

# **NUNATSIAVUT ASSEMBLY**

## **BILL NO. 03-06**

### **An Act to Provide for the Election of the Chairpersons of the Inuit Community Corporations**

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**Whereas** Part 11.5 of the Constitution confers on the Nunatsiavut Assembly a general supervisory power with respect to Inuit Community Corporations, including the power to enact laws with respect to Inuit Community Corporation elections;

**NOW THEREFORE BE IT ENACTED** by the Nunatsiavut Assembly as follows:

#### **Short Title**

1. This Act may be referred to as the *Inuit Community Corporations Elections Act*.

#### **Interpretation**

2.

- (1) In this Act, unless the context indicates otherwise:

- (a) "agent" means a natural person authorized in writing by a candidate to Act on his or her behalf and to attend at the time and place where an Act or thing is being done under this Act;

- (b) “Beneficiary” means an individual who is enrolled on the register of beneficiaries of the Labrador Inuit Land Claims Agreement maintained under the *Beneficiaries Enrolment Act*, IL-2005-13;
- (c) "by-election" means an election held under subsection 5(4);
- (d) "candidate" means a qualified person who is nominated under section 14 as a candidate at an election;
- (e) "Chairperson" means the chairperson of a corporation and includes, without limitation, the Chair of an Inuit Community Corporation as referred to in sections 4.1.2, 4.1.6, 11.2.1, and 12.1.1 of the Constitution and Chair as referred to in Part 11.3 of the Constitution;
- (f) “Constitution” means the Labrador Inuit Constitution as defined in the *Nunatsiavut Constitution act*, IL-2005-02;
- (g) "corporation" means an Inuit Community Corporation established in terms of chapter 11 of the Constitution;
- (h) “election” means an election under this Act to fill the office of Chairperson;
- (i) "election officer" means:
  - (i) prior to the election of the first executive committee, an official of the Nunatsiavut Government appointed by the minister to administer the first election; and
  - (ii) after the first executive committee of a corporation has assumed office, the member of the corporation appointed by the executive committee to administer an election;
- (j) “election official” means an election officer, an alternate election officer, a poll clerk and any other person appointed under this Act to carry out an official function in relation to an election;
- (k) “executive committee” means the executive committee of a corporation;
- (l) "minister" means the First Minister of the Nunatsiavut Government or the member of the Nunatsiavut Executive Council appointed to administer this Act;
- (m) "poll clerk" means a person appointed to assist a election officer or deputy election officer in the conduct of a polling booth in an election;
- (n) “Registrar” means the Registrar of Beneficiaries appointed under the *Beneficiaries Enrolment Act*, IL-2005-13;
- (o) “urban area” means the urban area established by the Nunatsiavut Assembly under section 11.1.6 of the Constitution for purposes of a corporation;

- (p) "voter" means a member of the corporation qualified to vote in an election; and
  - (q) "voters' list" means the list of voters for a corporation established and maintained by corporation's election officer under subsection 25(1).
- (2) Nothing in this Act shall be interpreted to permit a person who on polling day is not a member of the corporation ordinarily resident within the corporation's urban area to be a voter or to be a candidate.
- (3) For the purposes of this Act:
- (a) an individual is ordinarily resident in a place if that individual has a principal, or only, residence, home, lodging or habitation in that place;
  - (b) an individual may only be ordinarily resident in one place at a time; and
  - (c) an individual continues to be ordinarily resident in a place if that individual, for a temporary purpose only, leaves his or her principal, or only, residence, home, lodging or habitation in that place with the intention of returning to that place.

## **Administration**

### **3.**

- (1) The minister is responsible for the administration of this Act.
- (2) The minister may establish forms for the purpose and administration of this Act.
- (3) The minister may enact regulations for the purpose and administration of this Act.
- (4) A corporation may enact Bylaws respecting elections that are consistent with this Act and with regulations enacted by the minister:
  - (a) where authorized under this Act to do so; and
  - (b) if necessary to provide for a matter that has not been provided for under this Act or under a regulation enacted by the minister.

## **Agents**

### **4.**

- (1) Where, in this Act, expressions are used requiring or authorizing an act or thing to be done in the presence of the agents of the candidates, the non-attendance of an agent at the time and place does not invalidate the act or thing.

- (2) An act or thing done or omitted to be done by an agent of a candidate within the scope of his or her authority to act on behalf of the candidate is an act or thing done or omitted by the candidate.

### **Elections for Chairpersons**

#### **5.**

- (1) An election for Chairperson shall take place in 2006 and every 4 years after that.
- (2) An election under subsection (1) shall be held on the second Tuesday in September.
- (3) Despite subsection (1), an election shall not take place where a Chairperson has been elected for that corporation within one year preceding the date when an election for Chairperson would normally be held.
- (4) If a vacancy occurs in the office of a Chairperson the executive committee shall order a by-election for Chairperson to hold office for the unexpired term of the Chairperson.
- (5) A by-election held under subsection (4) shall be held in the same manner as an election for Chairperson held under this Act, and shall take place within 3 months of the vacancy.
- (6) Except as provided in subsection (7), where a by-election is held under subsection (4), the Chairperson holds office for the unexpired term of the Chairperson whom he or she replaces.
- (7) In circumstances where subsection (3) applies, despite subsection (1), the Chairperson holds office for the unexpired term of his or her predecessor in office plus four years.

### **Adjournment of election**

#### **6.**

- (1) Despite any other provision of this Act or of any order under this Act, election proceedings may be adjourned by the election officer where he or she believes that the health or safety of persons is at risk or that the integrity of the election process is at risk.
- (2) Election proceedings may be adjourned under subsection (1):
  - (a) temporarily to another time on the same day or another place on the same day as specified by the election officer; or
  - (b) to a day, time or place to be set by the election officer.
- (3) If an election is adjourned under clause (2)(b), the election shall occur on a day not later than 7 days after the original date set for the election.

- (4) While proceedings are adjourned, the election officer shall make all reasonable efforts to ensure that election materials are secured and that the integrity of the election is not compromised.
- (5) An election officer shall give notice to persons affected by an adjournment in a manner that he or she considers to be appropriate.
- (6) Election proceedings that recommence after an adjournment shall continue for the time that, when added to the time preceding the adjournment, totals the time during which those election proceedings were to occur regardless of the adjournment.
- (7) If voting proceedings are adjourned, the counting of the vote shall not begin until the close of voting for the adjourned election proceeding.

#### **Oath of office**

##### **7.**

- (1) A person is not qualified to serve as Chairperson and shall not take or sign the oath or affirmation of office unless he or she is qualified to be elected as Chairperson and has been declared to be elected under this Act.
- (2) A Chairperson shall, within 2 weeks of his or her election and before entering on the duties of his or her office, take and sign an oath or affirmation of office in the required form before the outgoing Chairperson, the election officer, or other person authorized to take oaths in the Province of Newfoundland and Labrador.
- (3) The oath or affirmation of office required under subsection (2) shall be an official record of the corporation to which it relates.

#### **Term of office**

8. The term of office of a Chairperson begins when he or she has taken the oath of office and ends when his or her successor in office has taken the oath or affirmation of office in accordance with section 7.

#### **Filling vacancies in office of Chairperson**

##### **9.**

- (1) Where, in an election or by-election held under this Act, no candidate is nominated a further election or by-election shall be called not more than 30 days after the date of the original election or by-election.
- (2) At an election under subsection (1) if a circumstance described in that subsection reoccurs in relation to that election, the minister may, after the date fixed for nomination day, appoint the Chairperson.

- (3) A person appointed under subsection (2) must be qualified in terms of the Constitution and this Act to hold the office of Chairperson.
- (4) An appointment under subsection (2) is not subject to the *Appointments Act*, IL-2005-08.
- (5) A person appointed under subsection (2) holds office for the same term that he or she would have served had he or she been elected in the election or by-election.

#### **First election**

##### **10.**

- (1) For the purpose of holding the first election of a Chairperson, the minister may:
  - (a) appoint an election officer, alternate election officer, deputy election officers, and poll clerks and other officials that he or she considers necessary for the administration of the first election;
  - (b) establish polling divisions; and
  - (c) with the advice of the Executive Council, issue orders to provide for all other matters necessary for the holding of the first election that are not provided for in this Act.
- (2) An election official appointed under clause (1) (a) continues to hold office until a replacement has been appointed under section 11.

#### **Election officials**

##### **11.**

- (1) After the first election, an executive committee shall appoint an election officer to administer elections.
- (2) An executive committee shall, in addition to a election officer referred to in subsection (1), appoint an alternate election officer to perform the duties of a election officer under this Act in the event that the election officer is unable to act.
- (3) Where a corporation is not divided into polling divisions, elections shall be conducted by the election officer and by the alternate election officer who shall act as a poll clerk or, in circumstances where the election officer is unable to act, by the alternate election officer and a poll clerk appointed by the alternate election officer.
- (4) An executive committee may establish 2 or more polling divisions in the corporation's urban area and the election officer shall appoint a deputy election officer and a poll clerk for each polling division and shall designate the location of the polls for each polling division.

- (5) If an election official, other than the election officer, is unable to perform his or her duties, an alternate election official shall be appointed by the election officer to perform those duties.
- (6) The following persons are ineligible to serve as election officials in connection with an election:
  - (a) a member of the executive committee for the corporation for which the election is being held;
  - (b) a person who has been found guilty of an offence related to an election under this Act, the *Elections Act*, IL-2006-01, or an electoral law of any other jurisdiction or authority;
  - (c) a person who intends to be nominated or is nominated to be a candidate in the election; and
  - (d) a person who is, voluntarily or for pay, working or intending to work on the campaign of a candidate in the election.

## **Nominations**

### **12.**

- (1) The election officer shall designate the place for receiving nominations.
- (2) Candidates at an election may be nominated between the hours of 9:00 a.m. and 4:00 p.m. on any day other than a Saturday, Sunday or public holiday, from the twenty-eighth to the twenty-first day immediately before the election.
- (3) Notice of the time and place fixed for nominating candidates shall be posted by the election officer in not fewer than 2 places in the corporation's urban area for the 10 days before the time fixed for the nomination of candidates, and published in a newspaper having general circulation in the urban area during that period.

## **Qualifications of candidates**

### **13.**

- (1) A person is qualified to be nominated as a candidate for Chairperson if he or she is:
  - (a) a Beneficiary; and
  - (b) meets the qualifications set out in subsection (2),unless he or she is disqualified in terms of subsection (3).
- (2) A person nominated as a candidate at an election must



- (a) be a member of the corporation of the full age of 19 years;
  - (b) be ordinarily resident in the corporation's urban area; and
  - (c) have been ordinarily resident in the corporation's urban area since at least the day that is the sixtieth day preceding the date of the election.
- (3) A person is disqualified as a candidate at an election, and shall not serve as a Chairperson if he or she:
- (a) is an ordinary member of the Nunatsiavut Assembly;
  - (b) is a member of the Newfoundland and Labrador House of Assembly or the Parliament of Canada;
  - (c) is a judge of any court;
  - (d) is an undischarged bankrupt;
  - (e) is a person who is declared to be of unsound mind by a court of competent jurisdiction;
  - (f) within the 12 month period immediately preceding the date of the election was convicted of a criminal offence and sentenced to a custodial sentence, including house arrest, of 12 months or more;
  - (g) owes money to a corporation, an Inuit Community Government or the Nunatsiavut Government in respect of taxes, dues or fees;
  - (h) holds an office in the corporation to which a salary or remuneration payable out of the funds of the corporation is attached;
  - (i) is employed by the corporation;
  - (j) is the chief administrative officer of an agency or body established by the corporation and that agency or body has an annual operating budget that must be approved by the executive committee; or
  - (k) at any time within the 52 month period preceding the date of the election was dismissed from office as a Chairperson, as a member of an executive committee or an elected office in the Nunatsiavut Government or an Inuit Community Government or had his or her seat as an Chairperson or executive committee member vacated under an Inuit law.
- (6) Clause (5)(i) does not apply to a person who serves a corporation in a voluntary capacity.
- (7) A person referred to in clause (5)(h), (i) or (j)) other than an employee who serves as an election officer may request, and the executive committee, agency or body, as the case

may be, shall grant to that person, a leave of absence in order for that person to be nominated as a qualified candidate in an election.

- (8) A person to whom a leave of absence is granted under subsection (7) who is elected shall resign from his or her office or employment before taking his or her oath or affirmation of office.

#### **Nomination procedure**

##### **14.**

- (1) A candidate at an election shall be nominated by persons eligible to be enrolled on the voters roll for the corporation.
- (2) A nomination shall:
  - (a) be in writing;
  - (b) state the name and civic address of the candidate;
  - (c) be signed by the proposer and seconder, both of whom shall be present together with the candidate who shall also sign signifying his or her acceptance; and
  - (d) be in the required form.

#### **Declaration of qualification**

##### **15.**

- (1) The election officer shall not receive the nomination paper of a candidate unless there is attached to it a declaration of qualification in the required form.
- (2) Despite clause 14(2)(c), if a candidate is unable to attend his or her nomination and as a result is unable to signify his or her acceptance or complete his or her declaration of qualification, the election officer may accept, in the required form, a declaration to that effect from one of the candidate's nominators together with a declaration from the nominator that the candidate possesses the qualifications required by this Act and accepts the nomination.

#### **Deposit**

16. A candidate, at the time of his or her nomination, shall deposit a sum of \$25 with the election officer and that sum is not refundable.

#### **Acclamation**

17. If only one person is nominated for the office of Chairperson the election officer shall, without an election being held, declare the candidate to be elected at the close of nominations.

### **Notice of candidates**

18. Where an election is required, the election officer shall, within 7 days after the date on which nominations close, give notice of the names of the candidates, the time of the election, and the location of polling booths, by publishing a notice in a newspaper circulating in the corporation's urban area and by posting the notice in at least 2 public places in the corporation's urban area.

### **Grant of election**

19. Where more than one candidate is nominated for the office of Chairperson, the election officer shall conduct an election in the corporation's urban area for that office.

### **Withdrawal of nomination**

20.

- (1) A person who has been nominated at an election may withdraw his or her nomination by filing with the election officer a written withdrawal within 24 hours after the close of nominations.
- (2) The name and address of a person who withdraws his or her nomination under subsection (1) shall not appear on the ballot.
- (3) A person who has withdrawn his or her nomination under subsection (1) shall forfeit his or her deposit.
- (4) Where a candidate withdraws his or her nomination after the close of the period for withdrawal of nominations under subsection (1) and before the close of the poll:
  - (a) the name and address of that candidate shall be omitted from the ballot; or
  - (b) where the ballots have already been printed, the election officer shall give notice of the withdrawal in accordance with section 22 and the election shall proceed as if the candidate who has withdrawn had not been nominated.

### **Death of candidate**

21.

- (1) Where a candidate dies before the close of the period for withdrawal of nominations under section 20 his or her nomination is void.
- (2) Where a candidate dies after close of the period for withdrawal of nominations under section 20 and before the close of the poll:
  - (a) the name and address of the deceased candidate shall be omitted from the ballot; or

- (b) where the ballots have already been printed, the election officer shall give a public notice of the death in accordance with section 22 and the election shall proceed as if the deceased candidate had not been nominated.

#### **Notice of death or withdrawal**

22. For purposes of sections 20 and 21, notice of the death or withdrawal of a candidate shall be given within 24 hours after the election officer is made aware of the death or withdrawal, or as soon as practicable thereafter, and the notice shall be posted in every polling place affected and may be published by advertisement, placard, handbill, broadcast or otherwise as the election officer considers will best effect the purpose intended.

#### **Effect of death or withdrawal - election held**

23. Where a candidate withdraws or dies before the close of the poll and the number of candidates then remaining is two or more:
- (a) an election shall be conducted;
  - (b) a vote cast in favour of a candidate who has died or withdrawn shall be rejected and shall not be counted; and
  - (c) the election officer shall declare to be elected of those remaining candidates the candidate having the largest number of votes.

#### **Effect of death or withdrawal - acclamation**

24. If a candidate withdraws or dies before the close of the poll and only one candidate remains, the election officer shall declare the remaining candidate elected by acclamation.

#### **Voters' list**

25.

- (1) The election officer shall establish and maintain the list of voters for the corporation.
- (2) The voters' list shall be comprised of a list of all members of the corporation who are 16 years old or older.
- (3) A Beneficiary who is eligible to be a voter but who has not been enumerated on the voters' list may, at any time before the closing of the polls on election day, apply to the election officer to be enumerated on the voters' list by providing:
  - (a) proof of his or her age;

- (b) proof that he or she is a member of the corporation who is ordinarily resident in the corporation's urban area or that he or she is a Beneficiary who is ordinarily resident in the corporation's urban area; and
  - (c) proof of his or her place of residence in the corporation's urban area,
- and taking the prescribed oath or affirmation.

### **Voters**

- 26.** A Beneficiary who is 16 years of age or older is qualified to be a voter and to be enumerated on the voters' list for a corporation if he or she has been ordinarily resident in the corporation's urban area for the 30 days immediately before election day.

### **Voting**

**27.**

- (1) Every person enumerated on the voters' list for a corporation is entitled to vote at an election for the corporation's Chairperson.
- (2) A voter may only vote at an election for a corporation's Chairperson if the voter is ordinarily resident in the corporation's urban area on polling day.
- (3) Where a corporation's urban area is divided into polling divisions, each voter shall vote in the polling division in which he or she is ordinarily resident on election day.
- (4) A voter shall not:
  - (a) vote in more than one election for Chairperson on election day;
  - (b) vote in an election for an Angajukak and for a Chairperson on election day; or
  - (c) vote in more than one polling division at an election;
- (7) Despite subsection (3), if an election official is assigned to a polling division other than that in which he or she ordinarily lives on election day, the election official may only vote in the polling division to which he or she has been assigned or at an advance poll or by proxy.

### **Oath or affirmation of voters**

**28.**

- (1) If required by a candidate or candidate's agent, a voter shall, before voting, take an oath or affirmation in the required form, which shall be administered by the election officer or deputy election officer.

- (2) A voter who refuses to take an oath or affirmation under subsection (1) shall not be permitted to vote.

### **Advance poll**

#### **29.**

- (1) At the first election the minister and after the first election an executive committee may hold an advance poll not earlier than 10 days immediately preceding election day.
- (2) At the first election the minister and thereafter the executive committee may hold a second advance poll on the Saturday immediately preceding election day.
- (3) The election officer shall give notice of the time and place of the advance poll by publishing the time and place of the advance poll at least once in the 7 days before the advance poll in a newspaper circulating in the corporation's urban area and by posting a notice in at least 2 public places in the corporation's urban area.
- (4) The advance poll shall be conducted in the same manner as is provided for the conduct of other polls in an election, except that upon the ballot box being sealed at the opening of the first day of the advance poll, it shall remain sealed until opened for the counting of ballots after the close of the polls on election day.
- (5) A ballot box that is used in the conduct of an advance poll shall not be used on election day.
- (6) At an advance poll the poll clerk shall record in the poll book the names of the voters who vote at the advance poll and the polling divisions, if any, in which the voters live.
- (7) A voter who is otherwise eligible to vote but who has reason to believe that he or she will be unable to vote at a poll in the corporation's urban area on election day may vote in an advance poll.
- (8) A record of those voters who voted in an advance poll, together with the polling divisions, if any, in which they reside shall be provided to the respective polling divisions on election day.

### **Voting by proxy**

#### **30.**

- (1) A voter who has reason to believe that he or she will be unable to vote on election day may, by an application to the election officer in the required form, authorize another voter who is a member of the corporation to vote on his or her behalf in that election.
- (2) An application under subsection (1) shall contain declarations in the required form verifying:

- (a) that the applicant is qualified to vote as a member of the corporation in the election in respect of which the application is made;
  - (b) that the applicant has reason to believe that he or she will be unable to vote at a poll in the corporation's urban area on election day; and
  - (c) that the proxy designated in the application is a voter qualified to vote in the same corporation as the applicant.
- (3) An application required under subsection (1) shall only be provided by the election officer to and be received by the election officer from the applicant or the person designated by the applicant as his or her proxy.
  - (4) An application under subsection (1) shall be given to the election officer by the applicant or his or her designated proxy not later than 4:00 p.m. on the day immediately before the day of the election in respect of which it is made.
  - (5) Where satisfied that the requirements of this section have been complied with, the election officer shall issue a proxy certificate entitling the designated proxy to vote at the specified polling division in the corporation's urban area on behalf of the applicant for whom the proxy is designated.
  - (6) No more than one proxy certificate may be issued for any one applicant in respect of an election, except where the proxy dies or becomes unable to cast a vote because of illness or mental incompetence.
  - (7) A person may not be proxy for more than one voter at any one election.
  - (8) Applications, declarations, proxy certificates and other documents required under this section shall be in the prescribed form.

### **Ballots**

#### **31.**

- (1) Where an election for Chairperson has been declared, the election officer shall immediately print or procure a number of sequentially numbered ballots not less than the number of voters on the voters' list.
- (2) The ballots shall be in the required form and shall contain the names and civic addresses of the candidates as set out in the nomination paper, alphabetically arranged in the order of their surnames or, where there are 2 or more candidates with the same surname, in the order of their other names.

### **Election materials**

- 32. Where an election has been declared, the election officer shall prepare for his or her own use and, where there is more than one polling division, deliver to every deputy election officer:

- (a) the voters' list which, where necessary, must be subdivided into lists for each polling station;
- (b) a list of the voters who have voted in an advance poll;
- (c) one or more ballot boxes;
- (d) a sufficient number of ballots and the materials necessary to enable voters to mark them;
- (e) a sufficient number of directions for the guidance of voters; and
- (f) one or more poll books in the required form.

### **Directions**

33. An election officer or deputy election officer shall place a copy of the directions for the guidance of voters, in the required form, in each polling booth of the polling station and shall see that they remain in place until voting has been completed.

### **Voters' list**

34.

- (1) At least 2 months before an election the election officer shall
  - (a) begin the preparation of the corporation's voters' list; or
  - (b) if the corporation's urban area is divided into polling divisions, begin the preparation of a voters' list in each polling division.
- (2) Despite subsection (1), the election officer may, for purposes of the voters' list, use the corporation's membership list or a list of Beneficiaries ordinarily resident in the corporation's urban area prepared by the Registrar.
- (3) The election officer shall ensure that the voter's list is completed at least one month before the date of the election of Chairperson.
- (4) Where the name of a qualified voter does not appear on the voters' list or the name of a person not qualified as an elector does appear on the list, the election officer shall, upon satisfactory proof being provided to him or her, correct that error or omission by inserting or omitting the name.
- (7) The voters whose names appear in the voters' list for a corporation certified by the election officer are those entitled to vote at the next election of the corporation and a person whose name does not appear upon the list shall not be allowed to vote at the election.



- (8) Despite subsection (7), a person whose name has been omitted from the voters' list or and is qualified to vote at an election may vote at an election upon complying with the requirements of subsection 25(3).

#### **Use of list**

#### **35.**

- (1) A voters' list prepared and revised for an election shall, where that election is deferred, constitute the voters' list for the deferred election.
- (2) A voters' list prepared and revised for an election and used in that election or used in a deferred election may constitute the voters' list for a by-election.
- (3) A election officer shall, on the request of a candidate and after payment of the prescribed fee, supply to the candidate a copy of the voters' list prepared and revised for the election.
- (4) A candidate who receives a copy of the voters' list under subsection (3) shall, in the required form, certify that the information contained in the list will only be used for election purposes.

#### **Opening and close of poll**

#### **36.**

- (1) A election officer or deputy election officer shall, on election day, open the polling booth assigned to him or her at 8:00 a.m. and shall keep that booth open until 8:00 p.m. and during that time shall receive the votes of all voters qualified to vote at the polling booth.
- (2) Where the start of voting in accordance with subsection (1) is delayed, the election officer shall extend the time for the close of the voting but the extension shall not permit voting for a longer length of time than would have been permitted had voting not been delayed.
- (3) Where at the time set for the close of voting under subsection (1) there are voters waiting in the polling station or waiting in line outside the polling station in order to vote, those voters are entitled to vote and the polling booth shall remain open until their votes have been received.
- (4) Voters other than those referred to in subsection (3) are not entitled to vote after the time set for the close of voting.
- (5) The decision of the election officer or deputy election officer in charge of the polling booth as to who is or is not entitled to vote under subsection (3) is final and may not be appealed.

### **Polling booths**

37. A polling station shall have one or more polling booths in which voters may mark their ballots screened from observation.

### **Who may be present**

38.

- (1) During the conduct of voting no person is entitled or shall be permitted to be present in the polling station other than
  - (a) the election officer or deputy election officer who is conducting the election, a poll clerk and other election officials authorized to be present;
  - (b) the candidates to be voted for in the polling station and their agents, authorized in writing, not exceeding one agent for each candidate; and
  - (c) a voter actually engaged in voting.
- (2) On election day, a candidate or his or her agents shall not campaign or distribute or cause to have distributed campaign materials in an area that is less than 30 metres from the entrance to a polling station.

### **Maintaining order**

39.

- (1) The election officer or a deputy election officer, may take such action as he or she deems necessary to maintain order at a polling station and may order the removal of a person from the polling station who is not entitled to be present or who, being entitled, obstructs the voting, and the order may be executed by a peace officer without the order being in writing and without a warrant.
- (2) The election officer or a deputy election officer may have present or summon to his or her aid a security guard, law enforcement officer or peace officer for the purpose of maintaining order or preserving the peace.

### **Ballot box exhibited**

40.

- (1) At an election for Chairperson a separate ballot box shall be used at each polling station.
- (2) At the hour fixed for opening the poll the election officer or a deputy election officer shall:

- (a) show the ballot boxes to the candidates or their agents, or persons that are present within the polling station, so that they may see that the ballot boxes are empty; and
- (b) then immediately seal the ballot boxes, place them in view for the reception of ballots and keep them in view and sealed until voting is concluded.

#### **Oaths or affirmations**

##### **41.**

- (1) An election official shall, before commencing his or her duties, take the oath or affirmation in the required form.
- (2) Every other person authorized to attend at a polling station, or at the counting of the votes shall, before commencing his or her duties, take the oath or affirmation in the required form.
- (3) An oath or affirmation required under subsection (1) or (2) shall be administered by the election officer, a justice of the peace or a commissioner of oaths not later than 4:00 p.m. on the day immediately before the day on which the election official commences his or her election duties.
- (4) The election officer or deputy election officer may administer an oath or affirmation required by this Act to be taken in the polling station for which he or she was appointed.

#### **Confirmation of name**

##### **42.**

- (1) When a person presents himself or herself at the polling station for the purpose of voting, he or she shall state his or her name and civic address.
- (2) The election officer or deputy election officer shall ascertain if the name of the person is entered on the voters' list for the polling station in which he or she is presiding and if the person is not on the voters' list that the person is entitled to take the required oath or affirmation in the required form upon satisfying the requirements of subsection 25(3).
- (3) The poll clerk shall enter in the poll book the name of the voter, but shall not enter in the poll book or elsewhere the name of or anything to indicate the name of a candidate for whom the voter votes.

#### **Noting of objections and oath or affirmation**

##### **43.**

- (1) Where a voter is objected to by a candidate or his or her agent, the poll clerk shall enter the objection in the poll book by writing opposite the name of the person whose vote is objected to the words "objected to", together with the name of the candidate by or on

behalf of whom the objection is made and the election officer or deputy election officer shall decide whether that person may vote.

- (2) Where a voter takes an oath or affirmation required to be taken by this Act the poll clerk shall enter opposite the person's name the word "sworn" or "affirmed".

#### **Refusal to take oath or affirmation**

44. If a voter is required to take an oath or affirmation and refuses to take it, the poll clerk shall enter opposite the name of the person in the poll book the words "refused to be sworn" or "refused to affirm", and a ballot shall not be issued to that person.

#### **Delivery of ballots**

45. Where the name of the voter is found on the voters' list for the polling booth or he or she takes the required oath or affirmation where permitted to do so by the election officer or deputy election officer, and where the appropriate entries respecting him or her have been made in the poll book, the election officer or a deputy election officer shall provide the voter with one ballot for Chairperson.

#### **Proxy voting**

46. Where a person produces to an election officer or deputy election officer a proxy certificate issued under section 30, the person may vote on behalf of the voter with respect to whom the certificate is issued.

#### **Explanation of voting procedure**

47. Upon the request of a prospective voter, the election officer or deputy election officer shall either personally or through his or her poll clerk explain to the prospective voter as concisely as possible the mode of voting but shall not influence the voter to vote for a particular candidate in the election.

#### **Voting**

48.

- (1) Upon receiving a ballot, a voter shall:
  - (a) immediately proceed to the assigned polling booth and shall then mark his or her ballot by marking an X on the part of the ballot within the division containing the name of the candidate for whom he or she intends to vote;
  - (b) after marking the ballot, fold it so as to conceal the names of the candidates and the mark upon the ballot; and
  - (c) without delay and without showing or displaying the ballot so as to make known the candidate for whom he or she voted, deposit the ballot in the ballot box.

- (2) A voter shall immediately leave the polling station after he or she has voted.
- (3) While a voter is in the process of marking his or her ballot, no person shall be in a position from which he or she can see how that voter marks his or her ballot.

#### **Removal of ballots**

##### **49.**

- (1) A person who has received a ballot shall not remove the ballot from the polling station.
- (2) A person who has received a ballot and leaves the polling station without depositing it in the assigned ballot box forfeits his or her right to vote at the election.
- (3) The poll clerk shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling station, returned the ballot or declined to vote.
- (4) Where a person has declined to vote, the poll clerk shall immediately write the word "declined" upon the ballot and shall return it to the election officer or the deputy election officer.

#### **Incapacitated voter**

##### **50.**

- (1) Despite subsection 48(3), a voter who indicates to the election officer or a deputy election officer that he or she requires assistance to mark his or her ballot, may be assisted by an election official or a person accompanying that voter.
- (2) The poll clerk shall make an entry opposite the name of the voter in the poll book that their vote has been marked under this section.
- (3) A person other than an election official shall not assist more than one voter, as described in subsection (1), in an election.
- (4) Where a polling station or polling booth is not accessible to a voter described in subsection (1), the election officer or deputy election officer in charge of the polling station shall,
  - (a) suspend temporarily the voting in the polling booth; and
  - (b) carry the ballot box, poll book, ballots and other necessary election materials to a place that is accessible to the voter and that is in close proximity to the entrance to the polling station.
- (5) The procedure to be followed in taking the vote of a voter under subsection (4) shall, where circumstances permit, be the same as if the voter had entered the polling booth to vote.

## **Mobile and special polls**

**51.**

- (1) Where a polling booth has been established in a home for the aged, hospital, correctional or other long term resident institution, the deputy election officer and the poll clerk, while the poll is still open on polling day and when considered necessary by the deputy election officer, shall
  - (a) temporarily suspend the voting in the polling booth; and
  - (b) with the approval of the person in charge of the institution, carry the ballot box, poll book, ballots and other necessary election materials from room to room in the institution to receive the votes of those members of the corporation who are ordinarily resident in the corporation's urban area and are otherwise qualified to vote but who are unable to go to the polling booth.
- (2) The election officer may provide mobile polling booths that may be open and used at different locations and for fewer than 12 hours on election day.

## **Spoiled ballot**

**52.**

- (1) A voter who has inadvertently spoiled his or her ballot is, upon surrendering it to the election officer or deputy election officer, entitled to receive another ballot.
- (2) The election officer or deputy election officer shall write the word "cancelled" upon the ballot returned to him or her and shall retain it.

## **Counting of ballots**

**53.**

- (1) Immediately after the close of the poll, the election officer or deputy election officer shall
  - (a) place all the cancelled, declined and unused ballots in an envelope and seal it; and
  - (b) count the number of voters whose names appear in the poll book and sign the following certificate, which shall be entered in the poll book on the line immediately below the name of the voter who voted last:

"I certify that the number of voters who voted at the election in this polling booth is (stating the number in words) and that A.B. was the last person who voted at this polling booth."

- (2) Immediately after the certificate required by subsection (1) has been signed by him or her, the election officer, or deputy election officer, in the presence and in full view of the poll clerk and any candidates or their agents who may be present, shall open the ballot box and count the total number of ballots cast and the number of votes for each candidate, giving full opportunity to those present to examine each ballot.

### **Rejected ballots**

#### **54.**

- (1) When counting the votes, the election officer, or deputy election officer, shall reject all ballots
  - (a) that have given votes for more than one candidate; or
  - (b) upon which there is writing, a mark or that have been torn, defaced or otherwise dealt with by the voter in a manner that would permit that voter to be identified.
- (2) A ballot shall not be rejected under subsection (1) by reason only that it has been marked with a writing instrument other than a black lead pencil or it has a mark other than an X, as long as the mark does not identify the voter.

### **Objections**

#### **55.**

- (1) The election officer, or deputy election officer, shall note in the poll book an objection taken to a ballot or a vote on a ballot by a candidate or his or her agent and shall uphold or reject the objection.
- (2) An objection shall be numbered and a corresponding number shall be placed on the back of the ballot and initialed by the election officer or the deputy election officer, and when the objection is upheld the word "rejected" shall be marked on the face of the ballot.

### **Account of ballots**

#### **56.**

- (1) All ballots except those rejected shall be counted and an account shall be kept of the number of votes received by each candidate.
- (2) All the ballots shall be put into separate envelopes as follows:
  - (a) all the used ballots that have not been objected to and have been counted;
  - (b) all the used ballots that have been objected to and have been counted, all rejected ballots and all ballots that are used but unmarked; and

- (c) all the cancelled, declined and unused ballots.
- (3) Each envelope shall be endorsed so as to indicate its contents and the polling station to which it relates and shall be sealed by the election officer or a deputy election officer.

### **Statement of poll**

#### **57.**

- (1) The election officer or deputy election officer shall make out a statement in duplicate as to the number of
  - (a) ballots received;
  - (b) ballots cast;
  - (c) ballots that have been objected to in whole or in part and have been counted in whole or in part;
  - (d) used ballots that have not been objected to and have been counted;
  - (e) ballots that have been rejected in whole or in part and have not been counted;
  - (f) cancelled ballots, ballots used but not marked, declined ballots, ballots taken from the polling booth and unused ballots; and
  - (g) votes received by each candidate.
- (2) The statement shall be signed by the election officer, or the deputy election officer, and the poll clerk.
- (3) One statement shall be attached to the poll book and the other, in the case of a deputy election officer, shall be delivered by him or her to the place designated by the election officer.

### **Disposition of materials and delivery of ballot box**

#### **58.**

- (1) In an election for Chairperson the voters' list, the envelopes containing the ballots, and all other materials related to the election, except for the election officer's statement referred to in subsection 57(3) shall then be placed in the ballot box.
- (2) The election officer or deputy election officer shall, after the requirements of subsection (1) have been carried out, immediately seal the ballot box and in the case of a deputy election officer shall immediately deliver it and the statement referred to in subsection 57(3) to the place designated by the election officer.



- (3) Where a deputy election officer is unable to deliver a ballot box, another election official designated by the deputy election officer shall immediately deliver the ballot box and the statement to the place designated by the election officer.
- (4) The election officer shall remain available on the evening of election day until all the ballot boxes and the statements referred to in subsection 57(3) have been returned.

#### **Declaration of result**

##### **59.**

- (1) After he or she has received the ballot boxes and statements of the number of votes cast at each polling booth, the election officer shall
  - (a) without opening the ballot boxes, add up from the statements he or she has received the number of votes received by each candidate;
  - (b) not later than noon on the day following the election, publicly declare the results of the election; and
  - (c) not later than noon on the day following the election put up in some conspicuous place a statement signed by him or her showing the number of votes received by each candidate.
- (2) The election officer may, after he or she has received statements from polling booths and before publicly declaring a candidate elected, indicate to the public the number of votes received by each candidate.

#### **Retention of ballot boxes**

##### **60.**

- (1) Unless it is otherwise ordered by a court or unless a recount is demanded, the ballot boxes shall remain sealed as received by the election officer and shall be retained by him or her for a period of 30 days after the election and until the termination of a legal proceeding instituted to test the validity of the election taken within that period of time.
- (2) When the time has elapsed under subsection (1), the ballot boxes shall be unsealed by the election officer and the ballots and other associated material shall be destroyed as authorized by the minister.

#### **Tie vote**

61. Where, upon the counting of the votes, 2 or more candidates have an equal number of votes the election officer shall immediately
  - (a) write the names of those candidates on separate, identical blank sheets of paper;
  - (b) fold the sheets of paper in an identical manner so that the names are concealed;

- (c) deposit them in a receptacle and withdraw one sheet; and
- (d) declare the candidate whose name appears on the sheet withdrawn, to be elected.

### **Report**

- 62.** Within 7 days after an election is held under this Act the election officer shall forward a report on the election to the minister.

### **Recount**

**63.**

- (1) Where, in an election for Chairperson, the difference between the number of votes received by the first and second place candidates is 10 votes or fewer, the second place candidate may request that the election officer conduct a recount of the ballots cast in the election.
- (2) A request for a recount under subsection (1) shall be filed with the election officer, in writing, not more than 3 days after the date of the election and the election officer shall commence the requested recount not more than 3 days after receiving that request.
- (3) The election officer and officials that he or she may appoint shall conduct a recount held under this section.
- (4) After the conclusion of a recount of the ballots, the ballots and other election material shall be returned to and resealed in the appropriate ballot boxes.
- (5) The election officer shall notify those candidates in the election who are affected by the recount of the time and place of the recount.

### **Recount requirements**

**64.**

- (1) The election officer, and officials he or she appoints to assist with the recount and each candidate affected by the recount or his or her agent, or at least 3 voters, shall be present at the recount.
- (2) At the time and place appointed, the election officer shall conduct or oversee a recount of the ballots cast in the election and shall decide upon the validity of questioned ballots.
- (3) The decision of the election officer on a recount is final and not subject to appeal or review.

### **Declaration of result**

**65.**

- (1) Following a recount under section 64, the election officer shall declare to be elected the candidate having the largest number of votes.
- (2) In the event of a tie the election of a candidate shall be carried out by the election officer in the same manner as provided in section 61 unless the tie has previously been broken under that section.

### **Election expenses**

- 66.** The cost of the holding of elections including the cost of a recount under section 63 shall be paid out of the funds of the corporation.

### **Corporation may regulate election financing**

**67.**

- (1) A corporation may enact bylaws establishing limits upon campaign contributions to, and campaign expenditures by, all candidates.
- (2) A bylaw under subsection (1) shall establish procedures, time frames and forms for the reporting of campaign contributions and campaign expenses by all candidates.
- (3) Where a corporation has not made a law under subsection (1)
  - (a) a candidate elected in an election shall, not more than 90 days after the election, file with the election officer a statement in the required form and made under oath or affirmation stating the total amount of the contributions received by him or her and the amount of the contributions donated to his or her campaign by contributors that exceed \$100 and the contributors of those amounts; and
  - (b) a candidate elected in an election who did not receive any one contribution in an amount exceeding \$100 shall, not more than 90 days after the election, file with the election officer a statement under oath or affirmation stating the total amount of the contributions received by him or her and that he or she did not receive any one contribution in an amount that exceeded \$100.

### **Campaign contributions**

**68.**

- (1) Contributions to candidates shall be made only by members of the corporation individually, or by corporations or trade unions individually.
- (2) Only a candidate or his or her agent may solicit, collect or accept contributions.