

CONSOLIDATION OF LOCAL AUTHORITIES ELECTIONS ACT
R.S.N.W.T. 1988,c.L-10

(Current to: February 3, 2014)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.30(Supp.)
R.S.N.W.T. 1988,c.39(Supp.)
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R.S.N.W.T. 1988,c.77(Supp.)
R.S.N.W.T. 1988,c.102(Supp.)
R.S.N.W.T. 1988,c.125(Supp.)
S.N.W.T. 1991-92,c.6
S.N.W.T. 1995,c.11
S.N.W.T. 1995,c.28
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S.N.W.T. 1997,c.5
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S.N.W.T. 1998,c.24

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S.N.W.T. 1998,c.34
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AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2000,c.3,s.7
 s.7 NIF
S.Nu. 2003,c.4,s.20
 s.20 in force March 28, 2003
S.Nu. 2010,c.7,s.5
 s.5 in force June 10, 2010
S.Nu. 2012,c.17,s.16
 s.16 in force June 8, 2012
S.Nu. 2013,c.25,s.243
 s.243 in force January 1, 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

LOCAL AUTHORITIES ELECTIONS ACT

INTERPRETATION

Definitions

1. In this Act,

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

"appropriate Minister" means the Minister responsible for the enactment establishing the local authority; (*ministre responsable*)

"by-election" means an election held under paragraph 47(1)(b) to fill a vacancy in a local authority; (*élection partielle*)

"candidate" means a candidate for election as mayor, councillor or other member of the local authority; (*candidat*)

"chief municipal electoral officer" means the person appointed as chief municipal electoral officer under subsection 5.1(1); (*directeur municipal des élections*)

"corrupt practice" means an act declared to be a corrupt practice in subsection 106(1) and section 107; (*manœuvre frauduleuse*)

"councillor" means any member of a municipal council or settlement council other than the mayor; (*conseiller*)

"declaration" means a statutory declaration made in accordance with the *Evidence Act*; (*déclaration solennelle*)

"education authority" means a district education authority, as defined in the *Education Act*, or the governing body of a school established under section 197 of that Act; (*administration scolaire*)

"election" means an election of a member of a local authority at a general election or by-election; (*élection*)

"election day" means the day fixed for an election; (*jour du scrutin*)

"election officers" means returning officers, deputy returning officers, election clerks and interpreters; (*personnel électoral*)

"election petition" means the election petition referred to in subsection 89(1); (*pétition d'élection*)

"electoral district" means in respect of an election for

- (a) a mayor, the municipality or settlement, as the case may be,
- (b) a councillor, the municipality, the ward where a ward system is in effect or the settlement, as the case may be, and
- (c) a member of an education authority, the relevant education district, as defined in the *Education Act*; (*circonscription*)

"general election" means an election held to replace members of a local authority whose terms of office expire in that year; (*élection générale*)

"judge" means a judge of the Nunavut Court of Justice; (*jugé*)

"list of voters" means the record of information on voters obtained through an enumeration under section 22; (*liste électorale*)

"local authority" means

- (a) a municipal council,
- (b) a settlement council, and
- (c) an education authority; (*administration locale*)

"mayor" means the presiding member of a municipal council or a settlement council; (*maire*)

"member of a local authority" means a person who holds office on a local authority; (*membre d'une administration locale*)

"municipal corporation" means a city, town, village, hamlet or charter community; (*municipalité*)

"municipal council" means the council of a municipal corporation; (*conseil municipal*)

"municipal taxing authority" means a municipal corporation with the authority to levy property taxes under the *Property Assessment and Taxation Act*; (*administration fiscale municipale*)

"municipality" means the geographic area of jurisdiction of a municipal corporation; (*territoire de la municipalité*)

"public notice" means the giving of a notice to the general public in accordance with section 9; (*avis public*)

"registrar" means the person appointed as registrar under subsection 23(1); (*registraire*)

"returning officer" means the person appointed as returning officer under subsection 27(1); (*directeur du scrutin*)

"senior administrative officer" means the senior administrative officer of a municipal corporation or settlement corporation; (*directeur administratif*)

"settlement" means a settlement as defined in the *Settlements Act*; (*localité*)

"settlement corporation" means a settlement corporation as defined in the *Settlements Act*; (*corporation de localité*)

"settlement council" means the council of a settlement corporation; (*conseil de localité*)

"voter" means a person who is eligible to vote at an election; (*électeur*)

"voters' register" means the record in the prescribed form on which is recorded information on voters obtained at the voting station; (*registre de scrutin*)

"voting division" means a division of the electoral district, fixed by the local authority, for which a list of voters is prepared; (*section de vote*)

"voting station" means the place where a voter casts his or her vote. (*bureau de vote*)
S.N.W.T. 1995,c.28,s.154(2); S.N.W.T. 1997,c.5,s.4(2); S.Nu. 2010,c.7,s.5(2),(3),(4);
S.Nu. 2012,c.17,s.16(2).

APPLICATION

Application

2. This Act applies to the election of members of all local authorities, except to the extent that its application to a charter community is varied in a community charter, under the *Charter Communities Act*.

PART I

CONDUCT OF ELECTIONS

Administration

First election for local authority

3. (1) For the purposes of the first election of the members of a local authority, the appropriate Minister may, in consultation with any body, group or resident of the electoral district,

- (a) perform the same functions and take the same action that, in subsequent elections, a local authority may perform or take under this Act;
- (b) fix the election day; and
- (c) provide for any transitional matters that may be necessary.

Preliminary election

(2) The election day for the first election of the members of a local authority may be fixed on a day before the establishment of the local authority, but the terms of office of the members of the local authority do not commence until the local authority is established.

Directions of Minister

4. (1) The appropriate Minister may give specific directions not inconsistent with this Act to the local authority, the chief municipal electoral officer or election officers governing the conduct of an election in order to supplement this Act.

(2) **Repealed, S.Nu. 2013,c.25,s.243(2).**

Election manuals

(3) The appropriate Minister shall establish and distribute manuals or guides, not inconsistent with this Act, that the Minister considers appropriate for the use of voters, candidates, the chief municipal electoral officer or election officers.

S.N.W.T. 1997,c.5,s.4(3),(4); S.Nu. 2012,c.17,s.16(3); S.Nu. 2013,c.25,s.243(2).

Variation of date or time

5. The appropriate Minister may, by order, vary the dates or periods of time fixed by this Act for the doing of anything, whether the date or time has passed or expired, where the thing cannot be done or has not been done.

Appointment of chief municipal electoral officer

5.1. (1) The Commissioner in Executive Council may appoint a member of the public service as chief municipal electoral officer.

Duties and powers

(2) The chief municipal electoral officer shall

- (a) exercise general direction and supervision over the administrative conduct of elections held under this Act;
- (b) issue such instructions to election officers as he or she considers necessary to ensure effective execution of the provisions of this Act;
- (c) promote fairness, impartiality and compliance with this Act on the part of election officers;
- (d) act in accordance with the directions, if any, of the appropriate Minister; and
- (e) perform such other duties as may be required.

S.N.W.T. 1997,c.5,s.4(5).

Joint elections

- 6.** (1) A local authority may conduct an election
- (a) separately on its own behalf;
 - (b) separately on behalf of another local authority, where they have agreed; or
 - (c) jointly with another local authority, where they have agreed.

Powers and duties

- (2) Where two or more local authorities make an agreement under paragraph (1)(b) or (c), they may provide that
- (a) one local authority has all or any of the powers and duties of the other in respect of an election; and
 - (b) any election officer appointed by one local authority may act on behalf of the other.

Responsibility

- (3) A local authority that conducts an election on behalf of another local authority shall ensure compliance with this Act respecting the election.

Votes on other questions

- 7.** (1) A local authority may submit to the voters any question relevant to the local authority at the same time that an election is held.

Plebiscites Act

- (2) The local authority shall submit the question by initiating a plebiscite, in accordance with the *Plebiscites Act*. S.Nu. 2013,c.25,s.243(3).

Acting by resolution and in accordance with directions

- 8.** A local authority shall, in the performance of its duties or the exercise of its powers under this Act,
- (a) act by resolution, unless specifically permitted or required to act otherwise; and
 - (b) act in accordance with the directions, if any, of the appropriate Minister.
S.N.W.T. 1997,c.5,s.4(6).

Public notice

- 9.** Where public notice is required under this Act, the notice must be given to the general public in any one or more of the following ways:
- (a) by inserting the notice at least once in a newspaper circulating in the electoral district, if any;
 - (b) by mailing or delivering a copy of the notice to each voter in the electoral district;

- (c) by causing announcements to be made on a radio or television station received in the electoral district on at least three separate days;
- (d) by posting a notice in at least five widely separated and conspicuous places in the electoral district.

Election Dates

Election day for mayor and councillors

- 10.** (1) The day for a general election for the mayor and councillors
- (a) of a city, town, village and municipal taxing authority, is the third Monday in October;
 - (b) of a hamlet, other than a municipal taxing authority, is the second Monday in December;
 - (c) of a charter community, other than a municipal taxing authority, is the day fixed by the community charter; and
 - (d) of a settlement corporation, is the day fixed in the order establishing the settlement corporation.

Election day for members of local education authorities

(2) The day for a general election for members of an education authority is the same as that for the municipality in which it is situated, if any, or as otherwise fixed by the education authority. R.S.N.W.T. 1988,c.30(Supp.),s.10; S.N.W.T. 1995,c.28,s.154(3); S.N.W.T. 1998,c.24,s.18(4); S.Nu. 2010,c.7,s.5(5).

Election dates

11. (1) Subject to this Act, the dates for the conduct of an election must be in accordance with this section.

Advance vote

(2) An advance vote, if required, must be held not earlier than the 14th day and not later than the 7th day before election day.

Notice of election and advance vote

(3) Notice of the day of any advance vote and the election day must be published not later than 30 days before election day.

Posting of list of voters

(4) The list of voters must be posted not later than 30 days before election day.

Close of nominations

(5) The time for nominating candidates expires at 3 p.m. on the day five weeks before election day.

Calling for nominations

(6) Notice calling for nomination of candidates must be given not later than two weeks before the time for nominating candidates expires.

Appointment of returning officer

(7) A returning officer must be appointed not later than eight weeks before election day. S.N.W.T. 1997,c.5,s.4(7).

By-election dates

12. When a by-election is required, the local authority shall fix the election day.

Holidays

13. Where a holiday falls on a day or date fixed by this Act, the day or date shall be deemed to be the next day that is not a holiday.

Ward System Option

Ward system for councillors

14. (1) The municipal council of a city or town may, by by-law, divide the municipality into wards for the purpose of electing councillors in the manner that it considers appropriate and shall specify

- (a) subject to the maximum number of councillors permitted on the municipal council, the number of councillors to be elected by the voters of each ward to represent the ward;
- (b) the geographic area of each ward; and
- (c) the name or number by which each ward is to be known.

Idem

(2) Where the municipal council of a city or town passes a by-law establishing a ward system,

- (a) the councillors must be elected by the voters through the ward system; and
- (b) the mayor must be elected by the voters of the municipality voting at large.

Effect of ward system by-law

15. (1) Except for a by-law altering existing ward boundaries, a by-law passed under section 14 and any by-law that amends that by-law

- (a) applies to the general election following the passing of the by-law, if it is passed at least nine months before the date of that general election;
- (b) does not apply to or affect the composition of the municipal council until the date of the next general election to which the by-law applies; and
- (c) does not apply to a by-election until the ward system is in place throughout the municipality.

Approval of appropriate Minister

(2) No by-law enacted under section 14 that establishes, amends or repeals a ward system has any effect until approved by the appropriate Minister.

Language Option

Definition

16. (1) In this section, "Official Language" means an Official Language as defined in the *Official Languages Act*.

Use of Official Languages

(2) A local authority that considers it necessary or desirable may authorize the use of any Official Language, in addition to English, for any ballot or form required for an election. R.S.N.W.T. 1988,c.125(Supp.),s.3.

Eligibility of Voters and Candidates

Eligibility to vote

17. A person is eligible to vote at an election if the person

- (a) is a Canadian citizen;
- (b) has attained the age of 18 years;
- (c) has, for at least 12 consecutive months immediately preceding the day on which the person votes, been a resident of
 - (i) the electoral district, or
 - (ii) an area that has, during the 12 months preceding the day on which he votes, become part of the electoral district as a result of a variance of the boundaries of the electoral district; and
- (d) is a resident of the electoral district on the day on which he or she votes.

R.S.N.W.T. 1988,c.102(Supp.),s.2; S.N.W.T. 1991-92,c.6,s.2.

Eligibility of candidates

18. (1) A person is eligible to be nominated and stand as a candidate if the person

- (a) is a Canadian citizen;
- (b) has attained the age of 18 years;
- (c) has, for at least 12 consecutive months immediately preceding the day nominations close, been a resident of
 - (i) the electoral district, or
 - (ii) an area that has, during the 12 months preceding the day nominations close, become a part of the electoral district as a result of a variance of the boundaries of the electoral district;
- (d) is a resident of the electoral district; and
- (e) is not disqualified by subsection (2) and sections 19 and 20.

Eligibility of candidates

(2) Subject to section 18.1, a person is not eligible to be nominated or to stand as a candidate if the person

- (a) is a judge, youth court or youth justice court judge or justice of the peace;
- (b) is a member of the Legislative Assembly;
- (c) is a full time permanent employee of the local authority in receipt of a salary;
- (d) is an election officer;
- (e) has been convicted of a corrupt practice under this Act within the three years immediately preceding election day; or
- (f) has been convicted of an offence punishable by imprisonment for five years or more within the three years immediately preceding election day, or whose imprisonment as a result of the conviction terminates within the three years immediately preceding election day.

R.S.N.W.T. 1988,c.102(Supp.),s.3; S.N.W.T. 1991-92,c.6,s.3;

R.S.N.W.T. 1988,c.39(Supp.),s.10;

S.N.W.T. 1998,c.34,Sch.C,s.20(2); S.Nu. 2003,c.4,s.20.

Local education authority

18.1. (1) A justice of the peace is eligible to be nominated or to stand as a candidate for an education authority.

Municipal or settlement council

(2) Where a justice of the peace is nominated for or wishes to stand as a candidate for a municipal council or a settlement council, the justice of the peace shall apply in writing to the senior judge of the Nunavut Court of Justice for a leave of absence from his or her duties as a justice of the peace.

Leave of absence

(3) Where a leave of absence is applied for under subsection (2), the senior judge of the Nunavut Court of Justice shall grant to the justice of the peace a leave of absence without pay for a period ending on the day on which the results of the election are declared or on an earlier day that is requested by the justice of the peace if he or she has ceased to be a candidate.

Ceasing to hold office

(4) A justice of the peace who is elected as a member of a municipal council or a settlement council ceases to hold office as a justice of the peace.

R.S.N.W.T. 1988,c.39(Supp.),s.11; S.N.W.T. 1995,c.28,s.154(4);

S.N.W.T. 1998,c.34,Sch.C,s.20(3); S.Nu. 2010,c.7,s.5(6).

Note: On a day to be fixed by order of the Commissioner, subsection 18.1(2) is amended by striking out "senior judge" and substituting "Chief Justice".

See S.Nu. 2000,c.3,s.7(2).

Note: On a day to be fixed by order of the Commissioner, subsection 18.1(3) is amended by striking out "senior judge" and substituting "Chief Justice".

See S.Nu. 2000,c.3,s.7(3).

Persons not eligible to stand as candidates

19. A person is not eligible to be nominated or to stand as a candidate as a member of an education authority if the person is

- (a) a member of the school staff, as defined in the *Education Act*, of a school under the jurisdiction of the education authority;
- (b) a person hired for the delivery of adult education programs; or
- (c) an employee of the education authority.

S.N.W.T. 1995,c.28,s.154(5); S.Nu. 2010,c.7,s.5(7).

Ineligibility of candidates for mayor or councillor

20. (1) A person is not eligible to be nominated or to stand as a candidate for mayor or councillor, if the person

- (a) is a sheriff;
- (b) is an assessor or auditor of the municipal corporation or settlement corporation;
- (c) is a surety for an officer or employee of the municipal corporation or settlement corporation;
- (d) is personally indebted to the municipal corporation for a sum exceeding \$500 for more than 90 days, other than the taxes described in paragraph (f);
- (e) has a controlling interest in a private or public corporation that is indebted to the municipal corporation or settlement corporation for a sum exceeding \$500 for more than 90 days, other than the taxes described in paragraph (f); or
- (f) has not paid all municipal taxes before December 31 of the year in which the taxes were levied.

Controlling interest

(2) For the purpose of subsection (1), a person shall be deemed to have a controlling interest in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over, shares of the corporation carrying more than 10% of the voting rights attached to all shares of the corporation for the time being outstanding. R.S.N.W.T. 1988,c.77(Supp.),s.2,3,4.

Determining Residence

Residence rules

21. (1) For the purposes of this Act, the place of residence of a person is governed by this section, as far as applicable.

Place of home or dwelling

(2) The residence of a person is the place of the home or dwelling of the person to which, when the person is absent, the person intends to return.

Temporary absence

(3) A person does not lose his or her residence by leaving his or her home or dwelling for a temporary purpose.

Intention

(4) If a person leaves the electoral district with the intention of establishing his or her residence elsewhere, the person loses his or her residence in the electoral district.

Family residence

(5) The place where the spouse and children of a person reside shall be deemed to be his or her place of residence, unless the person establishes or continues his or her residence in some other place with the intention of remaining there.

Single person

(6) The residence of a single person is the place where the person regularly occupies a dwelling, or to which the person habitually returns not having any other permanent dwelling.

Single residence

(7) No person shall be deemed to have a residence in more than one place and, in the event of a person maintaining residence in more than one place, the person shall elect one residence for the purpose of this Act.

Enumeration

Enumeration by municipal and settlement councils

22. (1) A municipal council and settlement council shall cause the voters in the electoral district to be enumerated and a list of voters to be prepared in advance of the election.

Use of list of voters or enumeration by local education authority

(2) An education authority may make use of a list of voters prepared by a municipal council where it is appropriate or cause the voters in the electoral district to be enumerated and a list of voters to be prepared in advance of the election.

Application of sections 23 to 26

(3) Sections 23 to 26 apply to a local authority that causes the voters in an electoral district to be enumerated and a list of voters to be prepared.

S.N.W.T. 1995,c.28,s.154(6); S.Nu. 2010,c.7,s.5(8).

Registrar

23. (1) A local authority shall appoint a person as registrar not later than eight weeks before election day.

Duty of registrar

(2) The registrar shall cause a list of voters to be prepared

- (a) separately for each general election; or
- (b) where directed to do so by the local authority, on a periodic or continuous basis.

Enumerators

(3) The registrar may appoint persons as enumerators to compile the list of voters from information received by visiting each dwelling in the electoral district or from other sources of information.

Senior administrative officer as registrar

(4) If a registrar is not appointed in accordance with subsection (1), the senior administrative officer shall perform the duties and exercise the powers of the registrar.

S.N.W.T. 1997,c.5,s.4(8).

Content of list of voters

24. (1) The list of voters must contain the names of all voters in alphabetical order and, where required by the local authority, the class of each voter, including those voters who are

- (a) ratepayers; or
- (b) supporters of a school established under section 197 of the *Education Act*.
- (c) **repealed, S.Nu. 2010,c.7,s.5(9).**

Posting list of voters

(2) The registrar shall cause the list of voters to be posted in at least five conspicuous places in the electoral district at least 30 days before election day or, where the list is prepared on a periodic or continuous basis, at such other times as the registrar considers appropriate.

Incorporating list of voters into voters' register

(3) The returning officer may cause the list of voters to be incorporated into the voters' register for use at voting stations on election day and at an advance vote.

S.N.W.T. 1995,c.28,s.154(7); S.Nu. 2010,c.7,s.5(9).

Revision to list

25. (1) A voter may apply to the registrar to have the list of voters revised at least 10 days before election day on the grounds that

- (a) the name of a person eligible to vote has been omitted or is incorrectly set out; or
- (b) a person who is not eligible to vote is included in the list.

Decision of registrar

(2) After notifying in writing all persons likely to be affected by his or her decision and giving them an opportunity to make representations to him or her, the registrar may

- (a) change the list of voters, or
- (b) make no change to the list,

and shall notify the persons concerned accordingly.

Voting divisions

26. A local authority may

- (a) divide the electoral district into voting divisions for the convenience of conducting the vote; and
- (b) alter the boundaries of the voting divisions, except between the date on which notice of election is given and election day.

Election Officers

Returning officer

27. (1) A local authority shall appoint a person as returning officer.

Acting returning officer

(2) If a returning officer is not appointed in accordance with subsection (1),

- (a) the senior administrative officer shall perform the duties and exercise the powers of the returning officer for a municipal corporation or settlement corporation; and
- (b) an employee of the department of the Minister responsible for administration of the *Education Act*, designated by that Minister for the purposes of this paragraph, shall perform the duties and exercise the powers of the returning officer for an education authority named or described in the designation.

S.N.W.T. 1995,c.28,s.154(8); S.Nu. 2010,c.7,s.5(10).

Duties of returning officer

28. (1) In addition to performing the duties specified in this Act, a returning officer shall

- (a) appoint such number of deputy returning officers, election clerks, interpreters and other persons as the returning officer considers necessary for the proper conduct of the election or as may be required;

- (b) establish voting stations, designate their location and, wherever possible, locate them in buildings that will provide ease of access to any voter confined to a wheelchair or who is disabled or incapacitated;
- (c) provide for the printing, supply and delivery of ballots, ballot boxes, instructions to voters, voters' registers and other necessary election material and supplies to all voting stations; and
- (d) give the notices required and generally take any action necessary to ensure the proper conduct of the election in accordance with this Act.

Substitute election officers

(2) Where an election officer is absent, incapacitated or unable to act, the returning officer may appoint another person in his or her place.

Acting in place of election officers

(3) The returning officer may exercise and perform any or all of the powers or duties of a deputy returning officer and election clerk and, if no deputy returning officer is appointed, the returning officer shall perform the duties of the deputy returning officer.

Prohibitions on appointment

29. (1) No candidate or member of the local authority shall be appointed or continue to act as an election officer.

Oath of office

(2) Every election officer shall, before assuming any duties, take an oath or affirmation in the prescribed form.

Power to administer oaths and declarations

30. A returning officer, deputy returning officer and election clerk are, for the purpose of taking oaths or declarations under this Act, commissioners for oaths.

Duty of deputy returning officer

31. (1) A deputy returning officer is responsible for the conduct of the vote at a voting station.

Powers and duties

(2) Where the returning officer is absent, incapacitated or unable to act, a deputy returning officer may exercise and perform any or all of the powers or duties of the returning officer.

Powers and duties of election clerk

32. Where a deputy returning officer is absent, incapacitated or unable to act, an election clerk may, subject to the direction of the returning officer, exercise and perform any or all of the powers or duties of the deputy returning officer.

Conserving the peace

33. (1) Every election officer shall, on advance voting day and on election day, act to conserve the peace and may

- (a) remove or cause to be removed from the voting station anyone who disrupts or interferes with the process or conduct of the election; and
- (b) take any other action that he or she considers necessary to ensure the proper conduct of an election.

Assistance in conserving the peace

(2) A peace officer or by-law officer shall assist a returning officer or deputy returning officer when requested to do so.

Other duties of election officers

34. The election officers shall perform the duties specified in the Schedule and shall act in accordance with the directions of the appropriate Minister and the instructions of the chief municipal electoral officer, if any. S.N.W.T. 1997,c.5,s.4(9).

Nomination of Candidates

Notice concerning nominations

35. The returning officer shall give public notice calling for nomination of candidates in the prescribed form.

Separate candidates

36. (1) In a city, town or village, a person may only be nominated for mayor or councillor, but not both.

Candidate for both mayor and councillor

(2) In a hamlet or charter community, a person may be nominated as a candidate for both mayor and councillor.

Nomination papers

(3) If a person is nominated as a candidate for both mayor and councillor in a hamlet or charter community, separate nomination papers are required for each nomination.

Councillor running for mayor

37. (1) A councillor whose term of office does not expire in the year in which a general election is held must submit his or her resignation from the municipal or settlement council before notice of calling for nomination of candidates is given in order to be eligible to be a candidate for mayor.

Effective date of resignation

(2) The resignation referred to in subsection (1) must be effective three weeks after the date of the general election for the councillor of a hamlet and charter community, other than municipal taxing authorities, and a settlement.

R.S.N.W.T. 1988,c.30(Supp.),s.11.

Nomination form

38. (1) A candidate must be nominated by

- (a) two or more voters completing a nomination paper in the prescribed form; and
- (b) the candidate completing the consent and declaration set out in the prescribed form.

Questionable nominations

(2) Where a returning officer believes on reasonable grounds that a person nominated as a candidate is not eligible to be a candidate, the returning officer may, by written notice to the person and without delay, specify the grounds and require the person to make a declaration as to his or her eligibility in the form that the returning officer requires.

Filing of declaration with nomination

(3) The returning officer shall refuse to accept a nomination unless the declaration referred to in subsection (2) is filed with the returning officer before nominations close or, with special permission of the returning officer, within 48 hours after the time nominations close.

Effect of refusal

(4) Where the returning officer refuses to accept the nomination of a person as a candidate under subsection (3), that person shall not stand as a candidate.

Close of nominations

39. (1) Nominations of candidates must be received by the returning officer between the date that notice of calling for nomination of candidates is given and 3 p.m. on the day five weeks preceding the election day.

Extension of time

(2) The date for the close of nominations set out in subsection (1) is extended for one week where the number of candidates nominated for election is less than the number of persons required to be elected.

Public notice

(3) The returning officer shall give public notice of the extension referred to in subsection (2).

Public notice of candidates

40. The returning officer shall give public notice of the names of all persons nominated as candidates, in the manner set out in paragraph 9(d), immediately after the close of nominations.

Questioning a nomination

41. (1) Any voter who believes that a candidate is not eligible to be a candidate may, within 72 hours after public notice of the names of the candidates is given, advise the returning officer in writing of the grounds for that belief.

Declaration of candidate

(2) A returning officer who is advised of reasonable grounds for believing that a candidate is not eligible to be a candidate shall, without delay and by written notice delivered to the candidate, specify the grounds and require the candidate to make a declaration as to his or her eligibility in the form that the returning officer requires.

Filing of declaration

(3) A returning officer shall reject the nomination of a candidate unless the declaration referred to in subsection (2) is filed with the returning officer within 48 hours after the candidate receives the notice referred to in subsection (2).

Effect of rejection

(4) Where the returning officer rejects the nomination of a candidate under subsection (3), that person shall not stand as a candidate.

Acclamations and Appointments

Acclamation of candidate

42. (1) The returning officer shall, 72 hours after public notice of the names of the candidates is given and after the resolution of any matter respecting eligibility arising under section 38 or 41, declare the nominated candidates duly elected, where the number of eligible candidates nominated to serve as members of a local authority does not exceed the number of persons required to be elected.

Where candidate nominated for mayor and councillor

(2) Where

- (a) a candidate has been nominated for both the office of mayor and councillor in a hamlet or charter community, and
- (b) the candidate is acclaimed as mayor,

the returning officer shall publicly declare the candidate elected as mayor and not consider his or her nomination as a councillor.

Certificate of election

(3) The returning officer shall send to each candidate declared elected a certificate of election in the prescribed form.

Appointment of members

43. (1) Where there are still vacant positions on the local authority after the candidates have been declared elected under subsection 42(1), the local authority, composed of the candidates declared elected and any other members of the local authority, shall appoint a sufficient number of persons as members of the local authority to fill any remaining vacant positions.

Eligibility of persons appointed

(2) The persons appointed under subsection (1) must be eligible to be candidates.

Status and term of appointees

(3) A member of a local authority who is appointed under subsection (1) shall be deemed to be duly elected and holds his or her office for one year only, at which time there must be an election to fill the vacancy for the balance of the term, if any.

Allocation of terms of office where candidates acclaimed

44. (1) Where, at an election,
(a) there is more than one vacant position to be filled,
(b) the terms of office for those positions are of different lengths, and
(c) at least one candidate is declared elected under subsection 42(1),
the positions must be allocated in accordance with this section.

Decision of candidates

(2) The candidates who have been declared elected under subsection 42(1) at an election referred to in subsection (1) shall decide among themselves who shall hold office for the terms of different length.

Allocation failing decision

(3) Where the candidates fail to make a decision under subsection (2), the returning officer shall allocate the terms of office on a random basis.

Calling the Election

Election required

45. (1) Where the number of candidates nominated to serve as members of a local authority exceeds the number of persons required to be elected, an election must be held.

Notice of election day

(2) Where an election must be held, the returning officer shall, as soon as possible after the close of nominations, give public notice of the election in the prescribed form.

Withdrawal of nomination

46. (1) Where more than the required number of candidates for members of a local authority are nominated, any person nominated may, within 48 hours after the close of nominations, withdraw his or her name as a candidate by filing written notice of withdrawal with the returning officer.

Remaining candidates

(2) Where a candidate withdraws and there remains a number of candidates equal to or less than the vacancies to be filled by the election, the returning officer shall declare the remaining candidates elected and cancel the election.

Acclamations and appointments

(3) Subsections 42(2) and (3) and sections 43 and 44 apply where an election has been cancelled under subsection (2).

Vacancies in Office

Filling vacancy

47. (1) Where the office of a member of a local authority becomes vacant for any reason before the term of office expires, the local authority shall fill the vacancy at the next general election or before then by

- (a) appointing a person who is eligible as a candidate; or
- (b) holding a by-election.

Vacancy of mayor

(2) For the purposes of appointing a new mayor under paragraph (1)(a), the municipal council shall appoint only a member of the municipal council as the mayor.

Term of appointee

(3) Subject to subsection (4), a person appointed under paragraph (1)(a) holds office until the date of the next general election.

Vacancy during election

(4) Where the vacancy occurs after nominations have closed but before the general election, a person appointed under paragraph (1)(a) holds office until the date of the following general election.

Term of elected person

(5) A person elected at a by-election holds office for the balance of the term of his or her predecessor. S.N.W.T. 1997,c.5,s.4(10).

By-election procedure

48. The procedure at a by-election must follow, as closely as possible, the procedure at a general election.

PART II
VOTING PROCEDURE

General

Election at large

49. (1) Members of a local authority must be elected by the voters of the electoral district voting at large.

Limitation

(2) Subsection (1) is subject to

- (a) the provisions of this Act respecting ward systems, appointments and acclamations;
- (b) the provisions of the community charter of a charter community; and
- (c) section 11 of the *Hamlets Act* respecting appointments.

Secret ballot

(3) Voting at all elections must be by secret ballot.

Election proceedings

50. The proceedings at and following the close of each voting station must be in accordance with the Schedule.

Form of ballot

51. (1) A ballot for an election must

- (a) be in the prescribed form;
- (b) contain the name of each candidate in full or the name by which the candidate is commonly known; and
- (c) contain, on the reverse side, the eligibility criteria for voters at the election.

Alphabetical listing

(2) The names of candidates on a ballot must be listed in alphabetical order, unless the local authority authorizes a random listing.

Photographs on ballots

52. (1) A local authority may authorize the use of photographs of candidates on a ballot and may establish standards for the photographs.

Photographs on placards

(2) A local authority may authorize the use of photographs of candidates on a placard and establish standards for the photographs and for the placards.

Same photograph on ballot and placard

(3) Where a local authority authorizes photographs of candidates on ballots and on placards, the local authority shall

- (a) use the same photographs on the ballots as are used on the placards; and
- (b) ensure that the photographs on the placards are printed in the same order as the photographs on the ballots.

Posting of photographs

(4) Where photographs of candidates have been authorized for use on placards or ballots, the returning officer shall cause the photographs to be posted in a conspicuous place at each voting station. R.S.N.W.T. 1988,c.77(Supp.),s.5.

Proxy Voting

Designation of proxy voter

53. (1) Where a person

- (a) is eligible to vote at an election, and
- (b) has reason to believe that he or she will be unable to vote either at an advance vote or on election day,

the person may obtain an application authorizing another voter in the electoral district to vote on his or her behalf as a proxy voter.

Complete application

(2) A voter who requests an application under subsection (1) shall complete the application and have his or her proxy voter sign the application to indicate that he or she consents to act as a proxy voter.

Number of proxies

54. No person shall be a proxy voter for more than three voters.

One proxy voter

55. No person shall have more than one proxy voter.

Proxy vote

56. On election day or advance voting day, a voter who has been authorized as a proxy voter under section 53 must

- (a) present the proxy application referred to in subsection 53(1) to the deputy returning officer for the voting division in which the voter who appointed him or her is eligible to vote, and
- (b) make a declaration in the prescribed form,

in order to be able to vote at the election for and in the place of the voter.

Entry in voters' register

57. (1) The election clerk shall enter in the voters' register opposite the voter's name, in addition to any other required entry, the fact that the voter voted by proxy together with the name of the proxy voter.

Transmission of declaration

(2) The deputy returning officer shall transmit the declaration made under paragraph 56(b) to the returning officer.

Duty to make proxy voting and voting at mobile voting station known

58. Where the returning officer is made aware of a disabled or physically incapacitated voter who

- (a) is unable to leave his or her residence to vote on election day by reason of his or her disability or physical incapacity, or
- (b) requires assistance, of a type not available at a voting station, in order to vote,

the returning officer shall notify the voter of provisions in this Act concerning proxy voting, advance voting and voting at a mobile voting station. S.N.W.T. 1997,c.5,s.4(12).

Mobile Voting Station

Mobile voting station

58.1. (1) A returning officer may establish a mobile voting station to attend to those persons within the municipality who, by reason of disability or physical incapacity, are unable to leave their place of residence to vote on election day or at an advance vote, and who do not wish to vote by proxy.

Day and time fixed

(2) Where a returning officer establishes a mobile voting station under subsection (1), the returning officer shall fix the day and the hours for conducting the vote of those voters referred to in subsection (1).

Application by voter

(3) A voter referred to in subsection (1) may apply to the returning officer to have a deputy returning officer attend to his or her place of residence in order to take his or her vote on the day and during the time fixed by the returning officer.

List of voters drawn

(4) Where the returning officer is satisfied that a voter is disabled or physically incapacitated and unable to attend a voting station on election day or at an advance vote, the returning officer shall include the voter's name and address on a list arranged alphabetically.

Notification of voter

(5) When the returning officer has completed the list of voters referred to under subsection (4), he or she shall, in writing, advise each applicant whether his or her application is accepted or rejected and advise of the reasons for a rejection.

Voter advised of day and time of vote

(6) Where the returning officer approves an application by a voter to vote at a mobile voting station, the returning officer shall, in writing, inform the voter of the date and approximate time when a deputy returning officer will attend at the voter's place of residence to take his or her vote.

Appointment of deputy returning officers

(7) The returning officer shall appoint a sufficient number of deputy returning officers to give full effect to this section.

Sealed ballot box

(8) On the completion of the voting under this section, the ballot boxes used shall be sealed so as to prevent ballots from being added to or taken from them and they shall remain sealed and in the custody of the returning officer until opened for the counting of ballots at the close of voting on election day.

List of voters to deputy returning officers

(9) The returning officer shall provide a list of the voters whose names have been placed on the list prepared under subsection (4) to each deputy returning officer.

Residence is voting station

(10) Every place of residence where a vote is taken under this section is a voting station and the voting procedures shall, to the extent possible, follow the provisions of this Act. S.N.W.T. 1997,c.5,s.4(12).

Advance Voting

Advance vote

59. The returning officer shall, if the local authority so directs, provide for an advance vote for the purpose of receiving the ballots of voters who expect to be absent, incapacitated or otherwise unable to vote in the electoral district on election day.

Date and time of advance vote

60. If an advance vote is to be held, the local authority shall

- (a) fix the date for the advance vote on a day that is not a holiday but is at least 7 days but not more than 14 days before election day; and
- (b) specify the hours during which the voting station will be open, being at least five hours but not more than nine.

Establishing voting stations

- 61.** (1) If an advance vote is to be held, the returning officer shall
- (a) establish one or more voting stations for the advance vote; and
 - (b) conduct the advance vote in the same manner as the vote on election day, unless otherwise specifically provided.

Notice of location of voting stations

- (2) The returning officer shall give notice of the times and places at which an advance voting station will be open, before advance voting day, by
- (a) posting up notices at each advance voting station; and
 - (b) giving public notice of the location and the date and time that the voting station will be open.

Declaration at advance vote

- 62.** (1) Before being entitled to vote at an advance vote, a voter shall make a declaration in the prescribed form.

Where declaration kept

- (2) The deputy returning officer shall keep the declaration with the other election material.

Voters' register

- 63.** The election clerk shall record in a voters' register, after the name of each person who votes at an advance vote, a note that the voter
- (a) has made the appropriate declaration; and
 - (b) has voted in the advance vote.

Sealing ballot box

- 64.** (1) After the close of the advance vote, the ballot box must be sealed so as to prevent ballots from being added to or taken from the box and the box shall not be unsealed or opened until the close of the voting station on election day.

Affixing seal to ballot box

- (2) The deputy returning officer shall, and any candidate or agent present who desires to do so may, affix a seal to the advance vote ballot box in such a manner that it cannot be opened or any ballot deposited in it or taken from it without breaking the seal.

Names of voters at advance vote

- 65.** (1) After the close of the advance vote, the deputy returning officer shall, without delay, forward to the returning officer the voters' register at the advance vote.

Notification of deputy returning officers

- (2) The returning officer shall notify each deputy returning officer of the names of each voter who voted in the advance vote.

Election Day Voting

Compartments for voting

66. The returning officer shall ensure that each voting station is furnished with one or more voting compartments arranged so that a voter is screened from observation and may mark his or her ballot without interference or interruption.

Hours voting station is open

67. (1) On election day, voting stations must be kept open

- (a) from 10 a.m. until 7 p.m.; or
- (b) for at least 9 but not more than 12 hours at the times that are fixed by the local authority.

Voter in voting station at closing time

(2) When a voting station closes, the deputy returning officer shall

- (a) allow any voter already in the voting station to vote; and
- (b) ensure that no other person enters the voting station to vote.

Notice of eligibility and voting offence

68. The returning officer shall ensure that there is posted in each voting station a conspicuous notice advising persons of the eligibility criteria for voters at the election and that it is an offence under this Act for a person to vote if the person is not eligible to do so.

Right to vote

69. (1) Subject to this section, a person who presents himself or herself at a voting station for the purpose of voting is entitled to vote at the election, if that person is eligible to vote and

- (a) the name of the person appears on the list of voters; or
- (b) the person makes a declaration of eligibility in the prescribed form.

Requesting declaration of voter

(2) Any candidate, agent of a candidate, voter or deputy returning officer who suspects that a person intending to vote is not eligible to vote may request that the person make a declaration of eligibility in the prescribed form, notwithstanding that the name of the person appears on the list of voters.

Vote not allowed

(3) A person who refuses to make a declaration of eligibility, when requested to do so, shall not receive a ballot and shall not vote at that election.

Voting

70. (1) Subject to this section, a voter may vote once for each candidate of his or her choice.

Assisting a person

- (2) A person shall not be considered to have voted if he or she
- (a) has assisted another person to cast a ballot; or
 - (b) has voted as a proxy voter, where authorized under this Act.

Limit on number of votes

(3) No person shall vote for more than the number of persons that are required to be elected as members of the local authority.

Exception

(4) Where in a hamlet or a charter community a candidate is nominated for both mayor and councillor, a voter may vote for the same person in each capacity for which that candidate is nominated.

Marking ballot

- 71.** (1) A voter shall mark his or her ballot by
- (a) placing an "X", or
 - (b) making some other mark clearly indicating his or her choice,
- opposite the name of the candidate of his or her choice.

Void ballots

(2) A ballot that is marked with more votes than the voter is entitled to make is void in respect of all candidates.

Persons present at voting station

- 72.** (1) During the time for voting, no person shall be present in a voting station other than
- (a) election officers;
 - (b) persons in attendance for the purpose of voting;
 - (c) a candidate or one authorized agent of the candidate, but not both; and
 - (d) any other person permitted to attend under this Act.

Agents

(2) A person who produces to the deputy returning officer written authority to represent a candidate as his or her agent at a voting station must be recognized as such by the deputy returning officer.

Evidence of voting

- 73.** (1) The receipt of a ballot by a voter, within the voting station, is evidence that the voter has there and then voted.

Forfeiting right to vote

- (2) A person receiving a ballot who
- (a) leaves the voting station without delivering it to the deputy returning officer, or
 - (b) refuses to vote,
- forfeits his or her right to vote at that election.

Assistance to voters

74. (1) Where a voter is able to attend at a voting station but requires assistance in order to vote, the deputy returning officer or person authorized by the deputy returning officer shall assist the voter in accordance with section 16 of the Schedule or provide other assistance that is appropriate to enable the voter to vote.

Disabled voters

(2) A voter who is blind, unable to read or understand the ballot, or otherwise disabled to such an extent that it prevents the person from casting a ballot, may have a person assist him or her in casting his or her ballot.

Where voters confined

- (3) Where a voting station is located in a hospital, nursing home, senior citizens home or other place where persons are confined, the deputy returning officer may
- (a) suspend voting in the room where the voting station is established; and
 - (b) attend on those voters who are unable to vote at the room where the voting station is established and take their ballot.

Equality of votes

- 75.** Where it appears after calculating the votes that two or more candidates for any office have received the same number of votes, and if it is necessary to determine which candidate is elected, the returning officer shall
- (a) write the names of those candidates on separate blank sheets of paper;
 - (b) fold the sheets of paper so that the names are concealed;
 - (c) deposit them in a receptacle and withdraw one of the sheets at random; and
 - (d) declare the candidate whose name appears on the withdrawn sheet to have one more vote than the other candidate.

Declaration of results

76. (1) The returning officer shall, at the conclusion of the vote, publicly declare elected the appropriate number of candidates who received the greatest numbers of votes to fill the offices that were open for election.

Where candidate runs for mayor and councillor

(2) Where a candidate has run for both the office of mayor and councillor in a hamlet or charter community and the candidate has received a greater number of votes for the office of mayor than any other candidate for that office, the returning officer shall, at the conclusion of the vote, publicly declare the candidate elected as mayor and not consider any votes cast for him or her as councillor.

Certificate of election

77. The returning officer shall, immediately after the conclusion of the vote, send

- (a) a certificate of results of the election in the prescribed form to each candidate showing the total number of votes cast for each candidate and those declared elected; and
- (b) a certificate of election in the prescribed form to each candidate elected.

Costs of election

78. (1) A local authority shall, in respect of an election, pay for all reasonable costs incurred on its behalf or by election officers performing their duties.

Cost sharing

(2) Notwithstanding subsection (1), a local authority may provide, in an agreement made under paragraph 6(1)(b) or (c), for sharing or allocating the cost of any election held jointly or on behalf of the local authority.

Destruction of ballots and election material

79. (1) At any time after a period of three months from election day, the senior administrative officer, in respect of a municipal or settlement election, or a person designated by the local authority, in respect of any other election, shall destroy the ballots and election material contained in the sealed ballot box in the presence of two witnesses, unless he or she is aware that proceedings for a recount, an election petition or other relevant legal proceedings are pending.

Declaration of destruction

(2) After the ballots and election material are destroyed, the person authorized to destroy the material shall make a declaration in the prescribed form specifying the date, time and place that the ballots and election material were destroyed.

Signature of witnesses

(3) The two witnesses present when the ballots and election material were destroyed shall sign the declaration referred to in subsection (2).

S.N.W.T. 1997,c.5,s.4(13).

PART III

RECOUNT

Administrative Recount

Request for recount

80. (1) If a candidate disagrees with the results of the count of votes, the candidate may, within 72 hours of the close of the voting, apply in writing to the returning officer for a recount.

Recount

(2) On receipt of a request for a recount by a candidate, the returning officer shall conduct a recount if the returning officer is satisfied that there are reasonable grounds for recounting the ballots.

Conducting a recount

81. A returning officer conducting a recount shall

- (a) notify the persons who attended the original count and all the candidates who may be affected by the recount of the date, time and place where the recount will be conducted at least 12 hours in advance;
- (b) break the seal of each ballot box at the time specified for the recount; and
- (c) proceed to count the ballots contained in the ballot boxes in the same manner as the deputy returning officer at a voting station would do under sections 23 to 26 of the Schedule.

Correction of records

82. After the recount, the returning officer shall

- (a) correct the results of the election and correct the certificates sent under section 77, if necessary;
- (b) place in each ballot box all the documents contained in it at the time the returning officer broke the seal;
- (c) lock each ballot box and seal it with the seal of the returning officer;
- (d) notify the candidates of the results of the recount; and
- (e) give public notice of any change in the results of the election.

Judicial Recount

Application for recount

83. (1) Any voter may, within 14 days after the date on which the results of an election are declared by a returning officer, apply to a judge for a recount of the ballots by originating notice.

Additional recount

(2) A voter may apply to a judge for a recount notwithstanding that the returning officer has conducted a recount under section 80.

Decision to hold recount

(3) If the judge is satisfied that there are reasonable grounds for recounting the ballots, the judge may appoint a time and place for the conduct of a recount.

Security for costs

(4) The judge may order the person applying for a recount to provide the security for costs that the judge considers reasonable in the circumstances.

Notice

(5) The person applying for the recount shall give notice of the date, time and place of the recount to those persons that the judge directs be notified and to the local authority affected by the recount at least seven days in advance.

Production of ballots and election material

84. (1) At the date, time and place appointed for a recount, the person responsible for the safekeeping of the election material shall attend before the judge with the ballot boxes and election material.

Decision of judge

(2) After inspecting the ballots and election material and hearing the evidence that the judge considers necessary, the judge shall, in a summary manner, determine the results of the election.

Authority of judge

85. A judge has, on the recount of the ballots, the same powers and authority that a judge has on the trial of an election petition.

PART IV

CONTROVERTED ELECTIONS

Application for New Election

Notice of improper conduct

86. (1) A returning officer who has reasonable grounds to believe that

- (a) the election is being conducted, in whole or in part, in contravention of this Act through inadvertence or error,
- (b) the contravention is not the result of any bad faith,
- (c) no corrupt practice has occurred, other than an offence under subparagraph 106(1)(q)(iii), and

(d) the contravention would cause the election to be invalid if the election were to continue,
shall notify the chief municipal electoral officer of his or her concerns in person, by telephone or by other means.

Application to stay conduct of election

(2) After being notified of those matters referred to in subsection 86(1), the chief municipal electoral officer may apply to a judge for an order cancelling the election in whole or in part and directing that a new election be held or that a portion of the election be reconducted.

Time of notice and application

(3) A notice or application made under this section must be made before the voting stations close at the end of the election.

Telephone application

(4) The chief municipal electoral officer may apply to a judge for an order under this section in person or by means of a telephone.

Consent of candidates

(5) The chief municipal electoral officer shall not apply for an order under this section unless the returning officer or the chief municipal electoral officer has obtained the consent of all candidates at the election to his or her application.

S.N.W.T. 1997,c.5,s.4(14).

Order for new election

87. (1) A judge may, on the *ex parte* application of a returning officer,
(a) cancel the election, in whole or in part,
(b) declare the election, or any part of it, to be of no effect, and
(c) order that a new election be held, or that a portion of the election be reconducted,

where the judge is satisfied, by information on oath, of those matters referred to in subsection 86(1).

Decision of judge

(2) The decision of a judge under subsection (1) is final.

Opening ballot boxes

88. No person shall open any ballot box or count any ballots where an application has been made under section 86, unless the judge refuses to cancel the election under section 87.

Election Petition

Election petition

89. (1) A voter or the local authority itself may question the validity of an election or the right of a person to sit as a member of a local authority in an election petition on any one or more of the following grounds:

- (a) that the election is invalid by reason of corrupt practices or offences committed at the election;
- (b) that a member of the local authority was, on election day, not eligible as a candidate;
- (c) that a member of the local authority was elected in contravention of this Act;
- (d) that a member of the local authority has become disqualified from serving on the local authority;
- (e) that a person was appointed as a member of the local authority who was not eligible as a candidate.

Filing of election petition

(2) The petitioner must file the election petition with the Nunavut Court of Justice no later than two months after election day.

Exception

(3) Notwithstanding subsection (2), an election petition questioning the right of a person to sit as a member of a local authority, on the grounds that the member has become disqualified from serving on the local authority, may be filed any time during the term of office of the member. S.Nu. 2012,c.17,s.16(4).

Respondents to election petition

90. (1) A person whose election or right to sit as a member of a local authority is questioned by an election petition and any election officer of whose conduct a petitioner complains may be made a respondent to the election petition.

Where two or more candidates

(2) Two or more candidates may be made respondents to the same election petition, and their cases may be tried at the same time, but for the purpose of the trial the election petition shall be deemed to be a separate election petition against each respondent.

Service of notice and election petition

91. Subject to an order of a judge extending time for service or allowing substitutional service, the petitioner shall serve a copy of the election petition on all respondents within 10 days after filing the election petition.

Preliminary directions of judge

- 92.** The judge, on or before the trial of an election petition, may
- (a) make any order with respect to the giving of security for costs as the judge considers reasonable in the circumstances;
 - (b) direct the service of the election petition on the persons or bodies that the judge considers necessary;
 - (c) direct that any person be added as a party to the proceedings as the judge considers necessary;
 - (d) order the petitioner to provide further particulars of the allegations in the election petition; and
 - (e) make any further or other order that in the circumstances appears just.

Effect of respondent ceasing to hold office

93. Subject to section 97, the trial of an election petition shall proceed notwithstanding that the respondent has ceased to hold the office in respect of which his or her election is questioned by the election petition.

Effect of irregularity

- 94.** Any failure to comply with a provision of this Act respecting the time for the doing of anything or any procedural irregularity committed in the course of an election does not render the election invalid if the judge is satisfied that
- (a) the failure or irregularity did not affect the result of the election; and
 - (b) the election was otherwise conducted in accordance with this Act.

Decision of judge

- 95.** At the conclusion of the trial of an election petition, the judge shall declare
- (a) which persons were duly elected and which persons were not duly elected;
 - (b) whether the election was invalid;
 - (c) whether a member of the local authority is disqualified from serving on the local authority;
 - (d) whether a new election is required; and
 - (e) whether a corrupt practice or offence under this Act was committed during the election and, if so, declare the nature of it, who committed it and whether any candidate had knowledge of or consented to the corrupt practice or offence.

Acts of member not duly elected

96. Where a member of a local authority is declared by a judge under paragraph 95(a) not to have been duly elected or, under paragraph 95(c), to be disqualified from serving on the local authority, any act done by that member in execution of the office before that declaration is not invalidated by reason only of that declaration.

Withdrawal of Election Petition

Withdrawal of election petition

- 97.** No petitioner shall withdraw an election petition, unless
- (a) the petitioner applies for and obtains the leave of a judge; and
 - (b) public notice of the intention to withdraw it has been previously given in the manner that the judge directs.

Substitution of petitioner

- 98.** (1) On the hearing of the application to withdraw an election petition, any voter who could have been a petitioner or the local authority itself may apply to be substituted as a petitioner, and the judge may, if the judge thinks fit, substitute that person accordingly.

Position of substituted petitioners

- (2) Except as otherwise provided, a substituted petitioner shall, as nearly as possible, stand in the same position and be subject to the same liabilities as the original petitioner.

Consent of all petitioners to withdrawal

- 99.** Where there is more than one petitioner, no person shall apply to withdraw an election petition without the consent of all the petitioners.

Abatement of Election Petition

Abatement of election petition

- 100.** (1) An election petition is abated by the death of a sole petitioner or of the sole survivor of several petitioners.

Effect of abatement

- (2) The abatement of an election petition does not affect the liability of any petitioner or of any person to the payment of costs previously incurred.

Notice of abatement

- 101.** (1) On the abatement of an election petition, the local authority shall give public notice of the abatement, at the expense of the local authority, within two weeks after the local authority becomes aware of the abatement.

Substitution

- (2) Within 30 days after public notice of the abatement is given, any voter who could have been a petitioner or the local authority itself may apply to a judge to be substituted as a petitioner and the judge may, if the judge thinks fit, substitute the person accordingly.

Security for costs

(3) A judge may order a substituted petitioner to provide the security for costs that the judge considers reasonable in the circumstances.

Costs and expenses

102. (1) All costs, charges and expenses of, and incidental to, the presentation of an election petition, except as are otherwise provided, shall be defrayed by the parties to the election petition or by the local authority, in the manner and proportion that the judge determines.

Needless expense

(2) Where, in the opinion of the judge, any costs, charges or expenses have been needlessly caused or caused by vexatious conduct or unfounded allegations or objections on the part either of the petitioner or of the respondent, the judge may order the costs, charges or expenses to be paid

- (a) by the party who incurred or caused them, irrespective of the outcome of the trial; or
- (b) if caused by an employee or representative of the local authority, by the local authority.

Costs against local authority

(3) Before an order is made against the local authority, a summons to show cause why an order should not be made shall be served on the local authority affected and, if the order is made, the local authority is entitled to notice of the taxation of the costs.

Decision of judge

103. The decision of a judge on an election petition is binding on the local authority and all parties to the action.

Appeal

104. An appeal may be taken from the decision of a judge on an election petition in the same manner as in a civil action.

Rules of the Nunavut Court of Justice

105. The Rules of the Nunavut Court of Justice apply to proceedings under this Part, except to the extent that they conflict with this Part. S.Nu. 2012,c.17,s.16(5).

PART V

OFFENCES AND PUNISHMENT

Corrupt Practices

Corrupt practices

- 106.** (1) Subject to subsection (2), every person commits a corrupt practice who
- (a) directly or indirectly
 - (i) gives, lends or agrees to give or lend money or valuable consideration, or
 - (ii) gives, procures, offers or promises an office or employment,
to a voter or other person in order to induce a voter to vote or refrain from voting at an election;
 - (b) makes or proposes to make a gift or loan for the purpose of procuring the election of any person;
 - (c) directly or indirectly advances, loans or pays money or valuable consideration for the use of another person with the intention that the money or any part of it be expended in bribery at an election;
 - (d) directly or indirectly receives or agrees to receive money, a gift, a loan or valuable consideration, office or employment for himself or herself or any other person for the purpose of influencing the exercise of the right of a voter to vote at an election;
 - (e) impersonates or falsely assumes the name of another person in order to vote at an election, whether the other person is living, dead or fictitious;
 - (f) intentionally votes or attempts to vote more than once at the same election, except where permitted by this Act;
 - (g) votes at an election knowing that he or she is ineligible to vote;
 - (h) knowingly has more than one proxy voter;
 - (i) knowingly acts or attempts to act as a proxy voter for more than three voters;
 - (j) knowingly consents to be a proxy voter for a voter without being eligible to vote;
 - (k) intentionally conducts electioneering in a voting station or posts or places advertising or electioneering signs or material in, on, over or in the immediate vicinity of a voting station;
 - (l) intentionally supplies ballots for an election to any person without due authority;
 - (m) intentionally puts into a ballot box at an election any paper other than a ballot that he or she is authorized to put in;
 - (n) intentionally takes a ballot out of the voting station except where authorized to do so by this Act;

- (o) intentionally destroys, takes, opens or otherwise interferes with a ballot, packet of ballots or ballot box or any election material in use for the purpose of an election, except where permitted by this Act;
- (p) interferes or attempts to interfere with any voter in marking his or her ballot or who marks or causes to be marked a ballot so as to defeat the intention of the voter whether or not that person is an election officer;
- (q) being an election officer,
 - (i) communicates any information known to him or her as to the candidates for whom a ballot has been cast,
 - (ii) induces a person to display his or her ballot, or
 - (iii) neglects, fails or refuses to discharge a duty under this Act;
 or
- (r) aids, incites, counsels or facilitates the commission by any person of any of the acts referred to in this subsection.

Exceptions

(2) The following shall be deemed to be lawful, and the payment, offering, receipt or commission of them is not a corrupt practice:

- (a) the actual personal expenses of a candidate;
- (b) the expenses of a candidate for actual professional services performed;
- (c) payment for the fair cost of printing and advertising;
- (d) the provision by volunteers of free transportation to voters at an election;
- (e) the use of vehicles that have electioneering material on them for the purpose of providing free transportation to voters at an election.

Intimidation

107. Every person commits a corrupt practice who, directly or indirectly,

- (a) uses or attempts to use any force, violence, restraint or threats,
- (b) injures or damages a person, or
- (c) in any manner intimidates a person,

in order to induce or compel a person to vote or refrain from voting, or on account of a person having voted or refrained from voting at an election or who in any way prevents or otherwise interferes with the free exercise of the right of a voter to vote at an election.

Corrupt practice

108. Every person who commits a corrupt practice is guilty of an offence.

Other Offences and Punishment

Removal of signs

109. (1) Within 14 days after the election day, a candidate shall remove all his or her electioneering signs and material from public property.

Where signs not removed

(2) Where signs and material are not removed pursuant to subsection (1), the local authority may cause them to be removed and charge the expense of doing so to the candidate to whom they relate.

General offence

110. Every person who contravenes a provision of this Act for which an offence is not specifically provided is guilty of an offence.

General punishment

111. (1) Every person who is guilty of an offence under this Act is liable on summary conviction to a fine not exceeding \$5,000 and, in default of payment, to imprisonment for a term not exceeding one year.

Additional punishment

(2) Where a member of a local authority is found guilty of committing a corrupt practice or an offence under this Act, in addition to the punishment under subsection (1), the person shall cease to hold office as a member of the local authority.

Miscellaneous

Oral evidence

112. (1) At the hearing of a prosecution under this Act, oral evidence may be accepted in the place of any by-law, voters' register, list of voters, or other official document or record, or written proof of the authority of a returning officer or deputy returning officer.

Use of certificate of results of election

(2) The certificate of the results of the election issued by the returning officer under paragraph 77(a) may be accepted as evidence of the fact that an election was held and that the candidates listed on it were candidates at the election.

Limitation period

113. Proceedings, other than an election petition, against any person for a corrupt practice or an offence under this Act may not be commenced more than two years after election day for the election at which the corrupt practice or offence was committed.
S.Nu. 2012,c.17,s.16(6).

PART VI

GENERAL

Regulations

114. The Commissioner, on the recommendation of the Minister, may make regulations prescribing

- (a) the form of the voters' register;
- (b) the form of the oath or affirmation of an election officer referred to in subsection 29(2);
- (c) the form of the notice referred to in section 35;
- (d) the form of the nomination paper referred to in paragraph 38(1)(a) and of the consent and declaration referred to in paragraph 38(1)(b);
- (e) the form of the certificate of election referred to in subsection 42(3) and paragraph 77(b);
- (f) the form of the notice of election referred to in subsection 45(2);
- (g) the form of the ballot for an election referred to in paragraph 51(1)(a);
- (h) the form of the declaration of a proxy voter referred to in paragraph 56(b);
- (i) the form of the declaration of a voter at an advance vote referred to in subsection 62(1);
- (j) the form of the declaration of eligibility referred to in paragraph 69(1)(b) and subsection 69(2);
- (k) the form of the certificate of results of an election referred to in paragraph 77(a);
- (l) the form of the declaration referred to in subsection 79(2); and
- (m) the form of the declaration referred to in paragraph 16(a) of the Schedule.

Saving provision respecting members of local authorities

115. Every member of a local authority holding office on December 31, 1987, shall continue to hold office and shall be deemed to have been elected pursuant to the provisions of this Act.

Term of mayor or councillor of hamlet

116. The term of office for any mayor or councillor of a hamlet holding office on December 31, 1987, shall end at noon on the first Monday in January in the year following the year in which the term would otherwise end.

SCHEDULE

(Sections 34, 50, subsection 74(1),
paragraphs 81(c), 114(m))

ELECTION PROCEDURE

Election material delivered

1. Before a voting station opens, the returning officer shall provide to each deputy returning officer

- (a) at least one ballot box; and
- (b) the ballots, materials for marking the ballot, and a sufficient number of printed directions for voting.

Proceedings before balloting starts

2. (1) Immediately before the commencement of the vote, a deputy returning officer shall

- (a) open the ballot box and call anyone who is present to look to see that it is empty;
- (b) lock and seal the ballot box to prevent its being opened without breaking the seal; and
- (c) place the ballot box in view for the reception of ballots.

Seal unbroken

(2) No person shall break the seal on the ballot box or unlock the ballot box during the time that the voting station is open.

List of voters

3. When a person arrives to vote at the voting station, the deputy returning officer shall see whether the name of the person is on the list of voters.

Information for voters' register

4. The deputy returning officer shall ensure that in the voters' register is recorded

- (a) the name and address of each person intending to vote; and
- (b) where appropriate, whether the person is a supporter of a school established under section 197 of the *Education Act*.
S.N.W.T. 1995,c.28,s.154(9); S.Nu. 2010,c.7,s.5(11).

Declaration

5. If the person takes the declaration of eligibility, the word "declared" must be entered in the voters' register opposite the name of the voter.

Refusal to make declaration

6. If a person refuses to take the declaration of eligibility, the words "refused to take declaration" must be entered in the voters' register opposite the name of the voter.

Objection

7. If the vote of a person is objected to, the words "objected to" must be entered in the voters' register opposite the voting name together with the name of the objector.

Initialed ballot paper

8. A person entitled to vote shall receive from the deputy returning officer a ballot on the back of which the deputy returning officer has previously put his or her initials, so placed that when the ballot is folded the initials can be seen without opening it.

Explanation of ballot

9. The deputy returning officer or election clerk may, and on request shall, explain the way to mark a ballot.

Marking ballot

10. A mark shall be made on the voters' register opposite the name of every voter receiving a ballot.

Number of persons voting at a time

11. Except where this Act otherwise permits, only one person claiming to be entitled to vote shall be allowed at a time in the compartment where ballots are marked.

Voting compartment

12. Each person receiving a ballot shall immediately proceed to the compartment provided for marking ballots.

Folding of ballot

13. After marking the ballot, the voter shall fold the ballot so as to conceal the names of the candidates and the marks on the ballot but so as to expose the initials of the deputy returning officer.

Delivery of ballot to deputy returning officer

14. On leaving the compartment a voter shall immediately, and without exposing the face of the ballot to anyone or making known to any person for whom he or she has or has not voted, deliver the ballot to the deputy returning officer.

Deposit of ballot in ballot box

15. On receipt of a marked ballot the deputy returning officer shall, without unfolding the ballot, verify his or her initials and at once deposit it in the ballot box in the presence of the persons entitled to be present in the voting station.

Inability to mark ballot

16. If a voter states that he or she is unable to mark his or her ballot, the deputy returning officer shall

- (a) if required by any candidate or agent, receive an oral declaration of the voter that the voter is unable to mark his or her ballot and make a declaration to that effect in the prescribed form;

- (b) cause the ballot of the voter to be marked as the voter directs;
- (c) place the ballot in the ballot box; and
- (d) record in the voters' register, opposite the name of the voter, the fact that the ballot was caused to be marked by the deputy returning officer at the request of the voter and the reason for it.

Cancelled ballot

17. A voter who spoils his ballot in marking it and discovers that fact before it has been placed in the ballot box may, on returning the ballot to the deputy returning officer and proving the fact to the deputy returning officer, obtain another ballot and the deputy returning officer shall mark on the face of the ballot paper so returned the word "cancelled".

Preserving cancelled ballots

18. All ballots marked "cancelled" shall be preserved by the deputy returning officer.

Where voter declines to vote

19. Where a voter declines to vote, the deputy returning officer shall record that fact in the voters' register and mark on the face of the ballot paper the word "declined".

Preserving declined ballots

20. All ballots marked "declined" shall be preserved by the deputy returning officer.

Where voter leaves without voting

21. A record in the voters' register shall be made of any person who receives a ballot and who leaves the voting station without voting.

Proceedings after voting ends

22. Immediately after the close of the voting station, the deputy returning officer, in the presence of the election clerk and of the candidates and their agents, not exceeding one for any candidate that may be present, shall open the ballot box and the advance ballot box.

Examination of ballots

23. The deputy returning officer shall examine the ballots and reject any ballot

- (a) that was not previously intialled by the deputy returning officer;
- (b) on which more votes are given than the voter is entitled to give;
- (c) to which anything has been done or on which anything appears by which the voter can be identified; and
- (d) that is improperly marked.

Objections

24. The deputy returning officer shall take note of any objection made by any candidate or his or her agent to any ballot found in the ballot box and decide on any question arising out of the objection.

Notation on ballot

25. The deputy returning officer shall number all objections and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be, and his or her initials.

Calculation of votes

26. The deputy returning officer shall

- (a) count the valid ballots given for each candidate; and
- (b) make a written statement
 - (i) of the number of votes given to each candidate, and
 - (ii) of the number of ballots rejected and not counted by the deputy returning officer,

and then sign the written statement together with those other persons authorized to be present that may wish to sign it.

Ballot packets

27. The deputy returning officer shall certify on the voters' register the total number of persons who voted at the voting station for which the deputy returning officer is responsible and

- (a) make three separate packets containing
 - (i) the statements of votes and the ballots that have been counted, whether objected to or not,
 - (ii) the rejected ballots and those ballots declined and cancelled, and
 - (iii) the voters' register, list of voters and unused ballots; and
- (b) seal and initial the envelopes and mark the contents of the envelope on the outside of the envelope.

Certificate of results

28. After the result of an election has been declared and on request to do so, the returning officer shall provide a candidate or his or her agent with a certificate showing the total number of votes cast at a voting station for each candidate and the number of rejected ballots.

Disposition of election material

29. After the election, the returning officer shall transmit the ballot boxes, ballots and election material to the senior administrative officer, in respect of a municipal or settlement election, or a person designated by a local authority, in respect of any other election.

Responsibility for safekeeping and destruction

30. The person who receives the ballots and election material on behalf of the local authority from the returning officer is responsible for its safekeeping and for its destruction when required by this Act.

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