

Métis Nation – Saskatchewan

An Act respecting election of members of the Provincial Métis Council

Table of Contents

	PART I	28	Secrecy of the vote
	GENERAL PROVISIONS	29	Voting in office of the Regional Returning Officer
1	Short title		
2	Purpose		Advance Vote
3	Definitions		
4	Application	30	Advance vote required
		31	Voting procedure
		32	Polling record
		33	Procedure at close of poll
	PART II		Mobile Poll
	DEMOCRATIC RIGHTS		
	Voters		
5	Right to vote	34	Request
6	Secret ballot	35	Establishment
7	One vote	36	Itinerary
8	Voting location	37	Voting procedures
9	Determining voter’s residence	38	Procedure at close of poll
10	Languages of election officers		
11	Voters list		Recording Early Voters
	Candidates	39	After each advance or mobile poll
12	Right to be a candidate		Operation of Polling Stations
13	Number of nominators required		
14	Nomination papers	40	Maintaining peace and order
15	Refusal of nomination	41	Presence of candidates or representatives
16	Notice of suspected ineligibility	42	Political activities prohibited
17	Withdrawal or death of candidate	43	Hours of operation
18	Election by acclamation	44	Extension of hours
		45	Initialling ballots
		46	Inspection of ballot box
		47	Polling record
		48	Opening the polling station
		49	Proof of entitlement to vote
	PART III		Ballot Procedures
	HOLDING AN ELECTION		
	Preliminaries		
19	Election day	50	Delivery of ballot
20	Vacancies	51	Instructions to voter
21	Notice of election	52	Marking a ballot
22	Establishment of office of Chief Electoral Officer	53	Handling marked ballot
23	Establishment of polling stations	54	Spoiled ballot
24	Ballots and election materials		
25	Materials provided to returning officers		
26	Safekeeping		
27	Methods of voting		

ELECTION ACT

Assistance to Voters

- 55 By deputy returning officer
- 56 By third parties
- 57 Disabled voter

Challenge at Poll

- 58 Procedure

PART IV ELECTION RESULTS

- 59 Time of counting
- 60 Who may be present
- 61 Procedure for counting the votes
- 62 Rejection of ballots
- 63 Effect of failure to initial
- 64 Objections
- 65 Statement of the poll
- 66 Handling of ballots

Election Results

- 67 Informal notification
- 68 Verification of votes
- 69 Regional election report
- 70 Provincial election report
- 71 Declaration of elected candidate
- 72 Delay for recount or addition

Recount or Addition

- 73 Request
- 74 Date for recount
- 75 Procedure
- 76 Certification of votes
- 77 Costs

Voiding an Election

- 78 Making the application
- 79 Jurisdiction of the Adjudicator
- 80 Persons entitled to sit
- 81 New election

Management of Election Material

- 82 Ballot boxes
- 83 Remission
- 84 Delivery to Regional Returning Officer
- 85 Delivery to Chief Electoral Officer
- 86 Preservation
- 87 Destruction
- 88 Documents of Chief Electoral Officer

- 89 Public records
- 90 Removal of campaign material

Contributions, Expenses and Advertising

- 91 Contributions only from voters
- 92 Contribution limits
- 93 Election expenses
- 94 Advertising

PART V ADMINISTRATION Chief Electoral Officer

- 95 Appointment
- 96 Obligations
- 97 Duties
- 98 Administrative powers
- 99 Delegation
- 100 Power to adapt the Act
- 101 Directions
- 102 Agreements
- 103 Deputy Chief Electoral Officer
- 104 Staff
- 105 Contracting services

Regional Returning Officers

- 106 Appointment
- 107 Resignation
- 108 Dismissal
- 109 Vacancy
- 110 Duties
- 111 Delegation
- 112 Assistant regional returning officer

Election Officers

- 113 Appointment
- 114 Qualifications
- 115 Duty of impartiality
- 116 Oath of office

Miscellaneous

- 117 Notices
- 118 Oaths, etc., without charge
- 119 Marks in lieu of signatures
- 120 Decisions final

ELECTION ACT

PART VI ENFORCEMENT Offences

- 121 Generally
- 122 Voters lists and voters information
- 123 Voter offences
- 124 Offence relating to votes
- 125 Ballot offences
- 126 Inducement of voters
- 127 Undue influence
- 128 Disturbing peace at polling station

- 129 Prohibition on telecommunication devices
- 130 Prohibition on cameras and recorders
- 131 False statement of withdrawal
- 132 Offences by candidates
- 133 Offences involving election officers

- 134 Improper advice
- 135 Improper vote count

Complaints, Investigation and Adjudication

- 136 Complaints Officer
- 137 Adjudicator
- 138 Prohibited activities
- 139 Making a complaint
- 140 Review and investigation
- 141 Order to cease activity or take action
- 142 Adjudication
- 143 Ineligibility to hold office

PART VII REPEAL AND COMING INTO FORCE

- 144 Repeal
- 145 Coming into force

The Métis Nation Legislative Assembly, in accordance with the authority granted to it by the Métis Nation within Saskatchewan through its Constitution, enacts as follows:

PART I GENERAL PROVISIONS

Short title

1 This Act may be cited as the *Election Act, 2024*.

Purpose

2 The purpose of this Act is to establish a dependable regime that promotes the meaningful exercise of the democratic rights and freedoms of the Métis Nation within Saskatchewan.

Definitions

3 In this Act:

“**Adjudicator**” means the person appointed under section 137 to hear complaints under this Act;

“**advance vote**” means a vote held before election day;

“**approved**” means as approved by the Chief Electoral Officer;

“**by-election**” means an election to fill a vacancy between elections;

“**campaign material**” means any advertisement, including advertisements on the radio, television and the internet as well as placards, posters or banners, in favour of or on behalf of a candidate or against a candidate;

ELECTION ACT

“candidate” means a person:

- (a) who is a candidate for election as a member of the PMC o; and
- (b) whose nomination papers are accepted by the Chief Electoral Officer;

“Chief Electoral Officer” means the Chief Electoral Officer appointed under section 90;

“close of nominations” means 2:00 pm on the 30th day before election day;

“Complaints Officer” means the person appointed under section 136 to enforce compliance with this Act;

"Constitution" means the *Métis Nation – Saskatchewan Constitution*;

“election day” means the day determined in accordance with section 19;

“election officer” means:

- (a) the Chief Electoral Officer;
- (b) any person acting as the Chief Electoral Officer;
- (c) a Regional Returning Officer;
- (d) an assistant regional returning officer;
- (e) a deputy returning officer;
- (f) a poll clerk;
- (g) a supervisory deputy returning officer; or
- (h) any other person engaged by the Chief Electoral Officer to assist in the operation of a polling place;

“election period” means the period commencing 35 days before election day and terminating at the close of polls on election day, or the day the election is cancelled;

"Executive Members" means the members of the Executive described in the Constitution;

“family” means:

- (a) the spouse, children, parents and siblings of a person; or
- (b) anyone who is related to the person or their spouse, shares a residence with the person and is primarily dependent on the person or the person’s spouse for financial support;

“MNLA” means the Métis Nation Legislative Assembly described in the Constitution;

"MN-S Citizen" means a person who meets the criteria described in Article 10 of the Constitution and is registered in accordance with the *Citizenship Act, 2024*;

“nomination period” means the period of five consecutive days ending on the close of nominations, during which nominations of prospective candidates may be submitted;

“PMC” means the Provincial Métis Council provided for in the Constitution;

ELECTION ACT

“**polling record**” means the document containing the name and other particulars of every person who votes, and other voting particulars added by the poll clerk;

“**polling station**” means premises secured by a Regional Returning Officer for the taking of the votes on election day or the day of the advance vote;

“**Region**” means a Region as described in the Constitution;

“**Regional Representative**” means the representative elected in each Region to serve on the PMC as provided for in the Constitution;

“**voter**” means a person who has the right to vote in an election under this Act;

“**youth**” means a person between the ages of 16 and 29 years.

Application

4 This Act applies to the election of all members of the PMC.

PART II DEMOCRATIC RIGHTS

Voters

Right to vote

5 An individual who is registered as an MN-S citizen is an eligible voter and entitled to vote during an election, if on election day, the person:

- (a) is at least 16 years of age;
- (b) is a resident of Saskatchewan for at least six months prior to election day; and
- (c) in the case of an election for:
 - (i) a Regional Representative, is ordinarily resident in the Region;
 - (ii) a representative for Métis women on the PMC, is a Métis woman;
 - (iii) a representative for Métis youth on the PMC, is a Métis youth.

Secret ballot

6 Every voter has the right to vote by secret ballot.

One vote

7 A voter may only exercise the right to vote once for each office for which the election is held and for which the voter is eligible to vote.

Voting location

8 A voter may only vote at a polling station or other place for voting in the Region in which the voter ordinarily resides, except voters in a penal or correctional institution who may vote at a mobile poll arranged for that institution.

ELECTION ACT

Determining voter's residence

9(1) For the purposes of this Act, the place of residence of a voter is determined by reference to all the facts of the case and by the provisions of this section, to the extent that they apply.

(2) The ordinary residence of a voter is the place of the voter's usual residence and to which, when absent, the voter intends to return.

(3) A voter's ordinary residence is not lost by reason of a temporary absence from the voter's usual residence.

(4) A voter who remains in Saskatchewan is deemed not to have lost their ordinary residence until the voter acquires another.

(5) A voter who moves to a place outside Saskatchewan with the intention of remaining outside Saskatchewan for at least five years, loses their ordinary residence in Saskatchewan, notwithstanding the voter's intention of returning at some future time.

(6) A voter is deemed not to have acquired an ordinary residence in Saskatchewan or in a Region if the voter comes to Saskatchewan or the Region for temporary purposes only, without intending to make Saskatchewan or some place in the Region their usual residence.

(7) A voter who leaves their ordinary residence in Saskatchewan:

(a) to study at an educational institution outside Saskatchewan, is deemed to be ordinarily resident in the Region in which the voter was resident immediately before leaving Saskatchewan;

(b) to study at an educational institution in Saskatchewan, must choose one of the following Regions:

(i) the Region in which the voter was residing immediately before leaving to pursue their studies; or

(ii) the Region to which the voter has moved for the purpose of pursuing their studies and in which the voter was residing at the beginning of the election period;

(c) to serve as a member of the Canadian Forces outside Saskatchewan, is deemed to be ordinarily resident in the Region in which the voter was resident immediately before leaving Saskatchewan;

and is deemed to continue to have that ordinary residence until the voter completes or abandons their studies or while serving as a member of the Canadian Forces, as the case may be.

(8) A voter who is in a penal or correctional institution in Saskatchewan must choose one of the following Regions and, on that choice, is deemed to be ordinarily resident in that Region:

(a) the Region, if any, in which the voter was ordinarily resident before being in the penal or correctional institution;

(b) the Region, if any, in which a spouse, parent or dependant of the voter is ordinarily resident.

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

ELECTION ACT

(10) A voter is deemed to have a residence in only one place and, if a voter maintains a residence in more than one place, the voter must select one residence for the purpose of this Act.

Languages of election officers

10(1) Election officers should be appointed to represent the languages spoken in the community in which they will be performing their functions.

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

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

Voters list

11(1) The Registrar appointed by the MNLA to administer the Central Registry under the *Citizenship Act, 2024* shall, no later than 15 days prior to the election, provide the Chief Electoral Officer with a list of all MN-S Métis Citizens who are entitled to vote in the election.

(2) No person shall copy or use a voters list provided pursuant to subsection (1) for any purpose other than an election under this Act.

Candidates

Right to be a candidate

12(1) Every person has a right to be a candidate in an election if, on close of nominations, the person is:

- (a) at least 18 years of age and qualified to vote in the election for the office for which the person seeks to be a candidate; and
- (b) not disqualified under this section.

(2) A person is not qualified to be a candidate if, on close of nominations, the person:

- (a) holds elected office pursuant to *The Elections Act, 1996* (Saskatchewan); *The Local Government Election Act, 2015* (Saskatchewan) or the *Canada Elections Act* or is a member of the Senate of Canada;
- (b) is a judge of any court, other than a citizenship court;
- (c) is an election officer or a member of the staff of the Office of the Chief Electoral Officer;
- (d) is not a resident of Saskatchewan or, if the person is a candidate for Regional Representative, is not a resident of the Region;
- (e) in the case of a person who is a candidate for election as a youth representative, the person will attain the age of 29 years before the completion of the term of office;
- (f) is confined to a penal or correctional institution and is serving a sentence of confinement that extends to at least election day;
- (g) committed an offence in relation to elections within the previous 10 years; or

ELECTION ACT

- (h) committed an indictable offence within the previous five years.
- (3) A person is not qualified to be a candidate for a period of five years if the person signs any document that would, if the person were elected, require the person to:
 - (a) resign at the request of another or constitute an undated resignation; or
 - (b) require the person to follow any course of action that would prevent the person from exercising freedom of action in the elected position.
- (4) No person may be a candidate for more than one elected office at the same election.
- (5) A candidate who holds office in or on any other elected or appointed body of the Métis Nation – Saskatchewan shall, if elected to the PMC, resign from the other office before assuming his or her duties.

Number of nominators required

- 13(1)** Any five or more voters may nominate a candidate for the office of Executive Member.
- (2) Any five or more voters who are women may nominate a candidate for women's representative on the PMC.
- (3) Any five or more voters who are youth may nominate a candidate for youth representative on the PMC.
- (4) Any five or more voters in a Region may nominate a candidate for the office of Regional Representative.
- (5) A nomination must be made by filing nomination papers with the Chief Electoral Officer in the approved manner any time between 9:00 am on the 35th day before election day and 2:00 pm on the 30th day before election day.

Nomination papers

- 14(1)** The nomination papers must be in the approved form and must include the following information:
 - (a) the name of the office for which the person seeks to be a candidate;
 - (b) a warning that if the person is nominated as a candidate for more than one office, all nominations for that person are void;
 - (c) the full legal name of the prospective candidate and their contact information;
 - (d) any request to use a name on the ballot by which the prospective candidate is commonly known;
 - (e) an oath or affirmation from the prospective candidate that they are eligible to be a candidate and agree to be nominated;
 - (f) the signature of the prospective candidate signed in front of a voter who signs as a witness;
 - (g) the full names, postal or civic address and signatures of at least five voters who are nominating the candidate and who are eligible to do so, each of whom signs in front of another voter who signs as a witness;

ELECTION ACT

- (h) the full name, postal or civic address and signature of each voter who witnessed any person sign the nomination papers;
 - (i) a declaration, in the approved form, by each voter who witnessed any person sign the nomination papers;
 - (j) a Canadian Police Information Centre criminal record check; and
 - (k) a non-refundable deposit of \$100 in the approved form.
- (2) When setting out the full name of a prospective candidate in the nomination papers:
- (a) titles, degrees or prefixes must not be included;
 - (b) a nickname commonly used by the prospective candidate may be included with the candidate's given names if approved by the Chief Electoral officer; and
 - (c) a normal abbreviation of one or more of the given names of the prospective candidate may be substituted for the given name or names.
- (6) A candidate cannot be a witness to any signature in their own nomination papers.

Refusal of nomination

15(1) The Chief Electoral Officer shall refuse to accept the nomination papers and shall reject the candidacy of a person if the Chief Electoral Officer is aware that:

- (a) the nomination papers are incomplete or were not filed before the close of nominations;
 - (b) all the necessary documents for the nomination were not properly filed according to the requirements of this Act;
 - (c) the person has been nominated as a candidate for more than one office; or
 - (d) the person is ineligible to be a candidate.
- (2) Where nomination papers are rejected because they were improperly filed, they may be corrected, completed or replaced with new ones before the close of nominations.
- (3) Where a person has been nominated as a candidate for more than one office, all the nominations for that person are void.
- (4) Unless the nomination papers are rejected under subsection (1), the Chief Electoral Officer shall issue to the prospective candidate a certificate indicating that the prospective candidate's nomination papers have been accepted.

Notice of suspected ineligibility

16(1) If the Chief Electoral Officer has reason to suspect that the candidacy of a person should be rejected, the Chief Electoral Officer shall immediately notify the prospective candidate of the suspicion and the reasons for it.

- (2) The prospective candidate must make any submissions to the Chief Electoral Officer immediately on being notified of the suspicion of being ineligible.
- (3) The Chief Electoral Officer shall, after considering any submissions on behalf of the prospective candidate and no later than two days after receiving them, make a decision on whether the person is ineligible and their candidacy is to be rejected.

ELECTION ACT

Withdrawal or death of candidate

17(1) A candidate may withdraw by personally submitting to the Chief Electoral Officer a letter of withdrawal signed by the candidate and witnessed by two voters.

(2) Once the nomination period is closed it shall not be re-opened and the withdrawal or death of a candidate after the close of nominations shall not result in another nomination period.

Election by acclamation

18(1) Where, at the close of nominations, only one person has been nominated for the office, that person is deemed to be elected by acclamation.

(2) When, as a result of the withdrawal or death of a candidate there is only one candidate left for election to that office, no election shall be held and the remaining candidate is deemed to be elected by acclamation.

(3) Where a candidate has been elected by acclamation, the Chief Electoral Officer shall send a copy of the election report to the elected person.

PART III HOLDING AN ELECTION

Preliminaries

Election day

19 Election day is the day fixed by resolution of the MNLA.

Vacancy on PMC

20 (1) Where the office of a member of the PMC becomes vacant for any reason, the Chief Electoral Officer, on being informed of the vacancy, shall issue a notice of election for the by-election of a candidate to fill the vacancy, setting a date for the by-election to be held as soon as reasonably practicable and not later than six months after the office becomes vacant.

(2) No declaration of election shall be issued for a by-election under subsection (1) if the vacancy occurs within six months before the day of the next general election to be held in accordance with the Constitution.

(3) The Chief Electoral Officer may conduct a by-election in accordance with this Act or may adapt or replace the provisions of this Act in whole or in part with an electronic voting procedure that is accessible to all voters and provides voting security at least equivalent to the provisions of this Act.

Notice of election

21(1) Each Regional Returning Officer shall, in accordance with the directions of the Chief Electoral Officer, give public notice concerning details of the election, including the following information:

(a) the full name of and appropriate contact information for each candidate for each office, as stated in the candidate's nomination papers, in the order in which those names are to be placed on the ballot;

(b) the name of the Region; and

ELECTION ACT

- (c) the location and hours of each voting opportunity in the Region.

Establishment of office of Chief Electoral Officer

22 (1) The Chief Electoral Officer shall establish an office for the election period that is easily accessible to most of the voters and open to the public.

- (2) The Chief Electoral Officer may establish additional offices.

Establishment of polling stations

23(1) Each Regional Returning Officer shall, in accordance with the directions of the Chief Electoral Officer, establish:

- (a) at least one polling station for each Region, at such place or places as best suit the convenience of voters for voting on election day and at the advance vote;
- (b) at least one polling station for the advance vote; and
- (c) a mobile polling station on the day of the advance vote for voters who are not able to attend a polling station.

(2) If it is more convenient for the voters, a Regional Returning Officer may establish a central polling place consisting of two or more polling stations, instead of having several polling stations separately located in a single community.

(3) The Chief Electoral Officer shall, as early as possible in the election period and no later than the 25th day before election day, give the public and candidates notice of the names and address of each Regional Returning Officer and assistant regional returning officer and the location and identification of each polling station.

(4) The Chief Electoral Officer shall ensure that each polling station is furnished with the required material.

(5) The election officers at each polling station comprise a deputy returning officer and a poll clerk and, in a central polling place, may include a supervisory deputy returning officer and an officer to regulate the entry of people.

Ballots and election materials

24(1) The ballots used at an election for the candidates for each office must be in the approved form.

(2) Each ballot must:

- (a) clearly identify the office being elected;
- (b) clearly identify each candidate;
- (c) list, in alphabetical order, the name of each candidate in accordance with the candidate's nomination papers and approved by the Chief Electoral Officer; and
- (d) state the year of the election and the name of its printer on its reverse side.

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

ELECTION ACT

- (4) The printer of the ballots shall deliver to the Chief Electoral Officer a declaration, in the approved form, setting out:
- (a) the description of the ballot papers printed by the printer;
 - (b) the number of ballot papers supplied to the Chief Electoral Officer; and
 - (c) a confirmation that any excess ballots have been destroyed and that no ballots have been supplied to any other person.
- (5) The Chief Electoral Officer shall cause the ballots for each office to be printed in the proper form and in the required number, plus an extra 10 percent for contingencies.
- (6) The Chief Electoral Officer shall:
- (a) approve the specifications for the construction of ballot boxes;
 - (b) supply the required ballot boxes for each Region; and
 - (c) supply the required voting compartments for each polling station.
- (7) All voting compartments must be placed to ensure that each voter may be screened from observation and mark their ballot paper without interference or interruption.
- (8) The Métis Nation – Saskatchewan is the owner of the ballots and all other election materials provided for use at an election, other than any materials on loan from another elections office.

Materials provided to returning officers

25(1) The Chief Electoral Officer shall, as soon as possible after the close of nominations, send to each Regional Returning Officer:

- (a) copies of this Act and instructions for the proper conduct of the election for use by the Regional Returning Officer and the election officers at the polling stations and at central polling places; and
 - (b) the supplies and accessories necessary for taking the vote, other than the ballots.
- (2) The Regional Returning Officer shall supply the required election materials to each deputy returning officer in the Region in accordance with the directions of the Chief Electoral Officer.

Safekeeping

26 The deputy returning officer shall keep the election materials, including the ballots and polling record, in the sealed ballot box and shall take all reasonable precautions to prevent unauthorized access to them.

Methods of voting

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

- (a) voting in person at the office of the Regional Returning Officer;
- (b) voting in person at a polling station on election day;
- (c) voting in person at a polling station at an advance vote; or
- (d) voting in person at a mobile poll.

ELECTION ACT

Secrecy of the vote

28(1) Every person present at a polling station or present for the counting of the vote shall preserve the secrecy of the vote and, in particular, no person shall:

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

(2) No voter shall:

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

(3) A deputy returning officer shall inform any voter who contravenes subsection (2) that the voter is guilty of an offence but shall allow the voter to vote in the usual way.

(4) Subsection (3) does not limit any enforcement provisions of this Act.

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

(6) No person may be forced to reveal the candidate for whom the person has voted.

Voting in office of Regional Returning Officer

29(1) A voter may vote in the office of the Regional Returning Officer and the provisions of this Act respecting polls and voting on election day apply with such modifications as the circumstances require or as the Chief Electoral Officer may direct.

(2) A person may vote at the office of the Regional Returning Officer only during the hours of 10:00 am and 6:00 pm, commencing the 15th day before election day, and ending the 8th day before election day, but not including a Sunday.

(3) The Regional Returning Officer shall, in accordance with the directions of the Chief Electoral Officer:

- (a) keep a record of voters who have voted in the office of the Regional Returning Officer and notify the deputy returning officers of the voters who have so voted;
- (b) seal the ballots and all the election materials inside the ballot box in the approved manner;
- (c) secure the ballot box and ballot papers during the period in which persons may vote at the office of the Regional Returning Officer until the time for the counting of votes on election day;
- (d) count the votes in the office of the Regional Returning Officer at the close of the polls on election day; and

ELECTION ACT

(e) secure the ballot papers and other material associated with the voting after the counting of the votes.

Advance Vote

Advance vote required

30 An advance vote must be held in each Region on the 7th day before election day from noon to 7:00 pm at the polling stations designated by the Chief Electoral Officer.

Voting procedure

31 The voting procedures applicable to voting at a polling station on election day apply to the procedure at an advance vote, with any modifications that the circumstances require.

Polling record

32 The poll clerk at the advance vote shall, under the direction of the deputy returning officer, keep a polling record of the advance vote in the approved form, that includes:

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

Procedure at close of poll

33(1) After the close of the poll at the advance vote, the deputy returning officer shall:

- (a) count the number of voters who voted at the polling station and record the total on the polling record;
- (b) place the spoiled ballots in the envelope provided for this purpose, note on the outside of the envelope the number of spoiled ballots it contains and seal the envelope;
- (c) count the number of unused ballots that are not detached from the books of ballots, and record the total on the polling record;
- (d) place the unused ballots and the stubs of all used ballots into the special envelope provided for this purpose, note on the outside of the envelope the number of unused ballots it contains and seal the envelope;
- (e) count the number of used ballots from the ballot book and record the total on the polling record;
- (f) check the number of ballots supplied by the returning officer against the number of spoiled ballots, unused ballots and ballots deposited in the ballot box;
- (g) put the used ballots and the polling record and statement of the poll in the special envelope provided for this purpose, note on the outside of the envelope the number of used ballots it contains and seal the envelope; and
- (h) put all the materials in the ballot box and seal it.

ELECTION ACT

(3) At the close of the poll at the advance vote the deputy returning officer shall send the sealed ballot box and polling record to the Regional Returning Officer, in accordance with the directions of the Chief Electoral Officer.

Mobile Poll

Request

34(1) A Regional Returning Officer shall give public notice that voters may call the Regional Returning Officer to request a visit by a mobile poll, if the voter is unable to vote at the office of the Regional Returning Officer or at a polling station.

(2) A request for a mobile poll must be made before 5:00 p.m. on the 12th day before election day.

Establishment

35 A mobile poll may be established in a Region on the day of the advance vote, if the Chief Electoral Officer considers that there is sufficient need.

Itinerary

36(1) Subject to subsection (2), the Regional Returning Officer shall determine:

- (a) the appropriate schedule for any mobile poll; and
- (b) the places where and the hours during which the mobile poll will be available to voters.

(2) The Chief Electoral Officer shall determine:

- (a) the appropriate schedule for any mobile poll for voters who are confined in a penal or correctional institution; and
- (b) the places where and the hours during which the mobile poll will be available to those voters.

Voting procedures

37 Unless the Chief Electoral Officer instructs otherwise, the provisions of this Act respecting the conduct of voting at a polling station apply to a mobile poll with any modifications that the circumstances require.

Procedure at close of poll

38 At the close of the mobile poll, the deputy returning officer of the mobile poll shall send the sealed ballot box and the polling record to the Office of the Chief Electoral Officer.

Recording Early Voters

After each advance or mobile poll

39 Immediately upon completion of an advance poll or mobile poll, the Regional Returning Officer shall compile a list of the names of all voters who voted and distribute that list to the Chief Electoral Officer and all deputy returning officers in the Region for use at any further polls.

Operation of Polling Stations

Maintaining peace and order

40(1) The Regional Returning Officer, during an election, and the deputy returning officer, during the hours that the polls are open, shall take reasonable measures to maintain peace and order.

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

(3) The Chief Electoral Officer may arrange in advance for peace officers to be ready to maintain peace and order throughout election day.

Presence of candidates or representatives

41(1) A candidate or the candidate's authorized representative may be present at all operations relating to the poll and may remain for the counting of the ballots.

(2) Each candidate's representative shall, on first arrival at the polling station:

(a) give the deputy returning officer a copy of the approved authorization signed by the candidate; and

(b) take an oath or affirmation, in the approved form, to keep secret the name of the candidate for whom any ballot may be marked at the polling station.

(3) A candidate may have a different representative at a polling station at different times but may not attend with a representative or have more than one representative present at any given time.

(4) A candidate, or an authorized representative of a candidate, who is present at the polling station at least 15 minutes before the hour fixed for opening the poll, is entitled, without causing any delay in the opening of the poll:

(a) to have the ballot papers for the polling station counted in their presence before the opening of the poll; and

(b) to inspect the ballot papers and all other papers, forms and documents relating to the poll.

Political activities prohibited

42 No person shall, in or within 50 metres of the entrance to a polling station:

(a) influence or attempt to influence how a person votes;

(b) distribute pamphlets, buttons or other items referring to a candidate;

(c) wear or display any item referring to a candidate; or

(d) post or display a sign or poster referring to a candidate.

Hours of operation

43(1) On election day, the polling stations shall be open from 9:00 am to 8:00 pm.

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

ELECTION ACT

Extension of hours

44(1) A Regional Returning Officer may, if instructed by the Chief Electoral Officer, extend the time of closing of that polling station if:

- (a) the opening of the polling station was delayed beyond the time provided for in subsection 39(1) or its operation was halted during election day because of an accident, riot, weather conditions or another similar factor; and
- (b) a significant number of voters would not be able to vote without the extension.

(2) An extension in accordance with subsection (1) cannot result in the polling station being open for a total period exceeding 12 hours.

(3) The Regional Returning Officer may, if reasonable to do so, notify the public of the extension in accordance with the directions of the Chief Electoral Officer.

(4) Where the time of closing of a polling station is extended, the procedure for counting the ballots at all other polling stations in the Region shall be similarly delayed.

Initiailling ballots

45(1) The deputy returning officer shall, before opening the polling station, and in full view of all present:

- (a) carefully count the ballots for use at that poll;
- (b) uniformly initial the back of the ballots in the space provided for this purpose; and
- (c) pursuant to subsection 38(4), allow the candidates or their authorized representatives present to inspect the ballots and all other documents relating to the poll.

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

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

Inspection of ballot box

46(1) The deputy returning officer shall, at the time fixed for opening the polling station and in full view of all present, open the ballot box and establish that it is empty.

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

Polling record

47 The Chief Electoral Officer shall prepare a polling record for use in each Region to record the voters who voted, any related documentation relating to eligibility or identity, and any occurrence or information required by this Act or the directions of the Chief Electoral Officer to be recorded.

Opening the polling station

48(1) A deputy returning officer shall, immediately after the ballot box is sealed, call on voters to cast their ballots.

ELECTION ACT

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

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

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

Proof of entitlement to vote

49(1) A person who wishes to receive a ballot and vote must provide approved documentation to prove that the person is entitled to vote in accordance with section 5.

(2) A person who refuses to provide proof pursuant to subsection (1) is not allowed to receive a ballot and vote.

Ballot Procedures

Delivery of ballot

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

Instructions to voter

51 The deputy returning officer shall instruct the voter on how to properly mark and handle the ballot.

Marking a ballot

52(1) The proper way to mark a ballot is to make an “X”, or another sign that clearly indicates which candidate the voter has chosen, in the circular space on the ballot adjacent to the candidate’s name, using the marking device provided.

(2) Each voter shall, after receiving a ballot:

- (a) proceed directly to the voting compartment;
- (b) mark the ballot in the proper way;
- (c) fold the ballot as instructed by the deputy returning officer so that the initials on the back of the folded ballot and the serial number on the back of the stub are visible without unfolding the ballot; and
- (d) return the ballot to the deputy returning officer.

Handling marked ballot

53(1) The deputy returning officer shall, upon receiving the ballot from the voter:

- (a) without unfolding the ballot, verify that it is the same one that was handed to the voter by examining the initials and serial number on the back of the ballot;
- (b) remove and destroy the counterfoil in full view of the voter and all others present; and

ELECTION ACT

- (c) return the ballot to the voter who deposits it in the ballot box or, if the voter so requests, deposit the ballot in the ballot box for the voter.
- (2) The poll clerk shall record, in the polling record, the name of the voter who has voted.
- (3) The voter shall leave the polling station in a reasonably expeditious manner after the voter's ballot is deposited in the ballot box.

Spoiled ballot

- 54(1)** Any voter who, having received a ballot, inadvertently marks or damages it, shall return it to the deputy returning officer who shall cancel the ballot by defacing it, deposit the spoiled ballot in the envelope provided for this purpose and deliver another ballot to the voter.
- (2) The deputy returning officer shall treat any misprinted ballot as a spoiled ballot.

Assistance to Voters

By deputy returning officer

55 If a voter requests assistance in marking the voter's ballot, the deputy returning officer shall assist the voter by any means likely to enable the voter to vote.

By third parties

- 56(1)** A friend or relative may accompany a voter requiring assistance into the voting compartment to assist the voter in voting.
- (2) No person, other than an election officer, shall assist more than one voter in marking a ballot.
- (3) Any friend or relative who wishes to assist a voter in marking a ballot shall first solemnly promise that they:
 - (a) shall mark the ballot as instructed by the voter;
 - (b) shall keep the choice of the voter secret;
 - (c) shall not influence the voter in choosing a candidate; and
 - (d) have not assisted, during the current election, another person to vote.
- (4) The poll clerk shall, in addition to the other requirements of this Act, record the fact that the voter received assistance and enter the name of the friend or relative of the voter in the remarks column of the polling record opposite the entry for the voter.

Disabled voter

- 57(1)** Any voter with a physical disability who has difficulty entering the polling station may request the deputy returning officer to allow the voter to vote at the nearest possible place outside the polling station to which the voter has access.
- (2) The deputy returning officer shall, for the purposes of subsection (1):
 - (a) temporarily halt all operations in the polling station;
 - (b) bring a ballot to the voter outside the polling station; and
 - (c) take whatever steps are necessary to ensure the security of voting materials and the secrecy of the vote.

ELECTION ACT

(3) The deputy returning officer shall bring the voter's marked ballot back into the polling station, deposit it in the ballot box and resume operations in the polling station.

Challenge at Poll

Procedure

58(1) Where a person alleges that someone has committed or is attempting to commit the offence of impersonation or voting without the right to do so, the deputy returning officer shall take the information of the allegation from the person under oath or affirmation, in the approved form.

(2) The deputy returning officer, or a peace officer, may:

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

PART IV ELECTION RESULTS

Time of counting

59 On election day, immediately after the close of the polls in the Region:

- (a) the deputy returning officer shall:
 - (i) unseal all ballot boxes at the polling station; and
 - (ii) count the votes at the polling station;
- (b) the Regional Returning Officer shall:
 - (i) unseal all ballot boxes from the voting in the office of the Regional Returning Officer, mobile polls and polls at the advance vote in the Region; and
 - (ii) count the votes at the Regional Returning Office.

Who may be present

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

- (a) an election officer;
- (b) a candidate or an authorized representative of the candidate;
- (c) any peace officers at the polling station;
- (d) legal counsel for the Chief Electoral Officer; and
- (e) the Chief Electoral Officer and Deputy Chief Electoral Officer.

Procedure for counting the votes

61 The deputy returning officer shall, in the presence of the poll clerk and the candidates or their authorized representatives, if present, make the count in accordance with this Act and the regulations and the directions of the Chief Electoral Officer.

Rejection of ballots

62(1) When counting the ballots, the deputy returning officer shall reject any ballot that was:

- (a) not supplied by the Chief Electoral Officer;
- (b) not marked in favour of a candidate;
- (c) marked in a way that does not clearly indicate the voter's intent;
- (d) marked in favour of a person who is not a candidate;
- (e) marked for more than one candidate;
- (f) marked in a place other than the circular space provided, unless the mark clearly indicates the voter's intention; or
- (g) marked in a way that identifies the voter.

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

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

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

Effect of failure to initial

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

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

Objections

64(1) Where a candidate or representative objects to the validity of a ballot, the deputy returning officer shall record the objection in accordance with subsection (3) and render a decision on the questions raised by the objection.

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

(3) The deputy returning officer shall:

- (a) record each objection in the polling record setting out the name of the objector, the grounds of the objection and an identifying number;

ELECTION ACT

- (b) inscribe the number of the objection on the back of the ballot; and
- (c) initial the ballot.

Statement of the poll

65(1) The deputy returning officer shall prepare a statement of the poll that sets out:

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

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

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

Handling of ballots

66(1) After completing the statement of the poll, the deputy returning officer shall, using envelopes supplied by the Chief Electoral Officer:

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

(2) The deputy returning officer shall seal each envelope, noting the contents on the outside, and the deputy returning officer and the poll clerk, as well as any other person present who wishes to, shall each sign the seals on all the envelopes containing ballots.

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

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

(4) The deputy returning officer shall place the large envelope in the ballot box and seal it, in accordance with the directions of the Chief Electoral Officer and send the ballot box immediately to the Regional Returning Officer.

Election Results

Informal notification

67(1) The deputy returning officer shall telephone the information from the statement of the poll to the Regional Returning Officer as soon as possible after the counting of the votes.

(2) The Regional Returning Officer shall record the information telephoned from each deputy returning officer and send that information to the Chief Electoral Officer by any means of electronic transmission or by personal delivery.

(3) On the evening of election day the Chief Electoral Officer may release the content of the information received under this section to the public, but that information is unofficial until it is verified in accordance with this Act.

Verification of votes

68(1) Within five days after the close of the polls, the Regional Returning Officer shall verify the votes in favour of each candidate from the various statements of the poll for the Region.

(2) The Regional Returning Officer may adjourn the verification of the votes where the statement of the poll for a polling station is not received or the number of votes cast at the polling station for the several candidates cannot be ascertained.

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

(4) Where a statement of the poll or copies of the poll cannot be obtained, the Chief Electoral Officer shall:

(a) ascertain, by the best available evidence, the total number of votes given to each candidate at the several polling stations;

(b) summon any deputy returning officer, poll clerk or other person with evidence in the matter to appear before the Chief Electoral Officer at a day and hour to be named by the Chief Electoral Officer, and to bring all necessary papers and documents;

(c) give notice of the date and hour of the intended proceedings to the candidates; and

(d) examine on oath the deputy returning officer, poll clerk or other person, respecting the matter in question.

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

(a) the reasons for the lack of any statement of the poll; and

(b) the method by which the Regional Returning Officer ascertained the number of votes cast for each candidate.

Regional election report

69(1) The Regional Returning Officer shall, in a regional election report in the approved form, certify the number of votes cast in favour of each candidate for the office of an Executive Member, the office of the Regional Representative, and the offices of women's and youth representatives to the PMC, according to the verified statements of the poll in that Region.

ELECTION ACT

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

(3) The Regional Returning Officer shall immediately send a copy of the regional election report to the Chief Electoral Officer and the Chief Electoral Officer shall send copies to each candidate in the Region.

(4) The Chief Electoral Officer may return to the Regional Returning Officer a regional election report that was sent prematurely or that contains errors and, in such a case, the Regional Returning Officer shall diligently remedy any defect as directed by the Chief Electoral Officer.

Provincial election report

70 The Chief Electoral Officer shall prepare a provincial election report certifying the number of votes cast in favour of each candidate for the office of Executive Member and for the offices of women's and youth representatives to the PMC, according to the consolidated regional election reports from all Regions.

Declaration of elected candidate

71 The Chief Electoral Officer shall publicly declare as elected:

- (a) the candidate for each of the offices of Executive Member and the offices of women's and youth representatives to the PMC who obtained the greatest number of votes in the provincial election report; and
- (b) the candidate for Regional Representative who obtained the greatest number of votes in the regional election report for each Region.

Delay for recount or addition

72 If a recount or addition is requested in accordance with section 73, the Chief Electoral Officer shall delay declaring the results for the office that is subject to the recount until the Chief Electoral Officer has received the certified results of the recount from the Adjudicator.

Recount or Addition

Request

73(1) The Chief Electoral Officer shall apply to the Adjudicator for a recount or addition where:

- (a) the margin of victory of the candidate declared to be elected is less than 2% of the total number of votes cast for the office; or
- (b) there is a tie vote.

(2) A candidate may apply to the Adjudicator for a recount or addition within four days after the date on which the number of votes cast in favour of each candidate was certified pursuant to section 69 or 70 where the margin of victory of the candidate declared elected is less than 10% of

ELECTION ACT

the total number of votes cast for the office or 10 votes, whichever is less and it is alleged that an election officer:

- (a) improperly rejected ballot papers;
- (b) made an incorrect statement of the number of votes cast for any candidate; or
- (c) improperly counted or added up the votes.

Date for recount

74(1) Where an application for a recount or addition is made, the Adjudicator shall, by order, fix a time and place at which the recount or addition will be held.

- (2) Within four days after the Adjudicator has fixed the time and place for a recount or addition:
 - (a) in the case of an application by the Chief Electoral Officer, the Chief Electoral Officer shall serve a true copy of the order on each candidate whose votes are affected;
 - (b) in the case of an application by a candidate, the candidate shall serve a true copy of the order on the Chief Electoral Officer and on each candidate whose votes are affected.

Procedure

75(1) The Chief Electoral Officer, a representative of the Chief Electoral Officer, the Regional Returning Officer, if the recount or addition relates to the election of a Regional Representative or of a women's or youth representative to a regional council, the candidates and any other persons permitted by the Adjudicator may be present at the recount or addition.

- (2) At the time and place fixed for the recount or addition, the Adjudicator shall:
 - (a) in the case of an addition, make the addition from the ballot paper accounts and poll statements and the returning officers' statements;
 - (b) in the case of a recount, recount all the votes and ballots and open all the sealed envelopes containing:
 - (i) the ballots that have been counted;
 - (ii) the rejected ballots; and
 - (iii) the spoiled ballot papers.

(3) The Adjudicator may use any evidence or summon any person the Adjudicator considers necessary in the review of the ballots.

(4) There is no appeal from the decision of the Adjudicator on an application for a recount or addition.

Certification of votes

76(1) The Adjudicator shall immediately certify the result of the recount or addition to the Chief Electoral Officer.

(2) On receiving the Adjudicator's certificate, the Chief Electoral Officer shall immediately declare to be elected the candidate having the largest number of votes.

(3) If the Adjudicator certifies a tie in the number of votes for an office, the Adjudicator shall cause the names of the candidates who are tied to be written on identical slips of paper and

ELECTION ACT

placed in a container from which the Adjudicator shall withdraw one name and declare that person to be elected.

Costs

77 No costs arising out of the recount or addition are recoverable from any party.

Voiding an Election

Making the application

78(1) Any MN-S Citizen may apply to the Adjudicator to void an election:

- (a) after any application for a recount is decided;
- (b) no later than 15 days after the latest of:
 - (i) the day of publication of the regional or provincial election report, as the case may be; and
 - (ii) the day the Adjudicator renders its decision on any application for a recount or addition; and
- (c) on the grounds that:
 - (i) a contravention of this Act is likely to have affected the result of the election; or
 - (ii) a candidate does not have the right to sit in the regional council or the PMC as a member.

(2) Notwithstanding subsection (1), the Chief Electoral Officer may file an application no later than 90 days after the publication of the election result.

(3) An applicant shall serve a copy of the application within 20 days after it is filed with the Adjudicator on:

- (a) the affected candidates;
- (b) the Regional Returning Officer and Chief Electoral Officer, unless they are the applicant; and
- (c) the PMC.

(4) The Adjudicator may award costs and make any other order the Adjudicator considers advisable against any person who applies to void an election, if the application is scandalous, frivolous or vexatious, or is otherwise an abuse of process.

(5) There is no appeal from the decision of the Adjudicator on an application to void an election.

Jurisdiction of the Adjudicator

79 If it appears to the Adjudicator that the election was otherwise conducted in accordance with this Act and that any non-compliance did not affect the result of the election, the Adjudicator shall not declare the election invalid for any of the following reasons:

- (a) non-compliance with this Act relating to limitations of time, the taking of the poll or the counting of the votes;

ELECTION ACT

- (b) a lack of qualifications in the persons signing the nomination papers;
- (c) a lack of qualification of a candidate if that impugned candidate was not elected;
- (d) an error in the name, or omission of, or error in the address of any candidate on the nomination papers; or
- (e) an insufficiency in any posting or publication of a notice or other document, or a mistake in the use of the forms under this Act.

Persons entitled to sit

80(1) Where the Adjudicator determines that a person was not lawfully elected that person is not entitled to sit or vote in the regional council, PMC or the MNLA.

(2) The Adjudicator may determine that another person is elected or is entitled to the office, and in that case that other person is then entitled to take their seat on the regional council or on the PMC and in the MNLA.

New election

81 If the Adjudicator invalidates an election, it may order a new election to be held in the same manner as a by-election with respect to some or all of the seats on the PMC, as the circumstances may require.

Management of Election Material

Ballot boxes

82(1) A Regional Returning Officer, on receipt of each ballot box, shall:

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

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

Remission

83 An election officer who is replaced, relieved of their duties or refuses or is unable to act, shall immediately send to their successor, or to any other person directed by the Chief Electoral Officer, all election material that the election officer obtained or prepared in the course of their duties.

Delivery to Regional Returning Officer

84 After the close of the polls, each deputy returning officer shall send to the Regional Returning Officer or the Chief Electoral Officer, in accordance with the directions of the Chief Electoral Officer, all election material for which the deputy returning officer was responsible.

Delivery to Chief Electoral Officer

85 The Regional Returning Officer shall manage and then send to the Chief Electoral Officer, for storage or destruction, all election material as directed by the Chief Electoral Officer.

Preservation

86 The Chief Electoral Officer shall ensure that all election materials is stored safely and securely.

Destruction

87 The ballots, ballot envelopes and unsigned election material may be destroyed 12 months after the date of publication of the notice of the election result, unless they are required for a future use or an application or proceeding under this Act.

Documents of Chief Electoral Officer

88 The Chief Electoral Officer shall ensure that:

- (a) a register is kept of all approved forms and any instructions, guidelines or directions he or she issues respecting any matter; and
- (b) all declarations of elections, election reports, certificates and declarations in respect of elections are preserved for archival purposes.

Public records

89(1) The following are public documents and may be inspected at the Office of the Métis Nation – Saskatchewan by any person on request during business hours:

- (a) all reports or statements respecting an election;
 - (b) all instructions, guidelines and directions issued by the Chief Electoral Officer under this Act;
 - (c) all decisions or rulings by the Chief Electoral Officer on points arising under this Act.
- (2) Any person may make copies of documents referred to in subsection (1) and is entitled to certified copies of those papers on payment for the preparation of those certified copies at the approved rate for each page.
- (3) Any copies of documents purporting to be certified by the Chief Electoral Officer are admissible in evidence without further proof.

Removal of campaign material

90 Each candidate shall ensure that all their campaign material is removed from public display within 10 days after election day.

ELECTION ACT

Contributions, Expenses and Advertising

Contributions only from voters

91(1) In this section, “**contribution**” includes money, services and goods provided during an election period to promote or oppose the election of a candidate.

(2) Subject to section 92, any voter may make a contribution to another individual for the purpose of supporting that individual as a candidate at an election.

(3) No candidate shall accept a contribution from a person who is not a voter.

(4) Each candidate shall file a return in the approved form at the approved time with the Chief Electoral Officer setting out the following information:

- (a) the name of each person who made a contribution to the candidate;
- (b) the amount of each contribution; and
- (c) the date on which each contribution was received.

Contribution limits

92(1) In any 12-month period, a voter may not contribute:

- (a) more than \$300 to each candidate running for election; and
- (b) more than \$1,500 in aggregate to all candidates running for election.

(2) A candidate who receives contributions in excess of \$30,000 in total shall pay the excess to an approved charity.

Election expenses

93(1) In this section, “**election expense**” means any amount paid or liabilities incurred during an election period to promote or oppose the election of a candidate and includes the value of any services or goods provided to and used by a candidate.

(2) A candidate shall not incur election expenses in excess of \$30,000.

(3) Each candidate must file with the Chief Electoral Officer a return in the approved form at the approved time setting out all election expenses incurred during the election period.

Advertising

94 All campaign material must identify the candidate for whom it is made in accordance with the guidelines of the Chief Electoral Officer.

PART V ADMINISTRATION

Chief Electoral Officer

Appointment

95(1) The Chief Electoral Officer is appointed to hold office by resolution of the MNPA and may be removed only for cause by resolution of the MNLA.

(2) The MNLA shall ensure that a Chief Electoral Officer is appointed at least six months prior to the election day.

ELECTION ACT

- (3) The term of office of the Chief Electoral Officer is 10 years.
- (4) The Chief Electoral Officer shall, before taking office, take an oath or affirmation of office.
- (5) If the Office of the Chief Electoral Officer is vacant and the MNLA is not sitting, the PMC may appoint a new Chief Electoral Officer if exigent circumstances exist.
- (6) The Chief Electoral Officer may formally resign by giving 30 days' written notice to the President.

Obligations

96 The Chief Electoral Officer is an independent officer of the Métis Nation – Saskatchewan and shall:

- (a) maintain a position independent from the PMC and free of political influence;
- (b) provide professional and non-partisan public service to MN-S Citizens;
- (c) provide a voting environment that is impartial, accessible and user friendly;
- (d) assist candidates and their representatives to comply in the performance of their responsibilities under this Act; and
- (e) enforce compliance on behalf of all participants.

Duties

97(1) The Chief Electoral Officer shall:

- (a) formulate policies regarding the conduct of elections;
- (b) exercise general direction and supervision over the administrative conduct of an election and enforce, on the part of all candidates and election officers, fairness and impartiality;
- (c) prepare guidelines with respect to the electoral process for candidates, election officers and other interested groups or persons;
- (d) establish and approve any forms that may be required under this Act;
- (e) provide direction to and manage the staff of the Office of the Chief Electoral Officer;
- (f) issue instructions or directions to election officers;
- (g) coordinate the election process with bodies responsible for other elections elsewhere in Canada; and
- (h) perform any other functions related to the purpose of this Act or otherwise provided for under this Act.

(2) The Chief Electoral Officer shall submit a report to the MNLA, no later than 280 days after election day, containing the following information:

- (a) a report on the conduct of the election, including:
 - (i) the number of votes cast for each candidate at each polling station;
 - (ii) the number of rejected ballots; and
 - (iii) the final number of voters;

ELECTION ACT

- (b) a summary of any matter that, in the opinion of the Chief Electoral Officer, should be brought to the attention of the MNLA;
- (c) a report on any instance where the Chief Electoral Officer exercised the power to adapt this Act during an election period or extended the voting period;
- (d) a list of all Regional Returning Officers and assistant regional returning officers with their names and addresses and their Regions;
- (e) the costs incurred in conducting the election; and
- (f) recommendations to improve this Act and the election process.

Administrative powers

98 The Chief Electoral Officer may:

- (a) approve any document or matter that is required by this Act to be approved by the Chief Electoral Officer;
- (b) prepare interpretation bulletins on the interpretation of this Act;
- (c) issue any form required by this Act and establish any forms, not otherwise provided for, that may be necessary for the proper administration of this Act;
- (d) modify any forms;
- (e) meet with the Executive, administration staff, PMC, MNLA and General Assembly and appropriate committees of those bodies to discuss matters related to this Act;
- (f) conduct public hearings with respect to any issue related to the electoral process;
- (g) intervene, with leave, in any proceedings before the Adjudicator or any other court in which a provision of this Act is in dispute;
- (h) implement, either alone or in cooperation with other bodies, public education and information programs intended to make the electoral process better known to the public, particularly to persons or groups likely to experience difficulties in exercising their democratic rights;
- (i) make any agreements that necessary to perform their duties and to improve the Saskatchewan Métis electoral system;
- (j) cooperate with other jurisdictions and levels of government, and with organizations administering elections within Saskatchewan, to share information and resources, to learn together, to pool and train staff and to deliver better election services to Métis; and
- (k) exercise all other powers assigned to the Chief Electoral Officer by this Act.

Delegation

99 The Chief Electoral Officer may delegate, in writing, generally or specifically, any of their powers or duties, but may not delegate the power to adapt this Act described in section 100 or the power to issue directions described in section 101.

Power to adapt the Act

100(1) The Chief Electoral Officer may adapt any provision of this Act to achieve the purposes of this Act where it appears to the Chief Electoral Officer during an election period that, because

ELECTION ACT

of any mistake, emergency, disaster or unusual or unforeseen circumstance, the Act does not accord with the urgent needs of the situation.

(2) Notwithstanding subsection (1), the Chief Electoral Officer has no power to extend the nomination period.

Directions

101 The Chief Electoral Officer may issue binding directions:

- (a) approving forms;
- (b) respecting fees, allowances, expenses and remuneration payable under this Act; and
- (c) relating to any matter that is stated to be subject to directions from or to be approved by the Chief Electoral Officer under this Act.

Agreements

102 The Chief Electoral Officer, may enter into agreements with:

- (a) the government of Canada, a province or territory, a municipal government, a Métis government or another electoral body respecting the conduct of elections;
- (b) a provider of electronic information services respecting the maintenance of voter information, the privacy of that information and other related matters; or
- (c) any other person or entity for the purposes of administering this Act.

Deputy Chief Electoral Officer

103(1) The Chief Electoral Officer may appoint a Deputy Chief Electoral Officer to assist in administering elections under this Act.

(2) The Deputy Chief Electoral Officer holds office for the term specified in the appointment by the Chief Electoral Officer.

Staff

104(1) The Chief Electoral Officer may appoint any staff that are necessary for the proper conduct of elections.

(2) The staff of the Office of the Chief Electoral Officer shall be paid any remuneration that the Chief Electoral Officer determines.

(3) The Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer shall be reimbursed for reasonable living and travel expenses while performing their functions.

Contracting services

105 The Chief Electoral Officer may hire and determine the remuneration of additional staff on a temporary basis to assist the Chief Electoral Officer and, for specific work, may contract for the services of counsel and experts.

Regional Returning Officers

Appointment

106(1) The Chief Electoral Officer shall appoint a Regional Returning Officer for each Region to hold office for a term commencing, where possible, at least six months prior to the election day and ending one month after the election day following their appointment or, in the case of a recount, until the certification of the results of the recount.

(2) A Regional Returning Officer may be re-appointed by the Chief Electoral Officer.

Resignation

107 Any resignation of a Regional Returning Officer does not take effect earlier than the day it is accepted by the Chief Electoral Officer.

Dismissal

108 The Chief Electoral Officer may remove any Regional Returning Officer from office on the grounds that the Regional Returning Officer, for any reason:

- (a) has not performed, or is unable to perform, the Regional Returning Officer's duties in a satisfactory manner;
- (b) has not followed the directions or the instructions of the Chief Electoral Officer;
- (c) at any time after being appointed, engages in politically partisan conduct in respect of the Métis Nation – Saskatchewan or works for or on behalf of or against a candidate, or has otherwise not been impartial, whether or not in the course of performing the Regional Returning Officer's functions; or
- (d) is no longer eligible to be appointed as an election officer.

Vacancy

109 Where a vacancy occurs in the office of Regional Returning Officer during an election period, the Chief Electoral Officer shall appoint a new Regional Returning Officer without delay.

Duties

110 Each Regional Returning Officer shall, subject to the directions of the Chief Electoral Officer:

- (a) take whatever reasonable measures are necessary for the proper and timely conduct of an election;
- (b) ensure that deputy returning officers and poll clerks are properly trained in accordance with the guidelines of the Chief Electoral Officer;
- (c) take whatever reasonable measures are necessary to ensure that voter participation in the election is facilitated; and
- (d) perform any other duties that may be assigned to a Regional Returning Officer by the Chief Electoral Officer or otherwise under this Act.

ELECTION ACT

Delegation

111(1) A Regional Returning Officer may delegate to the assistant regional returning officer the Regional Returning Officer's duties and powers under this Act, in accordance with the directions of the Chief Electoral Officer.

(2) The Regional Returning Officer's delegation must be in writing, dated and signed by the Regional Returning Officer.

Assistant regional returning officer

112(1) The Chief Electoral Officer may appoint in writing an assistant regional returning officer, to hold office at the pleasure of the Chief Electoral Officer, and to perform such duties as the Regional Returning Officer may assign.

(2) The Chief Electoral Officer may:

(a) appoint an assistant regional returning officer for a specific community or area in a Region to act only for that community or area and assign their duties; and

(b) authorize the establishment of an office for that assistant regional returning officer.

(3) A Regional Returning Officer may recommend to the Chief Electoral Officer that the appointment of an assistant regional returning officer should be revoked in writing and stating the reasons for the recommendation.

(4) An assistant regional returning officer may resign by informing the Chief Electoral Officer.

(5) Where the office of Regional Returning Officer is vacant, or the Regional Returning Officer is absent or unable to act, the assistant regional returning officer shall inform the Chief Electoral Officer and shall perform the duties of the Regional Returning Officer on an interim basis if the Chief Electoral Officer so directs.

(6) The Chief Electoral Officer may authorize an assistant regional returning officer or an additional assistant regional returning officer to perform the functions of a deputy returning officer or poll clerk at a poll for an advance vote or a mobile poll.

Election Officers

Appointment

113 The Regional Returning Officer shall appoint a deputy returning officer and poll clerk for each polling station.

Qualifications

114(1) Unless otherwise authorized by the Chief Electoral Officer and subject to subsections (2) and (3), to be eligible for appointment as an election officer a person must be entitled to vote for an Executive Member.

(2) No person is eligible to be an election officer who:

(a) is a candidate or works on behalf of a candidate;

(b) is a member of the PMC or was a member during the immediately previous sitting of the MNLA;

ELECTION ACT

- (c) holds elected office pursuant to *The Elections Act, 1996* (Saskatchewan), *The Local Government Election Act* (Saskatchewan) or the *Canada Elections Act*;
- (d) is a member of any court, other than a citizenship court;
- (e) is not a resident of Saskatchewan;
- (f) committed an offence in relation to elections within the previous 10 years;
- (g) committed an indictable offence within the previous five years; or
- (h) is a member of the family of a candidate.

(3) No member of the family of a Regional Returning Officer is eligible to be appointed as an assistant regional returning officer.

Duty of impartiality

115(1) Election officers and the staff of the Office of the Chief Electoral Officer shall act impartially and shall not, in the performance of functions under this Act, in any way favour a particular Candidate.

(2) No election officer shall, while in office:

- (a) accept or hold any office or employment or participate in an activity that is inconsistent with the officer's duties under this Act;
- (b) assist or make a contribution to a candidate; or
- (c) incur an election expense for or on behalf of a candidate.

Oath of office

116 Before taking office, all election officers shall take the oath or affirmation of office in the approved form, and the Regional Returning Officer shall immediately send the original written copy to the Chief Electoral Officer.

Miscellaneous

Notices

117 When an election officer is authorized or required to give a public notice by this Act and no special method of notification is indicated, the notice may be given by posting on the Chief Electoral Officer's website or otherwise as the election officer considers will best achieve the purpose.

Oaths, etc., without charge

118 All oaths, affirmations or affidavits administered under this Act should be administered without charge.

Marks in lieu of signatures

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

Decisions final

120(1) Except as explicitly provided in this Act, every order or decision of the Chief Electoral Officer is final and is not subject to appeal to the Adjudicator or any court, the MNLA or the General Assembly.

(2) The Chief Electoral Officer may amend or revoke an order or decision made by the Chief Electoral Officer at any time.

**PART VI
ENFORCEMENT
Offences**

Generally

121 Any person who contravenes any provision of this Act is guilty of an offence.

Voters lists and voters information

122 A person is guilty of an offence if the person fails to comply with any direction of the Chief Electoral Office relating to the use of voters lists or voters information.

Voter offences

123 A person is guilty of an offence if the person:

- (a) votes or attempts to vote at an election knowing that they are not entitled to vote in the election;
- (b) votes or attempts to vote more than once in an election;
- (c) applies for a ballot paper in the name of some other person, whether the name belongs to a person living or dead or is fictitious; or
- (d) induces or procures another person to vote at an election knowing that the other person is not entitled to vote at the election.

Offence relating to votes

124 A person is guilty of an offence if the person contravenes or fails to comply with the provisions of this Act and as a result causes:

- (a) a vote to be received which should not have been cast; or
- (b) a vote properly cast not to be received.

Ballot offences

125 A person is guilty of an offence if the person:

- (a) forges a ballot paper or puts a forged ballot paper into circulation;
- (b) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer signed on the ballot;
- (c) without authority under this Act, supplies a ballot paper to any person;
- (d) not being a person entitled under this Act to be in possession of a ballot paper, has, without authority, any ballot paper in their possession;

ELECTION ACT

- (e) fraudulently puts or causes to be put into a ballot box a ballot paper or any other paper;
- (f) fraudulently takes a ballot paper out of the polling station or other polling place;
- (g) without authority under this Act, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers;
- (h) without authority under this Act, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (i) being authorized by the Chief Electoral Officer to print the ballot papers for an election, fraudulently prints more ballot papers than they are authorized to print;
- (j) constructs or has in their possession a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated;
- (k) supplies or causes to be supplied to an election officer, or uses for the purposes of an election, a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated; or
- (l) makes a written record of the printed serial number appearing on the counterfoil of a ballot paper.

Inducement of voters

126(1) Any person who, personally or through another person, during an election, directly or indirectly offers, procures, provides or promises to procure or provide money, office, employment, food, drink, gifts or other valuable consideration to induce a person to vote or refrain from voting is guilty of an offence.

(2) Any person who accepts or receives money, office, employment, food, drink, gifts or other valuable consideration to vote or refrain from voting is guilty of an offence.

(3) This section does not apply to:

- (a) a meal or non-alcoholic refreshments provided at a meeting of voters assembled for the purpose of promoting the election of a candidate;
- (b) a meal or non-alcoholic refreshments provided to a candidate or the representative of a candidate at a polling station; or
- (c) the provision of transportation to or from a polling station or other place of voting.

Undue influence

127 A person is guilty of an offence if, by intimidation, duress or any pretense or contrivance, the person:

- (a) compels, induces or prevails upon a person to vote or refrain from voting at an election; or
- (b) represents to a person that the ballot or the manner of voting at an election is not secret.

Disturbing peace at polling station

128 No person shall disturb the peace and good order at a polling station.

ELECTION ACT

Prohibition on telecommunication devices

129 No person, other than an election officer, shall use any telecommunications device, including a mobile telephone, to make a phone call or send a text message, in a polling station, except in accordance with the directions of the Chief Electoral Officer.

Prohibition on cameras and recorders

130 No person shall use any device to record images or sound in a polling station, except in accordance with the directions of the Chief Electoral Officer.

False statement of withdrawal

131 Any person who, before or during an election publishes a false statement of the withdrawal of a candidate, for the purpose of promoting the election of another candidate, is guilty of an offence.

Offences by candidates

132 Any person who signs their nomination papers consenting to be a candidate at an election knowing that they are ineligible to be a candidate in the election is guilty of an offence.

Offences involving election officers

133(1) Any election officer who wilfully fails to promptly perform their functions respecting the holding of an election is guilty of an offence.

(2) Notwithstanding any other provision of this Act, an election officer is not in contravention of this Act unless it is established that:

- (a) the election officer was not acting in good faith;
- (b) the contravention was not reasonable; and
- (c) the election officer intended to affect the result of the election.

Improper advice

134 Any deputy returning officer or poll clerk who, in administering an oath or affirmation, incorrectly asserts that a fact or circumstance is a qualification or disqualification under this Act is guilty of an offence.

Improper vote count

135 Any person who, in any manner, makes a count of the votes other than at the time and in the manner provided by this Act is guilty of an offence.

Complaints, Investigations and Adjudication

Complaints Officer

136(1) The MNLA shall appoint a Complaints Officer to enforce compliance with this Act.

(2) The Complaints Officer holds office for the term specified in their appointment, not exceeding five years.

(3) The Complaints Officer is an independent officer of the Métis Nation – Saskatchewan.

Adjudicator

137(1) The MNLA shall appoint an Adjudicator to hear any complaint referred by the Complaints Officer.

(2) The Adjudicator holds office for the term specified in their appointment, not exceeding five years.

(3) The Adjudicator is an independent officer of the Métis Nation – Saskatchewan.

Prohibited activities

138 No Complaints Officer or Adjudicator shall, while in office:

- (a) accept or hold any office or employment or participate in an activity that is inconsistent with the person's duties under this Act;
- (b) assist or make a contribution to a candidate; or
- (c) incur an election expense for or on behalf of a candidate.

Making a complaint

139(1) Any MN-S Citizen who believes that an offence under this Act has been, is being or may be committed may make a complaint to the Complaints Officer to be resolved, if possible, through a consensual process.

(2) A complaint may be made during an election, but no complaint may be made more than 90 days after election day.

Review and investigation

140(1) The Complaints Officer shall review a complaint made under this Act, and shall investigate the complaint, or any possible offence that otherwise comes to the attention of the Complaints Officer, to the extent that the Complaints Officer considers warranted in the circumstances.

(2) For the purposes of an investigation, the Complaints Officer may engage the services of legal counsel, investigators, experts or other persons.

(3) If after investigation the Complaints Officer considers that the complaint is justified, the Complaints Officer shall refer the complaint to the Adjudicator for a hearing and may make an order in accordance with section 141.

Order to cease activity or take action

141(1) The Complaints Officer may make an order requiring a MN-S Citizen to:

- (a) cease an activity, where it appears to the Complaints Officer that the activity is in contravention of this Act; or
- (b) take action, where it appears to the Complaints Officer that such action is required by this Act.

(2) An order may be made under subsection (1) without a hearing by the Adjudicator if, in the opinion of the Complaints Officer:

- (a) there exist urgent circumstances that justify making the order without first holding a hearing; and

ELECTION ACT

(b) the length of time needed for the holding of a hearing would be prejudicial to the effectiveness of the order.

(3) An order made under subsection (1) expires no later than the 5th day after it is made but, where a hearing is commenced by the Adjudicator before the expiry of the order, the Complaints Officer may extend the order for the duration of the hearing, with or without variation.

Adjudication

142(1) The Adjudicator shall hear all complaints referred to the Adjudicator by the Complaints Officer and, in doing so, shall act fairly, independently and impartially.

(2) The Adjudicator may:

- (a) make rules respecting procedure and the conduct of the hearing of complaints;
- (b) determine whether a person is guilty of committing an offence under this Act;
- (c) determine any other matter related to a complaint; and
- (d) make an order in the nature of an order described in subsection 141 and confirm, vary or reverse any order made by the Complaints Officer under that section.

(3) A decision of the Adjudicator is final and cannot be appealed to the PMC or the MNLA or to the Saskatchewan courts.

Ineligibility to hold office

143 Any person who is found guilty of committing an offence under this Act is ineligible to hold any elected or appointed office in the Métis Nation – Saskatchewan for a period of 10 years from the date the offence was committed.

PART VII REPEAL AND COMING INTO FORCE

Repeal

144 The former *Election Act* is repealed.

Coming into force

145 This Act comes into force on the day on which it is enacted by the Métis Nation Legislative Assembly.

ELECTION ACT

Métis Nation – Saskatchewan
Copyright © 2024

DRAFT

Métis Nation Saskatchewan
Copyright © 2022