



Province of Alberta

## **ELECTION ACT**

Revised Statutes of Alberta 2000  
Chapter E-1

Current as of February 21, 2018

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2017 c29 s5(g) amends s4, s7 amends s4.2, s8 repeals ss4.3 and 4.4, s13 amends s13.1, s86 adds part 4.1 ss153.09 to 153.092, s87(a) amends s153.1, s88 adds ss153.2 to 153.8, s90 adds s154.1, s99 amends s163.1(1), s102 amends s178, s103 amends s179(1), s105 amends s188(1), s106 amends s195(1), s107 amends s197(2), s108 amends s200, s109 adds ss206.1 to 206.4.

2012 c5 s6 amends s13.1.

2012 cE-0.3 s266 amends s52(4).

2017 c21 s29 amends s1(1)(p).

### Regulations

The following is a list of the regulations made under the *Election Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Election Act</b>		
Election Act Forms .....	141/2011 .....	149/2014
Fees and Expenses.....	173/2004 .....	214/2004, 103/2007, 226/2011, 26/2012

# **ELECTION ACT**

## Chapter E-1

### *Table of Contents*

1	Interpretation
	<b>Part 1</b>
	<b>Appointments</b>
2	Chief Electoral Officer
3	Appointment of Chief Electoral Officer
3.1	Oath of office
4	Duties and powers of Chief Electoral Officer
4.1	Test of new equipment and procedures
4.11	Directives issued by the Chief Electoral Officer
4.12	Accessible voting equipment
4.2	Inquiries and investigations
4.3	Notice of investigation and conclusion
4.4	Disclosure
5	Office of Chief Electoral Officer
5.1	Immunity
6	Salary of Chief Electoral Officer
7	Annual estimates
8	Records management
9	Appointment of returning officers
9.1	Hiring policy
10	Termination of appointment of returning officer
11	Remuneration of election officers and enumerators
12	Prohibition against political activity
	<b>Part 2</b>
	<b>Election Lists</b>
	<b>Division 1</b>
	<b>Register of Electors</b>
13	Maintenance of register
13.1	Revising the register

- 13.2 Agreements on information
- 13.3 Access to information in the register

**Division 2**  
**List of Electors**

- 14 Review of subdivisions
- 15 List of electors
- 16 Persons entitled to be listed as electors
- 17 Contents of list of electors
- 18 Distribution of lists of electors
- 19 Post-polling-day list of electors
- 19.1 Protection of list
- 20 Restricted use of list of electors

**Division 3**  
**Enumerations**

- 21 Enumerations
- 22 Preparation of materials for enumeration
- 23 Appointment of enumerators
- 24 Persons ineligible to act as enumerators
- 25 Enumerators for subdivisions
- 26 Identification documents
- 27 Replacement of enumerators
- 28 Oath of office
- 29 Right of access for enumerations
- 30 Conducting an enumeration
- 31 Remote areas
- 32 Preparing list of electors
- 33 Accuracy of list of electors
- 38 Materials to be submitted to Chief Electoral Officer

**Part 3**  
**Elections, By-Elections and Plebiscites**

- 38.1 General election dates
- 39 Authorization to issue writ of election
- 40 Issue of writ of election
- 41 Writ not effected
- 42 Forms and materials
- 43 Persons eligible to vote
- 44 Absentee voters
- 45 Persons ineligible to vote
- 46 Persons ineligible to be election officers
- 47 Appointment of election clerks

- 47.1 Appointment of administrative assistants
- 48 Duties of election clerks
- 49 Oaths and affidavits
- 50 Revision of polling subdivision lists
- 51 Access to electors list and revisions
- 52 Location of polling places
- 52.1 Location of polling places on Indian reserves and Metis settlements
- 53 Change of polling place
- 54 Polling place signs
- 55 Publication of election proclamation
- 56 Eligibility
- 57,58 Prohibitions against nomination
- 59 Nomination of candidates
- 60 Official agents of candidates
- 61 Filing nomination papers
- 62 Deposit of candidate
- 63 Material to be provided to candidate
- 64 Election by acclamation
- 65 Withdrawal of candidate
- 66 Death of candidate
- 67 Close of nominations
- 68 Service on candidate of documents and notices
- 69 Posting of notice of poll
- 70 Publishing information re location of polling place
- 71 Appointment of deputy returning officers
- 72 Duties of deputy returning officers
- 73 Appointment of poll clerks
- 74 Duties of poll clerks
- 75 Poll clerk as acting deputy returning officer
- 75.1 Appointment of information officer
- 76 Appointment of supervisory deputy returning officer
- 77 Duties of supervisory deputy returning officer
- 77.1 Registration officer
- 77.2 Use of election officers
- 78 Interpreters
- 79 Scrutineers
- 80 Provision of supplies
- 81 Ballot boxes
- 82 Provision of ballots
- 83 Contents of ballots
- 84 Record of ballots
- 85 Provision of election materials

- 86 Extra polling places or polling stations
- 87 Maintenance of order by deputy returning officer
- 88 Polling place hours
- 89 Opening of polling place
- 90 Posting of bulletins
- 91 Polling booths
- 92 Persons entitled to remain in polling place
- 93 Secrecy
- 94 Preservation of peace and order
- 95 Declaration procedure
- 96 Voter assistance
- 97 List of electors for advance poll
- 98 Polling place for advance poll
- 99 Voting in advance poll
- 100 Provision of ballot
- 101 Voting procedure
- 102 Spoiled ballot
- 103 Record of vote
- 104 Elector's declaration
- 105 Prohibited conduct during polling
- 106 Secrecy of vote
- 107 Taking ballot out of polling place
- 107.1 Declining to vote
- 108 Alleged impersonation of an elector
- 109 Person deemed to have voted
- 110 One vote only
- 111 Procedure on close of poll
- 112 Procedure on conclusion of unofficial count
- 113 Advance poll count
- 114 Return of ballot box
- 116 Vote by Special Ballot
- 116.1 Secure Special Ballot
- 117 Name and address of Special Ballot voters to candidates
- 118 Voting by Special Ballot
- 119 Late receipt of Special Ballot
- 120 Treatment centres and supportive living facilities
- 121 Deemed residence
- 122 Presence at mobile poll
- 123 Mobile poll voting procedure
- 124 Mobile poll count
- 125 Application of Act to mobile polls
- 125.1 Special mobile polls
- 125.2 Voting at a special mobile poll

- 125.3 Application of Act to special mobile polls
- 126 List of electors for by-election
- 127 Application of Act to by-election
- 128 Plebiscite
- 129 List of electors for plebiscite
- 130 Conduct of plebiscite
- 131 Application of Act to plebiscite
- 132 Time for voting
- 133 Right of access for campaigning
- 133.1 Canvassing in a multiple dwelling site  
before the campaign period
- 134 Printed or electronic advertising
- 134.1 Restrictions on government advertising
- 134.2 Complaints to Election Commissioner
- 135 No election advertising at polling place
- 135.1 Election surveys
- 135.11 Conducting election surveys
- 135.2 Transmission of election survey results
- 135.3 Broadcast of surveys not based on recognized statistical methods
- 135.4 Prohibitions re transmission of election survey results  
during blackout period
- 135.5 Landlords and condominium corporations

#### **Part 4 Post-Polling-Day Procedures**

- 136 Facilities for official count
- 137 Conduct of official count
- 138 Announcement of official results
- 139 Disclaimer
- 140 Delay in announcement of official results
- 141 Handling of documents and register information after official count
- 142 Transmission of election materials to Chief Electoral Officer
- 143 Compelling returning officer to perform duties
- 144 Judicial recount
- 145 Persons to attend recount
- 146 Conduct of recount
- 147 Results of recount
- 148 Appeal to Court of Appeal
- 148.1 Costs
- 149 By-election if tie vote
- 150 Publication of election results
- 151 Post-election custody of election documents
- 152 Inspection of election documents

153 Provincial Archives

### **Part 4.1 Investigations**

#### **Division 1 Election Commissioner**

- 153.01 Appointment of Election Commissioner
- 153.02 Term of office
- 153.03 Oath of office
- 153.04 Office of Election Commissioner
- 153.05 Immunity
- 153.06 Salary of Election Commissioner
- 153.07 Annual estimates
- 153.08 Records manage

#### **Division 2 Duties and Powers of Election Commissioner**

- 153.09 Duties and powers of the Election Commissioner
- 153.091 Notice of investigation and conclusion
- 153.092 Annual report

### **Part 5 Administrative Penalties and Offences**

- 153.1 Administrative penalties
  - 154 General offence
  - 155 Refusal by election officer to carry out duties
  - 157 Impersonation
  - 158 Interference with right of access
  - 159 Interference with posted documents
  - 160 False statements about candidate
  - 161 Improper appointment of election officer
  - 162 Entertaining
  - 163 Offence re use of information
- 163.1 Consent to prosecute

### **Part 6 Corrupt Practices**

- 164 Improper practices
  - 164.1 Tampering with equipment
  - 165 False statements re list of electors
  - 166 Interference with voting secrecy
  - 167 Fraudulent voting



- 168 Falsification of documents
- 169 Wilful falsification of ballot count
- 170 Betting
- 171 Provision of time to vote
- 172 Improper inducement
- 173 Wilful damage to poll book
- 174 Multiple voting
- 175 Undue influence
- 176 Election Finances and Contributions Disclosure Act
- 177 Corrupt practice offence
- 178 Corrupt practice by candidate
- 179 Corrupt practice by candidate's official agent
- 180 Submission of report
- 181 Corrupt practice by non-candidate
- 182 Payments not constituting corrupt practice
- 183 Effect of previous corrupt practices
- 184 Prohibitions based on perjured evidence

### **Part 7 Controverted Elections**

- 185 Filing of petition
- 186 Petition
- 187 Security for costs
- 188 Service of petition
- 189 Address for service
- 190 Application to set aside petition
- 191 Application by respondent for further particulars
- 192 Time and place of trial
- 193 Application to dismiss petition
- 194 Rules of Court apply
- 195 Report to Chief Electoral Officer
- 196 Withdrawal from proceedings
- 197 Admission of undue election
- 198 Costs
- 199 Appeals
- 200 Report of judgment on appeal
- 201 No count of ballots by judge

### **Part 8 General**

- 202 Certain irregularities excused
- 203 General evidence
- 204 Confidentiality of vote

- 205 Returning officer's certificate
- 206 Delay in court proceedings
- 207 Regulations

## **Part 9 Fees and Expenses**

- 208 Fees and expenses

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### **Interpretation**

**1(1)** In this Act,

- (a) "advance poll" means a poll taken in advance of polling day;
- (b) "by-election" means an election other than a general election;
- (b.1) "campaign period" means
  - (i) in the case of a general election held in accordance with section 38.1(2), the period commencing on February 1 in the year in which the election is held and ending 2 months after polling day,
  - (ii) in the case of a general election held other than in accordance with section 38.1(2), the period commencing with the issue of a writ for the election and ending 2 months after polling day, and
  - (iii) repealed 2017 c29 s2,
  - (iv) in the case of a by-election, the period commencing with the issue of a writ for the by-election and ending 2 months after polling day;
- (c) "candidate" means a person
  - (i) who is selected for endorsement as the official candidate of a registered political party for an electoral division, or
  - (ii) who, after the commencement of the campaign period, declares the person's candidacy as an independent candidate at the election in an electoral division;

- (d) “chief financial officer” means a person so appointed by a candidate pursuant to the *Election Finances and Contributions Disclosure Act*;
- (e) “clerk” means a clerk of the Court of Queen’s Bench;
- (e.1) “community support centre” means a facility that provides services to people experiencing poverty or homelessness;
- (f) “corrupt practice” means any act or omission that is a corrupt practice under this Act;
- (g) “Court” means the Court of Queen’s Bench;
- (g.1) “declaration” means a statement in writing in the form provided by the Chief Electoral Officer;
- (g.2) “declined ballot” means a ballot referred to in section 107.1;
- (h) “election” means an election of a person as a member of the Legislative Assembly conducted under this Act;
- (h.1) “Election Commissioner” means the Election Commissioner appointed under section 153.01;
- (i) “election officer” means a returning officer, election clerk, administrative assistant, supervisory deputy returning officer, registration officer, deputy returning officer, poll clerk, information officer or any other person appointed under section 4(3)(c);
- (j) “elector” means a person who on
  - (i) polling day, in the case of an election, or
  - (ii) a date fixed by the Chief Electoral Officer, in the case of an enumeration,is a Canadian citizen, is 18 years of age or older and is ordinarily resident in Alberta;
- (k) “electoral division” means an area in Alberta established as an electoral division under the *Electoral Divisions Act*;
- (k.1) “emergency shelter” includes short-term housing for individuals experiencing homelessness, individuals escaping domestic violence, and other similar temporary housing;
- (l) “enumeration” means an enumeration of electors under Part 2, Division 3;

- (m) “enumerator” means a person appointed under section 23;
- (n) “general election” means an election where election writs are issued for elections in all electoral divisions;
- (o) “judge” means a judge of the Court of Queen’s Bench;
- (p) “licensed premises” means licensed premises under the *Gaming and Liquor Act*;
- (q) “list of electors” means a list of persons entitled to vote at an election;
- (r) “member” means a member of the Legislative Assembly;
- (s) “mobile poll” means a polling station established under section 120;
- (t) “oath” includes an affirmation;
- (u) “official agent” means an elector so appointed by a candidate pursuant to this Act;
- (v) “poll book” means a poll book referred to in section 100(1);
- (w) “polling day” means the day fixed for voting at an election;
- (x) “polling place” means a place where one or more polling stations are provided for the purpose of voting at an election;
- (y) “polling station” means a place where an elector casts the elector’s vote;
- (z) “polling subdivision” means a polling subdivision referred to in section 14(b);
- (z.1) “recorded mail” means a form of document delivery by mail or courier in which receipt of the document must be acknowledged in writing;
- (aa) “register” means the register of electors established under section 13;
- (bb) “registered constituency association” means a constituency association registered under the *Election Finances and Contributions Disclosure Act*;

- (cc) “registered political party” means a political party registered under the *Election Finances and Contributions Disclosure Act*;
- (cc.1) “rejected ballot” means a ballot rejected in accordance with section 111(5), 118(5)(b) or 119;
- (dd) “respondent” means a candidate against whose election a petition is filed under Part 7;
- (ee) “returning officer” means a person appointed under this Act as a returning officer and includes a person acting in the returning officer’s place;
- (ff) “scrutineer” means an elector who is authorized to represent a candidate at a polling station;
- (gg) repealed 2004 c23 s2;
- (hh) “Special Ballot” means the Special Ballot provided for by section 116;
- (hh.1) “special mobile poll” means a special mobile poll established under section 125.1;
- (ii) “spoiled ballot” means a ballot that has been dealt with in accordance with section 102;
- (jj) “Standing Committee” means the Standing Committee on Legislative Offices;
- (kk) “subdivision” means a subdivision referred to in section 14(a);
- (kk.1) “supportive living facility” means
  - (i) a lodge accommodation as defined in the *Alberta Housing Act*, or
  - (ii) a facility for adults or senior citizens that provides assisted living and accommodationbut does not include a treatment centre;
- (ll) “treatment centre” means
  - (i) a hospital or a facility under the *Mental Health Act*, or
  - (ii) any facility not referred to in subclause (i),providing medical treatment or care on an in-patient basis;

- (mm) “voting” means voting at an election or plebiscite;
- (nn) “writ” means a writ of election issued by the Chief Electoral Officer pursuant to an order of the Lieutenant Governor in Council.

**(2)** Subject to subsections (2.1) to (2.4) and section 121, for the purposes of this Act, ordinary residence is determined in accordance with the following rules:

- (a) a person can have only one place of ordinary residence;
- (b) a person’s ordinary residence is the place where the person lives and sleeps and to which, when the person is absent from it, the person intends to return;
- (c) when a person leaves Alberta with the intention of becoming ordinarily resident outside Alberta, the person’s ordinary residence in Alberta ceases.

**(2.1)** If a person leaves his or her residence in Alberta to study at an educational institution outside Alberta, the person is, while pursuing his or her studies outside Alberta, considered to be ordinarily resident in the place where he or she was resident immediately before commencing the studies.

**(2.2)** If a person leaves his or her residence in Alberta to study at an educational institution elsewhere in Alberta, the person may, while pursuing his or her studies, consider one of the following as his or her place of ordinary residence:

- (a) the place where he or she was resident immediately before commencing his or her studies;
- (b) the place where he or she is residing in Alberta.

**(2.3)** If a person leaves his or her residence in a province or territory other than Alberta to study at an educational institution in Alberta, the person is, while pursuing his or her studies in Alberta, considered to be ordinarily resident in the place where the person is residing in Alberta.

**(2.4)** Subsections (2.1), (2.2) and (2.3) apply to the spouse, adult interdependent partner or dependant of a person described in those subsections.

**(3)** The ordinary residence of an inmate who is an elector is the first of the following places for which the inmate knows the address:

- (a) his or her residence before being incarcerated;

- (b) the residence of his or her spouse or adult interdependent partner, a relative or a dependant of the inmate, a relative of his or her spouse or adult interdependent partner or a person with whom the inmate would live but for his or her incarceration;
- (c) the place of his or her arrest;
- (d) the last court where the inmate was convicted and sentenced.

(4) For the purpose of this section and sections 56(c.2) and 116(1)(c), “inmate” means a person who has been convicted of an offence and is serving his or her sentence in a correctional institution under the *Corrections Act*, in a penitentiary under the *Corrections and Conditional Release Act* (Canada), in a place of custody under the *Youth Justice Act* or the *Youth Criminal Justice Act* (Canada) or in any other similar institution outside Alberta, excluding a person sentenced to a term of imprisonment of 10 days or less or for the non-payment of fines.

(5) Where this Act requires a document or record to be filed, established, maintained, returned, transmitted, produced, submitted or served, the Chief Electoral Officer may specify whether that document or record must be in printed form or in electronic form, or both.

RSA 2000 cE-1 s1;2004 c23 s2;2010 c8 s2;2012 c5 s2;  
2016 c29 s52;2017 c29 s2

## Part 1 Appointments

### Chief Electoral Officer

**2(1)** There shall be appointed pursuant to this Act a Chief Electoral Officer.

**(2)** The Chief Electoral Officer is an officer of the Legislature.

RSA 1980 cE-2 s2

### Appointment of Chief Electoral Officer

**3(1)** Subject to subsection (2), the Lieutenant Governor in Council shall appoint the Chief Electoral Officer on the recommendation of the Assembly.

**(2)** If a vacancy occurs while the Legislature is not in session, the Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint a Chief Electoral Officer to fill the vacancy, and unless that office sooner becomes vacant, the person so appointed holds office until a Chief Electoral Officer is appointed under subsection (1), but if an appointment under subsection (1) is not made within 30 days after the commencement

of the next session, the appointment under this subsection lapses and there is deemed to be another vacancy in the office of Chief Electoral Officer.

(3) The appointment of the Chief Electoral Officer expires 12 months after polling day for a general election unless the Chief Electoral Officer is reappointed by the Lieutenant Governor in Council prior to that date on the recommendation of the Standing Committee.

(4) The Lieutenant Governor in Council, on an address of the Assembly, may suspend or remove the Chief Electoral Officer from office for cause or incapacity.

(5) If the Legislature is not then sitting, the Lieutenant Governor in Council may suspend the Chief Electoral Officer from office for cause or incapacity proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue in force beyond the end of the next sitting of the Legislature.

(6) The Chief Electoral Officer may resign that office by filing a written notice with the Speaker of the Assembly or, if there is no Speaker or the Speaker is absent from Alberta, with the Clerk of the Assembly.

(7) During the time that there is a vacancy in the office of Chief Electoral Officer, the Deputy Chief Electoral Officer shall perform all the duties and exercise all the powers of the Chief Electoral Officer.

RSA 2000 cE-2 s3;2017 c29 s3

#### **Oath of office**

**3.1(1)** Before beginning the duties of office, the Chief Electoral Officer shall take an oath to perform the duties of the office faithfully and impartially and, except as provided in this Act or the *Election Finances and Contributions Disclosure Act*, not to disclose any information received by the Office of the Chief Electoral Officer under this or any other Act.

(2) The oath referred to in subsection (1) shall be administered by the Speaker of the Legislative Assembly or the Clerk of the Assembly.

2004 c23 s3;2010 c8 s3;2017 c29 s4

#### **Duties and powers of Chief Electoral Officer**

**4(1)** The Chief Electoral Officer shall

- (a) provide guidance, direction and supervision respecting the conduct of all elections, enumerations and plebiscites conducted under this Act and plebiscites and referendums under any other Act to which this Act applies;



- (b) enforce fairness and impartiality on the part of all election officers in the conduct of their duties and compliance with this Act;
- (c) issue to election officers any guidance, direction and information the Chief Electoral Officer considers necessary to ensure the effective carrying out of their duties under this Act;
- (d) perform all duties assigned to the Chief Electoral Officer by this or any other Act.

**(1.1)** Repealed 2017 c29 s5.

**(2)** The Chief Electoral Officer shall from time to time

- (a) provide the public with information about the election process, the democratic right to vote, the right to be a candidate and, generally, about the operation of this Act and the Election Finances and Contributions Disclosure Act,
- (b) implement public education and information programs to make the electoral process better known to the public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights, and
- (c) prepare educational materials for students who have reached voting age or will soon do so and make them available to a board of a school district or division or an operator of a private school or charter school for distribution to their students, including information on how to request access to information in the register about themselves and how to have their personal information removed or not included in the register.

**(2.01)** For the purposes of subsection (2)(c), “charter school”, “private school” and “board” mean “charter school”, “private school” and “board” as defined in the *School Act*.

**(2.1)** The Chief Electoral Officer may from time to time meet with representatives of the registered political parties that are represented in the Legislative Assembly concerning the election process or activities under this Act or the *Election Finances and Contributions Disclosure Act*.

**(3)** The Chief Electoral Officer may, where the Chief Electoral Officer considers it necessary for the efficient conduct of an election, enumeration or plebiscite under this Act or a plebiscite or referendum under any other Act to which this Act applies,

- (a) extend the time for doing anything under this Act, except
  - (i) the time for the holding of an election, and
  - (ii) the time by which a nomination paper must be filed,
- (b) increase the number of election officers or enumerators,
- (c) appoint other persons as election officers to carry out duties authorized by the Chief Electoral Officer, for the faithful performance of which those persons are to be sworn,
- (d) increase the number of polling stations,
- (e) omit or vary a prescribed form, except the ballot, to suit the circumstances, and
- (f) generally, adapt the provisions of this Act to the circumstances.

**(3.1)** Notwithstanding subsection (3), if, in the Chief Electoral Officer's opinion, an emergency, disaster, or an unusual or unforeseen circumstance requires delaying the opening of a polling place or interrupting voting at a polling place, the Chief Electoral Officer may adjourn voting at that polling place to another time on the same day at the same polling place or to the same time or another time on the same day at a different polling place if the emergency, disaster, or unusual or unforeseen circumstance

- (a) has a significant effect on the ability of the Chief Electoral Officer or a returning officer to conduct an election,
- (b) has a significant effect on the ability of electors to attend a polling place, or
- (c) puts or may put the health or safety of persons in an electoral division at risk.

**(3.2)** The Chief Electoral Officer shall immediately notify registered political parties, registered candidates and registered candidates' official agents in the affected electoral division about any change in voting hours or the location of a polling place made under subsection (3.1) and publish the change on the Chief Electoral Officer's website and in any other manner the Chief Electoral Officer considers necessary.

**(3.3)** If a different polling place is fixed under subsection (3.1), the returning officer shall cause a conspicuous sign that clearly and accurately states the location of the new polling place to be attached to the original place where the polling place was to be located.

**(3.4)** Voting adjourned under subsection (3.1) must, when recommenced, continue so that the total number of hours the polling place is open for the purpose of voting is the same as that required under section 88(1)(c).

**(3.5)** If the Chief Electoral Officer is of the opinion that an adjournment is insufficient to address the circumstances set out in subsection (3.1), the Chief Electoral Officer may apply to a judge of the Court to discontinue the election in any one or more electoral divisions and commence a new election at another day and time.

**(3.6)** If the Court grants the application under subsection (3.5),

- (a) the election for the electoral division that is the subject of the application shall be discontinued,
- (b) a new election for the electoral division that is the subject of the application shall be commenced under section 39 as if the election were a by-election within 6 months of the date of the application, and
- (c) nominations of candidates previously filed remain valid for the new election.

**(3.7)** The Chief Electoral Officer shall publish a notice that the election has been discontinued under subsection (3.5) on the Chief Electoral Officer's website and in any other manner the Chief Electoral Officer considers necessary.

**(3.8)** This Act applies to an election under subsection (3.5) as if it were a by-election.

**(3.9)** If voting is adjourned under subsection (3.1) or the election is discontinued under subsection (3.5), returning officers, deputy returning officers and election officers must make all reasonable efforts to ensure that the election materials are secured and that the integrity of the election is not compromised.

**(4)** The Chief Electoral Officer may remove any election officer from office for disability or misconduct or for failing to perform his or her work satisfactorily and may order that election officer to deliver all materials in the election officer's possession relating to that office to a designated person.

**(5)** The Chief Electoral Officer shall, immediately after each enumeration, general election, by-election or plebiscite or a plebiscite or referendum under any other Act, prepare and have printed a report including

- (a) a summary of the Chief Electoral Officer's conduct respecting the enumeration, general election, by-election, plebiscite or referendum, as the case may be,
- (b) a breakdown of results and a summary of costs, and
- (c) any recommendations for amendments to this Act.

(6) The Chief Electoral Officer shall transmit the report prepared under subsection (5) to the Standing Committee, which shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, not more than 15 days after the commencement of the next sitting of the Assembly.

(7) The Chief Electoral Officer shall after the end of each year prepare a report on the exercise of the Chief Electoral Officer's functions under this Act, including any recommendations for amendments to this Act, and shall transmit the report to the Standing Committee on Legislative Offices, which shall, on its receipt, lay the report before the Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting of the Assembly.

(8) A report made under subsection (7) may be combined with a report made under section 4(2) of the *Election Finances and Contributions Disclosure Act*.

RSA 2000 cE-1 s4;2004 c23 s4;2010 c8 s4;2012 c5 s3;2017 c29 s5

#### **Test of new equipment and procedures**

**4.1(1)** Where the Chief Electoral Officer wishes to test at a by-election the use of election procedures and equipment that are different from what this Act requires, the Chief Electoral Officer shall submit a written proposal to the Standing Committee describing in detail the election procedures and equipment proposed to be tested.

(2) If the Standing Committee approves the proposal, with or without changes, the Chief Electoral Officer may test the use of the election procedures and equipment in accordance with the approved proposal.

(3) As soon as possible after the proposal is approved, the Chief Electoral Officer shall publish the approved proposal on the Chief Electoral Officer's website.

(4) A by-election held in accordance with the details provided in the approved proposal is not invalid by reason of any non-compliance with this Act.

(5) To the extent of any conflict between the approved proposal and this Act or a regulation under this Act, the approved proposal prevails and has the force of law with respect to the by-election.

2010 c8 s4

#### **Directives issued by the Chief Electoral Officer**

**4.11(1)** If the Chief Electoral Officer determines that equipment referred to in section 4.12 will be used in an election, the Chief Electoral Officer shall, no later than 7 days after a writ of election is issued,

- (a) make a directive
  - (i) describing in detail the procedures and equipment to be used at that election,
  - (ii) describing in detail how the Act will be modified in order to enable the use of the equipment at that election, and
  - (iii) referring to the provisions of this Act that will not be complied with and specifying the nature and extent of non-compliance in each case,
- (b) provide copies of the directive to the leader of each registered political party, to any member of the Legislative Assembly who is not a member of a registered political party and to any independent candidate, and
- (c) publish the directive on the Chief Electoral Officer's website.

(2) The Chief Electoral Officer, with respect to voting at an advance poll or special mobile poll by electors who reside in an electoral division other than in the electoral division for which the advance poll or special mobile poll is established,

- (a) may make a directive
  - (i) describing the procedures to be used for voting at the advance poll or special mobile poll, including
    - (A) providing for the form and printing of ballots for use at the advance poll or special mobile poll,
    - (B) providing for the delivery of votes to the location where they are to be counted, and
    - (C) providing for the counting of votes,
  - (ii) describing in detail how the Act will be modified for the purposes of this subsection, and

- (iii) referring to the provisions of this Act that will not be complied with and specifying the nature and extent of non-compliance in each case,

and

- (b) if a directive is made, shall
  - (i) provide copies of the directive to the leader of each registered political party, to any member of the Legislative Assembly who is not a member of a registered political party and to any independent candidate, and
  - (ii) publish the directive on the Chief Electoral Officer's website.

**(3)** The Chief Electoral Officer's directive under subsection (1) may apply to any one or more of the following:

- (a) one or more electoral divisions;
- (b) voting at an advance poll;
- (c) voting at a mobile poll;
- (d) voting at a special mobile poll;
- (e) voting by Special Ballot or Secured Special Ballot;
- (f) voting at a poll held on polling day.

**(4)** An election held in accordance with a directive made under this section is not invalid by reason of any non-compliance with this Act where the non-compliance is related to the procedures and equipment set out in the directive.

**(5)** To the extent of any conflict between this Act and a directive made under this section, the directive prevails.

**(6)** The Chief Electoral Officer shall include a summary of the use at an election of any equipment authorized by a directive issued under this section in the Chief Electoral Officer's report under section 4(5).

**(7)** For the purpose of section 4.12(2)(c), testing includes, without limitation, logic and accuracy testing.

2017 c29 s6

**Accessible voting equipment**

**4.12(1)** The Chief Electoral Officer may issue a directive in accordance with section 4.11 authorizing the use of accessible voting equipment during an election.

**(2)** The following restrictions apply with respect to the use of accessible voting equipment:

- (a) the equipment must allow the elector to vote privately and independently;
- (b) the equipment must not be part of or connected to an electronic network, except that the equipment may be securely connected to a network after the close of polls for the purpose of transmitting information to the Chief Electoral Officer;
- (c) the equipment must be tested,
  - (i) before the first elector uses the equipment to vote, and
  - (ii) after the last elector uses the equipment to vote;
- (d) the information presented on a ballot made available to the elector through the equipment before voting must comply with section 83, with necessary modifications;
- (e) the equipment must create a paper ballot that records the vote cast, is retained in the same way as ordinary ballots and includes the name of the electoral division;
- (f) the equipment must, before the paper ballot is printed, allow the elector to verify the elector's vote without the assistance of another person;
- (g) the equipment or the process used must, after the paper ballot is printed but before casting the elector's vote, allow the elector to verify the elector's vote;
- (h) the equipment must not be used in a way that enables the choice of an elector to be made known to an election officer or scrutineer.

**(3)** Accessible voting equipment shall not be used unless an entity that the Chief Electoral Officer considers to be an established independent authority on the subject of voting equipment has certified that the equipment meets acceptable security and integrity standards.

(4) In this section, “accessible voting equipment” means voting equipment and related vote-counting equipment that enables electors requiring assistance to vote independently.

2017 c29 s6

### **Inquiries and investigations**

**4.2(1)** For the purpose of carrying out an inquiry or conducting an investigation under this Act, the Chief Electoral Officer has all the powers of a commissioner under the *Public Inquiries Act* as though the investigation or inquiry were an inquiry under that Act.

(2) For the purpose of carrying out an inquiry or conducting an investigation under this Act, a representative of the Chief Electoral Officer, on production of the representative’s authorization from the Chief Electoral Officer, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a political party, constituency association or candidate relevant to the subject-matter of the investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.

(3) A registered political party, registered constituency association or registered candidate shall, within 30 days after receiving a written request from the Chief Electoral Officer or within an extended period that the Chief Electoral Officer may determine, provide any information with respect to the affairs of the registered political party, registered constituency association or registered candidate that is reasonably required by the Chief Electoral Officer in the course of the Chief Electoral Officer’s duties under this Act.

2010 c8 s4;2012 c5 s4

### **Notice of investigation and conclusion**

**4.3(1)** At any time before completing an investigation referred to in section 4(1.1), the Chief Electoral Officer shall notify any person or organization who is the subject of the investigation that the person or organization is being investigated and inform the person or organization of the nature of the matter being investigated, unless the Chief Electoral Officer believes that doing so would compromise or impede the investigation.

(2) The Chief Electoral Officer may refuse to conduct or may cease an investigation if the Chief Electoral Officer is of the opinion that

- (a) the matter is frivolous or vexatious, or
- (b) there are no or insufficient grounds to warrant an investigation or the continuation of an investigation.

(3) The Chief Electoral Officer shall not make an adverse finding against a person or organization unless that person or organization



has had reasonable notice of the substance of the allegations and a reasonable opportunity to present his or her or its views.

**(4)** If the Chief Electoral Officer refuses to conduct or ceases an investigation under subsection (2) or determines that no offence was committed, the Chief Electoral Officer

- (a) shall provide notice of that decision to
  - (i) every person or organization who
    - (A) is the subject of the investigation, or
    - (B) would have been the subject of an investigation if the Chief Electoral Officer had not refused to conduct an investigation,
  - and
  - (ii) every person or organization who requested an investigation, if any,
- and
- (b) may, as the Chief Electoral Officer considers to be appropriate, provide notice of that decision to any other person or organization involved in the matter referred to in section 4(1.1).

2012 c5 s4

#### **Disclosure**

**4.4(1)** Except as provided in subsections (2) and (3), the Chief Electoral Officer, any former Chief Electoral Officer and every person who is or was employed or engaged by the Office of the Chief Electoral Officer shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of an inquiry or investigation.

**(2)** Information and allegations to which subsection (1) applies may be

- (a) disclosed to the person or organization whose conduct is the subject of proceedings under this Act;
- (b) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person;
- (c) adduced in evidence at an inquiry;
- (d) disclosed where the Chief Electoral Officer believes on reasonable grounds that the disclosure is necessary for the

purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Act or any other enactment of Alberta or an Act or regulation of Canada.

**(3)** Findings and decisions and any additional information that the Chief Electoral Officer considers to be appropriate shall be published on the Chief Electoral Officer's website in the following circumstances:

- (a) if a penalty is imposed or a letter of reprimand is issued under section 153.1;
- (b) if the Chief Electoral Officer has provided notice under section 4.3(4) and receives a written request for disclosure from a person or organization who received the notice.

2012 c5 s4

#### **Office of Chief Electoral Officer**

**5(1)** There shall be a department of the public service of Alberta called the Office of the Chief Electoral Officer, consisting of the Chief Electoral Officer and those officers and employees, including a Deputy Chief Electoral Officer, appointed pursuant to the *Public Service Act* who are required to assist the Chief Electoral Officer in the administration of this Act.

**(1.1)** The Office of the Chief Electoral Officer may operate under the name "Elections Alberta".

**(2)** On the recommendation of the Chief Electoral Officer, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*,
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*, or
- (c) any regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act*,

be inapplicable to, or be varied in respect of, the Office of the Chief Electoral Officer or any particular employee or class of employees in the Office of the Chief Electoral Officer.

**(3)** An order made under subsection (2)(a) in relation to a regulation, order or directive made under the *Financial Administration Act* operates notwithstanding that Act.

**(3.1)** An order made under subsection (2)(c) in relation to a regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act* operates notwithstanding that Act.

**(4)** The *Regulations Act* does not apply to orders made under subsection (2).

**(5)** The chair of the Standing Committee shall lay a copy of each order made under subsection (2) before the Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

RSA 2000 cE-1 s5;2004 c23 s5;2010 c8 s5;2015 cP-40.5 s20

### **Immunity**

**5.1** No proceedings lie against the Chief Electoral Officer, or against a person acting for or under the direction of the Chief Electoral Officer, for anything done, or omitted to be done, in good faith in the exercise or performance or the intended exercise or performance of a power, duty or function under this Act, the *Election Finances and Contributions Disclosure Act* or the *Senatorial Selection Act*.

2010 c8 s6

### **Salary of Chief Electoral Officer**

**6** The salary of the Chief Electoral Officer shall be in an amount fixed by the Standing Committee at the time of appointment, that shall be reviewed at least once a year by the Standing Committee.

RSA 1980 cE-2 s6;1992 c12 s3

### **Annual estimates**

**7(1)** The Chief Electoral Officer shall submit to the Standing Committee on Legislative Offices in respect of each fiscal year an estimate of the sum that will be required to be provided by the Legislature to defray the various charges and expenses of the Office of the Chief Electoral Officer in that fiscal year.

**(2)** The Standing Committee on Legislative Offices shall review each estimate submitted pursuant to subsection (1) and, on completion of the review, the chair of the Committee shall present the estimate to the President of Treasury Board and Minister of Finance for presentation to the Assembly.

**(3)** If at any time the Legislative Assembly is not in session, the Standing Committee, or if there is no Standing Committee, the President of Treasury Board and Minister of Finance,

- (a) reports that the Chief Electoral Officer has certified that in the public interest an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Chief Electoral Officer, and

- (b) reports that either
  - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
  - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) When the Legislative Assembly is adjourned for a period of more than 14 days, then, for the purposes of subsection (3), the Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act*.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

RSA 2000 cE-1 s7;2004 c23 s6;2006 c23 s25;2013 c10 s32

#### **Records management**

**8** On the recommendation of the Chief Electoral Officer, the Standing Committee may, subject to section 153, make an order

- (a) respecting the management of records in the custody or under the control of the Office of the Chief Electoral Officer, including their creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation and destruction and their transfer to the Provincial Archives of Alberta;

- (b) establishing or governing the establishment of programs for any matter referred to in clause (a);
- (c) defining and classifying records;
- (d) respecting the records or classes of records to which the order or any provision of it applies.

1995 c34 s3

**Appointment of returning officers**

**9(1)** The Chief Electoral Officer may appoint a returning officer for each electoral division for the purposes of or in connection with elections, enumerations and plebiscites under this Act.

**(1.1)** If a by-election or plebiscite is to be conducted under this Act before returning officers are appointed under subsection (1), returning officers may be appointed for the purpose of the by-election or plebiscite.

**(2)** The returning officer for an electoral division must be an elector must not be ineligible under section 46 for appointment.

**(2.1)** Repealed 2017 c29 s9.

**(3)** In addition to performing the duties specified in this or any other Act, a returning officer shall

- (a) from time to time review polling subdivision boundaries on the direction of the Chief Electoral Officer,
- (b) make all advance plans and preparations to enable an enumeration, election or plebiscite to be proceeded with expeditiously and efficiently when called in the returning officer's electoral division,
- (c) keep himself or herself informed and knowledgeable of the requirements of all relevant legislation, and
- (d) from time to time and when requested by the Chief Electoral Officer, investigate and study enumeration, election and plebiscite practices and procedures for the purpose of effecting increased economy, efficiency and service to electors and candidates.

**(4)** The Chief Electoral Officer shall publish the name and electoral division of the returning officer appointed for each electoral division on the Chief Electoral Officer's website and in any other manner the Chief Electoral Officer considers appropriate.

(5) Each returning officer shall, before assuming the returning officer's duties, take the prescribed oath of office and transmit it to the Chief Electoral Officer.

RSA 2000 cE-1 s9;2004 c23 s7;2010 c8 s7;2017 c29 s9

#### **Hiring policy**

**9.1(1)** The Chief Electoral Officer shall establish a hiring policy, including policies surrounding conflicts of interest, relating to the hiring of election officers, enumerators and employees on the basis of merit.

(2) The policy established under subsection (1) must be published on the Chief Electoral Officer's website and in any other manner determined by the Chief Electoral Officer.

2017 c29 s10

#### **Termination of appointment of returning officer**

**10(1)** A returning officer shall immediately notify the Chief Electoral Officer in writing if the returning officer is unable to act and, if the returning officer wishes to resign, shall submit the returning officer's written resignation to the Chief Electoral Officer.

(2) If a returning officer is for any reason unable or unwilling to act, or neglects the returning officer's duties, the Chief Electoral Officer

- (a) before a writ of election has been issued, or
- (b) after a writ of election has been issued and if there is no election clerk appointed for the relevant electoral division,

may appoint an acting returning officer who shall have all the rights and powers and shall perform all the duties of a returning officer for that electoral division until the returning officer resumes the returning officer's duties or a new returning officer is appointed.

(3) The appointment of a returning officer expires 4 months after polling day of the general election in which the returning officer was a returning officer unless it is sooner terminated.

(4) The Chief Electoral Officer shall confirm in writing to each returning officer the date of termination of the returning officer's appointment.

RSA 2000 cE-1 s10;2010 c8 s8

#### **Remuneration of election officers and enumerators**

**11** All election officers and enumerators shall, on performance of their duties at the request of the Chief Electoral Officer or at the

request of a returning officer, be paid remuneration, fees and expenses as established by the Chief Electoral Officer.

RSA 2000 cE-1 s10;2010 c8 s8;2017 c29 s11

#### **Prohibition against political activity**

**12** No person who has been appointed or is acting as a returning officer, election clerk or administrative assistant may

- (a) engage in political activity on behalf of any political party, candidate or constituency association, or
- (b) make a contribution under the *Election Finances and Contributions Disclosure Act*,

while the person is so appointed or acting.

RSA 2000 cE-1 s12;2010 c8 s9;2012 c5 s5

## **Part 2 Election Lists**

### **Division 1 Register of Electors**

#### **Maintenance of register**

**13(1)** The Chief Electoral Officer shall maintain a register of electors from which lists of electors for polling subdivisions for each electoral division may be compiled for use at general elections, by-elections or plebiscites under this Act or referendums or plebiscites under any other Act.

**(2)** The register of electors may only contain the following information about persons ordinarily resident in Alberta who are electors or will be eligible to be electors:

- (a) the residential address, including the postal code, of the residence of the person, and the mailing address, including the postal code, if the mailing address is different from the residential address,
- (b) the surname, given name and any middle name of the person,
- (c) the telephone number of the person,
- (d) the gender of the person,
- (e) the citizenship of the person,
- (f) the date of birth of the person,

- (g) the permanent unique identifier number assigned under subsection (4), and
  - (h) any other identification number assigned by other persons who provide information to the Chief Electoral Officer under section 13.1 or pursuant to an agreement under section 13.2 to assist in distinguishing a person from another person or verifying information about a person.
- (3)** The information referred to in subsection (2)(d), (e) and (f) obtained under this Act may only be used to verify the identification of an elector when revising the register.
- (4)** The Chief Electoral Officer may assign, in respect of each elector whose information is contained in the register, a permanent unique identifier number consisting of numbers or letters, or a combination of numbers and letters, to be used to assist in distinguishing an elector from another elector or verifying information about an elector.

RSA 2000 cE-1 s13;2003 c21 s23;2004 c23 s8;  
2010 c8 s10;2017 c29 s12

#### Revising the register

- 13.1(1)** The register may, in accordance with this section, be revised from time to time as the Chief Electoral Officer considers necessary but must be revised as soon as possible after the Schedule of electoral divisions in the *Electoral Divisions Act* is amended or re-enacted.
- (2)** The register may be revised by any or all of the following methods:
- (a) conducting a door-to-door enumeration in accordance with Division 3 of all or some of the electoral divisions, or portions of any of them, as determined by the Chief Electoral Officer;
  - (b) using information provided pursuant to an agreement under section 13.2(1) or (2);
  - (c) using personal information held by a public body as defined in the *Freedom of Information and Protection of Privacy Act* if in the opinion of the Chief Electoral Officer the information is necessary for the purpose of revising the register;
  - (d) using personal information listed in public telephone directories;
  - (e) using any other information obtained by or available to the Chief Electoral Officer.



**(2.1)** If information has been collected under the *Alberta Personal Income Tax Act* with the consent of the taxpayers to whom the information relates for the purpose of updating the list of electors, the Chief Electoral Officer must use that information to revise the register.

**(3)** A public body as defined in the *Freedom of Information and Protection of Privacy Act* shall, at the request of the Chief Electoral Officer,

- (a) for the purpose of subsection (2)(c), provide personal information held by that public body, and
- (b) provide address, mapping, demographic or geographic information, including geospatial information.

**(4)** A public body providing information under subsection (3) may charge a reasonable fee for providing the information, but the fee may not exceed the actual cost of producing a copy of the information.

**(5)** The Chief Electoral Officer may retain information collected under subsection (2) but not included in the register, for the purpose of correlating information contained or to be included in the register.

2010 c8 s10;2012 c5 s6

#### **Agreements on information**

**13.2(1)** The Chief Electoral Officer may enter into an agreement with the Chief Electoral Officer of Canada under the *Canada Elections Act* (Canada)

- (a) to receive from the Chief Electoral Officer of Canada information that will assist the Chief Electoral Officer of Alberta in revising the register, and
- (b) to provide to the Chief Electoral Officer of Canada information that will assist the Chief Electoral Officer of Canada in preparing or revising that Chief Electoral Officer's information for the purpose of compiling or revising lists of electors under the *Canada Elections Act* (Canada).

**(2)** The Chief Electoral Officer may enter into an agreement with a municipality

- (a) to receive from the municipality information that will assist the Chief Electoral Officer in revising the register, and

- (b) to provide to the municipality's secretary, as defined in the *Local Authorities Election Act*, information that will assist the secretary in compiling or revising information for the purpose of compiling or revising the municipality's permanent electors register under the *Local Authorities Election Act*.

**(3)** The Chief Electoral Officer may enter into agreements with any person for the purpose of obtaining address, mapping, demographic or geographic information, including geospatial information.

2010 c8 s10

#### **Access to information in the register**

**13.3(1)** A person or the person's agent may, on request and in the manner determined by the Chief Electoral Officer,

- (a) have access to information in the register about the person to determine whether the information is correct, and
- (b) have his or her personal information removed from or not included in the register.

**(2)** Where a request is made under subsection (1)(b), the Chief Electoral Officer must remove the person's personal information from the register or not include the person's personal information in the register.

**(3)** Any person requesting access to information for the purpose set out in subsection (2) shall complete and sign a declaration.

2010 c8 s10

## **Division 2 List of Electors**

#### **Review of subdivisions**

**14** The Chief Electoral Officer shall, from time to time, in consultation with the returning officer for each electoral division,

- (a) review the boundary of and the number of electors in each subdivision, and
- (b) if necessary, subdivide the entire electoral division for which the returning officer was appointed into as many sequentially numbered subdivisions as considered necessary for use as polling subdivisions in any general election, by-election, referendum or plebiscite

and shall attempt to ensure, as far as possible, that no subdivision contains more than 450 electors.

RSA 2000 cE-1 s14;2004 c23 s9

**List of electors**

**15(1)** Lists of electors for polling subdivisions for each electoral division to be used for a general election, by-election, referendum or plebiscite are to be compiled from the register.

**(2)** The lists of electors may be compiled manually or by means of any computer-based system and may be in printed form or may be stored in any computer-based system or any other information storage device that is capable of reproducing any required information in legible printed form within a reasonable time.

1996 c15 s5

**Persons entitled to be listed as electors**

**16** Subject to section 45, a person is eligible to have the person's name included on a list of electors if that person as of a date fixed by the Chief Electoral Officer

- (a) is a Canadian citizen,
- (b) is at least 18 years of age, and
- (c) repealed 2017 c29 s14,
- (d) is ordinarily resident in the electoral division and subdivision for which that person is to have the person's name included on the list of electors.

RSA 2000 cE-1 s16;2017 c29 s14

**Contents of list of electors**

**17** Subject to section 18(7), only the first names, middle names and surnames, the addresses, including postal codes, the telephone numbers and the unique identifier numbers of electors may be contained in the list of electors.

RSA 2000 cE-1 s17;2004 c23 s10;2010 c8 s11

**Distribution of lists of electors**

**18(1)** The Chief Electoral Officer shall furnish the information referred to in subsection (2) free of charge to each registered political party and to each member of the Legislative Assembly who is not a member of a registered political party,

- (a) 2 years after a general election,
- (b) repealed 2017 c29 s15,
- (c) as soon as possible after the register is updated after the Schedule of electoral divisions in the *Electoral Divisions Act* is amended or re-enacted, and

- (d) as soon as possible after the receipt by the Chief Electoral Officer of the Clerk's warrant delivered pursuant to section 32 of the *Legislative Assembly Act*.

**(2)** The information to be furnished under subsection (1) is as follows:

- (a) to a registered political party,
  - (i) 2 maps showing the polling subdivisions in each electoral division, and
  - (ii) in accordance with the political party's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision in each electoral division,

and

- (b) to a member of the Legislative Assembly who is not a member of a registered political party,
  - (i) 2 maps showing the polling subdivisions, and
  - (ii) in accordance with the member's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision

in the electoral division that the member represents.

**(3)** The Chief Electoral Officer shall, as soon as possible after a writ has been issued for a general election, furnish free of charge to each registered political party,

- (a) 2 maps showing the polling subdivisions in each electoral division, and
- (b) in accordance with the political party's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision in each electoral division.

**(4)** The Chief Electoral Officer is not required to furnish copies of the maps and lists of electors under subsection (1) or (3) if there has been no change to the boundaries, the maps or the information in the register that is used to compile the lists of electors since the Chief Electoral Officer last furnished copies of the boundaries, maps and lists of electors pursuant to subsection (1) or (3), as the case may be.

(5) The Chief Electoral Officer shall, on request and payment of the cost to produce the information as determined by the Chief Electoral Officer, furnish

- (a) to a registered political party in accordance with the political party's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision in each electoral division, and
- (b) to each member of the Legislative Assembly in accordance with the member's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision in the electoral division that the member represents.

(6) A member or a registered political party may request additional copies of the lists of electors in addition to those furnished under subsection (1) or (3) on providing a reason for the additional copies and on payment of an amount determined by the Chief Electoral Officer.

(7) For the purpose of tracing the unauthorized use of the list of electors, the Chief Electoral Officer may have fictitious voter information included in a list of electors provided under this section.

(8) Repealed 2012 c5 s7.

RSA 2000 cE-1 s18;2004 c23 s11;2010 c8 s12;2012 c5 s7;  
2017 c29 s15

#### **Post-polling-day list of electors**

**19(1)** The Chief Electoral Officer shall, forthwith after polling day for a general election, prepare a post-polling-day list of electors for each polling subdivision in each electoral division.

(2) The Chief Electoral Officer shall furnish free of charge

- (a) to each registered political party, one printed copy or one copy in electronic form, or both, in accordance with the political party's request, of the post-polling-day list of electors for each polling subdivision in each electoral division, and
- (b) to each member of the Legislative Assembly, one printed copy or one copy in electronic form, or both, in accordance with each member's request, of the post-polling-day list of electors for each polling subdivision in the electoral division that the member represents.

RSA 2000 cE-1 s19;2004 c23 s12

**Protection of list**

**19.1(1)** A person or registered political party to whom a copy of a list of electors has been furnished under this Act shall take all reasonable steps to protect the list and the information contained in it from loss and unauthorized use.

**(2)** A person or registered political party to whom a copy of a list of electors has been furnished under this Act shall immediately notify the Chief Electoral Officer if the list or information contained in the list has been lost.

**(3)** On being notified under subsection (2), the Chief Electoral Officer shall direct the person or registered political party to take any action the Chief Electoral Officer considers appropriate.

2012 c5 s8

**Restricted use of list of electors**

**20(1)** In this section, “elector” includes a person who is eligible to vote at a plebiscite or referendum conducted under this Act or under an Act to which this Act applies.

**(2)** A list of electors, including a post-polling-day list of electors under section 19, may be used only as follows:

- (a) by a registered political party or a registered constituency association, for communicating with electors, including for soliciting contributions and recruiting party members;
- (b) by a member of the Legislative Assembly
  - (i) for carrying out the duties and functions of the member,
  - (ii) in the case of a member of a registered political party, for soliciting contributions for the use of the registered political party or any constituency association of that party and recruiting party members, and
  - (iii) in the case of a member who is not a member of a registered political party but who has endorsed a constituency association as the official association of the member, for soliciting contributions for the use of the constituency association;
- (c) by a candidate,
  - (i) for communicating with electors during a campaign period, including for soliciting contributions and campaigning, and

- (ii) for soliciting contributions during any period authorized under section 43.1 of the *Election Finances and Contributions Disclosure Act*;
- (d) by election officers for the purpose of carrying out their duties under this Act.

RSA 2000 cE-1 s20;2012 c5 s9

### **Division 3 Enumerations**

#### **Enumerations**

**21(1)** Prior to the general election to be held following the 2015 general election, the Chief Electoral Officer shall conduct a door-to-door enumeration of every electoral division, including an enumeration of Indian reserves and Metis settlements.

**(2)** The Chief Electoral Officer shall give reasonable notice in writing to the council of each Indian band and to the settlement council and settlement administrator of each Metis settlement prior to an enumeration of the electors on the Indian reserve or on the Metis settlement, respectively, providing notice that enumerators will be conducting an enumeration in the area.

**(3)** The Chief Electoral Officer shall consult with the council of each Indian band and with the council and settlement administrator of each Metis settlement with respect to the manner in which the enumeration can most effectively be conducted.

**(4)** Following the enumeration referred to in subsection (1), the Chief Electoral Officer shall table a report with the Standing Committee that includes the following information:

- (a) the number of residences contacted during an enumeration;
- (b) the percentage of persons who responded to the enumeration;
- (c) the number of Indian reserves and Metis settlements contacted by the Chief Electoral Officer for the purposes of conducting an enumeration;
- (d) the number of Indian reserves and Metis settlements that participated in the enumeration;
- (e) any challenges encountered in hiring persons to conduct door-to-door enumerations and the impact of door-to-door enumerations on other election officers;
- (f) the cost of conducting the enumeration;

(g) any other matter the Chief Electoral Officer considers appropriate.

(5) The Standing Committee shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, not more than 15 days after the commencement of the next sitting of the Assembly.

(6) The Lieutenant Governor in Council may make regulations respecting the manner in which an enumeration, if any, may be conducted following the enumeration referred to in subsection (1).

(7) Notwithstanding anything in this section, the Chief Electoral Officer may, at any time the Chief Electoral Officer considers it advisable, conduct an enumeration of all or some of the electoral divisions, or within an electoral division.

(8) In this section and section 52.1,

- (a) “council” means the “council of the band” within the meaning of the *Indian Act* (Canada);
- (b) “Indian band” means a band within the meaning of the *Indian Act* (Canada);
- (c) “settlement administrator” means the person appointed by the settlement council as the senior administrative officer of the settlement, within the meaning of the *Metis Settlements Act*;
- (d) “settlement council” means the council of a Metis settlement within the meaning of the *Metis Settlements Act*.

RSA 2000 cE-3 s21;2017 c29 s16

#### **Preparation of materials for enumeration**

**22(1)** In conducting an enumeration, the Chief Electoral Officer shall provide maps showing subdivision boundaries for use by the enumerators.

(2) The Chief Electoral Officer shall provide each returning officer with sufficient quantities of all necessary forms and materials, including enumerator identification documents, to enable the efficient conduct of the required enumeration.

RSA 2000 cE-1 s22;2004 c23 s13

#### **Appointment of enumerators**

**23** Each returning officer shall, in accordance with directions issued by the Chief Electoral Officer, appoint sufficient enumerators for the efficient conduct of the enumeration within the returning officer’s electoral division.



RSA 2000 cE-1 s23;2010 c8 s13

**Persons ineligible to act as enumerators**

**24** The following persons may not be appointed or act as enumerators:

- (a) repealed 2017 c29 s17;
- (b) members of the Parliament of Canada;
- (c) members of the Legislative Assembly;
- (d) candidates;
- (e) official agents;
- (f) judges of federal or provincial courts;
- (g) persons who have within the immediately preceding 10 years been convicted of an indictable offence for which the penalty that may be imposed is greater than 2 years' imprisonment.

RSA 2000 cE-1 s24;2017 c29 s17

**Enumerators for subdivisions**

**25(1)** Each returning officer shall, in accordance with the directions of the Chief Electoral Officer, appoint an enumerator for each subdivision in an electoral division.

**(2)** The returning officer may, with the approval of the Chief Electoral Officer, appoint a 2nd enumerator for a subdivision if the returning officer considers it necessary for the completion of the enumeration or the security of the enumerator.

**(3)** Repealed 2012 c5 s10.

**(4)** When 2 enumerators are appointed for a subdivision, they shall

- (a) act jointly and not individually in each step of the preparation of the list of electors,
- (b) both sign any document that is required to be signed by an enumerator in respect of an enumeration, and
- (c) report immediately to the returning officer for the electoral division the facts and details of any disagreement between them.

**(5)** The returning officer shall decide any matter under disagreement referred to the returning officer under subsection (4)(c) and immediately communicate that decision to the enumerators.

(6) A qualified enumerator may, at the discretion of the returning officer, be appointed as an enumerator for more than one subdivision.

(7) Repealed 2017 c29 s18.

RSA 2000 cE-1 s25;2004 c23 s14;2012 c5 s10;2017 c29 s18

#### **Identification documents**

**26** The returning officer shall provide all necessary forms and materials, including identification documents, to each enumerator in the returning officer's electoral division.

RSA 2000 cE-1 s26;2004 c23 s15

#### **Replacement of enumerators**

**27(1)** If an enumerator is unable or unwilling to act or neglects the enumerator's duties, the returning officer may appoint another enumerator in the enumerator's place.

(2) An enumerator replaced under this section shall, on receipt of a written request signed by the returning officer, deliver or give up to the enumerator's successor or any other authorized person the enumerator's identification documents and any enumeration documents and written information the enumerator has obtained respecting the enumeration.

RSA 2000 cE-1 s27;2004 c23 s16

#### **Oath of office**

**28** Each enumerator shall, before assuming the enumerator's duties, take the prescribed oath of office before the returning officer or any person authorized to take oaths in Alberta, and no fee may be charged by the person administering the oath.

1996 c15 s5

#### **Right of access for enumerations**

**29(1)** In this section, "multiple dwelling site" means

- (a) an apartment building, condominium building or other multiple residence building, or
- (b) any site in which more than one residence is contained, including a mobile home park, gated community and any similar site.

(2) A person who is in control of a multiple dwelling site shall permit an enumerator who has produced identification documents prescribed by the Chief Electoral Officer to enumerate between 9:00 a.m. and 9:00 p.m. at each residential unit in the multiple dwelling site.

(3) A person to whom an enumerator has produced identification documents referred to in subsection (2) shall not

- (a) obstruct or interfere with, or
  - (b) cause or permit the obstruction or interference with,
- the free access of an enumerator to each residential unit in a multiple dwelling site.

RSA 2000 cE-1 s29;2004 c23 s17

**Conducting an enumeration**

**30(1)** In this section, “assigned residence” means a residence selected by the returning officer in respect of which the information required for the register may be incomplete or incorrect.

**(2)** Subject to subsection (10), each enumerator shall contact, either in person, by telephone or by mail, as directed by the returning officer, each assigned residence in the subdivision to determine which persons residing in the assigned residence

- (a) are Canadian citizens,
- (b) are at least 18 years of age, and
- (c) repealed 2017 c29 s19,
- (d) are ordinarily resident in the electoral division and subdivision for which those persons are to have their names included on the list of electors,

as of a date determined by the Chief Electoral Officer, and shall record on the form provided by the Chief Electoral Officer the information referred to in section 13(2)(a) to (f) with respect to those persons.

**(3)** The enumerator shall leave at each assigned residence contacted under subsection (2) a notice that elector information relating to the persons living in that residence has been collected.

**(4)** An enumerator is not to visit or contact treatment centres, students’ residences operated by an educational institution and exempted by the Chief Electoral Officer, temporary work camps, penitentiaries, correctional institutions, remand centres, detention centres, emergency shelters or any similar institutions unless the returning officer or the Chief Electoral Officer is of the opinion that there are a sufficient number of electors who are residing in the institution.

**(5)** When visiting assigned residences, the enumerator shall wear and prominently display the enumerator’s identification documents.

**(6)** Each enumerator, in accordance with the directions of the Chief Electoral Officer, shall visit every assigned residence in the enumerator’s subdivision at least once during the enumeration

period, and if the enumerator has visited an assigned residence and found no responsible person there, the enumerator shall contact the residence on at least 2 more occasions.

(7) The enumerator may contact the assigned residences in the enumerator's subdivision only between the hours of 9:00 a.m. and 9:00 p.m.

(8) If an enumerator has visited an assigned residence and found no responsible person there, the enumerator shall leave a form provided by the Chief Electoral Officer at the residence so that any qualified elector residing at the residence may be added to the list of electors.

(9) Prior to the date determined by the Chief Electoral Officer, a form left under subsection (8) may be returned as stated in the form.

(10) The Chief Electoral Officer may direct a returning officer for an electoral division that assigned residences be contacted within that electoral division by means other than those referred to in subsection (2).

(11) Notwithstanding anything in this section, the Chief Electoral Officer may direct an enumerator not to visit an assigned residence if, in the Chief Electoral Officer's opinion, the safety of an enumerator may be at risk.

RSA 2000 cE-1 s30;2004 c23 s18;2012 c5 s11;2017 c29 s19

#### **Remote areas**

**31(1)** The returning officer for an electoral division may, with the approval of the Chief Electoral Officer, designate any area of the electoral division as a remote area.

(2) An elector ordinarily resident in a designated remote area is eligible to vote by Special Ballot.

(3) Notwithstanding section 30, an enumeration in a designated remote area shall, subject to

- (a) the regulations, and
- (b) any directions of the Chief Electoral Officer,

be conducted in a way the returning officer considers appropriate.

(4) A designated remote area is a polling subdivision but no polling places may be established in it and no deputy returning officer or poll clerk may be appointed for it.

1996 c15 s5;1998 c34 s3

**Preparing list of electors**

**32(1)** On or before the date determined by the Chief Electoral Officer, the enumerator shall submit to the returning officer the forms completed under section 30(2).

**(2)** Repealed 2004 c23 s19.

**(3)** Within 5 days after the completion of the enumeration, the enumerator shall

- (a) submit all copies of the forms completed under section 30(2) and any forms received under section 30(9), and
- (b) return all enumeration materials, including the enumerator's identification documents, to the returning officer.

RSA 2000 cE-1 s32;2004 c23 s19

**Accuracy of list of electors**

**33** The returning officer shall satisfy himself or herself as to the proper completion of the forms referred to in section 30(2) prior to authorizing payment of the enumerator's expense claim.

RSA 2000 cE-1 s33;2004 c23 s20

**34** Repealed 2017 c29 s20.

**35** Repealed 2017 c29 s21.

**36** Repealed 2017 c29 s22.

**37** Repealed 2017 c29 s23.

**Materials to be submitted to Chief Electoral Officer**

**38(1)** Each returning officer shall, with respect to the returning officer's electoral division, submit to the Chief Electoral Officer not later than the date determined by the Chief Electoral Officer,

- (a) the forms completed under section 30(2) for each polling subdivision,
- (b) one copy of a map of the electoral division clearly indicating the sequentially numbered polling subdivisions,
- (c) all expense claims,
- (d) all unused enumeration materials,
- (e) all enumerator identification documents, with a satisfactory accounting of any absences, and

- (f) information to be included in the register of electors prepared in a manner prescribed by the Chief Electoral Officer.

(2) The returning officer shall review the boundaries of and the number of electors in each subdivision of the returning officer's electoral division and, if the returning officer considers it necessary, shall, in consultation with the Chief Electoral Officer, redefine and, if necessary, renumber the subdivisions in accordance with section 14 for use as polling subdivisions in any election, by-election, referendum or plebiscite.

RSA 2000 cE-1 s38;2004 c23 s23;2012 c5 s14

### **Part 3 Elections, By-Elections and Plebiscites**

#### **General election dates**

**38.1(1)** Nothing in this section affects the powers of the Lieutenant Governor, including the power to dissolve the Legislature, in Her Majesty's name, when the Lieutenant Governor sees fit.

(2) Subject to subsection (1), general elections shall be held within the 3-month period beginning on March 1 and ending on May 31 in the 4th calendar year following polling day in the most recent general election.

2011 c19 s2;2017 c29 s24

#### **Authorization to issue writ of election**

**39** Every election shall be commenced by the passing of an order of the Lieutenant Governor in Council

- (a) authorizing the issue of a writ of election in the prescribed form directed and addressed to the returning officer of each electoral division for which an election is to take place,
- (b) fixing the date of the writ,
  - (i) which must be the same for all writs in the case of a general election, and
  - (ii) which must be the same as the date of the order in the case of a by-election,
- (c) appointing the 10th day after the date of the writ as nomination day, or if the 10th day is a holiday, the next following day not being a holiday,

- (d) providing that, where voting is necessary, the 28th day after the date of the writ is the day on which voting is to take place, or if the 28th day is a holiday, the next following day not being a holiday, and
- (e) directing that the writ be returned as provided by this Act.

RSA 2000 cE-1 s39;2012 c5 s15

#### **Issue of writ of election**

**40(1)** On receipt of an order under section 39, the Chief Electoral Officer shall

- (a) issue writs in accordance with the order, and
- (b) transmit each writ to the returning officer to whom it is addressed.

**(2)** Immediately on receiving a writ, the returning officer shall endorse on it the date on which it was received by the returning officer.

RSA 1980 cE-2 s37

#### **Writ not affected**

**41** The validity of any proceedings taken under a writ is not affected by the appointment of a new or acting returning officer.

RSA 1980 cE-2 s38

#### **Forms and materials**

**42** When transmitting a writ to a returning officer, or as soon as practicable after transmitting the writ to a returning officer, the Chief Electoral Officer shall also forward sufficient copies of the lists of electors for the electoral division and a supply of election forms and materials.

RSA 2000 cE-1 s42;2017 c29 s25

#### **Persons eligible to vote**

**43** Subject to section 45, an elector is eligible to vote for a candidate in the electoral division where the elector is ordinarily resident if

- (a) that elector's name appears on the list of electors for the polling subdivision,
- (b) that elector signs a declaration under section 95, or
- (c) that elector's name has been entered in the Special Ballot Poll Book and the person has properly completed part 1 of the certificate referred to in section 118(2)(d).

RSA 2000 cE-1 s43;2012 c5 s16;2017 c29 s26

**Absentee voters**

**44(1)** A person who is otherwise eligible as an elector but who does not meet the residence requirements of section 16(c) and (d) because the person's ordinary place of residence is outside Alberta for the purpose of carrying out the person's function as

- (a) a member of the House of Commons of Canada representing an electoral district in Alberta,
- (b) a member of the Senate of Canada representing Alberta, or
- (c) an employee of the Government of Alberta

is, for the purposes of voting, deemed to be and to have been for the required period ordinarily resident in the polling subdivision of the electoral division in which the person last resided in Alberta and is eligible to have the person's name entered on the list of electors for that subdivision and to vote at an election.

**(2)** A person who

- (a) is the spouse or adult interdependent partner or a dependant of and is ordinarily resident with a person described in subsection (1), and
- (b) is otherwise eligible as an elector,

is, for the purposes of voting, deemed to be and to have been for the required period ordinarily resident in the same subdivision as the person described in subsection (1) and is eligible to have the person's name entered on the list of electors for that subdivision and to vote at an election.

**(3)** An application to have a name entered on the lists of electors must be made under section 37 to the returning officer of the electoral division before the time fixed for concluding revisions to the lists.

RSA 2000 cE-1 s44;2002 cA-4.5 s32

**Persons ineligible to vote**

**45** Persons prohibited from voting under section 178(4)(e) or 181(1) are not eligible to vote at an election.

RSA 2000 cE-1 s45;2003 c41 s4(27);2010 c8 s14

**Persons ineligible to be election officers**

**46(1)** The following persons shall not be appointed or act as returning officers or election clerks:

- (a) persons who are not electors;



- (b) members of the Parliament of Canada;
- (c) members of the Legislative Assembly;
- (d) councillors under the *Municipal Government Act*;
- (e) trustees of a board of trustees under the *School Act*;
- (f) candidates;
- (g) official agents;
- (h) judges of federal or provincial courts;
- (i) persons who have, within the immediately preceding 10 years, been convicted of an indictable offence where the penalty that may be imposed for that offence is greater than 2 years' imprisonment.

(2) The persons listed in clauses (b) to (i) shall not be appointed or act as an election officer.

RSA 2000 cE-1 s46;2004 c23 s24;2010 c8 s15;2017 c29 s27

#### **Appointment of election clerks**

**47(1)** In preparation for the conduct of an election in an electoral division, the Chief Electoral Officer shall appoint an election clerk.

(2) If an election clerk is unable or unwilling to act or neglects the election clerk's duties, the Chief Electoral Officer may appoint another election clerk in the election clerk's place.

(3) The Chief Electoral Officer may appoint additional election clerks for an electoral division as the Chief Electoral Officer considers necessary.

(4) Repealed 2017 c29 s28.

(5) Each election clerk shall, before assuming the election clerk's duties, take the prescribed oath of office.

RSA 2000 cE-1 s47;2004 c23 s25;2010 c8 s16;2012 c5 s17;  
2017 c29 s28

#### **Appointment of administrative assistants**

**47.1(1)** In preparation for the conduct of an election in an electoral division, the returning officer shall appoint an administrative assistant.

(2) If an administrative assistant is unable or unwilling to act or neglects the administrative assistant's duties, the returning officer may appoint another administrative assistant in the administrative assistant's place.

(2.1) Repealed 2017 c29 s29.

(3) Each administrative assistant shall, before assuming the administrative assistant's duties, take the prescribed oath of office.

(4) An administrative assistant shall assist the returning officer and the election clerk in the performance of their duties.

2004 c23 s26;2010 c8 s17;2012 c5 s18;2017 c29 s29

#### **Duties of election clerks**

**48(1)** An election clerk shall assist the returning officer in the performance of the returning officer's duties and, if the returning officer becomes ineligible to hold the office or is unable or unwilling to act and has not been replaced by a successor, the election clerk or, if there is more than one, the election clerk first appointed, shall act as returning officer.

(2) When an election clerk is acting as a returning officer, the election clerk is liable for the election clerk's acts or omissions in the election clerk's capacity as returning officer as if the election clerk had been appointed a returning officer.

(3) An election clerk acting as a returning officer is not required to take the oath of a returning officer.

RSA 1980 cE-2 s44

#### **Oaths and affidavits**

**49(1)** An oath or affidavit required under this Act from any person except a returning officer may be sworn before the returning officer for the relevant electoral division or any election officer designated by the Chief Electoral Officer.

(2) An oath or affidavit required under this Act from any person except a returning officer or election clerk may be sworn before the election clerk for the relevant electoral division or any election officer designated by the Chief Electoral Officer.

RSA 2000 cE-1 s49;2017 c29 s30

#### **Revision of polling subdivision lists**

**50(1)** Immediately following receipt of a writ, the returning officer shall have available in the returning officer's office and in any other location as directed by the Chief Electoral Officer one copy of the list of electors transmitted by the Chief Electoral Officer.

(2) The period for considering applications for revisions to the list shall

(a) - (b) repealed 2017 c29 s31,

(c) conclude at 4 p.m. on the Saturday of the week preceding the opening of the advance polls.

(3) Section 13.1 applies with all necessary modifications to revisions under this section.

(4) Repealed 2017 c29 s31.

RSA 2000 cE-1 s50;2004 c23 s27;2017 c29 s31

#### **Access to electors list and revisions**

**51(1)** The list of electors and a separate list of additions to or revisions of the list of electors shall be available in the office of the returning officer to any person for the purpose of

- (a) determining whether the person's name is on the list of electors, or
- (b) verifying whether the information about the person is correct.

(2) The lists referred to in subsection (1) shall be available from the date the Chief Electoral Officer issues a writ of election under section 40 until the end of polling day.

(3) A candidate or the candidate's official agent may inspect the list of electors and a separate list of additions to or revisions of the list of electors following the commencement of the revision period and may request copies of the additions to the list of electors.

(4) Any person requesting access to the information in the lists for the purposes set out in subsection (1) or (3) shall complete and sign a declaration.

RSA 2000 cE-1 s51;2004 c23 s28;2010 c8 s18

#### **Location of polling places**

**52(1)** Each returning officer shall, following receipt of the writ, provide polling places at which the polling stations for each polling subdivision within the returning officer's electoral division will be located.

(2) A polling place shall be in a location that, in the opinion of the returning officer, is convenient for the electors.

(3) Every polling place must, where practicable, be located in premises with barrier-free accessibility.

(4) A returning officer may utilize as a polling place any public building or any school that is the property of any school district or school division organized under any Act if the building or school is suitable for the purpose.

(5) There may be more than one polling station located in a polling place.

(6) A polling place does not need to be located in the polling subdivision but shall be located in the electoral division.

(6.1) Notwithstanding subsection (6), with the prior written approval of the Chief Electoral Officer a polling place may be in an adjacent electoral division if the returning officer is unable to find a suitable place in the electoral division for the polling place or polling station.

(7) No polling place may be situated in licensed premises.

RSA 2000 cE-1 s52;2004 c23 s29;2017 c29 s32

#### **Location of polling places on Indian reserves and Metis settlements**

**52.1(1)** In preparation for an election, the Chief Electoral Officer shall consult with the council of each Indian band and with the settlement council and settlement administrator of each Metis settlement to determine whether a suitable building located on the Indian reserve or Metis settlement may be used as a polling place for electors who are residents on the Indian reserve or Metis settlement.

(2) If the council of an Indian band or the settlement council of a Metis settlement agrees to the use of a suitable building located on the Indian reserve or Metis settlement, the Chief Electoral Officer shall use the building as a polling place.

2017 c29 s33

#### **Change of polling place**

**53(1)** Subject to section 4(3.1) and (3.5), if it is found to be impractical to hold the poll in a polling place fixed by the returning officer, the returning officer may fix a different polling place as near as possible to the location originally fixed and shall give immediate notice of the change to all candidates or their official agents and publish the change on the Chief Electoral Officer's website and in any other manner the Chief Electoral Officer considers necessary.

(2) When a different polling place is fixed under subsection (1), the returning officer shall cause a conspicuous sign that clearly and accurately states the location of the new polling place to be attached to the original place where the polling place was to be located.

RSA 2000 cE-1 s53;2017 c29 s34

#### **Polling place signs**

**54(1)** Each returning officer shall

- (a) have prepared conspicuous signs for directing electors to the location of each polling place within the returning officer's electoral division, and

- (b) distribute the signs to each supervisory deputy returning officer or deputy returning officer in the returning officer's electoral division.

**(2)** The supervisory deputy returning officer or deputy returning officer shall place the signs received under subsection (1) at those places that will best direct attention to the polling place.

RSA 2000 cE-1 s54;2004 c23 s30;2012 c5 s19

#### **Publication of election proclamation**

**55(1)** Each returning officer shall, as soon as possible but not later than the 5th day before nomination day, issue a proclamation containing the following:

- (a) repealed 2017 c29 s35,
- (b) the place and hours fixed for the nomination of candidates and the date fixed for the closing of nominations,
- (c) the place, dates and hours fixed for voting at an advance poll if voting is necessary,
- (d) the date of polling day and the hours at which the polling places will open and close if voting is necessary,
- (e) the date and time for announcing the results of the official count, that date being the 10th day after polling day, and
- (f) the name of the returning officer and the contact information for the returning officer's office.

**(2)** A returning officer shall post a copy of the following in the returning officer's office:

- (a) the proclamation referred to in subsection (1);
- (b) a map of the electoral division including the numbered polling subdivisions;
- (c) a list of the locations of polling places;
- (d) a statement of the availability of barrier-free accessibility to the office of the returning officer and to the advance polling places;
- (e) repealed 2017 c29 s35.

**(2.1)** The Chief Electoral Officer shall, as soon as possible, publish the information in the proclamation referred to in subsection (1)(b) to (f) and the information referred to in subsection (2)(b) and (d) on the Chief Electoral Officer's website and in any other manner

determined by the Chief Electoral Officer that provides electors with adequate notice of the election.

(3) Repealed 2017 c29 s35.

(4) If any of the information published under subsection (2.1) is or becomes inaccurate, the Chief Electoral Officer shall

- (a) publish details of the correction on the Chief Electoral Officer's website and in any other manner in which the Chief Electoral Officer has published the information under subsection (2.1), and
- (b) immediately provide to all candidates or their official agents written details of the correction.

(5) Repealed 2017 c29 s35.

RSA 2000 cE-1 s55;2004 c23 s31;2010 c8 s19;2012 c5 s20;  
2017 c29 s35

#### **Eligibility**

**56** A person is eligible to be nominated as a candidate in an election if on the day the person's nomination paper is filed the person

- (a) is a Canadian citizen,
- (b) is of the full age of 18 years or will be that age on polling day,
- (c) has been ordinarily resident in Alberta continuously from the day 6 months immediately preceding polling day,
- (c.1) is registered under section 9 of the *Election Finances and Contributions Disclosure Act*,
- (c.2) is not an inmate,
- (d) is not prohibited from being nominated as a candidate under this Act by reason of section 57, 58, 178 or 181, and
- (e) is not a member of the Senate or House of Commons of Canada.

RSA 2000 cE-1 s56;2004 c23 s32;2010 c8 s20;  
2017 c29 s36

#### **Prohibition against nomination**

**57** A person is prohibited from being nominated as a candidate in an election if

- (a) the Speaker has laid a report before the Assembly pursuant to section 44(1) of the *Election Finances and Contributions Disclosure Act*,
- (b) that person was the registered candidate or the registered nomination contestant or the chief financial officer of the registered candidate or registered nomination contestant referred to in the report,
- (c) the Court did not dispense with compliance with section 43, 43.01, 43.02 or 43.1 of that Act by an order under section 44(4) of that Act, and
- (d) nomination day for the election occurs within
  - (i) the 8-year period following the day on which the Speaker laid the report before the Assembly, or
  - (ii) where the return has been filed with the Chief Electoral Officer, the 5-year period following the day of filing,

whichever period expires first.

RSA 2000 cE-1 s57;2010 c8 s21;2016 c29 s52

#### **Prohibition against nomination**

**58** A person is prohibited from being nominated as a candidate in an election if

- (a) that person has been declared disqualified from membership of the Legislative Assembly pursuant to section 29 of the *Legislative Assembly Act* or has been expelled from membership of the Legislative Assembly pursuant to section 29 of the *Conflicts of Interest Act*,
- (b) nomination day for the election occurs within the 8-year period following the day on which the declaration of disqualification or expulsion was made, and
- (c) the cause of the disqualification under the *Legislative Assembly Act* or of the breach under the *Conflicts of Interest Act* has not been removed by nomination day.

1983 cL-10.1 s54;1991 cC-22.1 s50

#### **Nomination of candidates**

**59(1)** At any time during the period referred to in subsection (1.01), any 25 or more electors of an electoral division may nominate a person eligible to be a candidate as a candidate for that electoral division by signing a nomination paper in the prescribed form.

**(1.01)** The period for the purpose of subsection (1) is as follows:

- (a) in the case of a general election held in accordance with section 38.1(2), the period commencing on February 1 in the year in which the general election is held and ending on nomination day;
- (b) in the case of a general election held other than in accordance with section 38.1(2), the period commencing with the issue of a writ for the general election and ending on nomination day;
- (c) in the case of a by-election, the period commencing with the issue of a writ for the by-election and ending on nomination day;
- (d) where a nomination contest is held by a registered party or a registered constituency association under the *Election Finances and Contributions Disclosure Act*, the period commencing as soon as the nomination contestant, as defined in the *Election Finances and Contributions Disclosure Act*, is selected for endorsement as the official candidate of the registered party for the electoral division, and ending on nomination day.

**(1.1)** The nomination paper referred to in subsection (1) must be filed with the returning officer for the electoral division for which the person is being nominated at any time prior to 2 p.m. on the date appointed as nomination day.

**(2)** The signatures of the electors nominating a candidate must be witnessed by another elector who shall complete the required affidavit on the nomination paper prior to its filing.

**(3)** A candidate whose nomination papers are not filed with the returning officer prior to the time set for the closing of nominations ceases to be a candidate on the closing of nominations.

**(4)** At any one time, a person is not eligible to be nominated as a candidate for more than one electoral division.

**(5)** An elector resident in an electoral division, on application to the returning officer of that electoral division, may, during the period commencing on the day following nomination day and ending on polling day, inspect the nomination papers filed by candidates in that electoral division.

RSA 2000 cE-1 s59;2010 c8 s22;2012 c5 s21;2017 c29 s37

#### **Official agents of candidates**

**60(1)** Each person being nominated as a candidate shall appoint an elector to be the person's official agent on the person's nomination



and shall include the name and contact information of the person so appointed in the appropriate place in the nomination form.

**(1.1)** No candidate shall act as an official agent.

**(2)** The duties of an official agent are those prescribed by the candidate.

**(3)** The official agent shall not perform the duties of the chief financial officer unless the official agent is the candidate's chief financial officer.

**(4)** If it becomes necessary to appoint a new official agent, the candidate shall immediately notify the returning officer in writing of the name and contact information of the person so appointed.

RSA 2000 cE-1 s60;2004 c23 s33;2017 c29 s38

#### **Filing nomination papers**

**61(1)** A nomination paper is not valid and shall not be accepted for filing by the returning officer unless the original nomination paper is submitted for filing and

- (a) it contains a properly completed affidavit of the attesting witness or witnesses, as the case may be, to the signatures of the nominating electors,
- (a.1) it is signed by the candidate,
- (b) it states an address within Alberta at which documents may be served and notices given respecting the candidate,
- (c) it contains the appointment, name, address and telephone number of the official agent immediately followed, subject to clause (d), by the signature of the person being nominated,
- (d) the person being nominated confirms by affidavit
  - (i) that the person is eligible under section 56 for nomination,
  - (ii) that the person consents to the person's nomination,
  - (iii) the appointment of the person's official agent,
  - (iv) that the person is the officially endorsed candidate of a registered political party or is an independent candidate,

and the confirmation is filed with the nomination paper,

- (d.1) the person being nominated provides the returning officer with identification in a form prescribed by the Chief Electoral Officer,
- (e) it is accompanied with a deposit of \$500, and
- (f) it is filed with the returning officer prior to 2 p.m. on the date appointed as nomination day.

**(2)** If the person being nominated is to be the candidate of a registered political party, the person shall, at the time of filing the person's nomination paper, file a certificate in the prescribed form stating that the nominee is the candidate for that registered political party.

**(3)** On the filing of a valid nomination paper, the returning officer shall give a receipt in the prescribed form, which is proof of receipt of the deposit and of the filing of the nomination paper.

**(4)** The deposit of \$500 referred to in subsection (1)(e) may be made during the time period referred to in section 59(1.01)(d) notwithstanding section 9(1.1) of the *Election Finances and Contributions Disclosure Act*.

RSA 2000 cE-1 s61;2004 c23 s34;2010 c8 s23;2012 c5 s22;  
2017 c29 s39

#### **Deposit of candidate**

**62(1)** The returning officer shall not accept a deposit tendered under section 61(1)(e) unless it consists of

- (a) Bank of Canada notes,
- (b) a certified cheque,
- (c) a bank or postal money order, or
- (d) a combination of any of those forms.

**(2)** Repealed 2010 c8 s24.

**(2.1)** The deposit received under section 61 must be refunded to the chief financial officer of the candidate if the required return is filed within the time period referred to in section 43(2) of the *Election Finances and Contributions Disclosure Act*.

**(3)** If a candidate dies after being nominated and prior to the closing of the polling places on polling day, the deposit shall be refunded to the candidate's chief financial officer.

(4) A deposit that is not refunded under this section shall be transmitted to the Chief Electoral Officer for deposit to the General Revenue Fund.

RSA 2000 cE-1 s62;2004 c23 s35;2010 c8 s24;  
2012 c5 s23;2016 c29 s52

**Material to be provided to candidate**

**63** The returning officer, on filing a nomination paper, shall provide to the candidate,

- (a) if the candidate is the candidate of a registered political party,
  - (i) one copy of the proclamation,
  - (ii) one list of the locations of the polling places, and
  - (iii) a sufficient number of copies of the prescribed form for the appointment of scrutineers,

and

- (b) in every other case,
  - (i) one copy of the proclamation,
  - (ii) one map of the electoral division indicating the numbered polling subdivisions,
  - (iii) one list of the locations of the polling places,
  - (iv) a sufficient number of copies of the prescribed form for the appointment of scrutineers, and
  - (v) in accordance with the candidate's request, one printed copy or one copy in electronic form, or both, of the list of electors for each polling subdivision in the electoral division.

RSA 2000 cE-1 s63;2004 c23 s36;2012 c5 s24

**Election by acclamation**

**64** If only one candidate is nominated by the time nominations close for an electoral division, the returning officer shall

- (a) immediately declare that candidate elected,
- (b) make the returning officer's return in the prescribed form to the Chief Electoral Officer certifying the election of the candidate, and

- (c) as soon as possible return to the Chief Electoral Officer the writ of election and all other election materials.

RSA 1980 cE-2 s58

**Withdrawal of candidate**

**65(1)** At any time after the filing of the candidate's nomination paper but not later than 48 hours before the opening of the polls on polling day, the candidate may withdraw by filing with the returning officer a declaration to that effect signed by the candidate and having the candidate's signature witnessed.

**(2)** If, after a candidate withdraws, only one candidate remains, the returning officer shall proceed in accordance with section 64 as if only one candidate had been nominated.

**(3)** If

- (a) a candidate withdraws after the ballots for the electoral division for which the candidate was nominated are printed, and
- (b) there remain 2 or more candidates,

the returning officer shall advise each deputy returning officer of the returning officer's electoral division personally or by letter or telephone of the withdrawal and, if there is sufficient time, shall prepare a notice of withdrawal and distribute a copy to each deputy returning officer, who shall post it in a conspicuous location in the deputy returning officer's polling place.

**(4)** When, in acting under subsection (3), there is insufficient time to prepare and distribute a notice of withdrawal, the returning officer, when advising the deputy returning officers of the withdrawal, shall instruct each of them to cause a notice of the withdrawal to be prepared by hand, and on so complying each deputy returning officer shall post the notice in a conspicuous location in the deputy returning officer's polling place.

**(5)** When a candidate has withdrawn, the deputy returning officer is responsible for ensuring that each voter is so advised when receiving a ballot.

RSA 1980 cE-2 s59

**Death of candidate**

**66(1)** If a candidate in an electoral division dies after being nominated and prior to the closing of the polling places on polling day,

- (a) the election for that electoral division shall be discontinued,

- (b) a new election for the electoral division shall be commenced under section 39 as if the election were a by-election, and
- (c) nominations of candidates previously filed remain valid for the new election.

**(2)** This Act applies to an election under this section as if it were a by-election.

RSA 2000 cE-1 s66;2004 c23 s37

#### **Close of nominations**

**67(1)** At 2 p.m. on the date appointed as nomination day, the returning officer shall, at the place fixed for the filing of nominations,

- (a) declare the nominations closed,
- (b) announce the names of all officially nominated candidates in the electoral division,
- (c) announce the name and contact information of each candidate's official agent, and
- (d) announce the polling date and the date and time at which the official results will be announced.

**(1.1)** The returning officer shall send the deposits received under section 61 to the Chief Electoral Officer.

**(2)** On complying with subsection (1), the returning officer shall, as soon as possible,

- (a) make available a list of the candidates to each candidate or each candidate's official agent, and
- (b) publish the names and contact information of the candidates' official agents in the form and manner directed by the Chief Electoral Officer.

**(3)** If another official agent is appointed under section 60(4), the returning officer shall publish in the same manner as provided in subsection (2) the name and contact information of the newly appointed official agent.

RSA 2000 cE-1 s67;2012 c5 s25;2017 c29 s40

#### **Service on candidate of documents and notices**

**68** Any document or notice delivered between 9 a.m. and 6 p.m. to the address stated for that purpose in a candidate's nomination paper is deemed to have been personally served or given to that candidate.

RSA 1980 cE-2 s62

**Posting of notice of poll**

**69(1)** If a poll is necessary in an electoral division, the returning officer shall, immediately after the close of nominations, cause to be posted at every place where the proclamation was posted a notice of poll in the prescribed form indicating the names of the candidates and their respective registered political parties, if any, in the order in which the candidates' names will appear on the ballot.

**(2)** The returning officer shall

(a) ensure that corrections of obvious errors or omissions are made to the posted notices at any time up to 48 hours prior to the hour fixed for the opening of the polling places on polling day, and

(b) notify the candidates of all corrections as they are made.

RSA 2000 cE-1 s69;2017 c29 s41

**Publishing information re location of polling place**

**70** Each returning officer shall

(a) publish within the 7 days immediately preceding polling day, in the form and manner directed by the Chief Electoral Officer,

(i) a copy of the map of the electoral division setting out the polling subdivisions,

(ii) a list of the locations of the polling places, and

(iii) a statement of the availability of barrier-free accessibility to the office of the returning officer and to the advance polling places,

(iv) repealed 2017 c29 s42,

and

(b) provide one copy of the map and one copy of the list to each of the returning officer's deputy returning officers for use on polling day.

RSA 2000 cE-1 s70;2012 c5 s26;2017 c29 s42

**Appointment of deputy returning officers**

**71(1)** If an election is necessary in an electoral division, the returning officer or election clerk shall, for each polling subdivision, appoint in the prescribed form a person as deputy returning officer.

**(2)** Each deputy returning officer shall, before assuming the deputy returning officer's duties, take the prescribed oath of office before

the returning officer or election clerk or any person authorized to take oaths in Alberta, and no charge may be made by the person administering the oath.

**(3)** and **(4)** Repealed 2017 c29 s43.

**(5)** If a deputy returning officer is unable or unwilling to act or neglects the deputy returning officer's duties, the returning officer may appoint another deputy returning officer in that deputy returning officer's place, and a copy of the appointment shall be attached to the poll book.

RSA 2000 cE-1 s71;2004 c23 s38;2017 c29 s43

### **Duties of deputy returning officers**

**72(1)** The deputy returning officer for each polling station shall

- (a) immediately before opening the poll, show the ballot box to the persons present so that they may see that it is empty,
- (b) seal the box so that it cannot be opened without breaking the seal,
- (c) place and maintain the ballot box on a desk, table, counter or similar place so that it is raised above the floor and constantly in the view of all persons present,
- (d) keep the ballot box sealed, and
- (e) perform any other duties required by this Act.

**(2)** The deputy returning officer is responsible for maintaining order at the deputy returning officer's polling station or polling place, as the case may be.

RSA 1980 cE-2 s66;1992 c12 s19

### **Appointment of poll clerks**

**73(1)** For each polling place established in an electoral division the returning officer for that electoral division shall appoint one or more qualified persons as poll clerks.

**(1.1)** Notwithstanding subsection (3), a person who is 16 or 17 years of age may be appointed as a poll clerk to carry out the duties of a poll clerk, except to act as a deputy returning officer under section 75.

**(2)** Each poll clerk shall, before assuming the poll clerk's duties, take the prescribed oath of office before the returning officer, election clerk or deputy returning officer or any person authorized to take oaths in Alberta, and no charge may be made by the person administering the oath.

(3) and (4) Repealed 2017 c29 s44.

(5) If a poll clerk is unable or unwilling to act or neglects the poll clerk's duties, the returning officer may appoint another poll clerk in that poll clerk's place, and a copy of the appointment shall be attached to the poll book.

RSA 2000 cE-1 s73;2004 c23 s39;2010 c8 s25;  
2012 c5 s27;2017 c29 s44

#### **Duties of poll clerks**

**74** A poll clerk shall

- (a) maintain the poll book in the prescribed manner,
- (b) assist the deputy returning officer in the performance of the deputy returning officer's duties, and
- (c) perform any other duties required by the deputy returning officer.

RSA 1980 cE-2 s68

#### **Poll clerk as acting deputy returning officer**

**75(1)** If a deputy returning officer becomes ineligible to hold the office or is unable or unwilling to act or neglects the deputy returning officer's duties and has not been replaced by a successor, the poll clerk shall act as deputy returning officer.

(2) When a poll clerk is acting as a deputy returning officer, the poll clerk is liable for the poll clerk's acts or omissions in the poll clerk's capacity as a deputy returning officer as if the poll clerk had been appointed a deputy returning officer.

(3) A poll clerk acting as a deputy returning officer is not required to take the oath of a deputy returning officer.

(4) Where a poll clerk acts as a deputy returning officer the poll clerk may appoint another qualified person as poll clerk in the poll clerk's place, and a copy of the appointment shall be attached to the poll book.

RSA 1980 cE-2 s69

#### **Appointment of information officer**

**75.1(1)** A returning officer may, if the returning officer considers it necessary, appoint in the prescribed form a qualified person as an information officer for each polling place.

(2) Each information officer shall, before assuming the information officer's duties, take the prescribed oath of office before the returning officer, election clerk, supervisory deputy returning officer or deputy returning officer or any person



authorized to take oaths in Alberta, and no fee may be charged by the person administering the oath.

(3) The duties of an information officer are to assist electors, to respond to questions from electors and to maintain peace and order in the polling place and on the premises on which the polling place is located.

2012 c5 s28

#### **Appointment of supervisory deputy returning officer**

**76(1)** A returning officer may, if the returning officer considers it necessary, appoint in the prescribed form a qualified person as a supervisory deputy returning officer for any polling place containing 2 or more polling stations.

(2) Each supervisory deputy returning officer shall, before assuming the supervisory deputy returning officer's duties, take the prescribed oath of office before the returning officer or election clerk or any person authorized to take oaths in Alberta, and no charge may be made by the person administering the oath.

(3) Repealed 2017 c29 s45.

RSA 2000 cE-1 s76;2004 c23 s40;2017 c29 s45

#### **Duties of supervisory deputy returning officer**

**77** A supervisory deputy returning officer is responsible for

- (a) providing overall supervision of 2 or more polling stations in the polling place,
- (b) performing the duties of other election officers as required,
- (c) preserving peace and order within the polling place, and
- (d) giving assistance to electors.

RSA 2000 cE-1 s77;2012 c5 s29

#### **Registration officer**

**77.1(1)** A returning officer may, if the returning officer considers it necessary, appoint in the prescribed form a qualified person as a registration officer.

(2) Each registration officer shall, before assuming the registration officer's duties, take the prescribed oath of office before the returning officer or election clerk or any person authorized to take oaths in Alberta, and no charge may be made by the person administering the oath.

(3) Repealed 2017 c29 s46.

- (4) The duties of a registration officer are
- (a) to assist electors who are not on the list of electors in the completion of a declaration referred to in section 95, and
  - (b) to assist the supervisory deputy returning officer and the deputy returning officer in the performance of their duties.

2004 c23 s41;2012 c5 s30;2017 c29 s46

#### **Use of election officers**

**77.2(1)** Subject to sections 71(5), 73(5) and 75, this section applies to election officers who are requested or required by the Chief Electoral Officer, a returning officer or their supervisor to perform the duties of another election officer.

(2) Any election officer who is appointed to carry out duties in an electoral division may, at the request of his or her supervisor, be required to carry out the duties of any other officer at any polling place in the electoral division if that other election officer is unable to carry out his or her own duties.

(3) If an election officer is unable or unwilling to act or neglects the election officer's duties, the Chief Electoral Officer or returning officer may appoint another person in that election officer's place.

(4) Any election officer may perform the duties of another election officer, other than the duties of a returning officer or election clerk, if required or requested by the Chief Electoral Officer, returning officer or the election officer's supervisor.

(5) If an election officer is required to perform the duties of another election officer, the election officer is not required to take another oath.

2004 c23 s41;2017 c29 s47

#### **Interpreters**

**78(1)** An interpreter may be appointed in the prescribed form to translate questions and answers about voting procedures for persons not conversant in the English language.

(2) An interpreter shall be appointed

- (a) by a returning officer, or
- (b) by a deputy returning officer where the appointment is for one or more temporary periods during polling day.

RSA 2000 cE-1 s78;2004 c23 s42

#### **Scrutineers**

**79(1)** Each candidate may appoint in the prescribed form not more than 4 electors as scrutineers

- (a) to represent the candidate at each polling station,
  - (b) to be present at the place to which the ballot box is brought under section 96(1.1),
  - (c) to observe the election procedures on the candidate's behalf, and
  - (d) to be present at the registration officer's station while an elector is completing a declaration under section 95.
- (2)** The Chief Electoral Officer shall establish a code of conduct for scrutineers.
- (3)** The code of conduct must be posted in each polling place.
- (4)** Each candidate shall provide to each of his or her scrutineers a copy of the code of conduct.
- (5)** A scrutineer shall comply with the code of conduct, and a scrutineer may be removed from the polling place if in the opinion of the supervisory deputy returning officer or deputy returning officer the scrutineer fails to comply with the code.

RSA 2000 cE-1 s79;2004 c23 s43;2010 c8 s26;2012 c5 s31

#### **Provision of supplies**

**80** The Chief Electoral Officer shall provide all supplies not previously delivered to the returning officers in sufficient time to enable each of them to adequately and efficiently carry out the returning officer's duties.

RSA 1980 cE-2 s76

#### **Ballot boxes**

**81(1)** The Chief Electoral Officer shall provide each returning officer with a sufficient number of ballot boxes to conduct the election in the returning officer's electoral division.

- (2)** The ballot boxes shall be
- (a) repealed 2017 c29 s48,
  - (b) accompanied with sealing material, and
  - (c) designed in a manner that permits the deposit of ballots but does not permit their removal without breaking the seal after it has been applied.

RSA 2000 cE-1 s81;2017 c29 s48

#### **Provision of ballots**

**82(1)** The Chief Electoral Officer shall ensure a sufficient number of ballots are available for use in an election.

(2) Repealed 2017 c29 s49.

(3) The printer shall deliver to the returning officer with the printed ballots a completed and executed Affidavit of Printer in the prescribed form.

RSA 2000 cE-1 s82;2017 c29 s49

#### **Contents of ballots**

**83(1)** Each ballot shall set out the name of each candidate together with

- (a) the name of the registered political party for which the candidate is the candidate, or
- (b) the word “Independent” if the candidate is not a candidate for a registered political party

in a type of at least 12 point capital letters.

(2) Notwithstanding subsection (1)(a), an abbreviated form of the name of the registered political party or recognizable initials representing that party as directed by the leader of the political party under section 7(1)(b) of the *Election Finances and Contributions Disclosure Act* may be used.

(3) The names of the candidates shall be set out on the ballot as follows:

- (a) the candidate’s
  - (i) given name,
  - (i.1) middle name,
  - (ii) initials, or
  - (iii) nickname, subject to subsection (3.2)or any combination of them in a type of at least 12 point capital letters;
- (b) the candidate’s surname shall appear following the given name, initials or nickname, as the case may be, and be in a type of 12 point capital letters;
- (c) the candidates’ names shall be listed on the basis of the alphabetical order of their surnames and, where 2 or more candidates have identical surnames, those candidates’ names shall be listed on the basis of the alphabetical order of their given names;

- (d) no titles, degrees, prefixes or suffixes may be included with a name.

**(3.01)** For the purpose of subsection (3)(a)(i.1), only one middle name is permitted.

**(3.1)** Notwithstanding subsections (1) and (3), where the name of the registered political party or a candidate does not fit on the ballot, the returning officer shall have the ballots printed, in their entirety, in a font that is up to 2 points smaller than that required by subsections (1) and (3).

**(3.2)** The Chief Electoral Officer may disallow the use of a name, other than a person's legal name, or nickname having regard to the integrity of the election.

**(4)** Every ballot shall include a stub and there shall be a line of perforations between the ballot and the stub.

**(5)** The ballot and stub shall be in the prescribed form and shall be bound or stitched in books in quantities that the Chief Electoral Officer considers appropriate.

**(6)** The ballots shall be serially numbered with the number of each ballot appearing on the back of the stub.

**(7)** All ballots shall be legible and as nearly alike as possible.

**(8)** Repealed 2010 c8 s27.

**(9)** Each ballot shall have the name of the electoral division and the year of the election.

RSA 2000 cE-1 s83;2004 c23 s44;2010 c8 s27;2017 c29 s50

#### **Record of ballots**

**84** Each returning officer shall maintain a record of

- (a) the quantity of ballots that are provided to the deputy returning officers in the electoral division, and
- (b) the serial numbers of the ballots.

RSA 1980 cE-2 s80

#### **Provision of election materials**

**85** The returning officer shall provide to each deputy returning officer

- (a) a copy of the list of electors for the deputy returning officer's particular polling subdivision for use on polling day, and

- (b) a sufficient quantity of the necessary forms and materials to conduct the poll.

RSA 2000 cE-1 s85;2017 c29 s51

#### **Extra polling places or polling stations**

**86(1)** If the Chief Electoral Officer or a returning officer considers it necessary, the Chief Electoral Officer or the returning officer may establish additional polling places or polling stations for the convenience of the voters.

**(2)** If additional polling places or polling stations are provided, they shall be as near to the original polling places as possible, and the returning officer shall give immediate notice of the additional polling places or polling stations, as the case may be, to all candidates in the electoral division or their official agents by telephone, confirmed by written notice.

RSA 2000 cE-1 s86;2017 c29 s52

#### **Maintenance of order by deputy returning officer**

**87** When there is more than one polling station located in a polling place and no supervisory deputy returning officer has been appointed, the returning officer may designate a deputy returning officer of one of the polling stations to maintain order within the polling place.

RSA 1980 cE-2 s83

#### **Polling place hours**

**88(1)** Subject to subsection (3), polling places shall be open for the purpose of voting during the following hours only:

- (a) at an advance poll, from 9 a.m. to 8 p.m.;
- (b) at treatment centres and supportive living facilities where mobile polls are held in accordance with section 120, during the hours fixed by the returning officer;
- (b.1) at a special mobile poll held in accordance with section 125.1, during the hours fixed by the Chief Electoral Officer;
- (c) at the taking of the poll on polling day, from 9 a.m. to 8 p.m.

**(2)** No voting shall be permitted before the opening of a polling place.

**(3)** At closing time the entrance to each polling place shall be closed, and only those persons who are inside the polling place or in line to enter the polling place at that time shall be permitted to vote after the closing time.

RSA 2000 cE-1 s88;2004 c23 s81;2017 c29 s53

**88.1** Repealed 2017 c29 s54.

#### **Opening of polling place**

**89(1)** Each deputy returning officer shall attend at the polling place at least 60 minutes prior to the opening of the deputy returning officer's polling station.

**(2)** During the 30 minutes immediately prior to the opening of the polling place, candidates, official agents and scrutineers are entitled to inspect the ballots and examine all documents, materials and ballot boxes to be used in the taking of the poll.

**(3)** If the deputy returning officer and the poll clerk are not in attendance at the polling place at the time when the polling place is to be open for the purpose of voting, any election officer who is present at the polling place may commence the taking of the poll.

**(4)** If any election officer is not in attendance at the polling place at the time when the polling place is to be open for the purpose of voting, another election officer shall advise the returning officer of the absence.

RSA 2000 cE-1 s89;2004 c23 s45;2017 c29 s55

#### **Posting of bulletins**

**90(1)** Prior to the opening of a polling station, the deputy returning officer shall post in a conspicuous location at the polling station one copy of each of the following prescribed bulletins:

- (a) Notice as to Secrecy of Voting;
- (b) Directions for Guidance of Voters.
- (b.1) such other bulletins required by the Chief Electoral Officer to assist in the effective conduct of the election.
- (c) repealed 2010 c8 s29.

**(2)** The deputy returning officer shall ensure that the bulletins posted under subsection (1) remain posted during polling hours.

RSA 2000 cE-1 s90;2010 c8 s29;2012 c5 s32;2017 c29 s56

#### **Polling booths**

**91(1)** Each polling station shall contain one or more polling booths arranged so that when a voter is in the polling booth the voter is screened from observation and may mark the voter's ballot without interference.

**(2)** In each polling booth there shall be provided for the use of voters marking their ballots

- (a) a suitable table, desk or shelf, and
- (b) a suitable marking instrument which shall be properly maintained during polling hours.

RSA 1980 cE-2 s87

**Persons entitled to remain in polling place**

**92(1)** Only the following persons may remain in a polling place during polling hours:

- (a) the supervisory deputy returning officer and deputy returning officers;
- (a.1) the registration officers;
- (b) the poll clerks;
- (c) the returning officer or election clerk;
- (d) the Chief Electoral Officer, members of the Chief Electoral Officer's office staff designated by the Chief Electoral Officer and visiting officials from other electoral jurisdictions authorized by the Chief Electoral Officer;
- (e) the official agents of the candidates;
- (f) one scrutineer per candidate for each ballot box;
- (f.1) one scrutineer per candidate at each registration officer's station;
- (g) the interpreters;
- (h) peace officers appointed under the *Peace Officer Act*;
- (i) the information officers;
- (j) other election officers authorized by the Chief Electoral Officer.

**(1.1)** Students may briefly visit a polling place in their school for educational purposes with the consent of the supervisory deputy returning officer or a deputy returning officer.

**(1.2)** Members of the media may briefly visit a polling place after receiving confirmation from the supervisory deputy returning officer or a deputy returning officer that the electors in the polling place all agree to the visit.



(2) Nothing in this Act restricts a candidate from briefly visiting a polling place during polling hours.

RSA 2000 cE-1 s92;2004 c23 s46;  
2006 cP-3.5 s35;2012 c5 s33

### Secrecy

**93(1)** All persons referred to in section 92(1) shall take the prescribed oath of secrecy before performing their duties under that section and shall aid in maintaining the secrecy of the voting.

(2) If an election officer suspects that any contravention of the law governing secrecy in relation to voting has occurred, the election officer shall as soon as possible advise the returning officer, who shall immediately notify the Chief Electoral Officer.

(3) Repealed 2010 c8 s30.

RSA 2000 cE-1 s93;2010 c8 s30

### Preservation of peace and order

**94(1)** Every election officer, from the time that officer takes that officer's oath of office until completion of the duties of that office,

- (a) is charged with preserving the peace at polling places,
- (b) is vested with all the powers of a justice of the peace, and
- (c) may, where a person is contravening subsection (3),
  - (i) request the assistance of a justice of the peace, a peace officer or any person present to aid that election officer in maintaining peace and order at the polling place,
  - (ii) order any person contravening subsection (3) to leave the polling place and the premises on which the polling place is located,
  - (iii) arrest or cause to be arrested and placed in the custody of a peace officer or other person any person contravening subsection (3), and
  - (iv) cause an arrested person to be imprisoned on that officer's written order until a time not later than the close of a poll.

(2) When requested to do so under subsection (1)(c), a peace officer shall forthwith attend on and assist the person making the request in the performance of the person's powers under that subsection.

(3) No person shall in any manner

- (a) create a disturbance, or
- (b) disrupt the proceedings

at a polling place on polling day.

RSA 2000 cE-1 s94;2004 c23 s47;  
2006 cP-3.5 s35;2012 c5 s34

#### **Declaration procedure**

**95(1)** An elector who is otherwise eligible to vote but whose name does not appear on the list of electors for the polling subdivision in which the elector is ordinarily resident may vote if

- (a) the elector produces to the registration officer or deputy returning officer the following proof of his or her identity and current residence:
  - (i) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of that government, that contains a photograph of the elector and his or her name and current address, or
  - (ii) 2 pieces of identification authorized by the Chief Electoral Officer each of which establish the elector's name and at least one of which establishes the elector's current address,

and

- (b) the elector signs a declaration before the registration officer or deputy returning officer stating that the elector
  - (i) qualifies as an elector, and
  - (ii) ordinarily resides in that polling subdivision.

**(2)** An elector may instead prove his or her identity and residence by signing a declaration if he or she is accompanied by an elector whose name appears on the list of electors for the same polling subdivision and that elector

- (a) provides to the registration officer or deputy returning officer the piece or pieces of identification referred to in subsection (1)(a), and
- (b) vouches for him or her by signing a declaration.

**(3)** The registration officer or deputy returning officer shall indicate on the declaration referred to in subsections (1) and (2) the nature of the identification accepted.

(4) An elector who has been vouched for at an election may not vouch for another elector at that election.

(4.1) Scrutineers may not vouch for an elector.

(5) The Chief Electoral Officer shall publish each year, and within 3 days after the issue of a writ, in a manner that he or she considers appropriate, a notice setting out the types of identification that are authorized for the purpose of subsection (1)(a)(ii).

(6) The deputy returning officer shall, after receiving a signed declaration under subsection (1)(b) or (2), enter the elector's name and address on the list of electors and enter in the poll book in the appropriate column a check mark or other annotation indicating that the voter signed a declaration or was vouched for, as the case may be.

RSA 2000 cE-1 s95;2004 c23 s48;2010 c8 s31;  
2012 c5 s35

#### **Voter assistance**

**96(1)** The deputy returning officer, at the request of a voter who is unable to vote in the usual manner, shall

- (a) assist the voter by marking the voter's ballot in the manner directed by the voter in the presence of the poll clerk, and
- (b) if requested by the voter, place the ballot so marked in the ballot box.

(1.1) Where a voter is unable to access a polling place because of the voter's physical disability, the poll clerk, and the other election officers the deputy returning officer considers necessary, shall bring the ballot box to some other place on the site on which the polling place is located.

(1.2) Before bringing the ballot box to some other place under subsection (1.1), the poll clerk shall advise the scrutineers at the polling place.

(2) Repealed 2004 c23 s49.

(3) The deputy returning officer, in the case of a voter referred to in subsection (1), shall

- (a) if the voter is accompanied by a friend,
  - (i) permit the friend to accompany the voter into a polling booth to mark the voter's ballot, and
  - (ii) if requested by the voter or the friend, place the ballot in the ballot box,

or

- (b) if the voter is not accompanied by a friend or does not wish to be assisted by the deputy returning officer,
  - (i) provide the voter with a Voter Template in the prescribed form, and
  - (ii) instruct the voter in its use.

(4) A voter referred to in subsection (1) and the friend of such a voter, if assisting the voter to vote, shall both take the prescribed oath before voting.

(5) When a ballot has been marked pursuant to this section, the deputy returning officer or poll clerk shall enter in the poll book opposite the name of the voter and in the appropriate column either “voter assistance” or “template”, as the case may be.

RSA 2000 cE-1 s96;2004 c23 s49;2010 c8 s32;  
2012 c5 s36;2017 c29 s57

#### **List of electors for advance poll**

**97** The returning officer shall provide a copy of the list of electors for all assigned polling subdivisions in the electoral division for use by the deputy returning officer at the advance poll.

RSA 2000 cE-1 s97;2012 c5 s37;2017 c29 s58

#### **Polling place for advance poll**

**98(1)** The returning officer shall establish at least one and no more than 4 polling places to enable electors to vote in advance at an election.

**(1.1)** Notwithstanding subsection (1), the Chief Electoral Officer may require a returning officer to establish more than 4 polling places if the Chief Electoral Officer considers it necessary.

**(2)** The Chief Electoral Officer shall ensure that the distance that an elector would have to travel to attend at an advance poll is no greater than 100 km, unless the cost to do so in any particular situation would be unreasonable in the circumstances.

**(3)** The polling places for advance polling shall be open from 9 a.m. to 8 p.m. on each of the Tuesday, Wednesday, Thursday, Friday and Saturday of the full week preceding polling day.

**(4)** The provisions respecting the conduct of an election on polling day and related matters apply, with all necessary modifications, to the holding of an advance poll.

**(5)** After the opening of a polling place for an advance poll the deputy returning officer shall take all reasonable precautions to

ensure that no other person except the poll clerk has access to the ballot box.

**(6)** Each day at the close of the polling place for an advance poll the ballot box

- (a) shall be sealed by the deputy returning officer and poll clerk, and
- (b) may be sealed by any candidate, official agent or scrutineer so desiring,

so that it cannot be opened and no ballots can be deposited without breaking those seals.

**(6.1)** If electronic documents are used for the purposes of an advance poll, each day after the close of a polling place for an advance poll, a copy of a record of electors who voted that day shall be made in printed and electronic form.

**(6.2)** A copy of the record referred to under subsection (6.1) shall be provided to registered political parties or registered candidates on request.

**(6.3)** The record referred to in subsection (6.1) shall include each elector's electoral division, polling subdivision number and sequence number assigned to the elector by the Chief Electoral Officer or an election officer and any other information the Chief Electoral Officer considers appropriate.

**(7)** Sealing material applied to a ballot box shall not be broken from the time it is applied until the close of the polling places on polling day, except as may be necessary at the opening of the polling place for the advance poll on the Wednesday, Thursday, Friday and Saturday to permit the deposit of ballots.

**(8)** At the close of the polling place for the advance poll on the final day the deputy returning officer shall, after the seal has been applied pursuant to subsection (6), take charge of and safely keep the ballot box until the close of polls on polling day, when the ballots shall be counted in accordance with section 111.

RSA 2000 cE-1 s98;2004 c23 s50;2010 c8 s33;  
2012 c5 s38;2017 c29 s59;2017 c29 s59

#### **Voting in advance poll**

**99(1)** When a person who is an elector attends to vote at the advance poll, the deputy returning officer shall

- (a) if the person's name appears on a list of electors, enter opposite the name of that person on the list of electors in

the appropriate column a check mark or other annotation indicating that the voter voted in the advance poll, or

- (b) if the person's name does not appear on any list of electors,
  - (i) require the person to comply with section 95(1) or (2), and
  - (ii) enter the person's name and address on the list of electors and enter in the appropriate column in the poll book a check mark or other annotation indicating that the voter signed a declaration in accordance with section 95(1) or signed a declaration and was vouched for in accordance with section 95(2), and voted in the advance poll.

**(2)** At the close of the polling place for an advance poll, the deputy returning officer shall advise the returning officer of the names and polling subdivisions of all electors who voted at the deputy returning officer's advance poll, and the returning officer shall, prior to polling day, advise each deputy returning officer of the names of the electors for their respective subdivisions who have so voted.

RSA 2000 cE-1 s99;2010 c8 s34;2017 c29 s60

#### **Provision of ballot**

**100(1)** Each elector who presents himself or herself to vote on polling day shall give his or her name and address to the deputy returning officer and if

- (a) the name of that elector appears on the list of electors for the polling subdivision, or
- (b) the elector complies with section 95(1) or (2),

the poll clerk shall strike the elector's name off the list of electors and enter the name and address in the poll book if it is not already there, and for each name so recorded the poll clerk shall enter a number in consecutive sequence opposite it.

**(2)** The deputy returning officer shall provide to each elector recorded in the poll book a prefolded ballot

- (a) containing the deputy returning officer's initials in the prescribed place on its back so that when the ballot is folded the initials can be seen without unfolding it, and
- (b) that has a counterfoil attached to it on the back of which the deputy returning officer has inserted a number

corresponding to the number recorded next to the elector's name in the poll book.

RSA 2000 cE-1 s100;2004 c23 s51;2010 c8 s35

### **Voting procedure**

**101(1)** The deputy returning officer shall, without inquiring or ascertaining for whom the voter intends to vote, instruct the voter to

- (a) proceed to one of the polling booths and there, with the marker provided, mark his or her ballot by placing an "X" in the white space opposite the name of the candidate of his or her choice,
- (b) refold the ballot so that the initials, electoral division and year of the election on the back of the ballot can be seen without unfolding it, and
- (c) hand the folded ballot to the deputy returning officer.

**(2)** The deputy returning officer shall, without unfolding the ballot and in full view of the voter and all present, ascertain by examining the initials that it is the same ballot the deputy returning officer provided to the voter, and return the ballot to the voter so that the voter may place the ballot in the ballot box.

**(3)** Notwithstanding subsection (2), on being requested by the voter, the deputy returning officer shall place the ballot in the ballot box.

RSA 2000 cE-1 s101;2010 c8 s36;2017 c29 s61

### **Spoiled ballot**

**102(1)** If a voter has dealt with the voter's ballot in a manner that may render its use inappropriate, the voter may surrender the ballot to the deputy returning officer and on surrendering it obtain a new ballot.

**(2)** The deputy returning officer shall immediately write the word "spoiled" on the previous ballot returned to the deputy returning officer under subsection (1) and place it in the required envelope to be sent to the returning officer, and the poll clerk shall annotate the poll book accordingly.

RSA 2000 cE-1 s102;2010 c8 s37;2012 c5 s39

### **Record of vote**

**103** Immediately after a voter's ballot is deposited in the ballot box the poll clerk shall enter in the poll book opposite the name of the voter and in the appropriate column a check mark or other annotation indicating that the voter has voted.

RSA 2000 cE-1 s103;2004 c23 s52;2010 c8 s38

**Elector's declaration**

**104(1)** A deputy returning officer shall administer the declaration in the prescribed form to a person if

- (a) the deputy returning officer doubts the eligibility of that person to vote, or
- (b) the deputy returning officer is requested to do so by a candidate, official agent or scrutineer and the deputy returning officer is of the opinion that the request is made in good faith.

**(2)** An election officer, candidate, official agent or scrutineer who presents himself or herself for the purpose of voting at the polling subdivision in which that person ordinarily resides may be required by a candidate, official agent or scrutineer before that person votes to sign the declaration before the deputy returning officer or poll clerk located at that polling subdivision.

**(3)** If a voter

- (a) has signed a declaration for the purpose of voting, or
- (b) has refused to sign a declaration that the voter is required to complete for the purpose of voting,

the poll clerk shall annotate the poll book accordingly.

**(4)** A person who refuses to sign the declaration when required to do so

- (a) shall not be provided with a ballot or permitted to vote,
- (b) forfeits the person's right to vote in the election, and
- (c) shall forthwith leave the polling place.

**(5)** An elector who has signed the declaration under section 95 is not required to sign a declaration under this section.

RSA 2000 cE-1 s104;2004 c23 s53;2010 c8 s39;2012 c5 s40

**Prohibited conduct during polling**

**105(1)** No person may

- (a) interfere or attempt to interfere with a voter who is attempting to mark the voter's ballot,
- (b) attempt to obtain any information at a polling place regarding which candidate a voter has voted for, is voting for or is about to vote for, or



- (c) prevent or attempt to prevent a person from exercising the person's right to vote.

(2) No person may communicate any information obtained at a polling place regarding which candidate a voter has voted for, is voting for or is about to vote for.

RSA 1980 cE-2 s102

#### **Secrecy of vote**

**106(1)** While a voter is in a polling booth for the purpose of marking the voter's ballot, no other person may, except as permitted in section 96, enter the polling booth or be in a position from which the person can see for whom the voter marks the voter's ballot.

(2) No person may directly or indirectly induce or attempt to induce a voter to show the voter's ballot after the voter has marked it so as to allow the name of the candidate for whom the voter has voted to be known.

(3) Except as provided in section 96, a voter shall not show the voter's ballot, after the voter has marked it, to any person so as to allow the name of the candidate for whom the voter voted to be known.

(4) A voter shall

- (a) vote without unnecessary delay, and
- (b) leave the polling place as soon as the voter's ballot has been placed in the ballot box.

RSA 1980 cE-2 s103

#### **Taking ballot out of polling place**

**107(1)** A person who receives a ballot shall not take it out of the polling place.

(2) If a person contravenes subsection (1), the deputy returning officer shall make an entry in the poll book in the appropriate column to the effect that the person received a ballot but took it out of the polling place.

(3) A person who contravenes subsection (1) forfeits the right to vote in the election.

RSA 2000 cE-1 s107;2010 c8 s40

#### **Declining to vote**

**107.1(1)** If a person returns the person's ballot indicating that the person does not wish to mark the ballot, the deputy returning officer shall immediately write the word "declined" on the ballot

and place it in the required envelope to be sent to the returning officer.

(2) A person who returns a ballot under subsection (1)

- (a) forfeits the right to vote in the election, and
- (b) shall forthwith leave the polling place.

(3) If a person declines to vote, the poll clerk shall annotate the poll book accordingly.

2010 c8 s40;2012 c5 s41

#### **Alleged impersonation of an elector**

**108(1)** If a person representing that person to be an elector applies for a ballot after another person has voted in the name of that elector, the person is entitled to receive a ballot and to vote after taking the prescribed oath and establishing the person's identity to the satisfaction of the deputy returning officer.

(2) The name of the voter shall be entered in the poll book and a note shall be made stating the fact that the voter voted after taking the oath, any objection made, and the name of any candidate on whose behalf an objection was made.

RSA 1980 cE-2 s105

#### **Person deemed to have voted**

**109** A person who has caused the person's ballot to be placed in the ballot box is deemed to have voted.

RSA 1980 cE-2 s106

#### **One vote only**

**110** An elector shall have one vote only.

RSA 1980 cE-2 s107

#### **Procedure on close of poll**

**111(1)** After the closing of the poll, the deputy returning officer shall immediately count the number of spoiled and declined ballots and record the total on the outside of the envelope containing those ballots.

(2) On complying with subsection (1), the deputy returning officer shall count

- (a) the number of electors whose names appear on the list of electors, and
- (b) the number of voters recorded in the poll book as having voted,

and shall draw a line immediately under the last name in the poll book and affix the deputy returning officer's initials.

**(3)** On complying with subsection (2), the deputy returning officer shall, in the presence of the poll clerk and those candidates, official agents and scrutineers entitled to be present, open the ballot box and proceed with a count of the votes, using tally sheets.

**(4)** The deputy returning officer shall provide to the poll clerk and any other person present who wishes to keep a tally a sufficient number of tally sheets.

**(5)** In counting the votes, the deputy returning officer shall reject and place in a rejected ballot envelope any ballot that

- (a) does not have on its back the name of the electoral division and year of the election,
- (b) does not indicate a vote for any candidate,
- (c) in the case of a vote by Special Ballot, does not indicate a vote for any candidate or registered political party, as the case may be,
- (d) contains votes for more than one candidate,
- (e) in the case of a vote by Special Ballot, contains votes for more than one candidate or registered political party, as the case may be,
- (f) is so marked that it is uncertain for which candidate the vote was cast,
- (g) in the case of a vote by Special Ballot, is so marked that it is uncertain for which candidate or registered political party, as the case may be, the vote was cast,
- (h) contains a vote for a candidate who has withdrawn,
- (h.1) in the case of a Special Ballot,
  - (i) does not have the prescribed identification document or documents required under section 118(2)(c.1) included in the certificate envelope, or
  - (ii) is treated as a rejected ballot under section 118(5)(b),
- (i) in the case of a vote by Special Ballot, contains a vote for a candidate who has withdrawn or for a registered political party that does not have a candidate for the electoral division, or

- (j) contains any writing or mark enabling the voter to be readily identified.
- (6)** Notwithstanding subsection (5)(a) to (i), a ballot shall not be rejected
- (a) by reason of any writing, number or mark made or omitted by the deputy returning officer, or
  - (b) when the vote, though incorrectly made on the ballot, clearly indicates the voter's intention to vote for one particular candidate.
- (7)** Repealed 2017 c29 s62.
- (8)** The deputy returning officer shall make a note in the poll book of every objection to a ballot and the name of any candidate on whose behalf an objection was made.
- (9)** Each objection shall be numbered and a corresponding number placed on the back of the ballot that is the subject of the objection and initialled by the deputy returning officer.
- (10)** The deputy returning officer shall decide any question arising out of an objection.
- (11)** Only the following persons may be present during the unofficial count of ballots and then only if they have taken the prescribed oath of secrecy:
- (a) the returning officer;
  - (a.1) repealed 2012 c5 s42;
  - (b) any other election officer authorized by the returning officer;
  - (c) repealed 2012 c5 s42;
  - (d) the Chief Electoral Officer, members of the Chief Electoral Officer's office staff designated by the Chief Electoral Officer and visiting officials from other electoral jurisdictions authorized by the Chief Electoral Officer;
  - (e) the candidates;
  - (f) the official agents of the candidates;
  - (g) one scrutineer per candidate for each ballot box.

RSA 2000 cE-1 s111;2004 c23 s54;2010 c8 s41;  
2012 c5 s42;2017 c29 s62

**Procedure on conclusion of unofficial count**

**112** The deputy returning officer shall, at the conclusion of the count,

- (a) complete a Statement of Poll in sufficient numbers that shall be signed by the deputy returning officer, the poll clerk and any person present who wishes to sign the statement of the poll,
- (b) immediately communicate the unofficial results in accordance with the directions of the returning officer,
- (c) provide one copy of the Statement of Poll to each candidate or to the candidate's official agent or scrutineer present,
- (d) administer the poll clerk's oath and take the deputy returning officer's oath in the prescribed forms,
- (e) place the ballots for each candidate in the envelopes provided for that purpose and mark on the outside of each envelope the name of the candidate whose ballots are contained in it,
- (f) place the envelopes containing the ballots in one large envelope that the deputy returning officer shall then seal and endorse with an indication of its contents, and any scrutineer present may, if the scrutineer so wishes, write the scrutineer's signature across the envelope and its flap,
- (g) place the rejected ballots and the unused ballots in separate envelopes each of which the deputy returning officer shall then seal and endorse with an indication of its contents, and any scrutineer present may, if the scrutineer so wishes, write the scrutineer's signature across the envelope and its flap,
- (h) ensure that
  - (i) the list of electors,
  - (ii) all envelopes containing ballots,
  - (iii) the poll book,
  - (iv) the original copy of the Statement of Poll, and
  - (v) all other documents relating to the operation of the poll,

are placed in the ballot box that the deputy returning officer shall immediately seal,

- (i) return the sealed ballot box to the returning officer in accordance with section 114, and
- (j) retain the deputy returning officer's copy of the Statement of Poll until the returning officer completes the official count.

RSA 2000 cE-1 s112;2004 c23 s55;2017 c29 s63

#### **Advance poll count**

**113(1)** After the closing of the polling places on polling day, the deputy returning officer of each advance poll and the deputy returning officer's poll clerk shall attend with the ballot box at a place designated by the returning officer and then, in the presence of any of the candidates or their official agents or scrutineers who attend, shall open the ballot box and proceed to count the votes, and sections 111 and 112 apply, with all necessary modifications, to the count.

**(2)** The returning officer shall advise in writing each candidate or each candidate's official agent of the place where the votes from the advance poll will be counted.

**(3)** A returning officer may, if the returning officer considers it necessary, appoint in the prescribed form additional election officers to assist in counting the votes from the advance poll.

**(4)** Each person appointed under subsection (3) shall, before assuming any duties, take the prescribed oath of office before the returning officer, the election clerk or another person authorized to take oaths in Alberta, and no charge may be made by the person administering the oath.

RSA 2000 cE-1 s113;2004 c23 s56;2012 c5 s43

#### **Return of ballot box**

**114(1)** The deputy returning officer is responsible for returning the ballot box to the returning officer as soon as possible after the conclusion of the unofficial count of the votes.

**(2)** If the deputy returning officer does not personally return the ballot box to the returning officer, the deputy returning officer shall ensure that the ballot box is returned to the returning officer by a means approved of by the returning officer.

**(3)** and **(4)** Repealed 2004 c23 s57.

RSA 2000 cE-1 s114;2004 c23 s57

**115** Repealed 2004 c23 s58.

**Vote by Special Ballot**

**116(1)** An elector who is unable to vote at an advance poll or at the poll on polling day on account of

- (a) physical incapacity,
- (b) absence from the electoral division,
- (c) being an inmate including a person sentenced to a term of imprisonment of 10 days or less or for the non-payment of fines,
- (d) being a returning officer, election clerk, administrative assistant, supervisory deputy returning officer, registration officer, deputy returning officer or other staff member working in the office of a returning officer, poll clerk, interpreter, peace officer appointed under the *Peace Officer Act*, candidate, official agent or scrutineer who may be located on polling day at a polling place in a polling subdivision within the electoral division other than that in which the elector is ordinarily resident,
- (e) being a resident of a remote area designated under section 31, or
- (f) any other circumstances prescribed by the Chief Electoral Officer,

may apply to vote by Special Ballot.

**(2)** An application for a Special Ballot may be made

- (a) in writing,
- (b) by telephone,
- (c) by fax or electronic mail, or
- (d) in person,

by an elector to the returning officer of the elector's electoral division at any time between the issue of the writ and the closing of polls on polling day or to the Chief Electoral Officer in accordance with subsection (2.1).

**(2.1)** An application referred to in subsection (2) may be made to the Chief Electoral Officer

- (a) in the case of a general election held in accordance with section 38.1(2),

- (i) no earlier than January 1 in the year in which the election is held, and
  - (ii) no later than
    - (A) if the elector applies in person, at the end of polling day, and
    - (B) in any other case, 6 p.m. on the day before advance polls open,
- and
- (b) in the case of a general election held other than in accordance with section 38.1(2) or a by-election, no later than
    - (i) if the elector applies in person, at the end of polling day, and
    - (ii) in any other case, 6 p.m. on the day before advance polls open.
- (3)** On receipt of an application under this section, the returning officer, election clerk or person designated by the Chief Electoral Officer shall
- (a) enter in the Special Ballot Poll Book
    - (i) the elector's name and where the elector is ordinarily resident, and
    - (ii) the name and number of the polling subdivision in which the elector resides,
- and
- (b) after the writ of election has been issued, cause the appropriate forms to be provided to the applicant.
- (4)** The returning officer may delegate to the administrative assistant any functions of the returning officer or election clerk under this section and sections 117 and 118.

RSA 2000 cE-1 s116;2004 c23 s59;2006 cP-3.5 s35;  
2010 c8 s42;2017 c29 s64

#### **Secure Special Ballot**

**116.1(1)** An elector who believes that his or her personal safety may be at risk if the elector appears in person at a poll or if the elector's name or address appears in a poll book may apply to vote by Secure Special Ballot.



(2) The provisions of this Act relating to the procedure of voting by Special Ballot apply to voting by Secure Special Ballot, but the Chief Electoral Officer may modify the procedure to ensure that the name and address of an applicant under this section remain secure.

2004 c23 s60

#### **Name and address of Special Ballot voters to candidates**

**117** The returning officer shall, on request, make available to any candidate in the electoral division or the candidate's official agent the names and addresses of the ordinary residences of those electors in the electoral division who have applied for and been provided with the appropriate forms under section 116.

RSA 1980 cE-2 s114;1983 c75 s14

#### **Voting by Special Ballot**

**118(1)** On receipt of the prescribed forms, the voter shall mark the ballot by writing, with a pen or pencil of any colour, in the space provided, the name of the candidate or the registered political party of the candidate of the voter's choice.

(2) After marking the voter's ballot, the voter shall

- (a) place the marked ballot in the ballot envelope,
- (b) seal the ballot envelope,
- (c) place the ballot envelope in the certificate envelope,
- (c.1) place a copy of the prescribed identification document or documents in the certificate envelope,
- (d) complete and sign part 1 of the certificate and seal the certificate envelope,
- (e) place the certificate envelope in the outer envelope, and
- (f) seal the outer envelope.

(3) The outer envelope, when sealed, shall be forwarded so that it reaches the returning officer or the person designated by the Chief Electoral Officer not later than the close of the polling places on polling day.

(4) On receipt of the outer envelope, the returning officer, election clerk or person designated by the Chief Electoral Officer shall remove and open the certificate envelope and determine

- (a) whether the name on the certificate envelope is the same as that of a person already entered in the Special Ballot Poll Book under section 116,

- (b) whether a copy of the prescribed identification document or documents has been included, and
- (c) whether part 1 of the certificate has been properly completed.

(5) On determining that the voter is recorded in the Special Ballot Poll Book, that a copy of the prescribed identification document or documents has been included and that part 1 of the certificate is completed, the returning officer, election clerk or person designated by the Chief Electoral Officer as the case may be, shall,

- (a) if the returning officer, election clerk or person designated by the Chief Electoral Officer is satisfied as to the voter's eligibility to vote,
  - (i) sign part 2 of the certificate,
  - (ii) if the voter's name appears on the list of electors for the polling subdivision in which the voter is entitled to vote, put a line through the voter's name and enter opposite the name of that person on the list of electors the word "special",
  - (iii) if the voter's name does not appear on the list of electors for the polling subdivision in which the voter is entitled to vote, enter the voter's name on the list of electors and put a line through the voter's name and enter opposite the name of that voter on the list of electors the word "special",
  - (iv) record in the Special Ballot Poll Book in the appropriate column the date the returning officer, election clerk or person designated by the Chief Electoral Officer received the certificate envelope,
  - (v) remove the sealed ballot envelope from the certificate envelope, remove the Special Ballot from the sealed ballot envelope and place the Special Ballot in a sealed ballot box marked "special ballot",
  - (vi) enter in the Special Ballot Poll Book, in the appropriate columns, a check mark or other annotation indicating that the voter has voted and the reason for using the Special Ballot, that is, physical incapacity, absence, inmate, election officer, candidate, official agent, scrutineer, remote area or another reason prescribed by the Chief Electoral Officer, and

- (vii) retain the certificate envelope and the copy of the identification document or documents and forward them to the Chief Electoral Officer in accordance with section 142,

or

- (b) if the returning officer, election clerk or person designated by the Chief Electoral Officer is not satisfied as to the voter's eligibility to vote,
  - (i) retain the certificate envelope and its contents,
  - (ii) treat the ballot in the envelope as a rejected ballot, and
  - (iii) mark the certificate envelope accordingly.

**(6)** At the close of the polling place on polling day, the returning officer shall deliver the sealed ballot box referred to in subsection (5)(a)(v) to the authorized election officers in the electoral division and advise them of the names of the electors who have voted by Special Ballot.

**(6.01)** Counting of Special Ballots shall proceed

- (a) in the case of ballot boxes delivered under subsection (6), in accordance with section 113 as if the ballot box were from an advance poll,
- (b) in the case of Special Ballots in the sealed ballot box referred to in subsection (5)(a)(v) in the possession of the person designated by the Chief Electoral Officer, in the following manner:
  - (i) the authorized election officers shall, in the presence of any candidates or their official agents or scrutineers who attend, open the ballot box and proceed to count the votes;
  - (ii) sections 111 and 112 apply, with all necessary modifications, to the count.

**(6.1)** Any election officer appointed for the electoral division may assist with the duties under subsection (6).

**(7)** After completing the count of the ballots, the election officer authorized by the returning officer shall record the results on the prescribed form.

RSA 2000 cE-1 s118;2004 c23 s61;2010 c8 s43;  
2012 c5 s44;2017 c29 s65

**Late receipt of Special Ballot**

**119** If an outer envelope is received by a returning officer after the close of the polling places on polling day, the ballot it contains must be considered a rejected ballot and the outer envelope must be retained unopened by the returning officer, who shall record on it the reason for its rejection.

RSA 1980 cE-2 s116

**Treatment centres and supportive living facilities**

**120(1)** Each returning officer shall, following receipt of a writ, determine if there are in the electoral division

- (a) any treatment centres having not fewer than 10 electors who are in-patients,
- (b) any supportive living facilities having not fewer than 10 electors who are residents,
- (c) any shelters, including emergency shelters, having not fewer than 10 electors who are residents, and
- (d) any community support centres having not fewer than 10 electors who are receiving support or services from that community support centre.

**(2)** If a returning officer determines that there are facilities as described in subsection (1)(a) or (b), the returning officer shall,

- (a) determine, in consultation with an official of each supportive living facility, whether a mobile poll should be held at the facility,
- (b) in consultation with an official of each supportive living facility where a poll is to be held and with an official of each treatment centre
  - (i) fix the hours on polling day when a mobile poll will operate at the facility,
  - (i.1) determine whether a mobile poll will be held on any one or more days fixed for an advance poll and, if so, fix the hours when that mobile poll will operate at the facility, and
  - (ii) determine the number of mobile polls to be established within the facility and the format that each mobile poll is to take as either fixed location or bed-to-bed visitations, or both,

and

- (c) appoint a deputy returning officer and poll clerk for each mobile poll so required.

**(3)** If a returning officer determines that there are facilities as described in subsection (1)(c) or (d), the returning officer shall

- (a) determine, in consultation with an official of each facility, whether a mobile poll should be held at the facility,
- (b) in consultation with an official of each facility where a poll is to be held
  - (i) fix the hours on polling day when a mobile poll will operate at the facility,
  - (ii) determine whether a mobile poll will be held on any one or more days fixed for an advance poll and, if so, fix the hours when that mobile poll will operate at the facility, and
  - (iii) determine the number of mobile polls to be established within the facility and the format that each mobile poll is to take,

and

- (c) appoint a deputy returning officer and poll clerk for each mobile poll so required.

**(4)** An official of a facility referred to in subsection (1)(c) or (d) shall not unreasonably withhold consent to hold a mobile poll in that facility.

**(5)** If the official referred to in subsection (4) withholds consent to hold a mobile poll in a facility, the official shall provide the returning officer with written reasons for the withholding of consent.

RSA 2000 cE-1 s120;2004 c23 s81;2017 c29 s66

#### **Deemed residence**

**121** Electors who are acknowledged by an official of a facility referred to in section 120(1) where a mobile poll is to be held to be in-patients or residents of that facility on polling day are deemed to be ordinarily resident in the electoral division in which the facility is located if they have not already voted in the election.

RSA 2000 cE-1 s121;2004 c23 s81;2017 c29 s67

#### **Presence at mobile poll**

**122(1)** Subject to subsection (2), only the following persons may remain at a mobile poll during polling hours:

- (a) the deputy returning officer;
- (b) the poll clerk;
- (c) the returning officer or election clerk;
- (d) an interpreter;
- (e) a member of the staff of the facility;
- (f) each candidate or the candidate's official agent or scrutineer.

(2) If in the opinion of a member of the staff of a treatment centre or an emergency shelter it is advisable to do so, the deputy returning officer may limit the persons present at a mobile poll to

- (a) the deputy returning officer,
- (b) the poll clerk,
- (c) an interpreter, and
- (d) a member of the treatment centre or emergency shelter staff.

RSA 2000 cE-1 s122;2004 c23 s81;2017 c29 s68

#### **Mobile poll voting procedure**

**123(1)** The ballots used at the taking of the vote at a mobile poll at a facility shall be the ballots being used for the election in the electoral division in which the facility is situated.

(2) An elector eligible to vote who is an in-patient of a treatment centre and considered by an official of the treatment centre to be well enough to vote

- (a) shall sign the required declaration before voting, and
- (b) may, if necessary, vote in accordance with section 96.

(3) An elector eligible to vote who is a resident of a supportive living facility

- (a) shall, if the elector's name does not appear on the list of electors, sign the required declaration before voting, and
- (b) may, if necessary, vote in accordance with section 96.

(3.1) An elector eligible to vote who is a resident of an emergency shelter or is receiving services or support from a community support centre

- (a) shall, if the elector's name does not appear on the list of electors, sign the required declaration before voting, and
- (b) may, if necessary, vote in accordance with section 96.

(4) An official of the facility shall, on the close of the taking of the poll at the facility, endorse the poll book by affixing the official's signature immediately under the last name in the poll book certifying that the persons named in the poll book are in-patients or residents in accordance with section 121.

(5) At the close of the mobile poll, the ballot box

- (a) shall be sealed by the deputy returning officer and poll clerk, and
- (b) may be sealed by any candidate, official agent or scrutineer so desiring,

so that it cannot be opened and no ballots can be deposited without breaking those seals.

(6) Sealing material on a ballot box shall not be removed from the time it is applied until the mobile poll is commenced at another location or until the close of polls on polling day.

(7) The deputy returning officer shall, after the seal has been applied pursuant to subsection (5), take charge of and safely keep the ballot box until the close of polls on polling day, when the ballots shall be counted in accordance with section 111.

RSA 2000 cE-1 s123;2004 c23 s62;2012 c5 s45;  
2017 c29 s69

#### **Mobile poll count**

**124(1)** After the closing of the polling places on polling day, the deputy returning officer of each mobile poll and the deputy returning officer's poll clerk shall attend with the ballot box at a place designated by the returning officer and then, in the presence of any of the candidates or their official agents or scrutineers who attend, shall open the ballot box and proceed to count the votes, and sections 111 and 112 apply, with all necessary modifications, to the count.

(2) The returning officer shall advise in writing each candidate or each candidate's official agent of the place where the votes from the mobile poll will be counted.

1992 c12 s34

**Application of Act to mobile polls**

**125** Every facility at which one or more mobile polls are established is a polling place under this Act and all relevant provisions of this Act apply with all necessary modifications.

RSA 2000 cE-1 s125;2004 c23 s81;2017 c29 s70

**Special mobile polls**

**125.1(1)** A returning officer, in consultation with the Chief Electoral Officer, may establish one or more special mobile polls in accordance with this section.

**(2)** Facilities at which a special mobile poll may be established include the following:

- (a) facilities on the campuses of public post-secondary institutions;
- (b) facilities on Indian reserves;
- (c) facilities on Metis settlements;
- (d) work camps;
- (e) correctional institutions under the *Corrections Act*, penitentiaries under the *Corrections and Conditional Release Act* (Canada) and places of custody under the *Youth Justice Act* or the *Youth Criminal Justice Act* (Canada);
- (f) any public building determined by the Chief Electoral Officer to be secure and suitable for the purposes of a special mobile poll.

**(3)** A returning officer, in consultation with the Chief Electoral Officer, shall not establish a special mobile poll in a facility if the Chief Electoral Officer determines that the facility does not meet safety, security and any other standards established by the Chief Electoral Officer for polling places.

**(4)** A returning officer shall

- (a) determine, in consultation with an official of each facility set out in subsection (2)(a), (b), (c), (d) and (e), whether a special mobile poll should be held at the facility,
- (b) in consultation with an official of each facility where a special mobile poll is to be held, fix the hours on any one or more days fixed for advance polling when a special mobile poll will operate at the facility, and



- (c) appoint a deputy returning officer, poll clerk and other election officers if required for each special mobile poll.
- (5)** When a person who is an elector attends to vote at the special mobile poll, the deputy returning officer shall
- (a) if the person's name appears on a list of electors, enter opposite the name of that person on the list of electors in the appropriate column a check mark or other annotation indicating that the elector voted in the special mobile poll, or
  - (b) if the person's name does not appear on any list of electors,
    - (i) require the person to comply with section 95(1) or (2), and
    - (ii) enter the person's name and address on the list of electors and enter in the appropriate column in the poll book a check mark or other annotation indicating that the voter signed a declaration in accordance with section 95(1) or signed a declaration and was vouched for in accordance with section 95(2), and voted in the special mobile poll.
- (6)** The deputy returning officer shall advise the returning officer of the names and electoral divisions of all electors who voted at the deputy returning officer's special mobile poll, and the Chief Electoral Officer shall, prior to polling day, advise each returning officer of the names of the electors for their respective electoral division who have so voted.

2017 c29 s71

**Voting at a special mobile poll**

**125.2** An elector at a special mobile poll may only vote for a candidate in the electoral division where the elector is ordinarily resident.

2017 c29 s71

**Application of Act to special mobile polls**

**125.3** Every facility at which one or more special mobile polls are established is a polling place under this Act and all relevant provisions of this Act apply with all necessary modifications.

2017 c29 s71

**List of electors for by-election**

**126(1)** With the writ for a by-election, the Chief Electoral Officer shall transmit to the returning officer sufficient copies of the most recent lists of electors for the returning officer's electoral division.

(2) If there is in the electoral division a polling subdivision for which a list of electors is not on record in the office of the Chief Electoral Officer, a list of electors for that polling subdivision shall be prepared in the manner prescribed by the Chief Electoral Officer.

RSA 1980 cE-2 s123

#### **Application of Act to by-election**

**127** The provisions of this Act governing general elections apply with all necessary modifications to by-elections.

RSA 1980 cE-2 s124

#### **Plebiscite**

**128** The Lieutenant Governor in Council may by order give directions for the holding of a general plebiscite of electors when and as often as it appears to the Lieutenant Governor in Council expedient that an expression of opinion about the desirability of

- (a) amending existing legislation, or
- (b) introducing new legislation,

relative to any subject-matter should be obtained from the electors.

RSA 1980 cE-2 s125

#### **List of electors for plebiscite**

**129** Section 126 applies to the lists or preparation of lists of electors to be used for a plebiscite.

RSA 1980 cE-2 s126

#### **Conduct of plebiscite**

**130** In giving directions under section 128, the Lieutenant Governor in Council may specify

- (a) the question or questions to be submitted to the electorate,
- (b) the method of instituting the plebiscite,
- (c) the forms of ballot to be used,
- (d) the person or persons to conduct the plebiscite, and
- (e) the general conduct of the taking of the plebiscite.

RSA 1980 cE-2 s127

#### **Application of Act to plebiscite**

**131** The provisions of this Act governing general elections apply with all necessary modifications to plebiscites taken under this Act except as otherwise expressly specified by order of the Lieutenant Governor in Council.

RSA 1980 cE-2 s128

**Time for voting**

**132(1)** An employee who is an elector qualified to vote shall, while the polls are open on polling day at an election or plebiscite, be allowed 3 consecutive hours for the purpose of casting the employee's vote.

**(2)** If the employee's hours of employment do not allow for the 3 consecutive hours' absence, the employee's employer shall allow the employee additional time for voting to provide the 3 consecutive hours, but the additional time for voting shall be granted at the convenience of the employer.

**(3)** No employer may make any deduction from the pay of an employee or impose on or exact from the employee any penalty by reason of the employee's absence from employment during the 3 consecutive hours referred to in subsection (1) or additional time granted under subsection (2).

**(4)** Repealed 2010 c8 s44.

RSA 2000 cE-1 s132;2010 c8 s44

**Right of access for campaigning**

**133(1)** In this section and section 133.1, "multiple dwelling site" means

- (a) an apartment building, condominium building or other multiple residence building, or
- (b) any site in which more than one residence is contained, including a mobile home park, gated community and any similar site.

**(2)** A person who is in control of a multiple dwelling site shall permit a candidate or campaign worker who has produced identification prescribed by the Chief Electoral Officer to canvass between 9:00 a.m. and 9:00 p.m. at each residential unit in the multiple dwelling site.

**(3)** A person to whom the candidate or campaign worker has produced identification referred to in subsection (2) shall not

- (a) obstruct or interfere with, or
- (b) cause or permit the obstruction or interference with,

the free access of a candidate or campaign worker to each residential unit in a multiple dwelling site.

RSA 2000 cE-1 s133;2004 c23 s63;2017 c29 s72

**Canvassing in a multiple dwelling site  
before the campaign period**

**133.1(1)** For the purposes of section 133, as soon as a candidate is selected for endorsement as the official candidate of a registered party for an electoral division, the candidate and one campaign worker for that candidate are eligible to canvass in a multiple dwelling site.

(2) A campaign worker may canvass in a multiple dwelling site under this section only if the campaign worker is accompanied by the candidate.

(3) For the purposes of this section, a candidate under subsection (1) is not required to file nomination papers or pay the \$500 deposit under section 61.

(4) As soon as a registered party has submitted the full name of the person selected for endorsement as the official candidate of the registered party for an electoral division to the Chief Electoral Officer under section 9.3 of the *Election Finances and Contributions Disclosure Act*, the Chief Electoral Officer shall on the request of a candidate, provide the candidate with identification stating that the candidate is the official candidate for the registered party.

(5) The candidate referred to in subsection (4) shall request identification from the Chief Electoral Officer for the campaign worker who will be canvassing with or on behalf of the candidate.

(6) This section applies as soon as a candidate is selected for endorsement as the official candidate of a registered party for an electoral division and ends at the start of a campaign period.

2017 c29 s73

**Printed or electronic advertising**

**134(1)** In this section, “advertisement” means an advertisement, for which there is or normally would be a charge, in any broadcast, print, electronic or other media, including telephone, fax, internet, electronic mail and text messaging, with the purpose of promoting or opposing any registered political party or the election of a registered candidate.

(2) A registered candidate, a registered constituency association and a registered political party must ensure that advertisements sponsored by the registered candidate, the registered constituency association or the registered political party comply with the following in accordance with the guidelines of the Chief Electoral Officer:

- (a) the advertisement must include the sponsor's name and contact information and must indicate whether the sponsor authorizes the advertisement;
  - (b) subject to clause (c), in the case of an advertisement that is broadcast or is made through electronic media, the information referred to in clause (a) must be stated at the beginning of the advertisement;
  - (c) in the case of an advertisement transmitted to a telephone, whether in the form of a live call or an automated pre-recorded call,
    - (i) the telephone number of the sponsor must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed;
    - (ii) the name of the sponsor and the sponsor's party affiliation, if any, must be stated at the beginning of the advertisement;
    - (iii) the advertisement must state whether the sponsor authorizes the advertisement;
    - (iv) the telephone number of the sponsor or the sponsor's campaign office at which the sponsor can be contacted must be stated at the end of the advertisement.
- (3) The Chief Electoral Officer shall establish guidelines respecting the requirements referred to in subsection (2).
- (4) The guidelines must be published on the Chief Electoral Officer's website.
- (5) If an advertisement is not in compliance with this section, the Chief Electoral Officer may cause it to be removed or discontinued, and in the case of an advertisement displayed on a sign, poster or other similar format neither the Chief Electoral Officer nor any person acting under the Chief Electoral Officer's instructions is liable for trespass or damage resulting from or occasioned by the removal.

RSA 2000 cE-1 s134;2004 c23 s64;2010 c8 s45;2012 c5 s46

### **Restrictions on government advertising**

**134.1(1)** In this section and section 134.2,

- (a) "by-election period" means the period commencing with the issue of the writ for a by-election and ending at the end of polling day;

- (b) “department” means a department established under section 2 of the *Government Organization Act*;
- (c) “election period” means the period commencing with the issue of the writ for a general election and ending at the end of polling day;
- (d) “Provincial corporation” means a Provincial corporation as defined in the *Financial Administration Act*.

**(2)** During an election period, a department or a Provincial corporation shall not advertise or publish any information about its programs or activities unless the advertisement or publication

- (a) is required by law,
- (b) is required at that time
  - (i) to solicit proposals or tenders for contracts or applications for employment, or
  - (ii) because it relates to important matters of public health or safety,
- or
- (c) is a continuation of earlier publications or advertisements and is required for ongoing programs of a department or a Provincial corporation.

**(3)** During a by-election period, a department or a Provincial corporation shall not advertise or publish any information about its programs or activities that has a disproportionate impact on voters in the electoral division in which the by-election is being held unless the advertisement or publication

- (a) is required by law,
- (b) is required at that time
  - (i) to solicit proposals or tenders for contracts or applications for employment, or
  - (ii) because it relates to important matters of public health or safety,
- (c) is a continuation of earlier publications or advertisements and is required for ongoing programs of a department or a Provincial corporation, or
- (d) deals with a matter before the Legislative Assembly such as the Speech from the Throne, the budget, the

introduction or passage of a Bill or an order or resolution of the Assembly.

(4) During an election period, the name, voice or image of a candidate who was a member of the Legislative Assembly immediately before the writ of election is issued for that election shall not appear in the advertising or publication by a department or a Provincial corporation of any information about its programs or activities.

(5) During a by-election period, the name, voice or image of a candidate who was a member of the Executive Council, but not a member of the Legislative Assembly, immediately before the writ of election is issued for that by-election shall not appear in the advertising or publication by a department or a Provincial corporation of any information about its programs or activities.

2017 c29 s74

#### **Complaints to Election Commissioner**

**134.2(1)** Any person who believes that a department or Provincial corporation has contravened section 134.1 may file a complaint with the Election Commissioner.

(2) If the Election Commissioner finds that a department or a Provincial corporation has contravened section 134.1, the Election Commissioner may do one or both of the following:

- (a) cause the advertisement or publication to be removed or discontinued, and in the case of an advertisement or publication displayed on a sign, poster or other similar format, neither the Election Commissioner nor any person acting under the Election Commissioner's instructions is liable for trespass or damage resulting from the removal of the advertisement or publication;
- (b) publish the particulars of the violation.

(3) If the Election Commissioner finds that a department or a Provincial corporation has contravened section 134.1, the Election Commissioner shall include the particulars of the violation in the Election Commissioner's report under section 153.092.

2017 c29 s74

#### **No election advertising at polling place**

**135(1)** Subject to subsection (2), no person may

- (a) display inside or on the outside of, or
- (b) distribute within,

a building used for a polling place at an advance poll or on polling day, or within the boundaries of the land on which the building is located, any election circular, card, poster, bill or other paper except those posted by the deputy returning officer or other election officials as required by this Act.

(2) When a polling place is located in a building containing a complex of interlocking offices, stores or other facilities, the prohibition in subsection (1) applies only to the office, store or facility comprising the area designated as a polling place.

(3) Where a person displays any circular, card, poster, bill or other paper contrary to subsection (1) or (2), the returning officer may cause it to be removed, and neither the returning officer nor any person acting under the returning officer's instructions is liable for trespass or damages resulting from or occasioned by the removal.

RSA 2000 cE-1 s135;2017 c29 s75

### **Election surveys**

**135.1** In this section and sections 135.11 to 135.4,

- (a) "election period" means the period commencing with the issue of the writ and ending at the end of polling day;
- (b) "election survey" means an opinion survey of how electors voted or will vote at an election or respecting an issue with which a registered political party or registered candidate is associated;
- (c) "person" includes a group as defined in Part 6.1 of the *Election Finances and Contributions Disclosure Act*.

2010 c8 s46;2012 c5 s47

### **Conducting election surveys**

**135.11(1)** No person or organization may, during an election period, conduct an election survey unless

- (a) the following information is provided, in accordance with the guidelines established by the Chief Electoral Officer, prior to the start of the survey:
  - (i) the name and contact information of the person or organization on whose behalf the survey is being conducted and whether the person or organization has approved the content of the survey;
  - (ii) the name and contact information of the person or organization conducting the survey if the person or organization is not the person or organization referred to in subclause (i);



- (b) in the case of an election survey transmitted to a telephone, whether in the form of a live call or automated pre-recorded call, the telephone number of the person or organization conducting the survey must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed.

(2) The Chief Electoral Officer shall establish guidelines respecting the content of the information required under subsection (1) and the manner in which the information is to be provided.

(3) The guidelines must be published on the Chief Electoral Officer's website.

2012 c5 s48

### **Transmission of election survey results**

**135.2(1)** The first person who transmits the results of an election survey, other than a survey described in section 135.3, to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted to the public shall provide the following together with the results:

- (a) the name of the sponsor of the survey;
- (b) the name of the person or organization that conducted the survey;
- (c) the date on which or the period during which the survey was conducted;
- (d) the population from which the sample of respondents was drawn;
- (e) the number of people who were contacted to participate in the survey;
- (f) if applicable, the margin of error in respect of the data obtained.

(2) In addition to the information referred to in subsection (1), the following must be provided in the case of a transmission to the public by means other than broadcasting:

- (a) the wording of the survey questions in respect of which data was obtained, and
- (b) the means by which a report referred to in subsection (3) may be obtained.

(3) A sponsor of an election survey shall, at any time during an election period after the results of the survey are transmitted to the

public, provide, on request, a copy of a written report on the results of the survey, as transmitted under subsection (1).

- (4) The written report must include the following, as applicable:
- (a) the name and address of the sponsor of the survey;
  - (b) the name and address of the person or organization that conducted the survey;
  - (c) the date on which or the period during which the survey was conducted;
  - (d) information about the method used to collect the data from which the survey results were derived, including
    - (i) the sampling method,
    - (ii) the population from which the sample was drawn,
    - (iii) the size of the initial sample,
    - (iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey,
    - (v) the dates and time of day of the interviews,
    - (vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and
    - (vii) any weighting factors or normalization procedures used in deriving the results of the survey;
  - (e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained.
- (5) A sponsor may charge a fee of up to \$0.25 per page for a copy of a report provided under subsection (3).

2010 c8 s46

**Broadcast of surveys not based on recognized statistical methods**

**135.3** The first person who transmits the results of an election survey that is not based on recognized statistical methods to the public during an election period and any person who transmits them within 24 hours after they are first transmitted to the public

shall indicate that the survey was not based on recognized statistical methods.

2010 c8 s46

**Prohibitions re transmission of election survey results during blackout period**

**135.4(1)** No person shall knowingly cause to be transmitted to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.

**(2)** No person shall transmit to the public, in an electoral division on polling day before the close of all of the polling places in that electoral division, the results of an election survey that have not previously been transmitted to the public.

2010 c8 s46

**Landlords and condominium corporations**

**135.5(1)** No landlord or person acting on a landlord's behalf may prohibit a tenant from displaying election advertising posters on the premises to which the tenant's lease relates, and no condominium corporation or any of its agents may prohibit the owner or tenant of a condominium unit from displaying election advertising posters on the premises of his or her unit.

**(2)** For the purposes of subsection (1), "premises" includes land or a window, door, balcony or other structure of which the owner or tenant enjoys exclusive use in connection with his or her unit.

**(3)** Notwithstanding subsection (1), a landlord, person, condominium corporation or agent referred to in that subsection may set reasonable conditions relating to the size or type of election advertising posters that may be displayed under subsection (1) and may prohibit the display of election advertising posters in common areas, other than areas that form part of the premises of the tenant or owner.

2010 c8 s46;2012 c5 s49

**Part 4  
Post-Polling-Day Procedures**

**Facilities for official count**

**136** The returning officer for each electoral division shall provide adequate quarters and facilities for receiving and conducting the official count of the ballots received from all the deputy returning officers of the returning officer's electoral division.

RSA 2000 cE-1 s136;2010 c8 s47

**Conduct of official count**

**137(1)** The returning officer shall give written notice to each candidate or each candidate's official agent of the place, date and time of commencement of the official count.

**(2)** No person may be allowed in the room where an official count is being conducted except

- (a) the returning officer and election clerk, and any other election officers authorized by the returning officer to assist with the counting of the ballots,
- (b) deputy returning officers in the discharge of their duties,
- (c) the candidates for the electoral division, their official agents or electors of the electoral division appointed in writing by the candidates, or all of them, and
- (d) the Chief Electoral Officer or a designate or both.

**(3)** In conducting the official count, the returning officer, with the assistance of the election clerk and any other election officers authorized by the returning officer to assist with the counting of the ballots, shall open each ballot box and remove the deputy returning officer's Statement of Poll and the envelopes containing the ballots.

**(3.1)** The returning officer shall

- (a) check the deputy returning officer's Statement of Poll,
- (b) make a note in the poll book of every objection to a ballot made by or on behalf of a candidate and the name of any candidate by or on whose behalf an objection was made,
- (c) number each objection to a ballot in the poll book, place a corresponding number on the back of the ballot and initial the back of the ballot,
- (d) decide any questions arising out of an objection regardless of whether a decision was made by the deputy returning officer in the first instance,
- (e) inspect all rejected ballots and decide on the validity of each ballot regardless of the previous rejection by the deputy returning officer,
- (f) supervise election officers in conducting the official count of the valid votes,
- (g) supervise election officers in reconciling the number of spoiled and declined ballots, and

- (h) complete an official count of the valid votes.
- (4) The decision of the returning officer under subsection (3)(d) or (e) is final, subject only to a judicial recount under this Part.
- (5) On completion of the official count of the polls, the returning officer shall provide to each candidate or each candidate's official agent a Certificate and Return in the prescribed form indicating
- (a) the number of votes counted for each candidate under this section,
  - (b) unless clause (c) applies, the name of the candidate to be declared elected pursuant to section 138, and
  - (c) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, that the results of the election will be subject to a judicial recount under this Part.
- (6) On complying with subsection (5), the returning officer shall prepare the prescribed Statement of Official Results and submit it to the Chief Electoral Officer.
- (7) The returning officer shall retain a copy of the Statement of Official Results for a period of 7 days after submitting it to the Chief Electoral Officer to allow for a possible judicial recount under this Part.

RSA 2000 cE-1 s137;2004 c23 s65;2010 c8 s47;  
2012 c5 s50;2017 c29 s76

#### **Announcement of official results**

- 138(1)** The returning officer shall
- (a) declare elected the candidate who received the largest number of votes, or
  - (b) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, declare that the results of the election are subject to a judicial recount under this Part.
- (2) After the returning officer declares the candidate elected under subsection (1), the Chief Electoral Officer shall announce the results of the official count.

RSA 2000 cE-1 s138;2010 c8 s47;2017 c29 s77

#### **Disclaimer**

- 139(1)** A candidate who has been declared elected under section 138(1) may disclaim the candidate's right to become a Member of the Legislative Assembly by filing a disclaimer in the prescribed form with the Chief Electoral Officer at any time after the

candidate is declared elected under this Part and before the candidate would otherwise become a member of the Assembly by reason of section 1(2) of the *Legislative Assembly Act*.

(2) A candidate who files a disclaimer pursuant to subsection (1) shall deliver a copy of it forthwith to the returning officer and to the Clerk of the Legislative Assembly.

(3) Subject to subsection (4), if a disclaimer is filed pursuant to subsection (1), the election in which that candidate was declared elected is void.

(4) The filing of a disclaimer under subsection (1) does not affect any application under section 144 or appeal under section 148 by another candidate or the right of that other candidate to be declared elected if that other candidate's application or appeal is successful.

RSA 2000 cE-1 s139;2010 c8 s47

#### **Delay in announcement of official results**

**140(1)** If in any electoral division not all the ballot boxes have reached the returning officer by the date stated in the election proclamation for announcing the results of the official count, the returning officer shall on that date adjourn the proceedings for a period of not more than one week and subsequently may adjourn for further periods of not more than one week at a time.

(2) Notwithstanding subsection (1), the announcement of the results shall not be delayed under subsection (1) beyond 30 days from the date stated in the election proclamation.

(3) If after a delay of 30 days the ballot boxes are not recovered, the returning officer shall forthwith announce the results of the official count without considering the missing ballots.

(4) If a returning officer is unable for any reason other than the one referred to in subsection (1) to announce the results of the official count at the date and time stated in the election proclamation, the returning officer shall adjourn the proceedings from time to time as may be required.

(5) Notwithstanding subsection (4), the announcement of the results of the official count shall not be delayed under subsection (4) beyond 14 days from the date stated in the election proclamation.

RSA 2000 cE-1 s140;2010 c8 s47

#### **Handling of documents and register information after official count**

**141(1)** After the official count of the votes has been completed and the Statement of Official Results has been completed, the returning officer shall prepare the following for return to the Chief

Electoral Officer in accordance with the Chief Electoral Officer's directions:

- (a) the lists of electors;
- (b) the various envelopes containing the ballots;
- (c) the poll books;
- (d) the election proclamation;
- (e) the writ;
- (f) the Statement of Official Results;
- (g) the Certificate and Return;
- (h) repealed 2012 c5 s51;
- (i) any other documents requested by the Chief Electoral Officer.

**(2)** The returning officer shall enter in the register in accordance with the directions of the Chief Electoral Officer any information listed in section 13(2) that is collected during the election period.

**(3)** Repealed 2017 c29 s78.

**(4)** The returning officer shall prepare a report concerning the election proceedings in the returning officer's electoral division, including the returning officer's recommendations regarding those proceedings as prescribed by the Chief Electoral Officer, within a time period determined by the Chief Electoral Officer.

RSA 2000 cE-1 s141;2004 c23 s66;2010 c8 s47;  
2012 c5 s51;2017 c29 s78

#### **Transmission of election materials to Chief Electoral Officer**

**142(1)** Within 10 days after announcing the results of the official count, the returning officer shall transmit the documents specified in section 141(1) to the Chief Electoral Officer in accordance with the Chief Electoral Officer's directions.

**(2)** Notwithstanding subsection (1), if prior to transmitting the documents under subsection (1) the returning officer is served with notice pursuant to section 144(6), the returning officer shall retain the documents until the returning officer receives the certificate of the judge under section 147, and on receiving the certificate the returning officer shall forthwith transmit the documents to the Chief Electoral Officer.

(3) All other documents and materials, used and unused, relating to the election shall be prepared for return to the Chief Electoral Officer in accordance with the Chief Electoral Officer's directions.

(4) Immediately after preparing the election documents and materials for return, each returning officer shall complete the prescribed affidavit and forward it to the Chief Electoral Officer in accordance with the Chief Electoral Officer's directions.

RSA 2000 cE-1 s142;2010 c8 s47

#### **Compelling returning officer to perform duties**

**143(1)** If a returning officer does not, as and when required, or if no time is stated, does not within a reasonable time,

- (a) complete the official count,
- (b) declare elected the candidate who received the largest number of votes or, if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, declare that the results of the election are subject to a judicial recount under this Part, or
- (c) transmit the returning officer's Statement of Official Results to the Chief Electoral Officer,

a candidate for the relevant electoral division or any elector who voted in the relevant electoral division may apply to the Court for an order in the nature of mandamus requiring the returning officer to perform the duty not carried out.

(2) Notice of the application under subsection (1) shall be served on the returning officer, the Chief Electoral Officer and each person who was a candidate in the election in the relevant electoral division.

(3) Nothing in this section derogates from any other right or remedy available at law to the applicant.

RSA 2000 cE-1 s143;2010 c8 s47

#### **Judicial recount**

**144(1)** An application may be made to the Court in accordance with this section for a judicial recount of some or all of the votes for an election.

(2) Except as provided in subsection (5), an application may only be made on one or both of the following bases:

- (a) that votes were not correctly accepted or ballots were not correctly rejected;



- (b) that a Certificate and Return does not accurately record the number of votes for a candidate.
- (3) An application must be filed not later than 8 days after the date the Chief Electoral Officer announces the results of the official count under section 138 and on the filing of the application, the clerk of the Court shall set the date of the recount not later than the 10th day after the filing of the application.
- (4) The application may only be filed
  - (a) by a candidate or the candidate's official agent, or
  - (b) by a returning officer in the case of a declaration made under section 138(1)(b).
- (5) The returning officer shall make an application under this section if a declaration has been made under section 138(1)(b).
- (6) At least 4 days' notice of the time and place appointed for the recount shall be given by the applicant
  - (a) to the candidates, in the manner prescribed in section 68, and
  - (b) to the returning officer, if the returning officer is not the applicant, and the election clerk.
- (7) A candidate served with notice under subsection (6) respecting a recount that is limited to a recount of votes that have been rejected or in respect of which there has been an objection may, not later than the 2nd day following service of the notice, make application for any further recount as if the application had been made within the original 8-day period.

RSA 2000 cE-1 s144;2010 c8 s47;2017 c29 s79

#### **Persons to attend recount**

**145(1)** The returning officer and election clerk shall

- (a) attend at the time and place appointed for the recount, and
  - (b) bring all ballot boxes and documents required for the purpose of disposing of the matter.
- (2) The ballot boxes and documents remain the responsibility of the returning officer, and the returning officer shall retain them in the returning officer's custody, subject to the directions of the presiding judge.
- (3) At any recount of votes, the returning officer and election clerk shall be present and the following shall be given notice and may be present:

- (a) each candidate and each candidate's official agent, or either of them, or in their absence 2 electors of the relevant electoral division designated by the candidate;
- (b) the Chief Electoral Officer or a designate or both;
- (c) the legal representatives of the parties.

(4) No person other than those specified in subsection (3) may attend at the recount of votes without the permission of the presiding judge.

RSA 2000 cE-1 s145;2004 c23 s67;2010 c8 s47;  
2014 c13 s24;2017 c29 s80

#### **Conduct of recount**

**146(1)** At the time and place appointed and in the presence of the persons entitled or required to attend, the judge shall conduct the recount.

(2) If consented to by the applicant or applicants for the recount, the returning officer and the candidates present at the recount, the judge may limit the ballots to be considered to those for which the recount was requested.

(3) In his or her discretion, the judge may consider other ballots and open other envelopes in addition to those for which the recount was requested, and for this purpose may require the returning officer to bring other ballot boxes.

(4) The judge may hear any oral evidence the parties wish to adduce.

(5) In the case of a recount of all the votes, the judge shall open all the envelopes containing

- (a) the votes counted,
- (b) the rejected ballots,
- (c) the spoiled and declined ballots, and
- (d) the unused ballots.

(6) Notwithstanding subsection (5), the judge shall not open the outer envelope containing a Special Ballot if the envelope was received by the returning officer or the person designated by the Chief Electoral Officer after the closing of the polling places on polling day.

(7) Repealed 2017 c29 s81.

(8) During the periods when the recount is not being actually conducted, the judge shall place the ballots and other related documents in a closed container under the judge's seal and the seals of any others present who so desire, and shall cause to be taken all other security precautions the judge considers necessary.

(9) The judge shall conduct a recount according to the provisions governing an official count by a returning officer and shall verify and, if necessary, amend the Statement of Official Results.

(10) When a recount is completed, the judge shall seal all the ballots in their respective envelopes and shall seal the statements of the deputy returning officers in suitably marked envelopes.

(11) On the request of any party to the proceedings, the judge shall number any disputed ballots on their backs and seal them in a separate envelope.

RSA 2000 cE-1 s146;2010 c8 s47;2017 c29 s81

#### **Results of recount**

**147(1)** On conclusion of a recount, the judge shall immediately certify the result to the returning officer, who shall, on the 3rd day after the certification submit the results to the Chief Electoral Officer and,

- (a) declare elected the candidate found to have received the largest number of votes, unless the Chief Electoral Officer and the returning officer are served with a notice of appeal under section 148(1), or
- (b) declare that the results of the election are subject to an appeal under section 148
  - (i) if the returning officer is served with a notice of appeal under section 148(1), or
  - (ii) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates.

(2) After the returning officer declares the candidate elected under subsection (1), the Chief Electoral Officer shall announce the results of the recount.

(3) The judge shall retain the ballots for 3 days after certifying the result under subsection (1) and

- (a) if there is an appeal under section 148, forward the ballots to the Court of Appeal, or
- (b) if there is no appeal under section 148, return the ballots to the Chief Electoral Officer.

RSA 2000 cE-1 s147;2010 c8 s47;2017 c29 s82

**Appeal to Court of Appeal**

**148(1)** Any party may appeal to the Court of Appeal from the decision of a judge of the Court of Queen's Bench respecting a recount under section 146 by serving the judge, the parties and the Chief Electoral Officer and returning officer with a notice of appeal not later than the 2nd day following the judge's certification of the result.

(2) The returning officer shall appeal if, after the results of a recount referred to in section 147, a candidate cannot be declared elected because there is an equality of votes for 2 or more candidates.

(3) A notice of appeal may limit the appeal to specified ballots.

(4) If an appeal is limited to specified ballots, the judge shall

- (a) seal in a packet the ballots so specified, and
- (b) immediately forward the packet and the certified results to the Registrar of the Court of Appeal.

(5) If an appeal is not limited to specified ballots, the judge shall immediately forward all ballots and relevant documentation to the Registrar of the Court of Appeal.

(6) On receipt of the ballots and documents, the Registrar of the Court of Appeal shall set the matter down for hearing not later than the 10th day after the receipt, and shall notify the parties and the Chief Electoral Officer and returning officer accordingly.

(7) At the conclusion of the appeal, the Court of Appeal shall declare the results of the election in accordance with its recount and shall issue to the returning officer a certificate of those results.

(8) On receipt of the certificate of results under subsection (7), the returning officer shall

- (a) declare elected the candidate found to have received the largest number of votes, or
- (b) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, declare that no member was elected for the electoral division.

(9) After the returning officer declares the candidate elected under subsection (8)(a), the Chief Electoral Officer shall announce the results of the recount.

**(10)** No later than 60 days after the Court of Appeal declares the results of the election under subsection (7), the Court of Appeal shall return the ballots to the Chief Electoral Officer.

RSA 2000 cE-1 s148;2010 c8 s47;2017 c29 s83

### Costs

**148.1(1)** If a recount is conducted or an appeal is heard under this Part, the court may direct

- (a) that the parties bear their own costs, or
- (b) that costs be paid to one or more of the parties by any or all of the following:
  - (i) the applicant;
  - (ii) one or more of the candidates;
  - (iii) the Crown in right of Alberta.

**(2)** Costs must be determined in accordance with the *Alberta Rules of Court* and the practice and procedure of the Court of Queen's Bench or the Court of Appeal, as the case may be.

2010 c8 s47

### By-election if tie vote

**149(1)** This section applies if a returning officer makes a declaration under section 148(8)(b) that no member has been declared elected because there is an equality of votes for 2 or more candidates.

**(2)** As soon as possible after a declaration has been made under section 148(8)(b) that no member has been declared elected for the electoral division because there is an equality of votes for 2 or more candidates, the Chief Electoral Officer shall present a report to the Speaker that there is a vacancy for that electoral division, in which case a writ of election for that electoral division shall be issued under section 39 as if the election were a by-election.

2010 c8 s47

### Publication of election results

**150(1)** On receiving a Certificate and Return respecting the election of a member to serve in the Legislative Assembly, the Chief Electoral Officer shall cause notice of the receipt of the Certificate and Return and the name of the candidate elected to be published in The Alberta Gazette.

**(2)** The Chief Electoral Officer shall provide a copy of each Certificate and Return respecting the election of a member to serve in the Legislative Assembly to

- (a) the Speaker of the Legislative Assembly, and
- (b) the Clerk of the Assembly,

and where a judicial recount or an appeal has been commenced under section 144 or 148, the Chief Electoral Officer shall notify the Speaker of the Legislative Assembly and the Clerk of the Assembly of that recount or appeal and the results of that recount or appeal.

RSA 2000 cE-1 s149;2004 c23 s68;2010 c8 s47

#### **Post-election custody of election documents**

**151(1)** Subject to this Act, the Chief Electoral Officer shall retain the documents and information transmitted to the Chief Electoral Officer pursuant to sections 142(1) and 148(9).

**(2)** The Chief Electoral Officer shall retain the documents and information for at least

- (a) 3 months after receiving them from the returning officer, or
- (b) in the case of a judicial recount or an appeal, 3 months after the final determination of the recount or appeal,

after which the retained documents and information shall be destroyed.

RSA 2000 cE-1 s150;2004 c23 s69;2010 c8 s47;2017 c29 s84

#### **Inspection of election documents**

**152(1)** A registered candidate and the registered candidate's official agent, or either of them, may for a period of 30 days after the publication in The Alberta Gazette of the name of the registered candidate declared elected in the relevant electoral division, inspect any election documents, except ballots, retained by the Chief Electoral Officer and pertaining to the election in that electoral division.

**(2)** If within the 30-day period described in subsection (1) a registered candidate in an electoral division, a registered candidate's official agent or a registered political party that has a registered candidate in the electoral division makes a written request to the Chief Electoral Officer for a copy of the poll books for the relevant electoral division, the Chief Electoral Officer shall, on payment of the cost to produce the copy as determined by the Chief Electoral Officer, furnish the copy to the registered candidate, registered official agent or registered political party.

**(3)** Information contained in documents referred to in subsections (1) and (2) may be used only for electoral purposes.

**(3.1)** A registered candidate, a registered candidate's official agent or a registered political party to whom a copy of a poll book has been furnished under this section shall take all reasonable steps to protect the poll book and the information contained in it from loss and unauthorized use.

**(3.2)** A registered candidate, a registered candidate's official agent or a registered political party to whom a copy of a poll book has been furnished under this section shall immediately notify the Chief Electoral Officer if the poll book or the information contained in the poll book has been lost.

**(3.3)** On being notified under subsection (3.2), the Chief Electoral Officer shall direct the registered candidate, the registered candidate's official agent or the registered political party to take any action the Chief Electoral Officer considers appropriate.

**(4)** Subject to subsection (1), no person may inspect any election documents retained by the Chief Electoral Officer pertaining to the election in that electoral division except by order of a judge.

**(5)** A judge may make an order under subsection (4) if the judge is satisfied on oral or affidavit evidence that inspection of the election documents is required for the purpose of

- (a) a prosecution for an offence under this Act, or
- (b) a petition questioning an election or return.

**(6)** An order under this section may be made subject to any conditions regarding the inspection that the judge considers appropriate.

RSA 2000 cE-1 s152;2010 c8 s47;2012 c5 s52;2017 c29 s84

#### **Provincial Archives**

**153** Notwithstanding sections 151 and 152, after each election, the Chief Electoral Officer shall deposit the writ and the Statement of Official Results for each electoral division with the Provincial Archives of Alberta.

RSA 2000 cE-1 s153;2010 c8 s47

## **Part 4.1 Investigations**

### **Division 1 Election Commissioner**

#### **Appointment of Election Commissioner**

**153.01(1)** There shall be appointed pursuant to this Act an Election Commissioner.

- (2) The Election Commissioner is an officer of the Legislature.  
2017 c29 s86

**Term of office**

**153.02(1)** Subject to subsection (2), the Lieutenant Governor in Council shall appoint the Election Commissioner on the recommendation of the Assembly.

(2) If a vacancy occurs while the Legislature is not in session, the Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an Election Commissioner to fill the vacancy, and unless that office sooner becomes vacant, the person so appointed holds office until an Election Commissioner is appointed under subsection (1), but if an appointment under subsection (1) is not made within 30 days after the commencement of the next session, the appointment under this subsection lapses and there is deemed to be another vacancy in the office of Election Commissioner.

(3) Except as provided in subsections (4) and (5), the Election Commissioner holds office for a term not exceeding 5 years and is eligible for reappointment.

(4) The Lieutenant Governor in Council, on an address of the Assembly, may suspend or remove the Election Commissioner from office for cause or incapacity.

(5) If the Legislature is not then sitting, the Lieutenant Governor in Council may suspend the Election Commissioner from office for cause or incapacity proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue in force beyond the end of the next sitting of the Legislature.

(6) The Election Commissioner may resign that office by filing a written notice with the Speaker of the Assembly or, if there is no Speaker or the Speaker is absent from Alberta, with the Clerk of the Assembly.

2017 c29 s86

**Oath of office**

**153.03(1)** Before beginning the duties of office, the Election Commissioner shall take an oath to perform the duties of the office faithfully and impartially and, except as provided in this Act or the *Election Finances and Contributions Disclosure Act*, not to disclose any information received by the Office of the Election Commissioner under this or any other Act.

(2) The oath referred to in subsection (1) shall be administered by the Speaker of the Legislative Assembly or the Clerk of the Assembly.

2017 c29 s86



**Office of Election Commissioner**

**153.04(1)** There shall be a department of the public service of Alberta called the Office of the Election Commissioner, consisting of the Election Commissioner and those officers and employees appointed pursuant to the *Public Service Act* who are required to assist the Election Commissioner in carrying out the duties and functions of the Election Commissioner under this Act and the *Election Finances and Contributions Disclosure Act*.

**(2)** On the recommendation of the Election Commissioner, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*,
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*, or
- (c) any regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act*

be inapplicable to, or be varied in respect of, the Office of the Election Commissioner or any particular employee or class of employees in the Office of the Election Commissioner.

**(3)** An order made under subsection (2)(a) in relation to a regulation, order or directive made under the *Financial Administration Act* operates notwithstanding that Act.

**(4)** An order made under subsection (2)(c) in relation to a regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act* operates notwithstanding that Act.

**(5)** The *Regulations Act* does not apply to orders made under subsection (2).

**(6)** The chair of the Standing Committee shall lay a copy of each order made under subsection (2) before the Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

2017 c29 s86

**Immunity**

**153.05** No proceedings lie against the Election Commissioner, or against a person acting for or under the direction of the Election Commissioner, for anything done, or omitted to be done, in good faith in the exercise or performance or the intended exercise or

performance of a power, duty or function under this Act or the *Election Finances and Contributions Disclosure Act*.

2017 c29 s86

#### **Salary of Election Commissioner**

**153.06** The salary of the Election Commissioner shall be in an amount fixed by the Standing Committee at the time of appointment, and shall be reviewed at least once a year by the Standing Committee.

2017 c29 s86

#### **Annual estimates**

**153.07(1)** The Election Commissioner shall submit to the Standing Committee in respect of each fiscal year an estimate of the sum that will be required to be provided by the Legislature to defray the various charges and expenses of the Office of the Election Commissioner in that fiscal year.

**(2)** The Standing Committee shall review each estimate submitted pursuant to subsection (1) and, on completion of the review, the chair of the Committee shall present the estimate to the President of Treasury Board, Minister of Finance for presentation to the Assembly.

**(3)** If at any time the Legislative Assembly is not in session, the Standing Committee, or if there is no Standing Committee, the President of Treasury Board, Minister of Finance,

- (a) reports that the Election Commissioner has certified that in the public interest an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Election Commissioner, and
- (b) reports that either
  - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
  - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

**(4)** When the Legislative Assembly is adjourned for a period of more than 14 days, then, for the purposes of subsection (3), the Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act*.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

2017 c29 s86

#### **Records management**

**153.08** On the recommendation of the Election Commissioner, the Standing Committee may, subject to section 153, make an order

- (a) respecting the management of records in the custody or under the control of the Office of the Election Commissioner, including their creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation and destruction and their transfer to the Provincial Archives of Alberta;
- (b) establishing or governing the establishment of programs for any matter referred to in clause (a);
- (c) defining and classifying records;
- (d) respecting the records or classes of records to which the order or any provision of it applies.

2017 c29 s86

### ***Division 2*** ***Duties and Powers of*** ***Election Commissioner***

#### ***Duties and powers of the Election Commissioner***

**153.09(1)** *The Election Commissioner may, on the Election Commissioner's own initiative or at the request of the Chief Electoral Officer or another person or organization, conduct an*

*investigation into any matter that might constitute an offence under this Act.*

*(2) For the purpose of conducting an investigation under this Act, the Election Commissioner has all the powers of a commissioner under the Public Inquiries Act as though the investigation were an inquiry under that Act.*

*(3) For the purpose of conducting an investigation under this Act, a representative of the Election Commissioner, on production of the representative's authorization from the Election Commissioner, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a political party, constituency association or candidate relevant to the subject-matter of the investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.*

*(4) Before entering a private dwelling or a part of premises used as a private dwelling to carry out the powers described in subsection (3), a representative of the Election Commissioner shall*

- (a) obtain the consent of the occupant or the legal representative of the occupant of the private dwelling or the part of the premises used as a private dwelling, or*
- (b) obtain an order from the Court.*

*(5) A registered political party, registered constituency association or registered candidate shall, within 30 days after receiving a written request from the Election Commissioner or within an extended period that the Election Commissioner may determine, provide any information with respect to the affairs of the registered political party, registered constituency association or registered candidate that is reasonably required by the Election Commissioner in the course of the Election Commissioner's duties under this Act.*

2017 c29 s86

#### **Notice of investigation and conclusion**

**153.091(1)** *At any time before completing an investigation referred to in section 153.09(1), the Election Commissioner shall notify any person or organization who is the subject of an investigation that the person or organization is being investigated and the nature of the matter being investigated before completing the investigation, unless the Election Commissioner believes that notification would compromise or impede the investigation.*

*(2) The Election Commissioner may refuse to conduct an investigation, or may cease an investigation, if the Election Commissioner believes that*

- (a) *the matter is frivolous or vexatious, or*
- (b) *there are no or insufficient grounds to warrant an investigation or the continuation of an investigation.*

**(3)** *The Election Commissioner shall not make an adverse finding against a person or organization unless that person or organization has had reasonable notice of the substance of the allegations and a reasonable opportunity to present his or her or its views.*

**(4)** *If the Election Commissioner refuses to conduct or ceases an investigation under subsection (2) or determines that no offence was committed, the Election Commissioner*

- (a) *shall provide notice of that decision to*
  - (i) *every person or organization who*
    - (A) *is the subject of the investigation, or*
    - (B) *would have been the subject of an investigation if the Election Commissioner had not refused to conduct an investigation,*

*and*

- (ii) *every person or organization who requested an investigation, if any,*

*and*

- (b) *may, as the Election Commissioner considers to be appropriate, provide notice of that decision to any other person or organization involved in the matter referred to in section 153.09(1).*

2017 c29 s86

#### **Annual report**

**153.092(1)** *The Election Commissioner shall after the end of each year prepare a report on the exercise of the Election Commissioner's functions under this Act and the Election Finances and Contributions Disclosure Act, and shall transmit the report to the Standing Committee on Legislative Offices, which shall on its receipt lay the report before the Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting of the Assembly.*

**(2)** *The annual report must set out the following in respect of the previous year:*

- (a) *the number of complaints and allegations received by the Chief Electoral Officer or the Election Commissioner and, with respect to each complaint or allegation,*
  - (i) *the nature of the complaint or allegation, and*
  - (ii) *if and how the complaint or allegation was resolved;*
- (b) *the number of investigations commenced pursuant to this Act or the Election Finances and Contributions Disclosure Act and, with respect to each investigation,*
  - (i) *the nature of the act or omission giving rise to the investigation,*
  - (ii) *the outcome of the investigation, including any findings and decisions of the Election Commissioner, and*
  - (iii) *if the Election Commissioner recommends a prosecution be instituted, the outcome of the prosecution, including any fine imposed;*
- (c) *the number of compliance agreements entered into pursuant to this Act or the Election Finances and Contributions Disclosure Act and, with respect to each compliance agreement, the nature of the act or omission giving rise to the compliance agreement;*
- (d) *the number of injunctions sought by the Election Commissioner under this Act or the Election Finances and Contributions Disclosure Act and, with respect to each injunction, the nature of the act or omission giving rise to the injunction;*
- (e) *the number of administrative penalties imposed or letters of reprimand issued under the Act or the Election Finances and Contributions Disclosure Act and, with respect to each administrative penalty or letter of reprimand, the nature of the act or omission giving rise to the administrative penalty or letter of reprimand;*
- (f) *any recommendations for improvement that the Election Commissioner considers appropriate;*
- (g) *any other matters that the Election Commissioner considers appropriate.*

*(3) Where, in the opinion of the Election Commissioner, it is in the public interest to do so, the Election Commissioner shall publish a special report on the Election Commissioner's website relating to any matter within the scope of the Election Commissioner's responsibilities under this Act or the Election Finances and Contributions Disclosure Act, including a report referring to and commenting on any particular matter investigated by the Election Commissioner.*

2017 c29 s86

*(NOTE: Sections 153.09 to 153.092 come into force on Proclamation.)*

## **Part 5 Administrative Penalties and Offences**

### **Administrative penalties**

**153.1(1)** If the Chief Electoral Officer is of the opinion that a person has contravened a provision of this Act, the Chief Electoral Officer may serve on the person either a notice of administrative penalty requiring the person to pay to the Crown the amount set out in the notice, or a letter of reprimand.

**(2)** A notice of administrative penalty must contain the following information:

- (a) the name of the person required to pay the administrative penalty;
- (b) the particulars of the contravention;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal the imposition or the amount of the administrative penalty to the Court of Queen's Bench.

**(3)** In determining the amount of an administrative penalty required to be paid or whether a letter of reprimand is to be issued, the Chief Electoral Officer must take into account the following factors:

- (a) the severity of the contravention;
- (b) the degree of wilfulness or negligence in the contravention;
- (c) whether or not there were any mitigating factors relating to the contravention;

- (d) whether or not steps have been taken to prevent reoccurrence of the contravention;
- (e) whether or not the person has a history of non-compliance;
- (f) whether or not the person reported the contravention on discovery of the contravention;
- (g) any other factors that, in the opinion of the Chief Electoral Officer, are relevant.

**(4)** The amount of an administrative penalty that may be imposed under subsection (1) must not exceed the maximum fine that could be imposed for the corresponding offence under sections 154 to 163.

**(5)** A person who pays an administrative penalty in respect of a contravention shall not be charged under this Act with an offence in respect of the same contravention that is described in the notice of administrative penalty.

**(6)** A person who has been served with a notice of administrative penalty shall pay the amount of the administrative penalty within 30 days from the date of service of the notice.

**(7)** Subject to the right to appeal, where a person fails to pay the administrative penalty in accordance with a notice of administrative penalty, the Chief Electoral Officer may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

2012 c5 s54;2017 c29 s87

#### **General offence**

**154(1)** A person who contravenes this Act other than

- (a) a contravention referred to in sections 155 to 163, or
- (b) a corrupt practice referred to in Part 6,

is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

**(2)** An offence under this Part shall be tried in The Provincial Court of Alberta under the procedure set out in the *Provincial Offences Procedure Act*.

RSA 2000 cE-1 s154;2017 c29 s89



**Refusal by election officer to carry out duties**

**155** A person who, having been appointed an election officer and having taken the election officer's oath of office, neglects or refuses to perform any duty to be performed by that election officer is guilty of an offence and liable to a fine of not more than

- (a) \$5000 or to imprisonment for a term of not more than one year or to both fine and imprisonment, in the case of a returning officer, and
- (b) \$2000 or to imprisonment for a term of not more than one year or to both fine and imprisonment, in the case of any other election officer.

RSA 2000 cE-1 s155;2017 c29 s91

**156** Repealed 2004 c23 s71.

**Impersonation**

**157(1)** A person who is not an enumerator and who represents that the person is an enumerator or displays any identification purporting to be an enumerator's identification documents is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

**(2)** A person who is not an election officer and who represents that the person is an election officer is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

**(3)** A person who is not a candidate and who represents that the person is a candidate is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

**(4)** A person who is not a campaign worker of a candidate and who represents that the person is a campaign worker of a candidate is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s157;2004 c23 s72;2017 c29 s92

**Interference with right of access**

**158** A person who contravenes section 29(3) or 133(3) is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s158;2004 c23 s73;2017 c29 s93

**Interference with posted documents**

**159** A person who, without authorization, takes down, covers up, mutilates, defaces or alters any proclamation, notice or other document required to be posted under this Act is guilty of an offence and liable

- (a) if the person is an election officer, to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment, and
- (b) in any other case, to a fine of not more than \$2000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s159;2017 c29 s94

**False statements about candidate**

**160** A person who, before or during an election and for the purpose of affecting the voting for a candidate at that election, makes or publishes any false statement in relation to the character or conduct of that candidate or of the withdrawal of that candidate, is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s160;2004 c23 s74;2017 c29 s95

**Improper appointment of election officer**

**161** A person who

- (a) procures or attempts to procure an appointment as an election officer by false pretence, deceit or other improper means,
- (a.1) procures or attempts to procure an appointment as an election officer when the person knows or ought to know that he or she is ineligible to be appointed or to act as an election officer, or
- (b) acts as an election officer without lawful authority,

is guilty of an offence and liable on summary conviction to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s161;2004 c23 s75;2017 c29 s96

**Entertaining**

**162(1)** A person who, because an elector has voted or is about to vote, or for the purpose of influencing an elector to vote for or against a particular candidate or registered political party, causes or permits any

- (a) food or beverages, or

- (b) money, ticket, voucher or order for the procurement of food or beverages,

to be provided to an elector is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

**(2) The provision of food or beverages**

- (a) by or at the expense of a person to a meeting of electors at the person's usual place of residence, if that residence is a private home,
- (b) to a meeting of electors, if the food or beverages are paid for by those electors, or
- (c) by or on behalf of a candidate
  - (i) to the candidate's campaign workers or to any person acting as a scrutineer on behalf of the candidate, or
  - (ii) to persons who attend at the candidate's campaign headquarters,

is deemed not to be a contravention of subsection (1).

RSA 2000 cE-1 s162;2017 c29 s97

**Offence re use of information**

**163** Any person who

- (a) uses any information obtained from the register for a purpose other than that referred to in section 13(1) or 13.2(1) or (2),
- (b) uses any information provided to, or obtained by, the Chief Electoral Officer under section 13(2) other than for the purpose of creating or revising the register,
- (c) uses any information obtained under section 30 other than for the purpose of the enumeration, or
- (d) contravenes section 19.1 or 20,

is guilty of an offence and liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

RSA 2000 cE-1 s163;2012 c5 s55;2017 c29 s98

**Consent to prosecute**

**163.1(1)** No prosecution shall be instituted under this Act without the consent of the Chief Electoral Officer.

(2) A prosecution under this Act may be commenced within 3 years of the commission of the alleged offence but not afterwards.

2004 c23 s76;2010 c8 s48

## Part 6 Corrupt Practices

### Improper practices

**164** A person commits a corrupt practice who wilfully

- (a) alters, defaces or destroys a ballot or the initials of the deputy returning officer on a ballot,
- (b) without authority supplies a ballot to any person,
- (c) places in a ballot box a paper other than the ballot that the person is authorized by law to place in it,
- (d) delivers to the deputy returning officer any paper other than the ballot given to the person by the deputy returning officer, to be placed in the ballot box,
- (e) takes a ballot out of the polling place,
- (f) without authority destroys, takes, opens or damages a ballot box or book or packet of ballots or a ballot in use or used for the purposes of an election,
- (g) being a deputy returning officer, puts the deputy returning officer's initials on the back of any paper that is not but purports to be, or is capable of being used as, a ballot at an election,
- (h) prints a ballot when not authorized under this Act to do so,
- (i) prints a document that purports to be, or is capable of being used as, a ballot at an election, or
- (j) being authorized by the returning officer to print the ballots for an election, with fraudulent intent prints more ballots than the person is authorized to print.

RSA 1980 cE-2 s160

### Tampering with equipment

**164.1** A person commits a corrupt practice who wilfully interferes, or attempts to interfere, in any way with any equipment used to record votes, to count votes or to record who has voted in an election.

2017 c29 s100

**False statements re list of electors**

**165** A person commits a corrupt practice who wilfully makes a false statement for the purpose of inducing an enumerator or a returning officer

- (a) to omit the name of any person entitled to have the person's name entered on the list of electors, or
- (b) to insert or retain on the list of electors the name of any person who is not entitled to have the person's name so inserted or retained.

RSA 1980 cE-2 s161

**Interference with voting secrecy**

**166** A person commits a corrupt practice who,

- (a) being entitled to remain in a polling place during polling hours or to be present during counting of the ballots, fails to maintain or aid in maintaining the secrecy of the voting, or
- (b) contravenes section 105 or 106(2) or (3).

RSA 1980 cE-2 s162

**Fraudulent voting**

**167** A person commits a corrupt practice who

- (a) votes or attempts to vote when the person knows or ought to know that the person is not qualified to vote,
- (b) signs a false declaration under section 95, 99(1) or 104 or takes a false oath,
- (c) induces or procures, attempts to induce or procure, or aids and abets any other person to vote or attempt to vote, when the person knows or ought to know that the other person is not qualified to vote.

RSA 2000 cE-1 s167;2010 c8 s49

**Falsification of documents**

**168** An election officer or other person

- (a) whose duty it is to deliver poll books or lists of electors, or
- (b) who has the custody of a certified list of electors,

who in any way wilfully falsifies the certified list, list of electors or poll book, commits a corrupt practice.

RSA 2000 cE-1 s168;2004 c23 s77

**Wilful falsification of ballot count**

**169** An election officer who intentionally miscounts the ballots or in any other manner falsifies a count commits a corrupt practice.

RSA 2000 cE-1 s169;2004 c23 s78

**Betting**

**170** A person who, for the purpose of influencing an election, makes a bet on

- (a) the result of the election or a portion of it, or
- (b) any event or contingency relating to the election

commits a corrupt practice.

RSA 1980 cE-2 s166

**Provision of time to vote**

**171** An employer who directly or indirectly

- (a) refuses to allow, or
- (b) by intimidation, undue influence or in any other manner interferes with the allowance of,

an employee to have the period of absence for voting required under section 132 commits a corrupt practice.

RSA 1980 cE-2 s167

**Improper inducement**

**172(1)** A person commits a corrupt practice who, either personally or by any other person on the person's behalf, in order to induce an elector to vote or not to vote or to vote for or not to vote for a particular candidate

- (a) offers, gives, lends or promises to offer, give or lend or promises to procure or attempts to procure any money or other valuable consideration to or for the elector or any person on behalf of the elector or to or for any other person,
- (b) gives, procures or promises to give or procure or attempts to procure any office, position or employment to or for the elector or any other person, or
- (c) does any act referred to in clause (a) or (b) in order to reward any person for having voted or not having voted.

**(2)** A person commits a corrupt practice who, either personally or by any other person on the person's behalf, solicits from any candidate or official agent

- (a) a gift or loan of any money or other valuable consideration,
- (b) a promise to give or lend money or other valuable consideration,
- (c) any office, position or employment, or
- (d) a promise to give or procure any office, position or employment,

as a reward for agreeing to vote or not to vote, voting or not voting, agreeing to vote for a particular candidate or procuring or attempting to procure the election of the candidate.

**(3)** A person commits a corrupt practice who does one or more of the following:

- (a) procures, promises to procure or attempts to procure the election of any candidate on, or as a result of, any act referred to in subsection (1);
- (b) causes any money to be advanced or paid to any person with the intent that all or any portion of the money be expended on any corrupt practice;
- (c) knowingly causes any money to be paid in settlement or repayment of money expended in whole or in part on any corrupt practice;
- (d) before or during an election either personally or by any other person on the person's behalf, receives, agrees to receive or contracts for
  - (i) any money or other valuable consideration, whether by gift or loan, or
  - (ii) any office, position or employment,to or for the person or any other person because of or as a reward for voting or not voting, or for agreeing to vote or not to vote;
- (e) after an election, either personally or by any other person on the person's behalf, receives any money or other valuable consideration because of and as a reward for
  - (i) having voted or not having voted at an election, or
  - (ii) having induced any other person to vote or not vote at an election;

- (f) in order to induce a person
  - (i) to allow the person to be nominated as a candidate,
  - (ii) to refuse to allow the person to be nominated as a candidate, or
  - (iii) to withdraw the person's nomination as a candidate,either gives or procures, agrees to give or procure or attempts to procure any office, position or employment for any person.

RSA 1980 cE-2 s168

**Wilful damage to poll book**

**173** A person who wilfully causes a poll book to be damaged, destroyed or obliterated commits a corrupt practice.

RSA 1980 cE-2 s169

**Multiple voting**

**174** A person commits a corrupt practice who

- (a) applies at an election for a ballot in the name of another person, whether living or dead, or of a fictitious person,
- (b) having already voted, applies at the same election for a ballot in the person's own name, or
- (c) votes more than once at the same election.

RSA 1980 cE-2 s170

**Undue influence**

**175(1)** A person commits a corrupt practice who,

- (a) either personally or by any other person on the person's behalf,
  - (i) uses or threatens to use force or restraint,
  - (ii) inflicts or threatens to inflict harm or loss, or
  - (iii) in any manner practises intimidation,on or against an elector in order to induce or compel the elector to vote or not to vote, or on account of the elector having voted or not having voted, or
- (b) by abduction, duress or any false or fraudulent pretence or device
  - (i) prevents or interferes with the free exercise of the franchise of an elector, or



- (ii) induces or prevails on an elector to vote or refrain from voting.

**(2)** It is a false pretence within the meaning of this section to represent to an elector directly or indirectly that the ballot to be used or the mode of voting at an election is not secret.

RSA 1980 cE-2 s171

#### **Election Finances and Contributions Disclosure Act**

**176** A person who contravenes section 45, 46 or 47 of the *Election Finances and Contributions Disclosure Act* commits a corrupt practice.

1992 c12 s43

#### **Corrupt practice offence**

**177(1)** A person who commits a corrupt practice is guilty of an offence and liable to a fine of not more than \$50 000 or to imprisonment for not more than 2 years or to both fine and imprisonment.

**(2)** An offence under this Part shall be tried in the Court of Queen's Bench under the procedure set out in the *Provincial Offences Procedure Act*.

RSA 2000 cE-1 s177;2017 c29 s101

#### **Corrupt practice by candidate**

**178(1)** If the Court finds that an elected candidate is guilty of a corrupt practice or that a corrupt practice was committed with the knowledge and consent of the elected candidate, the Court shall declare the election in which the candidate was elected void.

**(2)** If the Court finds that a candidate, other than the elected candidate, is guilty of a corrupt practice or that a corrupt practice was committed with the knowledge and consent of the candidate, the Court shall send a report of its findings to the Chief Electoral Officer and, subject to subsection (3), may declare the election in which the candidate was nominated void.

**(3)** The Court may confirm the election of a candidate in relation to which the Court finds that a corrupt practice was committed by another candidate if the Court is satisfied that

- (a) the elected candidate did not also commit a corrupt practice,
- (b) the corrupt practice of the other candidate was not committed with the knowledge and consent of the elected candidate, and
- (c) the corrupt practice of the other candidate did not materially affect the results of the election.

(4) During the 8 years immediately following the date on which the Chief Electoral Officer receives the report of the Court under subsection (1) or (2), the candidate who is the subject of the report is, subject to subsection (5), prohibited from

- (a) being nominated as a candidate under this Act,
- (b) being elected to any public office under any other Act,
- (c) being entered on any list of electors,
- (d) being registered as an elector,
- (e) voting at an election, and
- (f) holding any office at the nomination of the Crown.

(5) If the Court finds that

- (a) a corrupt practice was committed by a candidate, or by any other person with the knowledge and consent of a candidate,
- (b) the corrupt practice was committed without any corrupt intent and in ignorance that was excusable in the circumstances, and
- (c) the candidate honestly desired and attempted as far as reasonably possible to have the election conducted according to law,

the Court shall make an order declaring that the prohibitions referred to in subsection (4) do not apply to the candidate.

RSA 2000 cE-1 s178;2010 c8 s50

#### **Corrupt practice by candidate's official agent**

**179(1)** If the Court finds that a candidate's official agent is guilty of committing a corrupt practice, the Court shall send a report of its findings to the Chief Electoral Officer and, subject to subsection (2), shall declare the election void.

**(2)** The Court shall not make an order declaring that the election of a candidate is void by reason of the corrupt practice of an official agent if the Court is satisfied that

- (a) the candidate did not commit a corrupt practice,
- (b) the corrupt practice was not committed with the knowledge and consent of the official agent's candidate, and

- (c) the corrupt practice of the official agent did not materially affect the results of the election.

RSA 2000 cE-1 s179;2010 c8 s50

#### **Submission of report**

**180** On receiving the report of the Court pursuant to section 178(2) or 179(1) or 181(1), the Chief Electoral Officer shall send a copy of the report to the Lieutenant Governor in Council.

RSA 2000 cE-1 s180;2010 c8 s51

#### **Corrupt practice by non-candidate**

**181(1)** Subject to subsection (2), if a person other than a candidate is found guilty of committing a corrupt practice, the Court shall send a report of its findings to the Chief Electoral Officer and that person is, during the 8 years immediately following the date on which the Chief Electoral Officer receives the report of the Court, subject to the same prohibitions to which a candidate is liable under section 178(4).

**(2)** If the Court finds that the corrupt practice committed by a person referred to in subsection (1)

- (a) was done without any corrupt intent and in an ignorance that was excusable in the circumstances,
- (b) was a mere technical contravention of this Part, or
- (c) was an unintentional contravention of this Part,

the Court shall make an order declaring that the prohibitions referred to in section 178(2) do not apply to that person.

RSA 2000 cE-1 s181;2010 c8 s52

#### **Payments not constituting corrupt practice**

**182(1)** The following payments made by a candidate do not constitute a corrupt practice or an improper payment:

- (a) reasonable rent or hire of halls or other places used by a candidate personally to address public meetings of electors, and the expenses incurred in
  - (i) providing equipment or services to be used in respect of the meeting, and
  - (ii) heating, lighting and cleaning the premises rented;
- (b) reasonable, ordinary and necessary travelling and living expenses of the candidate;
- (c) reasonable, ordinary and necessary travelling and living expenses of one speaker for each public meeting to be

addressed by the candidate if the speaker accompanies the candidate and travels with the candidate for the purpose of so speaking;

- (d) reasonable and ordinary charges for the hire of conveyances for the use of the candidate in travelling to and from public meetings and in canvassing in the electoral division and reasonable and ordinary charges for the services and maintenance of a person operating the conveyance.

**(2)** The onus is on the candidate to show that the campaign expenses paid by the candidate under subsection (1) were fair, reasonable and proper and not in excess of what is ordinarily paid for similar facilities, services and goods.

**(3)** The contracting for or the receipt of ordinary and reasonable charges

- (a) by the owner or possessor of a hall or other place in which to hold bona fide public meetings for purposes related to the election,
- (b) by a printer for printing lists of electors, election addresses or advertisements or notices of election meetings, or
- (c) by any person for the hire of transportation used in connection with and for the proper purposes of the election,

is lawful and does not disqualify the owner, printer or other person from voting.

RSA 1980 cE-2 s176

#### **Effect of previous corrupt practices**

**183(1)** If an election is void due to one or more corrupt practices being committed and a 2nd election is held, the 2nd election is a new election and is not to be considered void by reason of corrupt practices committed at the former election except for those corrupt practices that were

- (a) the personal acts of the candidate, or
- (b) the personal acts of the candidate's official agent done with the candidate's knowledge and consent.

(2) Notwithstanding subsection (1), the new election is not to be considered void for corrupt practices by the candidate at the former election if the corrupt practices were not proved at a trial and so adjudged by the Court so as to make applicable the prohibitions specified in section 178.

RSA 2000 cE-1 s183;2004 c23 s79

#### **Prohibitions based on perjured evidence**

**184** If a person is subject to the prohibitions under section 178 or 181 and a witness on the basis of whose testimony the prohibitions arose is convicted of perjury in respect of that testimony, the Court of Appeal on

- (a) the application of the person subject to the prohibitions, and
- (b) being satisfied that the prohibitions arose by reason of the perjury,

may order the prohibitions to cease.

RSA 2000 cE-1 s184;2014 c13 s24

## **Part 7 Controverted Elections**

#### **Filing of petition**

**185(1)** A petition may be filed with the Court in accordance with this Part to void an election by reason of the undue return or undue election of a candidate as the member of the Legislative Assembly for an electoral division.

(2) The petition

- (a) may be filed only by
  - (i) a candidate defeated in the election, or
  - (ii) a person who on the polling day was qualified to vote at the election,
- (b) except as provided in clause (c), shall be filed with the Court within 30 days after the date of the issue of The Alberta Gazette containing the notice published pursuant to section 150, and

- (c) may be filed with the Court at any time during the continuation of the Legislative Assembly of which the elected candidate is a member, if the grounds for the petition relate only to the eligibility of the respondent as a candidate at the time of the filing of the candidate's nomination paper.

RSA 2000 cE-1 s185;2017 c29 s104

### **Petition**

#### **186(1)** The petition

- (a) may be in the prescribed form;
- (b) shall within the time prescribed by section 185 be filed at the judicial centre located in the electoral division or, if there is none, at the judicial centre closest to the electoral division;
- (c) shall contain the following statements:
- (i) the right of the petitioner to petition;
  - (ii) the holding and result of the election in general terms;
  - (iii) in a brief form the facts and grounds relied on to sustain the prayer;
- (d) shall conclude with a prayer that the election be declared void and set aside.

**(2)** No person, other than the candidate whose election is challenged, shall be named as a respondent in the petition.

RSA 2000 cE-1 s186;2011 c14 s6

### **Security for costs**

**187** The petitioner shall at the time the petitioner files the petition deposit with the clerk the sum of \$1000 as security for the respondent's costs of and incidental to the petition and the proceedings under the petition.

RSA 2000 cE-1 s187;2004 c23 s80

### **Service of petition**

**188(1)** A copy of the petition shall, within 20 days after being filed, be served on the respondent and the Chief Electoral Officer, and service of the copy of the petition may be effected

- (a) in the way that service of a statement of claim in an ordinary civil action in the Court is effected, or
- (b) in the manner provided by section 68.

**(2)** On the Court being satisfied by affidavit either before or after the time limited by subsection (1) for the service of a copy of the petition

- (a) that every reasonable effort has been made to effect service, and
- (b) that service has not been effected,

it may ex parte extend the time for effecting service for a period not exceeding 10 days and so on from time to time until service has been effected, or the Court may make an ex parte order for substitutional service of the petition.

RSA 2000 cE-1 s188;2012 c5 s56

#### **Address for service**

**189(1)** The petitioner shall endorse on the petition an address for service, which shall not be more than 5 kilometres from the clerk's office, at which all summonses, notices, demands and other papers in the proceedings may be served on the petitioner, and in default of the petitioner doing so the summonses, notices, demands and other papers in the proceedings may be served on the petitioner by being filed with the clerk.

**(2)** The respondent shall, within 10 days after being served with the petition, file with the clerk a notice in writing specifying an address for service, which shall not be more than 5 kilometres from the clerk's office, at which all summonses, notices, demands and other papers in the proceedings may be served on the respondent, and in default of the respondent doing so the summonses, notices, demands and other papers may be served on the respondent by being filed with the clerk.

RSA 1980 cE-2 s183

#### **Application to set aside petition**

**190** The respondent may, at any time within 20 days after the service on the respondent of the petition, apply to the Court to set the petition aside on any of the following grounds:

- (a) that the petitioner is not qualified to file a petition;
- (b) that the petition was not filed within the prescribed time;
- (c) that the deposit has not been made as provided in section 187;
- (d) that the petition does not on its face disclose sufficient grounds or facts to have the election declared void;
- (e) that service of a copy of the petition has not been made on the respondent as prescribed by this Part,

and the Court, if satisfied that the application is well founded, may order the petition to be set aside or, if it is not so satisfied, the Court may dismiss the application.

RSA 1980 cE-2 s184;1983 cL-10.1 s54

#### **Application by respondent for further particulars**

**191(1)** Evidence need not be stated in the petition, but the respondent may

- (a) within 20 days after service on the respondent of the petition, unless the respondent applies to set aside the petition, and
- (b) if the respondent applies to set aside the petition, within 5 days after the application is disposed of if the application is dismissed,

apply to the Court for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition.

**(2)** On hearing an application under subsection (1), the Court

- (a) may direct any particulars that may be necessary to prevent surprise and to ensure a fair and effectual trial,
- (b) may prescribe the time within which the particulars must be delivered, and
- (c) may direct that in case the particulars are not delivered as prescribed, the petitioner will not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered.

RSA 1980 cE-2 s187

#### **Time and place of trial**

**192(1)** At any time after the petition is at issue the petitioner may apply to the Court to appoint a time and place for the trial of the petition, and the Court, on being satisfied that the petition is at issue, shall appoint a time and place for trial.

**(2)** A petition is at issue when all other orders on applications under sections 190 and 191 have been made, whether granting or refusing the applications, or if no applications have been made when the time for making those applications has expired.

RSA 1980 cE-2 s189

#### **Application to dismiss petition**

**193** If the petitioner does not within one month after the petition is at issue apply to the Court to appoint a time and place for the trial of the petition, the respondent may apply to the Court to



dismiss the petition, and the Court may either dismiss the petition or appoint a time and place for the trial of the petition.

RSA 1980 cE-2 s190

#### **Rules of Court apply**

**194** The petition and all proceedings under it is deemed to be a cause in the Court and all the provisions of the *Alberta Rules of Court* insofar as they are applicable and not inconsistent with the provisions of this Part, including the tariff of costs for clerks, sheriffs, civil enforcement agencies, civil enforcement bailiffs, solicitors and counsel and interpreters, apply to the petition and proceedings.

RSA 1980 cE-2 s191;1994 cC-10.5 s124

#### **Report to Chief Electoral Officer**

**195(1)** The judge who tries the petition shall forthwith on the expiration of 14 days after the filing of the judge's directions for judgment, unless

- (a) a notice of appeal, and
- (b) an order of a judge staying the proceedings

has before the expiration of 14 days been filed in the clerk's office, make and forward to the Chief Electoral Officer a report of the judge's judgment including the judge's reasons.

**(2)** If the judgment contains findings that the respondent was unduly returned or elected,

- (a) the election in which the respondent was a candidate is void on the receipt of the judge's report by the Chief Electoral Officer, and
- (b) the Chief Electoral Officer shall inform the Lieutenant Governor in Council of the report.

RSA 1980 cE-2 s192;1983 cL-10.1 s54

#### **Withdrawal from proceedings**

**196(1)** The petitioner may at any time withdraw the petitioner's petition by

- (a) filing with the clerk a statement in writing that the petitioner withdraws it, and
- (b) serving the respondent with a notice of withdrawal,

and in that case the Court shall on application order the petitioner to pay the respondent's costs of and incidental to the petition and the proceedings under it.

(2) The respondent may at any time withdraw any statement of objections by

- (a) filing with the clerk a written statement that the respondent withdraws it, and
- (b) serving the petitioner with a notice of withdrawal,

and in that case the Court shall on application order the respondent to pay the petitioner's costs of and incidental to that statement.

RSA 1980 cE-2 s193

#### **Admission of undue election**

**197(1)** The respondent may at any time admit that the respondent was unduly returned or elected by filing with the clerk a statement in writing admitting that fact and consenting to the entry of a judgment declaratory of that fact and by serving the petitioner with a notice that the statement has been filed.

(2) If a statement is filed under subsection (1), the petitioner may enter a formal judgment declaring the election void, and if the petitioner so desires directing the respondent to pay the petitioner's costs of and incidental to the petition, and on the judgment being entered, the Court shall send a report of the facts to the Chief Electoral Officer, and on the receipt of it by the Chief Electoral Officer, the election is void and a writ of election shall issue to fill the vacancy so created.

RSA 1980 cE-2 s194;1983 cL-10.1 s54

#### **Costs**

**198(1)** Except when otherwise provided by this Part, the costs of the petition and all matters incidental to it and arising out of it are to be dealt with in the same manner as in any ordinary civil matter before the Court.

(2) If the judge at any time orders costs to be paid by the petitioner, the judge may, when the petition and all matters arising out of it have been finally determined and disposed of, order the costs to be paid out of the money deposited by the petitioner on filing the petition, but nothing in this subsection is to be construed as preventing the respondent from proceeding at any time to recover any costs that may have been awarded to the respondent according to the ordinary practice of the Court.

RSA 1980 cE-2 s195

#### **Appeals**

**199(1)** An appeal lies to the Court of Appeal from any order, direction or determination of the judge and from any judgment entered in pursuance of it, and the appeal and all proceedings relating to it shall be had and taken, and the Court of Appeal shall,

subject to this Part, deal with the appeal in the same manner as appeals in civil matters from the Court of Queen's Bench.

(2) If the appeal is from an order or determination of a judge, other than the judgment entered on the trial of petition, the notice of appeal shall be filed and served within 10 days from the entry of the judgment or order and it does not operate as a stay of proceedings unless so ordered by the judge.

(3) If a judge orders a stay of proceedings under subsection (2), the judge may do so on any terms the judge thinks just, and the judge may in making the order, or afterwards by separate order, fix the time for doing any act required or authorized by this Part to be done, the time for doing which has been fixed without reference to an appeal, and the judge or any other judge may for reasonable cause at any time set aside or modify any stay of proceedings that has been ordered under this section.

(4) If the appeal is from any finding, determination or judgment under section 195 or 197, the appellant shall file and serve the appellant's notice of appeal within 14 days after the filing of the directions for judgment and shall, before the expiration of that period, apply ex parte to the judge for a stay of proceedings, and the judge on being satisfied that the notice of appeal has been duly given shall make an order staying proceedings.

(5) After a stay of proceedings has been made, the appeal shall proceed and be dealt with in the same manner and is subject to the same rules as an ordinary appeal in a civil action.

(6) The costs of the appeal shall be dealt with in the same manner as in any ordinary civil appeal before the Court of Appeal.

RSA 1980 cE-2 s196

#### **Report of judgment on appeal**

**200** On judgment being given by the Court of Appeal, the presiding judge shall forthwith send to the Chief Electoral Officer

- (a) a report of the judgment and with it a copy of all reasons for judgment given by any member of the Court of Appeal, and
- (b) a copy of the reasons of the trial judge for the judgment appealed from

and on the receipt by the Chief Electoral Officer of the report, the same consequences follow and the same acts shall be done as on the receipt of a report of a judge under section 195.

RSA 1980 cE-2 s197

**No count of ballots by judge**

**201** Nothing in this Part shall be construed to authorize a judge to count or recount the ballots cast at any election, and the count of ballots or the recount, if any, under Part 4 is conclusive.

RSA 1980 cE-2 s198

**Part 8  
General****Certain irregularities excused**

**202** No election is void by reason of

- (a) an irregularity on the part of an election officer or in any of the proceedings preliminary to the poll,
- (b) a failure to hold a poll at any place appointed for holding a poll,
- (c) a non-compliance with the provisions of this Act relating to the taking of the poll or the counting of the votes or with regard to limitations of time, or
- (d) any mistake in the use of the prescribed forms,

if it is shown to the satisfaction of the Court that the election was conducted in accordance with this Act and that the irregularity, failure, non-compliance or mistake did not materially affect the result of the election.

RSA 1980 cE-2 s199

**General evidence**

**203** In any proceeding under this Act it is not necessary at any hearing to produce the writ or the election return or to establish the authority of the returning officer founded on the writ, but general evidence is sufficient.

RSA 1980 cE-2 s200

**Confidentiality of vote**

**204** In any inquiry or legal proceeding relating to an election or return, a voter is not required to reveal for whom the voter voted.

RSA 1980 cE-2 s201

**Returning officer's certificate**

**205** The certificate of the returning officer to the effect that the election was held and that any person stated in the certificate to have been a candidate was in fact a candidate constitutes proof, in the absence of evidence to the contrary, of the contents of the certificate without proof of the signature or official character of the person appearing to have signed the certificate.

RSA 1980 cE-2 s202

**Delay in court proceedings**

**206** In the event of suspension or delay at any stage of the proceedings, the Court before which the matter is pending may permit one or more persons to intervene and carry out the proceedings to a final determination.

RSA 1980 cE-2 s203

**Regulations**

**207** The Lieutenant Governor in Council may make regulations

- (a) - (b) repealed 2017 c29 s110;
- (c) respecting forms for the purposes of this Act;
- (d) prescribing oaths to be used;
- (e) governing any necessary matter for which no provision is made in this Act.

RSA 2000 cE-1 s207;2010 c8 s53;2017 c29 s110

## **Part 9 Fees and Expenses**

**Fees and expenses**

**208** The Chief Electoral Officer shall establish, in respect of services and expenses under this Act,

- (a) the amounts of remuneration and fees,
- (b) the rates of payment for expenses, and
- (c) the method and procedure of applying for payment.

RSA 2000 cE-1 s208;2017 c29 s111

**209 to 211** Repealed 2010 c8 s54.







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