

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'
FIRST NATIONS GOVERNMENT**

ELECTIONS ACT

KCFNS 32/2014



OFFICIAL CONSOLIDATION – CURRENT TO MARCH 8, 2017

This is a certified true copy of the consolidated Elections Act KCFNS 32/2014, Current to March 8, 2017

Date: March 15, 2017

Signed: *Maureen Scott*
Clerk

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' FIRST NATIONS GOVERNMENT
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PREAMBLE

Through our inherent right to self-government, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have preserved and protected our territories and culture with the advice and counsel of our Ha'wiih. While embracing our past and relying on the guidance provided by our Ha'wiih, as self-governing treaty first nations, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations also recognize the importance of responsible government and the honour and integrity of our elected representatives.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assume the responsibility of providing transparent and accountable government through impartial, open, fair and free elections. This requires an electoral process that is conducted with honesty and integrity for the common good of all Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens.

Through the establishment of election rules and procedures to realize these goals, Ka:'yu:'k't'h'/Che:k'tles7et'h' elections will be conducted in a manner that promotes public confidence and trust in the integrity of Ka:'yu:'k't'h'/Che:k'tles7et'h' officials and the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Elections Act.

Oversight

1.2 The chairperson of the Legislature is responsible for the oversight of this Act.

Application

- 1.3 (a) This Act is enacted under 13.11.1 of Chapter 13 Governance of the Maa-nulth Treaty and under sections 2.8 and 3.3(b) of the Constitution.
- (b) This Act applies to the processes by which elected Ka:'yu:'k't'h'/Che:k'tles7et'h' government representatives are chosen.

Definitions

1.4 In this Act,

“advance voting” means voting in person on the advance voting day in accordance with Part 7;

“advance voting day” means the date fixed by the chief electoral officer for advance voting in accordance with section 2.2;

“ballot” means a paper ballot, a mail-in ballot or an electronic ballot;

“ballot box” means a paper ballot box or an electronic ballot box;

“by-election” means an election other than a regular election;

“candidate” means a nominee whose nomination has been confirmed in accordance with section 4.6;

“candidate’s representative” means an individual appointed to represent a candidate under section 4.10;

“chief electoral officer” means an individual appointed under section 3.1;

“deputy electoral officer” means an individual appointed under section 3.3;

“elected office” means the office of an elected member of the Legislature;

“election” means a regular election or a by-election;

“election officer” means the chief electoral officer, the system electoral officer or a deputy electoral officer;

“election official” means the chief electoral officer, the system electoral officer, any deputy electoral officer or an election worker;

“election worker” means any person appointed by the chief electoral officer to assist in the conduct of an election under section 3.4;

“electronic ballot” means an image of a ballot on a computer screen prepared in accordance with section 6.6;

“electronic ballot box” means a database in the system where electronic ballots are recorded, designed in accordance with section 6.7;

“electronic voting” means voting via the internet in accordance with Part 9;

“eligible voter” means an individual whose name is on the most recent voters list;

“general voting” means voting in person on the general voting day in accordance with Part 7;

“general voting day” means the day on which an election is held under section 2.1(b) or 13.1(b);

“Ha’wiih legislators” means those Ha’wiih chosen as members of the Legislature in accordance with section 2.5 of the Constitution;

“intimidate” includes

- (a) to use or threaten to use force, violence or restraint against a person,
- (b) to inflict injury, harm, damage or loss on a person or property or to threaten to do any of the foregoing, or
- (c) to otherwise intimidate a person or threaten to do anything that is otherwise intimidation of a person;

“mail-in ballot” means a paper ballot prepared in accordance with section 8.2;

“nomination meeting” means a meeting held in accordance with section 4.2;

“nomination papers” means the documents filed in accordance with section 4.5;

“nominee” means a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is eligible under section 4.1 to become a candidate and has been nominated to stand as a candidate for any elected office to be filled in an election in accordance with this Act;

“notice of election” means a notice given in accordance with section 2.4;

“paper ballot” means a ballot on a piece of paper prepared in accordance with section 6.3;

“paper ballot box” means a box or receptacle prepared in accordance with section 6.4;

“PIN” means a unique personal identification number issued to an eligible voter for electronic voting;

“ratification meeting” means a vote on a question conducted at a meeting held in accordance with section 6.3 of the Referendum Act;

“referendum” means a vote on a question conducted in accordance with the Referendum Act;

“regular election” means an election held under section 2.1;

“secrecy envelope” means an envelope within which a mail-in ballot may be placed in accordance with section 8.3 and identified only with the words “Secrecy Envelope” and the date of the general voting day;

“sworn statement” means a statement in the form approved by the chief electoral officer that is sworn or affirmed in the presence of

- (a) an election officer, or
- (b) a solicitor, notary public or other person authorized by the Evidence Act (British Columbia) to take affidavits for use in British Columbia;

“system” means the technology, including software, established by the system electoral officer under section 9.3(a)(i);

“system electoral officer” means a person appointed under section 3.2;

“voter declaration form” means a document that sets out

- (a) the name of an eligible voter,
- (b) the citizenship number of the eligible voter or, if the eligible voter does not have a citizenship number, the date of birth of the eligible voter,

- (c) a statement that the eligible voter has read and understands the nature of the vote and has voted freely and without compulsion, and
- (d) the name, address and telephone number of a witness to the signature of the eligible voter;

“voters list” means the list prepared under section 5.4;

“voting hours” means the hours established for voting under section 2.8;

“voting place” means a place established under section 2.7.

PART 2 - TIMING AND NOTICE OF ELECTIONS

Regular elections

- 2.1 (a) Regular elections for the Legislature must be held in the year 2015 and in every fourth year after that.
- (b) The general voting day for a regular election must be on the third Tuesday in April.

Advance voting day

- 2.2 (a) Before posting a notice in accordance with section 2.4, the chief electoral officer must establish the advance voting day in accordance with subsection (b).
- (b) The chief electoral officer must conduct advance voting on a day that is at least 10 but not more than 14 days before the general voting day.

Electronic voting

- 2.3 The chief electoral officer must only conduct electronic voting on general voting day during voting hours.

Notice of elections and nomination meetings

- 2.4 At least 60 days before the general voting day for a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined, the chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice of the election and the nomination meeting that includes
- (a) the date, time and location of the nomination meeting,
 - (b) the elected offices for which nominations may be made,
 - (c) information about the nomination process, including how an eligible voter may make and second a nomination,
 - (d) how eligible voters may vote in the election,
 - (e) the date of the general voting day and the voting hours and the voting places for general voting,
 - (f) the date of the advance voting day and the voting hours and the voting places for advance voting;
 - (g) that voting by mail-in ballot is permitted if an eligible voter's mail-in ballot is received by the chief electoral officer on or before the general voting day,

- (h) that electronic voting is permitted only on general voting day during voting hours,
- (i) the name of and contact information for the chief electoral officer,
- (j) the voters list containing only the names of eligible voters, and
- (k) any other information that the chief electoral officer considers necessary or advisable for the better administration of the election.

Information package

2.5 At least 30 days before the general voting day, the chief electoral officer must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law to every eligible voter, to his or her mailing address as it appears on the voters list an information package regarding the election, including

- (a) instructions for general voting and advance voting,
- (b) a mail-in ballot with instructions on how to vote by mail-in ballot,
- (c) instructions on how to vote by electronic voting and a statement that eligible voters will be mailed a PIN separately, and
- (d) any other information that the chief electoral officer considers necessary or advisable for the better administration of the election.

Electronic voting PIN

2.6 At least 30 days before the general voting day, the system electoral officer must deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law to every eligible voter, to his or her mailing address as it appears on the voters list, separately from the information package provided under section 2.5, a PIN for electronic voting.

Voting places

- 2.7**
- (a) The voting places for general voting for all elections are the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices.
 - (b) The Legislature must, by resolution, at least 120 days before the date of a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined, determine the voting places for advance voting.

Voting hours

2.8 The voting hours for general voting, electronic voting and advance voting must be from 8:00 am until 8:00 pm on the days that voting is held.

PART 3 - ELECTION ADMINISTRATION

Chief electoral officer

- 3.1 (a) Subject to section 3.5 and subsection (b), the Legislature must appoint an individual to act as chief electoral officer at least 120 days before the date of a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined.
- (b) The chief electoral officer must not be a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen.

System electoral officer

- 3.2 (a) The Chief Electoral Officer may, after considering the recommendation of the Executive, appoint a person to act as system electoral officer at least 75 days before the general voting day for a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined.
- (b) The Chief Electoral Officer may at any time, after considering the recommendation of the Executive, appoint a replacement system electoral officer if a system electoral officer resigns or is unable to perform its duties.

Deputy electoral officers

- 3.3 (a) As soon as practicable after being appointed under section 3.1, the chief electoral officer must appoint a deputy electoral officer.
- (b) The chief electoral officer may, at any time, appoint one or more additional deputy electoral officers or a replacement deputy electoral officer if a deputy electoral officer resigns or is unable to perform his or her duties.

Election workers

- 3.4 (a) The chief electoral officer may appoint one or more election workers to assist in the conduct of an election.
- (b) An election worker must, as directed by the chief electoral officer, perform the duties required of him or her by the regulations, if any, and by the chief electoral officer.

Individuals ineligible for appointment as election officials

- 3.5 The following individuals must not be appointed, accept an appointment or act as an election official:
- (a) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative;

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- (b) a member of the Ha'wiih Advisory Council;
 - (c) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government employee;
 - (d) an individual who is a candidate or a candidate's representative in that election;
 - (e) an individual who has been an employee of, or holds a position or has made a contribution in relation to the candidacy of, any individual who is, intends to be or was a candidate in the election; or
 - (f) an individual who has been convicted of an offence under this Act within the past 10 years.

Impartiality of election officers

- 3.6** Every election officer must make a solemn declaration before the legislative chief that they
- (a) will faithfully and impartially perform their duties and exercise their powers in accordance with this Act,
 - (b) have not accepted and will not accept any inducement to subvert an election, and
 - (c) will preserve the secrecy of all ballots.

Duties and powers of election officers

- 3.7**
- (a) Election officers must perform their duties and exercise their powers in accordance with this Act.
 - (b) Election officers must use all means reasonably necessary to ensure that elections are conducted fairly and impartially, that peace and order is maintained at each voting place and that eligible voters are provided relevant and necessary information regarding the election.
 - (c) In addition to any other duties, the chief electoral officer must ensure that the other election officials perform their duties and exercise their powers fairly and impartially.
 - (d) The deputy electoral officer, or the first deputy electoral officer appointed under section 3.3 if there is more than one deputy electoral officer, must perform the duties and exercise the powers of the chief electoral officer in the absence of the chief electoral officer or in circumstances where the chief electoral officer is unable to perform the duties or exercise the powers of that office.

Resignation of election officers

- 3.8** (a) The chief electoral officer may resign by providing the legislative chief written notice at least 30 days prior to the date the resignation is to take effect.
- (b) The system electoral officer may resign by providing the legislative chief, with a copy to the chief electoral officer, written notice at least 30 days prior to the date the resignation is to take effect.
- (c) A deputy electoral officer may resign by providing the chief electoral officer written notice at least seven days prior to the date the resignation is to take effect.

PART 4 - NOMINATIONS AND CANDIDATE QUALIFICATIONS

Qualifications of candidates

- 4.1 (a) Subject to this Act, any Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is at least 18 years of age may be nominated to stand as a candidate for any elected office to be filled in an election.
- (b) A Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen may not be a candidate in an election if that person
- (i) is not, or will not be, at least 18 years of age on the general voting day for that election,
 - (ii) is an election official for that election,
 - (iii) is a nominee for another elected office in that election,
 - (iv) is an undischarged bankrupt,
 - (v) is suffering from a medical condition, including mental illness or dependency on drugs or alcohol, that a medical practitioner in writing concludes would render that person likely to be incapable of performing the duties or exercising the powers of the elected office,
 - (vi) has been convicted of a criminal offence within the four year period immediately prior to the general voting day for that election, or
 - (vii) has been convicted of fraud, bribery, an offence under this Act or any similar election statute of another jurisdiction or a sexual offence under the Criminal Code (Canada) unless that person has received a pardon in accordance with Canadian law or Ka:'yu:'k't'h'/Che:k'tles7et'h' law.

Nomination meeting

- 4.2 (a) A nomination meeting must be held at least 45 days before the date of a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined.
- (b) Notice of the nomination meeting must be provided in accordance with section 2.4.
- (c) The chief electoral officer must
- (i) make the necessary arrangements for holding the nomination meeting,

- (ii) ensure nomination papers are available to any eligible voter upon request, and
- (iii) receive, record and file all nomination papers.

Nomination procedures

- 4.3** (a) An eligible voter may nominate a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who qualifies under section 4.1 to be a candidate
- (i) by hand delivering, mailing or faxing a written nomination and a completed, signed and witnessed voter declaration form to the chief electoral officer so it is received by the chief electoral officer at least 24 hours before the time set for the nomination meeting to begin, or
 - (ii) in person at the nomination meeting.
- (b) In order for a nomination under subsection (a) to stand, the nomination must be seconded by an eligible voter
- (i) by hand delivering, mailing or faxing a written second to the nomination and a completed, signed and witnessed voter declaration form to the chief electoral officer so it is received by the chief electoral officer at least 24 hours before the time set for the nomination meeting to begin, or
 - (ii) in person at the nomination meeting.
- (c) An eligible voter may not
- (i) nominate and second the nomination of the same nominee,
 - (ii) nominate himself or herself, or
 - (iii) nominate or second the nomination of more than one nominee for the same elected office in an election.
- (d) As soon as practicable following a nomination meeting, the chief electoral officer must notify any nominee who was not present at the nomination meeting of his or her nomination.

Requirements for candidates

- 4.4** A nomination is complete when the nominee has
- (a) been nominated and that nomination has been seconded at a nomination meeting, in accordance with section 4.3,

- (b) communicated acceptance of the nomination to the chief electoral officer either verbally or in writing, and
- (c) filed the nomination papers required under this Act.

Nomination papers

- 4.5** (a) Within seven days after the nomination meeting, a nominee who wishes to stand as a candidate for office must file with the chief electoral officer nomination papers in the form approved by the chief electoral officer, which must include
- (i) an oath or affirmation by the nominee that he or she satisfies the qualifications set out in section 4.1, and
 - (ii) the signature of 10 eligible voters who support the nomination.
- (b) Nomination papers are deemed to be filed with the chief electoral officer when they are received by the chief electoral officer or a deputy electoral officer.

Confirmation of nominations

- 4.6** (a) The chief electoral officer must, as soon as practicable after the nomination meeting, but in any event no less than 10 days thereafter, determine whether
- (i) the nomination of a nominee has been completed in accordance with section 4.4, and
 - (ii) the nominee meets the qualifications set out in section 4.1.
- (b) Before determining whether the nominee meets the qualifications set out in section 4.1, the chief electoral officer may, in accordance with any regulations,
- (i) require the nominee to provide the chief electoral officer with such additional relevant documents or information relating to those qualifications as the chief electoral officer considers necessary or advisable, and
 - (ii) conduct such additional investigations in respect to those qualifications as the chief electoral officer considers necessary or advisable.
- (c) As soon as practicable after making a determination under subsection (a), the chief electoral officer must
- (i) notify in writing each nominee whether or not their nomination is complete and whether or not they meet the qualifications set out in section 4.1, and

- (ii) if the nomination of a nominee is not complete or that nominee does not meet the qualifications set out in section 4.1, provide the nominee with sufficient details of those deficiencies.

Notice of candidates and preparation of ballots

- 4.7** (a) As soon as practicable after making all the determinations required under section 4.6(a), the chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice of the names of all the candidates for each elected office to be filled in that election.
- (b) When preparing a ballot to be used for voting in an election, the chief electoral officer must include on that ballot only the names of the candidates for each elected office to be filled in that election.

Withdrawal of a candidate

- 4.8** (a) A candidate may withdraw from the election by delivering a signed notice of withdrawal to the chief electoral officer in accordance with any regulations.
- (b) If a candidate withdraws from an election after the ballots for the election have already been prepared and the chief electoral officer determines that it is not practicable to replace those ballots in time for advance voting, the chief electoral officer must as soon as practicable use reasonable efforts to advise eligible voters of the withdrawal of that candidate and post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law and in every voting place during advance voting and general voting a notice of the withdrawal of that candidate.

Acclamation

- 4.9** The chief electoral officer must immediately declare a candidate elected by acclamation if
- (a) there is only one candidate for that elected office,
 - (b) as a result of a disqualification or withdrawal of a candidate, there is only one candidate remaining for that elected office, or
 - (c) in the case of an election for the Legislature, the number of candidates is equal to or less than the number of members of the Legislature to be elected.

Appointment of candidate's representative

- 4.10** A candidate may appoint a representative to observe the conduct of voting and counting of ballots in the election.

Announcement of Ha'wiih legislators

- 4.11** (a) Prior to the nomination meeting, the Ha'wiih Advisory Council must choose four Ha'wiih as members of the Legislature in accordance with section 2.5 of the Constitution.
- (b) The Ha'wiih legislators chosen in accordance with subsection (a) must be announced in accordance with section 11.1.

KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' FIRST NATIONS GOVERNMENT
ELECTIONS ACT KCFNS 32/2014
OFFICIAL CONSOLIDATION – CURRENT TO MARCH 8, 2017

PART 5 - VOTING METHODS AND VOTER ELIGIBILITY

Voting methods

- 5.1** (a) The Legislature must, by resolution, at least 120 days before the date of a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined, determine which of the following voting methods will be available in the election, provided that at least two of the following voting methods must be available in an election:
- (i) in person, on general voting day, in accordance with Part 7;
 - (ii) in person, on the advance voting day, in accordance with Part 7;
 - (iii) by mail-in ballot in accordance with Part 8; or
 - (iv) by electronic voting, on general voting day, in accordance with Part 9.
- (b) An eligible voter may vote in an election using one of the voting methods approved by the Legislature under subsection (a).
- (c) For certainty, an eligible voter must not vote on more than one occasion in the same election.
- (d) If a voting method referred to in subsection (a) is not available in an election,
- (i) the provisions of this Act relating to that voting method do not apply to that election, and
 - (ii) the balance of the Act is applicable to the election with the necessary changes required and so far as applicable.

Eligible voters

- 5.2** A Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is or will be at least 18 years of age on the general voting day is entitled to vote in an election or referendum or at a ratification meeting.

Voting rights and responsibilities

- 5.3** (a) An eligible voter may vote for each elected office to be filled in an election or on a question in a referendum or at a ratification meeting.
- (b) An individual who is entitled to vote under section 5.2 whose name is not on the voters list may vote if that individual complies with the requirements of sections 5.7 and 5.8 or section 7.5(b).

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- (c) The chief electoral officer must do everything reasonably possible to
 - (i) accommodate an eligible voter who has special needs, such as an elderly, blind, physically handicapped or illiterate voter, and
 - (ii) ensure each voting place is accessible to persons with those special needs.
 - (d) In order to maintain the integrity of the voting process, it is the responsibility of an individual who is entitled to vote under section 5.2 to ensure the citizenship and enrolment registrar has his or her current address on record.

Voters list

- 5.4**
- (a) The chief electoral officer must prepare a list of Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens entitled to vote under section 5.2 based on the Ka:'yu:'k't'h'/Che:k'tles7et'h' citizenship register provided by the citizenship and enrolment registrar under subsection (b).
 - (b) At least 120 days before the date of a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined, the citizenship and enrolment registrar must provide the chief electoral officer with a copy of the Ka:'yu:'k't'h'/Che:k'tles7et'h' citizenship register with the date of birth and address of each individual named on that list.
 - (c) The voters list must be arranged in alphabetical order by last name and contain the name, date of birth and address of each individual who is entitled to vote under section 5.2.
 - (d) If the information package mailed to an eligible voter in accordance with section 2.5 of this Act or section 3.2.1 of the Referendum Act is returned to the chief electoral officer indicating the address that information package was sent to is not the correct address for that eligible voter, the chief electoral officer must, or the citizenship and enrolment registrar must if asked to do so by the chief electoral officer, telephone that eligible voter at his or her last known home or mobile telephone number at least seven days before general voting day to ascertain the correct mailing address for that eligible voter.
 - (e) The chief electoral officer must maintain a written record in accordance with section 11.4 of the telephone call made under subsection (d) and its result.
 - (f) If after making the telephone call under subsection (d) a current address has not been ascertained for an eligible voter, the chief electoral officer must at least seven days before general voting day
 - (i) remove that eligible voter's name from the voters list, and

- (ii) post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a notice indicating that individual's name has been removed from the voters list.
- (g) For certainty, an individual who is entitled to vote under section 5.2 and whose name has been removed from the voters list in accordance with subsection (f) may vote in that election if that individual complies with the requirements of sections 5.7 and 5.8 or section 7.5(b).

Posting the voters list

5.5 The chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law the voters list containing only the names of eligible voters.

Access to voters list during election

- 5.6**
- (a) The chief electoral officer must, on request and without charge, provide a candidate in an election with a printed or electronic copy of the most recent voters list containing only the names of eligible voters.
 - (b) The chief electoral officer must, in accordance with any regulations, make available for inspection by Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices, copies of the most recent voters list containing only the names of eligible voters.

Objections to voters list

5.7 An individual who is entitled to vote under section 5.2 whose name

- (a) does not appear on the voters list, or
- (b) is incorrectly set out on the voters list

may, in person or by telephone, courier, mail, fax or email, request the chief electoral officer to revise the voters list.

Correcting the voters list

- 5.8**
- (a) If a request is made under section 5.7 by an individual who is entitled to vote under section 5.2,
 - (i) the chief electoral officer must, as soon as is reasonably practicable, inform the citizenship and enrolment registrar of the request,
 - (ii) the citizenship and enrolment registrar must, as soon as is reasonably practicable, consider the request and provide the chief electoral officer with

- (A) whatever information the citizenship and enrolment registrar considers necessary or advisable in order that the chief electoral officer may make a decision regarding the request, and
 - (B) his or her recommendation regarding the request, and
 - (iii) if, after considering the information and recommendation provided by the citizenship and enrolment registrar under paragraph (ii), the chief electoral officer is satisfied that the voters list should be corrected, the chief electoral officer must make the necessary correction.
- (b) The chief electoral officer must maintain a written record of all requests under section 5.7 along with the chief electoral officer's decision in relation to the request and reasons for the decision.

Corrected voters list

- 5.9** After any disputes over the voters list are resolved, the chief electoral officer must post a corrected voters list in accordance with section 5.5.

PART 6 - BALLOTS AND BALLOT BOXES

Voting by ballot

6.1 All voting in an election must be made on ballots in accordance with this Act.

Secrecy of ballots

- 6.2** (a) Voting in an election must be by secret ballot.
- (b) Every individual present
- (i) at a voting place,
 - (ii) when a vote is being cast by mail-in ballot or electronic voting, or
 - (iii) at the counting of ballots
- must maintain the secrecy of every ballot and must not
- (iv) interfere or attempt to interfere with an eligible voter who is marking a ballot,
 - (v) attempt to discover how an eligible voter voted,
 - (vi) communicate information regarding how an eligible voter voted or marked a ballot, or
 - (vii) induce an eligible voter, directly or indirectly, to show a ballot in a way that reveals how that eligible voter voted.
- (c) The chief electoral officer must ensure that each voting place has at least one voting compartment that is arranged in a manner that an eligible voter may mark his or her ballot, screened off from observation by others and without interference or intimidation.

Style of paper ballot

- 6.3** (a) A paper ballot must be in the form approved by the chief electoral officer and, in the case of an election, must
- (i) list every candidate in alphabetical order by surname for each elected office to be filled in that election,
 - (ii) include a photograph of the candidate opposite each candidate's name on the ballot, and

- (iii) provide a space opposite each candidate's name for the eligible voter to enter a mark indicating his or her vote.
- (b) A paper ballot must be designed so that the eligible voter's identity cannot be ascertained after the paper ballot has been deposited in a paper ballot box.

Paper ballot boxes

6.4 Paper ballot boxes used in an election may be any physical box or other appropriate receptacle that is constructed so it can be sealed and paper ballots inserted but not withdrawn or the paper ballot box opened unless the seal is broken.

Paper ballots and other materials

6.5 Before the beginning of voting on the advance voting day and the general voting day, the chief electoral officer must deliver or cause to be delivered to each voting place

- (a) sufficient paper ballots,
- (b) as many paper ballot boxes sealed in accordance with section 10.2 as are required, and
- (c) sufficient copies of voting instructions, pencils and other materials for the marking of the paper ballots by eligible voters.

Style of electronic ballot

- 6.6**
- (a) An electronic ballot must be in the form approved by the chief electoral officer and, in the case of an election, must
 - (i) list every candidate in alphabetical order by surname for each elected office to be filled in that election,
 - (ii) include a photograph of the candidate opposite each candidate's name on the ballot, and
 - (iii) provide a space opposite each candidate's name for the eligible voter to enter a mark indicating his or her vote.
 - (b) An electronic ballot must be designed so that the eligible voter's identity cannot be ascertained after the electronic ballot has been recorded in the electronic ballot box.

Electronic ballot boxes

6.7 Electronic ballot boxes must be designed within the system to

- (a) be able to be electronically sealed,
- (b) permit electronic ballots to be recorded but not deleted, and
- (c) not be opened unless the electronic seal is clearly indicated as having been broken by the system electoral officer.

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PART 7 - VOTING IN PERSON

Application of this Part

7.1 This Part applies to general voting and advance voting in an election.

Individuals who must be present at a voting place

7.2 An election officer and another election official must be present at all times at each voting place while voting is being conducted.

Individuals who may be present at a voting place

7.3 Only the following individuals may be present at a voting place while voting is being conducted:

- (a) election officials authorized to be present at the voting place;
- (b) individuals who are
 - (i) present at the voting place to vote,
 - (ii) assisting an eligible voter present to vote, or
 - (iii) in the care of an eligible voter present to vote;
- (c) an individual acting as a translator;
- (d) one candidate's representative for each candidate in the election; and
- (e) one additional candidate's representative for each candidate in the election temporarily present at the voting place for the purpose of conveying information to and from the candidate's representative referred to in subsection (d).

Requirements before eligible voter may be given a paper ballot

7.4 An individual who is entitled to vote under section 5.2 must meet the following requirements in order to obtain a paper ballot during general voting or advance voting:

- (a) that individual's name must appear on the voters list; or
- (b) that individual's name must be added to the voters list in accordance with section 7.5(b); and
- (c) the eligible voter must sign the voters list in the space provided next to his or her name.

Voting in person

- 7.5** (a) When an eligible voter wishes to vote in person at a voting place, an election official must
- (i) verify that the eligible voter's name is on the voters list and, if requested by the election official, the eligible voter must provide identification so that the eligible voter can be reliably identified by the election official as an eligible voter and the individual that they claim to be,
 - (ii) verify on the voters list whether or not the eligible voter has already voted,
 - (iii) if the individual is an eligible voter and has not already voted in that election, issue a paper ballot, initialed by an electoral officer on the back of the ballot, to the eligible voter in a manner that ensures the secrecy of the paper ballot and protects the secrecy of the eligible voter's vote,
 - (iv) provide to the eligible voter, in the form approved by the chief electoral officer, written instructions for marking the paper ballot, and
 - (v) indicate on the voters list that the eligible voter has voted as soon as the paper ballot is deposited in the paper ballot box.
- (b) If an individual wishes to vote in person in an election but his or her name is not on the voters list, an election officer may add that individual's name to the voters list and issue that individual a paper ballot in accordance with subsection (a) and allow him or her to vote only if
- (i) the election officer is satisfied that individual is an individual who is entitled to vote under section 5.2 and was omitted from the voters list in error or was removed under section 5.4(f), or
 - (ii) that individual provides the election officer with
 - (A) a sworn statement stating that the individual is an individual who is entitled to vote under section 5.2, and
 - (B) any other information the election officer considers necessary or advisable to verify that the individual is an individual who is entitled to vote under section 5.2.

How to vote by paper ballot

- 7.6** (a) After receiving a paper ballot, an eligible voter must
- (i) proceed without delay to a voting compartment provided,

- (ii) while the paper ballot is screened from observation by others, mark it by placing a mark in the blank space opposite the name of the candidate for whom the eligible voter wishes to vote,
 - (iii) fold the paper ballot to conceal all marks made on it by the eligible voter but so as to expose the initials of the election officer on the back of the paper ballot,
 - (iv) leave the voting compartment without delay,
 - (v) deliver the paper ballot to the election official from whom he or she received it,
 - (vi) observe the election official deposit his or her marked paper ballot into the paper ballot box, and
 - (vii) leave the voting place without delay.
- (b) After receiving a paper ballot in accordance with subsection (a) the election official must, without delay and without unfolding the paper ballot, verify the initials of the election officer on the back of the ballot and deposit the paper ballot in a paper ballot box in the presence of the eligible voter and at least one other individual.
- (c) An election official may, and if requested by an eligible voter must, explain to the eligible voter the proper method for voting by paper ballot.

One individual to a voting compartment

7.7 While an eligible voter is in a voting compartment to mark a paper ballot, no other individual may observe or be in a position to observe the paper ballot being marked except

- (a) an individual assisting the eligible voter under section 7.8, or
- (b) if an election officer permits, an individual who is in the care of the eligible voter.

Individuals needing assistance to mark their ballots

- 7.8**
- (a) An eligible voter who is unable to mark a paper ballot because of physical disability may be assisted in voting by an election official or by an individual accompanying that eligible voter.
 - (b) An individual who assists an eligible voter under subsection (a) must
 - (i) preserve the secrecy of the paper ballot of the eligible voter being assisted,

- (ii) mark the paper ballot in accordance with the wishes of the eligible voter, and
 - (iii) refrain from influencing or attempting in any manner to influence the eligible voter as to how the eligible voter should vote.
- (c) An election officer must indicate on the voters list opposite the name of the eligible voter receiving assistance
- (i) the fact that
 - (A) the eligible voter's paper ballot was marked by another individual at the request of the eligible voter, or
 - (B) another individual accompanied the eligible voter in the voting compartment,
 - (ii) the name of the individual assisting or accompanying the eligible voter, and
 - (iii) the reason for which the eligible voter requested assistance or another individual to accompany the eligible voter.

Replacement of spoiled paper ballot

- 7.9** (a) If an eligible voter unintentionally spoils a paper ballot before it is deposited in a paper ballot box, the eligible voter may obtain a replacement paper ballot by giving the spoiled paper ballot to an election officer.
- (b) If an election officer receives a spoiled paper ballot in accordance with subsection (a), he or she must immediately
- (i) mark that paper ballot as spoiled,
 - (ii) provide that eligible voter with a replacement paper ballot, and
 - (iii) retain the spoiled paper ballot until it is dealt with in accordance with section 11.4.

Suspension of voting

- 7.10** (a) Voting at a voting place may be suspended by the responsible election officer if that election officer considers that
- (i) the health or safety of persons is at risk, or
 - (ii) the integrity of the voting is at risk.

- (b) If the responsible election officer suspends voting under subsection (a), that election officer must
 - (i) immediately notify the chief electoral officer of the suspension, and
 - (ii) follow any directions given by the chief electoral officer in relation to the suspension.
- (c) Voting may be suspended under subsection (a)
 - (i) to a later time on the same day at the same voting place,
 - (ii) to a later time on the same day at another location not more than 15 kilometres away, or
 - (iii) to a day, time and place to be set by the chief electoral officer.
- (d) While voting is suspended under subsection (a) the responsible election officer must make all reasonable efforts to ensure
 - (i) the paper ballot boxes, paper ballots and other election materials are secured, and
 - (ii) the integrity of the election is not compromised.
- (e) The responsible election officer must give notice to persons affected by any suspension of voting under this section as directed by the chief electoral officer or, in the absence of such direction, in any manner the responsible election officer considers necessary or advisable in the circumstances.

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PART 8 - VOTING BY MAIL-IN BALLOT

Application of this Part

8.1 This Part applies to voting by mail-in ballot in an election.

Mail-in ballot

8.2 All mail-in ballots delivered to eligible voters by the chief electoral officer in accordance with section 2.5 require

- (a) the chief electoral officer's initials to be signed on the back of the mail-in ballot prior to being delivered,
- (b) a secrecy envelope,
- (c) a voter declaration form, and
- (d) a pre-addressed postage-paid return envelope addressed to the attention of the chief electoral officer.

Voting by mail-in ballot

8.3 An eligible voter may vote by mail-in ballot received from the chief electoral officer by

- (a) marking the mail-in ballot by placing a cross, check mark or other mark clearly indicating the eligible voter's choice on the mail-in ballot,
- (b) folding the mail-in ballot in a manner that conceals the choices and any marks, but exposes the chief electoral officer's initials on the back of the mail-in ballot,
- (c) placing the mail-in ballot in the secrecy envelope and sealing that secrecy envelope,
- (d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age,
- (e) placing the secrecy envelope and the completed, signed and witnessed voter declaration form in the pre-addressed return envelope, and
- (f) subject to section 10.4(d), hand delivering or mailing the pre-addressed return envelope to the chief electoral officer.

Witness

8.4 A witness referred to in section 8.3(d) must attest to

- (a) the fact that the individual completing and signing the voter declaration form is the individual whose name is set out in the form, or
- (b) where the eligible voter enlisted the assistance of another individual under section 8.5, the fact that the eligible voter is the individual whose name is set out in the voter declaration form and that the mail-in ballot was marked according to the directions of the eligible voter.

Individuals needing assistance to mark their mail-in ballot

8.5 Where an eligible voter is unable to vote in the manner set out in section 8.3 because of a physical disability, the eligible voter may enlist the assistance of another individual to mark the mail-in ballot and complete and sign the voter declaration form in accordance with section 8.3.

Replacement of spoiled or lost mail-in ballot

- 8.6**
- (a) If an eligible voter unintentionally spoils a mail-in ballot, the eligible voter may obtain a replacement mail-in ballot from the chief electoral officer by delivering the spoiled mail-in ballot to the chief electoral officer.
 - (b) If the chief electoral officer receives a spoiled mail-in ballot in accordance with subsection (a) he or she must as soon as practicable after receipt of the spoiled mail-in ballot
 - (i) mark the mail-in ballot as spoiled,
 - (ii) provide that eligible voter with a replacement mail-in ballot, and
 - (iii) retain the spoiled mail-in ballot until it is dealt with in accordance with section 11.4.
 - (c) An eligible voter who loses a mail-in ballot may obtain another mail-in ballot by delivering to the chief electoral officer a sworn statement stating that the eligible voter has lost the mail-in ballot.

PART 9 - ELECTRONIC VOTING

Application of this Part

9.1 This Part applies to electronic voting in an election.

Rules for electronic voting

9.2 The chief electoral officer, with the assistance of the system electoral officer, may make written rules regarding

- (a) how an eligible voter may vote by electronic voting,
- (b) the administration of electronic voting, and
- (c) the counting and tallying of votes cast by electronic voting.

Electronic system

- 9.3**
- (a) The system electoral officer is responsible for
 - (i) establishing the technology, including software, for electronic voting, and
 - (ii) administering, maintaining, monitoring and performing audits of the system.
 - (b) For certainty, for the purposes of carrying out its duties under subsection (a), the system electoral officer must have access to the system beyond the access necessary to vote by electronic voting.
 - (c) When an eligible voter wishes to vote using electronic voting, the system must
 - (i) request the PIN issued to the eligible voter and at least one other piece of information unique to the eligible voter so that the eligible voter can be reliably identified as an eligible voter and the individual that they claim to be,
 - (ii) verify on the voters list whether or not the eligible voter has already voted,
 - (iii) if the individual is an eligible voter and has not already voted in that election, issue an electronic ballot to the eligible voter in a manner that ensures the secrecy of the ballot and protects the secrecy of the eligible voter's vote,
 - (iv) provide to the eligible voter, in the form approved by the chief electoral officer, instructions for marking the electronic ballot,

- (v) permit the eligible voter to mark the electronic ballot and record it in the electronic ballot box, and
- (vi) indicate on the voters list that the eligible voter has voted as soon as the electronic ballot is recorded in the electronic ballot box.

Individuals needing assistance to mark their electronic ballot

9.4 Where an eligible voter is unable to vote by electronic voting because of a physical disability, the eligible voter may enlist the assistance of another individual to enter the eligible voter's PIN, mark the eligible voter's electronic ballot and record it in the electronic ballot box.

Replacement PIN

- 9.5** (a) If an eligible voter did not receive a PIN, has lost his or her PIN or the PIN does not work, the chief electoral officer, after seeking the advice of the system electoral officer, may direct the system electoral officer to issue a new PIN to the eligible voter to allow him or her to vote only if
- (i) the chief electoral officer is satisfied that the individual is an eligible voter and who has not already voted in that election, and
 - (ii) if applicable, the system electoral officer has cancelled the original PIN assigned to that eligible voter such that the original PIN cannot be used for electronic voting.
- (b) The system electoral officer must maintain a record of the original and any replacement PIN assigned to each eligible voter until the end of the retention period under section 11.4.

Suspension of electronic voting

- 9.6** (a) Electronic voting may be suspended by the chief electoral officer or the system electoral officer if the chief electoral officer or the system electoral officer considers that the integrity of the voting is at risk.
- (b) If the system electoral officer suspends voting under subsection (a), the system electoral officer must
- (i) immediately notify the chief electoral officer of the suspension, and
 - (ii) follow any directions given by the chief electoral officer in relation to the suspension.
- (c) Voting may be suspended under subsection (a)

- (i) to a later time on the same day, or
- (ii) to a day and time to be set by the chief electoral officer.
- (d) While voting is suspended under subsection (a), the system electoral officer must make all reasonable efforts to ensure
 - (i) the electronic ballot box, electronic ballots and other election materials are secured, and
 - (ii) the integrity of the election is not compromised.
- (e) The system electoral officer must give notice to persons affected by any suspension of voting under this section as directed by the chief electoral officer or, in the absence of such direction, in any manner the system electoral officer considers necessary or advisable in the circumstances.

List of persons who voted

- 9.7**
- (a) As soon as reasonably practicable after the close of electronic voting, the system electoral officer must cause the system to
 - (i) generate a list of all eligible voters who voted by electronic voting, and
 - (ii) draw a line on the voters list through the name of all the eligible voters who voted by electronic voting.
 - (b) A printed and electronic copy of the lists under subsection (a) must be delivered to the chief electoral officer within 24 hours of the close of electronic voting and the chief electoral officer must, as soon as reasonably practicable, place a mark on the voters list opposite the name of each eligible voter who voted by electronic voting indicating the eligible voter has voted in that election.

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PART 10 - SECURING, COUNTING AND DISPOSING OF BALLOTS

Definitions

10.1 In this Part, “paper ballot” includes a mail-in ballot.

Sealing of paper ballot boxes

- 10.2** (a) Before any marked paper ballot is deposited in a paper ballot box, the chief electoral officer must, in the presence of at least one other election official, inspect the paper ballot box to ensure that it is empty and then seal the paper ballot box in such a manner that paper ballots can be deposited but not withdrawn and the paper ballot box cannot be opened without breaking the seal.
- (b) After one or more marked paper ballots have been deposited in a paper ballot box, the chief electoral officer must, in the presence of at least one other election official, seal the deposit slot of the paper ballot box at the following times in a manner that prevents the deposit of additional paper ballots:
- (i) when the paper ballot box appears to be full;
 - (ii) at the close of advance voting;
 - (iii) at the close of general voting;
 - (iv) between each deposit of mail-in ballots, and
 - (v) if voting is suspended under section 7.10.
- (c) Before additional paper ballots may be deposited in a paper ballot box sealed under subsection (b), the chief electoral officer must, in the presence of at least one other election official, remove the seal of the paper ballot box deposit slot.
- (d) Between the close of advance voting and the commencement of general voting, the chief electoral officer must ensure that all paper ballot boxes used in advance voting are maintained in a secure location, free from any interference.

Sealing of electronic ballot box

- 10.3** (a) Before any electronic ballots are recorded in the electronic ballot box, the system electoral officer must cause the system to generate a report that indicates the electronic ballot box is empty and then ensure the electronic ballot box is sealed in such a manner that electronic ballots can be recorded but not deleted and the electronic ballot box cannot be opened unless the electronic seal is clearly indicated as having been broken by the system electoral officer.

- (b) The system electoral officer must ensure the integrity of the electronic ballot box and that the electronic ballot box is secure at all times, free from any tampering, during electronic voting and until the end of the retention period under section 11.4.

Procedures for depositing mail-in ballots

- 10.4** (a) Upon receipt of a pre-addressed return envelope under section 8.3(f), the chief electoral officer must ensure the envelope and its contents are secure at all times, free from any tampering, until the envelope is opened in accordance with subsection (b).
- (b) Subject to subsection (e), the chief electoral officer must, in the presence of a deputy electoral officer, open each pre-addressed return envelope received under section 8.3(f) provided the envelope was received before the end of voting hours on general voting day and
- (i) set aside the unopened secrecy envelope if
- (A) it was not accompanied by a voter declaration form or the voter declaration form is not signed or witnessed in accordance with Part 8,
- (B) the name of the individual set out in the voter declaration form is not on the voters list, or
- (C) the voters list shows that the eligible voter has already voted in that election,
- (ii) if the secrecy envelope is not set aside in accordance with paragraph (i), open the secrecy envelope and, without unfolding the mail-in ballot, examine the mail-in ballot and set aside any mail-in ballot that does not have the initials of the chief electoral officer on the back, and
- (iii) if the mail-in ballot is not set aside in accordance with paragraph (ii), place a mark on the voters list opposite the name of the eligible voter set out in the voter declaration form indicating the eligible voter has voted in that election and deposit the unfolded mail-in ballot in a paper ballot box sealed in accordance with section 10.2.
- (c) A vote cast on a mail-in ballot set aside by the chief electoral officer under subsection (b) is void and must not be counted as a vote cast.
- (d) A vote cast on a mail-in ballot that is not received by the chief electoral officer before the end of voting hours on general voting day is void and must not be counted as a vote cast.

- (e) The chief electoral officer must not deposit a mail-in ballot into a paper ballot box in accordance with this section until the voters list has been updated in accordance with section 9.7(b) after the close of electronic voting.

When and where counting is to be done

- 10.5**
- (a) The counting of paper ballots must not take place until the end of voting hours on general voting day, but the counting of paper ballots must take place as soon as practicable after that time.
 - (b) The counting of paper ballots must take place at a voting place unless the chief electoral officer directs that the counting is to take place at another location.
 - (c) The counting of electronic ballots must take place in accordance with section 10.11.

Who may be present at counting

- 10.6**
- (a) While the counting of paper ballots is being conducted
 - (i) at least one other election official must be present, and
 - (ii) a candidate in the election, or one candidate's representative for a candidate not present, is entitled to be present.
 - (b) No other individuals, other than those referred to in subsection (a), may be present when the counting of paper ballots is being conducted, unless permitted by the chief electoral officer.

Who does the counting

- 10.7**
- (a) An election officer must conduct the counting of paper ballots in accordance with sections 10.8 to 10.10.
 - (b) If reasonably satisfied with the conduct of electronic voting for the election, the system electoral officer must certify the counting of electronic ballots by the system in accordance with section 10.11.
 - (c) The chief electoral officer must combine the results of the counting of paper ballots and electronic ballots in accordance with section 10.13.

Procedures for counting paper ballots

- 10.8**
- (a) All paper ballots deposited in a paper ballot box must be counted in accordance with this section.

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- (b) An election officer must open each paper ballot box one at a time by breaking the seals of that paper ballot box and removing every paper ballot in that ballot box one at a time to be counted in accordance with this section and before proceeding to open and count the paper ballots in another paper ballot box.
 - (c) As each paper ballot is counted, it must be placed in such a manner that individuals present at the counting table are able to see how the ballot is marked.
 - (d) Counting must proceed as continuously as is practicable and the votes counted must be recorded by an election official.
 - (e) An election officer must endorse each paper ballot to indicate, in relation to each vote cast on that paper ballot, whether
 - (i) the vote was accepted in accordance with section 10.9,
 - (ii) the vote was rejected in accordance with section 10.9, or
 - (iii) the acceptance or rejection of the vote was objected to in accordance with section 10.10.

Rules for accepting and rejecting paper ballots

- 10.9** (a) Subject to subsection (b), an election officer must accept and count as a valid vote each vote cast on a paper ballot.
- (b) A vote cast on a paper ballot must be rejected as invalid if
- (i) the ballot does not have the initials of an election officer inscribed on the back of the ballot,
 - (ii) the marks on the ballot are not sufficiently clear so as to make it reasonably possible to determine the eligible voter's intention,
 - (iii) there are no marks on the ballot,
 - (iv) there are more marks on the ballot than there are candidates to be elected, or
 - (v) the ballot is marked in such a manner that the eligible voter can reasonably be identified.

Objections to acceptance or rejection of paper ballots

- 10.10** (a) A candidate or a candidate's representative may object to the decision of an election officer to accept or reject a vote cast on a paper ballot.

- (b) If an objection is made under subsection (a), an election officer must record the objection and endorse the back of the paper ballot with the details of the objection.
- (c) An objection must be made at the time the ballot is considered by an election officer.

Procedures for counting electronic ballots

- 10.11** (a) All electronic ballots recorded in an electronic ballot box must be counted in accordance with this section.
- (b) At the close of electronic voting, the system electoral officer must cause the system to generate a report that contains
 - (i) a count of the total number of eligible voters who voted by electronic voting,
 - (ii) for each candidate in the election, a separate count of the total number of votes accepted in accordance with section 10.12,
 - (iii) for each elected office to be filled in the election, a separate count of the total number of votes rejected in accordance with section 10.12, and
 - (iv) any other information the chief electoral officer may reasonably require.
 - (c) If reasonably satisfied with the conduct of electronic voting for the election, the system electoral officer must certify and provide a copy of the report generated in accordance with subsection (b) to the chief electoral officer with the lists of eligible voters who voted by electronic voting required under section 9.7.

Rules for accepting and rejecting electronic ballots

10.12 The system must be designed so that

- (a) subject to subsection (b), each vote cast on an electronic ballot is accepted and counted as a valid vote,
- (b) a vote cast on an electronic ballot is rejected as invalid if it is recorded in the electronic ballot box without any marks,
- (c) eligible voters are prompted if they are about to record an electronic ballot in the electronic ballot box without any marks for one or more elected offices to be filled in the election and given the option to go back and mark their choices for those elected offices before recording the electronic ballot in the electronic ballot box, and

- (d) eligible voters cannot make more marks on the ballot than there are candidates to be elected.

Combining ballot counts

10.13 The chief electoral officer must, in a timely manner, combine the results of the counting of paper ballots and electronic ballots in relation to each candidate in the election.

PART 11 - ELECTION RESULTS

Election results

- 11.1** The chief electoral officer must, without delay after completing the counting of ballots,
- (a) declare the results of the election as follows:
 - (i) for the office of legislative chief, the candidate who receives the highest number of valid votes must be declared elected;
 - (ii) for the other elected offices, the four candidates who receive the highest number of valid votes must be declared elected;
 - (iii) for the offices of Ha'wiih legislators, announce those Ha'wiih chosen in accordance with section 4.11; and
 - (b) prepare and post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law a written report setting out
 - (i) the number of eligible voters who voted in the election,
 - (ii) the number of votes accepted for each candidate in the election, and
 - (iii) the number of votes rejected for each elected office to be filled in the election; and
 - (c) certify the results announced under subsection (a).

Tied votes

- 11.2** In the event of a tied vote for the position of legislative chief or for the final elected member of the Legislature, a by-election must be held within 90 days for that office and, for certainty, the candidates in that by-election are those candidates with the tied vote in the immediately preceding election for that office.

Final count

- 11.3** Subject to section 12.1, the results of an election declared in accordance with section 11.1 are final.

Disposition of election materials

- 11.4** (a) The chief electoral officer must maintain all ballots, including spoiled ballots, voters lists and other materials specific to the election, except information required to be maintained by the system electoral officer under subsection (b), in a secure location, free from any interference,

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- (i) for 90 days after the general voting day,
 - (ii) until the conclusion of any application for recount under section 12.1, or
 - (iii) until the conclusion of any application to set aside the election under section 12.6,
- whichever is later.
- (b) The system electoral officer must ensure the integrity of all information specific to electronic voting in an election, including the information required to be maintained under sections 9.5(b) and 10.3(b), and that such information is secure at all times, free from any tampering until the end of the retention period under subsection (a).
 - (c) At the end of the retention period under subsection (a), the chief electoral officer must,
 - (i) in the presence of at least one witness, destroy the materials retained by the chief electoral officer under subsection (a), and
 - (ii) direct the system electoral officer to destroy the information retained by the system election officer under subsection (b).

PART 12 - ELECTION APPEALS

Application for recount

- 12.1** (a) After the results of an election are declared in accordance with section 11.1, a candidate for an elected office in that election may, in accordance with subsection (b), apply to the chief electoral officer for a recount of the votes cast in that election for that office on one or more of the following grounds:
- (i) that ballots for that office were not correctly accepted or rejected in accordance with this Act;
 - (ii) that mail-in ballots for that office that were not counted should have been counted in accordance with this Act; or
 - (iii) that the written report under section 11.1 did not accurately record the number of votes for a candidate for that office.
- (b) An application under subsection (a) must be made by filing an application with the chief electoral officer in the form approved by the chief electoral officer within two days after the chief electoral officer posts the written report in accordance with section 11.1.
- (c) On the filing of an application in accordance with subsection (b), the chief electoral officer must,
- (i) by directive, dismiss the application if the chief electoral officer determines that the recount, if it were to be conducted, would not materially affect the results of the election, or
 - (ii) conduct a recount of the votes cast in that election for that office.

Individuals who may be present at recount

- 12.2** (a) While a recount is being conducted in accordance with section 12.1,
- (i) at least one other election official must be present, and
 - (ii) the following individuals may be present:
 - (A) candidates for that office; and
 - (B) for each candidate under paragraph (a), one candidate's representative, and for each candidate under paragraph (a) who is not present, two candidate's representatives.

- (b) No other individual, other than those referred to in subsection (a), may be present when the recounting of ballots is being conducted, unless permitted by the chief electoral officer.

Recount of electronic voting results

- 12.3** (a) In the event of a recount of electronic ballots, the system electoral officer must cause the system to regenerate the count of electronic ballots and a copy of the regenerated count must be given to the chief electoral officer.
- (b) If the initial count and the regenerated count of electronic ballots match, the regenerated count is the final count of the votes cast by electronic voting.
- (c) If the regenerated count and the initial count of electronic ballots do not match, the chief electoral officer must, with the assistance of the system electoral officer, do the following:
- (i) direct one final count of the electronic ballots be regenerated; and
 - (ii) attend while the final count is being regenerated.
- (d) A regenerated count conducted in accordance with subsection (c) is the final count of the votes cast by electronic voting.

Certification of results of recount

- 12.4** After conducting a recount in accordance with section 12.1, the chief electoral officer must certify the results of the recount by issuing a certificate setting out the results of the recount.

Posting of results

- 12.5** As soon as practicable after certifying the official results of a recount under section 12.4, the chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, a notice containing the results of the recount.

Application to set aside election

- 12.6** (a) Within 14 days after an election, any eligible voter who voted in that election may challenge the validity of the election on the grounds that
- (i) the election was not conducted in accordance with this Act in a way that materially affected the result,
 - (ii) a candidate in the election was ineligible to be a candidate and this fact materially affected the election result, or

(iii) there was vote buying, intimidation or other corrupt practice in connection with the election,

by filing an application with the chief electoral officer in the form approved by the chief electoral officer.

- (b) An application under subsection (a) must include
- (i) a statement of the grounds on which the application is based,
 - (ii) a statement of the details on which the application is based, and
 - (iii) all supporting documents upon which the applicant relies.
- (c) The chief electoral officer must, without delay, forward a copy of an application received in accordance with subsections (a) and (b) to each candidate in the election.

Candidate response

- 12.7** (a) A candidate may, within seven days of receiving a copy of an application made in accordance with section 12.6, file a written response with the chief electoral officer.
- (b) The response under subsection (a) must include all supporting documents upon which the candidate relies.

Application hearing

- 12.8** (a) The chief electoral officer must, without delay, refer an application made in accordance with section 12.6 and any responses given in accordance with section 12.7 to the Administrative Decisions Review Board.
- (b) For certainty, an application made in accordance with section 12.6 is deemed to be a review request filed under section 3.1 of the Administrative Decisions Review Act to which section 1.3(a) of that Act applies and
- (i) that review request does not require a preliminary assessment under section 3.4 of the Administrative Decisions Review Act or a review report from the clerk under section 3.6 of that Act,
 - (ii) the eligible voter who filed the application in accordance with section 12.6 is deemed to be the applicant under the Administrative Decisions Review Act,

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- (iii) a candidate who delivers a written response in accordance with section 12.7 is deemed to be a party to the review under the Administrative Decisions Review Act, and
 - (iv) the chief electoral officer is deemed to be a party to the review under the Administrative Decisions Review Act and a Ka:'yu:'k't'h'/Che:k'tles7et'h' public employee for purposes of interpreting his or her obligations under the Administrative Decisions Review Act.
- (c) The Administrative Decisions Review Board
- (i) may hold a hearing in accordance with the Administrative Decisions Review Act at which the parties to the review have an opportunity to present oral and other evidence,
 - (ii) may conduct further inquiries as the Administrative Decisions Review Board considers necessary or advisable,
 - (iii) must order, despite section 4.8 of the Administrative Decisions Review Act, either to
 - (A) reject the application and confirm the results of the election, or
 - (B) allow the application, in whole or in part, and declare the relevant elected office vacant, and
 - (iv) must make an order under paragraph (iii) within 30 days of receiving the application and responses from the chief electoral officer.

Costs of review

- 12.9** Despite sections 4.8 and 4.9 of the Administrative Decisions Review Act, if under section 12.8 the Administrative Decisions Review Board
- (a) allows an application made under section 12.6 and declares an elected office vacant, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must pay the cost of the Administrative Decisions Review Board, or
 - (b) rejects an application made under section 12.6 and confirms the results of an election, the eligible voter who made the application under section 12.6 must pay the cost of the Administrative Decisions Review Board.

PART 13 - BY-ELECTIONS

By-election for elected office

- 13.1** (a) Subject to subsection (c), when a vacancy occurs in an elected office, a by-election must be held to fill that vacancy within 180 days after the vacancy occurs.
- (b) A by-election must be held on a date determined by the Legislature, by resolution.
- (c) A by-election must be held to fill an elected office that becomes vacant only if more than six months remain until the next regular election.
- (d) A candidate elected in a by-election is only elected to complete the balance of the term of the elected office of the individual he or she is replacing.

PART 14 - OFFENCES

Restriction on election campaigning near election offices and voting places

- 14.1** (a) A person must not post, display or disseminate within 100 metres of the office of the chief electoral officer
- (i) any election advertising, or
 - (ii) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting.
- (b) While voting is being conducted at a voting place, a person must not do any of the following within 100 metres of the voting place:
- (i) post, display or disseminate
 - (A) election advertising, or
 - (B) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting unless authorized by the chief electoral officer;
 - (ii) canvass or solicit votes or otherwise attempt to influence how an eligible voter votes;
 - (iii) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iv) post, display, disseminate or leave a representation of a ballot marked for a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) If subsection (a) or (b) is contravened, the chief electoral officer or other election official authorized by the chief electoral officer may enter on the property where the materials are located and remove, cover or otherwise obscure them from view.
- (d) While voting is being conducted at a voting place, a person must not conduct election advertising by means of a public address system that is within hearing distance of the voting place.

Vote or PIN buying

- 14.2** (a) A person must not pay, give, lend or procure an inducement for any of the following purposes:

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- (i) to induce an individual to vote or refrain from voting in an election;
 - (ii) to induce an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to reward an individual for having voted or refrained from voting as described in paragraph (i) or (ii).
- (b) An individual must not accept an inducement
- (i) to vote or refrain from voting in an election,
 - (ii) to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting, or
 - (iii) as a reward for having voted or refrained from voting as described in paragraph (i) or (ii).
- (c) A person must not
- (i) use an individual's PIN that is not their own to vote or access the system unless the person is assisting that person in accordance with section 9.4,
 - (ii) take, seize or deprive an eligible voter of his or her PIN, or
 - (iii) sell, gift, transfer, assign or purchase a PIN.
- (d) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided with the intent that the inducement is to be used for any of the acts prohibited by this section.
- (e) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (f) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Intimidation

- 14.3** (a) A person must not intimidate an individual for any of the following purposes:
- (i) to persuade or compel the individual to vote or refrain from voting in an election;

- (ii) to persuade or compel the individual to vote or refrain from voting for a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to punish the individual for having voted or refrained from voting as described in paragraph (i) or (ii).
- (b) A person must not, by abduction, duress or fraudulent means, do any of the following:
 - (i) impede, prevent or otherwise interfere with an individual's right to vote in an election;
 - (ii) compel, persuade or otherwise cause an individual to vote or refrain from voting in an election; or
 - (iii) compel, persuade or otherwise cause an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Interference with electronic voting

- 14.4** (a) A person must not
- (i) impede, prevent or otherwise interfere or attempt to interfere with anyone who is casting a vote by electronic voting, or
 - (ii) impede, prevent or otherwise interfere or attempt to interfere with electronic voting or the system.
- (b) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Corrupt voting

- 14.5** An individual must not
- (a) vote in an election when not entitled to do so,
 - (b) vote on more than one occasion in an election,
 - (c) apply for more than one mail-in ballot in an election,

- (d) fail to mark a ballot in accordance with the directions of the eligible voter being assisted by that individual, or
- (e) obtain a ballot in the name of another individual, whether the name is of a living, dead or fictitious individual.

Election officials

- 14.6** (a) An election official must not contravene this Act or a direction of the chief electoral officer.
- (b) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided, with the intent that the inducement is to be used to procure a contravention of subsection (a).
- (c) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (d) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Offences in relation to candidates

- 14.7** In the case of an election, a person must not
- (a) purport to withdraw a candidate from an election without authority to do so, or
 - (b) publish, or cause to be published, a false statement that a candidate has withdrawn from an election.

Offences in relation to ballots and other voting materials

- 14.8** A person must not, without authority under this Act,
- (a) supply a ballot to any person,
 - (b) print or reproduce a ballot or paper, image or electronic representation that is capable of being used as a ballot,
 - (c) remove a ballot from a voting place,
 - (d) deposit in a ballot box, or cause to be deposited in a ballot box, anything other than a ballot authorized to be deposited, or
 - (e) destroy, remove, open or otherwise interfere with a ballot, secrecy envelope, ballot box, written report or other voting materials.

Offences in relation to voting and counting proceedings

14.9 A person must not

- (a) contravene section 6.2 regarding the secrecy of ballots,
- (b) without authority under this Act, be present at a voting place or where the counting of ballots is being conducted, or
- (c) without authority under this Act, remove, cover up, mutilate, deface or alter a notice or other document authorized or required to be posted under this Act.

Offences in relation to election officials

14.10 A person must not

- (a) represent that the person is an election official if they are not,
- (b) accept appointment or act as an election official when they are not qualified,
- (c) having made a solemn declaration under this Act to exercise their powers and perform their duties faithfully and impartially, act other than faithfully and impartially in exercising those powers or performing those duties, or
- (d) impede or obstruct an election official or other person in performing duties and exercising powers given to the person under this Act.

Offences in relation to false or misleading information

14.11 (a) A person must not

- (i) provide false or misleading information when required or authorized under this Act to provide information, or
 - (ii) make a false or misleading statement or declaration when required under this Act to make a statement or declaration.
- (b) A person is not guilty of an offence under this section if, at the time the information was provided or the statement or declaration was made, the person did not know that the information, statement or declaration was false or misleading and could not, even with the exercise of reasonable diligence, have known that it was false or misleading.

Penalties

14.12 Every person who contravenes this Part commits an offence and is liable, on summary conviction, to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 30 days.

PART 15 - GENERAL PROVISIONS

Regulations

- 15.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) Without limiting subsection (a), the Executive may make regulations in relation to
- (i) requests for review by and applications to the chief electoral officer and his or her consideration of those requests and applications,
 - (ii) the filing of documents with the chief electoral officer,
 - (iii) nomination papers and other documents required to be filed with the chief electoral officer in connection with the nomination of an individual as a candidate,
 - (iv) the opportunities to vote in elections afforded to eligible voters who are Ka:'yu:'k't'h'/Che:k'tles7et'h' government employees,
 - (v) ballots, secrecy envelopes, ballot boxes, written reports or other voting materials,
 - (vi) the rules and procedures to be followed in counting or recounting ballots , including the circumstances in which
 - (A) ballots must be rejected, or
 - (B) secrecy envelopes must not be opened,
 - (vii) the terms and conditions of the appointment, employment, resignation and removal from office of
 - (A) the chief electoral officer, or
 - (B) any other election official,
 - (viii) the verification of mail-in ballots and electronic ballots,
 - (ix) maintaining the secrecy of mail-in ballots and electronic ballots,
 - (x) how voting by mail-in ballot and electronic voting is to be conducted, including
 - (A) how eligible voters are to be contacted on matters relating to electronic voting, and

- (B) how electronic voting materials, including electronic ballots, are to be destroyed,
- (xi) ensuring that an eligible voter only votes once in each election,
- (xii) any other matter regulating voting by mail-in ballot and electronic voting and to protect the integrity of the election, and
- (xiii) the preparation, printing and security of mail-in ballots and electronic ballots.

Repeal

15.2 The Elections Act KCFNS 8/2011 is repealed.

Consequential amendments

15.3 The Referendum Act KCFNS 9/2011 is amended

- (a) by striking out “with necessary changes in the details” and substituting “with the necessary changes required and so far as applicable” in section 1.4(a),
- (b) by striking out “Election Act” and substituting “Elections Act” in section 1.4(b),
- (c) by striking out “in the details” and substituting “required and so far as applicable” in section 1.4(b)(iii),
- (d) by repealing section 3.2(a) and substituting the following:
 - “(a) At least 21 days before the day on which an information meeting for a referendum or ratification meeting is to be held and at least 60 days before the day of the referendum or ratification meeting, the chief electoral officer must
 - (i) post a notice in accordance with section 6.5, and
 - (ii) post the voters list in accordance with section 5.5 of the Elections Act.”,
- (e) by adding the following after section 3.2:
 - “Information package**
 - 3.2.1 At least 30 days before the day of the referendum or ratification meeting, the chief electoral officer must deliver an information package regarding the referendum or ratification meeting to eligible voters in accordance with section 2.5 of the Elections Act.”; and

Electronic voting PIN

3.2.2 At least 30 days before the day of the referendum or ratification meeting, the system electoral officer must deliver a PIN for electronic voting to eligible voters in accordance with section 2.6 of the Elections Act.”,

(f) by repealing section 5.1 and substituting the following:

“Referendum voting

5.1 (a) An eligible voter may vote in a referendum in accordance with the Elections Act using one of the voting methods approved by the Legislature in accordance with section 5.1 of the Elections Act.

(b) For certainty, if a voting method referred to in the Elections Act or this Act is not available in a referendum,

(i) the provisions of the Elections Act and this Act relating to that voting method do not apply to that referendum, and

(ii) the balance of those Acts are applicable to the referendum with the necessary changes required and so far as applicable.”,

(g) by repealing section 6.5(a) and substituting the following:

“(a) The chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law notice of each information meeting and ratification meeting held under this Act or another Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment.”,

(h) by striking out “Part 7 of the Elections Act” and substituting “Part 10 of the Elections Act” in section 7.1(a),

(i) by striking out “section 7.2(b) of the Elections Act” and substituting “section 10.6 of the Elections Act” in section 7.1(b),

(j) by striking out “section 8.5 of the Elections Act” and substituting “section 12.6 of the Elections Act” in section 9.1(a),

(k) by striking out “Part 8 of the Elections Act” and substituting “Part 12 of the Elections Act” in section 9.1(b), and

(l) by striking out “Part 10 of the Elections Act” and substituting “Part 14 of the Elections Act” in section 10.2.

Commencement

- 15.4** (a) Sections 11.2, 13.1(a) and 13.1(c) come into force on the day after section 2.9 of the Constitution is amended in accordance with Chapter 9 of the Constitution to remove the requirement that a by-election be held within 30 days after the date of the election or the date a vacancy occurs, as applicable.
- (b) All provisions of this Act, other than the provisions referred to in subsection (a), come into force on the date this Act is enacted.

LEGISLATIVE HISTORY

Elections Act KCFNS 32/2014 enacted June 20, 2014

Amendments

Section	Amendment	In Force
5.3(d)	KCFNS 41/2016, s. 2.1(a)	January 28, 2016
5.4(d)-(g)	KCFNS 41/2016, s. 2.1(b)	January 28, 2016
1.4	KCFNS 41/2016, s. 2.2(a)	January 28, 2016
2.3(b)	KCFNS 41/2016, s. 2.2(b)	January 28, 2016
2.5	KCFNS 41/2016, s. 2.2(c)	January 28, 2016
2.6	KCFNS 41/2016, s. 2.2(d)	January 28, 2016
4.3(b)	KCFNS 41/2016, s. 2.2(e)	January 28, 2016
5.2	KCFNS 41/2016, s. 2.2(f)	January 28, 2016
5.3	KCFNS 41/2016, s. 2.2(g)	January 28, 2016
5.3	KCFNS 41/2016, s. 2.2(h)	January 28, 2016
5.4	KCFNS 41/2016, s. 2.2(i)	January 28, 2016
5.7	KCFNS 41/2016, s. 2.2(j)	January 28, 2016
5.8(a)	KCFNS 41/2016, s. 2.2(k)	January 28, 2016
7.4	KCFNS 41/2016, s. 2.2(l)	January 28, 2016
7.5(b)	KCFNS 41/2016, s. 2.2(m)	January 28, 2016
9.5(a)(i)	KCFNS 41/2016, s. 2.2(n)	January 28, 2016
1.4	KCFNS 46/2017, s. 2.1(a)	March 8, 2017
2.2(c)	KCFNS 46/2017, s. 2.1(b)	March 8, 2017
2.3	KCFNS 46/2017, s. 2.1(c)	March 8, 2017
2.4(h)	KCFNS 46/2017, s. 2.1(d)	March 8, 2017
2.6	KCFNS 46/2017, s. 2.1(e)	March 8, 2017
5.1(a)(iv)	KCFNS 46/2017, s. 2.1(f)	March 8, 2017
13.1	KCFNS 46/2017, s. 2.1(g)	March 8, 2017

Amending Acts:

KCFNS 41/2016 Elections Act Amendment Act enacted January 28, 2016
KCFNS 46/2017 Elections Act Amendment Act No. 2 enacted March 8, 2017

Regulations: