



## **PLEASE NOTE**

This document, prepared by the [\*Legislative Counsel Office\*](#), is an office consolidation of this Act, current to April 30, 2007. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [\*Table of Public Acts\*](#).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office  
Tel: (902) 368-4291  
Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)

## CHAPTER E-1.1

### ELECTION ACT

#### INTERPRETATION

##### 1. In this Act

##### Definitions

- (a) “address”, in relation to the location of a place of residence, office, polling station or other fixed location, includes the postal code assigned to the area in which the place of residence, office, polling station or other fixed location is located; address
- (b) “advance poll” means a poll held as provided by sections 82 to 86; advance poll
- (c) “ballot” means the portion of a ballot paper that has been marked by an elector, detached from the counterfoil, and deposited in the ballot box; ballot
- (d) “by-election” means an election other than a general election; by-election
- (e) “cancelled ballot paper” means a ballot paper marked cancelled under section 68; cancelled ballot paper
- (f) “candidate”  
(i) before the close of nominations on nomination day, means a person who has been officially nominated as a candidate under section 37, and  
(ii) after the close of nominations on nomination day, means a person who has been officially nominated as a candidate under section 40; candidate
- (f.1) “confirmation officer” means a confirmation officer appointed under section 26; confirmation officer
- (f.2) “confirmation record” means a confirmation record referred to in section 24.3; confirmation record
- (g) “data bank” means a tape or disc on which the names of electors may be stored for later use; data bank
- (h) “date of the writ” means the date shown on the writ pursuant to section 5; date of writ
- (i) “during an election” or “at an election” or “throughout an election”, in respect of an election in any electoral district, means the period commencing with the date of the writ for that election and terminating on polling day or, where the writ is withdrawn or

	deemed to be withdrawn pursuant to section 8, terminating on the day that the writ is withdrawn or deemed to be withdrawn;
election	(j) “election” means an election held in an electoral district to elect a member to serve in the Legislative Assembly;
election documents	(k) “election documents” or “election papers” means the documents or papers directed in this Act to be transmitted to the Chief Electoral Officer, after an election, by the returning officer, namely, <ul style="list-style-type: none"> <li>(i) the writ with the return of the election endorsed on it,</li> <li>(ii) the nomination papers filed by the candidates,</li> <li>(iii) the reserve supply of undistributed blank ballot papers,</li> <li>(iv) the confirmation records delivered to the returning officer for the electors confirmed by the confirmation officers,</li> <li>(v) documents relating to the revision of the lists of electors,</li> <li>(vi) the statements of the polls from which the official addition of the votes was made, and</li> <li>(vii) the other returns from the various polling stations enclosed in sealed envelopes, as set out in sections 75 to 79, and containing <ul style="list-style-type: none"> <li>(A) the list of electors used at the poll,</li> <li>(B) a packet of stubs and unused ballot papers,</li> <li>(C) packets of ballot papers cast for the various candidates,</li> <li>(D) a packet of spoiled ballot papers, if any,</li> <li>(E) a packet of rejected ballot papers, if any, and</li> <li>(F) a packet containing the official list of electors used at the poll and the written appointments of candidates’ agents;</li> </ul> </li> </ul>
election officer	(l) “election officer” means the Chief Electoral Officer, Deputy Chief Electoral Officer, and every returning officer, election clerk, deputy returning officer, poll clerk, confirmation officer and constable appointed under this Act;
election petition	(m) “election petition” means a petition presented in pursuance of the <i>Controverted Elections (Provincial) Act</i> R.S.P.E.I. 1988 Cap. C-22;
elector	(n) “elector” means a person entitled to vote at an election;
enumeration date	(o) repealed by 2002,c.4,s.1;
form	(p) “form” means a form set out in the regulations or any other form relating to the administration of an election under this Act prescribed by the Chief Electoral Officer;
lawyer	(q) “lawyer” means a member in good standing of the Law Society of Prince Edward Island;
level access	(r) “level access”, in relation to any premises, means premises that are so located that a person may reach the premises from the street

or roadway and enter the premises without going up or down any step, stairs or escalator;

- (s) “list of electors” means the preliminary list of electors, supplementary list of electors or the official list of electors, as the context requires; list of electors
- (t) “member” means a member of the Legislative Assembly; member
- (u) “nomination day” means the day on which nominations close as provided in this Act; nomination day
- (v) “official list of electors” means the list of electors prepared by the Chief Electoral Officer; official list of electors
- (w) “ordinary polling day” means the day fixed under section 5 for holding the poll at an election; ordinary polling day
- (x) “ordinarily resident” means ordinarily resident as defined by sections 22 and 23; ordinarily resident
- (y) “polling day” or “ordinary polling day” means the day fixed pursuant to section 5 for holding the poll at an election; polling day
- (z) “polling division” means a geographical area in an electoral district approved by the Chief Electoral Officer; polling division
- (aa) “polling station” means a polling station established under sections 56 to 58 and sections 71 and 71.1; polling station
- (bb) “preliminary list of electors” means the preliminary list of electors prepared under subsection 62(3); preliminary list of electors
- (cc) “prescribed” means approved by the Chief Electoral Officer; prescribed
- (dd) “printed” includes words or figures written, painted, engraved, lithographed, photographed or represented or reproduced by any mode for representing or reproducing words or figures in a visible form; printed
- (ee) “recount” means a recount made under section 91; recount
- (ee.1) “Register” means the Register of Electors established under subsection 24.1(1); Register
- (ff) “registered party” means a political party that is registered pursuant to section 24; registered party
- (gg) “rejected ballot paper” means a ballot paper that has been rejected pursuant to section 76; rejected ballot paper

satisfactory proof of identity	(hh) “satisfactory proof of identity”, in respect of an elector, means such documentary proof of the identity of the elector as is prescribed;
seal	(ii) “seal” means a seal furnished by the Chief Electoral Officer to seal a ballot box;
voter	(jj) “voter” means any person who has voted at an election;
writ	(kk) “writ” means the writ of election issued under this Act. 1996,c.12,s.1; 2002,c.4,s.1; 2003,c.34,s.1.

#### THE CHIEF ELECTORAL OFFICER

Chief Electoral Officer	<b>2.</b> (1) There shall be a Chief Electoral Officer who is an officer of the Legislative Assembly.
Appointment	(2) The Chief Electoral Officer shall be appointed by the Legislative Assembly <ul style="list-style-type: none"> <li>(a) on the recommendation of the Standing Committee on Legislative Management; and</li> <li>(b) following a resolution of the Legislative Assembly supported by at least two-thirds of the members.</li> </ul>
Seal, form	(3) The Chief Electoral Officer shall have a seal of a form approved by the Lieutenant Governor in Council.
Staff, composition	(4) The staff of the Chief Electoral Officer shall consist of such employees as may be required to perform the duties of the office.
Deputy Chief Electoral Officer	(5) There shall be a Deputy Chief Electoral Officer who is an officer of the Legislative Assembly.
Duties	(6) The Deputy Chief Electoral Officer shall <ul style="list-style-type: none"> <li>(a) assist the Chief Electoral Officer in the duties of that office; and</li> <li>(b) have the same responsibilities and authority as the Chief Electoral Officer in the event that <ul style="list-style-type: none"> <li>(i) the Chief Electoral Officer is absent or unable to carry out those duties, or</li> <li>(ii) the office of the Chief Electoral Officer is vacant.</li> </ul> </li> </ul>
Appointment	(7) The Deputy Chief Electoral Officer shall be appointed by the Legislative Assembly <ul style="list-style-type: none"> <li>(a) on the recommendation of the Standing Committee on Legislative Management; and</li> <li>(b) following a resolution of the Legislative Assembly supported by at least two-thirds of the members.</li> </ul>

(8) The Chief Electoral Officer or Deputy Chief Electoral Officer may be removed for cause by a resolution of the Legislative Assembly supported by at least two-thirds of the members. Removal

(9) The person who, immediately before the coming into force of this section, holds office as the Chief Electoral Officer shall be deemed, on the coming into force of this section, to have been appointed as the Chief Electoral Officer under subsection (2). Deemed appointment

(10) The person who, immediately before the coming into force of this section, holds office as the Deputy Chief Electoral Officer shall be deemed, on the coming into force of this section, to have been appointed as the Deputy Chief Electoral Officer under subsection (7). *Idem*  
1996,c.12,s.2; 2007,c.29,s.1.

**3. (1) The Chief Electoral Officer shall**

- (a) exercise general direction and supervision over the administrative conduct of elections;
  - (b) enforce on the part of election officers, fairness, impartiality and compliance with this Act;
  - (c) issue to election officers such instructions as he or she may consider necessary to ensure the effective execution of this Act;
  - (d) perform such other duties as are assigned to him or her under this Act.
- Powers and duties of Chief Electoral Officer

(2) If during the course of any election it transpires that insufficient time has been allowed, or insufficient election officers or polling stations have been provided, for the execution of any of the purposes of this Act, by reason of the operation of any provision of this Act, any mistake or miscalculation or any unforeseen emergency, the Chief Electoral Officer may, notwithstanding anything in this Act, Special powers of Chief Electoral Officer

- (a) extend the time for doing any act, including the hour for the opening or closing of an ordinary or advance polling station;
- (a.1) direct the returning officer for an electoral district to
  - (i) defer the poll for the taking of the votes of electors on ordinary polling day in the whole of the electoral district, and
  - (ii) hold the poll for the taking of the votes of electors in the whole of the electoral district on one or both of the two days immediately following ordinary polling day, as the Chief Electoral Officer considers appropriate;
- (a.2) direct the returning officer for an electoral district to
  - (i) adjourn the poll for the taking of the votes of electors on ordinary polling day in the whole of the electoral district, and
  - (ii) continue and complete the poll for the taking of the votes of electors in the whole of the electoral district on one or both of the

two days immediately following ordinary polling day, as the Chief Electoral Officer considers appropriate;

- (b) increase the number of election officers;
- (c) increase the number of polling stations;
- (d) prescribe forms in addition to those set out in Schedule 1;
- (e) modify a provision of this Act to permit its use at a by-election;
- and
- (f) generally adapt the provisions of this Act, for the purpose of ensuring the execution of its intent, to existing circumstances.

Public education by Chief Electoral Officer

(3) The Chief Electoral Officer may implement public education and information programs to make the electoral process better known to the public, particularly those persons and groups most likely to experience difficulties in exercising their democratic rights.

Media information by Chief Electoral Officer

(4) The Chief Electoral Officer may, using any media or other means that the Chief Electoral Officer considers appropriate, provide the public with information relating to the provincial electoral process and the democratic right to vote and the requirements to be a candidate at an election. 1996,c.12,s.3; 2007,c.29,s.2.

Chief Electoral Officer, responsible to

**4.** In performing his or her duties, the Chief Electoral Officer shall be responsible solely to the Legislative Assembly. 1996,c.12,s.4.

Powers of the Lieutenant Governor are not affected

**4.1** (1) Nothing in this section affects the powers of the Lieutenant Governor, including the power to dissolve the Legislative Assembly, by proclamation in Her Majesty's name, when the Lieutenant Governor sees fit.

Elections at four-year intervals

(2) Subject to the powers of the Lieutenant Governor referred to in subsection (1),

- (a) a general election shall be held on Monday, May 12, 2008, unless a general election has been held, after the day on which *An Act to Amend the Election Act* S.P.E.I. 2007, Cap. 29 receives Royal Assent and before Monday, May 12, 2008, because of a dissolution of the Legislative Assembly; and
- (b) thereafter, general elections shall be held on the second Monday in May in the fourth calendar year following ordinary polling day in the most recent general election. 2007,c.29,s.3.

Alternate day

**4.2** (1) Notwithstanding subsection 4.1(2), if the Chief Electoral Officer is of the opinion that a Monday that would otherwise be the date of ordinary polling day is not suitable for that purpose because it is a day of cultural or religious significance, or the day of a federal election, the Chief Electoral Officer shall choose an alternate day in accordance with

subsection (3) and recommend to the Lieutenant Governor in Council that ordinary polling day should be that alternate day.

(2) The Lieutenant Governor in Council may, on the recommendation of the Chief Electoral Officer pursuant to subsection (1), make an order changing the date of ordinary polling day to the alternate day recommended by the Chief Electoral Officer.

Order

(3) The alternate day recommended under subsection (1) and set out in an order made under subsection (2) shall be one of the seven days following the Monday that would otherwise be ordinary polling day.

Idem

(4) In the case of a general election under subsection 4.1(2), an order under subsection (2) shall not be made after March 1 in the year in which the general election is to be held.

Regular general election, time for order

(5) The Lieutenant Governor in Council shall cause a copy of any order made under subsection (2) to be published forthwith in the Gazette and in every daily newspaper in the province. 2007,c.29,s.3.

Gazette

**5.1** (1) An election shall be instituted by the passing of an order of the Lieutenant Governor in Council which shall fix

Election instituted, procedure

- (a) the date of the writ, which shall be the same for all writs issued for a general election; and
- (b) the date of ordinary polling day, which shall be a Monday not more than 32 clear days and not less than 26 clear days from the date of the writ.

(2) This section applies to all elections. 1996,c.12,s.5; 2007,c.29,s.4.

Application

**5.1** (1) Where a member's seat becomes vacant, a by-election shall be instituted by the passing of an order of the Lieutenant Governor in Council which shall fix

By-election instituted, procedure

- (a) the date of the writ, which shall not be more than six months from the date the seat becomes vacant; and
- (b) the date of ordinary polling day, which shall be a Monday not more than 32 clear days and not less than 26 clear days from the date of the writ.

(2) A writ for a by-election

Exceptions

- (a) shall not be issued during the last six months of the fourth year of the term of the Legislative Assembly as determined pursuant to section 7 of the *Legislative Assembly Act* R.S.P.E.I. 1988, Cap. L-7; and
- (b) is deemed to be withdrawn on the dissolution of the Legislative Assembly. 1999,c.7,s.1; 2007,c.29,s.5.



## WRITS OF ELECTION

- Issue and transmission of writ of election
- 6.** Upon receipt of a certified copy of the order of the Lieutenant Governor in Council the Chief Electoral Officer shall
- (a) issue in Form 1 writs in accordance with the order; and
  - (b) cause the writs to be transmitted to the returning officers concerned. 1996,c.12,s.6.
- Returning officer, appointment of substitute
- 7.** If the returning officer
- (a) refuses or neglects or is unable because of death or other cause to act;
  - (b) resigns; or
  - (c) is removed,
- the Lieutenant Governor in Council shall appoint another person in his or her place who shall act under a writ already issued as if it had been addressed to him or her. 1996,c.12,s.7.
- Withdrawal of writ in certain cases
- 8.** Where the Chief Electoral Officer certifies that by reason of fire, epidemic, or other disaster it is impractical to carry out the provisions of this Act in any electoral district where a writ has been issued ordering an election, the Lieutenant Governor in Council may order the withdrawal of such writ, and a notice to that effect shall be published forthwith by the Chief Electoral Officer in every daily newspaper published in the province, and in the Gazette, and in the event of such withdrawal, a new writ shall be issued within three months after the publication in the Gazette. 1996,c.12,s.8.

## RETURNING OFFICERS

- Appointment of returning officers
- 9.** (1) There shall be one returning officer for each electoral district who shall be appointed by the Lieutenant Governor in Council.
- Term of office of returning officer
- (2) The office of a returning officer is not vacant until he or she
- (a) dies;
  - (b) resigns; or
  - (c) is removed from office under subsection (3) or (3.1).
- Removal from office of returning officer
- (3) The Lieutenant Governor in Council shall remove from office any returning officer who
- (a) ceases to reside in the electoral district for which he or she was appointed;
  - (b) is unable to act;
  - (c) fails to perform the duties of his or her office satisfactorily; or
  - (d) has, at any time after his or her appointment, been guilty of politically partisan conduct, whether or not in the course of performance of his or her duties under this Act.

(3.1) Where, as a result of the establishment of new electoral districts under the *Electoral Boundaries Act* R.S.P.E.I. 1988, Cap. E-2.1, two or more returning officers reside in the same new electoral district, the Lieutenant Governor in Council shall remove from office one, or more if necessary, of the returning officers, as the Lieutenant Governor in Council may determine, to ensure that the new electoral district has only one returning officer. *Idem*

(4) The Chief Electoral Officer shall publish in the Gazette in the month of January in each year the name and address of each returning officer, and the electoral district for which he or she has been appointed. Publication of names of returning officers

(5) Upon his or her appointment a returning officer shall complete the oath of office in the prescribed form and transmit it to the Chief Electoral Officer. Oath of office

(6) A returning officer shall immediately notify the Chief Electoral Officer if he or she is unable to act. 1996,c.12,s.9; 2006,c.44,s.10. Unable to act, notification

#### ELECTION CLERKS

**10.** (1) A returning officer shall appoint an election clerk in the prescribed form. Election Clerk, appointment

(2) If the office of election clerk becomes vacant, the returning officer shall appoint another election clerk. 1996,c.12,s.10. Vacancy in office

**11.** Upon his or her appointment, an election clerk shall complete the oath of office in the prescribed form, and the returning officer shall transmit the oath to the Chief Electoral Officer. 1996,c.12,s.11. Oath of office

**12.** An election clerk holds office until dismissed by the returning officer. 1996,c.12,s.12. Term of office

**13.** (1) An election clerk shall  
 (a) assist the returning officer in the performance of the duties of his or her office; and  
 (b) act in the place of the returning officer  
 (i) in the event of his or her absence or illness,  
 (ii) on failure to perform his or her duties, or  
 (iii) if the office is vacant,  
 Duties of election clerk

and while so acting, the election clerk shall possess the powers and perform the duties of the returning officer, and if a writ has already been issued, act under the writ as if it had been addressed to him or her without taking the returning officer's oath of office and with power to appoint an election clerk.

Unable to act,  
notification

(2) An election clerk shall immediately notify the Chief Electoral Officer if the returning officer is unable to act. 1996,c.12,s.13.

#### HEADQUARTERS OF RETURNING OFFICER

Headquarters of  
returning officer,  
notice of

**14.** (1) Upon receipt of the writ for an election in his or her electoral district, a returning officer shall

- (a) open and maintain throughout the election a headquarters at some convenient place in the electoral district where the electors may have recourse to him or her; and
- (b) give public notice of the location of the headquarters in such form and manner as the Chief Electoral Officer may determine.

Hours of duty  
returning officer

(2) Either the returning officer or the election clerk or both of them shall remain continuously on duty in the returning officer's headquarters during the hours

- (a) from 9:00 a.m. to 9:00 p.m. of the period of confirmation subsequent to the date of the writ of election, excluding Sunday, as provided in section 31;
- (b) the advance polls are open; and
- (c) the polls are open on ordinary polling day. 1996,c.12,s.14; 2002,c.4,s.2.

#### PROCLAMATION

Proclamation

**15.** Not later than Friday, the 24th day before ordinary polling day,

- (a) a returning officer shall
  - (i) issue a proclamation in the prescribed form,
  - (ii) cause the proclamation to be posted in his or her headquarters where it shall be kept available for public inspection at all reasonable times,
  - (iii) transmit two copies of the proclamation to each registered political party in his or her electoral district;
- (b) the Chief Electoral Officer shall cause a consolidated proclamation in the prescribed form to be inserted in every daily newspaper published in the province. 1996,c.12,s.15.

#### POLLING DIVISIONS

Division of  
electoral district  
into polling  
divisions

**16.** (1) When instructed by the Chief Electoral Officer, a returning officer shall

- (a) subject to subsection (2), divide the electoral district into as many polling divisions as he or she considers necessary giving due consideration to
  - (i) geographical and other factors that may affect the convenient conduct of an election,

- (ii) the desirability of the territorial limits of the polling divisions conforming as nearly as possible to those established for the last election, whether provincial or federal,
- (iii) the incorporation, where practical, of approximately 350 electors in a polling division, and
- (iv) the desirability of incorporating an extended health-care facility, or similar institution, into a polling division;
- (b) prepare a statement, in the prescribed form, of the boundaries of the polling divisions in the electoral district, identifying each where practical with a consecutive number;
- (c) within the time prescribed transmit a copy of the statement to
  - (i) the Chief Electoral Officer, and
  - (ii) each political organization in the electoral district; and
- (d) keep the statement available in his headquarters for public inspection at all reasonable times.

(2) Where, by reason of a practice locally established or other special circumstances, it is more convenient to establish a polling division containing substantially more than 350 electors and to divide the list of electors for the polling division between two or more polling stations as provided in section 63, a returning officer may, notwithstanding anything contained in subsection (1), establish a polling division which contains as nearly as possible some multiple of 350 electors. 1996,c.12,s.16.

Polling division of more than 350 electors

**17.** The Chief Electoral Officer may direct a returning officer to

- (a) correct an error or omission in the statement of polling divisions;
- (b) redefine a boundary, or renumber a polling division, from that set out in the statement. 1996,c.12,s.17.

Errors in statement of polling divisions

**18.** The polling divisions of an electoral district for an election shall be

- (a) those established for the last provincial election; or
- (b) if they have subsequently been revised under sections 16 and 17, those established in the statement completed by the returning officer. 1996,c.12,s.18.

Constitution of polling division

#### ELECTION SUPPLIES

**19.** When the Chief Electoral Officer considers it expedient, or immediately after the date of the writ, he or she shall transmit to a returning officer a sufficient number of copies of this Act, election forms, materials and supplies to enable him or her to carry out his or her duties. 1996,c.12,s.19.

Transmission of supplies to returning officer

### QUALIFICATIONS FOR ELECTORS

- 20.** A person may have his or her name included on the list of electors for a polling division, if he or she
- (a) is 18 years of age, or will attain that age on or before ordinary polling day;
  - (b) is a Canadian citizen;
  - (c) has been ordinarily resident within the meaning of section 22 or 23
    - (i) in the province for the 6 months immediately preceding the date of the writ, and
    - (ii) in the polling division on the date of the writ. 1996,c.12,s.20, 2002,c.4,s.3.
- 21.** The following persons are not entitled to be included on the list of electors:
- (a) the Chief Electoral Officer;
  - (b) the returning officer for each electoral district, during his or her term of office. 1996,c.12,s.21; 2002,c.4,s.4.

### DETERMINING RESIDENCE

- 22.** (1) Subject to subsection (2) and section 23, the place where a person is ordinarily resident is the place where the person lives and to which, when absent, the person intends to return.
- (2) If a person has a spouse, the place where the person is ordinarily resident is deemed to be the place where the spouse of the person lives, unless the person establishes and continues a residence at some other place with the intention of living there separate and apart from the spouse for an indefinite period. 1996,c.12,s.22; 2002,c.4,s.5.
- 23.** (1) Where a person, on the date of the writ, is living and sleeping in a lodging, hostel, home or institution conducted for charitable or semi-charitable purposes, he or she is ordinarily resident on the date of the writ in the electoral district where the lodging, hostel, home or institution is located.
- (2) Where a person, on the date of the writ, is living and sleeping in a community care facility or in a nursing home, he or she is ordinarily resident on the date of the writ in the electoral district in which the community care facility or nursing home is located.
- (2.1) Where a person, on ordinary polling day, is a patient in a hospital, he or she is ordinarily resident on the date of the writ, while in the hospital, in the electoral district where he or she is ordinarily resident within the meaning of section 22, and, if otherwise qualified as an

elector, may vote in such electoral district, as permitted under sections 71 and 71.2.

(3) Where a person is serving on full time service with the Armed Forces of Canada, or is employed outside Canada by the Armed Forces of Canada as a teacher in a Canadian Forces school or as administrative support staff for such school, he or she is ordinarily resident on the date of the writ

Armed forces,  
persons in full time

(a) while stationed within the province, in the polling division where he or she is ordinarily resident within the meaning of section 22; or

(b) while stationed outside the province, on the evidence of a certificate of his or her commanding officer to the effect that such person has designated, on or before the date of the writ, as his or her place of ordinary residence under the provisions of the Special Voting Rules (Schedule II of the *Canada Elections Act* R.S.C. 1985, Chap. E-2),

(i) in the polling division within the province in which he or she was ordinarily resident at the date of his or her enlistment, or

(ii) in such other polling division within the province, in lieu thereof, which he or she has so designated for such purposes of voting;

(4) The spouse of any person referred to in clause (3)(a) or (b), if otherwise qualified as an elector, and otherwise ordinarily resident within the province, shall be entitled to have his or her name entered on the list of electors for the polling division in which the name of the person referred to in clause (3)(a) or (b) may be entered and may vote in the polling division.

Spouses

(5) Where a person is a student at a recognized educational institution within the province and has a family in the province, the student is ordinarily a resident, at the option of the student,

Students attending  
institution in  
province

(a) in the polling division where the student's family home is located; or

(b) in the polling division where the student is living while attending the recognized educational institution.

(6) A student who, on the date of the writ, is in attendance at a recognized educational institution outside the province, and who is otherwise qualified as an elector and otherwise ordinarily resident within the province, is entitled to have his or her name entered on the list of electors for the polling division in which he or she ordinarily resides while within the province, and may vote in such polling division.

Students attending  
an institution  
outside province

(7) The spouse of any student referred to in subsection (6), if otherwise qualified as an elector and otherwise ordinarily resident within the

Spouse of student

province, shall be entitled to have his or her name entered on the list of electors for the polling division on which the name of the student referred to in subsection (6) may be entered and may vote in such polling division.

- Incarcerated elector (8) An elector who is incarcerated in a provincial correctional institution, a federal penitentiary or a youth custody facility is ordinarily resident in the place identified in his or her application for registration pursuant to section 18 of Schedule 2.
- Normal residence  
October to May (9) Where a person on the date of the writ is ordinarily resident in a dwelling which is generally occupied only during some or all of the months of May to October, and on such date, even though he or she has no other dwelling to which at will he or she may return, he or she is deemed to be ordinarily resident, for the purposes of this Act, in the polling division in which he or she normally resides during the months of October to May.
- Material facts  
determine residence (10) Subject to this section, the question as to where a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case.
- Place of residence  
cannot be lost (11) A person can have only one place of ordinary residence and it cannot be lost until another is gained.
- Absent less than six  
months (12) A person does not cease to be ordinarily resident in the province by leaving the province for a definite purpose during a definite period of less than six months if the person intends to return to the province and ordinarily reside within the province after that period.
- Exception (13) Subsection (12) does not apply in respect of a student referred to in subsection (6).
- Students from  
outside the province (14) In the absence of evidence to the contrary, a person who has left his or her place of residence outside the province to attend a recognized educational institution in the province is not ordinarily resident in the province. 1996,c.12,s.23; 2002,c.4,s.6; 2003,c.34,s.2.

#### REGISTRATION OF PARTIES

- Register of political  
parties, application  
for registration **24.** (1) The Chief Electoral Officer shall maintain a register of political parties and subject to this section shall register therein any political party that meets the requirements of subsection (2) and that files with him or her an application for registration signed by the leader of the party, setting out
- (a) the full name of the party;

- (b) the party name or the abbreviation, if any, of the party name to be shown in any election documents;
  - (c) the name and address of the leader or acting leader of the party;
  - (d) the address of the office of the party where records are maintained and to which communications may be addressed; and
  - (e) the names and addresses of the officers of the party.
- (2) The requirements to be registered as a political party are that the party
- (a) held at least one seat in the Legislative Assembly following the most recent election;
  - (b) endorsed at least 10 nominated candidates in the most recent general election;
  - (c) endorses at least 10 nominated candidates following the date of a writ of election for a general election; or
  - (d) at any time, except between the date a writ of election and polling day, provides the Chief Electoral Officer with the names, addresses and signatures of persons who
    - (i) represent 0.35% of the number of electors eligible to vote at the last general election,
    - (ii) are currently eligible to vote in an election, and
    - (iii) request the registration of that political party.
- (3) Upon receipt of an application for registration of a political party pursuant to subsection (1), the Chief Electoral Officer shall examine the application and determine whether the party can be registered under this section and
- (a) if the party can be registered, register it and so inform the leader of the party; or
  - (b) if the party cannot be registered, so inform the leader of the party.
- (4) A registration of a political party pursuant to this section has effect
- (a) if the application for registration is filed at a general election not later than Saturday, the 23rd day before ordinary polling day, commencing on the day on which the party is registered; or
  - (b) if the application for registration is filed at any other time, commencing at the general election next following the day on which the party is registered.
- (5) The Chief Electoral Officer shall not register a political party where
- (a) in the case of an application for registration he or she is of the opinion that the name or abbreviation of the name of the party so nearly resembles the name or abbreviation of the name of a party that was represented in the Legislative Assembly immediately prior

Requirements for registration

Examination of application

Conditions of registration

Registration not permissible, name of party likely to confuse



to the coming into force of this section as to be likely to be confused with the party that was so represented;

(b) in the case of an application for registration, he or she is of the opinion that the name or the abbreviation of the name of the party so nearly resembles the name or abbreviation of the name of a registered party as to be likely to be confused with that registered party; or

(c) in the case of any application for registration, the name of the party includes the word “independent”.

Variation of registered name

(6) The Chief Electoral Officer may, upon receipt of an application for variation of registration signed by the leader or acting leader of a registered party and containing the information required to be contained in an application for registration, vary the name of the party in the register in accordance with the application to any other name that can be registered pursuant to this section.

Date of effect of variation

(7) A variation of registration made pursuant to subsection (5) has effect on the day on which it would have effect pursuant to subsection (3) if it were a new registration.

Updating of information *re* registration of party

(8) At a general election, every registered party that has been registered prior to that election shall, not later than Saturday, the 23rd day before ordinary polling day, file with the Chief Electoral Officer a statement in writing signed by the leader of the party confirming or bringing up to date the information contained in the application for registration of the party.

Deletion of party from register

(9) The Chief Electoral Officer shall, at a general election on or after the 21st day before polling day, delete from the register any registered party that has not complied with subsection (8).

Registration fee

(10) Every political party registering under this section shall pay a registration fee of \$1,000 at the time of application.

Cancellation of registration

(11) The Chief Electoral Officer may by notice to the address of the office of the party cancel the registration of a political party

- (a) on application by the authorized officers of the party;
- (b) where the party ceases to be qualified to be registered; or
- (c) where the party obtained registration on the basis of an application that was false in any material particular. 1996,c.12,s.24.

#### REGISTER OF ELECTORS

Establishment

**24.1** (1) The Chief Electoral Officer shall establish and maintain a Register of Electors.

(2) The Chief Electoral Officer may create, revise and maintain the Register by using all or any of the following sources of information: Sources of information

- (a) information obtained from conducting a confirmation of electors under this Act;
- (b) information provided by the Chief Electoral Officer of Canada that was used for compiling lists of electors for use at a general election, by-election, plebiscite or referendum conducted by the Chief Electoral Officer of Canada;
- (c) any other information obtained by or available to the Chief Electoral Officer.

(3) The Chief Electoral Officer may revise the Register from time to time as the Chief Electoral Officer considers necessary. Revision

(4) The Register may be created or revised manually by means of any computer-based system and may be maintained in printed form or may be stored in any computer-based system or any other information storage device that is capable of reproducing any required information in legible form within a reasonable time. Form

(5) The Register may only contain the following information about persons ordinarily resident in the province who are electors or are eligible to be electors: Information

- (a) the civic address, including the postal code of the person, and the mailing address, including the postal code, if the mailing address is different from the civic address;
- (b) the surname, given name and middle name or initial of the person;
- (c) the telephone number of the person;
- (d) the gender of the person;
- (e) the day, month and year of birth of the person.

(6) Subject to an agreement made under subsection (7), the information referred to in clauses (5)(d) and (e) that is obtained under this Act may only be used to verify the identification of an elector when creating, revising or maintaining the Register. Use of information

(7) The Chief Electoral Officer may enter into an agreement with the Chief Electoral Officer of Canada Agreement

- (a) to receive from the Chief Electoral Officer of Canada information that will assist the Chief Electoral Officer in revising the Register; and
- (b) to provide to the Chief Electoral Officer of Canada information that will assist the Chief Electoral Officer of Canada in preparing, revising or maintaining that Chief Electoral Officer's information

for the purpose of compiling or revising the National Register of Electors under the *Canada Elections Act* (Canada).

- Idem* (8) The Chief Electoral Officer may enter into an agreement with a city, town or municipality
- (a) to receive from the city, town or municipality information that will assist the Chief Electoral Officer in revising the Register; and
  - (b) to provide to the city, town or municipality information that will assist the administrator of the city, town or municipality in compiling or revising information in respect of the list of electors for the city, town or municipality.
- Access (9) A person referred to in subsection (5) is entitled to have access to the information in the Register about himself or herself for the purpose of determining whether the information is correct.
- Refusal to disclose (10) The Chief Electoral Officer shall refuse to disclose information in the Register to an applicant except in the circumstances permitted under subsection (9). 2002,c.4,s.7.

#### ROLL OF ELECTORS

- Returning officer's roll of electors **24.2** The Chief Electoral Officer shall, when it is necessary to carry out a confirmation of electors in an electoral district,
- (a) prepare a roll of electors, using the information from the Register, for each polling division in the electoral district; and
  - (b) provide a copy of the roll of electors to the returning officer for the electoral district. 2002,c.4,s.7.

#### CONFIRMATION RECORDS

- Confirmation records **24.3** (1) The Chief Electoral Officer shall, when it is necessary to carry out a confirmation of electors in an electoral district,
- (a) cause a confirmation record in Form 2 of Schedule 1 to be prepared, using the information from the Register, for each civic address in each polling division in the electoral district; and
  - (b) provide the confirmation records to the returning officer for the electoral district.
- Content (2) A confirmation record prepared under subsection (1) shall set out the following information, if any, in the Register:
- (a) the civic address to which the confirmation record pertains;
  - (b) the surname, given name and middle name or initial of each elector residing at the civic address;
  - (c) the telephone number of each elector residing at the civic address;

- (d) the gender of each elector residing at the civic address; and
- (e) the day, month and year of birth of each elector residing at the civic address. 2002,c.4,s.7.

### CONFIRMATION OFFICERS

- 25.** (1) The Chief Electoral Officer shall, between the 36th and 41st month after the last provincial general election, or at such time as he or she considers advisable, give written notice to the two registered political parties which, at the preceding election in each electoral district sponsored the two candidates who received the highest number of votes and the next highest number of votes respectively, requesting each registered party within the time specified in the notice to nominate a fit and proper person for appointment as confirmation officer for each polling division of the electoral district. Nomination of confirmation officers
- (2) If, in an electoral district Nomination in special circumstances
- (a) a candidate was elected by acclamation at the preceding election;
  - (b) the boundaries thereof have been altered since the preceding election; or
  - (c) a political party has ceased to be a registered party,
- the Chief Electoral Officer shall give written notice as provided in subsection (1) to the two registered parties which he or she determines are entitled to nominate the confirmation officers.
- (3) If the Chief Electoral Officer considers that there is good cause for refusing to appoint a nominee of a registered party, nominated pursuant to subsection (1), he or she shall forthwith so notify in writing the registered party, and the registered party may, within 10 days or such lesser time as is specified by the Chief Electoral Officer, nominate another person to act as the confirmation officer. Refusal to appoint nominee
- (4) No person shall be appointed as confirmation officer in an electoral district unless he or she is an elector in that district. Confirmation officer must be an elector
- (5) The Chief Electoral Officer shall, for each polling division in each electoral district, keep and maintain a list of persons nominated under this section to act as confirmation officers in the confirmation of electors for the general election next following. List of nominees
- (6) The Chief Electoral Officer shall, when it is necessary to carry out a confirmation of electors in an electoral district, provide the returning officer for the electoral district with the lists of nominees referred to in subsection (5) for the polling divisions in the electoral district. Supply of list to returning officers

Confirmation and nomination	<p>(7) On the day that he or she is advised by the Chief Electoral Officer of the issuance of the writ, a returning officer shall, before appointing a confirmation officer,</p> <p style="padding-left: 40px;">(a) request each registered party that has nominated a person a confirmation officer under this section to immediately confirm that the nominee is prepared to accept the appointment or to submit a nomination in substitution therefor; or</p> <p style="padding-left: 40px;">(b) if a nomination for confirmation officer in a polling division has not been received by the returning officer from a registered party pursuant to this section, request the registered party to immediately nominate a fit and proper person for the appointment.</p>
Default of nomination	<p>(8) If a registered party fails to nominate a confirmation officer pursuant to clause (7)(b) within such time as may be specified by the returning officer, the returning officer may appoint a fit and proper person as confirmation officer. 1996,c.12,s.25; 2002,c.4,s.8.</p>
Appointment of confirmation officers	<p><b>26.</b> (1) Within 48 hours of the date of the writ, a returning officer shall, in the prescribed form, appoint two confirmation officers for each polling division in each electoral district and each confirmation officer so appointed shall take the oath in the prescribed form.</p>
Persons to be appointed	<p>(2) Subject to subsection (3), the returning officer shall appoint the persons nominated by the registered parties as confirmation officers for the polling divisions for which they have been nominated.</p>
Rejection of party nominee	<p>(3) Where</p> <p style="padding-left: 40px;">(a) a returning officer considers that there is good cause for refusing to appoint as a confirmation officer a person nominated by a registered party; or</p> <p style="padding-left: 40px;">(b) a registered party has failed to nominate a fit and proper person as a confirmation officer,</p> <p>the returning officer shall, with approval of the Chief Electoral Officer, select and appoint the confirmation officer.</p>
Appointees to be representative	<p>(4) In making an appointment, the returning officer shall endeavour to appoint as confirmation officers for a polling division two persons who represent different political parties. 2002,c.4,s.9.</p>
Dismissal and replacement	<p><b>27.</b> (1) The Chief Electoral Officer may, for cause, dismiss and replace a confirmation officer, and may, after consultation with the registered party, appoint a confirmation officer in the place of one who resigns or dies.</p>
Giving up records	<p>(2) On request in writing signed by the Chief Electoral Officer, a confirmation officer so dismissed or replaced shall give up the confirmation records and other papers which he or she has received as a</p>

confirmation officer to the person designated by the Chief Electoral Officer. 2002,c.4,s.9.

**28.** (1) Not later than five days following the commencement of a confirmation of electors, a returning officer shall List of confirmation officers

- (a) prepare a list in the prescribed form of the names and addresses of all confirmation officers appointed by him or her and of the polling division for which each is to act;
- (b) mail a copy of the list referred to in clause (a) to
  - (i) each registered party, and
  - (ii) the Chief Electoral Officer; and
- (c) keep a copy of the list referred to in clause (a) in his or her headquarters where it shall be kept available for public inspection at all reasonable times.

(2) All confirmation officers shall attend a school of instruction at a time and place established by the Chief Electoral Officer where Instruction of confirmation officers

- (a) the Chief Electoral Officer, members of his or her staff, or the returning officer who appointed the confirmation officers, shall instruct the confirmation officers in their duties; and
- (b) the returning officer who appointed the confirmation officers shall provide the confirmation officers with
  - (i) the supplies necessary to carry out their duties, and
  - (ii) the confirmation records pertaining to the electors of the polling division for which the confirmation officers have been appointed. 2002,c.4,s.9.

**29.** (1) The two confirmation officers appointed for a polling division shall Confirmation officers to act jointly

- (a) act jointly and not individually in the preparation of the list of electors; and
- (b) report the details of a disagreement between them to the returning officer.

(2) The returning officer shall settle a disagreement reported to him or her and communicate his or her decision to the confirmation officers, who shall be bound by it. 2002,c.4,s.9. Settling disagreements

**30.** Repealed by 2002,c.4,s.9. Enumerators to ensure records correct

#### CONFIRMATION OF ELECTORS

**31.** (1) A general confirmation of electors under this Act shall be commenced within 48 hours of the date of the writ. Commencement of confirmation

(2) A confirmation of electors shall be completed within seven days after the date of the writ. Completion

Confirmation  
conducted where  
vacancy in  
Legislative  
Assembly occurs

(3) Where, pursuant to section 26 of the *Legislative Assembly Act*, the Lieutenant Governor is notified of the occurrence of a vacancy in the Legislative Assembly, he or she shall advise the Chief Electoral Officer thereof and the Chief Electoral Officer shall conduct a confirmation of electors in the electoral division in which the vacancy occurs unless the vacancy occurs

(a) within 10 months

(i) after the completion of a general confirmation of electors under subsection (1), or

(ii) after ordinary polling day in the last provincial general election or, if more recent, by-election in the electoral district in which the vacancy occurs; or

(b) more than 38 months following ordinary polling day in the last provincial general election.

Procedure

(4) A confirmation of electors under subsection (3) shall be conducted in the same manner as a general confirmation of electors under subsection (1).

Electors not  
confirmed may  
complete  
confirmation record

(5) An elector who is not confirmed as an elector during the confirmation period may have his or her name added to the Register and to the list of electors

(a) by obtaining a blank confirmation record from the returning officer for his or her electoral district;

(b) by completing the confirmation record; and

(c) by filing the completed confirmation record with the returning officer at his or her office during the period commencing on nomination day and ending three days thereafter, excluding Sundays.

Transmission

(6) Where a confirmation record is filed with a returning officer pursuant to subsection (5), the returning officer shall transmit the confirmation record to the Chief Electoral Officer, if the returning officer is satisfied that

(a) the confirmation record contains the name of a person who is entitled to have his or her name entered in the list of electors; and

(b) is correctly completed.

Clerical mistakes

(7) A returning officer may correct any mistakes of a clerical nature on a confirmation record filed with the returning officer pursuant to subsection (5), and shall initial such corrections. 2002,c.4,s.10.

Commencement of  
confirmation

**32.** (1) Commencement of the confirmation of electors will be on authority of and on the date and at the time established by the Chief Electoral Officer.

(2) Each pair of confirmation officers shall, after taking their oaths as required, proceed jointly to confirm the electors in the polling division for which they were appointed by

Confirmation

- (a) jointly visiting each civic address in the polling division;
- (b) completing the confirmation record pertaining to the electors residing at each civic address by
  - (i) determining, with the assistance of an elector residing at that civic address, whether the information is correct,
  - (ii) correcting the information set out on the confirmation record or adding any missing information, as required,
  - (iii) asking the elector referred to in subclause (i) to confirm that the information set out on the confirmation record is correct by having the elector sign the confirmation record, and
  - (iv) signing the confirmation record after complying with subclauses (i) to (iii); and
- (c) leaving at each civic address that is or appears to be the residence of an elector a notice in the prescribed form that advises the elector of the location of the polling station where the elector is to vote during ordinary polling day or advance polling day. 2002,c.4,s.10.

**33.** (1) Each pair of confirmation officers for a polling division shall, to the extent reasonably possible, ensure that every elector in the polling division is confirmed in accordance with this Act, and in particular,

Duties

- (a) when making their joint visits to each civic address in the polling division, each confirmation officer shall wear and prominently display a confirmation officer's badge provided by the Chief Electoral Officer as evidence of his or her authority to confirm the electors residing in the polling division;
- (b) each pair of confirmation officers shall jointly visit every civic address in their polling division at least twice, if necessary, once between the hours of 9:00 a.m. and 6:00 p.m. and once between the hours of 7:00 p.m. and 10:00 p.m., unless they are both satisfied that no elector residing at any civic address remains unconfirmed;
- (c) if the confirmation officers are unable on their joint visits to a civic address to complete the confirmation record for that civic address with the assistance of an elector residing at that address, they may complete the confirmation record with the assistance of any person whom they jointly consider to be reliable, and, in addition, shall, at each civic address, leave a notice in the prescribed form, and may then confirm the residents thereof according to the information secured by them in that manner;
- (d) each pair of confirmation officers shall exercise the utmost care in confirming the electors of the polling division, and they shall take all reasonable precautions to ensure that a confirmation record
  - (i) is completed for every elector in the polling division, and



- (ii) is not completed for any person who is not an elector;
- (e) confirmation officers who, wilfully and without reasonable excuse,
  - (i) fail to complete a confirmation record for any person entitled to have his or her name entered on the list of electors, or
  - (ii) complete a confirmation record for any person who is not entitled to have his or her name entered on the list of electors,
 shall, in addition to any other punishment to which they may be liable under this Act, forfeit the right to payment for their services as confirmation officers;
- (f) on completing the confirmation of electors in a polling division, each pair of confirmation officers shall immediately deliver to the returning officer who appointed them their confirmation records for the electors confirmed;
- (g) on receipt of the confirmation records from each pair of confirmation officers, the returning officer shall carefully examine the confirmation records and if, in his or her judgment, any of the confirmation records is incomplete or contains the name of any person whose name should not be included on it, he or she
  - (i) may not certify to the confirmation officer's account, and
  - (ii) shall forward such account uncertified to the Chief Electoral Officer with a special report attached thereto stating the relevant facts informing the Chief Electoral Officer if, in his or her judgment, any confirmation officer has wrongfully and wilfully
    - (A) failed to complete a confirmation record for any person entitled to have his or her name on the list of electors, or
    - (B) completed a confirmation record for any person who is not entitled to have his or her name entered on the list of electors.

Offence

- (2) Any person who
  - (a) wears a confirmation officer's badge other than that provided by the Chief Electoral Officer or at any time other as authorized in clause(1)(a);
  - (b) wears a confirmation officer's badge without authority; or
  - (c) holds himself or herself out, without authority, to be a confirmation officer
 is guilty of an offence. 2002,c.4,s.10.

#### DUTIES OF RETURNING OFFICER ON RECEIVING CONFIRMATION RECORDS

Duties of returning officer

- 34.** (1) On receipt of the confirmation records from each pair of confirmation officers, a returning officer shall
  - (a) satisfy himself or herself that the confirmation officers have complied with the requirements of sections 32 and 33; and

- (b) where one or more of those requirements have not been complied with, either
- (i) correct any mistakes of a clerical nature and initial the same, or
  - (ii) have the confirmation officers, or any other persons appointed by him or her as confirmation officers, re-confirm all or any of the electors in the polling division.

(2) When the returning officer is satisfied that requirements of sections 32 and 33 have been complied with, the returning officer shall transmit the confirmation records to the Chief Electoral Officer. 2002,c.4,s.11.

Transmission of confirmation records

### REVISION OF REGISTER

**34.1** (1) On receipt of the confirmation records from a returning officer pursuant to subsection 34(2), the Chief Electoral Officer shall

- (a) review the confirmation records; and
- (b) revise the information in the Register as necessary.

Revision of Register, duties

(2) After completing the duties referred to in subsection (1), the Chief Electoral Officer shall return the confirmation records to the returning officer. 2002,c.4,s.11.

Return of records

### MAIL-IN BALLOTS

**35.** Where an elector whose name appears on the list of electors for a polling division at an election is entitled to vote in the polling division at the election and has reason to believe that he will be unable to vote in the polling division at the election, during the hours for voting, on the days fixed for the advance poll and the ordinary polling day, that elector may apply for a mail-in ballot pursuant to Schedule 2, Mail-in Ballot Voting Rules. 1996,c.12,s.35.

Mail-in ballot voting rules, Schedule 2

### NOMINATION OF CANDIDATES

**36.** A person may be nominated as a candidate at an election who

- (a) is a Canadian citizen;
- (b) has attained the age of 18 years or will obtain that age on or before nomination day;
- (c) is not disqualified or ineligible under this Act, or any other Act, to be a candidate or a member of the Legislative Assembly; and
- (d) is qualified as an elector in any one of the electoral districts referred to in the *Electoral Boundaries Act*, Stats. P.E.I. 1994, c.13. 1996,c.12,s.36.

Qualifications of candidates

**37.** Any 10 or more persons, entitled under section 20 to have their names included on a list of electors for an electoral district for which a

Who may nominate candidates

writ has been issued, may nominate a candidate at the election for the electoral district

(a) by filing a nomination paper in Form 3, duly completed, with the returning officer, at any time between the date of the proclamation and 4:00 p.m. on nomination day; and

(b) by depositing with the returning officer the sum of \$200 in legal tender, or a certified cheque made payable to the Provincial Treasurer for that amount. 1996,c.12,s.37; 2002,c.4,s.12.

Nomination in only one electoral district

**38.** No person shall be eligible for nomination in more than one electoral district. 1996,c.12,s.38.

Nomination paper when not invalid

**39.** A nomination paper is not invalid by reason only that

(a) a person who signed it has signed the nomination paper of another candidate;

(b) a person who signed it is not qualified under section 37 to do so, if 10 persons qualified have signed it; or

(c) the name and address of a person, as it appears on the nomination paper, differs from that appearing on the list of electors, if any, when the returning officer is satisfied in relation to the identity of that person. 1996,c.12,s.39.

Nomination day

**40.** (1) On nomination day, which shall be Friday, the 17th day before ordinary polling day, a returning officer shall attend at his or her headquarters, between the hours of 12:00 noon and 4:00 p.m. to receive the nomination of a person who has not been already officially nominated.

Certification of official candidate

(2) The leader of the registered party designated in the nomination paper shall certify in Form 3 that the candidate named thereon is the official candidate of the registered party so designated; otherwise, the person nominated shall be shown as an independent on the ballot paper.

Period for accepting nomination papers

(3) If the provisions of section 37 have been complied with, the returning officer shall

(a) accept a nomination paper at any time between the date of the proclamation and 4:00 p.m. on nomination day; and

(b) sign the receipt of the deposit on the nomination paper and transmit the deposit to the Chief Electoral Officer, and the Chief Electoral Officer shall transmit the deposit to the Provincial Treasurer.

Signing receipt of deposit, evidence of

(4) The signing of the receipt of the deposit on the nomination paper by the returning officer shall be conclusive evidence that the candidate has been officially nominated. 1996,c.12,s.40.

- 41.** Before 4:00 p.m. on nomination day, a candidate may direct the returning officer in writing to change the particulars of the name, address or occupation of the candidate that appear on the nomination paper; and if the returning officer is satisfied that the particulars as changed correspond to those by which the candidate is known in the electoral district, he or she shall attach the direction to the nomination paper and amend it accordingly. 1996,c.12,s.41. Making changes in nomination papers
- 42.** The Provincial Treasurer shall dispose of the deposit of a candidate as follows: Disposition of deposit by Provincial Treasurer
- (a) if the candidate
    - (i) is elected,
    - (ii) received a number of votes not less than one-half of the number of votes polled in favour of the candidate elected, or
    - (iii) dies before the close of the polls, he or she shall return it to the candidate or his or her personal representative; or
  - (b) in all other cases, he or she shall pay it into the Operating Fund. 1996,c.12,s.42.

#### WITHDRAWAL OF CANDIDATE

- 43.** Before 4:00 p.m. on nomination day, a candidate officially nominated may appear before the returning officer and file with him or her a declaration in the prescribed form that he or she withdraws as a candidate, whereupon he or she shall be deemed not to have been officially nominated and his or her deposit shall be forfeited. 1996,c.12,s.43. Withdrawal by candidate
- 44.** A person who, before or during an election, for the purposes of procuring the election of a candidate, knowingly publishes a false statement of the withdrawal of another candidate at the election is guilty of an offence. 1996,c.12,s.44. False statement of withdrawal of candidate

#### DEATH OF A CANDIDATE

- 45.** (1) If a candidate, officially nominated, dies before the close of nominations on nomination day, he or she shall be deemed not to have been officially nominated. Death of candidate, before close of nominations
- (2) If a candidate, officially nominated, dies between the close of nominations and of the poll, the Chief Electoral Officer shall issue his or her certificate, in the manner set forth in section 8, upon which certificate the Lieutenant Governor in Council shall then Death of candidate, between close of nominations and poll
- (a) order the withdrawal of the grant of poll;
  - (b) fix the date of a new ordinary polling day which shall be not more than three months from the date of the death of the candidate,

and the writ shall be deemed to have been amended accordingly.

Revocation of grant  
of poll

(3) After the revocation of the grant of the poll, the returning officer shall issue a proclamation as provided in section 15, and commence afresh all the other proceedings for the election as if the amended writ had been received immediately following the revocation of the grant of the poll, but

(a) a person, other than the candidate who died, nominated before the revocation of the grant of the poll, or nominated in accordance with sections 37 and 40 between the date of the new proclamation and 4:00 p.m. on the new nomination day, shall be deemed to have been duly nominated, and

(b) the list of electors, prepared after the date of the writ, shall be used at the postponed election as the list of electors, or if revised, as the official list of electors.

Full report by  
returning officer

(4) The returning officer shall make a full report with the return of the writ to the Chief Electoral Officer of any action taken under this section. 1996,c.12,s.45.

#### ACCLAMATION

Election by  
acclamation

**46.** If, on nomination day, there shall be officially nominated only one candidate for election, the returning officer at the time limited for close of nominations shall declare and proclaim such candidate duly elected, and shall make due return thereof to the Chief Electoral Officer in Form 1. 1996,c.12,s.46.

#### GRANT OF POLL

Grant of poll

**47.** (1) If more candidates than the number required to be elected for the electoral district are officially nominated, a returning officer, after 4:00 p.m. on nomination day, shall

(a) grant a poll for taking the votes of the electors;

(b) issue a notice of grant of a poll in the prescribed form;

(c) transmit one copy of the notice of grant of a poll to each registered party and to each candidate in the electoral district;

(d) post a copy of the notice of grant of a poll in his or her headquarters where it shall be kept available for public inspection at all reasonable times;

(e) transmit to the Chief Electoral Officer one copy of the notice of grant of a poll;

(f) in the case of a by-election, cause the notice of grant of a poll to be published at least once in a newspaper circulating in the electoral district.

(2) Following the close of nominations on nomination day, the Chief Electoral Officer, during the general election, shall cause a consolidated notice of grant of a poll in the prescribed form to be published at least once in every newspaper published in the province and in the Gazette. 1996,c.12,s.47.

Publish public notice

#### HOURS OF POLL

**48.** The poll shall be opened at 9:00 a.m. and kept open until 7:00 p.m. of the same day, and each deputy returning officer shall, during that time in the polling station assigned to him or her, take the votes of the electors duly qualified to vote at that polling station. 1996,c.12,s.48.

Hours poll open

#### DEPUTY RETURNING OFFICERS AND POLL CLERKS

**49.** (1) The registered party which

- (a) in the general election immediately preceding elected the largest number of members to the Legislative Assembly; or
- (b) in the event of an equality of members being returned in the general election immediately preceding, in the election next preceding the immediately preceding election, elected the largest number of members to the Legislative Assembly,

shall provide the Chief Electoral Officer, on request, with a nominee for the position of deputy returning officer for each polling station in the province, and the Chief Electoral Officer shall keep and maintain a list of those nominees for use in the general election immediately following, or in any by-election which may be held before that general election.

Nominees for deputy returning officer

(2) Immediately after the date of a writ of election, but in any event not less than twenty days before ordinary polling day, the returning officer shall, from the list of nominees supplied to him or her by the Chief Electoral Officer, appoint by writing in the prescribed form one deputy returning officer for each polling station established in his or her electoral district.

Appointment of deputy returning officer

(3) Every deputy returning officer shall, before acting, take the oath in the prescribed form. 1996,c.12,s.49.

Deputy returning officer, oath of

**50.** Each deputy returning officer shall, as soon as possible after his or her appointment, appoint by writing under his or her hand, in the prescribed form, a poll clerk who, before acting as such, shall take the oath of office in the prescribed form. 1996,c.12,s.50.

Poll clerk, appointment and oath

**51.** The returning officers shall post and keep posted in their headquarters for public inspection one copy of the list of deputy returning officers for their electoral districts. 1996,c.12,s.51.

List of deputy returning officers

### BALLOT BOXES AND BALLOT PAPERS

Ballot boxes	<p><b>52.</b> (1) The Chief Electoral Officer shall obtain ballot boxes for each polling station in the province, and shall</p> <ul style="list-style-type: none"> <li>(a) give the necessary instructions for procuring the ballot boxes to the returning officer; or</li> <li>(b) have the ballot boxes delivered to him or her.</li> </ul>
Specifications for ballot boxes	<p>(2) The ballot boxes shall be</p> <ul style="list-style-type: none"> <li>(a) of uniform size and shape;</li> <li>(b) made of durable material;</li> <li>(c) capable of being sealed with serially numbered seals;</li> <li>(d) so constructed, with a slit or narrow opening on the top, that the ballots may be deposited but cannot be withdrawn without unsealing the box.</li> </ul>
Ballot box lost, destroyed or not delivered	<p>(3) Where a returning officer fails to furnish a ballot box to a deputy returning officer for a polling station, or the box which was furnished has been lost or destroyed, the deputy returning officer shall procure another. 1996,c.12,s.52.</p>
Ballot papers, printing	<p><b>53.</b> (1) The Chief Electoral Officer immediately upon receipt of notice of grant of poll from the returning officer shall cause to be printed the necessary ballot papers in Form 4.</p>
Stamping ballot paper	<p>(2) Every ballot paper shall be stamped with a stamp, the stamp being so placed on the ballot paper that when the ballot paper is folded by a voter the stamp can be seen without the ballot paper being unfolded.</p>
Design of stamp	<p>(3) A stamp referred to in subsection (2) shall be specially designed and made for the purpose of each election.</p>
Content of stamp	<p>(4) The stamp shall show the name of the province and the year of the election, and shall be of such design that an impression made from it shall be readily recognizable.</p>
Papers etc. to be kept by deputy returning officer	<p>(5) Until the opening of the poll, the deputy returning officer shall keep the blank poll book, forms of oath, envelopes and ballot papers in a secure place and shall take every precaution for their safekeeping and for preventing any person from having unlawful access to them.</p>
Directions to Electors, posting form	<p>(6) The returning officer shall furnish each deputy returning officer with at least five copies of the Directions to Electors in the prescribed form and the deputy returning officer shall before or at the opening of the poll, cause the directions to be posted in some conspicuous place outside of the polling station, and also in each compartment of the polling station.</p>

- (7) The Directions to Electors shall depict a ballot and shall instruct the elector to mark a cross “X” on the ballot after the name of the candidate for whom he or she intends to vote. 1996,c.12,s.53. Directions to electors
- 54.** (1) The ballot papers shall be printed on white paper, on which the names of the candidates, alphabetically arranged in the order of their surnames, shall be printed exactly as they are set out in Form 3. Ballot papers printed on white paper, names alphabetically arranged
- (2) The ballot papers shall be provided with a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub. Counterfoil and stub
- (3) The ballot papers shall be printed on paper of a quality, weight and size determined by the Chief Electoral Officer. Ballot papers specifications
- (4) The ballot papers shall be numbered on the back of the stub and the counterfoil, the same number being written on the stub as on the counterfoil, and shall be bound in books containing 25 ballot papers. Numbering ballot paper stubs
- (5) The ballot papers shall bear the name of the printer. Name of printer
- (6) The printer shall deliver the ballot papers to the Chief Electoral Officer, and file an affidavit in the prescribed form setting forth the number of ballot papers, printed by him or her, and the fact that no other ballot papers have been supplied by him or her to any other person. Printer, duties of
- (7) The property of the ballot papers, ballot boxes, envelopes and marking instruments procured for or used at any election shall be in Her Majesty. Ballot papers, property of
- (8) The name of every candidate on each ballot shall be followed by his or her address, occupation and political affiliation. 1996,c.12,s.54. Description of candidates
- 55.** (1) Not later than 24 hours before ordinary polling day, a returning officer shall furnish to each deputy returning officer for the polling station to which he or she has been appointed Delivery of supplies to deputy returning officer
- (a) ballot papers for at least 10% more than the number of electors on the official list of electors of the polling station;
  - (b) a statement showing the number of ballot papers supplied with their serial numbers;
  - (c) black lead pencils to permit the electors to mark their ballot papers;
  - (d) at least 5 copies of the Directions to Electors;
  - (e) a copy of this Act and of any instructions issued by the Chief Electoral Officer;
  - (f) the official list of electors for use at the polling station;
  - (g) a ballot box with serially numbered seals;



- (h) a poll book; and
- (i) other materials and supplies authorized or furnished by the Chief Electoral Officer.

Deputy returning officer responsible for supplies

(2) The deputy returning officer shall be responsible for the election materials and supplies received from the returning officer, and shall prevent any person from having unlawful access to them. 1996,c.12,s.55.

#### POLLING STATIONS

Polling stations, for each polling division

**56.** (1) The Chief Electoral Officer may at any time direct the returning officer to secure for each polling division in his or her electoral district suitable level access premises for one or more polling stations

- (a) within the polling district;
- (b) if the returning officer is unable to secure suitable level access premises for a polling station within the polling division, then within an adjacent polling division; or
- (c) if there is a central polling place in any electoral district where the polling stations of not more than 10 of the polling divisions may be centralized, then within the centralized polling place;

and the returning officer shall mail the list of polling stations to the Chief Electoral Officer showing the location of each polling station and name of the person to whom payment for its use may be made.

Substituted polling station

(2) Where it is found impractical to hold a poll in the place designated it shall be held in another polling station as near as practicable to the original polling station and thereupon the returning officer shall

- (a) give notice in writing of the new location of the polling station to each registered party in the electoral district; and
- (b) cause to be affixed on or before polling day notices at or near the polling stations first designated stating the new location of the polling station. 1996,c.12,s.56.

Polling station to bear number of polling division

**57.** A polling station shall bear the number of the polling division, and when there is more than one polling station for a polling division, the number shall be followed by the initial letter of the surnames of the first and last electors on the list of electors for the polling station, such as Polling Station No. (A to L) or as the case may be. 1996,c.12,s.57.

#### LEVEL ACCESS POLLING STATIONS

Requirements for polling station

**58.** (1) A polling station shall, where practicable, be in a level access public building and shall contain a compartment, adequately lighted, where an elector may mark his or her ballot paper in secrecy.

(2) Throughout the hours of polling, the compartment shall contain a table or desk and a black lead pencil properly sharpened. 1996,c.12,s.58.

Equipment in compartment

#### PERSONS PRESENT IN POLLING STATION

**59.** In addition to the deputy returning officer and the poll clerk, the candidates and their agents, not exceeding one for each candidate in each polling station, a constable if appointed, the Chief Electoral Officer, returning officer or election clerk and no others shall be permitted to remain in the room where the votes are given during the time the poll remains open. 1996,c.12,s.59; 2002,c.4,s.13.

Who may be present in polling station

**60.** Any person producing to the returning officer or deputy returning officer at any time a written authority in the prescribed form from a candidate to represent the candidate at the election or at any proceeding of the election shall be deemed to be an agent of such candidate for the purpose of this Act. 1996,c.12,s.60.

Agent of candidate

**61.** (1) A candidate may himself or herself undertake the duties which any agent of the candidate, if appointed, might have undertaken or may assist his or her agent in the performance of such duties, and may be present at any place at which his or her agent may attend.

Candidate may undertake duties of his agent

(2) The absence of any agent of candidates at any time or place the agent is permitted by this Act to be present shall not invalidate any act or thing done during the absence of such agent. 1996,c.12,s.61.

Non-attendance of agent, effect

#### OFFICIAL LIST OF ELECTORS

**62.** (1) The official list of electors shall be used at a polling station.

Official list of electors, use of

(2) The preliminary list of electors for a polling division, and the statement of additions, deletions and changes to the list in the prescribed form shall together constitute the official list of electors for the polling division.

Official list of electors, constituted by

(3) As soon as possible after the completion of a confirmation of electors, the Chief Electoral Officer shall, using the information in the Register, prepare and print a preliminary list of electors in the prescribed form for each polling division and the Chief Electoral Officer shall supply each returning officer with sufficient copies to

Preliminary list of electors, contents and distribution

(a) transmit to each registered party registered under this Act in each electoral district not less than 5 copies of the preliminary list of electors of every polling division in the electoral district;

(b) keep or post one copy in his or her headquarters where it shall be kept available for public inspection;

- (c) transmit two copies to each deputy returning officer in his or her electoral district with instructions that the same be posted at or in a public place as near as practicable to the polling station; and
- (d) retain not less than 5 copies for use in the performance of his or her duties.

Revision of Register

- (4) On receipt of the confirmation records from a returning officer pursuant to subsection 31(6), the Chief Electoral Officer shall
- (a) review the confirmation records; and
  - (b) revise the information in the Register as necessary.

Supplementary lists

- (4.1) After completing the duties referred to in subsection (1), the Chief Electoral Officer shall
- (a) return the confirmation records to the returning officer; and
  - (b) prepare and print such supplementary lists of electors, as are necessary, showing the additions, deletions and changes required in respect of the preliminary list of electors by the information set out on the confirmation records referred to in subsection (4).

Official list

- (4.2) The preliminary list of electors as modified by the supplementary lists referred to in subsection (4.1) shall be the official list of electors for the forthcoming election.

Official list of electors to Elections Canada

- (5) The Chief Electoral Officer may provide copies of the official list of electors to the appropriate officials of Elections Canada. 1996,c.12,s.62; 2002,c.4,s.14.

Official list with more than 400 electors, provision of two or more polling stations

- 63.** Where the official list of electors for a polling division contains the names of more than four hundred electors a returning officer may
- (a) provide two or more polling stations for the polling division, to allow as nearly as possible, an equal number of electors, not exceeding four hundred, to vote at each polling station; and
  - (b) divide the official list of electors for the polling division into as many separate lists, with the approval of the Chief Electoral Officer, as he or she may consider appropriate for the taking of the vote at each polling station. 1996,c.12,s.63.

#### PROCEEDINGS AT THE POLL

Proceeding at the poll, prior to opening of polling station

- 64.** During the thirty minutes prior to the opening of a polling station, the deputy returning officer in full view of the poll clerk, the candidates, or their agents, shall
- (a) open the ballot box, remove the contents and read aloud his or her commission;

- (b) cause the Directions to Electors to be posted in some conspicuous place outside of and near to the polling station, and in a conspicuous place in the voting compartment of the polling station;
- (c) count the ballot papers and permit any candidate, or his or her agent who is present, to inspect and count them; and
- (d) ascertain that the ballot box is empty, seal it with a seal provided by the Chief Electoral Officer, and place it on a table in full view of all present, where it shall remain sealed until the close of the poll. 1996,c.12,s.64.

- 65.** (1) At the hour fixed for opening a polling station and during the polling hours, the deputy returning officer shall
- Proceeding after  
opening polling  
station
- (a) admit into the polling station any person whose name is on the official list of electors or is qualified to vote at the polling station or who is acting as a friend pursuant to section 67;
  - (b) have the elector declare his or her name, address and occupation,
    - (i) if his or her name is on the official list of electors, have the poll clerk enter the name, address and occupation of the elector in the poll book, or
    - (ii) if the person's name is not on the official list of electors, have him or her take an oath in the prescribed form and then have the poll clerk enter the name, address and occupation of the elector in the poll book and on a form supplied by the Chief Electoral Officer;
  - (c) uniformly initial and fold the ballot paper so that, when folded, his or her initials can be seen on the ballot without unfolding it;
  - (d) instruct the elector, how and where to affix his or her mark on the ballot paper by using the following or like words, "Mark one cross "X" with the black lead pencil on the ballot within the space on the ballot paper opposite the name and particulars of the candidate for whom you intend to vote";
  - (e) direct the elector to return the ballot paper, when marked, folded as shown with the counterfoil attached;
  - (f) subject to subsection (2), deliver the ballot paper to the elector.

- (2) If required by the deputy returning officer, poll clerk, candidate or his or her agent, an elector shall, before receiving the ballot paper, take an oath in the prescribed form in the poll book before the deputy returning officer; and
- Taking oath by  
elector
- (a) if the elector refuses to take the oath, he or she shall not be permitted to vote and lines shall be drawn through his or her name on the official list of electors and in the poll book, and a (ö) shall be placed under the words "refused to swear or affirm" opposite the name of the elector in the poll book;

(b) if the elector takes the oath, he or she shall then be given the ballot paper and permitted to vote, and a (☉) shall be placed under the words “sworn or affirmed” opposite the name of the elector in the poll book.

Refusal to take  
oath, effect

(3) An elector who refuses to take the oath in the prescribed form shall not receive a ballot paper or be permitted to vote, or be again admitted to the polling station.

Right to question

(4) No person other than the deputy returning officer, or poll clerk, shall address any question to any voter in the polling station. 1996,c.12,s.65.

Elector how to vote

**66.** An elector, on receiving the ballot paper, shall

- (a) proceed into the voting compartment and mark the ballot paper by making a cross with a black lead pencil within the space on the ballot paper opposite the name and particulars of the candidate for whom he or she intends to vote;
- (b) fold the ballot paper, so that the initials and the serial number on the back can be seen without unfolding it;
- (c) return, and
  - (i) hand the ballot paper, so folded, to the deputy returning officer, who shall, without unfolding it, ascertain by examination of the initials and serial number that it is the same ballot paper delivered to the elector; and
  - (ii) if it is, the deputy returning officer shall, in full view of the elector and all others present, remove and destroy the counterfoil and deposit the ballot in the ballot box; and
- (d) then leave the polling station. 1996,c.12,s.66.

Incapacitated  
elector, voting  
procedure

**67.** (1) Subject to subsection (2), where an elector

- (a) is unable to vote in the manner set out in section 66 because he or she is unable to read or is incapacitated by blindness or other physical infirmity; and
- (b) is accompanied by a friend who is an elector and whose name is on the official list of electors for any polling division,

a deputy returning officer

- (c) may require the elector and friend to take the oaths set forth as in the poll book; and
- (d) may direct the incapacitated person to have the friend only accompany him or her into the voting compartment and assist him or her by marking his or her ballot paper in the manner directed by the elector; in this case, the friend must take the oath of secrecy in the prescribed form, but in the event the incapacitated elector is not accompanied by a friend, the Deputy Returning Officer may together with one agent representing each registered party, who,

having taken the oath of secrecy, accompany the elector into the voting compartment and assist the elector by marking his or her ballot paper in the manner directed by the elector, but, subject to clause (d), no person shall at any election be allowed to act for the purpose of marking a ballot paper as the friend of more than one elector.

(2) Where an elector has his or her ballot paper marked as provided in subsection (1), the poll clerk shall enter in the poll book opposite the elector's name, in addition to any other requisite entry, Entry of elector's name in poll book

- (a) the reason why the ballot paper was so marked; and
- (b) the taking of the oaths, if any. 1996,c.12,s.67; 2002,c.4,s.15.

**68.** Where an elector has inadvertently dealt with a ballot paper so that it should not be used Where ballot paper spoiled

- (a) the elector shall return it to the deputy returning officer; and
- (b) the deputy returning officer shall
  - (i) without showing it to any other person, write the word "cancelled" upon it and place it in envelope A, and
  - (ii) deliver another ballot paper to the elector. 1996,c.12,s.68.

**69.** (1) Where an elector applies for a ballot paper in a name, address and occupation which corresponds so closely with a name, address and occupation on the official list of electors so as to suggest to the deputy returning officer that the entry in the official list was intended to refer to him or her, the elector may receive a ballot paper and vote provided Where name etc. on official list similar to that of elector

- (a) if required by the deputy returning officer, he or she takes the oath as to error on list in the poll book; and
- (b) if required by the deputy returning officer, a candidate or agent, he or she takes the oath in the prescribed form in the poll book.

(2) The poll clerk shall enter in the poll book Entries in poll book by poll clerk

- (a) the correct name, address and occupation of the elector;
- (b) the taking of the oath as to error on the list, if required; and
- (c) the taking of the oath in the prescribed form, if required. 1996,c.12,s.69.

**70.** (1) An elector who applies for a ballot paper after another person has voted as the elector may receive a ballot paper and vote Elector may vote where other person voted as such voter

- (a) if he or she takes the oath of a personated elector in the poll book; and
- (b) if required by the deputy returning officer, a candidate or his or her agent, he or she takes the oath in the prescribed form in the poll book.

Voting on second set of ballots in same name taking of oaths

- (2) The poll clerk shall enter in the poll book opposite the name of the elector, that the elector,
- (a) voted on a second ballot paper issued under the same name;
  - (b) took the oath of a personated elector; and
  - (c) if required, took the oath in the prescribed form. 1996,c.12,s.70.

Poll clerk to enter particulars in poll book

- 70.1** A poll clerk shall enter on the record of poll in the poll book
- (a) subject to clause (b), the name, address and number on the list of electors of each elector who applies to vote, with a consecutive number being prefixed to the elector's name in the appropriate column of the poll book;
  - (b) where an elector's name has been placed on the official list on revision, no number shall be required to be placed in the column provided in the poll book for a number on the list of electors;
  - (c) a (○) under the word "voted" and opposite the name of the voter, as soon as the ballot is deposited in the ballot box;
  - (d) a (○) under the words "sworn or affirmed" and opposite the name of an elector to whom an oath is administered, with a note indicating the nature of the oath;
  - (e) a (○) under the words "refused to swear or affirm" and opposite the name of an elector who refuses to take an oath when he or she is legally required to do so; and
  - (f) any other entries which the deputy returning officer directs. 2003,c.34,s.3.

Voting after closing time

- 70.2** (1) At the hour fixed for the closing of the polling station, a deputy returning officer shall
- (a) cause the names of all electors, then in or awaiting admission to the polling station, to be listed; and
  - (b) keep the polling station open for a time sufficient to enable those electors to vote,
- but no elector, other than those whose names are so listed, shall be permitted to vote after that hour.

Hospital polling station to close at noon

- (2) Where a polling station is established in a hospital, the deputy returning officer shall, notwithstanding section 48, ensure that voting is carried out in such a manner that the polling station is closed by noon on ordinary polling day in order to permit the ballots of patients to be distributed, before the close of polls that day, to the appropriate electoral districts.

Voting hours in community care facility or nursing home

- (3) Where a polling station is established in a community care facility or a nursing home, the deputy returning officer may vary the hours that the polling station is open, from those set out in section 48, if the deputy returning officer is satisfied that the variance will facilitate the exercise

of the right to vote of those persons living and sleeping in the community care facility or nursing home. 2003,c.34,s.3.

#### HOSPITALS, COMMUNITY CARE FACILITIES AND NURSING HOMES POLLING STATIONS

**71.** (1) A polling station may be established on ordinary polling day in a hospital to permit patients in the hospital who are ordinarily resident in a polling division in the province to vote on ordinary polling day in their respective electoral districts by voting at the polling station, if those patients are otherwise qualified to do so under sections 20 to 22 and this section.

Establishment of  
polling station in  
hospital

(2) The deputy returning officer and the poll clerk may, on ordinary polling day, move the polling station to such rooms and areas in the hospital as the person in charge of the hospital permits in order to take the vote of those patients referred to in subsection (1).

Moving polling  
station

(3) Notwithstanding section 59 or subsection 70.2(1), the deputy returning officer and the poll clerk shall not allow a polling station established in a hospital to be open unless a representative of the hospital is present in the room or area where the polling station is located.

Representative to be  
present

(4) Where a polling station is established in a hospital, one agent of each registered political party may, if the agent has taken the prescribed oath of secrecy, be present in the room or area in which the polling station is located. 2003,c.34,s.4.

Agent may be  
present

**71.1** (1) A polling station may be established on ordinary polling day in a community care facility or a nursing home in a polling division

Establishment of  
polling station in  
community care  
facility or nursing  
home

(a) to permit persons living and sleeping in the community care facility or nursing home to vote on ordinary polling day in the polling division by voting at the polling station, if those persons are otherwise qualified to do so under sections 20 to 23; and

(b) to permit other persons who are ordinarily resident in that polling division to vote on ordinary polling day in the polling division by voting at the polling station, if those persons are otherwise qualified to do so under sections 20 to 23.

(2) Where a polling station is established in a community care facility or a nursing home, the deputy returning officer and the poll clerk shall, on ordinary polling day, temporarily suspend voting in the polling station and carry the ballot box, poll book, ballot papers, and other necessary election documents to such rooms and areas in the community care facility or the nursing home as the person in charge of the community

Voting in  
community care  
facility or nursing  
home



care facility or the nursing home permits in order to take the vote of those persons referred to in clause (1)(a) who are bedridden.

Representative to be present

(3) Notwithstanding section 59 or subsection 70.2(1), the deputy returning officer and the poll clerk shall not, under subsection (2), take the votes of bedridden persons unless a representative of the community care facility or the nursing home is present in the room where the votes are given.

Agent may be present

(4) Where a polling station is established in a community care facility or a nursing home, one agent of each registered political party may, if the agent has taken the prescribed oath of secrecy,

- (a) be present in the polling station while it is open; and
  - (b) accompany the deputy returning officer and the poll clerk when, under subsection (2), they are taking the votes of bedridden persons.
- 2003,c.34,s.4.

Voting procedure for bedridden patients or persons

**71.2** (1) The procedure to be used by a deputy returning officer in taking the vote of an elector who is a bedridden patient in a hospital, or a bedridden person in a community care facility or a nursing home, shall be as follows:

- (a) the deputy returning officer shall provide the elector with the ballot paper for the elector's electoral district;
- (b) the ballot paper provided to the elector shall
  - (i) be folded, as prescribed, and
  - (ii) be placed in a mail-in ballot envelope and a certificate envelope, if the elector is a patient in a hospital;
- (c) in the case of an elector who is able to mark his or her own ballot paper in the manner set out in clause 66(a), he or she shall be permitted to cast his or her vote in the manner set out in section 66, as nearly as circumstances allow;
- (d) subject to subsection (2), in the case of an elector who is unable to mark his or her ballot paper in the manner set out in clause 66(a), and who requests assistance in so doing, the deputy returning officer shall assist the elector by marking the ballot paper in the manner directed by such elector in the presence of the agents, if any; and
- (e) on receiving the ballot, the deputy returning officer shall fold the ballot paper so that his or her initials and the serial number on the back can be seen without unfolding it, remove and destroy the counterfoil and deposit the ballot in the ballot box.

Ballot paper marked by DRO, required entry in poll book

(2) Where the deputy returning officer assists an elector by marking a ballot paper, the poll clerk shall enter in the poll book opposite the name of the elector, in addition to any other entry required by or under this Act, the fact that the ballot paper was so marked by the deputy officer under this section. 2003,c.34,s.4.

72. Repealed by 2003,c.34,s.5.

Poll clerk to enter  
particulars in poll  
book  
Voting after closing  
time

73. Repealed by 2003,c.34,s.5.

#### WHO MAY VOTE ON ORDINARY POLLING DAY

74. (1) Subject to subsections (2) and (3), a person is eligible to vote in a polling station on ordinary polling day if he or she is eligible to have his or her name registered on the list of electors pursuant to section 20 in that polling division.

Persons who may  
vote at polling  
station

(2) A person may not vote at a polling station on ordinary polling day if he or she

Persons not eligible  
to vote

- (a) refuses to take the oath in the prescribed form in the poll book, as provided for in subsection 65(2);
- (b) has voted at the advance poll; or
- (c) has voted by mail-in ballot.

(3) A person whose name appears on the official list of electors for a polling division of any electoral district and who on the date of the writ is ordinarily resident in another polling division within the same electoral district, shall be deemed to be eligible to vote in the polling division in which his or her name appears on the official list of electors. 1996,c.12,s.74.

Exception to ss (1)

#### COUNTING AND REPORTING THE VOTES

75. At the close of the poll, and in the presence of the poll clerk, candidates, or agents, not exceeding two for each candidate in each polling station, and if none is present, then in the presence of at least two electors, the deputy returning officer shall

Duties of deputy  
returning officer  
after poll closed

- (a) complete the record of poll in the poll book by
  - (i) counting the number of voters recorded thereon as having voted, and
  - (ii) by writing after the last entry: "The number of electors who voted at this election in this polling station is ..... (state the number)" and signing it;
- (b) open envelope A containing the cancelled ballot papers,
  - (i) count them,
  - (ii) mark the number on the front of the envelope, and
  - (iii) replace them in the envelope, seal it with a gummed paper seal and initial it;
- (c) count the unused ballot papers undetached from the books of ballot papers,
  - (i) mark the number on the front of envelope B,

- (ii) place them, with the stubs of all used ballot papers, in the envelope, seal it with a gummed paper seal and initial it;
- (d) complete such entries as may be required by the Chief Electoral Officer on the statement of the poll in the poll book;
- (e) open the ballot box; and
- (f) subject to sections 76 to 78, count the votes by
  - (i) giving a tally sheet in the poll book to the poll clerk and to not less than two other persons,
  - (ii) after each person present is given full opportunity to examine a ballot, decide whether the ballot should be rejected under section 77 or counted, and
  - (iii) if the ballot is to be counted, call out the vote and have it entered on the tally sheets. 1996,c.12,s.75; 2002,c.4,s.16.1.

- Rejection of ballots **76.** (1) In counting the votes, a deputy returning officer shall reject and place in separate envelopes marked "C", a ballot
- (a) that was not supplied by the deputy returning officer;
  - (b) that is not marked for any candidate;
  - (c) on which votes have been given for more than one candidate;
  - (d) that is so marked to render it uncertain for which candidate the voter has voted; or
  - (e) upon which there is any writing or mark by which the voter can be identified.
- Restriction on rejection of ballots (2) Notwithstanding subsection (1), no ballot paper shall be rejected by reason only that
- (a) it has on it any writing, number or mark placed thereon by any deputy returning officer; or
  - (b) it has been marked with a writing instrument other than a black lead pencil or with a mark other than a cross, if the mark does not constitute identification of the elector. 1996,c.12,s.76.
- Objections to ballots, procedure **77.** If during the counting of the votes, a candidate, his or her agent, or an elector who is present, objects to any ballot, a deputy returning officer shall
- (a) hear and decide every question arising out of the objection, and, subject to reversal on a recount or on a petition questioning the election or return, his or her decision shall be final;
  - (b) if he or she determines that the ballot be rejected, place it in envelope C; and
  - (c) if he or she determines that the ballot be not rejected, count the vote. 1996,c.12,s.77.
- Ballot found with counterfoil attached **78.** When, in the course of counting the ballots, a ballot is found with the counterfoil attached, or without the initials of the deputy returning officer

affixed thereto, a deputy returning officer shall, in the presence of any person present in the polling station,

- (a) after carefully concealing the number of the counterfoil and without examining it himself or herself, remove and destroy the counterfoil; or
- (b) where he or she is satisfied that the ballot is one that was supplied by him or her, affix his or her initials to the ballot, and subject to section 76, count the vote on the ballot. 1996,c.12,s.78.

**79.** After counting the votes, a deputy returning officer shall

- (a) complete such entries as may be required by the Chief Electoral Officer, on the statement of the poll in the poll book;
- (b) place the ballots for each candidate in separate envelopes, marked D;
- (c) endorse the contents on each envelope and seal it with a gummed paper seal;
- (d) place his or her signature on the paper seals, and have the poll clerk and such of the persons present, who desire to do so, place their signatures on the paper seals;
- (e) complete the required number of the statement of the poll in the poll book, sign them, and have the poll clerk and such of the persons present who desire to do so sign them, and dispose of them as follows:
  - (i) enclose the required number of the statement of the poll in an envelope marked E, and deliver it to the returning officer together with the form supplied by the Chief Electoral Officer on which has been entered the name and address of electors who voted at the poll, but whose names were not on the list of electors,
  - (ii) leave one statement in the poll book;
- (f) enclose in the ballot box
  - (i) the poll book,
  - (ii) envelopes A to D,
  - (iii) the official list of electors, and
  - (iv) all other documents used at the poll;
- (g) seal the ballot box with the seal provided for that purpose and the slit or opening with the seal provided for that purpose in the presence of the poll clerk, candidates or agents and cause the ballot box to be personally delivered to the returning officer;
- (h) open the ballot box only in the presence of the poll clerk and candidates or agents if for any reason the ballot box is required to be opened after it has been sealed, and then reseal in their presence and transmit it in accordance with clause (g); and
- (i) after the hour fixed for the closing of the polls, declare the result of the poll. 1996,c.12,s.79; 2002,c.4,s.17; 2007,c.29,s.6.

Duties of deputy  
returning officer  
after counting  
ballots

## SAFEKEEPING OF THE BALLOT BOX

Safeguarding ballot boxes **80.** The returning officer, upon the receipt of each of the ballot boxes, shall take every precaution for its safekeeping and for preventing any person other than the returning officer and his or her election clerk from having access thereto, and shall immediately upon the receipt of each ballot box seal it under his or her own seal in such a way that it cannot be opened without the seal being broken, and he or she shall do this without affecting or covering the seals thereto affixed. 1996,c.12,s.80.

## TIME OFF FOR VOTING

Employee to have time off for voting **81.** (1) An employee, who is an elector, shall, while the poll is open on ordinary polling day, have a reasonable and sufficient time, not to be less than one hour, for the purpose of casting his or her vote.

Time off with pay, special case (2) If the employment of an employee does not permit the use of one hour of his or her own time for voting, the employer shall allow the employee such additional time with pay from the hours of his or her employment as may be necessary to provide the one hour, but the additional times for voting shall be granted to the employee at the time of day that best suits the convenience of the employer.

Application of section (3) This section does not apply to an employee who is engaged in the operation and dispatch of scheduled buses, motor transports, ships and aircraft, and to whom the time mentioned in subsection (1) cannot be allowed without interfering with the scheduled operation or dispatch of buses, motor transports, ships or aircraft.

Intimidation etc. by employer, offence (4) An employer who refuses, or by intimidation, undue influence, or in any other way, interferes with the use by an employee of the time for voting, or fails to pay him or her as provided in this section, is guilty of an offence. 1996,c.12,s.81.

## ADVANCE POLLS

Advance polling stations advance polls **82.** (1) The Chief Electoral Officer shall establish one or more advance polling stations in each electoral district for the purpose of enabling electors who expect, for any reason, to be unable to vote at their polling division on the day fixed for a general election to vote in advance at an election held in the electoral district in which such electors reside.

Advance polling stations, location (2) The advance polling stations when established shall be located in a central and convenient location in each electoral district.

Advance poll, hours open (3) An advance polling station shall be open between the hours of 9:00 a.m. and 7:00 p.m. on Saturday the 9th day before ordinary polling day

and on Monday the 7th day before ordinary polling day, and at no other time.

(4) Except as provided in this section, an advance poll shall be conducted and all things done in respect thereof in the same manner as is provided by this Act for the conduct of a general election.

Conduct of advance poll

(5) The Chief Electoral Officer shall publish the place, date and time fixed for the holding of the advance poll, and the name of the deputy returning officer appointed to conduct such poll

Advertising advance poll

- (a) on the proclamation required by section 15;
- (b) in one or more daily newspapers printed in the province and circulated in each electoral district in which the advance poll is to be held.

(6) Additional advance polls shall be open in the office of the returning officer of the electoral district between the hours of 12 noon and 6:00 p.m. on four days, from the Wednesday the fifth day before ordinary polling day to the Saturday the second day before ordinary polling day.

Additional advance polls

(7) At an advance poll in the office of the returning officer, an elector may vote by

Voting procedure for advance poll in office of RO

- (a) completing an Application for Advance Poll Voting in Returning Officer's Office form as prescribed by the Chief Electoral Officer;
- (b) marking a ballot paper and enclosing the marked ballot paper in an inner envelope; and
- (c) enclosing the inner envelope in a certificate envelope completed by the voter. 1996,c.12,s.82; 2002,c.4,s.18; 2003,c.34,s.6.

(8) Repealed by 2002,c.4,s.18.

Offences

**83.** A person may vote at an advance polling station

Advance polls — eligible voter

- (a) if his or her name is on the official list of electors of the electoral district in which the advance poll is to be held; or
- (b) if his or her name is not on the official list of electors of the electoral district, he or she takes the required oath or oaths in the prescribed form. 2002,c.4,s.19.

**84.** (1) The poll clerk at an advance poll shall, under the direction of the deputy returning officer, keep a record of the names and addresses of all persons who vote at the advance poll and shall

Poll clerk to record declaration

- (a) mark on the record of polls the notations that the poll clerk is required by this Act to make opposite an elector's name at a polling station on polling day; and
- (b) direct the elector to sign the record of poll opposite his or her name.

- Access to ballot box (2) The deputy returning officer shall, at all times after the opening of the advance poll and during the hours of voting, take every precaution to prevent any person, other than the poll clerk, from having access to the ballot box. 2002,c.4,s.19; 2003,c.34,s.7.
- Advance poll, list of voters **85.** At the close of an advance poll, the deputy returning officer shall complete the list of persons who voted at the advance polling station in the prescribed form, and forthwith deliver to the returning officer the completed list of persons who voted at the advance poll. 2002,c.4,s.19.
- Affixing seals to ballot box at close of poll **86.** (1) At the close of an advance poll  
 (a) the deputy returning officer and the poll clerk and also any candidate or agent of a candidate present who desires to do so shall affix his or her or their seals to the ballot box in such a manner that it cannot be opened nor ballot papers deposited in it without breaking the seals; and  
 (b) the deputy returning officer shall thereupon, in the presence of the poll clerk and one agent representing each registered party or independent candidate, deliver the ballot box to the returning officer who shall take charge of and safely keep the ballot box until polling day;
- Counting advance poll ballots, procedure (2) At such hour on polling day as the Chief Electoral Officer may direct, the deputy returning officer, his or her poll clerk and one agent representing each political party or independent candidate shall attend at the office of the returning officer, and the deputy returning officer shall  
 (a) permit the returning officer to break the seal covering the slot in the advance poll ballot box and in accordance with Schedule 2 Mail-in Ballot Voting Rules deposit therein the mail-in ballots;  
 (b) break the seals and open the advance poll ballot box;  
 (c) count the ballots cast for each of the candidates;  
 (d) complete the appropriate forms; and  
 (e) after the hour fixed for the closing of the polls, declare the result of the advance poll. 1996,c.12,s.86.

#### DETERMINATION DAY

- Count of votes, **87.** (1) Subject to section 88, the official addition of the votes shall be conducted by the returning officers at their headquarters commencing at 10:00 a.m. on Monday, the 7th day after ordinary polling day.
- Number of votes how ascertained (2) On the official addition of the votes, a returning officer shall, in the presence of the election clerk, candidates, or agents representing the candidates, who are present, or if none is present then in the presence of at least two electors, ascertain the number of votes cast for each

candidate in each polling station in his or her electoral district by obtaining the information

- (a) from the statement of the poll enclosed in envelope E;
- (b) if the statement of the poll in envelope E is missing, from the statement of the poll in the poll book; or
- (c) if the statement of the poll in the poll book is not available, from the statement of the poll in the possession of the deputy returning officer, a candidate, or an agent, but the correctness of the statement must be verified upon oath by the deputy returning officer or poll clerk. 1996,c.12,s.87.

**88.** (1) Where the statement of the poll cannot be obtained for a polling station, the returning officer may ascertain the number of votes cast for each candidate

Alternative procedure for counting votes

- (a) from the endorsements on envelope D in the ballot box which contains the ballots cast for the candidates;
- (b) from the deputy returning officer, or his or her poll clerk; or
- (c) from such evidence as he or she is able to obtain.

(2) The returning officer, in the performance of his or her duties under subsection (1)

Powers of returning officer in counting votes

- (a) may adjourn the official addition of votes from time to time as may be necessary;
- (b) may summon any person to appear before him or her at a day and hour to be named by him or her and to bring all necessary papers and other documents;
- (c) shall give notice of the proceedings, and of the day and hour thereof, to the candidates; and
- (d) may examine on oath any person respecting the matter in question.

(3) A person refusing or neglecting to attend on the summons of a returning officer issued under this section is guilty of an offence. 1996,c.12,s.88.

Offence not to attend

**89.** After a ballot box has been opened for the purpose of ascertaining the number of votes cast for the candidates, a returning officer, on returning the documents to the ballot box, shall seal the ballot box with a seal provided by the Chief Electoral Officer, and permit a candidate or his or her agent to affix his or her signature to it. 1996,c.12,s.89.

After counting votes, box sealed

**90.** At the conclusion of the official addition of the votes which shall be completed not later than Monday, the 14th day after ordinary polling day, a returning officer shall

Conclusion of official addition, duties of returning officer

- (a) complete the recapitulation sheet in the prescribed form for his or her electoral district;



- (b) transmit, by personal delivery or registered mail, a copy of the recapitulation sheet
    - (i) to each candidate concerned,
    - (ii) to the Chief Electoral Officer;
  - (c) retain one copy for his or her own records;
  - (d) if a statement of the poll was not obtained for a polling station, transmit to the Chief Electoral Officer a statement of how he or she ascertained the number of votes cast for each candidate at that polling station; and
  - (e) transmit to the Chief Electoral Officer the accounts relating to the administration of the conduct of the polls in his or her electoral district in the manner required by the Chief Electoral Officer.
- 1996,c.12,s.90.

#### JUDICIAL RECOUNT

Recount of ballots,  
petition and  
procedure

**91.** (1) Within 4 days after the day on which the returning officer has completed and distributed the recapitulation sheet under section 90, any candidate may apply to the Chief Judge of the provincial court for a recount of all the ballots cast in the electoral district by filing a petition with the judge, and depositing with the Chief Judge the sum of \$200 in legal tender or a certified cheque made payable to the Provincial Treasurer for that amount as security for the costs of the recount.

Assignment of  
judge

(2) The Chief Judge may assign a provincial court judge to recount all the ballots cast and that judge shall, within 6 days after the filing of the petition, by order appoint a place and time for the recount.

Time limitation for

(3) The recount shall commence not later than 10 days after the date of the order. 1996,c.12,s.91.

Notice to candidates

**92.** The judge shall give notice in writing by registered mail, to the candidates concerned of the time and place at which he or she will proceed to recount the ballots and make final addition. 1996,c.12,s.92.

Summoning  
returning officer  
and election clerk to  
attend

**93.** The judge shall summon the returning officer and his or her election clerk to attend then and there with the parcels containing the ballot papers and such other documents used at the election, with respect to or in consequence of which such recount or final addition is to take place, and the returning officer and election clerk shall obey the summons. 1996,c.12,s.93.

Recount, who may  
be present

**94.** (1) At the recount of ballots and final addition by the judge, the returning officer and his or her election clerk shall be present, and each candidate shall be entitled to be represented by not more than two agents

appointed by him or her to attend, and may personally be present if he or she so desires.

(2) Except with the sanction of the judge, no other person shall be present at such recount and final addition. 1996,c.12,s.94. Additional persons

**95.** At the time and place appointed and in the presence of the said persons, the judge shall proceed to make a final addition from the statements contained in the ballot boxes returned by the several deputy returning officers, and to count all the ballot papers, returned by the several deputy returning officers, and shall for that purpose open the sealed envelopes containing

- (a) the used ballots which have been counted;
- (b) the rejected ballot papers;
- (c) the cancelled ballot papers. 1996,c.12,s.95.

**96.** (1) The judge shall, as far as practicable, proceed continuously, except on Sunday, with the final addition and recount of the ballots allowing only time for refreshment, and excluding, except so far as he or she and the persons attending agree, the hours between 6:00 p.m. and 9:00 a.m. Final addition to proceed continuously

(2) During the excluded time and recess for refreshments, the judge shall place the ballot papers and other documents relating to the election under his or her own seal and the seal of such other of the said persons as desire to affix their seals, and shall otherwise take all necessary precautions for the security of such papers and documents. 1996,c.12,s.96. Judge to safeguard ballot papers and documents

**97.** The judge shall proceed to recount the ballots according to the rules set forth for every deputy returning officer at the close of the poll, and shall verify or correct the statements of the poll giving the ballot paper account and the number of votes cast for each candidate. 1996,c.12,s.97. Procedure for counting ballots

**98.** Upon the completion of such recount, or as soon as he or she has ascertained the result of the poll, the judge shall seal the ballot papers in their respective envelopes. 1996,c.12,s.98. Judge to seal ballot papers in envelopes

**99.** (1) The judge shall also, if necessary or required, review the decision of the returning officer with respect to the number of votes given for any candidate at any polling place, where the ballot box used was not forthcoming when he or she made his or her decision, or when the proper certificate or papers were not found therein. Review of decisions of returning officer

(2) For the purpose of arriving at the facts, the judge shall have all the powers of a returning officer with regard to the attendance and examination of witnesses. 1996,c.12,s.99. Power of judge regarding witnesses

Judge to certify recount	<b>100.</b> The judge shall forthwith certify the result of the recount and final addition to the returning officer, who shall then declare to be elected the candidate having the highest number of votes. 1996,c.12,s.100.
Where judge finds tie vote	<b>101.</b> When the judge, upon completion of his or her recount and final addition, finds that an equality of votes exists between candidates, he or she shall report the same to the returning officer, who shall then proceed in the manner set forth in section 102. 1996,c.12,s.101.
Casting vote by returning officer	<b>102.</b> Where it is reported to the returning officer pursuant to section 101 that an equality of votes is found to exist between candidates, the returning officer shall, in the presence of at least two of the persons authorized to be present under subsection 87(2), cast the additional vote without depositing a ballot paper, and declare elected the candidate for whom he or she has cast the additional vote. 1996,c.12,s.102.
Results not altered by recount, costs	<b>103.</b> If the recount and final addition does not so alter the result of the poll as to affect the return, the judge may order the costs of the candidate appearing to be elected to be paid by the petitioner. 1996,c.12,s.103.
Assessment of costs	<b>104.</b> The judge may assess the costs on giving his or her decision; and shall as nearly as possible, follow the tariff of costs in the Supreme Court. 1996,c.12,s.104.
Security moneys, distribution	<b>105.</b> (1) The moneys deposited as security for costs shall be paid out to the elected candidate on account thereof as far as necessary.
Deposit insufficient, action for	(2) If the deposit is insufficient, the party in whose favour costs are awarded shall have an action for the balance in any court of competent jurisdiction. 1996,c.12,s.105.
Application to Supreme Court where judge refuses to comply	<b>106.</b> (1) In case of any omission, neglect, or refusal of the judge to comply with the provisions in respect of the recount and final addition, or to proceed in accordance with them, any party aggrieved may, within 8 days thereafter, make application to a judge of the Supreme Court for an order commanding the judge to comply with those provisions and to proceed with and complete the recount and final addition.
Application by affidavit	(2) The application referred to in subsection (1) may be made upon affidavit, which need not be entitled in any matter or cause, setting forth the facts relating to the omission, refusal or neglect.
Order of Supreme Court for hearing of application	(3) The judge of the Supreme Court to whom the application is made shall, if it appears that there is such omission, refusal or neglect, make an order appointing a time within 8 days and a place for the consideration of the application, and directing the attendance of all parties interested at that time and place, and shall give directions for the service of the order

and of the affidavit upon which the order was granted, upon the judge so alleged to be in default, and upon the other parties concerned.

(4) The judge of the Supreme Court may direct that service upon any of the parties may be made by mail, or in such other manner as he or she may direct. 1996,c.12,s.106.

Service on parties

**107.** The judge complained of, or any of the parties concerned, may file in the office of the prothonotary affidavits in reply to those filed by the applicant, and upon demand, shall furnish him or her with copies thereof. 1996,c.12,s.107.

Filing of affidavits in reply

**108.** At the time and place appointed by the judge of the Supreme Court, after hearing the parties, that judge or some other judge of the same court, shall make such order as the facts of the case warrant, either dismissing the application or commanding the judge in default to take such action as is necessary in order to comply with the requirements of this Act in respect of the recount and final addition of votes by a judge, and to proceed with and complete such recount and final addition, and may make an order as to costs. 1996,c.12,s.108.

Order of Supreme Court on application

**109.** A judge so found to be in default shall forthwith carry out the directions of any order so made; and there shall be the same remedies for the recovery of the costs awarded by the order as for that of the costs in ordinary cases in the Supreme Court. 1996,c.12,s.109.

Judge to carry out directions of order

#### DECLARATION DAY

**110.** The returning officer shall, subject to section 111, immediately after the 8th day after the final addition or the ascertainment by him or her of the number of votes given for each candidate, unless before that time, he or she receives notice that he or she is required to attend before a judge for the purposes of a recount and final addition by that judge of the votes given at the election, and where there has been a recount and final addition by the judge, immediately thereafter, transmit in Form 1, his or her return to the Chief Electoral Officer that the candidate having the largest number of votes in each electoral district has been duly elected. 1996,c.12,s.110.

Declaration of election, transmission of

**111.** The returning officer shall, after the receipt of notice from the judge that a recount and final addition will be conducted in any electoral district, delay transmitting his or her return for that district to the Chief Electoral Officer in so far as the return is affected by the recount until he or she receives a certificate from the judge of the result of the recount and final addition and, upon receipt of that certificate he or she shall then make his or her return for that district. 1996,c.12,s.111.

Delay where recount

Returning officer to transmit documents to Chief Electoral Officer

**112.** The returning officer shall transmit to the Chief Electoral Officer either personally or by registered mail the writ with his or her return, and all the ballot papers including those unused, the original statements of the several deputy returning officers together with the poll books used in the several polling divisions, and all other documents used or furnished for the election or which have been transmitted to him or her by the deputy returning officer. 1996,c.12,s.112.

Notice of candidate's election in Gazette

**113.** The Chief Electoral Officer shall, on receiving the return of any member elected to serve in the Legislative Assembly, immediately give notice in the Gazette of the name of the candidate so elected. 1996,c.12,s.113.

#### RETENTION OF DOCUMENTS

Chief Electoral Officer to retain papers

**114.** The Chief Electoral Officer shall, subject to this Act, retain in his or her possession the papers transmitted to him or her by any returning officer, with the return, for at least three months if the election is not contested during that time, and if the election is contested, then for three months after the termination of the contestation. 1996,c.12,s.114.

Inspection of papers

**115.** (1) No person shall be allowed to inspect the papers transmitted to the Chief Electoral Officer by any returning officer except under an order of the Supreme Court or a judge thereof.

Order of court for

(2) The order referred to in subsection (1) may be granted by the court or judge being satisfied by evidence on oath that the inspection or production of the papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to those papers or for the purpose of a petition which has been filed questioning an election or return.

Conditions in order

(3) Any such order for the inspection or production of those papers may be made subject to such conditions as to persons, time, place and mode of inspection or production as the court or judge thinks expedient. 1996,c.12,s.115.

#### SECRECY

Secrecy of voting, responsibility for

**116.** A person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting. 1996,c.12,s.116.

Offences

**117.** A person is guilty of an offence who, directly or indirectly,  
(a) at or about a polling station, interferes or attempts to interfere with an elector when marking a ballot paper, or otherwise attempts

to ascertain the name of the candidate for whom an elector is about to vote or has voted;

(b) communicates information about the manner in which a ballot paper has been marked in his or her presence in a polling station;

(c) induces or endeavours to induce a voter to show his or her ballot papers so as to make known the name of the candidate for whom he or she has cast his or her vote; or

(d) communicates information obtained in a polling station as to the candidate for whom an elector at the polling station is about to vote or has voted. 1996,c.12,s.117.

#### PEACE AND GOOD ORDER

**118.** A returning officer, during an election, and a deputy returning officer, during the hours a polling station is open or while the votes are being counted may

Peace and good order at an election, provisions for

(a) of his or her own accord, or on the written requisition of a candidate, or his or her agent, appoint a constable in the prescribed form;

(b) order any person to aid him or her in maintaining peace and good order at the election;

(c) arrest or cause by verbal order to be arrested, and place or cause to be placed in the custody of a constable or other person, a person disturbing the peace and good order at the election. 1996,c.12,s.118.

#### REPORT OF THE CHIEF ELECTORAL OFFICER

**119.** (1) The Chief Electoral Officer may, before or within ten days after the commencement of a session of the Legislative Assembly, make a report to the Speaker of the Legislative Assembly on

Report of Chief Electoral Officer to Speaker of Legislative Assembly

(a) any matter which has occurred in connection with the administration of his or her office since the date of his or her last report and which he or she considers should be brought to the attention of the Legislative Assembly; and

(b) any amendments which are, in his or her opinion, desirable for the more convenient administration of this Act.

(2) The Speaker shall submit the report received from the Chief Electoral Officer to the Legislative Assembly. 1996,c.12,s.119.

Submission of report to Legislative Assembly

#### FEEES AND EXPENSES

**120.** Upon the recommendation of the Chief Electoral Officer, the Lieutenant Governor in Council may make a tariff of fees and expenses to be paid to any person for his or her services and expenses under this Act and may revise and amend the tariff. 1996,c.12,s.120.

Tariff of fees and expenses

### QUALIFICATIONS OF ELECTION OFFICERS

- Election officers to be qualified electors **121.** No person shall be appointed as a returning officer, election clerk, confirmation officer, deputy returning officer, poll clerk or revising officer unless he or she is otherwise qualified as an elector in any electoral district in the province. 1996,c.12,s.121; 2002,c.4,s.20.
- Manner of giving notice **122.** When an election officer is by this Act authorized or required to give a public notice and no special mode of notification is provided, the notice may be by advertisement, or by such other means of communication as he or she considers will best effect the intended purpose. 1996,c.12,s.122.

### OATHS AND AFFIRMATIONS

- Who may take oaths **123.** (1) An oath, affirmation, affidavit or statutory declaration, authorized or required to be made under this Act, may be taken before
- (a) the person who by this Act is expressly required to administer it;
  - or
  - (b) if no person is expressly required to administer it, then before the Chief Electoral Officer, a returning officer, election clerk, deputy returning officer, a judge, lawyer, notary public, justice of the peace, or a commissioner for taking affidavits.
- No fee for oaths (2) The oath, affirmation, affidavit or declaration shall be administered gratuitously. 1996,c.12,s.123.

### HOLIDAYS AND TIME

- Changing of time and notice of by Chief Electoral Officer **124.** Except in the case of ordinary polling day, the Chief Electoral Officer may advance or postpone a day on which this Act provides for the doing or carrying out of any act or thing to the first day immediately following or preceding such day that is not a holiday and in that event he or she shall immediately give notice in the next issue of the Gazette, and at least one daily newspaper published in the province. 1996,c.12,s.124.

### OFFENCES

- Offences **125.** Every one is guilty of an offence who, not being authorized by this Act, wilfully
- (a) has a ballot paper or ballot in his or her possession;
  - (b) alters, defaces, or destroys a ballot paper;
  - (c) supplies a ballot paper to any person;
  - (d) deposits a paper other than a ballot paper in a ballot box;
  - (e) takes a ballot paper out of a polling station;

- (f) delivers to the deputy returning officer, to be placed in a ballot box, anything other than the ballot paper given to him or her by the deputy returning officer;
- (g) destroys, takes, opens or otherwise interferes with a ballot box or a ballot;
- (h) prints anything capable of being used as a ballot paper;
- (i) prints a ballot paper; or
- (j) places any writing, number, or mark on a ballot paper so that an elector may be thereby identified. 1996,c.12,s.125.

**126.** Every one is guilty of an offence who Offences

- (a) gives, offers, procures, or provides;
- (b) accepts or receives or agrees to accept or receive; or
- (c) applies to a candidate or his or her agent for money, valuable consideration, employment, food or drink to induce a person
  - (d) to vote or refrain from voting;
  - (e) to procure the vote of any person;
  - (f) to procure the election or return of any person to serve as a member of the Legislative Assembly; or
  - (g) to accept or refuse a nomination as a candidate, or to withdraw if nominated. 1996,c.12,s.126.

**127.** Section 126 does not extend to Exception to section 126

- (a) the personal expenses of a candidate; or
- (b) any food or drink given or provided
  - (i) by a political organization at a meeting sponsored by it,
  - (ii) by a person at his or her place of residence, or
  - (iii) by a person supplying lunches to election officers or agents at a polling station. 1996,c.12,s.127.

**128.** Every one is guilty of an offence who knowingly makes or publishes a false statement concerning the personal character or conduct of a candidate. 1996,c.12,s.128. Publishing false statement

**129.** Every one is guilty of an offence who Offences

- (a) applies to be included in a list of electors in the name of some other person, whether that person is living, dead or fictitious;
- (b) applies to be included in a list of electors for a polling division in which he or she is not ordinarily resident with intent to be improperly included in that list;
- (c) applies for a ballot paper in the name of some other person, whether that person is living, dead or fictitious;
- (d) having voted, applies at another polling station for a ballot paper;
- (e) votes more than once at the same election; or



(f) votes or induces a person to vote knowing that he or she is for any reason not entitled to vote. 1996,c.12,s.129.

- Offences, use of list of electors **129.1** Every one is guilty of an offence who uses all or part of a list of electors for any purpose unless the list or part of the list is used
- (a) by a registered party, a member of such a party or a member of the Legislative Assembly for the purpose of communicating with the electors, including the soliciting of contributions and campaigning;
  - (b) by an election officer for the purpose of carrying out his or her duties under this Act; or
  - (c) by a federal, municipal or school board electoral authority, or an officer of such an authority, for the purpose of a federal, municipal or school board election. 2002,c.4,s.21.
- Offences, intimidation, duress etc. **130.** Every one is guilty of an offence who by intimidation, duress or any pretence or contrivance
- (a) compels, induces or prevails upon any person to vote or refrain from voting at an election; or
  - (b) represents to any person that the ballot paper to be used or the mode of voting at an election is not secret. 1996,c.12,s.130.
- Offences by candidates **131.** Every candidate is guilty of an offence who, during an election
- (a) agrees, at the request of any person, to follow a course of action that will prevent him or her from exercising freedom of action in the Legislative Assembly, or to resign therefrom if called upon by any person;
  - (b) pays or promises to pay the wages or earnings of an elector lost as a result of casting or agreeing to cast his or her vote. 1996,c.12,s.131.
- Interfering with notices, offences **132.** Every one who removes, mutilates, defaces or alters any notice, or document, required by this Act to be posted is guilty of an offence. 1996,c.12,s.132.
- Offences by election officers **133.** Every election officer is guilty of an offence who knowingly
- (a) fails or refuses to comply with any of the provisions of this Act;
  - (b) while performing the duties of his or her office, acts as an agent or canvasser for any candidate;
  - (c) makes any alteration or insertion in or omission from
    - (i) a confirmation record,
    - (ii) a list of electors,
    - (iii) a poll book, or
    - (iv) any other election document
 with the intent to falsify such record, list, book or document; or
  - (d) acts as an election officer without lawful authority. 1996,c.12,s.133; 2002,c.4,s.22.

- 134.** Every one is guilty of an offence, who, during the hours of polling on ordinary polling day
- (a) supplies, carries or wears any flag, ribbon, emblem, badge or like favour with the intent to distinguish the user as the supporter of a candidate or registered party;
  - (b) supplies, carries or uses a loud-speaker, public address system, flag or banner with the intent that it be used to support a candidate or registered party;
  - (c) posts or displays in or within two hundred feet of a polling station or the building in which a polling station is situated, any literature, emblem, ribbon, flag, banner, card, bill, poster or device that supports a candidate or registered party; or
  - (d) organizes or participates in a parade or demonstration that supports a candidate or registered party. 1996,c.12,s.134.
- 135.** Every one is guilty of an offence, who acts, or incites others to act or conspires to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of the election. 1996,c.12,s.135.
- 136.** The *Summary Proceedings Act* R.S.P.E.I. 1988 Cap. S-9 applies to every proceeding taken against a person charged with an offence under this Act. 1996,c.12,s.136.
- 137.** Except as otherwise provided by this Act, every one who is guilty of an offence against this Act is liable on summary conviction to
- (a) a fine not exceeding \$2,000;
  - (b) imprisonment for a term not exceeding two years; or
  - (c) to both fine and imprisonment. 1996,c.12,s.137.
- 138.** Every one is guilty of an offence and liable to the same punishment as the person who commits it
- (a) who attempts to commit or is an accessory after the fact to the commission of; or
  - (b) who aids, abets, counsels or procures the commission of, an offence punishable under this Act. 1996,c.12,s.138.
- 139.** (1) Subject to subsections (2) and (3), no person shall be excused from answering any question put to him or her in any proceeding under this Act concerning any election or the conduct of any person thereat or in relation thereto on the ground of privilege.
- (2) The evidence of an elector to show for whom he or she voted at an election is not admissible in evidence in any proceeding under this Act.

Offences,  
supporting of  
candidate on  
polling day

Acting in disorderly  
manner, offences

Summary  
*Proceedings Act* to  
apply

Penalties

Penalties for  
attempts or aiding,  
abetting,  
counselling

Ground of privilege  
not to apply

Electors not required  
to show for whom  
voted

Answer by person claiming privilege not to be used elsewhere

(3) No answer given by any person claiming to be excused on the ground of privilege shall be used in any other proceedings under this Act, but the person presiding at the proceeding shall give the witness a certificate that he or she claimed the right to be excused on that ground and made full and true answers to the satisfaction of that person. 1996,c.12,s.139.

Proof of certain matters not required

**140.** In any proceeding under this Act

- (a) it is not necessary to produce the writ or the return thereof, or the authority of the returning officer founded upon the writ, but the general evidence of such facts is sufficient evidence; and
- (b) the certificate of the returning officer is sufficient evidence of the holding of the election, or of any person named in the certificate having been a candidate thereat. 1996,c.12,s.140.

#### CORRUPT PRACTICES

Corrupt practices under *Controverted Elections (Provincial) Act*

**141.** Every one who commits a breach of any of the provisions of sections 125 to 131 or section 133, may be found guilty of a corrupt practice under the *Controverted Elections (Provincial) Act*. 1996,c.12,s.141.

Additional punishment for conviction of corrupt practices

**142.** Every one who is reported under the *Controverted Elections (Provincial) Act* as having been found guilty of a corrupt practice, in addition to any other punishment provided herein, shall, during the five years after the report, be incapable of being elected to or of sitting in the Legislative Assembly or of holding any office at the nomination of the Lieutenant Governor in Council, or of being appointed to any position in the civil service of the province. 1996,c.12,s.142.

Candidate guilty of corrupt practice, election void

**143.** (1) Subject to subsection (2), if it is found by the judge trying an election petition under the *Controverted Elections (Provincial) Act* that a corrupt practice has been committed by or with the actual knowledge and consent of a candidate at an election, his or her election, if he or she has been elected, shall be held void.

Knowledge of candidate necessary to offence

(2) No election shall be held void under subsection (1) unless the act or omission which constituted the corrupt practice was done or omitted by

- (a) the candidate in person; or
- (b) any agent of the candidate with the actual knowledge and consent of the candidate. 1996,c.12,s.143.

Witness convicted of perjury, disqualification of candidate to cease

**144.** If the witnesses, or any of them, on whose testimony a person has become disqualified under section 143, are convicted of perjury with respect to the testimony, a court shall, upon being satisfied that the

disqualification was procured by reason of the perjury, order that the disqualification shall thereupon cease. 1996,c.12,s.144.

#### MISTAKES OF FORM

**145.** No election shall be declared invalid by reason of a noncompliance with the provisions of this Act as to the taking of the poll, or the counting of the votes, or by reason of any want of qualification in the person signing a nomination paper received by the returning officer, under the provisions of this Act, or of any mistake in the use of the forms, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such noncompliance or mistake did not affect the result of the election. 1996,c.12,s.145.

Election not to be declared invalid for certain noncompliances

#### AMENDMENTS

**146.** After the passing of any amendment to this Act, the Chief Electoral Officer may

- (a) consolidate the amendment in copies of the Act printed for distribution; and
  - (b) correct and reprint all forms and instructions affected thereby.
- 1996,c.12,s.146.

Consolidation of amendments

**SCHEDULE 1**

**FORM 1**

**WRIT OF ELECTION**

*Election Act*

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To \_\_\_\_\_, Returning Officer of District No. \_\_\_\_ Electoral District \_\_\_\_\_ in the Province of Prince Edward Island.

**GREETINGS:**

We command that you, according to law, cause a proclamation of an election to be issued and an election to be held in District No. \_\_\_\_ Electoral District \_\_\_\_\_ as a member to serve in the Legislative Assembly of Prince Edward Island, and that you cause a poll, where it is granted, to be held on the \_\_\_\_\_ day of \_\_\_\_\_ next; and that you make a return under your hand of this writ, and of your doings thereon together with the name of the person declared elected, to the Chief Electoral Officer at Charlottetown.

In testimony whereof, I have set my hand and affixed my seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By Command

\_\_\_\_\_  
Chief Electoral Officer

(Note: Form No. 1 is prescribed by section 6 of the Act)

**REPORT OF PROCEEDINGS AND RETURN BY RETURNING OFFICER**

On receipt of the within Writ, I immediately proceeded in accordance therewith and the *Election Act* and did cause the nomination of candidates to be closed at 4:00 p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by which time the following persons were duly nominated as candidates:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And, I hereby make the following return:  
**RE ELECTION IS BY ACCLAMATION (Section 46)**

I, the undersigned declare that the following candidate was elected by acclamation in District No. \_\_\_\_ Electoral District \_\_\_\_\_ as a member of the Legislative Assembly of Prince Edward Island:

\_\_\_\_\_ of \_\_\_\_\_

Dated at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Returning Officer

**B. RETURN AFTER POLL HAS BEEN TAKEN (Section 113)**

I, the undersigned, certify that a poll was granted, and it was held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and on Determination Day, I completed the official addition of the votes and found the number of votes cast for each candidate was: (Type exact name as on nomination paper)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And a recount of votes was held and the learned Judge found the number of votes cast for each candidate was: (Type exact name as on nomination paper)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

And the candidate having the majority of votes was:

\_\_\_\_\_

And I declare the following candidate was elected by District No. \_\_\_\_ Electoral District \_\_\_\_\_ as a member of the Legislative Assembly of Prince Edward Island:

\_\_\_\_\_

Dated at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Returning Officer

**FORM 2**

**ELECTIONS P.E.I. CONFIRMATION RECORD** FORM 2

ELECTORAL DISTRICT NO. & NAME		POLLING DIVISION NO. & NAME		RECORD NUMBER	
CIVIC NUMBER	STREET / ROAD NAME	STREET TYPE	UNIT / APT NUMBER		
CITY/TOWN/VILLAGE		POSTAL CODE	PHONE NUMBER		
MAILING ADDRESS		CITY/TOWN/VILLAGE OF MAILING ADDRESS		POSTAL CODE OF MAILING ADDRESS	
SURNAME	NAMES OF ELIGIBLES RESIDING AT THIS ADDRESS GIVEN NAME		MIDDLE NAME OR INITIAL	DATE OF BIRTH	GENDER MOR F
Residence has been visited at least 3 times with no contact - Notification of Call Form left at residence.					
To my knowledge, the above person(s) have been identified as Canadian citizens, are eighteen years of age or older, have resided in Prince Edward Island for the six months immediately preceding by the prescribed date and are ordinarily resident at this address.			To my knowledge, the information provided above is true, accurate and given voluntarily and lists eligible electors at this residence. I understand that this information is to be used for electoral purposes only.		
Signatures of confirmation officials			Signature of elector providing information		

BELOW ARE DETAILS REGARDING POLLING DATES & LOCATIONS.  
IF YOU NEED FURTHER INFORMATION, PLEASE CONTACT YOUR DISTRICT RETURNING OFFICER.  
POLLS WILL BE OPEN ON ELECTION DAY AND ADVANCE POLL DAY FROM 9:00 AM TO 7:00 PM

ELECTORAL DISTRICT		POLLING DIVISION	
POLLING STATION LOCATION		DATES OF POLL	
ELECTION DAY			
ADVANCE POLL			





*Consent And Oath of Candidate*

I, the undersigned, do swear (or affirm) that I consent to the foregoing nomination and that I am qualified under *section 36* of the *Election Act* to be a candidate.

So Help me God.

SWORN (or affirmed) at \_\_\_\_\_, Prince Edward Island, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Candidate)

before me

\_\_\_\_\_  
A Commissioner, Returning Officer, etc.

*Receipt of Candidate's Deposit*

Received from the above candidate the sum of two hundred dollars in legal tender or a certified cheque made payable to the Provincial Treasurer for that amount.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Returning Officer

*(Note: Form 3 is prescribed by sections 20, 36-42 of the Election Act)  
(Dec. 2002)*

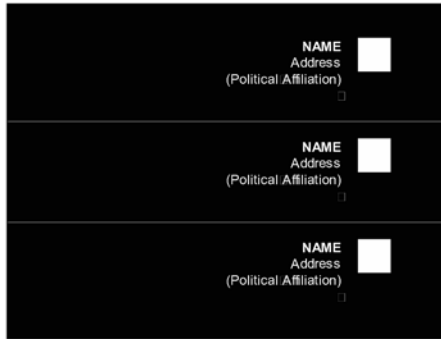
2003,c.34,s.8.

FORM OF BALLOT PAPER

Form 4

Election Act

Ballots shall be in reverse print style  
Shall be printed in alphabetical order of candidates' last names  
Shall be printed with the surname of candidate first, followed by the given name(s)  
Shall state address and political affiliation, if any, of each candidate  
Example:



Reverse Side)

(Example of

No. 0000

No. 0000

.....D.R.O. Initials  
[ ..... ]  
[ ..... (Stamp) ..... ]  
[ ..... ]

(Printer's Name)

(Note: Form 4 is prescribed by sections 53 & 54)

## SCHEDULE 2

### MAIL-IN BALLOT VOTING RULES

Definitions	<b>1. In these Rules</b>
Act	(a) “Act” means the <i>Election Act</i> ;
application	(b) “application for registration and mail-in ballot” means an application completed by an elector for registration in an electoral district and a mail-in ballot.
Canadian forces elector	(c) “Canadian Forces elector” means an elector who is qualified and entitled, under section 5, to vote under these Rules;
certificate envelope	(d) “certificate envelope” means an envelope supplied by the Chief Electoral Officer in which the inner envelope is placed by the elector;
commanding officer	(e) “commanding officer” means the commanding officer of a unit;
elector	(f) “elector” means a person entitled to vote pursuant to the Act;
hours of the day	(g) “hours of the day” and all other references to time relate to local time;
inner envelope	(h) “inner envelope” means the envelope supplied by the Chief Electoral Officer in which a ballot paper is to be enclosed after the ballot paper has been marked and before the ballot paper is transmitted to the Chief Electoral Officer or Returning Officer in an outer envelope;
mail-in ballot	(i) “mail-in ballot” means the ballot papers supplied to electors who are eligible under these Rules;
outer envelope	(j) “outer envelope” means an envelope supplied by the Chief Electoral Officer for the transmission of a ballot paper after it has been marked and enclosed in an inner envelope and certificate envelope;
polling day	(k) “polling day” means the date fixed pursuant to section 5 of the Act for holding the poll at an election;
statement of ordinary residence	(l) “statement of ordinary residence” means the statement completed by Canadian Forces personnel who are qualified and entitled to vote under these Rules;
validated application	(m) “validated application for registration and mail-in ballot” means that the electoral district has been entered on the application and signed by the returning officer;

(n) “validated statement of ordinary residence” means a statement of ordinary residence on which the electoral district of the elector has been entered;

validated statement

**2.** (1) The Chief Electoral Officer shall exercise general direction and supervision over the administration of these Rules.

Administration by  
Chief Electoral  
Officer

(2) For the purpose of carrying into effect these Rules or in order to adapt these Rules in respect of a particular circumstance, the Chief Electoral Officer may issue such instructions as necessary in order to execute their intent.

Adaptation of rules

**3.** The mail-in ballots shall be in the form of the ballot paper set out in Form 4 of Schedule 1.

Mail-in ballot form

**4.** (1) Every member of the Canadian Forces who is qualified as an elector is entitled to vote under these Rules if the member is

Canadian forces  
elector

- (a) a member of the regular force of the Canadian Forces;
- (b) a member of the reserve force of the Canadian Forces on full-time training or service or on active service; or
- (c) a member of the special force of the Canadian Forces.

(2) Every civilian who is employed outside Canada by the Canadian Forces as a teacher in a Canadian Forces school or as administrative support staff for such school and is qualified under the Act as an elector is entitled to vote under these Rules.

Civilian Canadian  
Forces elector

**5.** Notwithstanding section 4, a Canadian Forces elector is not entitled to vote under these Rules unless that person

Completion of  
statement of  
ordinary residence

- (a) completes a statement of ordinary residence pursuant to section 19 of the *Canada Elections Act*; and
- (b) is entitled to have his or her name registered on the list of electors pursuant to section 20 of the Act.

**6.** A Canadian Forces elector is entitled to vote under these Rules only for a candidate at an election in the electoral district in which is situated the place of ordinary residence of the Canadian Forces elector as shown on the statement of ordinary residence made by that elector pursuant to section 19 of the *Canada Elections Act*.

Voting limited to  
electoral district of  
ordinary residence

**7.** (1) Subject to subsection (2), a Canadian Forces elector is entitled to vote at an election only in accordance with the procedure set out in these Rules.

Procedure

- (2) A Canadian Forces elector who, on polling day,
  - (a) is actually ordinarily residing in the electoral district in which is located his or her place of ordinary residence as shown in the

Voting under Act

statement of ordinary residence made by him or her under these Rules; and

(b) has not voted under the procedure set out in these Rules, may vote at the place where he or she could vote if he or she were not a Canadian Forces elector.

Elector qualified to vote pursuant to rules	<b>8.</b> An elector who ordinarily resides in the Province of Prince Edward Island and who is not subject to any disqualification set out in section 21 of the Act is qualified to vote at an election in accordance with these Rules if that person's application for registration and mail-in ballot is received in writing or by facsimile transmission by 6:00 p.m. at the office of the returning officer or Chief Electoral Officer on or before the 13th day before polling day.
List of electors, inclusion on	<b>9.</b> (1) To be included on the list of electors, an elector must file with the Chief Electoral Officer or returning officer an application for registration and mail-in ballot containing such information in such form as the Chief Electoral Officer may require.
Vote by mail-in ballot only	(2) Once an elector's application for registration and mail-in ballot has been accepted, that elector may only vote by mail-in ballot.
Offence	<b>10.</b> Every person who knowingly makes a false statement in an application for registration and mail-in ballot is guilty of an offence.
Additional information	<b>11.</b> The Chief Electoral Officer may, where an application for registration and mail-in ballot does not contain all the required information, request, by notice in writing, the applicant to provide the Chief Electoral Officer with the required information.
Application approval	<b>12.</b> The Chief Electoral Officer shall, after issuing the writs and on approval of an application for registration and mail-in ballot, send to each elector, at the address set out in the application that has been provided by the elector, a ballot paper and an inner envelope, certificate envelope and an outer envelope in the prescribed form.
Casting of vote	<b>13.</b> An elector who receives a ballot paper shall mark the ballot paper by making a cross with a black lead pencil within the space on the ballot paper containing the name and particulars of the candidate for whom he or she intends to vote.
Ballot paper to be sealed in envelopes	<b>14.</b> After casting a vote, an elector shall fold the ballot paper in the same manner as the ballot paper was received and place the ballot paper in the inner envelope, seal the inner envelope and place it in the certificate envelope, which the elector shall sign, date and seal.

- 15.** An elector shall transmit the certificate envelope to the Chief Electoral Officer or returning officer in the envelope provided by mail or through any other prepaid system of delivery. Return envelope to Chief Electoral Officer
- 16.** The mail-in ballot must arrive at the office of the Chief Electoral Officer or returning officer not later than 12 noon on Monday ordinary polling day in order to be counted. Receipt of mail-in ballot date
- 17.** (1) For the purposes of these mail-in voting rules, the elector is solely responsible for ensuring that the application for registration and mail-in ballot is completed and received by the Chief Electoral Officer or returning officer within the time period specified. Onus on elector to deliver application
- (2) The elector is solely responsible for ensuring that the mail-in ballot is received by the Chief Electoral Officer or returning officer within the time period specified. Onus on elector to deliver mail-in ballot
- 18.** (1) Every person who is incarcerated in a provincial correctional institution, a federal penitentiary or a youth custody facility and who is otherwise qualified to vote under the Act is entitled to vote under these Rules. Entitlement of persons in correctional institutions to vote
- (2) An incarcerated elector is not entitled to vote under these Rules unless that person has signed an application for registration and mail-in ballot pursuant to section 9 of these Rules. Exercise of right to vote
- (3) An incarcerated elector is entitled to vote under these Rules only for a candidate in the electoral district in which is situated the place of ordinary residence of the incarcerated elector as shown on the application for registration and mail-in ballot made by the elector under section 9 of these Rules. Vote to be in electoral district
- (4) Prior to 6:00 p.m. on the 13th day before ordinary polling day an incarcerated elector wishing to vote must file with the returning officer or Chief Electoral Officer an application for registration and mail-in ballot indicating the city, town, village or other place in Canada, with street address, if any, province and postal code in which is situated
- (a) the residence of the elector prior to being incarcerated;
  - (b) the residence of a spouse, parent or dependent of the eligible elector;
  - (c) the place of arrest of the elector; or
  - (d) the last court where the elector was convicted and sentenced.
- (5) For the purposes of completing the application for registration and mail-in ballot, the place of ordinary residence of an incarcerated elector is the first of those places listed in clauses (4)(a) to (d) that is known to the elector. Place of ordinary residence

Application to be validated	<b>19.</b> All applications for registration and mail-in ballot shall be validated with the name of the electoral district in which is situated the residence shown in the application and such application shall be signed and dated by the returning officer who validates the application.
Coordinating officer	<b>20.</b> (1) Within ten days after the date of the writs, the appropriate Canadian Armed Forces officer shall send to the Chief Electoral Officer <ul style="list-style-type: none"> <li>(a) a statement of the number of Canadian Forces electors who are eligible to vote at the election;</li> <li>(b) a copy of the list of the Canadian Forces electors whose statements of ordinary residence have been validated as to electoral districts, setting out the place of ordinary residence of each elector, in the format specified by the Chief Electoral Officer.</li> </ul>
Transmission of lists	(2) The Chief Electoral Officer shall transmit to the returning officer of each electoral district a list of the names, military numbers and postal addresses of Canadian Forces electors whose ordinary residence is in the electoral district of the returning officer and the returning officer shall keep a copy and give a copy to each nominated candidate in the electoral district who requests one.
Special instructions for rules	<b>21.</b> The Chief Electoral Officer shall, for the purposes of these Rules, prescribe <ul style="list-style-type: none"> <li>(a) security instructions for the safekeeping of ballot papers, inner envelopes, certificate envelope, and all other election documents; and</li> <li>(b) instructions for the receiving, sorting and counting of the mail-in ballots.</li> </ul>
Deadlines for mail-in ballot papers	<b>22.</b> Only ballot papers received by the Chief Electoral Officer before 12 noon on Monday ordinary polling day may be counted.
Envelope to bear date and time received	<b>23.</b> (1) Every certificate envelope received by the Chief Electoral Officer must bear on the back of the envelope in the space provided the date and time received by the Chief Electoral Officer and his or her initials.
Envelope rejection	(2) Notwithstanding subsection (1), no envelope shall be rejected by reason only that the Chief Electoral Officer has not placed his or her initials upon the envelope.
Procedure where outer envelope is laid aside	(3) A certificate envelope shall be laid aside unopened where, during the receiving and sorting of certificate envelopes, it is determined on examination of a certificate envelope that <ul style="list-style-type: none"> <li>(a) in respect of any vote, a certificate envelope does not bear the signature of the elector;</li> <li>(b) the correct electoral district of the elector whose ballot is contained in the certificate envelope cannot be determined;</li> </ul>

- (c) the certificate envelope has been received by the Chief Electoral Officer after 12 noon on Monday ordinary polling day; or
- (d) the certificate envelope relates to an electoral district in which a candidate endorsed by a registered party has died between nomination day and polling day.

(4) Where, after receiving and prior to counting the certificate envelopes, it is ascertained that an elector has voted more than once, the certificate envelopes relating to that elector shall be laid aside unopened.

Procedure where elector votes more than once

(5) Where a certificate envelope is laid aside unopened pursuant to subsection (3) or (4),

Disposition of outer envelopes that are laid aside

- (a) the certificate envelope shall be endorsed by the Returning Officer with the reason why it has been laid aside;
- (b) in the case of an certificate envelope laid aside pursuant to subsection (4), the ballot paper contained in the certificate envelope shall be deemed to be a spoiled ballot.

(6) The Returning Officer shall prepare a report giving the number and stating the reason why each certificate envelope was laid aside.

Special report

**24.** (1) The Chief Electoral Officer shall ensure that the mail-in ballot envelopes returned to the office of the Chief Electoral Officer are kept sealed and in safekeeping until the envelopes are delivered to the designated returning officer.

Safekeeping of mail-in ballot envelopes

(2) The mail-in ballot envelopes shall be delivered to the designated returning officer prior to the time and place designated for the commencement of counting the advance poll ballots.

Delivery of envelopes to returning officers

(3) All mail-in ballot envelopes received after the prescribed deadline shall remain sealed and be kept separate and shall be initialled by the Returning Officer and marked with the date and time of their receipt.

Mail-in ballot envelopes received late to be kept separate

**25.** (1) The returning officer shall set aside a mail-in ballot if

- (a) the elector's identification does not correspond to the application received at the office of the returning officer;
- (b) more than one mail-in ballot has been issued to an elector;
- (c) the elector was not registered in the electoral district prior to the deadline; or
- (d) the outer envelope was received after the prescribed deadline pursuant to section 16.

Mail-in ballot not accepted

(2) At the time and place set for the counting of the advance poll ballots, the returning officer shall hear and determine any objection to an elector's right to vote in the electoral district by mail-in ballot.

Objections to mail-in ballots



- Counting of mail-in ballots **26.** (1) The returning officer and the advance poll deputy returning officer shall count all valid certificate envelopes and enter the count on the statement of poll.
- Counting mail-in ballots, procedure (2) At the time prescribed by the returning officer for the counting of the advance poll ballots and in the presence of the deputy returning officer, poll clerk and agents the returning officer shall
- (a) match the certificate envelopes containing the mail-in ballots with the names on the list of applications received and verify that the signatures are similar;
  - (b) if the returning officer is satisfied that the signatures on the certificate envelope and application is similar the returning officer shall open the certificate envelope and remove the inner mail-in ballot envelope;
  - (c) the returning officer shall open the inner envelope, remove the ballot and without opening it place the ballot in the advance poll ballot box.
- Offences **27.** Any person is guilty of an offence who
- (a) attempts to obtain or communicate any information as to the candidate for whom any ballot paper has been marked by an elector;
  - (b) interferes with, or attempts to interfere with an elector when marking a ballot paper, or otherwise attempts to obtain any information as to the candidate for whom any elector is about to vote or has voted;
  - (c) knowingly applies for a ballot paper to which that person is not entitled;
  - (d) makes any untrue statement in the application signed by that person to obtain a mail-in ballot;
  - (e) prevents or endeavours to prevent any elector from voting at an election
- Offences **28.** Every person is guilty of an offence where, in order to induce or compel an elector to vote for any candidate or to refrain from voting, or on account of the elector having voted for any candidate or refrained from voting at an election, the person, directly or indirectly, personally or through any other person,
- (a) uses or threatens to use any force, violence or restraint, inflicts or threatens to inflict any injury, damage, harm or loss or in any manner practises intimidation on or against an elector; or
  - (b) by abduction, duress or any false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of an elector.
- Validity of election not affected by non-compliance **29.** The validity of an election shall not be questioned

- (a) on the ground of any omission or irregularity in connection with the administration of these Rules, if it appears that the omission or irregularity did not affect the result of the election; or
- (b) on the ground that, for any reason, it was found impossible to secure the vote of any elector under these Rules.

2002,c.4,s.24; 2003,c.34,s.9.