

Chapter 21

AN ACT TO PROVIDE FOR ELECTIONS FOR MUNICIPAL COUNCILS AND DISTRICT EDUCATION AUTHORITIES

(Assented to June 8, 2017)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. (1) The *Cities, Towns and Villages Act* is amended by this section.

(2) Section 1 is amended by

- (a) striking "the *Local Authorities Elections Act*" in the definition of "election" and substituting "Part VIII.1 of the *Nunavut Elections Act*"; and**
- (b) adding "under Part VIII.1 of the *Nunavut Elections Act*" after "an election" in the definition of "election day".**

(3) Subsection 2(1) is repealed and the following substituted:

Public notice of establishment of municipality

2. (1) The Minister may, on the Minister's own initiative or at the request of at least 25 persons who, on the date of the request, would be eligible to vote under section 7 of the *Nunavut Elections Act* and are resident in a settlement or an unincorporated community, cause public notice to be given in the settlement or community that the Minister intends to establish it as a municipality.

(4) Subsection 4(2) is repealed and the following substituted:

Content of order

(2) When establishing a municipal corporation, the Minister must

- (a) fix the name and status of the municipal corporation in the order;
- (b) determine the boundaries of the municipality in the order; and
- (c) request the Chief Electoral Officer to conduct the first election of the council in accordance with Part VIII.1 of the *Nunavut Elections Act*.

Consultation with Chief Electoral Officer

(2.1) Before making an order under this section, the Minister must consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

(5) Subsection 5(6) is repealed and the following substituted:

Consultation with Chief Electoral Officer

(6) Before making an order under this section, the Minister must consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

(6) Section 11 is repealed and the following substituted:

Elected council members

11. (1) Every municipal corporation has a council composed of elected council members.

Application of *Nunavut Elections Act*

(2) Part VIII.1 of the *Nunavut Elections Act* applies to all matters respecting the election of council members.

(7) Section 14 is repealed and the following substituted:

Term of office

14. (1) Subject to this Act, all council members hold office for four years.

Dates for term of office

(2) The term of office of a council member

- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
- (b) ends at 12 noon on the day after the next election day.

(8) Section 15 is repealed.

(9) The English version of subsection 17(3) is amended by striking "An elector" and "elector" wherever they appear and substituting "A voter" and "voter" respectively.

(10) The following is added after section 53:

Employees seeking election

53.01. (1) An employee who wishes to be a candidate for election to a council shall apply in writing for a leave of absence from his or her employment.

Applications

(2) The application for leave shall be made to

- (a) the senior administrative officer, in the case of applications by employees other than the senior administrative officer; and

- (b) the council, in the case of an application by the senior administrative officer.

Granting a leave of absence

(3) If an employee applies for a leave of absence under this section, a leave of absence without pay shall be granted to the employee for a period

- (a) beginning on the day the employee signs his or her declaration of candidacy; and
- (b) ending on the earlier of the day on which the results of the election are declared or the day he or she has ceased to be a candidate.

Ceasing employment

(4) An employee who is elected as a council member ceases to be an employee.

(11) The English version of sections 64.5, 64.6 and 64.8 are amended by striking "electors" wherever it appears and substituting "voters".

(12) Section 134 is amended by striking "election day" wherever it appears and substituting "the 35th day before election day".

(13) Section 205 is repealed and the following substituted:

Return of control to council

205. (1) Where the Minister is of the opinion that a municipal corporation under the control of a municipal administrator should be returned to the control of a council, the Minister may

- (a) request the Chief Electoral Officer to conduct an election for new council members in the same manner as the first election of a council; and
- (b) by order, provide for the transition of control from the municipal administrator to the newly elected council and revoke the order issued under section 192.

Consultation with Chief Electoral Officer

(2) Before making an order under this section, the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

2. Subsection 1(1) of the *Conflict of Interest Act* is amended by striking "under the *Local Authorities Elections Act*" in the definition of "voter" and substituting "for members of a council under Part VIII.1 of the *Nunavut Elections Act*".

3. (1) The *Education Act* is amended by this section.

(2) Subsection 3(1) is amended by adding the following definitions in alphabetical order:

"election" means an election of a member of a district education authority under Part VIII.1 of the *Nunavut Elections Act*; (*élection*)

"election day" means the day fixed for an election under Part VIII.1 of the *Nunavut Elections Act*; (*jour du scrutin*)

(3) Section 131 is repealed and the following substituted:

Election of members of district education authority

131. (1) Part VIII.1 of the *Nunavut Elections Act* applies to all matters respecting the election of the members of a district education authority.

Term of office

(2) Subject to this Act, all members of a district education authority hold office for four years.

Dates for term of office

(3) The term of office of a member of a district education authority

- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
- (b) ends at 12 noon on the day after the next election day.

(4) Subparagraph 152(b) is repealed and the following substituted:

- (b) the Minister shall request the Chief Electoral Officer to conduct an election for new members of the district education authority in the same manner as the first election of a district education authority; and
- (c) the Commissioner in Executive Council shall by order, provide for the transition of control from the interim trustee to the newly elected district education authority and revoke the order issued under subsection 150(2).

(5) The following is added after section 152:

Consultation with Chief Electoral Officer

152.1. Before an order is made under paragraph 152(c), the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for new members of the district education authority.

(6) Section 166 is repealed and the following substituted:

Election of members of *Commission scolaire francophone*

166. (1) Part VIII.1 of the *Nunavut Elections Act* applies to all matters respecting the election of the members of the *Commission scolaire francophone*.

Term of office

(2) Subject to this Act, all members of the *Commission scolaire francophone* hold office for four years.

Dates for term of office

(3) The term of office of a member of the *Commission scolaire francophone*

- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
- (b) ends at 12 noon on the day after the next election day.

Rights holders information

(4) The Minister shall, on request, provide the Chief Electoral Officer with information in respect of rights holders to assist Elections Nunavut in registering voters for the election of members of the *Commission scolaire francophone*.

(7) Paragraphs 181(a), (b) and (c) are repealed.

4. (1) The *Hamlets Act* is amended by this section.

(2) Section 1 is amended by

- (a) **striking "the *Local Authorities Elections Act*" in the definition of "election" and substituting "Part VIII.1 of the *Nunavut Elections Act*"; and**
- (b) **adding "under Part VIII.1 of the *Nunavut Elections Act*" after "an election" in the definition of "election day".**

(3) Subsection 2(1) is repealed and the following substituted:

Public notice of establishment of municipality

2. (1) The Minister may, on the Minister's own initiative or at the request of at least 25 persons who, on the date of the request, would be eligible to vote under section 7 of the *Nunavut Elections Act* and are resident in a settlement or an unincorporated community, cause public notice to be given in the settlement or community that the Minister intends to establish it as a municipality.

(4) Subsection 4(2) is repealed and the following substituted:

Content of order

- (2) When establishing a municipal corporation, the Minister must
- (a) fix the name and status of the municipal corporation in the order;
 - (b) determine the boundaries of the municipality in the order; and
 - (c) request the Chief Electoral Officer to conduct the first election of the council in accordance with Part VIII.1 of the *Nunavut Elections Act*.

Consultation with Chief Electoral Officer

(2.1) Before making an order under this section, the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

(5) Subsection 5(5) is repealed.

(6) Section 10 is repealed and the following substituted:

Elected council members

10. (1) Subject to section 11, every municipal corporation has a council composed of elected council members.

Application of *Nunavut Elections Act*

(2) Part VIII.1 of the *Nunavut Elections Act* applies to all matters respecting the election of council members.

(7) Subsection 11(1) is amended by striking "the *Local Authorities Elections Act*" and substituting "Part VIII.1 of the *Nunavut Elections Act*".

(8) Section 13 is repealed and the following substituted:

Term of office

13. (1) Subject to this Act, all council members hold office for four years.

Dates for term of office

- (2) The term of office of a council member
- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
 - (b) ends at 12 noon on the day after the next election day.

(9) Sections 13.1, 14 and 15 are repealed.

(10) The English version of subsection 17(3) is amended by striking "An elector" and "elector" wherever they appear and substituting "A voter" and "voter" respectively.

(11) The following is added after section 53:

Employees seeking election

53.01. (1) An employee who wishes to be a candidate for election to a council shall apply in writing for a leave of absence from his or her employment.

Applications

(2) The application for leave shall be made to

- (a) the senior administrative officer, in the case of applications by employees other than the senior administrative officer; and
- (b) the council, in the case of an application by the senior administrative officer.

Granting a leave of absence

(3) If an employee applies for a leave of absence under this section, a leave of absence without pay shall be granted to the employee for a period

- (a) beginning on the day the employee signs his or her declaration of candidacy; and
- (b) ending on the earlier of the day on which the results of the election are declared or the day he or she has ceased to be a candidate.

Ceasing employment

(4) An employee who is elected as a council member ceases to be an employee.

(12) The English version of sections 64.5, 64.6 and 64.8 are amended by striking "electors" wherever it appears and substituting "voters".

(13) Section 134 is amended by striking "election day" wherever it appears and substituting "the 35th day before election day".

(14) Section 205 is repealed and the following substituted:

Return of control to council

205. (1) Where the Minister is of the opinion that a municipal corporation under the control of a municipal administrator should be returned to the control of a council, the Minister may

- (a) request the Chief Electoral Officer to conduct an election for new council members in the same manner as the first election of a council; and
- (b) by order, provide for the transition of control from the municipal administrator to the newly elected council and revoke the order issued under section 192.

Consultation with Chief Electoral Officer

(2) Before making an order under this section, the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

5. The *Justices of the Peace Act* is amended by adding the following after section 6:

Seeking election to municipal council

6.1. (1) A justice of the peace who wishes to be a candidate for election to a municipal council shall apply in writing to the senior judge for a leave of absence from his or her duties as a justice of the peace.

Leave of absence

(2) If a leave of absence is applied for under subsection (1), the senior judge shall grant the justice of the peace a leave of absence without pay for a period

- (a) beginning on the day the justice of the peace signs his or her declaration of candidacy; and
- (b) ending on the earlier of the day on which the results of the election are declared or the day he or she has ceased to be a candidate.

Ceasing to hold office

(3) A justice of the peace who is elected as a member of a municipal council ceases to hold office as a justice of the peace.

6. Subsection 47.1(4) of the *Liquor Act* is amended by striking "list of electors" and substituting "final voters list".

7. The *Local Authorities Elections Act*, R.S.N.W.T. 1988, c.L-10, is repealed.

8. (1) The *Nunavut Elections Act* is amended by this section.

(2) Section 210 is repealed and the following substituted:

Management of documents

210. The Chief Electoral Officer shall, in accordance with accepted archival standards,

- (a) keep a register of all approved forms and all instructions and directions he or she issues under this Act;
- (b) publish all instructions or directions he or she issues under this Act on the Internet web site of Elections Nunavut; and
- (c) preserve all writs, returns of the writs, certificates and declarations in respect of elections.

(3) The following is added after Part VIII:

PART VIII.1
MUNICIPAL ELECTIONS

Interpretation

Definitions

224.1. (1) In this Part,

"appropriate Minister" means the Minister responsible for the enactment governing the municipal council or district education authority, as the case may be; (*ministre responsable*)

"candidate" means a candidate for election as

- (a) the mayor or a councillor of a municipal corporation, and
- (b) a member of a district education authority; (*candidat*)

"councillor" means a councillor of a municipal corporation; (*conseiller*)

"district education authority" means

- (a) a district education authority established or continued under the *Education Act* and, unless otherwise provided, includes the *Commission scolaire francophone*, and
- (b) the governing body of any school established under section 197 of that Act; (*administration scolaire de district*)

"election" means the election of a member of a municipal council or a district education authority; (*élection*)

"general election" means the elections for members of municipal councils and district education authorities scheduled to occur every four years under section 224.8; (*élection générale*)

"mayor" means the mayor of a municipal corporation; (*maire*)

"member" means

- (a) the mayor or a councillor of a municipal corporation, or
- (b) a member of a district education authority; (*membre*)

"municipal corporation" means a city, town, village or hamlet; (*municipalité*)

"municipal council" means the council of a city, town, village or hamlet; (*conseil municipal*)

"municipality" means the geographic area of jurisdiction of a city, town, village or hamlet; (*territoire de la municipalité*)

"office" means the office of

- (a) the mayor or a councillor of a municipal corporation, or
- (b) a member of a district education authority; (*poste*)

"rights holder" means an individual who has a right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his or her children receive instruction in the French language. (*ayant droit*)

Day writ issued

(2) For the purposes of applying the other provisions of this Act to an election under this Part, the phrase "the day the writ is issued" shall be interpreted as the 35th day before election day for elections under this Part.

Application

Application

224.2. (1) This Part applies to the election of

- (a) the mayor and councillors of municipal corporations;
- (b) the members of district education authorities; and
- (c) the chairperson and councillors of settlements, if any are established.

Other provisions of this Act

(2) Subject to this Part, the other provisions of this Act also apply in respect of elections under this Part, with such modifications as the circumstances require.

Settlements

(3) If a settlement and settlement corporation are established under the *Settlements Act*, the provisions of this Part applicable to the election of the mayor and councillors in a municipality apply respectively to the election of the chairperson and councillors in the settlement, with such modifications as the circumstances require.

Interpretation

(4) For greater certainty, terms defined in the *Settlements Act* have the same meaning when used in relation to settlements in this section.

Instructions

Instructions of the Chief Electoral Officer

224.3. (1) The power of the Chief Electoral Officer under this Act to issue instructions and directions includes issuing instructions and directions that

- (a) govern matters in respect of elections under this Part not otherwise provided for under this Act; and
- (b) modify or adapt any provision of this Act or the regulations, otherwise applicable to an election for a member of the Legislative Assembly, in respect of its application to an election under this Part.

Changes to instructions

(2) The Chief Electoral Officer may change, replace or supplement any instructions, directions, oaths or forms in respect of an election under this Part as he or she considers necessary at any time in order to deal with an emergency, an unusual or unexpected situation or any other circumstances as may be required.

Right to Vote

Voters' rights for municipal councils

224.4. (1) In addition to the qualifications in section 7, every person has a right to vote in an election for members of a municipal council if, on election day, the person is or would be resident in the municipality.

Voters' rights for district education authorities

(2) In addition to the qualifications in section 7, every person has a right to vote in an election for members of a district education authority if, on election day, the person is or would be resident in

- (a) Nunavut, in respect of the *Commission scolaire francophone*;
- (b) that portion of the City of Iqaluit known as Apex, in respect of the Apex District Education Authority; or
- (c) the municipality in which the district education authority is located, in respect of all other district education authorities.

Education district with different boundaries

(3) Despite paragraphs (2)(b) and (c), where an education district is established, or its boundaries defined, under the *Education Act* for a district education authority and the boundaries of the education district differ from the boundaries applicable under those paragraphs, the boundaries of the education district shall be used to determine residency for the purposes of voting for the district education authority.

Voting in one place

(4) A voter may only vote in the place in which the voter is considered to reside under this Part.

Additional qualification for *Commission scolaire francophone*

(5) An individual must also be a rights holder to be eligible to vote in an election for members of the *Commission scolaire francophone*.

Single vote

- (6) No person shall, at the same time, vote in more than
- (a) one election for the mayor of a municipal corporation;
 - (b) one election for the councillors of a municipal corporation; and
 - (c) one election for a district education authority.

Candidacy for Mayor or Councillor

Eligibility

224.5. (1) Subject to this section, a person is entitled to be a candidate as a mayor or councillor if the person

- (a) is qualified to vote in the election; and
- (b) is not ineligible to be a candidate under subsections 11(2) to (4).

Disqualification - mayor and councillor

(2) A person who is otherwise qualified under subsection (1), is not entitled to be a candidate as a mayor or councillor if, on the day the person files his or her declaration of candidacy, the person

- (a) is an employee of the municipal corporation and is not on leave under section 53.01 of the *Cities, Towns and Villages Act* or the *Hamlets Act*, as the case may be;
- (b) is a justice of the peace and is not on leave under section 6.1 of the *Justices of the Peace Act*;
- (c) is a sheriff;
- (d) is an assessor or auditor of the municipal corporation;
- (e) is a surety for an officer or employee of the municipal corporation;
- (f) has not paid all municipal taxes owed by the person before December 31 of the year in which the taxes were levied;
- (g) is personally indebted to the municipal corporation for a sum exceeding \$500 for more than 90 days, other than the taxes described in paragraph (f); or
- (h) has a controlling interest in a private or public corporation that is indebted to the municipal corporation for a sum exceeding \$500 for more than 90 days, other than the taxes described in paragraph (f).

Controlling interest

(3) For the purpose of paragraph (2)(h), a person is deemed to have a controlling interest in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over, shares of the corporation carrying more than 10% of the voting rights attached to all shares of the corporation for the time being outstanding.

Candidacy for Member of a District Education Authority

Eligibility

224.6. (1) Subject to this section, a person is entitled to be a candidate as a member of a district education authority if the person

- (a) is qualified to vote in the election; and
- (b) is not ineligible to be a candidate under subsections 11(2) to (4).

Disqualification

(2) A person who is otherwise qualified under subsection (1), is not entitled to be a candidate as a member of a district education authority if the person is

- (a) is a permanent employee of the district education authority; or
- (b) a member of the school staff, as defined in the *Education Act*, of a school under the jurisdiction of the district education authority.

Candidate's additional qualification

(3) A person must also be a rights holder to be eligible to be a candidate as a member of the *Commission scolaire francophone*.

Single candidacy

224.7. (1) No person shall, at the same time, be a candidate

- (a) for more than one municipal council;
- (b) for both mayor and councillor of a municipal corporation; or
- (c) for more than one district education authority.

Filing period

(2) The declaration of candidacy must be filed at the office of the returning officer any time between the 35th day before election day and 2:00 p.m. on the 31st day before election day.

Election Day

No proclamation or writ

224.8. (1) The provisions of this Act respecting a proclamation and a writ do not apply to an election under this Part.

Fixed election day

(2) A general election must be held every four years on the fourth Monday in October for all municipal councils and district education authorities.

If Monday is a holiday

(3) If the Monday is a holiday, election day shall be the following Tuesday, and the time limits in this Act shall be read as if election day were a Monday.

Initial general election

(4) The first general election to be held under this Part shall be in October 2019.

Postponement of election

(5) The Chief Electoral Officer may, after consulting the appropriate Minister, delay the election day for an election if he or she is of the opinion that it is impracticable to hold the election because of extreme weather, an emergency or other similar event.

First elections

224.9. (1) This section applies in respect of

- (a) the first election for a new municipal corporation or a new district education authority;
- (b) the election of a new mayor and new councillors after a municipal council has been under the control of an administrator; and
- (c) the election of new members after a district education authority has been under the control of an interim trustee.

Period before general election

(2) No election shall be held during the period six months before the election day for a general election.

Determining the election day

(3) Subject to subsection (2), the Chief Electoral Officer shall, after being consulted by the appropriate Minister, determine an appropriate election day for the election.

Terms of office

(4) For greater certainty, the candidates elected in the election hold office until 12 noon on the day after the election day of the next general election scheduled under section 224.8.

Vacancies in Office

Filling vacancy for mayor

224.10. (1) If the office of mayor becomes vacant for any reason before the next general election, the municipal council shall fill the vacancy by

- (a) appointing a councillor as the mayor; or
- (b) holding a by-election, unless there is less than six months before the election day for the next general election.

Prohibited appointment for mayor

(2) For greater certainty, a council shall not fill a vacancy for mayor by appointing a person as a councillor for the purpose of then appointing that person as the mayor.

Filling councillor vacancies

(3) If the office of a councillor becomes vacant for any reason before the next general election, the municipal council shall fill the vacancy by appointing a person who is eligible to be a candidate for that office.

Filling district education authority vacancies

(4) If the office of a member becomes vacant for any reason before the next general election, the district education authority shall fill the vacancy by appointing a person who is eligible to be a candidate for that office.

Choice of appointee

(5) When filling a vacancy under subsection (3) or (4), the municipal council or district education authority shall

- (a) appoint the candidate from the previous election who was not elected to that office but had the highest number of votes from among the unelected candidates, if such a candidate is available, still eligible and willing to accept the appointment; or
- (b) publicly request applicants for appointment and appoint a person from among them who would be eligible to be a candidate for that office.

Selecting among previous candidates by draw

(6) If, when making an appointment under paragraph (5)(a), two or more candidates are eligible to be appointed because they had the same number of votes, the municipal council or district education authority shall select for appointment one of those candidates by draw in the manner used by a returning officer under paragraphs 224.18(6)(a) to (e).

Term of appointee

(7) A person appointed or elected under this section holds office for the balance of the term of his or her predecessor.

Date for mayoral by-elections

(8) The Chief Electoral Officer shall fix one day each year for the holding of any by-elections needed to fill vacancies for mayors in that year.

Voters Lists

Preparation of voters lists

224.11. (1) The Chief Electoral Officer shall ensure the preparation of the voters lists for each election and compile the voters list no later than 35 days before election day.

Voters list for *Commission scolaire francophone*

(2) The Chief Electoral Officer may request the Minister responsible for the *Education Act* to provide the Chief Electoral Officer with information, collected by the Minister under that Act, in respect of rights holders to assist Elections Nunavut in registering voters for the election of members of the *Commission scolaire francophone*.

Distribution of voters list

(3) No later than the 20th day before election day, the Chief Electoral Officer or the returning officer shall send a copy of the most accurate voters list to any candidate who requests it.

Single copy to candidates

(4) A candidate is not entitled to a copy of the voters list at any time other than under subsection (3).

No voter information card

(5) No voter information cards are required in an election under this Part.

Requirements Related to Candidacy in a Local Election

No financial agents

224.12. (1) Section 72 and any other provisions of this Act or the regulations respecting financial agents do not apply to an election under this Part.

No photographs

(2) Section 73.1 and any other provisions of this Act or the regulations respecting photographs of candidates do not apply to an election under this Part.

No deposit

(3) No deposits from candidates are required in an election under this Part.

Verification re disqualification

(4) The Chief Electoral Officer may issue directions requiring prospective candidates to provide the returning officer with a declaration or written confirmation that they are not disqualified under sections 224.5 or 224.6, as the case may be.

Refusal of candidacy

(5) In addition to the provisions of section 75, a returning officer shall refuse to accept a declaration of candidacy and shall reject the candidacy of a person where the returning officer is aware that the person is ineligible to be a candidate under sections 224.5 to 224.7, as the case may be.

After Close of Candidacy

Election by acclamation

224.13. (1) If at the close of candidacy the number of eligible candidates for election to an office does not exceed the number of persons required to be elected for that office,

- (a) no election shall be held for that office;
- (b) the candidate or candidates are deemed to be elected by acclamation; and
- (c) any remaining vacancies shall be filled in accordance with section 224.10.

Holding an election

(2) Subject to subsection (1), an election shall be held for an office if, at the close of candidacy, the number of eligible candidates for election to that office exceeds the number of persons required to be elected.

Ballots

Ballots

224.14. The returning officer shall cause the ballots to be printed in the form approved for the election.

Voting Methods

Methods of voting

224.15. (1) A voter may, where allowed under this Act, vote in an election using one of the following methods:

- (a) voting in person at a polling station on election day;
- (b) voting in person at a polling station at an advance vote; or
- (c) voting in person at a mobile poll.

Additional voting methods

(2) On request by a municipal council or district education authority, as the case may be, the Chief Electoral Officer may authorize that one or more of the following additional voting methods be made available to voters in its election:

- (a) voting in person in the office of the returning officer under section 119;
- (b) voting by sending a special ballot under section 101;
- (c) voting by proxy under section 123;
- (d) voting by telecommunications device under section 120.

Exception

(3) The Chief Electoral Officer may decline to authorize the use of the additional voting methods in subsection (2) if he or she believes on reasonable grounds that

- (a) the additional number of voters that would be served in the election by the voting method is not significant; and
- (b) the cost of providing the voting method would not be justified in the circumstances.

Special ballots

- (4) If special ballots are made available in an election,
- (a) the Chief Electoral Officer shall adapt the provisions related to special ballots for the purposes of the election; and
 - (b) the special ballots for the election shall be in the approved form.

Operation of Polling Places and Other Procedures

Directions

224.16. (1) The Chief Electoral Officer may give directions on the operation of the polls and polling places and the procedures for voting and counting the votes that modify or adapt any provision of this Act or the regulations to an election under this Part.

Local time

- (2) Local time is to be followed for when the polls are open.

Presence of candidates or representatives

(3) A candidate or his or her representative may be present in one central polling place or a building with multiple polling stations.

Vote Count and Declaration of Results

Counting the votes

224.17. (1) The returning officer shall count all valid votes and rank the candidates for each office in descending order of the number of votes received by each candidate.

Declaration of elected candidate

(2) The returning officer shall, in the approved form, declare elected the candidate for each office who received the highest number of votes and such further candidates in descending order as may be required to fill the remaining vacancies, if any.

Time of declaration

(3) The declaration shall be made as soon as practicable after the votes are counted.

Record of elected candidates

(4) Each municipal corporation and district education authority shall record the names of the persons elected as its members.

Publication of election result

(5) Notice of the election result for each election shall be made public in accordance with the directions of the Chief Electoral Officer and is not required to be published in the *Nunavut Gazette*.

Administrative Recount

Automatic recount

- 224.18.** (1) The returning officer shall conduct a recount under this section if
- (a) the difference between the number of votes in favour of two or more candidates for the same office is nil or less than 2 % of the total number of votes cast in the election for that office; and
 - (b) the recount is needed to determine the successful candidate for mayor or for the last vacancy for office as a councillor or a member of a district education authority.

Application for recount

(2) If there is a difference of 25 votes or less between the number of votes cast for a candidate declared elected and a candidate who was not elected, a candidate who was not declared elected may, within 10 days after election day, apply to the returning officer for a recount under this section.

Procedure for recount

(3) The recount shall be conducted in accordance with the directions of the Chief Electoral Officer, which may provide that the recount be conducted by the Chief Electoral Officer or a person designated by the Chief Electoral Officer, instead of the returning officer.

No recount by judge

(4) An application by a returning officer for a recount under section 142 in respect of an election under this Part shall be made in accordance with section 224.19.

Tie vote

(5) If the recount results in an equality of votes between the candidates, the returning officer shall apply to a justice of the peace for a recount under section 224.19, unless these candidates agree to have the winner chosen by draw under subsection (6).

Choosing the winning candidate by draw

- (6) Where the candidates agree under subsection (5), the returning officer shall
- (a) write their names separately on blank pieces of paper;
 - (b) fold the pieces of paper in such a way that the names are concealed;
 - (c) deposit them in a receptacle;
 - (d) withdraw one of the pieces of paper from the receptacle; and
 - (e) declare as elected the candidate whose name appears on the paper withdrawn by the returning officer.

Recount by machine

(7) If the ballots were counted by a vote tabulation machine, the recount may be done by machine alone, or if one of the candidates affected by the recount objects, the recount shall be done by both a hand count and a machine count.

Discrepancy

(8) If there is a discrepancy between the results of a hand count and a machine count, the returning officer conducting the recount shall use the count that appears most accurate.

Recount by Justice of the Peace

Recount by justice of the peace

224.19. (1) The provisions respecting a judicial recount under sections 142 to 152 are adapted in their application to an election under this Part as follows:

- (a) an application for a recount is to be made to and determined by a justice of the peace instead of the Nunavut Court of Justice and a judge;
- (b) the recount is to be conducted and the application made and determined in a manner similar to sections 142 to 149, with such modifications as the circumstances require;
- (c) the deadline for a voter to apply for a recount is the 4th day after the declaration of the result;
- (d) subsection 143(4) and section 150 do not apply to the recount;
- (e) if the recount results in a tie, the justice of the peace shall determine the result by draw in the manner used by a returning officer under paragraphs 224.18(6)(a) to (e).

No appeal

(2) The decision of a justice of the peace in a recount is final and no appeal may be made under section 152.

Election Contributions and Expenses

Election finance provisions inapplicable

224.20. Sections 168 to 185 do not apply to elections under this Part.

Resolving Administrative Errors or Defects

Administrative error or defect

224.21. (1) The Chief Electoral Officer may, after consulting with the appropriate Minister, set aside the declaration of a returning officer for an election and call a by-election if the Chief Electoral Officer

- (a) becomes aware of an administrative error or a defect in equipment used in the election within 21 days after the election day;
- (b) is satisfied that the error or defect affected the outcome of the election; and
- (c) is satisfied that a by-election is the best manner of redressing the situation.

Voiding an election

(2) If the Chief Electoral Officer takes action under subsection (1), no application shall be made to, or continued with, the court to void that election under section 154.

Election Officers

Returning Officers

224.22. (1) Each municipal corporation and district education authority shall appoint a returning officer for its election.

Remuneration

(2) Each municipal corporation and district education authority shall pay its returning officer such remuneration as it determines.

Term of office

(3) Each returning officer holds office until the results of the election are final.

Resignation

(4) Each municipal corporation and district education authority is responsible for accepting any resignation of its returning officer or removing and appointing a new returning officer.

Office of the returning officer

(5) Each municipal corporation and district education authority shall provide or arrange for a place to serve as the office of the returning officer no later than 40 days before election day.

Other provisions for election officers

224.23. (1) The provisions respecting election officers under sections 202 to 206 are adapted in their application to an election under this Part as follows:

- (a) subsections 203(5) and (6) and subsection 205(1) do not apply;
- (b) a person is only ineligible to be an election officer if they are a candidate or were convicted of an offence under this Act, the *Plebiscites Act*, the *Canada Elections Act*, the *Criminal Code* or an enactment of Canada, a province or another territory relating to elections or plebiscites;
- (c) registration clerks are to be paid by Elections Nunavut; and

- (d) all other election officers in an election are to be paid by the municipal corporation or district education authority, as the case may be.

Publication of appointments

(2) Notice of the appointment of election officers under this Part shall be made public in accordance with the directions of the Chief Electoral Officer and is not required to be published in the *Nunavut Gazette*.

Tabulation Machines

Use of tabulation machines

224.24. (1) The Chief Electoral Officer may

- (a) authorize the use of vote tabulation machines in an election under this Part;
- (b) provide a returning officer with vote tabulation machines;
- (c) approve standards for tabulation machines, including their accuracy, security and auditability; and
- (d) issue instructions for the use and operation of vote tabulation machines and the procedures at the poll where they are used.

Prohibition

(2) No person shall use or allow the use of a vote tabulation machine in an election unless

- (a) the Chief Electoral Officer has authorized its use; and
- (b) the machine was provided by the Chief Electoral Officer or complies with approved standards.

Operation

(3) If vote tabulation machines are authorized for use in an election,

- (a) the returning officer shall assign election officers to operate the vote tabulation machines; and
- (b) the election officers shall operate the vote tabulation machines in accordance with the instructions of the Chief Electoral Officer.

Joint or Combined Elections

Agreement

224.25. (1) A municipal corporation and a district education authority in the same municipality may, with the consent of the Chief Electoral Officer, make an agreement for

- (a) one of them to conduct an election on behalf of the other; or
- (b) both of them to conduct their elections jointly.

Deadline

(2) To be effective, an agreement under subsection (1) must be made prior to the 35th day before the election day for the election in respect of which it is made.

Powers and duties

- (3) For greater certainty, an agreement made under subsection (1) may provide for
- (a) one of them to have all or any of the powers and duties of the other in respect of an election;
 - (b) the appointment of a single returning officer for both of their elections;
 - (c) an election officer appointed by one of them to act on behalf of the other;
 - (d) their respective contribution to the costs of conducting their elections; and
 - (e) other matters relevant to the conduct of their elections under the agreement.

Responsibility

(4) A municipal corporation or district education authority that conducts an election on behalf of the other is responsible for compliance with this Act.

Size of polling station

(5) For greater certainty, the limit of 550 voters for one polling station applies to elections conducted under an agreement made under subsection (1).

Acting by resolution and in accordance with directions

224.26. Each municipal corporation or district education authority shall, in the performance of its duties or the exercise of its powers in respect of an election,

- (a) act by resolution, unless specifically permitted or required by law to act otherwise; and
- (b) act in accordance with any instructions, directions or guidelines of the Chief Electoral Officer.

Offences

Inapplicable offences

224.27. (1) Sections 258 and 267 do not apply to elections under this Part.

Additional offence

(2) A person is guilty of an offence if he or she, without authority under this Act, destroys, takes, opens or otherwise interferes with the information within, or the use of, any vote tabulation machine.

9. Subsection 30(1) of the *Public Service Act* is amended by

- (a) repealing the definition of "local election" and substituting the following:**

"local election" means an election, under Part VIII.1 of the *Nunavut Elections Act*, for a full-time, paid member of a local authority; (*élection locale*)

(b) adding the following definition in alphabetical order:

"member of a local authority" means

- (a) the mayor or a councillor of a municipal corporation,
- (b) a member of a district education authority, as defined in Part VIII.1 of the *Nunavut Elections Act*, or
- (c) the chairperson or a member of the council of a settlement;
(*membre d'une administration locale*)

10. (1) The *Settlements Act* is amended by this section.

(2) Subsection 1(1) is amended by

- (a) **striking "the *Local Authorities Elections Act*" in the definition of "election" and substituting "Part VIII.1 of the *Nunavut Elections Act*"; and**
- (b) **adding "under Part VIII.1 of the *Nunavut Elections Act*" after "an election" in the definition of "election day".**

(3) Paragraph 5(2)(e.1) is repealed and the following substituted:

- (e.1) request the Chief Electoral Officer to conduct the first election of the council in accordance with Part VIII.1 of the *Nunavut Elections Act*;

(4) The following is added after subsection 5(3):

Consultation with Chief Electoral Officer

(4) Before making an order under this section, the Minister must consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

(5) Section 10 is amended by striking "election day" wherever it appears and substituting "the 35th day before election day".

(6) Section 12 is repealed and the following substituted:

Term of office

12. (1) Subject to this Act, all council members hold office for four years.

Dates for term of office

(2) The term of office of a council member

- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
- (b) ends at 12 noon on the day after the next election day.

(7) Subsection 13(1) is amended by striking "the *Local Authorities Elections Act*" and substituting "Part VIII.1 of the *Nunavut Elections Act*".

(8) The following is added after section 49:

Employees seeking election

49.1. (1) An employee who wishes to be a candidate for election to a council shall apply in writing for a leave of absence from his or her employment.

Applications

- (2) The application for leave shall be made to
 - (a) the senior administrative officer, in the case of applications by employees other than the senior administrative officer; and
 - (b) the council, in the case of an application by the senior administrative officer.

Granting a leave of absence

- (3) If an employee applies for a leave of absence under this section, a leave of absence without pay shall be granted to the employee for a period
 - (a) beginning on the day the employee signs his or her declaration of candidacy; and
 - (b) ending on the earlier of the day on which the results of the election are declared or the day he or she has ceased to be a candidate.

Ceasing employment

- (4) An employee who is elected as a council member ceases to be an employee.

(9) Section 83 is repealed and the following substituted:

Return of control to council

83. (1) Where the Minister is of the opinion that a settlement corporation under the control of a settlement administrator should be returned to the control of a council, the Minister may

- (a) request the Chief Electoral Officer to conduct an election for new council members in the same manner as the first election of a council; and
- (b) by order, provide for the transition of control from the settlement administrator to the newly elected council and revoke the order issued under section 72.

Consultation with Chief Electoral Officer

(2) Before making an order under this section, the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

Transitional

11. Despite the *Cities, Towns and Villages Act*, the *Education Act*, the *Hamlets Act*, the *Local Authorities Elections Act* and the *Settlements Act*,

- (a) no general election shall be held in October or December 2018 under the *Local Authorities Elections Act* to replace members of a municipal council, settlement council or a district education authority;**
- (b) if the term of office of a member of a municipal council, settlement council or district education authority, holding office on October 1, 2018, would expire before 12 noon on the day after election day for the first general election held in October 2019 under the *Nunavut Elections Act*, the term is extended to expire on that date;**
- (c) if the term of office of a member of a municipal council, settlement council or district education authority, holding office on October 1, 2018, would continue after 12 noon on the day after election day for the first general election held in October 2019 under the *Nunavut Elections Act*, the term expires on that date; and**
- (d) where the office of a member of a municipal council, settlement council or district education authority, holding office on October 1, 2018, becomes vacant for any reason before 12 noon on the day after election day for the first general election held in October 2019 under the *Nunavut Elections Act*, the municipal council, settlement council or district education authority shall fill the vacancy by appointing a person who is eligible as a candidate under the *Local Authorities Elections Act*.**

Commencement

12. (1) Section 11 of this Act shall come into force on October 1, 2018.

(2) Sections 1 to 10 of this Act shall come into force on April 1, 2019.