

Appendix A

Community Councils Election Regulation (Office Consolidation)

THE NORTHERN AFFAIRS ACT
(C.C.S.M. c. N100)

Community Councils Election Regulation

Regulation 71/2009
Registered April 6, 2009

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PART 1
ELECTION SCHEDULE
Election of members – unincorporated communities

1(1) The election schedule for communities that are not incorporated is as set out in the following table. The asterisk (*) indicates the year the mayor is to be elected by voters of the community.

TABLE

Community Council	Members elected in October 2008 and every four years after that	Members elected in October 2010 and every four years after that
Barrows	2	3*
Berens River	2	1*
Bissett	3	2
Brochet	3	2*
Camperville	4*	3
Cormorant	2	3*
Crane River	3*	2
Cross Lake	3*	2 (Reg. 135/2010)
Dallas/Red Rose	1	2*
Dauphin River	2*	1
Dawson Bay	1	2*
Duck Bay	4*	3
Easterville	3*	2
Fisher Bay	2*	1
God's Lake Narrows	2	3*
Harwill	1	2*
Homebrook – Peonan Point	2	3
Ilford	3*	2
Island Lake	3*	2
Mallard	2	3*
Manigotagan	3*	2
Matheson Island	2	3*
Meadow Portage	3*	2
Moose Lake	3*	3
National Mills	2*	1
Nelson House	3*	2 (Reg. 45/2004)
Norway House	4*	3
Pelican Rapids	3*	2
Pikwitonei	3*	2
Pine Dock	2	3*
Red Deer Lake	1*	2
Rock Ridge	2*	1
Seymourville	2	3* (Reg. 44/2004)
Sherridon	3*	2
Spence Lake	3*	2
Thicket Portage	3*	2
Wabowden	4*	3
Waterhen	3*	2

Note: Data for incorporated communities is from the incorporation regulation as indicated in brackets.

1(2) In the communities of Bissett and Homebrook, the mayor is to be elected annually by the members of council from among the members within 30 days after

the fourth Wednesday of October or, in the event of a recount, within 30 days after the recount is completed.

1(3) For certainty, if an administrator is appointed for a community, the election schedule in subsection 1(1) does not apply in the community until an election is held and the appointment of the administrator is revoked, as provided for in section 198 of *The Northern Affairs Act*.

Election schedule – incorporated community

2 The election schedule for an incorporated community is as set out in the regulation under which the community is incorporated.

PART 2 CONDUCT OF ELECTIONS

DIVISION 1 INTRODUCTORY PROVISIONS

Definitions

3 The following definitions apply in this regulation.

"**Act**" means *The Northern Affairs Act*.

"**by-election**" means an election that is not conducted as part of a regular election.

"**candidate**" means a person who, under subsection 41(3), is a candidate in an election.

"**court**" means the Court of Queen's Bench.

"**election**" means an election for an office on a council.

"**election day**" means the day fixed for voting in an election or on a question, other than a day fixed for advance voting.

"**election official**" means a person appointed as
 (a) a senior election official;
 (b) an assistant senior election official; and
 (c) an election official under subsection 11(1).

"**election period**" means the period from the beginning of nomination day for an election until the result of the election is declared by the senior election official.

"**eligible voter**" means a person who is eligible under section 82 of the Act to vote in an election or on a question.

"**question**" means a vote on a question described in clause 4(b).

"**regular election**" means an election for the offices on a council required to be held under

- (a) section 1, in the case of an unincorporated community; or
- (b) the regulation incorporating a community, in the case of a community that is incorporated.

"**scrutineer**" means a person described in section 62.

"**senior election official**" means a person appointed as a senior election official under section 9.

"**voters list**" means the voters list of a community.

"**voting place**" means a place where a person votes in an election or on a question.

"**voting station**" means the station within a voting place that a person attends to receive and cast a ballot.

Application of regulation

- 4** This regulation applies to
- (a) an election for an office of a community; and
 - (b) a vote in respect of
 - (i) a by-law under Part 10 (Local Option) of *The Liquor and Gaming Control Act*, or
 - (ii) any other question required by an Act to be submitted to voters in a community.

Public notice

- 5** When public notice is required to be given by a provision of this regulation, the senior election official must post a copy of the public notice, within a place accessible to the public, in
- (a) the community office;
 - (b) the place of the regular meetings of council, if other than the community office; and
 - (c) at least two other locations in the community designated by the senior election official.

Public notices may be combined

6 Public notices may be combined as long as the requirements of the applicable provisions are met.

Oaths

- 7(1)** If this regulation requires an oath to be made, the oath must be
- (a) in writing;
 - (b) administered by a person authorized to do so under this regulation or *The Manitoba Evidence Act*; and
 - (c) signed by the person making the oath and by the person before whom the oath is made.

No fee

7(2) An oath must be administered free of charge.

Establishing identity

- 8(1)** A person who is required to establish his or her identity under this regulation may do so by providing
- (a) an official document issued by a federal, provincial or municipal government that contains the person's name, residential address and photograph; or
 - (b) at least two other documents that provide evidence of the person's identity satisfactory to the election official who asked the person for identification.

8(2) A person who is unable to comply with subsection (1) must furnish other proof of identity that is satisfactory to the election official who asked the person for identification.

DIVISION 2

APPOINTMENTS AND ARRANGEMENTS

Senior election official and assistant

- 9(1)** The council of a community must by by-law appoint, and provide for the remuneration of,
- (a) a senior election official; and
 - (b) an assistant senior election official.
- 9(2)** The community administrative officer must forward a copy of a by-law passed under subsection (1) to the principal electoral officer.
- 9(3)** A senior election official and an assistant senior election official, unless he or she sooner resigns, dies or ceases to be eligible under subsection 15(1), holds office until his or her successor is appointed.

9(4) If the office of senior election official or assistant senior election official becomes vacant, the council of the community must immediately appoint a successor.

9(5) If an assistant senior election official has been appointed and the senior election official is absent or unable to act or the office is vacant, the assistant senior election official may act in his or her place. When doing so, the assistant has all the powers of the senior election official.

General duties of senior election official

10(1) The senior election official of a community must

- (a) exercise general direction and supervision over the conduct of elections and votes on questions in the community;
- (b) ensure that election officials in the community carry out their duties with fairness and impartiality, and in compliance with the Act and this regulation; and
- (c) give election officials in the community any instructions that the senior election official considers necessary to administer this regulation.

10(2) A senior election official must discharge his or her responsibilities under the law independently and impartially.

10(3) A community may direct a senior election official only by a by-law or resolution that is authorized under the Act or another Act.

Other election officials

11(1) The senior election official may appoint one or more election officials.

11(2) Subject to section 15, an election official holds office for the term specified in his or her appointment.

11(3) An election official must ensure that the law respecting an election or vote on a question in the community is complied with.

Delegation

12(1) The senior election official may delegate any of his or her powers and duties to other election officials, subject to any restrictions or conditions specified in the delegation. The delegation must be in writing.

12(2) The senior election official may continue to exercise the delegated powers and duties despite the delegation.

Oaths

13(1) Before assuming his or her duties, an election official must take an oath that he or she

- (a) will faithfully and impartially fulfil the duties and responsibilities under the Act and this regulation that are assigned or delegated to him or her;
- (b) has not received and will not accept any inducement to perform those duties and responsibilities otherwise than faithfully, impartially and in accordance with the law;
- (c) will preserve the secrecy of the ballot in accordance with section 77; and
- (d) is not ineligible under subsection 15(1) to hold the position.

13(2) An election official who takes an oath under subsection (1) and then assumes any of the duties or responsibilities of another election official is not required to take another oath.

Power to administer oath

14 An oath required to be taken under this regulation may be administered by an election official.

Who may not be an election official

15(1) The following persons may not be appointed and may not act as an election official:

- (a) a member of the Legislative Assembly and a member of the House of Commons or the Senate of Canada;
- (b) a member of the council of a community;
- (c) a judge of any court or a justice of the peace;
- (d) a candidate;
- (e) a person prohibited from being an election official by an order made by the court;
- (f) a person who is under the age of 18 years;
- (g) a person who, within five years before the proposed appointment,
 - (i) was convicted of an indictable offence, or
 - (ii) served any part of a term of imprisonment for an indictable offence.

15(2) An election official who becomes ineligible under subsection (1) must immediately resign.

Replacing an election official

16 The senior election official may rescind the appointment of an election official – other than an assistant senior election official – if satisfied that the person

- (a) is ineligible to hold the position under subsection 15(1);
- (b) is unable to perform his or her duties satisfactorily;
- (c) has failed to perform his or her duties satisfactorily;
- (d) has failed to follow an instruction of the senior election official, assistant senior election official or supervising election official; or
- (e) after being appointed, engaged in partisan political activities, whether or not in the course of performing duties under the Act or this regulation.

If election official not qualified

17 If a person who is not eligible is appointed or holds office as an election official, no action taken by the person is invalid solely because he or she was or became ineligible.

Keeping order

18(1) The senior election official must maintain peace and order at a voting place.

18(2) A senior election official may require a peace officer or other person to assist him or her in maintaining peace and order at a voting place.

18(3) For the purpose of this section, “**voting place**” includes any place in the immediate vicinity of the voting place designated by the senior election official.

DIVISION 3 VOTERS

S.E.O. to establish and maintain voters list

19(1) The senior election official must establish and maintain an up-to-date voters list for the community.

19(2) The senior election official may divide the community into voting subdivisions. If voting subdivisions are established, the voters list must contain a separate division for each subdivision.

One entry only

20 A voter’s name must not appear on the voters list more than once.

Residence determines division of list

21 If the community has been divided into voting subdivisions, a voter’s name must be placed on the division of the list that corresponds to the voting subdivision in which he or she resides.

Format of list

22 The senior election official may

- (a) determine the format of the voters list, including the arrangement of names and other content required under section 23; and
- (b) establish or maintain the voters list on paper or electronically and reproduce the list in the manner he or she determines.

Content of voters list

23 The voters list must contain the following information about each person who the senior election official has reason to believe is an eligible voter:

- (a) the voter’s name;
- (b) the voter’s residential address, and mailing address if it is different.

Information for establishing and maintaining voters list

24 For the purpose of establishing or maintaining the voters list, the senior election official may obtain information from any source, including by an enumeration conducted under this Part.

Entitlement to information on voters list

25 Persons are entitled to have access to information on the voters list about themselves to determine whether the information is correct.

Restrictions on use of information on voters list

26 A person must not knowingly use the information that is recorded on the voters list for a purpose other than an election or vote on a question, which for certainty includes

- (a) establishing or maintaining a voters list under this regulation or another Act; or
- (b) enabling a candidate to communicate with voters in accordance with subsection 33(2).

Period when voters list closed to revision

27 Except for adding voters at the time of voting or providing a sealed envelope ballot package, the voters list must not be revised between the close of nominations and election day.

Enumeration

28(1) For the purpose of establishing or maintaining the voters list, the senior election official may cause an enumeration to be conducted.

28(2) An enumeration may be done by door-to-door canvass, phone, mail or any other means the senior election official determines.

28(3) When conducting a door-to-door enumeration, an election official must wear identification supplied by the senior election official.

28(4) When conducting a door-to-door enumeration, an election official must be given access to the entrance door of each residence in an apartment, condominium complex or other multiple-unit residence.

28(5) Where an election official is unable to gain access to a multiple-unit residence described in subsection (4), the senior election official may contact the landlord or manager of the residence to set a mutually agreeable time for the door-to-door enumeration to be conducted. If a time cannot be agreed upon,

- (a) the senior election official may inform the landlord or manager of the time where an election official will attend to conduct the enumeration; and
- (b) at the time set under clause (a), the landlord or manager must ensure that the election official is given access to the multiple-unit residence.

Name added to voters list at time of voting

29 An eligible voter whose name is not on the voters list is entitled to have his or her name added to the voters list at the time of voting if he or she

- (a) attends a voting place where he or she is qualified to vote, during the hours it is open for voting;
- (b) takes an oath that he or she is an eligible voter; and
- (c) establishes his or her identity in accordance with section 8.

Personal security protection

30(1) Despite any other provision of this regulation, the name, address and all other information about a person must be omitted or obscured from the voters list and any other record prepared under this regulation

that is available to the public, if the person applies to have that information omitted or obscured to protect his or her personal security.

30(2) An application may be filed with the senior election official in person or by mail or fax.

30(3) The application must

- (a) be made in writing to a senior election official at any time other than during the period when the voters list is closed to revision;
- (b) set out the person's name and address; and
- (c) include the documents referred to in section 8, or legible copies of them if the application is made by mail or fax.

30(4) Upon receiving an application that meets the requirements of subsection (3), the senior election official must give the applicant a personal security certificate that includes an identification number to be used as a replacement, in all cases, for the person's name, address and signature under this regulation.

30(5) When a person is given a personal security certificate, the senior election official must determine whether the person's name appears on the voters list. If so, the senior election official must obscure the person's name and address and add the person's identification number to the voters list. If the person's name does not appear, the senior election official must add his or her identification number to the voters list.

30(6) The identification number for a person with a personal security certificate must be placed at the end of the voters list.

30(7) A person who is given a personal security certificate may vote only by sealed envelope ballot, as provided in section 89 (procedure for voting by sealed envelope). When applying to vote, the person must give his or her personal security certificate to the senior election official.

30(8) The senior election official may establish the form of the personal security certificate to be used under this section.

Powers of senior election official

31 The senior election official may take any steps he or she considers necessary to protect the personal

security of applicants under section 30, including adapting the provisions of this regulation.

Public notice – voters list and personal security

32 At least annually, the senior election official must give public notice, in accordance with section 5,

- (a) that a person who wishes to have his or her name added to the voters list, or have any information about the voter on the voters list corrected, may do so by contacting the senior election official; and
- (b) of the protections for personal security available under section 30.

Candidates entitled to copy of voters list

33(1) During the election period, the senior election official must give a candidate, on request, a copy of the voters list. The senior election official may determine the form in which this list is given.

33(2) A candidate who receives a copy of the voters list may use the list for communicating with his or her voters during an election period, including using the list for soliciting contributions and campaigning.

DIVISION 4
NOMINATIONS

Who may be nominated

34 A person may be nominated as a candidate if he or she is, on election day,

- (a) qualified to hold the office under the Act; and
- (b) not ineligible under any Act or otherwise prohibited by law from being nominated for or holding the office.

Nomination period

35(1) The nomination period for an election begins on the 21st day before election day and ends on the 14th day before election day.

35(2) The senior election official must appoint the place and the date or dates when nominations will be received. The date or dates must be during the nomination period.

35(3) The time for receiving nominations must be from 1:00 p.m. to 9:00 p.m. inclusive.

35(4) The place appointed for receiving nominations must be a convenient public building in the community.

Current member must resign to run in election

36(1) A person who holds office on a council may not be nominated in an election for a different office unless the member resigns his or her office at least 21 days before the election day for that election.

36(2) Despite the provisions of this regulation, if an additional by-election is required because of a resignation under subsection (1), the senior election official may, in his or her discretion, do what is necessary to ensure that the additional by-election is held on the same day as the first by-election, including having the nomination period for the additional by-election

- (a) begin less than 21 days before election day; and
- (b) end less than seven days after it begins.

Notice of nominations

37(1) At least seven but not more than 21 days before the nomination period begins, the senior election official must give public notice of nominations, in accordance with section 5.

37(2) The notice of nominations must include the following information, but may also include any other information that the senior election official considers appropriate:

- (a) the offices for which candidates are to be elected;
- (b) the place or places where, and the dates and times during the nomination period when, nominations will be received;
- (c) the manner in which nominations must be filed;
- (d) how interested persons can obtain information about the requirements and procedures for making a nomination.

What nominations must include

- 38** A nomination must include the following:
1. A statement by the prospective candidate of
 - (a) his or her surname and usual name;
 - (b) his or her phone number and residential address, and mailing address if it is different; and
 - (c) the office for which he or she seeks to be nominated.
 2. A statement under oath by the perspective candidate – either made in advance or administered by the senior election official at the time the nomination papers are filed – that he or she is qualified to be nominated for the office,

and that to the best of his or her knowledge, the information provided in his or her nomination papers is true.

3. The names, addresses and signatures of at least two voters who support the nomination.

How to file a nomination

39(1) To make a nomination, the nomination papers described in section 38 must be filed with the senior election official

(a) before the end of the time for receiving nominations; and

(b) at the place

that is specified in the notice of nominations under subsection 37(2).

39(2) Nomination papers may be filed with the senior election official in person or by an agent or by mail or fax.

39(3) The obligation to ensure that the nomination papers are received in accordance with this section rests with the person nominated.

Nomination papers available for inspection

40 The senior election official must ensure that nomination papers are made available for public inspection, during regular office hours, from the time they are received until they are disposed of, as provided for under section 116.

Verifying the nomination

41(1) Upon receiving nomination papers, the senior election official must verify that they are complete and in accordance with this regulation.

41(2) As soon as possible after verifying the nomination papers, the senior election official must

(a) confirm to the prospective candidate that his or her nomination papers are complete and in accordance with this regulation and have been accepted; or

(b) advise the candidate that his or her nomination papers have been refused and the reason for the refusal.

41(3) A person becomes a candidate upon the senior election official accepting his or her nomination papers.

41(4) Nomination papers that are refused may be replaced or corrected if the new or corrected documents are filed in accordance with section 38 before the nomination period ends.

Withdrawing a nomination

42(1) At any time up until 2:00 p.m. on the day after the nomination period ends, a candidate may withdraw his or her nomination by filing a signed declaration to that effect with the senior election official.

42(2) The candidate's signature on the withdrawal must be witnessed by another person, who must sign as witness.

42(3) A candidate may withdraw only if enough candidates remain to fill the offices to be elected.

Acclamation or notice of election

43(1) If, when the period for withdrawals expires, the number of nominated candidates for an office is the same as or less than the number to be elected, the senior election official must declare the candidate or candidates elected by acclamation.

43(2) If, when the period for withdrawals expires, the number of nominated candidates for an office is greater than the number to be elected, the senior election official must, within two days, give public notice in accordance with section 5 of the following:

- (a) a description of each office to be filled at the election;
- (b) the names of the candidates nominated for each office;
- (c) the dates and times when voting places will be open for voting;
- (d) the location of all the voting places;
- (e) information about the alternative voting opportunities available in the election, including the date, location and hours of advance voting required under section 79;
- (f) that, before being allowed to vote, a person may be required to establish his or her identity, and the manner in which the person may do so under section 8;
- (g) any other information about the election that the senior election official determines appropriate.

Death of candidate

44 If a candidate named in the notice of election dies before the close of voting on election day, the

- candidate is deemed to have withdrawn and
- (a) if no candidate would be elected by acclamation as a result of the death, the election must proceed as if the deceased candidate had not been nominated; or
 - (b) if the number of candidates remaining for the office is the same or less than the number to be elected, the senior election official must immediately declare the remaining candidate or candidates elected by acclamation.

Right of access

45(1) Subject to subsection (2), between 9:00 a.m. and 9:00 p.m., no person may prevent anyone who produces identification or documentation confirming that he or she is a candidate or representative of a candidate in an election from canvassing or distributing election material at the entrance door of each residence in an apartment, condominium complex or other multiple-unit residence.

45(2) If a voting station is located in an apartment, condominium complex or other multiple-unit residence, no person may canvass or distribute election materials in the building, complex or residence on election day or any day when advance voting may occur at the station.

45(3) Subsection (1) does not apply to a shelter or other residence for persons under reasonable apprehension of bodily harm.

45(4) No person may interfere with, or prevent, anyone who produces identification or documentation confirming that he or she is a candidate or representative of a candidate in an election from canvassing or distributing election material in any community.

DIVISION 5

PREPARING FOR AN ELECTION

Establishing voting stations

46(1) The senior election official must establish a voting station for each voting subdivision.

46(2) Two or more voting stations may be located together at a central voting place.

46(3) A voting place must be in a convenient location for a majority of the voters served by it and for this

purpose, it may be established outside the subdivision or the community.

46(4) A voting place must be accessible to persons with physical disabilities, unless the senior election official is satisfied that it is impractical to obtain the use of such premises while complying with subsection (3).

46(5) A voting station must not be established

- (a) in a space that is being used as a dwelling;
- (b) in the part of a premises that is used as a licensed premises, as defined in *The Liquor and Gaming Control Act*; or
- (c) in or on any premises in which a candidate has any estate or interest.

Changing voting place

47(1) Subject to section 90 (interrupted voting), if it becomes impossible or impractical to operate a voting station at a voting place, the senior election official must move the voting station to a new voting place located as close as possible to the old voting place.

47(2) When a voting station is moved to a new voting place, the senior election official must notify

- (a) the candidates of the change and the reason for it; and
- (b) the public of the change by
 - (i) posting notice of the new location on the old voting place, or as close to it as possible, and
 - (ii) if time permits, giving notice of the change in any other manner that he or she considers appropriate.

Equipping voting stations

48 The senior election official must ensure that each voting station is provided with the following:

- (a) a copy of the voters list, or the division of the voters list relevant to that voting station;
- (b) a voting record;
- (c) a ballot box;
- (d) enough ballots;
- (e) one or more voting compartments;
- (f) directions about the manner of voting;
- (g) any other items that the senior election official determines are necessary.

Ballots

49(1) The senior election official must arrange for enough ballots to be prepared.

49(2) The senior election official must determine which of the following will be used in an election:

- (a) separate ballots for each office and for each question;
- (b) composite ballots that combine the contents of two or more separate ballots described in clause (a).

Rules for ballots

50(1) The following rules apply to ballots:

1. Each candidate's name, as the candidate provided it on his or her nomination paper, must appear on the front of the ballot.
2. No reference to a candidate's occupation, degree, title, honour or decoration may appear on the ballot.
3. A space for marking the ballot must appear to the right of each candidate's name. For a question, the ballot must have a space for marking the ballot to the right of each answer.
4. Subject to subsection (4), all ballots for the same office or question must be identical or as nearly alike as possible.

50(2) The candidates' names must appear on the ballot in alphabetical order, based on their surnames and, in the case of identical surnames, their usual names.

50(3) If two or more candidates have the same surname and usual name, the senior election official may, subject to the restrictions in Rule 2 of subsection (1), include on the ballot additional information to help the voters identify the candidates.

50(4) The candidates for mayor and for councillor must be listed on separate ballots and, if the terms of office for councillors are not the same, the ballot for each term must be separate.

50(5) The form of a composite ballot must conform as closely as possible to the rules set out in this section.

Ballot if candidate dies

51(1) If a candidate dies after the ballots are prepared, the senior election official must arrange for new ballots to be prepared that do not contain the name of that candidate.

51(2) If there is no time to arrange for new ballots after the death of a candidate, the senior election official must ensure that written notice that the deceased person is no longer a candidate is posted in a conspicuous location at each affected voting station.

Record of ballots provided

52 The senior election official must keep a record of how many ballots are provided for use at each voting station.

Ballot boxes

53 A ballot box provided for use at a voting station must be constructed and secured so that ballots can be inserted into it but cannot be withdrawn without providing evidence of the box being opened or otherwise tampered with.

Voting compartment

54 Each voting station must have at least one voting compartment that is furnished so that voters can mark their ballots conveniently, without interference or interruption, and while screened from observation.

Voting directions

55 The senior election official must ensure that directions about the manner of voting are posted near the entrance to the voting place and at each voting compartment.

Voting record

56 A voting record provided for use at a voting station must be suitable to record the information prescribed in subsection 61(1).

DIVISION 6 VOTING

Right of a voter

57 Every eligible voter is entitled to

- (a) vote in secret;
- (b) vote without inducement, interference or coercion from anyone else;
- (c) be free from any attempt or inducement, whether direct or indirect, by anyone to show the voter's marked ballot in any manner that would reveal how he or she voted; and
- (d) not have any information about how he or she voted disclosed or compelled for any reason or in any proceeding.

May only vote once

58(1) A voter may not vote more than once in the same election.

58(2) A voter may vote only once for each candidate that he or she chooses to vote for. The voter must not vote for more candidates than the number to be elected.

58(3) For a vote on a question, a voter may vote for only one answer.

Operation of Voting Places and Stations

Who may be present at voting station

59 During voting, the following persons may be present at a voting station:

- (a) the election officials appointed for that voting station;
- (b) a voter, for the purpose of voting;
- (c) an interpreter, if required;
- (d) a candidate;
- (e) not more than two scrutineers
 - (i) appointed by each candidate, and
 - (ii) for each question;
- (f) any other person allowed to be present by the senior election official.

Preparation of ballot box

60(1) Immediately before a voting station opens, the senior election official must demonstrate to all persons present that the ballot box to be used is empty, and secure it so that it cannot be opened without providing evidence of it being opened or otherwise tampered with.

60(2) Subject to section 75 (moving ballot box), while the voting station is open and during the count, the senior election official must ensure that the ballot box remains in full view of persons at the voting station.

Voting record

61(1) The senior election official must keep the voting record at the voting station and ensure that it is used to record the name and address of each person who is given a ballot. Any of the following that apply must be recorded beside the person’s name:

- (a) if the person is required to take an oath, whether the oath is required to be taken

- (i) under subsection 67(1), because the person seeks to have his or her name added to the voters list,
- (ii) under subsection 68(1), because the records at the voting station show that someone using the person’s name has already voted,
- (iii) under subsection 68(2), because the records at the voting station show that a sealed envelope ballot package was provided to the person, or
- (iv) under section 70, because the person’s right to vote is challenged;
- (b) if the person’s right to vote is challenged, who made that challenge and the reason for it;
- (c) if the voter was required to establish his or her identity under clause 66(1)(a);
- (d) if the person votes with the assistance of a person other than an election official as provided for under clause 73(2)(b), the name of the person who provided assistance;
- (e) if the person votes with the assistance of an interpreter who is not an election official as provided for under section 74, the name of the interpreter;
- (f) if the person refuses to take an oath required under this regulation;
- (g) if the person removes a ballot from a voting place.

61(2) The senior election official must record in the voting record the name of each person – including the name of each candidate – who acts as a scrutineer at the voting station.

61(3) A person is deemed to have voted when he or she is given a ballot.

Scrutineers

- 62(1)** In order to act as a scrutineer, a person must
- (a) be at least 18 years old;
 - (b) be a candidate or a person appointed, in a form approved by the senior election official, by a candidate; and
 - (c) take an oath that he or she will
 - (i) uphold the rights of voters under section 57, and
 - (ii) preserve the secrecy of the vote in accordance with section 77.

62(2) A senior election official may appoint a person to act as a scrutineer for a vote on a question if the person

- (a) is at least 18 years old;
- (b) applies to the senior election official; and
- (c) takes an oath that he or she will
 - (i) uphold the rights of voters under section 57, and
 - (ii) preserve the secrecy of the vote in accordance with section 77.

62(3) If more than two scrutineers are appointed for a vote on a question, the senior election official may designate one or more of them as representative scrutineers.

62(4) Before acting as a scrutineer, the person must show his or her appointment to the senior election official.

62(5) A scrutineer may

- (a) enter the voting place 15 minutes before it opens and inspect the ballot box, the ballots and the other election materials to be used at the voting station; and
- (b) be present during voting and, from time to time, examine the voting record for a voting station, but only if he or she does not interfere with the activities of the election officials at the voting station.

No display of election material in voting place

63(1) No person may within 50 metres of a voting place,

- (a) distribute pamphlets, buttons or other items referring to the election or a candidate or a vote on a question;
- (b) wear or display any item that refers to the election or a candidate or a vote on a question; or
- (c) post or display a sign or poster referring to the election or a candidate or a vote on a question.

Voting place in mall

63(2) If a voting place is located in a mall, office or other building with multiple units, the voting place is deemed to be the unit in which the voting station is located.

Order to remove sign

63(3) If a sign or poster is in contravention of clause

(1)(c), an election official at the voting place involved may remove it or order the person or organization that produced the sign or poster or authorized its production to remove or obscure it. The order may be made orally or in writing.

Duty to remove

63(4) Upon receiving an order under subsection (3), the individual or organization must ensure that the sign or poster is removed or obscured without delay.

Exception for notices under regulation

63(5) Subsection (1) does not apply to

- (a) a sign or notice that is posted under this regulation; or
- (b) anything used to identify an election official.

Exception for scrutineers

63(6) Despite clause (1)(b), a scrutineer may wear a badge or ribbon that does not show the name or initials of the candidate or indicate an answer to a question, but which by colour alone indicates the candidate or answer for whom he or she acts as a scrutineer.

Voting at Voting Stations on Election Day

Voting hours

64 On election day, every voting place must open at 8:00 a.m. and close at 8:00 p.m.

Voting at a voting station

65 On election day, an eligible voter who wishes to vote must attend the voting station for his or her voting subdivision or community and give his or her name to an election official.

Eligible voter whose name is on voters list

66(1) An eligible voter whose name is on the voters list may vote if he or she

- (a) establishes his or her identity, if required to do so by the senior election official under subsection (2); and
- (b) complies with subsection 70(5) (what challenged person must do to vote), if his or her right to vote is challenged.

66(2) Before giving a ballot to an eligible voter whose name is on the voters list, a senior election official may require the voter to establish his or her identity in accordance with section 8 (establishing identity).

Eligible voter whose name is not on the voters list

67(1) An eligible voter whose name is not on the voters list may vote if he or she complies with

- (a) section 29 (name added to voters list at time of voting); and
- (b) subsection 70(5) (what challenged person must do to vote), if his or her right to vote is challenged.

67(2) The senior election official must add to the voters list the name of an eligible voter who complies with the requirements of section 29.

When records show voter already voted

68(1) An eligible voter who is shown on the voters list as already having voted may vote if

- (a) the voter
 - (i) establishes his or her identity in accordance with section 8, and
 - (ii) takes an oath that he or she is an eligible voter who has not previously voted in the election or on a question; and
- (b) the senior election official is satisfied that the person is entitled to vote, based on the documents provided and the oath.

68(2) An eligible voter who is shown on the voters list as having been provided a sealed envelope ballot package may vote if

- (a) the voter
 - (i) establishes his or her identity in accordance with section 8, and
 - (ii) takes an oath that he or she is an eligible voter who did not receive a sealed envelope ballot package and has not previously voted in the election or on the question; and
- (b) the senior election official is satisfied that the person is entitled to vote, based on the documents provided and the oath.

Indication of voting made on voters list

69 In addition to making the entries in the voting record required under subsection 61(1), the senior election official must ensure that the voters list used at the voting station indicates that a voter has voted.

Challenging a voter

70(1) An election official or a scrutineer may challenge a person wishing to vote if he or she believes that the person

- (a) is not an eligible voter; or

- (b) has already voted in the election or on the question.

70(2) The person making the challenge must state the reason for it. The senior election official must ensure that the name of the person making the challenge and the reason are recorded on the voting record beside the name of the voter.

70(3) If no reason for the challenge is given, the voter who has been challenged may proceed to vote as if no challenge had been made.

70(4) A challenge must be made before the voter is given a ballot.

70(5) In order to vote, a voter who has been challenged must

- (a) take an oath that he or she is an eligible voter who has not otherwise voted in the election or on the question; and
- (b) if he or she has not already done so, establish his or her identity in accordance with section 8.

70(6) The challenged person must not be asked any questions except about his or her identity, eligibility to vote and whether or not he or she has already voted in the election or on the question, and no further challenge may be made once a person has complied with subsection (5).

70(7) If a voter who has been challenged refuses or fails to comply with subsection (5), the senior election official must ensure that the voter is not given a ballot.

Voting

71 The following steps must be taken when a person is voting at a voting station on election day:

STEP 1: Voter to be given a ballot

The senior election official must

- (a) write his or her initials on the back of a ballot;
- (b) fold the ballot so that the initials can be seen without opening the ballot;
- (c) explain to the voter how to mark and fold the ballot; and
- (d) give the ballot to the voter.

STEP 2: Voter's handling of ballot

The voter must take the ballot directly to the voting compartment and, without delay, mark the ballot

- (a) by placing an “X” in the space beside the name of each candidate he or she wishes to vote for;
- (b) in the case of a vote on a question, by placing an “X” in the space beside the answer he or she wishes to vote for; or
- (c) by writing “declined” anywhere on the front of the ballot.

STEP 3: Ballot returned to election official

The voter must fold the ballot as instructed and immediately return it to the senior election official.

STEP 4: Election official’s handling of marked ballot

Without unfolding the ballot, the senior election official must

- (a) confirm that it is the same ballot that was provided to the voter by examining his or her initials; and
- (b) ensure that the ballot is put into the ballot box in full view of those present at the voting station.

Voter to leave after voting

72 A voter must leave the voting place without delay after his or her ballot is put in the ballot box.

Special Voting Situations

Voter requiring assistance of another person

73(1) A voter with a physical disability or who has difficulty reading may ask the senior election official to allow another person to come with the voter to the voting compartment and help mark his or her ballot.

- 73(2)** A voter may be assisted by
- (a) an election official; or
 - (b) any other person who is at least 18 years old and who takes an oath that he or she
 - (i) will comply with the obligations set out in subsection (4); and
 - (ii) has not assisted more than one other voter in voting at the election or on a question.

73(3) Except for an election official, no person may assist more than two voters.

- 73(4)** A person assisting a voter must
- (a) not influence or attempt to influence how the voter votes;
 - (b) mark the ballot as directed by the voter; and
 - (c) not disclose how the voter voted.

Interpreter

74(1) A senior election official may appoint a language or sign language interpreter to assist election officials in communicating to a voter any information that is necessary to enable the voter to vote.

74(2) An election official may act as an interpreter.

74(3) Before acting as an interpreter, a person who is not otherwise an election official must take an oath that her or she

- (a) is able to make the translation and will do so to the best of his or her abilities; and
- (b) will not attempt to influence how the voter votes.

Moving ballot box

75(1) If a voter cannot get into a voting station or place because of a disability, the senior election official may take the ballot box and voting materials outside the voting station or place to allow the person to vote.

75(2) The senior election official must take all practical steps to ensure that a person voting outside the voting station or place may mark his or her ballot in secret and without interference or interruption.

75(3) The senior election official must ensure that any voting material not taken outside the voting station or place under subsection (1) are secured until he or she returns.

75(4) Persons acting as scrutineers who are present may accompany the senior election official when he or she leaves the voting station under subsection (1).

Spoiled Ballot

76(1) A voter who unintentionally spoils a ballot may fold it and return it to the senior election official and exchange it for a new ballot.

76(2) Without unfolding the returned ballot, the senior election official must write “Spoiled” on the back of the ballot and ensure that is placed in the spoiled ballot package prepared under subsection 95(2) (organizing the ballots).

Secrecy of the Vote

Secrecy of voting

77(1) Every person at a voting station, including persons present to vote or count the vote, must preserve the secrecy of the voting, and, in particular, must not do any of the following:

- (a) interfere with a person marking a ballot;
- (b) attempt to discover how a person voted;
- (c) communicate information about how another person voted;
- (d) induce a person, directly or indirectly, to reveal how he or she voted.

77(2) Except as provided in this Part, a person must not show his or her marked ballot to another person or receive assistance in marking his or her ballot.

77(3) Except as provided in this Part, a person must not enter a voting compartment while a voter is in the compartment or attempt in any way to observe how a person marks his or her ballot.

No requirement to disclose vote

78 In any legal proceeding,

- (a) a voter may not be required to reveal how he or she voted; and
- (b) a person who assisted a voter in voting may not reveal how the voter voted.

Alternate Voting Opportunities

Required advance voting opportunity

79 The senior election official must

- (a) establish a date and location for an advance voting opportunity for an election or vote on a question ; and
- (b) ensure that, on the date and at the location established, a voting station is open between the hours of 5:00 p.m. and 9:00 p.m. for voters to vote in advance.

Additional advance voting opportunities

80(1) The senior election official may

- (a) establish additional advance voting opportunities; and
- (b) determine the days and hours during which voting stations for those additional opportunities are to be open, which may be different for different opportunities.

80(2) The senior election official must give notice, in a form and manner and at a time that he or she considers appropriate, of the additional advance voting opportunities established under this section.

When advance voting may occur

81(1) Advance voting under sections 79 and 80 may begin at any time after the ballots to be used for an election or vote on a question are prepared and must end at least 48 hours before election day.

81(2) The senior election official may choose to equip an advance voting station with a voting record that contains within it the information from the voters list, in which case a separate copy of the voters list is not required.

81(3) The senior election official must ensure that the voters list to be used on election day indicates which voters voted in advance.

Sealing ballot box between uses

82(1) At the end of each use of a ballot box at an advance voting opportunity the ballot box must be secured so that no ballots can be inserted into it without providing evidence of it being opened or otherwise tampered with. Once sealed, the ballot box may only be opened – and then only to the extent necessary to allow ballots to be inserted – at the beginning of its next use at an advance voting station.

82(2) The senior election official must ensure that the ballot box and the other voting materials for the advanced voting station remain secure until

- (a) in the case of the ballots, they are combined for counting, as provided for in section 93; and
- (b) in the case of the materials, they are secured in accordance with section 97.

Conduct of advance voting generally

83 Except as provided in sections 79 to 82, advance voting must be conducted in the same manner as voting at a regular voting station on election day.

Voting by Sealed Envelope

Eligibility to vote by sealed envelope ballot

84(1) A voter is eligible to vote by sealed envelope ballot if he or she

- (a) is unable to go in person to a voting station due to a disability;

- (b) is providing care to a person who is unable to leave home; or
- (c) expects, on election day and the day or days of advance voting, to be
 - (i) absent from his or her community, or
 - (ii) in a location significantly distant from the voting place where he or she is eligible to vote that it is not reasonably possible for him or her to vote at that place.

84(2) An application may be filed with the senior election official in person or by mail or fax.

84(3) The application must be made during the period that begins on the 21st day before election day and ends on the third day before election day.

When application made in person

85(1) If a voter applies in person, the senior election official must determine if the voter's name is on the voters list. If it is not, as part of the application, the voter must

- (a) take an oath that he or she is an eligible voter; and
- (b) establish his or her identity in accordance with section 8.

85(2) Before giving a voter who applies in person a sealed envelope ballot package, the senior election official

- (a) must require the voter to sign a declaration that he or she is eligible under subsection 84(1) to vote by sealed envelope ballot; and
- (b) may require the voter
 - (i) if he or she has not already done so, to establish his or her identity in accordance with section 8; and
 - (ii) to take an oath that he or she is an eligible voter who has not otherwise voted or received a sealed envelope ballot package in the election or on the question.

When application made in writing

86(1) If a voter applies by mail or fax to vote by sealed envelope ballot, the application must

- (a) state the applicant's name, address and phone number;
- (b) include copies of the documents referred to in section 8 (establishing identity); and
- (c) include a declaration signed by the voter that he or she

- (i) is an eligible voter in the election or on the question;
- (ii) is eligible under subsection 84(1) to vote by sealed envelope ballot; and
- (iii) has not otherwise already voted in the election or on the question.

86(2) The senior election official must add to the voters list the name of a person not already on the list who applies under subsection (1) if the senior election official is satisfied that the person is an eligible voter who has met the requirements of subsection (1).

86(3) If an eligible voter applies under subsection (1)

- (a) 10 or more days before election day, the senior election official must send by ordinary mail or deliver the sealed envelope ballot package to the voter; and
- (b) less than 10 days before election day, the voter may make alternative arrangements to have the package delivered to him or her, provided those arrangements are satisfactory to the senior election official.

86(4) Under clause (3)(b), a voter may designate in writing a relative, spouse or common-law partner to deliver the sealed envelope ballot package to him or her, in which case, before giving the package, the senior election official may require the person designated to

- (a) establish his or her identity in accordance with section 8; and
- (b) take an oath as to his or her relationship with the voter.

86(5) A senior election official may take any additional actions he or she determines necessary to satisfy himself or herself that the voter wishes the relative, spouse or common-law partner to be responsible for delivering the sealed envelope ballot package to the voter.

Contents of sealed envelope ballot package

87 A sealed envelope ballot package must contain

- (a) instructions on how to vote by sealed envelope;
- (b) a ballot initialled by the senior election official;
- (c) a ballot envelope;
- (d) a certificate envelope; and
- (e) an outer envelope with the return address specified by the senior election official printed on it.

Record of voting by sealed envelope ballot

88 When a sealed envelope ballot package has been provided to a voter, the senior election official must

- (a) enter the voter’s name and address in a separate voting record maintained for voters who vote by sealed envelope ballot; and
- (b) ensure that the voters list to be used on election day indicates which voters have been provided a sealed envelope ballot package.

Procedure for voting by sealed envelope ballot

89(1) To vote by sealed envelope ballot, a voter must take the following steps:

STEP 1: Complete certificate envelope

Complete and sign the certificate envelope, certifying his or her identity and that he or she has not previously voted in the election or on the question.

STEP 2: Mark ballot

Mark the ballot by

- (a) placing an “X” in the space beside the name of each candidate he or she wishes to vote for;
- (b) in the case of a vote on a question, placing an “X” in the space beside the answer he or she wishes to vote for; or
- (c) writing “declined” anywhere on the front of the ballot.

STEP 3: Put into envelopes provided

Put ballot in the ballot envelope and seal it.

Put the ballot envelope in the certificate envelope and seal it.

Put the certificate envelope in the outer envelope and seal it.

STEP 4: Deliver package to S.E.O.

Ensure that the outer envelope and its contents are received by the senior election official before 8:00 p.m. on election day.

89(2) Upon receiving a sealed envelope ballot package from a voter, the senior election official must

- (a) remove the certificate envelope ballot package from the outer envelope and examine the certificate to ensure that it is properly completed; and

- (b) make an entry beside the voter’s name in the voting record maintained for voters who vote by sealed envelope ballot indicating that the voter’s ballot was returned.

89(3) If the certificate has been completed properly, the senior election official must remove the ballot envelope from the certificate envelope and insert it, unopened into a ballot box set aside for sealed envelope voting.

89(4) The senior election official must write “rejected” on the back of the certificate envelope and ensure that it is placed in the rejected ballot package prepared under subsection 95(2) (organizing the ballots) if

- (a) the certificate has not been completed properly; or
- (b) the sealed envelope ballot is received by the senior election official after 8:00 p.m. on election day.

Interrupted Voting

S.E.O. may declare voting to be interrupted

90(1) The senior election official may declare voting at a voting station to be interrupted if he or she is satisfied that, due to an emergency or other unexpected circumstances, voters are unable to vote because

- (a) the voting station is unable to remain open and accessible to voters during regular voting hours on election day; and
- (b) it is not reasonably possible to move the voting station to a new voting place, as provided for in section 47.

90(2) If a voting station is declared interrupted, the senior election official must ensure that the station is reopened at the same or another location, in the seven days following election day, for a period equivalent to the period of the interruption. The period of reopening is not required to be at the same time of the day as the interruption, but it must be as continuous as reasonably possible between the hours of 8:00 a.m. and 8:00 p.m.

90(3) The senior election official must give notice to the candidates and the voters served by the voting station, in the manner he or she considers appropriate in the circumstances,

- (a) of the hours the voting station will be reopened for voting; and

(b) if the voting station is moved, the location of the new voting place.

90(4) If made or done in good faith, the decision or action of a senior election official under this section may not be reviewed or set aside by a court on account of unreasonableness or supposed unreasonableness.

DIVISION 7 COUNTING THE VOTE

Voting stations close at 8:00 p.m.

91 At 8:00 p.m. on election day, the senior election official must close the voting station. However, any eligible voter who is in attendance at the voting station or place for the purpose of voting at that time must be allowed to vote.

S.E.O. to count the vote

92(1) Immediately after closing the voting place, the senior election official, with the assistance of at least one other election official, must count the vote in full view of the persons described in section 59 who are present, except a voter or an interpreter.

92(2) The count consists of:

- (a) preparing a ballot account;
- (b) counting and organizing the ballots;
- (c) completing a statement of the vote;
- (d) securing the ballots and other election materials.

Ballots to be combined before counting

93(1) For the purpose of preserving the secrecy of the ballot, the senior election official must combine into one ballot box, before they are counted, all of the ballots used for advance and sealed envelope voting with those in a ballot box used for regular voting.

93(2) The senior election official must list separately the number of advance ballots and sealed envelope ballots that were added in the statement of vote prepared for the ballot box that was used for regular voting.

Ballot account

94(1) To determine whether all ballots supplied for use at the voting station are accounted for, the senior election official must determine the following numbers and enter them in the ballot account form

- (a) the number of voters who appear to have voted at the voting station according to the voting record;

- (b) the number of spoiled ballots;
- (c) the number of unused ballots.

94(2) The senior election official must ensure that the completed ballot account is attached to the voting record.

Rules for counting ballots

95(1) The senior election official must count the ballots according to the following rules:

RULE 1: Count must be open and visible

Every ballot taken from a ballot box must be examined by the senior election official and shown to each person present.

RULE 2: Ballots that must be counted

A ballot must be counted if it is marked in an acceptable manner and the senior election official is satisfied that it is a ballot that he or she gave to a voter.

A ballot is marked in an acceptable manner if it is marked with

- (a) an "X" as described in Step 2 of section 71; or
- (b) any other mark that
 - (i) clearly indicates an intention to vote for a candidate or an answer to a question; and
 - (ii) does not identify the voter.

RULE 3: Ballots that must be rejected

A ballot must be rejected if it is not marked in an acceptable manner or the senior election official is not satisfied that it is a ballot that he or she gave to a voter.

A ballot is not marked in an acceptable manner if

- (a) it is marked in such a way that the voter could be identified;
- (b) regardless of any other markings, "declined" has been written on it; or
- (c) more votes are cast on it than the voter is entitled to cast.

However, no ballot is to be rejected merely because

- (a) the "X" or other acceptable mark is not inside the space to the right of a candidate's name or an answer; or
- (b) the voter has marked the ballot with something other than what was provided for marking ballots in the voting compartment.

RULE 4: Objections

Every objection raised by a candidate or scrutineer present about a ballot being accepted or rejected must be considered.

Having considered an objection, the senior election official must

- (a) make a decision on the objection without delay; and
- (b) record the objection in the voting record, number the objection in sequence, and mark the corresponding number on the back of the ballot and initial it.

RULE 5: Reconciliation

A ballot that is not initialled on the back may be accepted if the senior election official is otherwise satisfied it is a ballot he or she gave to a voter.

However, if the number of ballots taken from the ballot box is greater than the number of voters who voted according to the voting record, the senior election official must discard – and mark “discarded” on the back of – every ballot that does not have his or her initials on its back.

95(2) The senior election official must ensure that the ballots are organized into the following packages, and that each package is clearly marked as to its contents:

- (a) the accepted ballots;
- (b) the accepted ballots that were objected to;
- (c) the rejected ballots;
- (d) the rejected ballots that were objected to;
- (e) the spoiled ballots;
- (f) the declined ballots;
- (g) the discarded ballots;
- (h) the unused ballots.

Completing a statement of the vote

96(1) The senior election official must complete a statement of the vote setting out the following:

- (a) the name of the community and the name or number of the voting place and voting station;
- (b) the date of election day and the office or offices to be filled and the question voted on;
- (c) the name of each candidate and the number of votes for each;
- (d) the number of votes for each answer to each question;
- (e) the number of ballots supplied;

- (f) the number of ballots in each of the separate packages set out in subsection 95(2).

96(2) The senior election official and at least one other election official must sign the statement of the vote. Any candidate or scrutineer present may also sign it.

Securing and delivering election materials

97 As soon as reasonably possible after completing the count, the senior election official must ensure that the following are placed in the ballot box and that the box is secured:

- (a) all the ballots packaged as required under subsection 95(2);
- (b) the voters list;
- (c) a copy of the statement of the vote; and
- (d) all documents used at the election or for the vote on a question, except the voting record and the original of the statement of the vote.

If composite ballots used

98 If a composite ballot has been used,

- (a) in applying the rules in subsection 95(1),
 - (i) each portion of the ballot that deals with an office or a vote on a question is to be considered a separate ballot; and
 - (ii) the reference to counting a ballot in Rule 2 is to be read as a reference to counting the votes on a ballot; and
- (b) in organizing the ballots under subsection 95(2), the following packages of ballots must be prepared and the contents clearly marked:
 - (i) ballots that were accepted in part, without objection,
 - (ii) ballots that were accepted in part, subject to an objection.

DIVISION 8

DETERMINING AND DECLARING RESULTS

Results must be announced

99(1) The senior election official must tally the votes received

- (a) by each candidate in the election; and
- (b) for each answer for a vote on a question; and announce the results to those present.

Statement of official results

99(2) After completing the tally and announcing the results, the senior election official must prepare a statement of official results that sets out

- (a) for each office to be filled,

- (i) the votes counted for each candidate, and
- (ii) the number of ballots rejected or declined in the election; and
- (b) for each vote on a question,
 - (i) the votes counted for each answer to a question, and
 - (ii) the number of ballots rejected or declined for the vote on a question.

Official results to be available to the public

100 Upon declaring the results of an election or vote on a question, the senior election official must make a copy of the official results publically available.

Copy of official results to P.E.O.

101 The senior election official must, within two days of declaring the results of an election, deliver a copy of the official results – in a form approved by the principal electoral officer – to the principal electoral officer.

If tie for an office

102 If two or more candidates for an office cannot be declared elected to an office because each has received the same number of votes, the senior election official must, except when a recount is applied for under Division 3,

- (a) declare the office vacant; and
- (b) proceed to hold a by-election to fill that office.

Postponing the declaration

103(1) The senior election official must postpone declaring the results of an election or vote on a question if

- (a) voting has been declared interrupted under subsection 90(1); or
- (b) the senior election official is for any other reason unable to determine the number of votes cast for each candidate or each question.

103(2) The declaration may be postponed for not more than seven days.

103(3) If a voting station is unable to reopen as required in subsection 90(2), the senior election official must declare the election or vote on a question to be invalid, and proceed to hold a new election or vote on a question.

103(4) If the reason the declaration has been postponed – as set out in clause (1)(b) – is still not resolved eight

days after the election day, the senior election official must nevertheless prepare a statement of official results based on the information available at that time, and declare the results of the election or vote on a question.

Recounts

Application for a recount

104(1) For an election, the senior election official must apply to the principal electoral officer for a recount if

- (a) a tie has been declared; and
- (b) an objection was made to a decision made by an election official to accept or reject any ballot.

104(2) For an election or a vote on a question, any candidate or voter in the community may apply to the principal electoral officer for a recount on one or more of the following grounds:

- (a) that ballots were not correctly accepted, rejected or discarded, as required by the rules in subsection 95(1) (rules for counting ballots);
- (b) that a statement of the vote does not accurately record the number of valid votes for a candidate or for an answer;
- (c) that the statement of official results under subsection 99(2) did not correctly tabulate the total number of valid votes for a candidate or an answer.

104(3) In addition to the grounds set out in subsection (2), any candidate may apply for a judicial recount if a candidate cannot be declared elected because there is an equal number of votes for two or more candidates.

104(4) An application by a candidate or a voter must be made within 14 days after the senior election official has finally declared the results of an election.

Date, parties and notice

105(1) The principal electoral officer must set a date for the recount that is within two weeks – or as soon as practicable following that – after the application is received.

105(2) The parties to the recount are,

- (a) in the case of an election, the applicant and each candidate in the election; or
- (b) in the case of a question, the applicant and each of the representative scrutineers designated under subsection 62(3).

They may be present, submit evidence and make submissions, and may be represented by counsel.

105(3)The applicant must serve notice of the time and place of the recount on the senior election official and each party at least four days before the date set for the recount.

Election officials to attend and assist

106(1)The senior election official and any other election official designated by the senior election official must attend at the time and place set for the recount and must bring the ballot boxes and any other required documents. They must be present during the recount to assist the principal electoral officer.

106(2)The principal electoral officer may appoint any person as an election official to assist in the recount.

Recount process

107(1)The principal electoral officer must

- (a) count all the ballots in the manner prescribed for an election official; and
- (b) hear and determine every complaint or submission made by a party about any ballot recounted under clause (a).

107(2)The principal electoral officer must conduct the recount according to the provisions of this regulation respecting the counting of ballots. For that purpose the principal electoral officer

- (a) has the powers of an election official in counting ballots;
- (b) may examine the voting record; and
- (c) must confirm or correct the statement of the vote for each ballot box opened and the statement of official results.

107(3)As far as practicable, the recount must proceed continuously.

Procedure when recount completed

108 When the recount is completed, the principal electoral officer must

- (a) announce the results;
- (b) give the following documents, as confirmed or corrected, to the senior election official and a copy to the other parties:
 - (i) the statement of the vote for each ballot box opened,
 - (ii) the statement of the official results; and

- (c) seal the ballots and other documents in their respective envelopes and boxes, and return the ballot boxes and other election documents to the senior election official.

Declaration of results after recount

109 Upon receiving the statement of official results, as confirmed or corrected by the principal electoral officer, the senior election official must declare the candidate with the most votes to be elected.

If tie for an office after recount

110 If, after a recount by the principal electoral officer, two or more candidates for an office cannot be declared elected because each has received the same number of votes, the senior election official must proceed to hold a by-election to fill the office.

Application for judicial recount

111(1)A voter who applied for a recount under section 104, or a candidate, who disputes the validity of a ballot may, within 14 days after the senior election official announces the result under section 99, apply to the court for a recount limited to the disputed ballots.

111(2)The applicant must serve notice of the application on the senior election official and, if the application concerns

- (a) an office, on each candidate; or
- (b) a question, on each representative scrutineer designated under subsection 62(3).

111(3)The application is to be heard on an urgent basis and in a summary manner.

111(4)Any persons who were present at the recount under section 104 are entitled to be present at the hearing and recount under this section.

111(5)The judge must conduct the recount of the disputed ballots according to the provisions of this regulation respecting the counting of ballots.

111(6)The voting officials and assistant voting officials may be called as witnesses.

Procedure when recount completed

112(1)When the recount is completed, the judge must announce the results, seal the ballots and other documents in their respective envelopes, and prepare a certificate stating the number of votes cast for each

candidate. The judge must give the original certificate to the senior election official and a copy to each other party.

112(2) Upon receiving the judge's certificate, the senior election official must declare elected the candidate with the most votes.

112(3) The judge must return the ballots and other election documents to the senior election official after giving the certificate to the senior election official.

If tie for an office after recount

113 If, after a recount by the judge, two or more candidates for an office cannot be declared elected because each has received the same number of votes, the senior election official must proceed to hold a by-election to fill the office.

Delegation

114 The principal electoral officer may delegate any of his or her powers and duties under this Division to an employee of the Department of Aboriginal & Northern Affairs.

DIVISION 9

OFFENCES AND CHALLENGING AN ELECTION Application of Municipal Councils and School Boards Elections Act

115 Part 8 (Offences) and Part 9 (Challenging Results of Election or Vote) of *The Municipal Councils and School Boards Elections Act* apply, with necessary changes, to elections held under this regulation.

DIVISION 10 GENERAL

Disposition of election materials

116(1) The senior election official must retain the ballots and all other documents and materials related to the election or vote on a question for six months after the results of the election or vote are declared under

- (a) section 99 (S.E.O. to declare results); or
- (b) subsection 112(1) (results after recount).

116(2) When the six-month period has elapsed, the senior election official

- (a) must destroy the ballots in the presence of two witnesses; and
- (b) may destroy any other documents and materials related to the election.

No destruction if the court proceedings continuing

117 Section 116 does not apply

- (a) if otherwise ordered by the court; or
- (b) if the materials relate to an election or vote on a question that is the subject of an application under section 111, until the final determination of that application or until the court authorizes their destruction.

Public records

118(1) Documents and materials used or relating to an election or a vote on a question that are in the custody of the senior election official are public records and, until their destruction, must be available for public inspection at the times and under the conditions acceptable to the senior election official.

118(2) Subsection (1) does not apply to ballots or any documents or materials prepared, used or relating to personal security certificates under section 30.

PART 3

DECLARATION MEMBER IS DISQUALIFIED Application re disqualification

119(1) An application for a declaration that alleges that the member is disqualified under section 86 of the Act must be made in accordance with this section.

Who may apply

119(2) An application for a declaration under this section may be made by the council or by four or more voters.

When application may be made

119(3) An application under this section must be made during the member's term of office.

Powers of the court on application

119(4) After hearing an application under this section, the court may

- (a) declare the member to be disqualified and the member's position on the council to be vacant; or
- (b) dismiss the application.

Appeal to Court of Appeal

120(1) The decision of a court under section 119 may be appealed to The Court of Appeal.

120(2) A person who is declared to be disqualified under section 119 remains disqualified until the appeal is finally determined.

120(3) If, on the final determination of the appeal, the disqualification is set aside, The Court of Appeal may reinstate the person as a member of the council for any unexpired portion of the term of office for which he or she was elected and require any person who has been elected to fill the balance of that term to vacate the office.

120(4) If, on the final determination of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next election in the community if otherwise qualified.

Reimbursement of costs and expenses

121 If an application under section 120 is dismissed, the council may reimburse the person in respect of whom the application was made for any costs and expenses that the council considers reasonable, other than costs awarded to the person by the court.