of his or her decision under subsection (4).

Review of Chief Electoral Officer's decision

(6) Despite the period set out in subsection 216(3), the person whose candidacy was rejected may, within seven days after being notified of the decision, make an application for judicial review of the Chief Electoral Officer's decision under subsection (4).

Hearing

(7) The application for judicial review must be heard and determined as soon as practicable.

Continuation of election

(8) The election shall continue on the basis of the decision of the Chief Electoral Officer under subsection (4), unless the court orders that the election be cancelled.

Cancellation of election

(9) The court may order that the election be cancelled and that the Chief Electoral Officer conduct a new election in that constituency, if satisfied that the person whose candidacy was rejected is entitled to that relief.

New election

(10) If the court orders that the election be cancelled under subsection (9), the Chief Electoral Officer shall

- (a) fix a new election day;
- (b) issue a writ for the new election; and
- (c) conduct the new election in the usual manner.

Provisions applicable to cancelled election

(11) For greater certainty, the cancellation of an election does not exempt any person from the provisions of this Act otherwise applicable in respect of that election, including obligations in respect of contributions and election expenses.

S.Nu. 2005,c.14,s.12; S.Nu. 2011,c.17,s.22(2),(3).

Campaign manager

76. (1) A candidate, or person filing a declaration of candidacy, may appoint a voter, other than a person not eligible to act as a financial agent, to be his or her campaign manager and to perform duties not specifically assigned to the financial agent under this Act.

Form of appointment

(2) Any appointment of a campaign manager must be in the approved form and contain the prescribed information.

Copy to returning officer

(3) A candidate shall give a copy of any appointment of a campaign manager to the returning officer, including any appointment of a new campaign manager.
S.Nu. 2011,c.17,s.23.

Withdrawal or Death of a Candidate

Withdrawal

77. (1) A candidate may withdraw no later than 5:00 p.m. on the day of the close of candidacy by personally submitting to the returning officer or to a person designated by the returning officer for this purpose a letter of withdrawal signed by the candidate and witnessed by two voters of the constituency.

Witness

(2) The voters who witnessed the candidate's letter of withdrawal shall certify by oath or affirmation that the candidate signed the letter of withdrawal in their presence.

Consequences

(3) No declaration of candidacy may be filed or accepted after the close of candidacy even if a candidate withdraws after that deadline in accordance with subsection (1).

Deposit

(4) A candidate's deposit is forfeited upon the candidate's withdrawal.
S.Nu. 2007,c.3,s.11,36.

Death of candidate

78. (1) Where a candidate dies after the close of candidacy and before the close of the polling stations in the constituency on election day,

- (a) the returning officer shall advise the Chief Electoral Officer;
- (b) the Chief Electoral Officer shall cancel the election in that constituency, fix a new election day and issue a writ for a new election; and
- (c) the new election shall be conducted in the usual manner.

Ballots voided

(2) Where an election is cancelled under this section, all ballots cast for the candidates in the constituency are void and shall be destroyed. S.Nu. 2007,c.3,s.36.

After Close of Candidacy**Sending copy of declaration**

79. Immediately after issuing an acceptance certificate under subsection 75(4), the returning officer shall send to the Chief Electoral Officer a copy of

- (a) the declaration of candidacy;
- (b) all documents accompanying the declaration of candidacy; and
- (c) the acceptance certificate.

S.Nu. 2005,c.14,s.13; S.Nu. 2007,c.3,s.12.

Election by acclamation

80. (1) If at the close of candidacy there is only one candidate in a constituency, no election shall be held in the constituency and the candidate is deemed to be elected by acclamation.

Withdrawal of candidate

(2) If, as a result of the withdrawal of a candidate before 5:00 p.m. on the day of the close of candidacy, there is only one candidate remaining in a constituency and the election is not postponed, no election shall be held in the constituency and the remaining candidate is deemed to be elected by acclamation.

Return

- (3) Where a candidate has been elected by acclamation, the returning officer shall
- (a) immediately send a return of the writ and an election report, in the approved form, to the Chief Electoral Officer; and
 - (b) send a certified copy of the election report to the elected person, no later than 48 hours after sending it to the Chief Electoral Officer.

Report with return

(4) The returning officer shall include in the election report to the Chief Electoral Officer a report of his or her proceedings and of any declaration of candidacy rejected for non-compliance with this Act. S.Nu. 2007,c.3,s.13,36.

Holding an election

81. Subject to section 80, an election shall be held in a constituency if at the close of candidacy there is more than one candidate in the constituency. S.Nu. 2007,c.3,s.14.

Election Officers at Polling Places**Election officers at a polling station**

82. (1) Each polling station must be staffed by a deputy returning officer, a poll clerk and a registration clerk.

Other election officers

(2) The Chief Electoral Officer and returning officer may assign such other election officers to staff a polling place as he or she considers necessary or appropriate. S.Nu. 2013,c.6,s.7.

Information to candidates

83. The returning officer shall provide the name and address of each election officer in the constituency to

- (a) all candidates, no later than the 10th day before election day; and
- (b) to any person who requests the information.

Election Notices

Election notice

84. (1) Where an election is to be held in a constituency, the returning officer shall, without delay after the close of candidacy, issue an election notice in the approved form.

Distribution of notice

(2) The returning officer shall, no later than the 28th day before election day, send a copy of the election notice to the Chief Electoral Officer and to each candidate in the constituency.

Content of election notice

(3) The election notice must include the prescribed information and be made public in the prescribed manner.

Publication of detail of elections

(4) The Chief Electoral Officer shall ensure that, at the earliest possible time, a notice is published specifying the constituencies in which elections are to be held and stating the name and address of each candidate in each constituency.

S.Nu. 2007,c.3,s.15,36.

Ballots and Ballot Boxes

Ballots and ballot boxes

85. The Chief Electoral Officer shall

- (a) approve the specifications for the construction of ballot boxes;
- (b) supply the required ballot boxes for each constituency;
- (c) cause the ballots for each constituency in which an election is to be held to be printed in the prescribed form and in the required number, plus an extra 10 % for contingencies; and

- (d) supply the required voting compartments for each constituency and give instructions respecting the placing of the voting compartments to ensure that each voter may
 - (i) be screened from observation, and
 - (ii) mark his or her ballot paper without interference or interruption.

S.Nu. 2013,c.6,s.8.

Numbering

86. (1) Each ballot shall be numbered consecutively, with each ballot number appearing on the back of the ballot stub and the counterfoil.

Books of ballot papers

(2) The ballot papers shall be bound in books containing 25 ballots.

Contents

- (3) Each ballot shall
 - (a) clearly identify each candidate; and
 - (b) list the surname and first name of each candidate, in alphabetical order in accordance with the candidate's declaration of candidacy.

Identical names

(4) Where two or more candidates have the same surname and first name, the Chief Electoral Officer shall use their other names to distinguish them.

Name of printer

(5) Each ballot shall state the year of the election and the name of its printer on its reverse side.

Declaration of printer

(6) The printer of the ballots shall deliver to the Chief Electoral Officer a declaration, in the approved form, setting out

- (a) the description of the ballot papers printed by the printer;
- (b) the number of ballot papers supplied to the Chief Electoral Officer; and
- (c) a confirmation that any excess ballots have been destroyed and that no ballots have been supplied to any other person.

S.Nu. 2011,c.17,s.24.

Electronic equipment

87. The Chief Electoral Officer may authorize the use of electronic equipment for ballots, voting, vote recording and vote counting and the provisions of this Act apply with such modifications as the circumstances require.

Property of the Legislative Assembly

88. The Legislative Assembly is the owner of the ballot boxes, ballots and all other supplies and material provided for use at an election.

Documentation

89. (1) The Chief Electoral Officer shall, as soon as possible after the close of candidacy, send to each returning officer

- (a) indexed copies of this Act and instructions for the proper conduct of the election for use by the returning officer and the election officers at polling places; and
- (b) the supplies and accessories necessary for taking the vote, other than the ballots.

Material for deputy returning officer

(2) The returning officer shall supply to each deputy returning officer in the constituency the prescribed materials, no later than the 3rd day before the day of the advance vote and the 3rd day before election day.

Safekeeping

(3) The deputy returning officer shall keep the election materials, including the ballots and polling record, in the sealed ballot box and shall take all reasonable precautions to prevent unauthorized access to them. S.Nu. 2005,c.14,s.14; S.Nu. 2007,c.3,s.36; S.Nu. 2013,c.6,s.25.

General Voting Process

Methods of voting

90. A voter may, where allowed under this Act, vote using one of the following methods:

- (a) voting in person at a polling station on election day;
- (b) voting in person at a polling station at an advance vote;
- (c) voting by sending a special ballot;
- (d) voting in person in the office of the returning officer;
- (e) voting in person at a mobile poll;
- (f) voting by proxy; or
- (g) voting by an emergency method.

Secrecy of the vote

91. (1) Every person present at a polling place or present for the counting of the vote shall preserve the secrecy of the vote and in particular shall not

- (a) interfere or attempt to interfere with a voter who is marking a ballot;
- (b) attempt, during voting, to discover how a voter voted;
- (c) communicate information on how a ballot was marked;
- (d) cause, directly or indirectly, a voter to show the ballot once marked in a way that reveals for whom the voter voted; or

- (e) attempt, during the counting of the vote, to obtain or communicate information on how a voter voted.

Prohibitions

(2) No voter shall

- (a) openly declare at a polling place the name of the candidate for whom the voter intends to vote, except if the voter requires assistance to vote in accordance with this Act;
- (b) openly declare how the voter voted; or
- (c) show the ballot, when marked, to reveal for whom the voter has voted.

Procedure where voter contravenes secrecy

(3) A deputy returning officer shall inform any voter who contravenes subsection (2) that the contravention is an offence under this Act and that the voter may be liable to a penalty, but shall allow the voter to vote in the usual way.

No campaign material at polling place

(4) No person shall use, wear or display or cause to be used, worn or displayed any flag, ribbon, label, badge or similar object as campaign material in a polling place, except as authorized by the Chief Electoral Officer.

Identification of a voter

(5) No person shall mark a ballot in a way that may identify the voter.

Protection of secrecy

(6) No person may be forced to reveal the candidate for whom the person has voted. S.Nu. 2013,c.6,s.9,25.

Role of the Candidates and their Representatives at a Polling Station

Presence of candidates

92. (1) A candidate or his or her authorized representative may be present at all operations relating to the poll, and may remain for the counting of the ballots.

Proof of authorization

- (2) Each candidate's representative shall, on first arrival at the polling station,
 - (a) give the deputy returning officer a copy of the authorization signed by the candidate or the candidate's financial agent; and
 - (b) take an oath or affirmation, in the approved form, to keep secret the name of the candidate for whom any ballot may be marked at the polling station.

Single representative

(3) A candidate may have a different representative at a polling station at different times but may not have more than one representative present at any given time. S.Nu. 2005,c.14,s.15.

Taking information from the polling record

93. A candidate or candidate's representative may, only during the hours that the polling station is open,

- (a) examine that part of the polling record on which the poll clerk has crossed out or circled the names of voters who have voted and take notes in respect of that list, except where it would interfere with the proper conduct of the poll; and
- (b) communicate to the candidate or the candidate's representative any information obtained as a result as well as the names of any voters who have not yet voted.

S.Nu. 2011,c.17,s.25.

Schedule and Proceedings at the Advance vote

Holding an advance vote

94. (1) An advance vote must be held in each constituency, and where a constituency includes more than one municipality, in each municipality, on Monday the 7th day before election day.

Holiday

(1.1) If the day of the advance vote is a holiday, the day of the advance vote shall be Tuesday the 6th day before election day.

Schedule

(2) The polling station for an advance vote must be open from 12:00 noon to 7:00 p.m.

Deemed advance vote

(3) Voting in the office of the returning officer, under section 119, on Monday the 7th day before election day is deemed to be an advance vote as required by this section. S.Nu. 2005,c.14,s.16; S.Nu. 2007,c.3,s.16.

Voting by election officers

95. All election officers shall endeavour to vote at an advance vote.

Voting procedure

96. (1) The voting procedures applicable to voting at a polling station on election day apply to the procedure at an advance vote, with such modifications as the circumstances require.

Record-keeping

(2) The poll clerk at the advance vote shall, under the direction of the deputy returning officer, keep a record in duplicate of the advance vote in the form established by the Chief Electoral Officer.

Advance polling record

(3) The record of the advance vote must include

- (a) the names and addresses of the voters who voted at the advance vote in the order in which they voted; and
- (b) such information, beside the name of each voter, as would be required for an ordinary polling station.

S.Nu. 2005,c.14,s.17.

Procedure at close of advance vote

97. (1) At the close of the advance vote at 7:00 p.m., in view of all present, the deputy returning officer shall sort the ballots and seal the materials inside the ballot box in the prescribed manner.

Custody of the ballot box

(2) In the interval between the close of the advance vote at the advance polling station and the counting of the votes on election day, the deputy returning officer shall ensure that the sealed ballot box is kept safely, in accordance with the directions of the Chief Electoral Officer.

Transmission of register

(3) A deputy returning officer shall send a copy of the advance polling record to the returning officer's office as soon as possible after the close of the advance vote.

(4) Repealed, S.Nu. 2007,c.3,s.17(2).

S.Nu. 2005,c.14,s.17; S.Nu. 2007,c.3,s.17.

Recording Votes Cast Before Election day

Striking off names of voters

98. (1) The returning officer shall, each day during the period from the day of the advance vote to election day, ensure that the names of all voters who have voted in the advance vote, in the office of the returning officer or at the mobile poll are struck off the voters list.

Information to candidates

(2) The returning officer shall, on the 3rd day before election day, notify the candidates of the names of the voters referred to in subsection (1). S.Nu. 2007,c.3,s.18.

Application for Special Ballot

Exercise of right to vote

99. (1) Every voter who has reason to believe that he or she will be unable to vote at his or her polling station on election day has the right to vote by means of a special ballot issued in accordance with this Act.

Availability

(2) Applications for special ballots shall be made available, after the writ is issued, from the Office of the Chief Electoral Officer and in any other office in Nunavut or outside Nunavut that the Chief Electoral Officer may designate.

Electronic availability

(3) The Chief Electoral Officer shall establish a toll-free telephone number and Internet web site for the distribution of applications and forms for special ballots.

Prisoners

(4) The Chief Electoral Officer shall, as soon as possible after the date of the writ, take all reasonable steps to advise any voter who is a prisoner in a penal or correctional facility in Nunavut or outside Nunavut that they may request an application for a special ballot. S.Nu. 2005,c.14,s.18.

Obtaining a special ballot

100. (1) To obtain a special ballot, a voter must apply at the office of the returning officer or, if the voter does not reside in the same community as the returning officer, apply directly to the Chief Electoral Officer.

Providing special ballot

(2) The Chief Electoral Officer or returning officer shall provide the voter with a special ballot and instruction package if he or she determines that

- (a) the application is validly made; and
- (b) the voter has provided sufficient evidence to establish the voter's identity, place of residence and right to vote.

Registration

(3) A voter who applies for a special ballot but who is not included on a voters list must first register before a special ballot may be provided to him or her.

Record

(4) When a voter is provided with a special ballot, the Chief Electoral Officer or returning officer shall ensure that a record is made that the voter has received a special ballot.

Sole method of voting

(5) A voter who is provided with a special ballot is not entitled to vote by any other method. S.Nu. 2005,c.14,s.19; S.Nu. 2011,c.17,s.26.

Voting By Special Ballot

Form of special ballot

101. (1) The special ballot shall be in the prescribed form and may be printed in blank to allow the voter to write in the name of a candidate.

Voting procedure

(2) To use a special ballot, a voter must

- (a) fill in the name of the candidate on the ballot or, if the ballot is printed with the names of the candidates, properly mark the ballot; and
- (b) enclose the ballot in the secrecy envelope, certification envelope and return envelope, in the prescribed manner.

Deadline

(3) A voter is solely responsible for ensuring that the voter's special ballot is received by the returning officer, or the Chief Electoral Officer if the voter is not in the community where the office of the returning officer is located, as the case may be, prior to 5:00 p.m. on election day. S.Nu. 2011,c.17,s.27.

Secrecy of the vote

102. (1) The provisions on the secrecy of the vote apply to special ballots with such modifications as the circumstances may require.

One special ballot only

(2) No person shall obtain or attempt to obtain more than one special ballot at an election.

Prohibition

(3) A person who is sent a special ballot shall not vote by any other means.

Striking out voter's name

103. (1) A returning officer who is informed that a voter, whose name appears on a voters list in the returning officer's constituency, has been sent a special ballot shall strike the voter's name from that voters list.

Custody of envelopes

(2) The returning officer and Chief Electoral Officer shall keep safe custody of the special ballot envelopes received until the counting of the votes.

Informing returning officers

(3) The Chief Electoral Officer shall regularly inform the returning officers of any special ballots received at the Office of the Chief Electoral Officer.

Operation of Polling Stations

Hours of the polling station

104. (1) On election day, the polling stations shall be open from 9 a.m. to 7 p.m. Central Standard Time, as modified by Daylight Saving Time when applicable, for all constituencies.

Extension of time

(2) A returning officer may, if instructed by the Chief Electoral Officer, extend the time of closing of that polling station if

- (a) the opening of a polling station has been delayed beyond the time provided for in subsection (1) or its operation has been halted during election day because of an accident, riot, weather conditions or another similar factor; and
- (b) a significant number of voters would not be able to vote without the extension.

Maximum extension

(3) An extension cannot result in the polling station being open for a total period exceeding 11 hours.

Public notice

(4) The returning officer shall, as soon as possible, notify the public of the extension in the approved manner.

Delay counting

(5) Where the time of closing of a polling station is extended, the procedure for counting the ballots at all other polling stations in the constituency shall be similarly delayed. S.Nu. 2005,c.14,s.20.

Presence of voters at closing of poll

105. (1) If, at the time fixed for the closing of the polling station, there are still voters within the polling station or at its entrance, the polling station must remain open for the period of time required to enable these voters to cast their votes, but a person who is not present at the time fixed for the closing of the polling station may not vote.

Presence of candidates

(2) If a candidate or an agent of a candidate is present at the polling station at least 15 minutes before the hour fixed for opening the poll, they are entitled, without causing any delay in the opening of the poll,

- (a) to have the ballot papers for the polling station counted in their presence before the opening of the poll; and
- (b) to inspect the ballot papers and all other papers, forms and documents relating to the poll.

Initialling ballots

106. (1) The deputy returning officer shall, before opening the polling station, and in full view of all present,

- (a) carefully count the ballots for use at that poll;
- (b) uniformly initial the back of the ballots in the space provided for this purpose; and
- (c) allow the candidates or representatives present to inspect the ballots and all other documents relating to the poll.

Detaching ballots

(2) The deputy returning officer shall not, while initialling the ballots, detach them from the books in which they are bound or stapled.

Time to initial ballots

(3) The deputy returning officer may complete the initialling of the ballots after the polling station is open and must do so in any event before the ballots are given to the voters.

Inspection of ballot box

107. (1) The deputy returning officer shall, at the time fixed for opening the polling station and in full view of all present, open the ballot box and establish that it is empty.

Closing the ballot box

(2) The ballot box must then be closed and sealed in accordance with the directives of the Chief Electoral Officer and, in full view of all present, placed on a table, where it must remain until the closing of the poll.

Voting Procedure at a Polling Station

Opening the polling station

108. (1) A deputy returning officer shall, immediately after the ballot box is sealed, call on voters to cast their ballots.

Free access

(2) A deputy returning officer shall admit the voters into the polling station and see that they are not disturbed.

One voter at a time

(3) A deputy returning officer may, if it seems advisable, direct that only one voter for each voting compartment be allowed to enter the premises of the polling station at a time.

Orderly circulation

(4) In a central polling place, the election officer responsible for regulating the entry of persons assumes the duties under this section and may take appropriate measures to ensure the orderly circulation of persons present in the central polling place.

Presentation of voters

109. (1) A voter shall, on entering the polling station, give his or her name and address to the deputy returning officer, and the poll clerk shall ascertain whether the voter's name appears on the voters list or if the voter is otherwise qualified to vote.

Persons allowed to vote

(2) Every voter whose name appears on the voters list for the polling station shall be allowed to vote there.

Voter who registers on election day

(3) A voter who registers at the polling station and whose name is added to the polling record may vote without further formality.

Proof of identity

110. (1) A person who wishes to vote must, before voting, provide satisfactory evidence of identity and take the oath or affirmation, in the approved form, in circumstances where

- (a) the voters list used at the polling station contains a name or address other than that of the voter but is so similar as to be, in all probability, that of the voter;
- (b) the voters list indicates that the voter has already voted; or
- (c) a candidate or a candidate's representative has doubts concerning the identity or right to vote of a person intending to vote in the polling station, even if the person's name appears on the voters list.

Contents of oath or affirmation

(2) In the cases referred to in paragraphs (1)(b) and (c),

- (a) the oath or affirmation must state that the person did not vote before and did not apply for or receive a special ballot in the election; and
- (b) the deputy returning officer or poll clerk must confirm with the returning officer that the voter was inadvertently identified as having previously voted or applied for a special ballot.

Entry in polling record

- (3) The poll clerk shall enter in the polling record, opposite the name of the voter,
- (a) in the case of a voter who appears to have voted more than once, a note that the voter voted on a second ballot paper issued under the same name;
 - (b) a note that the oath or affirmation was taken;
 - (c) any objections made by or on behalf of a candidate; and
 - (d) any other information required by the Chief Electoral Officer.

Refusal

(4) A person who refuses to take the oath or affirmation or tender satisfactory evidence of identity shall not be allowed to vote. S.Nu. 2005,c.14,s.21.

Receipt of ballot

111. (1) A voter who enters a polling station and who has the right to vote there is entitled to receive a ballot and to vote.

Delivery of ballot

(2) The deputy returning officer shall ensure that each voter with a right to vote at the polling station is handed a properly initialled ballot in such a way that the initials are visible after the ballot is marked and folded.

Instructions to voter

112. (1) The deputy returning officer shall instruct the voter on how to properly mark and handle the ballot.

Marking a ballot

(2) The proper way to mark a ballot is to make a cross, checkmark or other mark clearly indicating the voter's intention only within the circular space on the ballot adjacent to the candidate's name, using the pencil provided or any other pen or pencil.

Deposit in ballot box

(3) The voter, or the deputy returning officer if the voter is unwilling or unable to do so, shall deposit the marked ballot in the ballot box in the prescribed manner.

Voting quickly and leaving

(4) Each voter shall vote quickly and, as soon as the voter's ballot is deposited in the ballot box, he or she shall leave the polling station or other polling place and not loiter within 10 metres of that place. S.Nu. 2007,c.3,s.19; S.Nu. 2011,c.17,s.28; S.Nu. 2013,c.6,s.10.

Spoiled ballot

113. (1) Any voter who, having received a ballot, inadvertently marks or damages it, shall return it to the deputy returning officer who shall cancel the ballot by defacing it,

deposit the spoiled ballot in the envelope provided for this purpose and deliver another ballot to the voter.

Misprinted ballots

(2) The deputy returning officer shall treat any misprinted ballot as a spoiled ballot.

Special Assistance to Voters

Assistance by deputy returning officer

114. (1) If a voter requests assistance in marking the voter's ballot, the deputy returning officer shall, in the presence of the poll clerk, assist the voter by any means likely to enable the voter to vote.

Assistance by friend or relative

(2) A friend or relative may accompany a voter requiring assistance into the voting compartment to assist the voter in voting.

Assisting only once

(3) No person, other than an election officer, shall assist more than one voter in marking a ballot.

Promise before assistance

(4) Any friend or relative who wishes to assist a voter in marking a ballot shall first solemnly promise that they

- (a) shall mark the ballot as instructed by the voter;
- (b) shall keep the choice of the voter secret;
- (c) shall not influence the voter in choosing a candidate; and
- (d) have not assisted, during the current election, another person to vote.

Record of assistance

(5) The poll clerk shall, in addition to the other requirements of this Act, record the fact that the voter received assistance and enter the name of the friend or relative of the voter in the remarks column of the polling record opposite the entry for the voter.

Disabled voter

115. (1) Any voter with a physical disability who has difficulty entering the polling station where the voter is qualified to vote on election day may request the deputy returning officer to allow the voter to vote at the nearest possible place outside the polling station to which the voter has access.

Taking vote outside polling station

- (2) The deputy returning officer shall, for the purpose of subsection (1),
- (a) temporarily halt all operations in the polling station;

- (b) with the poll clerk, bring the ballot box and a ballot to the voter outside the polling station; and
- (c) take whatever steps are necessary to ensure the secrecy of the vote.

Resumption of operations

(3) When the voter's ballot is deposited in the ballot box, the deputy returning officer shall bring the ballot box back into the polling station and resume operations in the polling station.

Maintaining Peace and Order at Polling Station

Maintaining peace and order

116. (1) The returning officer, during an election, and the deputy returning officer, during the hours that the polls are open, shall take reasonable measures to maintain peace and order.

Assistance

(2) A deputy returning officer may request the assistance of justices of the peace, peace officers or other persons to maintain peace and order at a polling place.

Peace officers

(3) A deputy returning officer may arrange in advance for peace officers to be ready to maintain peace and order throughout election day. S.Nu. 2013,c.6,s.25.

Proof of identity

117. (1) If an election officer, a candidate or a candidate's representative present at a polling place has doubts about the identity of the voter or eligibility to vote, that person must either take an oath or affirmation in the approved form or show satisfactory evidence of the identity of the person.

Refusal to vote

(2) The deputy returning officer shall not allow a person to vote at a polling place if the person refuses to make the oath or affirmation or tender evidence of identity. S.Nu. 2013,c.6,s.25.

Taking of information

118. (1) Where a person alleges that someone has committed or is attempting to commit the offence of impersonation or voting without the right to do so, the deputy returning officer shall, on request of a representative of a candidate or a poll clerk, take the information of the person under oath or affirmation, in the approved form.

Power to detain

(2) The deputy returning officer may detain or order the detention of any person against whom an allegation under subsection (1) is made and who has not yet left the polling station, until the deputy returning officer has finished taking the information under subsection (1).

Warrant of arrest

(3) As soon as an information under oath or affirmation is received under subsection (1), the deputy returning officer may deliver a warrant, in the approved form, for the arrest of any person against whom the information is laid.

Eviction

- (4) The deputy returning officer, acting as a peace officer, may
- (a) evict from the polling station any person believed to have committed an offence under this Act; and
 - (b) remove or have removed anything that in the opinion of the deputy returning officer has been used in the commission of the offence.

Powers to control place of voting

- 118.1.** (1) A deputy returning officer, acting as a peace officer, may
- (a) restrict or regulate the number of persons admitted at any time to a place where the vote is being conducted;
 - (b) evict a person from a place where the vote is being conducted or its vicinity if the deputy returning officer has reasonable grounds to believe the person
 - (i) is not permitted to be present at that place,
 - (ii) is creating a disturbance at that place,
 - (iii) is interfering with the conduct of the proceedings, or
 - (iv) appears to be contravening any provision of this Act or the regulations;
 - (c) require the person referred to in paragraph (b) to provide proof of identification; and
 - (d) remove or have removed, from a place where the vote is being conducted or its vicinity, anything that in his or her opinion is being or has been used in the commission of an offence.

Compliance with order

(2) A person evicted under subsection (1) shall, without delay, leave the place where the vote is being conducted and its vicinity and shall not return while the election proceedings are being conducted, unless permitted to do so by the deputy returning officer. S.Nu. 2007,c.3,s.20.

Voting in the Office of the Returning Officer

Eligibility to vote in office of returning officer

119. (1) A voter who is on the voters list for the constituency may vote in the office of the returning officer in accordance with this section.

Application of other provisions

(2) Subject to this section, the provisions of this Act respecting polls and voting on election day apply to voting in the office of a returning officer with such modifications as the circumstances require or as the Chief Electoral Officer may direct.

Where voter not on voters list

(3) A voter may vote in the office of the returning officer, even if the voter is not on the voters list, by registering in accordance with section 65.

Time for voting in office of returning officer

(4) A person may vote at the office of the returning officer only during the hours of operation of the office, commencing Monday, the 14th day before election day, and ending Thursday, the 4th day before election day.

Recording votes

(5) The returning officer shall, in accordance with the instructions of the Chief Electoral Officer,

- (a) keep a record of voters who have voted in the office of the returning officer and notify the deputy returning officers of the voters who have so voted;
- (b) secure the ballot box and ballot papers during the period in which persons may vote at the office of the returning officer until the time for the counting of votes on election day;
- (c) count the votes in the office of the returning officer at the close of the polls on election day; and
- (d) secure the ballot papers and other material associated with the voting after the counting of the votes.

S.Nu. 2007,c.3,s.21; S.Nu. 2011,c.17,s.29.

Emergency Voting Procedure

Voting by telecommunications device

120. (1) A voter who has the right to vote in a constituency may vote by means of a telecommunications device, including a radio, telephone or Internet telephony device, if the voter

- (a) is able to communicate with the office of the returning officer by means of a telecommunications device;
- (b) requests the returning officer to provide an opportunity to vote by this method; and
- (c) establishes that he or she
 - (i) is unable to vote by any other method because of the voter's remote location, and
 - (ii) the voter had no other means of voting before going to this remote location.

Procedure

- (2) The procedure for voting by a telecommunications device is as follows:
- (a) the returning officer or a deputy returning officer designated for this purpose shall receive the voter's vote by the device in the presence of another election officer;
 - (b) the voter's identity must be established to the satisfaction of the returning officer or deputy returning officer;
 - (c) a reasonable degree of secrecy in the choice of candidate must be maintained, given the possibly open nature of the communications; and
 - (d) the returning officer or deputy returning officer who receives a voter's vote shall mark the voter's choice of candidate on a special ballot and place it in the secrecy envelope, certification envelope and return envelope, in the prescribed manner, on the voter's behalf.

Deemed special ballot

(3) A vote made under this section is valid and shall be deemed to be a vote made by special ballot. S.Nu. 2005,c.14,s.22; S.Nu. 2011,c.17,s.30.

Mobile Poll

Request for mobile poll

121. (1) A returning officer shall give public notice that voters who are shut in and unable to attend either the office of the returning officer or the polling station may call the returning officer to request a visit by a mobile poll.

Having a mobile poll

(2) A mobile poll must be conducted in a constituency on the day of the advance vote if the Chief Electoral Officer considers that there is sufficient need for it.

Itinerary

(3) The returning officer shall determine the appropriate schedule for any mobile poll and determine the places where and the hours during which the mobile poll will be available to voters.

Suspension of voting in office of returning officer

(4) The returning officer may suspend voting in his or her office on the day of the advance vote and use that poll to conduct the mobile poll. S.Nu. 2005,c.14,s.23.

Application of Act

122. (1) Unless the Chief Electoral Officer instructs otherwise, the provisions of this Act respecting the conduct of voting at a polling station apply to a mobile poll with such modifications as the circumstances require.

Close of poll

(2) At the close of the mobile poll, the deputy returning officer of the mobile poll shall keep the sealed ballot box in his or her custody and send the polling record to the returning officer.

Recording names of voters

(3) As soon as the returning officer receives the polling record from a mobile poll, the returning officer shall record the names of all voters who voted at the mobile poll for the purpose of ensuring those voters are excluded from subsequent voting opportunities. S.Nu. 2011,c.17,s.31.

Proxy Voting

Voting by proxy

- 123.** (1) A voter who is on the voters list may vote by proxy if
- (a) the voter will be unable to vote on election day because of an unexpected absence from the constituency; and
 - (b) the voter has no opportunity to vote except by using the proxy vote.

Application for proxy certificate

(2) To vote by proxy, a voter must apply to the returning officer for a proxy certificate to authorize another voter who is on the voters list for the same constituency to vote on his or her behalf as a proxy voter.

Prohibition on distribution

(3) No person other than a returning officer shall distribute applications for proxy certificates or blank proxy certificates.

Electronic distribution

(3.1) Notwithstanding subsection (3), the Chief Electoral Officer may authorize the electronic distribution of applications for proxy certificates.

Forms for application and certificates

(4) All applications for a proxy certificate and all proxy certificates must be in the approved form and each proxy certificate must be separately numbered.

Completion of proxy certificate

(5) When the voter receives a proxy certificate, the voter must complete the certificate and have the person who is to be authorized as a proxy voter sign the certificate to indicate his or her consent. S.Nu. 2005,c.14,s.24; S.Nu. 2007,c.3,s.22; S.Nu. 2011,c.17,s.32.

When applications available

124. (1) The returning officer shall not make any application for a proxy certificate available before Wednesday, the 5th day before election day.

Deadline for application

(2) An application for a proxy certificate must be sent so that it is received by the returning officer no later than 3:00 p.m. on election day.

Limit on proxy votes

125. (1) A voter may only vote once as a proxy voter at an election.

Voting in own right

(2) A voter who votes as a proxy voter at an election is entitled to vote in his or her own right at the election.

Presentation of proxy certificate

126. (1) On election day, a voter who has been authorized as a proxy voter shall present the proxy certificate to the deputy returning officer at the polling station for which the voter who appointed the proxy voter is qualified to vote.

Voting as proxy voter

(2) After presenting the proxy certificate, the proxy voter may vote at the election on behalf of the voter who completed the certificate if the proxy voter

- (a) verifies by statutory declaration made before the deputy returning officer
 - (i) that he or she has not already voted in the election as a proxy voter, and
 - (ii) that, to the best of his or her knowledge, the voter who appointed him or her is absent from the constituency; and
- (b) takes an oath or affirmation under section 117, where so required.

Poll clerk

(3) The poll clerk shall enter in the polling record opposite the name of the voter, in addition to any other required entry, a notation that the voter voted by proxy and the name of the proxy voter, and shall attach the proxy certificate to the polling record.

S.Nu. 2007,c.3,s.23.

PART VI

ELECTION RESULTS

Verification of Special Ballots

Appointment of election officers

127. The Chief Electoral Officer may appoint a deputy returning officer and a poll clerk to verify and count the special ballots issued to voters that have been returned to the Office of the Chief Electoral Officer.

Preservation of sealed envelopes

128. (1) Upon receiving a special ballot in their respective offices, the returning officer and the Chief Electoral Officer may open the return envelope but shall ensure that the other envelopes are kept sealed until the voter's identity is verified.

Envelopes received after deadline

(2) The returning officer and Chief Electoral Officer shall

- (a) keep separate and sealed all return envelopes received at their respective offices after the deadline referred to in subsection 101(3); and
- (b) initial the envelopes and mark them with the date and time of their receipt.

Verification of special ballots

(3) The returning officer and the Chief Electoral Officer shall verify the special ballots received in their respective offices by opening the return envelopes, in accordance with the rules established by the Chief Electoral Officer, and ascertaining whether the voter whose signature and identification appear on the certification envelope is entitled to vote in the constituency.

Rejecting ballots

129. (1) When verifying the special ballots, the returning officer and the Chief Electoral Officer shall reject any special ballot where

- (a) the voter's identification does not correspond with the application of the voter;
- (b) more than one special ballot was sent by the voter; or
- (c) the return envelope was received at the Office of the Chief Electoral Officer or the returning officer's office after the deadline referred to in subsection 101(3).

(2) **Repealed, S.Nu. 2005,c.14,s.25.**

Reasons

(3) The returning officer and the Chief Electoral Officer shall, without breaking the seal, set aside any certification envelope not considered acceptable to be counted, note the reasons for not counting the special ballot on the certification envelope and initial it.

Handling ballots by returning officer

(4) The returning officer shall open the certification envelopes and put the secrecy envelopes in the ballot box used for ballots of voters who vote in the office of the returning officer.

Handling ballots by Chief Electoral Officer

(5) The Chief Electoral Officer shall open the certification envelopes and put the secrecy envelopes in a ballot box designated for that constituency. S.Nu. 2005,c.14,s.25.

Recording votes in Office of Chief Electoral Officer

130. (1) The Chief Electoral Officer shall

- (a) keep a record of voters who voted by special ballot at the Office of the Chief Electoral Officer and notify the returning officers of the voters who have so voted; and
- (b) secure the ballot box for each constituency and the ballot papers during the period that persons may vote by special ballot until the time for the counting of votes.

Recording votes in office of returning officer

(2) The returning officer shall, in accordance with the instructions of the Chief Electoral Officer,

- (a) keep a record of voters who have voted by special ballot in his or her office and notify the deputy returning officers of the voters who have so voted;
- (b) notify the deputy returning officers of the voters who have voted by special ballot at the Office of the Chief Electoral Officer;
- (c) strike off the names of the voters who have voted by special ballot from the voters list; and
- (d) secure the ballot box and ballot papers during the period that persons may vote by special ballot until the time for the counting of votes.

Counting the Votes

Time of counting

131. (1) On election day, immediately after the close of the polls in the constituency, the counting of the votes shall take place in every polling station open that day or during the period of the advance vote.

Who may be present when counting the votes

(2) No person may be present in the room where the votes are to be counted other than the following:

- (a) election officers and counsel for Elections Nunavut;
- (b) any observer with written authorization from the Chief Electoral Officer;
- (c) a candidate in the election for which the votes are being counted, or a representative of that candidate;
- (d) any peace officer referred to in subsection 116(3); and
- (e) any two voters selected under subsection (3).

Procedure for counting the votes

(3) The deputy returning officer shall, in the presence of the candidates or their representatives or, should none of the candidates or their representatives be present, in the

presence of at least two voters selected by the deputy returning officer, make the count in accordance with the regulations.

Counting the other votes

(4) To count the special ballots and the ballots taken at any time other than on election day, the deputy returning officer shall empty the contents of the ballot boxes used for these purposes onto a table, open any secrecy envelopes and proceed in the same manner as for the counting of the votes cast at a polling station.

Rejection of ballots

(5) When counting the ballots, the deputy returning officer shall reject any ballot that was

- (a) not supplied by the Chief Electoral Officer;
- (b) not marked in favour of a candidate;
- (c) marked in favour of more than one candidate;
- (d) **repealed, S.Nu. 2013,c.6,s.11(3)**;
- (e) not marked in accordance with subsection 112(2); or
- (f) marked in a way that might identify the voter.

Minor problems

(6) No ballot shall be rejected pursuant to subsection (1) for the sole reason that the deputy returning officer

- (a) placed a note, number or mark on it;
- (b) did not remove the counterfoil when the voter voted; or
- (c) did not initial the ballot.

Openness

(7) The deputy returning officer shall give a full opportunity to those present to look at, but not to touch, each ballot paper.

Guidelines

(8) The Chief Electoral Officer may issue guidelines for rejecting ballots and on what marks are acceptable or might identify the voter on ballots for the purposes of this Act. S.Nu. 2005,c.14,s.26; S.Nu. 2007,c.3,s.24; S.Nu. 2011,c.17,s.33; S.Nu. 2013,c.6,s.11.

Effect of failure to initial

132. (1) Where, in the course of counting the votes, a deputy returning officer discovers that the back of any ballot paper was not initialled by the deputy returning officer, the deputy returning officer shall, in the presence of the poll clerk and the candidates or their representatives, affix his or her initials to the ballot paper and count the ballot paper as if it had been initialled in the first place, if the deputy returning officer is satisfied that

- (a) the ballot paper was supplied by the deputy returning officer;
- (b) an omission was in fact made; and

- (c) every ballot paper supplied to the deputy returning officer by the returning officer is accounted for.

Liability of deputy returning officer

(2) Nothing in subsection (1) relieves a deputy returning officer from any penalty to which the deputy returning officer may have become liable by reason of the failure of the deputy returning officer to initial the back of any ballot paper before handing it to a voter. S.Nu. 2005,c.14,s.27.

Objections

133. (1) Where a candidate or representative objects to the validity of a ballot, the deputy returning officer shall record the objection in the polling record and on the back of the ballot and render a decision on the questions raised by the objection.

Decision final

(2) The decision of a deputy returning officer on an objection under subsection (1) is final, and may only be reversed by a recount or by an application to void an election.

Objections recorded

(3) The deputy returning officer shall

- (a) record each objection with the name of the objector, the grounds of the objection and an identifying number;
- (b) inscribe the number of the objection on the back of the ballot; and
- (c) initial the ballot.

S.Nu. 2005,c.14,s.28; S.Nu. 2011,c.17,s.34.

Statement of the poll

134. (1) The deputy returning officer shall prepare a statement of the poll that sets out

- (a) the total number of valid votes cast;
- (b) the number of votes in favour of each candidate;
- (c) the number of rejected ballots; and
- (d) such other information as may be required by the Chief Electoral Officer.

Copies of statement of poll

(2) The deputy returning officer shall make copies of the statement of the poll, in the approved form, and distribute them as follows:

- (a) one copy to remain with the polling record;
- (b) one copy to be kept by the deputy returning officer;
- (c) one copy to be faxed and delivered to both the returning officer and the Chief Electoral Officer; and
- (d) one copy for each candidate and financial agent.

Handling of ballots

135. (1) After completing the statement of the poll, the deputy returning officer shall, using envelopes supplied by the Chief Electoral Officer,

- (a) place all the valid ballots in separate envelopes for each candidate;
- (b) place all the rejected ballots in another envelope; and
- (c) place all the unused ballots in another envelope.

Sealing envelopes

(2) The deputy returning officer shall seal each envelope and note the contents on the outside of each envelope.

Signing the seals

(3) The deputy returning officer and the poll clerk shall each sign the seals on all the envelopes containing ballots. Any other person present may also sign the seals.

Placement in large envelope

(4) The deputy returning officer shall place the following in a large envelope supplied by the Chief Electoral Officer:

- (a) the separate envelopes containing the various categories of ballots;
- (b) the envelope containing the voters list and other documents used at the poll;
- (c) the polling record;
- (d) the statement of the poll; and
- (e) a record of the ballots.

Closing and delivery of ballot box

(5) The deputy returning officer shall seal the ballot box pursuant to the instructions of the Chief Electoral Officer and shall send it immediately to the returning officer or the Chief Electoral Officer.

Notification of results

(6) The deputy returning officer shall immediately notify the returning officer of the results of the poll. S.Nu. 2005,c.14,s.29; S.Nu. 2011,c.17,s.35.

Counting the Special Ballots in the Office of the Chief Electoral Officer

Counting special ballots

136. (1) On election day, immediately after the close of the polls, a deputy returning officer appointed by the Chief Electoral Officer for the purposes of administering the special ballots shall open the ballot boxes used for the special ballots, open the secrecy envelopes and count the votes.

Rejecting ballots

(2) When counting ballots, the deputy returning officer shall reject any special ballot that

- (a) was not supplied by the deputy returning officer;
- (b) was not marked in favour of a candidate;
- (c) was marked in a way that does not clearly indicate the voter's intent;

- (d) does not clearly indicate the name of a candidate;
- (e) was marked for more than one candidate; or
- (f) was marked in a way that identifies the voter.

Error

(3) A special ballot shall not be rejected just because the voter incorrectly spelled the name of the candidate, if the ballot clearly indicates the voter's intention.

S.Nu. 2005,c.14,s.30; S.Nu. 2013,c.6,s.12.

Statement of poll

137. (1) The deputy returning officer appointed by the Chief Electoral Officer shall prepare a statement of the poll for each constituency in respect of the special ballots cast in the Office of the Chief Electoral Officer.

Informing returning officer

(2) The deputy returning officer appointed by the Chief Electoral Officer shall inform the returning officer of each affected constituency of the number of votes cast for each candidate and the number of special ballots rejected during the count.

S.Nu. 2005,c.14,s.31.

Secrecy of results

138. (1) No person present at the counting of special ballots shall disclose any information which could inform a person who did not take part in the counting of the votes of the results before the Chief Electoral Officer has informed all returning officers.

Pooling results

(2) Before publishing the results of the special ballots, the Chief Electoral Officer may pool the results of the special ballots with the results of other polls to protect the secrecy of those ballots.

Verification of Votes by Returning Officer

Verifying statements of poll

139. Immediately after the close of the polls, the returning officer shall verify the votes in favour of each candidate from the various statements of the poll for the constituency.

Election report

140. (1) The returning officer shall, in an election report in the approved form, certify the number of votes cast in favour of each candidate, according to the verified statements of the poll.

Deadline

(2) The election report must be completed as soon as the verification of all the votes is completed, unless, in exceptional circumstances, the Chief Electoral Officer authorizes otherwise.

Sending report to candidates

(3) The returning officer shall immediately send a copy of the election report to each candidate and to the Chief Electoral Officer.

Adjournment of addition of votes

141. (1) The returning officer may adjourn the official addition of the votes where the statement of the poll for a polling station is not received or the number of votes cast at the polling station for the several candidates cannot be ascertained.

Limit

(2) The aggregate of all adjournments shall not exceed two weeks.

Lack of statement of poll

(3) Where a statement of the poll or an accurate copy of it cannot be obtained, the returning officer shall ascertain, by the evidence that the returning officer is able to obtain, the total number of votes given to each candidate at the several polling stations, and the returning officer

- (a) may summon any deputy returning officer, poll clerk or other person to appear before the returning officer at a day and hour to be named by the returning officer, and to bring all necessary papers and documents;
- (b) shall give notice of the date and hour of the intended proceedings to the candidates; and
- (c) may examine on oath the deputy returning officer, poll clerk or other person, respecting the matter in question.

Declaration of apparent winner

(4) Where a ballot box or statement of the poll has been lost or has not been returned, the returning officer shall declare the name of the candidate who appears to have obtained the largest number of votes, and shall report to the Chief Electoral Officer

- (a) the reasons for the lack of any statement of the poll; and
- (b) the method by which the returning officer ascertained the number of votes cast for each candidate.

S.Nu. 2011,c.17,s.36.

Judicial Recount

Application for recount by returning officer

142. (1) When the difference between the number of votes in favour of the candidate having received the most votes and any other candidate is nil or less than 2 % of the total number of votes cast in the constituency, the returning officer shall, without delay, apply to the court for a recount.

Notice

(2) The returning officer shall give written notice to the candidates or their financial agents of the recount.

Valid votes

(3) For greater certainty, only valid votes are to be counted for the purposes of subsection (1). S.Nu. 2007,c.3,s.25.

Application for recount by voter

143. (1) Any voter may, before the end of the 8th day after the declaration by the returning officer of the result of the election in the constituency, apply to the court for a recount.

Grounds for application

- (2) A voter may only make an application for a judicial recount because
- (a) a deputy returning officer improperly counted the votes or improperly rejected any ballot papers;
 - (b) a deputy returning officer made an incorrect statement of the number of votes cast for any candidate; or
 - (c) the returning officer improperly added up the votes.

Supporting facts

(3) An application by a voter must be made in accordance with the *Rules of the Nunavut Court of Justice* and the practice and procedure of the court for an originating application and must

- (a) set out the facts on which the application is based; and
- (b) be supported by an affidavit or statutory declaration in relation to those facts.
- (c) **Repealed, S.Nu. 2011,c.17,s.37(c).**

Deposit

(4) An application by a voter must include a deposit of \$250, in a form acceptable to the Clerk of the Nunavut Court of Justice, as security for the costs of the candidate who has obtained the largest number of votes. S.Nu. 2011,c.17,s.37.

Hearing date

144. (1) The court shall appoint a time and place to commence recounting the votes, which shall, subject to subsection (3), be within 10 days after the receipt by the court of the application, or as soon as possible thereafter.

Appointment of another judge

(2) The judge that receives the application may appoint another judge to hear the application.

Two or more applications

(3) Where applications for recounts of the votes in respect of two or more constituencies are made under this section and both are dealt with by the same judge, the judge shall

- (a) proceed with the recounts in the order in which applications were made for the recounts; and
- (b) subject to subsection 147(1), proceed continuously from day to day until the last recount has been completed.

Notice and service

145. (1) The judge shall appoint and give written notice to the candidates or their agents of the time and place at which the judge will proceed to recount the votes and may, at the time of the application or afterward, decide and announce the method of service of notice.

Order to returning officer

(2) The judge shall summon the returning officer to attend at the time and place appointed under subsection (1) with the ballot boxes containing the used and counted, unused, rejected and spoiled ballot papers, or the original statements of the poll signed by the deputy returning officers, as the case may be, that are relevant to the recount that is to take place.

Duty of returning officer

(3) A returning officer shall obey a summons issued under subsection (2), and shall attend throughout the proceedings.

Attendance by candidates or representatives

(4) Each candidate, or his or her representative, and each candidate's counsel may attend the recount and make any objection which is permitted under the procedures applicable to the first counting of votes.

Attendance by voters

(5) Where a candidate is not present or represented at a judicial recount, any three voters who ask to attend on behalf of the candidate are entitled to attend and, except with the permission of the judge, no other person shall be present at the recount.

Recount procedure

146. (1) The judge undertaking the recount shall review the ballots and the accuracy of the statement of the poll.

Dismissal

(2) The judge may dismiss the application, before or during the hearing, if it appears to be frivolous, vexatious or unfounded.

Additional information

(3) The judge may order the production of additional information or documents.

Extension of time

(4) A judge may extend the time limits respecting recounts. S.Nu. 2005,c.14,s.32.

Continuity of proceedings

147. (1) The judge shall, as far as practicable, proceed continuously with the recount, allowing only recesses for refreshment if necessary.

Sealing during recess

(2) During a recess at a recount, the ballot papers and other documents shall be kept enclosed in packages under the seal of the court and under any other seals that persons who are authorized to attend at the recount desire to affix to the packages.

Supervision of sealing

(3) The judge shall personally supervise the packaging and sealing of ballot papers and documents at a recount and take all necessary precautions for the security of the papers and documents.

Assistance to judge

(4) Subject to the approval of the Chief Electoral Officer, the judge may retain the services of clerical assistants as required to properly perform the recount.

Procedure at conclusion

148. (1) At the conclusion of a recount, the judge shall

- (a) seal all the ballot papers in separate packages;
- (b) add the number of votes cast for each candidate as ascertained at the recount; and
- (c) certify the result of the recount, in the approved form.

Copies

(2) The judge shall immediately send a copy of the certified result of the recount to

- (a) the candidates;
- (b) the returning officer; and
- (c) the Chief Electoral Officer.

Decisions

(3) When considering a recount application, the judge may

- (a) dismiss the application;
- (b) terminate the application on request in writing by the applicant; or
- (c) **repealed, S.Nu. 2011,c.17,s.38(b)**;
- (d) decide any other matter relating to the application.
S.Nu. 2011,c.17,s.38.

Candidate with highest number of votes

149. (1) If the judge certifies that one candidate obtained a higher number of votes than any other, the returning officer shall declare that candidate elected in the return of the writ.

New election

(2) If the judge certifies a tie in the number of votes, the Chief Electoral Officer shall order that a new election be held.

Applicable rules

(3) An election that takes place pursuant to a recount shall be held in accordance with the provisions applicable to a by-election in the constituency. S.Nu. 2007,c.3,s.36.

Costs

150. (1) Where a recount does not alter the result of the election, the judge shall

- (a) order the applicant to pay the costs of the elected candidate; and
- (b) specify the amount of those costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the court.

Payment of costs

(2) The moneys deposited as security for costs shall, so far as necessary, be paid out to the candidate in whose favour costs are awarded and, if the deposit is insufficient, the party in whose favour the costs are awarded may take action for the balance.

Reimbursement of candidate

151. (1) The candidate who received the most votes, and any other candidate who received the same number of votes or a number that is within 2 % of the candidate who received the most votes, may apply to the Chief Electoral Officer, in the approved form, for reimbursement by the Chief Electoral Officer of the costs actually and reasonably incurred by the candidate in respect of a recount.

Costs

(2) An application made under subsection (1) shall set out the amount and nature of the costs actually and reasonably incurred by the candidate with respect to the recount.

Payment of costs

(3) On receipt of the application, the Chief Electoral Officer may determine and pay the amount of the costs actually and reasonably incurred by the candidate.

Limitation of costs

(4) A candidate is not entitled to any costs in respect of a recount in excess of the lesser of

- (a) the amount of costs actually and reasonably incurred by the candidate, as determined by the Chief Electoral Officer under subsection (3); and
- (b) \$500 for each day or part of a day on which the judge was actually engaged in carrying out the recount, plus the amount of travelling and living expenses actually and reasonably incurred by the candidate and the counsel of the candidate.

Retaining of deposit

(5) If a candidate requests a recount that does not result in that candidate being declared elected, the candidate's deposit shall be forfeited by the Chief Electoral Officer, unless the difference between the number of votes in favour of that candidate and the candidate having obtained the most votes is reduced to less than 2 % as a result of the recount.

Appeal of recount

152. (1) Where a judge omits, neglects or refuses to comply with this Act in respect of a recount, any party aggrieved may, within eight days after the recount, make an application to the Court of Appeal.

Hearing of appeal

(2) The Court of Appeal shall hear any appeal from a decision within 14 days of the day it is seized with the appeal application and shall render its decision as soon as possible.

Costs

(3) Remedies for the recovery of the costs awarded under this Act shall be the same as for costs in ordinary cases in the Court of Appeal.

Return of the writ

Declaration of elected candidate

153. (1) The returning officer shall declare as elected the candidate who obtained the greatest number of votes in the return of the writ, which is inscribed on the back of the writ of election.

Time of return

- (2) The return of the writ must be made not later than
- (a) seven days after certifying the vote count in the election report; or
 - (b) the day the certificate of any recount is received by the returning officer.

Sending return

(3) The returning officer shall send the return of the writ to the Chief Electoral Officer as soon as it is complete.

Return sent prematurely or containing errors

(4) The Chief Electoral Officer may return to the returning officer a return of the writ that was sent prematurely or that contains errors and, in such a case, the returning officer shall diligently remedy any defect as directed by the Chief Electoral Officer.

Registration of elected candidate

(5) Upon receipt of a return of the writ in due form prepared by the returning officer, the Chief Electoral Officer shall, in the order in which the returns are received,

- (a) register the name of the elected candidate in the register kept for this purpose; and
- (b) give notice of the election result in the *Nunavut Gazette*.

Delay for recount

(6) Where a returning officer receives notice of a recount, the returning officer shall delay sending the return of the writ until the returning officer has received the certified results of the recount from the judge. S.Nu. 2005,c.14,s.33; S.Nu. 2007,c.3,s.36.

Voiding an Election

Making the application

154. (1) An application to void an election may be brought by originating notice in the court by

- (a) the Chief Electoral Officer, where he or she considers it to be in the public interest;
- (b) a candidate in the election; or
- (c) a voter.

Grounds of application

- (2) An application to void an election may only be made on the grounds that
- (a) the elected person was not qualified or entitled to be a candidate;
 - (b) the elected person has not complied with this Act;
 - (c) another person has not complied with this Act and that non-compliance affected the result of the election; or
 - (d) an act or omission of an election officer affected the result of the election.

Time for bringing the application

(3) The application must be filed with the Clerk of the Nunavut Court of Justice no later than 30 days after the publication notice of the election result in the *Nunavut Gazette*.

Exception

(4) The limitation specified in subsection (3) does not apply to the Chief Electoral Officer, who may file the application at any time. S.Nu. 2011,c.17,s.39.

Practice and procedure

155. (1) Subject to this Act, the *Rules of the Nunavut Court of Justice* and the practice and procedure of the court apply to the application with such modifications as the circumstances require.

Security for costs

(2) The applicant, other than the Chief Electoral Officer, shall deposit with the Clerk of the Nunavut Court of Justice, at the time of filing, the sum of \$500 as security for the costs of the respondent under the application.

Service of application

- 156.** (1) A copy of the application shall be served, within 20 days after it is filed, on
- (a) the respondent;
 - (b) the returning officer and Chief Electoral Officer, unless they are the applicant; and
 - (c) the Clerk of the Legislative Assembly.

Notification of Legislative Assembly

(2) The Clerk of the Legislative Assembly shall notify the Legislative Assembly of any application to void an election.

Intervention by Chief Electoral Officer

157. (1) The Chief Electoral Officer may apply to a judge for leave to intervene in an application to void an election.

Notice of application

(2) The Chief Electoral Officer shall serve a copy of the application for leave on all parties.

Where leave granted

- (3) Where a judge grants leave to intervene,
- (a) the judge shall give directions as to appearance and procedure in respect of the Chief Electoral Officer, including leave to subpoena witnesses to attend at the hearing; and
 - (b) the Chief Electoral Officer shall be served with all proceedings in respect of the application that are served after the date on which leave is granted.

Application to set aside

158. (1) The respondent may, within 20 days after service of the application to void an election on the respondent, apply to a judge to set it aside on the following grounds:

- (a) the applicant is not qualified to bring the application;
- (b) application was not filed or served within the time allowed under this Act;
- (c) the security for costs was not deposited; or
- (d) the application does not disclose sufficient facts and grounds for declaring void or setting aside the election.

Particulars

(2) The respondent may apply to a judge for an order for particulars, or for further and better particulars, of the facts and grounds relied on to support the application

- (a) within 20 days after service of the application on the respondent;
- or

- (b) if the respondent has made application under this section to set the application aside, within five days after the disposal of that application.

Order

- (3) A judge may, by order,
 - (a) require the production of such particulars as the judge considers necessary to ensure a fair trial;
 - (b) fix the time in which the particulars shall be delivered to the respondent; and
 - (c) provide that, in default of delivery, the applicant be precluded from adducing evidence at the hearing of the application with respect to the facts and grounds on which the particulars are ordered.
- S.Nu. 2011,c.6,s.19(3).

Hearing of Application to Void Election

Hearing

159. (1) Any time after the application to void an election is filed, the applicant may apply to the court to appoint a time and place for the hearing of the application and the court shall, on being satisfied that the application is at issue, appoint a time and place for trial.

Application to dismiss

(2) The respondent may apply to a judge to dismiss the application where the applicant does not, within 30 days after the application is filed, apply to set it down for hearing.

Order

(3) The judge may, on an application under subsection (2), dismiss the application or appoint a time and place for the hearing.

Open court

(4) An application to void an election shall be heard in open court.

Decision of Court

Declaration that election of candidate void

160. (1) The judge may declare that an election is void where the judge determines that one or more of the grounds in subsection 154(2) have been established.

Effect of non-compliance

(2) No election shall be declared invalid for any of the following reasons, if it appears to the judge that is considering the question that the election was otherwise conducted in accordance with this Act and that the non-compliance did not affect the result of the election:

- (a) non-compliance with this Act relating to limitations of time, the taking of the poll or the counting of the votes;
- (b) a lack of qualifications in the persons signing a declaration of candidacy;
- (c) an error in the name, or omission of, or error in the address of any candidate on a declaration of candidacy; or
- (d) an insufficiency in any posting or publication of a notice or other document, or a mistake in the use of the forms under this Act.

Effect of declaration

(3) Where the election of a person is declared void, the judge may order that the person be removed from office and

- (a) if the judge determines that any other person is to be declared elected, that person shall be admitted to take his or her seat in the Legislative Assembly; or
- (b) if the judge determines that no other person is elected, the seat is deemed to be vacant.

Judgment forwarded to Clerk of the Legislative Assembly

(4) The Clerk of the Nunavut Court of Justice shall forward the judgment and the reasons for judgment to the Clerk of the Legislative Assembly who shall ensure that the judgment and the reasons for judgment are tabled before the Legislative Assembly.

S.Nu. 2007,c.3,s.36; S.Nu. 2011,c.17,s.40.

Member not entitled to sit

161. (1) Where a judge determines that a member was not lawfully elected, even if an appeal from the decision is pending, that member is not entitled to sit or vote in the Legislative Assembly until

- (a) the appeal is disposed of; and
- (b) the judgment of the Court of Appeal is received by the Legislative Assembly.

Other candidate entitled to sit

(2) Where a judge determines that some other person was elected or is entitled to the seat of the member referred to in subsection (1), that other person is, even if an appeal is pending, entitled to take his or her seat in the Legislative Assembly and to sit and vote until

- (a) the appeal is disposed of; and
- (b) the judgment of the Court of Appeal is received by the Legislative Assembly.

Appeal

Appeal

162. (1) An appeal lies with the Court of Appeal from a judgment of the court on an application to void an election.

Hearing

(2) The Registrar of the Court of Appeal shall set the appeal down for hearing at the next sitting and the appeal shall be heard by the Court of Appeal as soon as practicable.

Notice

(3) The appellant shall, within 10 days of setting the appeal down for hearing, give notice in writing that the case has been set down to

- (a) the parties affected by the appeal, or to their counsel;
- (b) the Chief Electoral Officer; and
- (c) the Clerk of the Legislative Assembly.

Judgment

(4) The Court of Appeal may give any judgment that it considers appropriate.

Costs

163. Costs of an appeal on an application to void an election and any proceeding arising from that application may be awarded as the Court of Appeal may, in its discretion, decide.

Management of Election Material

Safekeeping of ballot boxes

164. (1) A returning officer, on receipt of each ballot box, shall

- (a) take every precaution for its safekeeping and for preventing any person other than the returning officer or a deputy returning officer from having access to a ballot box;
- (b) examine the special seal affixed to each ballot box by a deputy returning officer;
- (c) affix a new approved seal if the seal is not in good order; and
- (d) record the condition of the special seal required to be affixed by the deputy returning officer to the ballot box in the appropriate column of the record book of the returning officer.

Collection of boxes and other material

(2) After the close of the polls, each deputy returning officer shall send to the returning officer or the Chief Electoral Officer, whichever is more convenient, any ballot boxes and the election material and documents for which the deputy returning officer was responsible.

Destruction or loss of ballot boxes

(3) Where any ballot box was destroyed, lost or for any other reason was not returned within the times fixed by this Act, other than destruction authorized under this Act, the returning officer shall ascertain the cause of the disappearance of the ballot box and report it in writing to the Chief Electoral Officer.

Remission of election material

(4) An election officer who is replaced, relieved of his or her duties or refuses or is unable to act, shall immediately send to his or her successor, or to any other person directed by the Chief Electoral Officer, any ballot boxes, election material and documents that the election officer obtained or prepared in the course of his or her duties.

Managing documents and ballot boxes

165. (1) The returning officer shall manage and then send to the Chief Electoral Officer, for storage or destruction, the ballot boxes and all election material as directed by the Chief Electoral Officer.

Preservation of election material

(2) The Chief Electoral Officer shall ensure that all election material, including all returns and documents generated or received in respect of an election, are maintained in accordance with accepted archival standards.

Destruction

(3) The ballots, ballot envelopes and unsigned election material may be destroyed 12 months after the date of publication of the notice of the election result in the *Nunavut Gazette*, unless they are required for a future use, an archival purpose or an application or proceeding under this Act. S.Nu. 2005,c.14,s.34.

Public records

166. (1) The following are public documents and may be inspected at the Office of the Chief Electoral Officer by any person on request during business hours:

- (a) all reports or statements respecting an election, other than documents received from election officers;
- (b) all instructions issued by the Chief Electoral Officer under this Act;
- (c) all decisions or rulings by the Chief Electoral Officer on points arising under this Act; and
- (d) all correspondence with election officers or others in relation to any election.

Request for access to documents

(2) Any person may request the Chief Electoral Officer provide access to any documents kept by the Chief Electoral Officer pursuant to this Act that are not public records.

Granting access

(3) The Chief Electoral Officer shall provide access for the person requesting a document referred to in subsection (2) to inspect the document, unless the Chief Electoral Officer considers that

- (a) the request is frivolous or vexatious;
- (b) the requested document is sealed inside a ballot box;

- (c) the requested document has been destroyed under subsection 165(3); or
- (d) the requested document contains information that should not or must not be disclosed for the same reasons as are applicable to records of a public body under the *Access to Information and Protection of Privacy Act*.

Copies

(4) Any person may make copies of documents referred to in subsection (1) and is entitled to certified copies of those papers on payment for the preparation of those certified copies at the approved rate for each page.

Evidence

(5) Any copies of documents purporting to be certified by the Chief Electoral Officer are admissible in evidence without further proof. S.Nu. 2011,c.17,s.41.

Removal of campaign material

167. Each candidate shall ensure that all his or her campaign material is removed from public display within 10 days after election day.

PART VII

ELECTION CONTRIBUTIONS AND EXPENSES

Contributions

Prohibition on making contributions

168. (1) No person shall make a contribution to another person for the purpose of supporting that person as a candidate at a forthcoming election unless

- (a) it is made during the election period;
- (b) the person being supported has been accepted as a candidate; and
- (c) it is made to the financial agent of the person or a person authorized in writing to accept contributions on behalf of the financial agent.

Prohibition on accepting contributions

(2) No person may accept a contribution for the purpose of supporting a person as a candidate at a forthcoming election unless

- (a) it is made during the election period;
- (b) the person being supported has been accepted as a candidate; and
- (c) the person accepting the contribution is the financial agent of the candidate or is authorized in writing to accept contributions on behalf of the financial agent.

Prohibited contributions

(3) No person or entity that is prohibited from campaigning under subsections 13.1(1) and (4) shall make a contribution to a candidate.

Group contributions

(4) Subject to subsection 74(1) of the *Public Service Act*, an unincorporated association or organization may make contributions to a candidate during an election period in the same manner as a corporation, if the association or organization

- (a) attaches to each contribution a list of the individual sources and amounts making up the contribution; or
- (b) if the number of the individual sources is greater than 25, has a list of those sources available for public inspection.

Maximum contribution

(5) Subject to subsection (8), no individual, corporation or unincorporated association or organization shall make contributions to a candidate exceeding \$2,500 in total during an election period.

Value of goods and services

(6) The value of a contribution made in goods and services is the market value of the goods and services.

Volunteer labour

(7) A contribution does not include any service provided free of charge by a person outside of the working hours of that person or any goods produced by that service, but does include any service, or goods produced by that service, provided by a person who is self-employed if the service is one that is normally sold or otherwise charged for by that person.

Exception to maximum contribution

(8) Where transportation services are given as a contribution of goods or services, the value of the contribution may exceed \$2,500 during an election period. S.Nu. 2005,c.14,s.35; S.Nu. 2007,c.3,s.36; S.Nu. 2013,c.6,s.13; S.Nu. 2013,c.26,s.89.

Use of personal funds

169. (1) A person who becomes a candidate at an election may, during the pre-election period and the election period, use an amount of his or her own funds not exceeding \$30,000 in total on his or her campaign.

Record of contribution

(2) Any amount of personal funds used under subsection (1) shall be recorded as if it were a contribution.

Tax receipt for candidate

(3) A tax receipt not exceeding \$2,500 may be issued to the candidate in respect of an amount of personal funds used during the election period. S.Nu. 2007,c.3,s.26(a).

Collection of contributions

170. (1) Only a financial agent or any person whom the financial agent authorizes in writing to act on behalf of the financial agent may receive a contribution on behalf of a candidate.

Tax receipt

(2) Only a financial agent may issue a tax receipt from the receipt book provided by the Chief Electoral Officer for a contribution of money accepted, but tax receipts issued to each contributor shall not exceed the maximum contribution in an election period.

Prohibition

(3) A person authorized by a financial agent to receive a contribution under subsection (1) shall not issue a tax receipt.

Bank account

(4) A financial agent shall

- (a) open an account at a bank or, where no bank exists where the financial agent resides, at an approved institution; and
- (b) deposit in that account all contributions of money collected on behalf of the candidate.

S.Nu. 2011,c.17,s.42.

Anonymous contribution

171. (1) A financial agent may accept an anonymous contribution not exceeding \$100.

Contribution exceeding \$100

(2) Where a financial agent receives an anonymous contribution exceeding \$100, the financial agent shall

- (a) if the identity of the contributor can be established, return the contribution; or
- (b) if the identity of the contributor cannot be established, send the whole contribution to the Chief Electoral Officer to be credited to the Consolidated Revenue Fund.

Record of contribution

172. (1) The financial agent shall, in addition to the record keeping obligations under the *Income Tax Act*, record and report all contributions received during an election period and, where a contribution exceeds \$100, the financial agent shall record and report the name and address of the contributor.

Contribution of goods or services

(2) The financial agent shall determine the market value of a contribution of goods and services and record that as the amount of the contribution, including food and

drink provided to voters at a meeting, dance, dinner or other function in relation to the election by someone other than the financial agent.

Prohibition on use of contributions

172.1. Subject to section 176, no person shall use a contribution made to a candidate for any purpose other than to pay an election expense for that candidate.

S.Nu. 2007,c.3,s.27.

Prohibited contribution

173. No financial agent shall knowingly accept a contribution from a person or entity not authorized under subsection 168(3). S.Nu. 2013,c.6,s.14.

Collection of money at functions

174. (1) Where money is given in response to a general collection of money solicited from the persons in attendance at a meeting, dance, dinner or other function held in relation to the election of a candidate,

- (a) no amount of money shall be received anonymously from any person exceeding \$100; and
- (b) the amounts given anonymously shall not be considered as a contribution for the purposes of calculating the \$2,500 limit in subsection 168(5), but the total amount of money collected shall be recorded and reported by the financial agent.

Name of sponsor

(2) The financial agent shall record and report the name of each sponsor of the meeting, dance, dinner or other function referred to in subsection (1).

S.Nu. 2007,c.3,s.26(b).

Advertising contribution

175. (1) The cost of the advertising shall be considered a contribution to a candidate where a person, with the knowledge and consent of the candidate, campaigns by advertising

- (a) through the facilities of a broadcaster;
- (b) in a newspaper, magazine or other periodical publication or other printed document; or
- (c) through the use of any billboard, sign or outdoor advertising medium.

Identification

(2) Any campaign manager or other person sponsoring the advertisement referred to in subsection (1) shall provide his or her name and address to the broadcaster or publisher of the advertisement. S.Nu. 2013,c.6,s.15.

Surplus contributions

176. (1) Subject to subsection 178(7), the financial agent shall, before the end of the post election period, give any contributions that were not expended on his or her candidate's campaign to

- (a) a charitable organization of the candidate's choice; or
- (b) the Consolidated Revenue Fund.

Cheque or receipt to Chief Electoral Officer

(2) The financial agent shall,

- (a) in the case of a gift to a charitable organization, send a copy of the receipt issued by the organization to the Chief Electoral Officer no later than 30 days after making the gift; or
- (b) in the case of a gift to the Consolidated Revenue Fund, send a cheque payable to that fund to the Chief Electoral Officer.

No tax benefit

(3) No financial agent or candidate shall gain any benefit under the *Income Tax Act* (Nunavut) or *Income Tax Act* (Canada) for the gift of a surplus contribution.

Deficit

(4) Subject to sections 168 and 173, where a candidate has a campaign deficit, persons may give and the financial agent may receive additional contributions within the post election period.

Additional contributions

(5) Additional contributions made under subsection (4) shall be deemed to have been made during the election period. S.Nu. 2005,c.14,s.36.

Expenses

Maximum expendable

177. (1) No person who becomes a candidate shall incur pre-election expenses and election expenses that cumulatively exceed \$30,000.

Records of pre-election expenses

(2) A person who becomes a candidate shall keep proper records of pre-election expenses.

Records of election expenses

(3) A financial agent of a candidate shall keep proper records of contributions received and election expenses incurred.

Contracts

178. (1) Only a financial agent, or a person authorized in writing by a financial agent, may enter into a contract to incur an election expense.

Liability

(2) A contract not entered into under subsection (1) is void.

Petty expenses

(3) A person may, if authorized in writing by a financial agent, pay any necessary expenses for stationery, postage, communications and other petty expenses to a total amount not exceeding the amount authorized.

Proof of expenses

(4) Every financial agent shall ensure that every payment in respect of an election expense is proved by a receipt or bill providing details of the expense.

(5) **Repealed, S.Nu. 2005,c.14,s.37.**

Payment of bills

(6) Subject to subsection (7), all bills must be submitted to and paid by the financial agent at the latest within the post election period.

Exception

(7) The Chief Electoral Officer may approve the receipt and payment of a bill after the post election period where, in the opinion of the Chief Electoral Officer, extraordinary circumstances exist. S.Nu. 2005,c.14,s.37.

Travel and other expenses

179. (1) Despite subsection 177, a candidate may incur expenses above the \$30,000 limit for his or her own reasonable

- (a) travel and living expenses;
- (b) childcare expenses; and
- (c) expenses, approved in advance by the Chief Electoral Officer, related to a disability suffered by the candidate.

Statement of particulars

(2) The candidate shall send to the financial agent a statement of the particulars of any expenses incurred directly by the candidate under subsection (1) and receipts proving the payments.

Reimbursement of candidate

(3) Where the financial agent receives the statement of particulars and the receipts referred to in subsection (2), the financial agent may reimburse the candidate for the payments.

Instructions of Chief Electoral Officer

(4) The Chief Electoral Officer may, for the purposes of this section, issue instructions to candidates and financial agents respecting the nature of the expenses that may be incurred by and reimbursed to a candidate under this section.

Financial Returns

Preparation of financial return

180. (1) Every financial agent shall, before the end of the post election period, prepare for his or her candidate an accurate, signed financial return in the approved form.

Sending financial return

(2) Every candidate shall, before the end of the post election period, send the financial return to the Chief Electoral Officer in the approved manner.

Contents of financial return

- (3) Each financial return sent to the Chief Electoral Officer must contain
- (a) detailed statements in respect of the candidate of
 - (i) the total amount of contributions received during the election period,
 - (ii) the total amount of contributions received after election day but deemed to have been made during the election period under subsection 176(5),
 - (iii) the individual amounts of contributions in excess of \$100 and the name and address of each such contributor,
 - (iv) the gross amount collected at any meeting, dance, dinner or other function and the name of each sponsor of the meeting, dance, dinner or other function, and
 - (v) all election expenses including disputed claims and unpaid claims;
 - (b) all receipts and bills proving payment of election expenses as required by subsection 178(4);
 - (c) a declaration signed by the financial agent certifying that the financial return is accurate, complete and does not contain any false or misleading information; and
 - (d) a declaration signed by the candidate certifying that the financial return is accurate, complete and does not contain any false or misleading information.

Application for extension of time

(4) A candidate or his or her financial agent may apply to the Chief Electoral Officer for an extension of the time limit for sending to the Chief Electoral Officer the financial return required under subsection (2).

Exception

(5) No application for an extension of time may be made to the Chief Electoral Officer in respect of a candidate declared elected.

Deadline

(6) An application for an extension of time made to the Chief Electoral Officer must be made before the end of the post election period.

Extension of time

(7) The Chief Electoral Officer may, on an application under subsection (4), extend the time limit for sending the financial return for such period of time as the Chief Electoral Officer considers appropriate.

Effect of death of candidate

(8) If a candidate dies before completing his or her obligations under this section, the financial agent shall send the financial return to the Chief Electoral Officer.
S.Nu. 2005,c.14,s.38.

Return of receipt book

181. (1) Every financial agent shall

- (a) send, before the end of the post election period, the receipt books to the Chief Electoral Officer; and
- (b) keep a copy of each receipt issued.

Additional contributions

(2) A financial agent may request receipt books from the Chief Electoral Officer to issue receipts for additional contributions where a candidate has a campaign deficit and the financial agent has returned the receipt books.

Return of receipt book

(3) Any receipt book obtained under subsection (2) shall be sent to the Chief Electoral Officer before the end of the post election period. S.Nu. 2011,c.17,s.43.

Auditor of financial returns

181.1. (1) The Chief Electoral Officer shall obtain the services of an auditor to audit financial returns.

Eligibility

(2) Only the following persons are eligible to be the auditor:

- (a) a person who is a member in good standing of a corporation, an association or an institute of professional accountants in Canada;
- (b) a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants in Canada.

Written report

(3) The auditor shall make a written report to the Chief Electoral Officer on each financial return stating whether the return presents fairly the information contained in the accounting records on which the return is based.

Auditor's statements

(4) In the auditor's written report, the auditor shall make any statements that the auditor considers necessary if

- (a) the return does not present fairly the information contained in the accounting records on which it is based;
- (b) the auditor did not receive from the financial agent or the candidate all the information and explanations that the auditor requested; or
- (c) it appears that proper accounting records were not kept by the financial agent or candidate.

Generally accepted accounting principles

(5) The auditor shall apply generally accepted accounting and auditing principles when conducting the audit.

Examinations

(6) The auditor may make any examinations that the auditor considers necessary to enable the auditor to conduct the audit.

Access

- (7) Each financial agent and candidate shall provide the auditor with
- (a) access at all reasonable times to all records, documents, books, bank accounts and receipts relevant to the candidate's contributions and election expenses; and
 - (b) any information and explanation that, in the auditor's opinion, may be necessary to enable the auditor to make his or her report.
- S.Nu. 2007,c.3,s.28.

Publication of return

182. (1) The Chief Electoral Officer shall, as soon as is reasonably practicable after receiving the financial return, cause a summary of the return, together with a notice as to the method of obtaining a copy of the return, to be published in a newspaper circulating in the constituency of the candidate.

Publication of non-compliant candidates

(1.1) The Chief Electoral Officer shall, as soon as is reasonably practicable, cause a notice to be published in the *Nunavut Gazette* of the names of any candidates and financial agents who failed to comply with section 180.

Notice of ineligible candidates

(1.2) The Chief Electoral Officer must publish, as soon as is reasonably practicable before the close of candidacy in a newspaper of general circulation in Nunavut, notice of the name of any person who is ineligible to be a candidate in the election under subsection 11(2.1), (2.2) or (3).

Transmission of declaration

(2) The Chief Electoral Officer shall, as soon as is reasonably practicable, send to the Clerk of the Legislative Assembly a declaration that the elected candidates have sent financial returns to the Chief Electoral Officer.

(3) Repealed, S.Nu. 2005,c.14,s.39.

(4) Repealed, S.Nu. 2005,c.14,s.39.

S.Nu. 2005,c.14,s.39,55; S.Nu. 2008,c.9,s.3 ; S.Nu. 2011,c.17,s.44.

Disqualification from sitting

183. (1) No successful candidate shall sit or vote in the Legislative Assembly as a member until their financial return is sent to the Chief Electoral Officer.

Exception

(2) Despite subsection (1), where the successful candidate has filed an application under section 184, the candidate shall be allowed to sit in the Legislative Assembly and vote as a member, as of the date of the filing of the notice, pending the determination of the application. S.Nu. 2005,c.14,s.55.

Order allowing authorized excuse

184. (1) A judge may make such order as the judge considers just allowing the failure to send all or part of a financial return when due, or for an error or false statement in the return or declaration, if

- (a) the candidate applies to a judge and shows that the failure to send it, or the error or false statement, arose by reason of inadvertence, the illness of the candidate, the absence, death, illness or misconduct of the financial agent or of a clerk or officer of the financial agent, or any other similar reasonable cause and not by reason of lack of good faith on the part of the candidate; or
- (b) the financial agent applies to a judge and shows that the failure, error or false statement arose by reason of inadvertence, the absence or illness of the financial agent, the death or illness of any prior financial agent, the absence, death, illness or misconduct of the candidate or a clerk or officer of the financial agent or any other similar reasonable cause, and not by reason of lack of good faith on the part of the financial agent.

Grounds

- (2) The order may only be made on production of evidence of
- (a) the grounds stated in the application;
 - (b) the good faith of the applicant; and
 - (c) such other matters as the judge sees fit.

Notice

- (3) The applicant must give notice of the application under subsection (1)
- (a) to the public in the constituency; and
 - (b) to the Chief Electoral Officer, if the Chief Electoral Officer is a party to the application.

Order for attendance and production of particulars

- (4) On hearing an application under subsection (1), the judge shall order the candidate or financial agent to attend before the judge where it appears to the judge that
- (a) in the case of an application by a candidate, the candidate is unable to comply with this section by reason of the refusal or failure of the financial agent or prior financial agent
 - (i) to prepare the financial return, or
 - (ii) to supply the particulars that would enable the financial return to be prepared and sent; or
 - (b) in the case of an application by a financial agent, the financial agent is unable to comply with this section by reason of the refusal or failure
 - (i) of a prior financial agent to prepare the financial return, or
 - (ii) of a prior financial agent or the candidate to supply the particulars that would enable the financial return to be prepared and sent.

Service

- (5) The order to attend must be served personally on the person who refused or failed to prepare or send a financial return or supply particulars.

Contents of order

- (6) On the attendance of that person, the judge shall, unless the person shows cause to the contrary, order that person to
- (a) prepare or send the financial return or supply the particulars that are required to be contained in the return and to do so within the time and to the person and in the manner that the judge may direct; or
 - (b) be examined with respect to the particulars.

Conditions for order

- (7) An order made under subsection (1) must provide that an allowance of an authorized excuse is conditional on
- (a) the preparation and submission of the financial return in a modified form within an extended time; or
 - (b) compliance with such other conditions as the judge considers just for satisfying the requirements of this Act.

Effect of order allowing excuse

(8) An order allowing an authorized excuse relieves the applicant from any liability or consequence under this Act in respect of the matters excused by the order.

Relief from act or omission of financial agent

(9) A judge may relieve a candidate from the consequences of an illegal act or omission on the part of the financial agent of the candidate where the judge is satisfied that

- (a) any act or omission of the financial agent in relation to the financial return was without the sanction or connivance of the candidate; and
- (b) the candidate exercised due diligence to prevent the act or omission.

Date of order

(10) Where an order is made under subsection (1), the date of the allowance of the excuse for the purposes of this section shall be deemed to be

- (a) the date of the order; or
- (b) if the order specifies that conditions are to be complied with, the date on which the applicant fully complies with those conditions.
S.Nu. 2005,c.14,s.55.

Return of deposit

185. (1) Candidate's deposits shall be returned, respectively, to

- (a) any candidate who sends a financial return in accordance with section 180;
- (b) every candidate, where the writ of election for the constituency is withdrawn or is deemed to be withdrawn; or
- (c) the estate of any candidate who dies before the closing of the poll.

No return

(2) Other than the cases referred to in subsection (1), a deposit shall belong to the Government of Nunavut. S.Nu. 2005,c.14,s.55.

Advertising

Identification when campaigning

186. (1) Every candidate or other person who campaigns shall, in accordance with instructions issued under subsection (4), ensure that all his, her or its campaign material includes

- (a) the name of the candidate or other person campaigning; and
- (b) the name and a valid telephone number or email address of an individual who is responsible for the content of the campaign material, which in the case of a candidate is his or her financial agent.

Clarity of information

(2) The information required under subsection (1) must be communicated in a way that is as easy to read, hear or see as the majority of the substance of the message being communicated by the campaign material.

Minors

(3) If the person campaigning is a minor, the person referred to under paragraph (1)(b) must be an adult who is responsible for the minor.

Instructions of Chief Electoral Officer

(4) The Chief Electoral Officer may issue instructions respecting the communication and inclusion of the information required by this section.
S.Nu. 2005,c.14,s.40; S.Nu. 2013,c.6,s.16.

Broadcast time

187. (1) Every broadcaster who operates a community or educational broadcasting service shall, subject to the conditions of its licence, any agreement with the Canadian Broadcasting Corporation and the regulations made under the *Broadcasting Act* (Canada),

- (a) make broadcasting time available to all candidates in the constituencies in which it operates; and
- (b) ensure that every candidate has approximately equal access to broadcasting time.

Identity of campaigner

(2) No broadcaster who operates a community or educational broadcasting service shall broadcast any campaign material that does not comply with section 186.
S.Nu. 2013,c.6,s.17.

PART VIII

ADMINISTRATION

Chief Electoral Officer

Appointment of Chief Electoral Officer

188. (1) The Chief Electoral Officer is appointed by the Commissioner on the recommendation of the Legislative Assembly to hold office during good behaviour, and may be removed for cause by the Commissioner on the recommendation of the Legislative Assembly.

Term of office

(2) The term of office for the Chief Electoral Officer is seven years.

Oath of office

(3) Before undertaking the duties of office, the Chief Electoral Officer shall take an oath or affirmation of office in the form specified in the *Legislative Assembly and Executive Council Act* for independent officers of the Legislative Assembly.

Status of Chief Electoral Officer

(4) The Chief Electoral Officer is an independent officer of the Legislative Assembly and ranks as and has all the powers of a Deputy Minister.

Official seal

(5) The Chief Electoral Officer shall have an official seal, which shall be judicially noticed.

Elections Nunavut

(6) The Chief Electoral Officer may use the term "Elections Nunavut" to refer to the Office of the Chief Electoral Officer and may adopt a suitable logo for that purpose. S.Nu. 2005,c.14,s.41; S.Nu. 2013,c.18,s.12.

Note: On a day to be fixed by order of the Commissioner, on the recommendation of the Management and Services Board, the following is added after subsection 188(4):

Superannuation

(4.1) Despite subsection (4), the Chief Electoral Officer is deemed to be a member of the public service for the purposes of superannuation.

See S.Nu. 2012,c.21,s.1(4).

Duties of the Chief Electoral Officer

- 189.** (1) In order to fulfill the purposes of this Act, the Chief Electoral Officer shall
- (a) formulate policies regarding the conduct of elections;
 - (b) exercise general direction and supervision over the administrative conduct of an election and enforce, on the part of all candidates and election officers, fairness, impartiality and compliance with this Act;
 - (c) prepare guidelines with respect to the electoral process for candidates, financial agents, campaign managers, election officers and other interested groups or persons;
 - (d) establish any forms that may be required under this Act;
 - (e) provide direction to and manage the staff of the Office of the Chief Electoral Officer;
 - (f) issue instructions or directions to election officers, candidates, financial agents and persons who are campaigning;

- (g) coordinate the election process with bodies responsible for other elections elsewhere in Canada; and
- (h) perform any other functions related to the purpose and principles of this Act or otherwise provided for under this Act.

Administrative powers

- (2) In order to carry out the duties of office, the Chief Electoral Officer may
- (a) prepare interpretation bulletins on the interpretation of this Act;
 - (b) issue any form required by this Act and establish any forms, not otherwise provided for, that may be necessary for the proper administration of this Act;
 - (c) modify any form prescribed by the regulations;
 - (d) meet with the Management and Services Board and appropriate committees of the Legislative Assembly to discuss matters related to this Act;
 - (e) conduct public hearings with respect to regulations, policies and guidelines or any issue related to the electoral process;
 - (f) intervene, with leave, in any proceedings before a court in which a provision of this Act or the regulations is in dispute;
 - (g) implement, either alone or in co-operation with other bodies, public education and information programs intended to make the electoral process better known to the public, particularly to persons or groups likely to experience difficulties in exercising their democratic rights;
 - (h) make such agreements as necessary to perform his or her duties and to improve the Nunavut electoral system;
 - (i) cooperate with other jurisdictions and levels of government, and with organizations administering elections within Nunavut, to share information and resources, to learn together, to pool and train staff and to deliver better election services to Nunavummiut; and
 - (j) exercise all other powers assigned to the Chief Electoral Officer by this Act.

S.Nu. 2005,c.14,s.42; S.Nu. 2013,c.6,s.18.

Powers to adapt this Act

190. (1) The Chief Electoral Officer may adapt any provision of this Act to achieve the purposes of this Act where it appears to the Chief Electoral Officer during an election period that, because of any mistake, emergency, disaster or unusual or unforeseen circumstance, the Act does not accord with the urgent needs of the situation.

Exception

(2) Despite subsection (1), the Chief Electoral Officer has no power to extend the period for filing declarations of candidacy or the time to receive a special ballot.

S.Nu. 2007,c.3,s.36.

Order to cease activity or take action

- 191.** (1) The Chief Electoral Officer may issue an order requiring a person to
- (a) cease an activity, where it appears to the Chief Electoral Officer that the activity is in contravention of this Act; or
 - (b) take action, where it appears to the Chief Electoral Officer that such action is required by this Act.

Hearing

- (2) No order shall be made under subsection (1) without a hearing unless, in the opinion of the Chief Electoral Officer,
- (a) there exist urgent circumstances that justify making the order without first holding a hearing; and
 - (b) the length of time needed for the holding of a hearing would be prejudicial to the effectiveness of the order.

Temporary order

- (3) An order made under subsection (1) without a hearing shall expire no later than the 5th day after its issue but, where a hearing is commenced before the expiry of the order, the Chief Electoral Officer may extend the order for the duration of the hearing, with or without variation. S.Nu. 2011,c.17,s.45.

Delegation

- 192.** (1) The Chief Electoral Officer may delegate, in writing, generally or specifically, any of his or her powers or duties.

Instructions

- (2) The Chief Electoral Officer shall ensure that any instructions that the Chief Electoral Officer issues respecting any matter or form that is to be approved under this Act are retained in a register kept by the Chief Electoral Officer.

Acting Chief Electoral Officer

- 193.** (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint an acting Chief Electoral Officer if
- (a) the Chief Electoral Officer is temporarily unable to act because of illness or for another reason; or
 - (b) the Office of the Chief Electoral Officer is vacant and the Legislative Assembly is not sitting.

Term of acting Chief Electoral Officer

- (2) An acting Chief Electoral Officer holds office until either the Chief Electoral Officer is able to act or a new Chief Electoral Officer is appointed.

Staff of the Office of the Chief Electoral Officer

Staff

194. (1) The Chief Electoral Officer may appoint such staff as is necessary for the proper conduct of elections, despite the *Public Service Act*.

Public service employee

(2) The staff of the Office of the Chief Electoral Officer are employees of the public service as defined in the *Public Service Act*.

Excluded employees

(3) The Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer are not eligible for membership in a bargaining unit as defined in the *Public Service Act*.

Contracting services

195. The Chief Electoral Officer may, despite the *Public Service Act*, hire and determine the remuneration of additional staff on a temporary basis to assist the Chief Electoral Officer and, for specific work, may contract for the services of counsel and experts.

Chief Electoral Officer's Report

Annual report

196. (1) The Chief Electoral Officer shall submit to the Speaker an annual report for each fiscal year no later than July 1 following the end of the fiscal year.

Contents of annual report

- (2) The annual report shall include, in particular,
- (a) a summary of the Chief Electoral Officer's activities during the fiscal year;
 - (b) a summary of any matter that, in the opinion of the Chief Electoral Officer, should be brought to the attention of the Speaker;
 - (c) a report on the appropriateness of the Tariff of Fees and the cost of all activities paid out of the Consolidated Revenue Fund; and
 - (d) recommendations to improve this Act and the election process.

Laying report before Legislative Assembly

(3) The Speaker shall, at the first opportunity, lay a copy of the Chief Electoral Officer's annual report before the Legislative Assembly. S.Nu. 2005,c.14,s.43; S.Nu. 2011,c.17,s.46.

Election report

197. (1) The Chief Electoral Officer shall submit to the Speaker a report on the conduct of each general election and by-election no later than 280 days after the date of the writ.

Contents of election report

- (2) The election report shall include, in particular,
- (a) the number of votes cast for each candidate at each polling station;
 - (b) the number of rejected ballots;
 - (c) the number of names on the final voters list;
 - (d) any complaints made by or on behalf of a candidate in an election;
 - (e) the details of any instance where the Chief Electoral Officer exercised the power to adapt this Act during an election period or extended the voting period;
 - (f) a list of all returning officers and assistant returning officers with their names and addresses and their constituencies; and
 - (g) a summary of the complaints, investigations and prosecutions under this Act and their outcome.

Laying report before Legislative Assembly

(3) The Speaker shall, at the first opportunity, lay a copy of the Chief Electoral Officer's election report before the Legislative Assembly. S.Nu. 2011,c.17,s.47.

Returning Officers

Appointment

198. (1) The Chief Electoral Officer shall appoint a returning officer for each constituency.

Publication of appointments

(2) The Chief Electoral Officer shall, without delay, publish notice of the appointment of a returning officer, setting out the name of the constituency and the person's name and address, in the *Nunavut Gazette* and a newspaper of general circulation in the constituency.

Term of office

(3) Each returning officer shall hold office for a term ending one year after the election following their appointment.

Reappointment

(4) A returning officer may be re-appointed by the Chief Electoral Officer.

End of term of office

(5) Subject to subsection (6), the term of office of any returning officer ceases upon the enactment of any bill to change the boundaries of the returning officer's constituency.

Exception

(6) The term of office of a returning officer shall not cease where the boundaries of the constituency are not, in the opinion of the Chief Electoral Officer, substantially different from those of the constituency for which the returning officer was appointed.

Determination of change in boundaries

(7) The Chief Electoral Officer shall determine whether the boundaries of a constituency are substantially different for the purposes of subsection (6) no later than the 30th day after the bill changing the boundaries of the constituency is enacted.

S.Nu. 2011,c.17,s.48.

Resignation

199. (1) Any resignation of a returning officer shall not take effect earlier than the day it is accepted by the Chief Electoral Officer.

Dismissal of returning officer

(2) The Chief Electoral Officer may remove any returning officer from office on the grounds that the returning officer, for any reason,

- (a) has not performed, or is unable to perform, the returning officer's duties in a satisfactory manner;
- (b) has resigned his or her position as returning officer;
- (c) has not followed the directions or the instructions of the Chief Electoral Officer;
- (d) has not been impartial, whether or not in the course of the returning officer's functions;
- (e) no longer resides in the constituency for which the returning officer was appointed or is otherwise no longer eligible to be a returning officer; or
- (f) at any time after being appointed, engages in politically partisan conduct in respect of the Government of Nunavut or works for or on behalf of or against a candidate, whether or not in the course of the returning officer's functions.

Vacancy

(3) The Chief Electoral Officer shall appoint a new returning officer for a constituency in which the office of returning officer becomes vacant

- (a) without delay, where a by-election occurs in that constituency;
- (b) without delay, where the Legislative Assembly is dissolved; and
- (c) in any other case, within 60 days after the vacancy.

Duties of office

200. (1) Each returning officer shall, subject to the direction of the Chief Electoral Officer,

- (a) take whatever reasonable measures are necessary for the proper and timely conduct of an election;

- (b) ensure that deputy returning officers and poll clerks are properly trained in accordance with guidelines of the Chief Electoral Officer;
- (c) determine the hours of the day in a constituency in which two or more time zones are observed, with the approval of the Chief Electoral Officer;
- (d) take whatever reasonable measures are necessary to ensure that voter participation in the election is facilitated; and
- (e) perform such other duties as may be assigned to a returning officer by the Chief Electoral Officer or otherwise under this Act.

Delegation

(2) A returning officer may delegate to the assistant returning officer the returning officer's duties and powers under this Act, in accordance with the instructions of the Chief Electoral Officer.

Delegation in writing

(3) The returning officer's delegation shall be in writing and shall be dated and signed by the returning officer.

Peace officer

201. A returning officer is a peace officer for the purposes of the administration of this Act during the hours that the polls are open.

Assistant Returning Officer

Appointment of assistant returning officer

202. (1) Each returning officer shall, without delay after being appointed, appoint in writing an assistant returning officer.

Term of office

(2) An assistant returning officer holds office, at the pleasure of the returning officer, until the end of the election period.

Duties

(3) An assistant returning officer shall perform such duties as the returning officer may assign. S.Nu. 2007,c.3,s.30.

Dismissal

203. (1) A returning officer who intends to revoke the appointment of an assistant returning officer shall do so in writing and state the reasons for the revocation.

Resignation

(2) An assistant returning officer may resign by informing the returning officer or, when the position of returning officer is vacant, the Chief Electoral Officer.

Notification of Chief Electoral Officer

(3) The returning officer shall notify the Chief Electoral Officer where the appointment of an assistant returning officer is revoked, or where the assistant returning officer resigns or dies.

Absence or inability of returning officer

(4) Where the office of the returning officer is vacant, or the returning officer is absent or unable to act, the assistant returning officer shall inform the Chief Electoral Officer and shall perform the duties of the returning officer on an interim basis.

Other assistant returning officers

- (5) At the request of the returning officer, the Chief Electoral Officer may
- (a) authorize the returning officer to appoint an assistant returning officer for a specific community or area in the constituency; and
 - (b) authorize the establishment of an office for that assistant returning officer.

Limitation of authorization

(6) An assistant returning officer appointed for a community or area may exercise powers and shall perform the duties of office only for that area.

Authorization of other functions

(7) The Chief Electoral Officer may authorize an assistant returning officer or an additional assistant returning officer to perform the functions of a deputy returning officer at an advance vote or a mobile poll. S.Nu. 2005,c.14,s.44.

Other Election Officers

Appointment of other election officers

204. The returning officer shall, as soon as possible after the issuance of the writ, appoint a deputy returning officer and a poll clerk for each polling station. S.Nu. 2011,c.17,s.49.

Qualifications of Election Personnel

Eligibility

205. (1) To be eligible for appointment as an election officer, other than a registration clerk or a poll clerk, a person must be entitled to vote.

Disqualification

- (2) No person is eligible to an election officer if they
- (a) are a candidate, a financial agent or a campaign manager;
 - (b) are a member of the Legislative Assembly, or were a member during the previous session;
 - (c) are a member of the Queen's Privy Council for Canada;
 - (d) are a member of the House of Commons or the Senate;

- (e) are a member of the legislative assembly of a province or another territory;
- (f) are a mayor or councillor of a municipality;
- (g) are a judge; or
- (h) were convicted of an offence under this Act, the *Canada Elections Act*, the *Criminal Code* or any enactment of Canada, a province or another territory relating to elections.

Related persons

(3) No member of the family of the returning officer is eligible to be an assistant returning officer. S.Nu. 2011,c.17,s.50.

Form of appointments

206. All appointments under this Act must be in the approved form. S.Nu. 2005,c.14,s.45.

General Duties of Office

Duty of impartiality

207. (1) Election officers and the staff of the Office of the Chief Electoral Officer shall act impartially and shall not, in the performance of functions under this Act, in any way favour a particular candidate.

Training

(2) Deputy returning officers and poll clerks must satisfactorily complete any elections training required by the Chief Electoral Officer.

Holding a single office

208. The returning officer and assistant returning officer shall not hold any other office under this Act.

Prohibited activities

209. (1) No election officer shall, while in office,

- (a) accept or hold any office or employment or participate in an activity that is inconsistent with the person's duties under this Act;
- (b) make a contribution to a candidate; or
- (c) incur an election expense.

Specific tasks

(2) Subject to subsection 203(7), no returning officer shall act as a deputy returning officer or poll clerk at a polling station. S.Nu. 2007,c.3,s.31.

Administrative Matters

Preservation of documents

210. The Chief Electoral Officer shall ensure that

- (a) a register is kept of all approved forms and any instructions he or she issues respecting any matter; and
 - (b) all writs, returns of the writs, certificates and declarations in respect of elections are preserved for archival purposes.
- S.Nu. 2007,c.3,s.36.

Remuneration of Chief Electoral Officer and staff

211. (1) The Chief Electoral Officer shall be paid such remuneration as the Management and Services Board determines and the staff of the Office of the Chief Electoral Officer shall be paid such remuneration as the Chief Electoral Officer determines.

Expenses

(2) The Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer shall be reimbursed for reasonable living and travel expenses while performing their functions.

Notices

Manner of giving notice

212. When an election officer is authorized or required to give a public notice by this Act and no special method of notification is indicated, the notice may be by advertisement, placard, handbill or otherwise as the election officer considers will best achieve the purpose.

Application of *Electronic Commerce Act*

213. (1) Elections Nunavut is a public body within the meaning of the *Electronic Commerce Act* and that Act applies to information and documents under this Act.

Authority respecting electronic documents

(2) The Chief Electoral Officer may

- (a) use electronic means to create, collect, receive, store, transfer, distribute, publish or otherwise deal with documents or information;
- (b) establish information technology standards and acknowledgement rules for electronic documents;
- (c) issue electronic versions of forms and other documents used under this Act;
- (d) consent, or refuse to consent, to the acceptance of an electronic document; and

- (e) establish systems for the submission or sending of electronic documents under this Act.

Statements declaring truth, etc.

(3) A statement under this Act declaring or certifying that information given by a person making the statement is true, accurate or complete may be made in electronic form if the person signs it with that person's electronic signature.

Witnessed signatures

(4) A requirement under this Act for a signature to be witnessed is satisfied with respect to an electronic document if each signatory and each witness signs the electronic document with their electronic signature.

Internet

(5) The Chief Electoral Officer may establish a presence on the Internet to distribute and receive information and documents related to elections.

S.Nu. 2007,c.3,s.32.

Oaths and Affirmations

Oath of office

214. (1) Before taking office, all election officers shall take the oath or affirmation of office in the approved form.

Transmission of oaths

(2) The returning officer shall, without delay, send to the Chief Electoral Officer the original written copy of

- (a) the returning officer's own oath or affirmation; and
- (b) the appointment and oath or affirmation of the assistant returning officer and every other election officer in the constituency.

Persons to administer oaths

215. (1) Where an oath, affirmation or affidavit is to be made, taken or administered under this Act and no particular person is required to administer it by this Act, it may be administered by

- (a) the Chief Electoral Officer or a person designated by the Chief Electoral Officer in writing;
- (b) a returning officer;
- (c) an assistant returning officer;
- (d) a deputy returning officer;
- (e) a judge;
- (f) a notary public;
- (g) a justice of the peace;
- (h) a member of the Royal Canadian Mounted Police; or
- (i) a commissioner for oaths.

Prohibition of fees

(2) All oaths, affirmations or affidavits administered under this Act shall be administered without charge.

Judicial Review

Decisions final

216. (1) Every order or decision of the Chief Electoral Officer is final.

No review

(2) No order shall be made, processed, or entered or proceeding taken in any court to contest, review, impeach or limit the action of the Chief Electoral Officer.

Review on matters of jurisdiction

(3) Despite subsection (2), judicial review may be taken within 30 days of the decision of the Chief Electoral Officer in respect of a question of jurisdiction.

Regulations

Regulations

217. (1) The Management and Services Board may make regulations

- (a) prescribing forms of the writ, proclamation and ballot paper;
- (a.1) respecting electronic documents and electronic signatures for the purposes of this Act;
- (b) respecting fees, allowances, expenses and remuneration payable under this Act; and
- (c) on any matter that is to be subject to regulations under this Act.

Tariff of Fees

(2) The regulations may establish a Tariff of Fees including

- (a) the fees, allowances, expenses and remuneration payable to election officers in the performance of their functions under this Act;
- (b) the method and procedure of applying for payment for services given and expenses incurred under this Act;
- (c) the fees payable for any goods and services that are provided at an election;
- (d) the fees payable for any goods and services that are provided for the determination of constituency boundaries; and
- (e) the procedure for paying the fees and recovering payment of the fees.

S.Nu. 2007,c.3,s.33.

Applicability of Statutory Instruments Act

218. The following are not statutory instruments within the meaning of the *Statutory Instruments Act*:

- (a) the rules of a Boundaries Commission;
 - (b) any guidelines given by the Chief Electoral Officer;
 - (c) any instructions or directions given by the Chief Electoral Officer under this Act; and
 - (d) any forms approved by the Chief Electoral Officer.
- S.Nu. 2013,c.6,s.19.

Financial Matters

Fees and allowances

219. All election officers, other than the Chief Electoral Officer, shall receive fees, allowances and other payments in accordance with the Tariff of Fees.

Failure to carry out functions

220. (1) Where a returning officer is of the opinion that an election officer has failed to carry out any of the duties required to be performed by the election officer at an election, the returning officer shall notify the Chief Electoral Officer in writing.

Loss of payment

(2) On receipt of the notice referred to in subsection (1), the Chief Electoral Officer may, as disciplinary measure, refuse to pay some or all of the amount due to the election officer for services and expenses.

Appeal

(3) An election officer who is subject to the disciplinary measure provided in subsection (2) may appeal the measure to the Management and Services Board within 30 days of the decision to impose it.

Accountable advance

221. (1) The Chief Electoral Officer may authorize an accountable advance to a returning officer to defray office or other expenses related to the returning officer's functions.

Payment of additional amounts

(2) The Chief Electoral Officer may authorize the payment of such additional amounts as the Chief Electoral Officer considers just and reasonable in the circumstances where the amounts in the Tariff of Fees are not sufficient for the services performed at an election.

Certificate

- (3) Each returning officer shall
- (a) record all reimbursable expenses incurred by the returning officer and other election officers in the constituency;
 - (b) certify, to the Chief Electoral Officer, all accounts submitted to the returning officer; and
 - (c) assume responsibility for the correctness of all certified accounts.

Review of accounts

(4) The Chief Electoral Officer, in accordance with the regulations, shall review all accounts relating to an election and shall send those accounts to the Speaker.

Statutory appropriation

222. The following payments shall be paid out of any unappropriated monies forming part of the Consolidated Revenue Fund:

- (a) the cost of a Boundaries Commission, including its public hearings;
- (b) remuneration and expenses paid to the Chief Electoral Officer;
- (c) remuneration paid to the staff of the Office of the Chief Electoral Officer and persons hired or contracted for by the Chief Electoral Officer;
- (d) the cost of all investigations and prosecutions under this Act;
- (e) the fees payable for any goods and services that are provided by the Chief Electoral Officer for the determination of constituency boundaries;
- (f) the cost of information and public education programs;
- (g) the cost of any activities incurred by the Chief Electoral Officer to fulfill the purpose and principles of this Act; and
- (h) the official fees and expenses resulting from the preparation for and conduct of an election, including
 - (i) remuneration paid to the staff of the Chief Electoral Officer for overtime work,
 - (ii) fees and allowances paid under the Tariff of Fees, and
 - (iii) expenses incurred by the Chief Electoral Officer to prepare and print election material or acquire, assemble and ship election supplies.

Agreements

Signing a prohibited agreement

223. No candidate shall sign any document that would, if the candidate were elected as a member of the Legislative Assembly,

- (a) require the candidate to resign at the request of another;
- (b) constitute an undated resignation; or

- (c) require the candidate to follow any course of action that would prevent the candidate from exercising freedom of action in the Legislative Assembly.
S.Nu. 2005,c.14,s.41.

Agreements

224. The Speaker, in consultation with the Chief Electoral Officer, may enter into agreements with the Government of Canada, the government of a province or another territory, a municipal government, Elections Canada or another electoral body respecting the conduct of elections.

PART IX

ENFORCEMENT

Complaints

Making a complaint

225. (1) Any person who believes that an offence under this Act has been, is being or may be committed may make a complaint to the police.

Deadline for complaints

(2) Any complaint to the police must be made no later than 90 days after the complainant acquired knowledge of the event upon which the complaint is based.

Request by Chief Electoral Officer

(3) The Chief Electoral Officer may request the police to investigate any situation that might constitute an offence under this Act.

Enforcement protocol

226. A protocol among the Chief Electoral Officer, the police, the prosecutor and the Integrity Commissioner must be arranged respecting the enforcement of this Act, including their respective responsibilities, the procedures for conducting various tasks and ensuring timely and efficient communication of information. S.Nu. 2005,c.14,s.46.

Investigations

Investigations

227. (1) The police shall take all reasonable measures in the investigation of a complaint.

(2) **Repealed, S.Nu. 2005,c.14,s.47.**

Advising the Integrity Commissioner

(3) The police shall advise the Integrity Commissioner of any case where, during the course of an investigation, the police have reasonable and probable grounds for believing that an offence under this Act has been committed.

Request for information

(4) The police and the Chief Electoral Officer shall, on request, supply whatever information in their possession relevant to the offence may be required by the Integrity Commissioner to determine whether a compliance agreement is appropriate in a case where there are reasonable and probable grounds for believing that an offence under this Act has been committed. S.Nu. 2005,c.14,s.47.

Warrant

228. (1) A judge may, on *ex parte* application, issue a warrant authorizing a police officer or other person named in the warrant to enter and search premises for any evidence relevant to an investigation under this Act where the judge is satisfied by information on oath that there are reasonable grounds to believe there is relevant evidence on the premises.

Power to enter

(2) A peace officer or person named in a warrant issued under subsection (1) may, subject to the terms and conditions in the warrant, enter and search any premises authorized under the warrant in order to carry out such inquiries as are reasonably necessary for the investigation.

Use of force

(3) A person, other than a police officer, executing a warrant issued under subsection (1) shall not use force unless the person is, or is accompanied by, a peace officer and the use of force has been specifically authorized in the warrant.

Production of records

(4) A person executing a warrant may require any individual found in any premises entered pursuant to the warrant to produce for inspection or copying any record that appears to contain any matter relevant to the investigation.

Obstruction

(5) No person shall obstruct a police officer or other person conducting an investigation.

Notice of investigation

229. (1) The police shall, before the end of an investigation, notify any person who is the subject of the investigation that he or she is being investigated, the allegations being made against the person and the nature of the offence being investigated, unless the police believe that doing so would compromise or impede the investigation.

Notice of results of investigation

(2) If no prosecution is to be initiated, the police shall notify the complainant and any person who is the subject of the investigation of the results of the investigation.

Service of notice

(3) A notice under subsection (1) or (2) must be served personally on the person or sent by registered mail to the last known address of the person. S.Nu. 2005,c.14,s.48.

Compliance Agreements

Nature of agreement

230. (1) A compliance agreement is an agreement whereby a person who is alleged to have committed an offence agrees, in exchange for the stay of any prosecution in respect of the offence, to one or more of the following:

- (a) to pay a sum of money, including restitution and damages, to one or more specified recipients;
- (b) to make an apology, including both public and private apologies;
- (c) to seek atonement in accordance with Inuit Qaujimagatuqangit;
- (d) to perform community service;
- (e) to do or refrain from doing any action agreed upon.

Without prejudice

(2) The process of negotiating a compliance agreement shall be without prejudice to any party's position. S.Nu. 2011,c.17,s.51.

Compliance agreement

231. (1) If the Integrity Commissioner believes on reasonable grounds that a person has committed, is about to commit or is likely to commit an act or omission that could constitute an offence under this Act, the Integrity Commissioner may enter into a compliance agreement with that person, after considering the following factors:

- (a) the nature and gravity of the act or omission;
- (b) the penalty provided for the act or omission;
- (c) the public interest;
- (d) the interests of justice; and
- (e) any other factor that the Integrity Commissioner considers relevant.

Terms and conditions

(2) A compliance agreement may contain any terms and conditions that the Integrity Commissioner considers necessary to promote the purposes of this Act or to ensure compliance with this Act, and shall include time limits for the performance of any obligations and a method to monitor compliance with the agreement.

Written offer

(3) The Integrity Commissioner shall send a notice to the person referred to in subsection (1) informing the person of the following:

- (a) that a compliance agreement is being offered and the time limit on the offer;
- (b) the proposed terms and conditions of the compliance agreement;
- (c) that the person has a right to be represented by legal counsel; and
- (d) that a summary of the compliance agreement will be publicly disclosed.

Request

(4) A person who is alleged to have committed an offence under this Act may request the Integrity Commissioner to consider entering into a compliance agreement.

Protection of rights

(5) The Integrity Commissioner shall give a person to whom a compliance agreement is being offered a reasonable opportunity to consult with legal counsel.

Admission of responsibility

(6) A compliance agreement must include a statement by the person in which he or she accepts responsibility for the act or omission that constitutes the offence.

Taking effect

(7) A compliance agreement takes effect only when it is signed by the person and the Integrity Commissioner.

Inadmissible in evidence

(8) The fact that a compliance agreement was entered into, and any statement of the person admitting responsibility, is not admissible in evidence against the person in any proceeding.

Copy to be provided

(9) The Integrity Commissioner shall provide the person with a copy of a compliance agreement without delay after it is signed.

Publication

(10) The Integrity Commissioner shall publish, in the manner and form that he or she considers appropriate,

- (a) the name of any person who signed a compliance agreement;
- (b) the act or omission in respect of which the compliance agreement was made; and
- (c) a summary of the compliance agreement.
S.Nu. 2005,c.3,s.11(2); S.Nu. 2005,c.14,s.49;
S.Nu. 2011,c.17,s.52.

Notice of compliance

232. (1) If the Integrity Commissioner is of the opinion that the compliance agreement has been complied with, the Integrity Commissioner shall send a notice to that effect to

- (a) the person who signed it;

- (b) the Chief Electoral Officer;
- (c) the police; and
- (d) the prosecutor.

Notice of non-compliance

(2) If the Integrity Commissioner is of the opinion that a person has not complied with a compliance agreement, the Integrity Commissioner shall send a notice to that effect and that proceedings may be instituted or resumed in respect of the original act or omission to

- (a) the person who signed it;
- (b) the Chief Electoral Officer;
- (c) the police; and
- (d) the prosecutor.

Publication of compliance or non-compliance

(3) After determining whether a person did or did not comply with a compliance agreement, the Integrity Commissioner shall publish, in the manner and form that he or she considers appropriate, a notice that sets out

- (a) the name of the person who signed it
- (b) the act or omission in respect of which the compliance agreement was made;
- (c) a summary of the compliance agreement; and
- (d) whether or not, in the opinion of the Integrity Commissioner, the person has complied with the compliance agreement.

Access to Information and Protection of Privacy Act

(4) The requirement to publish information under this section and section 231 applies despite any provisions to the contrary in the *Access to Information and Protection of Privacy Act*. S.Nu. 2005,c.14,s.50; S.Nu. 2011,c.17,s.53.

No further proceedings

233. (1) When a compliance agreement is entered into, no further proceedings under this Act shall be taken against the person in respect of the act or omission, unless the agreement is not complied with.

Dismissal of proceedings

(2) A judge must dismiss proceedings against a person who has signed a compliance agreement if the judge is satisfied on a balance of probabilities that

- (a) the person has totally complied with the terms and conditions of the compliance agreement; or
- (b) the person has partially complied with the terms and conditions of the compliance agreement and, in the opinion of the judge, the proceedings would be unfair, having regard to the circumstances and the person's performance with respect to the agreement.

Proceedings

Jurisdiction of court

234. The Nunavut Court of Justice has exclusive jurisdiction to hear all offences under this Act.

Assistance to court

235. The Chief Electoral Officer may intervene in the prosecution of an offence under this Act to assist the court.

Disqualification obtained by perjury

236. (1) A person who is disqualified under this Act on the testimony of a witness who is later convicted of perjury with respect to the testimony may apply to the judge determining the perjury conviction for an order that the disqualification be lifted.

Court order

(2) The judge, on being satisfied that the disqualification was procured by reason of the perjury, shall order that the disqualification be lifted.

Denial of privilege

237. (1) Subject to this section, no person shall be excused on the ground of privilege from answering a question put to them in an action, suit or other proceeding in a court or before any justice, board or other tribunal concerning an election, the conduct of a person at an election or in relation to an election.

Exception

(2) Evidence protected by solicitor client privilege or evidence of the identity of candidate for whom a voter voted in an election is not admissible in evidence.

Answer

(3) An answer given by a person claiming to be excused on the ground of privilege shall not be used or admissible in evidence against that person in any prosecution or civil proceeding against that person after the prosecution or proceeding, other than a prosecution for perjury in the giving of such evidence.

Certificate evidence and presumptions

238. (1) In a proceeding under this Act, a certificate signed by the Chief Electoral Officer or a returning officer certifying the following matters is, in the absence of evidence to the contrary, proof of the facts stated in the certificate and of the authority of the Chief Electoral Officer or returning officer without further proof of his or her appointment or signature:

- (a) the due holding of the election;
- (b) whether any action was or was not taken by an election officer;
- (c) whether any document was issued, filed or sent in an election;

- (d) whether a copy is a true copy of a document; and
- (e) whether a person was a candidate, financial agent, campaign manager, election officer or other participant at an election.

Original documents

(2) If an original election document, rather than a certified true copy, is required in a proceeding under this Act,

- (a) a judge may, at the instance of any of the parties to the proceedings, order the Chief Electoral Officer to ensure that the original election documents are produced on or before the day fixed for the trial; and
 - (b) the Chief Electoral Officer shall cause the election documents to be deposited with the court in the manner that the judge may order.
- S.Nu. 2005,c.14,s.51.

Costs

239. (1) The judge hearing an offence under this Act may order payment by the accused to the prosecutor of the costs and expenses that appear to the judge to have been reasonably incurred in the conduct of the prosecution.

Recognizance

(2) A judge shall not make an order under subsection (1) unless the prosecutor, before or on the laying of the information, enters into a recognizance with two sureties, in the sum of \$500 and to the satisfaction of the judge, to conduct the prosecution with effect and to pay the accused's costs if the accused is acquitted.

Costs in private prosecution

(3) In the case of an information by a private prosecutor for an offence under this Act, if judgment is given for the accused, the accused is entitled to recover from the prosecutor the costs sustained by the accused by reason of the proceedings, which shall be taxed by the proper officer of the court.

Limitation period

240. (1) A prosecution for an offence under this Act, and an action, writ or proceeding for a penalty under this Act,

- (a) may not be commenced more than one year after the day on which the offence was committed or the action, suit or proceeding might first have been brought or taken, whichever is later; and
- (b) shall, when commenced, be proceeded with and carried on without wilful delay.

Extension of limitation period

(2) Despite subsection (1),

- (a) where the withdrawal or absconding of the accused from the jurisdiction prevents a prosecution, action, suit or proceeding

- referred to in subsection (1), the limitation period is extended until one year from the day the accused returns;
- (b) where a compliance agreement is entered into but a notice of default has been sent by the Integrity Commissioner, the limitation period is extended until 60 days after the notice of default; and
 - (c) a prosecution, suit or proceeding against a returning officer for wilful delay, neglect or refusal to return a candidate as elected may not be commenced more than six months after the day the hearing of any application to void an election relating to the action is concluded.
- S.Nu. 2011,c.17,s.54; S.Nu. 2012,c.17,s.21.

PART X

OFFENCES AND PUNISHMENT

Publication of Offences

Public information

241. The Chief Electoral Officer shall, in the Official Languages, take reasonable measures to inform the public, especially candidates and financial agents, what actions constitute offences under this Act. S.Nu. 2008,c.10,s.45(6).

Offences Related to Voting

Voting offences

- 242.** (1) A person is guilty of an offence if he or she
- (a) votes or attempts to vote at an election knowing that he or she is not qualified to vote in the election;
 - (b) votes or attempts to vote more than once in an election;
 - (c) appoints more than one proxy voter;
 - (d) actively seeks to be a proxy voter;
 - (e) applies under this Act to be included in a list of voters in the name of some other person, whether the name belongs to a person living or dead or is fictitious;
 - (f) is included in a list of voters under this Act but applies, without authority under this Act, to be included in another list of voters for another constituency at the same election or another election that runs concurrently, in whole or in part;
 - (g) except as authorized by section 114, applies for a ballot paper in the name of some other person, whether the name belongs to a person living or dead or is fictitious; or
 - (h) induces or procures another person to vote at an election knowing that the other person is not qualified to vote at the election.

Exception

(2) A person is not guilty of an offence under paragraph (1)(d) if the person merely provides information on proxy voting.

False statement

(3) Any voter who knowingly makes a false statement when attempting to register to vote with the returning officer or at a poll is guilty of an offence.

Offence

243. A person is guilty of an offence if he or she contravenes or fails to comply with the provisions of this Act and that causes

- (a) a vote to be received which should not have been cast; or
- (b) a vote properly cast not to be received.

Offence

244. (1) An employer is guilty of an offence if he or she, directly or indirectly,

- (a) refuses or by intimidation, undue influence, or in any other way, interferes with the time off work to which the voter is entitled under section 10;
- (b) does not pay the voter in accordance with section 10; or
- (c) otherwise penalizes the voter contrary to section 10.

Effect of agreement

(2) Where an employer is required to allow an employee additional time for voting, the employer does not commit an offence for the reason only that the employee works during all or part of the additional time under an agreement with the employer.

Ballot offences

245. A person is guilty of an offence if he or she

- (a) forges a ballot paper or puts a forged ballot paper into circulation;
- (b) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer signed on the ballot;
- (c) without authority under this Act, supplies a ballot paper to any person;
- (d) not being a person entitled under this Act to be in possession of a ballot paper, has, without authority, any ballot paper in his or her possession;
- (e) fraudulently puts or causes to be put into a ballot box a ballot paper or any other paper;
- (f) fraudulently takes a ballot paper out of a polling place;
- (g) without authority under this Act, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers;

- (h) without authority under this Act, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
 - (i) being authorized by the Chief Electoral Officer to print the ballot papers for an election, fraudulently prints more ballot papers than he or she is authorized to print;
 - (j) constructs, imports into Nunavut or has in his or her possession a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated;
 - (k) supplies or causes to be supplied to an election officer, or uses for the purposes of an election, a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated; or
 - (l) makes a written record of the printed serial number appearing on the counterfoil of a ballot paper.
- S.Nu. 2013,c.6,s.25.

Offences for Improperly Influencing Voters

Inducement of voters

246. (1) Any person who, personally or through another person, during an election, directly or indirectly offers, procures, provides or promises to procure or provide money, office, employment, food, drink, gifts or prizes or other valuable consideration to induce a person to vote or refrain from voting is guilty of an offence.

Liquor offence

(2) Any person who, while the polls are open on election day, sells, gives, offers or provides liquor at licensed premises or other public place, in a constituency where an election is being held, is guilty of an offence.

Receipt of money or other valuable consideration

(3) Any person who accepts or receives money, office, employment, food, drink, gifts, prizes or other valuable consideration to vote or refrain from voting is guilty of an offence.

Influencing voters

(4) A candidate or financial agent is guilty of an offence if he or she personally or through another person, directly or indirectly, during an election and with intent to influence any person to vote or refrain from voting, pays or indemnifies or promises to pay or indemnify any person for loss of wages or other earnings suffered by that person in going to, being at, or returning from a polling place or the neighbourhood of a polling place.

Influencing voters at a meeting

(5) Any person who provides money, food, drink, gifts or prizes or other valuable consideration at a meeting of voters assembled for the purpose of campaigning in an election is guilty of an offence.

Exemptions

(6) This section does not apply to

- (a) a meal or non-alcoholic refreshments provided at a meeting of voters assembled for the purpose of campaigning in an election;
- (b) a meal or non-alcoholic refreshments provided to a candidate or the representative of a candidate at a polling station; or
- (c) a gift or prize provided at a meeting of voters if the total value of all gifts or prizes provided at that meeting does not exceed \$500.

Proof of intent

(7) In any proceedings in respect of an offence under this section, evidence that a candidate or a financial agent has offered, procured or provided or has promised to procure or provide money, office, employment, food, drink, gifts or prizes or other valuable consideration to any person is, in the absence of evidence to the contrary, proof of intent to influence a person to vote or refrain from voting, unless

- (a) the matter is exempted under subsection (6); or
- (b) the candidate or financial agent is acting strictly in accordance with an obligation to pay employees for time to vote under section 10. S.Nu. 2013,c.6,s.20,25.

Undue influence

247. (1) A person is guilty of an offence if, by intimidation, duress or any pretence or contrivance, he or she

- (a) compels, induces or prevails upon a person to vote or refrain from voting at an election; or
- (b) represents to a person that the ballot or the manner of voting at an election is not secret.

Disrupting a public meeting

(2) Any person who, between the date of the issue of the writ for an election and the day immediately after election day, acts, incites others to act or conspires to act in a disorderly manner with the intention of preventing the transaction of the business of a public meeting called for the purposes of the election is guilty of an offence.

Disturbance or disruption

247.1. A person is guilty of an offence if he or she, in any manner, creates a disturbance or interferes with the conduct of the proceedings at, or within 10 metres of, a place where the vote is being conducted. S.Nu. 2007,c.3,s.34.

Offences Related to Information

Failure to protect secrecy of vote

248. Any person who contravenes or fails to observe any provision of this Act respecting the secrecy of the vote is guilty of an offence.

Restricted use of voters lists

249. (1) Any person who copies or uses a voters list prepared under this Act for any purpose other than one allowed under subsection 68(1) is guilty of an offence.

Campaign material requirements

(2) Any person printing, publishing, broadcasting or distributing or causing to be printed, published, broadcast or distributed any campaign material that does not comply with section 186 is guilty of an offence. S.Nu. 2005,c.14,s.52; S.Nu. 2013,c.6,s.21.

Removal of campaign material

250. (1) Any candidate who fails to ensure that all his or her campaign material is removed from public display within 10 days after election day is guilty of an offence.

Authority for removal

(2) Any person who without authority takes down, removes, covers up, mutilates, defaces or alters any campaign material is guilty of an offence.

Inducement to make false oath or affirmation

251. (1) Any person who, in any case where an oath or affirmation is authorized or directed to be taken by this Act, knowingly compels or attempts to compel, or induces or attempts to induce a person to take that oath or affirmation falsely, is guilty of an offence.

Taking false oath or affirmation

(2) Any person who knowingly takes a false oath or affirmation under this Act is guilty of an offence.

Publishing false statements

(3) Any person who, before or during an election, knowingly makes or publishes any false statement of fact in relation to the character or conduct of a candidate is guilty of an offence.

Improper placement of campaign material

252. (1) Any person who places campaign material on any premises used as a polling place is guilty of an offence.

No campaign material in polling place

(2) Any person who uses, wears or displays or causes to be used, worn or displayed any flag, ribbon, label, badge or similar object in a polling place as campaign material is guilty of an offence. S.Nu. 2013,c.6,s.22,25.

Removal of notices

253. (1) Any person who without authority takes down, covers up, mutilates, defaces or alters any printed or written proclamation, placard, notice, list of voters or other document required by this Act to be posted is guilty of an offence.

Posting of warning

(2) An easily read copy of subsection (1), in large type, must be printed on, or posted near, any posted document referred to in subsection (1).

Refusal of summons

254. Any person who refuses or neglects to attend on the summons of a returning officer issued under paragraph 141(3)(a) is guilty of an offence.

Prohibition on telecommunication devices

254.1. (1) No person, other than an election officer, shall use any telecommunications device, including a mobile telephone or text messaging device, in a polling place.

Cameras and recorders

(2) No person shall use any device to record images or sound in a polling place, except for use by the news media before the polling place is open for voting with the approval of the Chief Electoral Officer. S.Nu. 2005,c.14,s.53; S.Nu. 2013,c.6,s.25.

Broadcasts on election day or day before

255. (1) Any person who broadcasts a speech or any entertainment or advertising program on election day or on the day immediately before election day, as campaign material, is guilty of an offence.

Scope of "broadcast"

(2) For the purposes of subsection (1), "broadcast" includes broadcasting on television, radio and the Internet. S.Nu. 2013,c.6,s.23.

False statement of withdrawal

256. Any person who, before or during an election, publishes a false statement of the withdrawal of a candidate, for the purpose of promoting the election of another candidate, is guilty of an offence.

Offences Involving Candidates and Financial Agents

Offence

257. (1) Any person who files a declaration of candidacy in an election knowing that he or she is ineligible to be a candidate in the election is guilty of an offence.

Single candidacy

(2) Any person who is a candidate in more than one constituency at the same time is guilty of an offence. S.Nu. 2007,c.3,s.36.

Ineligible financial agent

258. (1) Any person who accepts an appointment or acts as a financial agent knowing that he or she is ineligible to be appointed or to act in that capacity is guilty of an offence.

Breach of duty of financial agent

(2) Any financial agent who does not carry out the responsibilities of that office as required under this Act is guilty of an offence.

Prohibition of certain pledges

259. A candidate is guilty of an offence if he or she signs a written document containing a demand or claim made on the candidate by a person or association of persons, between the date of the issue of the writ of election and the end of election day, requiring the candidate

- (a) to follow any course of action that would prevent the candidate from exercising freedom of action in the Legislative Assembly, if elected; or
- (b) to resign as a member if called on to do so by a person or association of persons.

Vicarious liability

260. No candidate shall be convicted of having committed an offence, unless the candidate in person, the financial agent of the candidate, or some other agent of the candidate with the actual knowledge and consent of the candidate, omitted to do or did the thing the omission or doing of which constituted the offence.

Offences Involving Election Officers

Writ offence

261. (1) Any returning officer who wilfully neglects to issue a writ is guilty of an offence.

Delay

(2) Any returning officer who wilfully fails to promptly perform his or her functions respecting the holding of an election is guilty of an offence.

Registration clerks

262. (1) A registration clerk is guilty of an offence if he or she wilfully

- (a) registers the name of a person who the registration clerk has good reason to believe does not have the right to have his or her name included; or
- (b) fails to register the name of a person who the registration clerk has good reason to believe has the right to have his or her name included.

Obstruction

(2) Any person who impedes or obstructs a registration clerk performing functions under this Act is guilty of an offence.

Deputy returning officers

263. A deputy returning officer is guilty of an offence if he or she

- (a) fraudulently puts his or her initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (b) places on a ballot paper any writing, number or mark with the intent that the voter to whom the ballot paper is to be, or has been, given may be identified.

Failure to send election material

264. Any election officer who is replaced and fails to send election material as required under section 164(4) is guilty of an offence.

Liability of election officers

265. (1) Despite anything in this Act, any election officer who contravenes or refuses to comply with this Act is guilty of an offence, unless the election officer establishes that

- (a) the election officer was acting in good faith in contravening, failing or refusing to comply;
- (b) the contravention, failure or refusal was reasonable; and
- (c) the election officer did not intend to affect the result of the election.

Offence

(2) Any person who, in any manner, makes a count of the votes except at the time and in the manner provided by this Act is guilty of an offence.

Improper advice

(3) Any deputy returning officer or poll clerk who, in administering an oath or affirmation, incorrectly asserts that a fact or circumstance is a disqualification under this Act is guilty of an offence.

Offence

266. A returning officer is guilty of an offence if the returning officer wilfully delays, neglects or refuses to return a person who ought to be returned as an elected member of the Legislative Assembly and, on the hearing of an application to void an election for the constituency, it is determined that the person was entitled to be returned.

Financial Offences

Illegal contributions

267. (1) Any person who makes a contribution contrary to section 168 is guilty of an offence.

Excess expenses

(2) Any candidate who incurs pre-election expenses and election expenses that cumulatively exceed \$30,000 is guilty of an offence.

Offence

- (3) A financial agent is guilty of an offence if he or she
- (a) makes a payment in contravention of section 178;
 - (a.1) accepts a contribution contrary to section 168, 171 or 173;
 - (b) reimburses a candidate in contravention of section 179; or
 - (c) fails to prepare a financial return in accordance with section 180, without an excuse authorized by this Act.

False or late return

(4) A candidate is guilty of an offence if he or she fails to send a financial return in accordance with section 180, without an excuse authorized by this Act.

Offence

(5) Any person who is ordered to attend a court hearing or is the subject of an order referred to in section 184 and does not comply with the order is guilty of an offence. S.Nu. 2005,c.14,s.54; S.Nu. 2013,c.6,s.24.

Punishment

General offence and punishment

268. (1) Except as otherwise provided in this Act, any person who contravenes this Act is guilty of an offence and liable on summary conviction to

- (a) a fine not exceeding \$5,000;
- (b) imprisonment for a term not exceeding one year; or
- (c) to both a fine and imprisonment.

Additional punishment

(2) Any person who is convicted of an offence under this Act, in addition to any other punishment, is ineligible to

- (a) be elected to the Legislative Assembly;
- (b) sit as a member of the Legislative Assembly; or
- (c) hold any office to which a person may be appointed by the Commissioner, a Minister or official of the Government of Nunavut or the Legislative Assembly.

Duration of prohibition

(3) The prohibition in subsection (2) begins on the day the person is convicted and continues for five years. S.Nu. 2007,c.3,s.35.

Orders of judge

269. (1) If a person is convicted of an offence, the judge may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the judge, result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the judge considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence;
- (c) directing the person to publish, in any manner that the judge considers appropriate, the facts relating to the commission of the offence;
- (d) directing the person to perform community service in accordance with any conditions that the judge considers reasonable;
- (e) directing the person to pay to the consolidated revenue fund an amount for all or any of the cost of remedial or preventive action taken, or to be taken, by or on behalf of the Legislative Assembly as a result of the commission of the offence;
- (f) directing the person to pay restitution or damages to any person who suffered loss or damage as a result of the commission of the offence, in the manner prescribed by the judge;
- (g) directing the person to post security or pay to the court an amount that the judge considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section; and
- (h) requiring the person to comply with any other conditions that the judge considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

Collection of amount owing

(2) The amount to be paid under paragraph (1)(e) and any interest payable on that amount constitute a debt due to the Legislative Assembly and may be recovered as such in any court of competent jurisdiction.

Suspended sentence

(3) If a person is convicted of an offence and the judge suspends the passing of sentence, the judge may, in addition to any probation order, make an order containing one or more of the prohibitions, directions or requirements mentioned in subsection (1).

Imposition of sentence

(4) If the person does not comply with the order, or is convicted of another offence within three years after the order is made, the judge may, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

Variation of sentencing

(5) On an application by the Attorney General or the convicted person, if the judge considers variation appropriate because of a change in circumstances, the judge may make an order

- (a) changing the original order or any conditions specified in it;
- (b) relieving the person subject to the order absolutely or partially from compliance with all or part of the original order;
- (c) reducing the period for which the original order is to remain in effect; and
- (d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must not be longer than one year.

S.Nu. 2011,c.17,s.55.

Fraud

Fraud

270. For the purposes of this Act, an act or an omission to act is deemed to be fraudulent if

- (a) the act or omission was done knowingly; and
- (b) the act or omission results or would likely result in receiving a vote that should not have been cast or in not receiving a vote that should have been cast.

S.Nu. 2008,c.9,s.4.

PART XI

TRANSITIONAL PROVISIONS, CONSEQUENTIAL AMENDMENTS, REPEAL

TRANSITIONAL PROVISIONS

Proceedings in progress

271. (1) Every proceeding in which the Chief Electoral Officer is a party when this Act comes into force may be continued by or against the Chief Electoral Officer in the same manner and to the same extent as could have been done by or against the Chief Electoral Officer immediately before this Act came into force.

Property, rights, obligations

(2) The Chief Electoral Officer shall continue to have all the property, rights, obligations and liabilities of the Chief Electoral Officer as they existed immediately before this Act came into force.

Chief Electoral Officer

(3) The person holding office as Chief Electoral Officer on the day this Act comes into force shall continue to hold that office.

Returning officers

(4) The appointment of every returning officer and assistant returning officer holding office on the day this Act comes into force shall be deemed to be revoked on that day.

AMENDMENTS

Amendments to this Act or constituency boundaries

272. (1) No amendment to this Act or to the provisions of any Act respecting constituency boundaries applies to an election for which the writ is issued within 180 days after the enactment of the amendment unless, before the issue of the writ, the Chief Electoral Officer publishes in the *Nunavut Gazette* a notice that the necessary preparations for bringing the amendment into force have been made and that the amendment applies to the election.

Implementation of amendments

- (2) Where this Act is amended, the Chief Electoral Officer shall, without delay,
- (a) provide consolidated copies of this Act for the use of election officers;
 - (b) correct and reprint any forms, guidelines, directives or instructions affected by the amendment; and
 - (c) publish a notice in the *Nunavut Gazette* as soon as the Chief Electoral Officer has performed his or her duties under paragraphs (a) and (b).

Appointments

(3) For the purpose only of authorizing the appointment of returning officers for a new constituency whenever required, a change in the constituency boundaries shall be deemed to be in force on the day on which the Act providing for or enabling the change is enacted. S.Nu. 2012,c.21,s.1(5).

Note

The following provisions have been deleted for the purposes of this consolidation: s.273 to 278 (Consequential Amendments)

REPEAL

Elections Act (Nunavut)

279. The *Elections Act* (Nunavut), R.S.N.W.T. 1988, c.E 2, as duplicated and amended for Nunavut, is repealed.

COMING INTO FORCE

Commencement

280. This Act comes into force on a day or days to be fixed by order of the Commissioner.

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