

Chapter 3

AN ACT TO AMEND THE NUNAVUT ELECTIONS ACT

(Assented to March 29, 2007)

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

1. The *Nunavut Elections Act* is amended by this Act.

2. Subsection 2(1) is amended by repealing the definitions "candidate", "charitable organization", "close of nominations" and "election expense" and substituting the following in alphabetical order:

"candidate" means a person whose declaration of candidacy at an election is accepted under subsection 75(4); (*candidat*)

"charitable organization" means

- (a) a society as defined in the *Societies Act*, in good standing,
- (b) a charitable organization within the meaning of the *Income Tax Act* (Canada), or
- (c) a municipal corporation; (*organisme de charité*)

"close of candidacy" means 2:00 pm on the 31st day before election day; (*clôture des candidatures*)

"election expense" means any amount paid or liability incurred during an election period to promote or oppose the election of a candidate, including

- (a) any contribution of services or goods, and
- (b) the costs of the financial agent and any campaign manager; (*dépense électorale*)

3. The English version of paragraphs 4(14)(b) and (c) are repealed and the following substituted:

- (b) generally remains unoccupied by him or her for the balance of the year,

unless, at a general election, the person has no residence in any other constituency to which he or she might move on that day.

4. The French version of subsection 5(1) is amended by renumbering paragraphs c), d), e) and f) as a), b), c) and d) respectively.

5. (1) The portion of subsection 11(2) preceding paragraph (a) is amended by striking out "on election day" and substituting "on the day the person files his or her declaration of candidacy".

(2) Paragraphs 11(2)(f), (g) and (h) are repealed and the following substituted:

- (f) is not resident in Nunavut; or
- (g) is confined to a penal or correctional institution.

(3) The following is added after subsection 11(2):

Ineligible candidates – no financial return

(2.1) A person is not eligible to be a candidate if, on the day the person files his or her declaration of candidacy,

- (a) the person was a candidate or financial agent in a previous election;
- (b) the financial return required for the previous election was not prepared, sent to and received by the Chief Electoral Officer in accordance with this Act, as it read at that time; and
- (c) the period of time between the deadline for sending the financial return, including any lawful extension of time, and election day is five years or less.

6. (1) Subsection 15(1) is amended by striking out "population of" and substituting "number of voters on the most accurate, current voters list in".

(2) Paragraph 15(3)(b) is amended by striking out "of the" and substituting "if there is a".

7. (1) Subsection 58(4) is amended by striking out "preliminary list of electors" and substituting "voters list".

(2) Subsection 58(5) is amended by striking out "revised list of voters" and substituting "voters list".

8. Section 70, and the subheading "Nomination of Candidates" immediately preceding it, are repealed and the following substituted:

Declaration of Candidacy

Declaration of candidacy

70. (1) Any person eligible to be a candidate may make a written declaration of candidacy in the approved form that he or she intends to be a candidate for a constituency in which an election is to be held.

Filing period

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

9. Subsections 73(2) and (5) are repealed.

10. Section 75 is repealed and the following substituted:

Refusal of candidacy

75. (1) 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

- (a) the declaration of candidacy is not properly completed or is filed after the close of candidacy;
- (b) the person has declared himself or herself as a candidate in more than one constituency; or
- (c) the person is ineligible to be a candidate under paragraph 11(2)(a), (b), (c) or (d) or subsection 11(2.1).

Corrections

(2) Where a declaration of candidacy is rejected because it is not properly completed, the declaration of candidacy may be corrected, completed or replaced with a new one before the close of candidacy.

Multiple declarations

(3) If a person files a declaration of candidacy in more than one constituency, all the declarations for that person are void and the person shall not be a candidate in the election.

Acceptance certificate

(4) Unless the declaration of candidacy is rejected under subsection (1), the returning officer shall accept the declaration of candidacy and issue to the prospective candidate a certificate indicating the acceptance of the declaration of candidacy.

11. Subsection 77(3) is repealed and the following substituted:

Consequences

(3) No declaration of candidacy may be filed or accepted after the close of candidacy even if a candidate withdraws after that deadline in accordance with subsection (1).

12. Section 79, and the subheading "After Close of Nominations" immediately preceding it, are repealed and the following substituted:

After Close of Candidacy

Sending copy of declaration

79. Immediately after issuing an acceptance certificate under subsection 75(4), the returning officer shall send to the Chief Electoral Officer a copy of

- (a) the declaration of candidacy;

- (b) all documents accompanying the declaration of candidacy; and
- (c) the acceptance certificate.

13. Subsections 80(1) and (2) are repealed and the following substituted:

Election by acclamation

80. (1) If at the close of candidacy there is only one candidate in a constituency, no election shall be held in the constituency and the candidate is deemed to be elected by acclamation.

Withdrawal of candidate

(2) If, as a result of the withdrawal of a candidate before 5:00 p.m. on the day of the close of candidacy, there is only one candidate remaining in a constituency and the election is not postponed, no election shall be held in the constituency and the remaining candidate is deemed to be elected by acclamation.

14. Section 81 is repealed and the following substituted:

Holding an election

81. Subject to section 80, an election shall be held in a constituency if at the close of candidacy there is more than one candidate in the constituency.

15. Subsection 84(2) is repealed and the following substituted:

Distribution of notice

(2) The returning officer shall, no later than the 28th day before election day, send a copy of the election notice to the Chief Electoral Officer and to each candidate in the constituency.

16. The following is added after subsection 94(1):

Holiday

(1.1) If the day of the advance vote is a holiday, the day of the advance vote shall be Tuesday the 6th day before election day.

17. (1) The English version of subsection 97(2) is amended by striking out "Elections" and substituting "Electoral".

(2) Subsection 97(4) is repealed.

18. Section 98 is repealed and the following substituted:

Recording Votes Cast Before Election day

Striking off names of voters

98. (1) The returning officer shall, each day during the period from the day of the advance vote to election day, ensure that the names of all voters who have voted in the

advance vote, in the office of the returning officer or at the mobile poll are struck off the voters list.

Information to candidates

(2) The returning officer shall, on the 3rd day before election day, notify the candidates of the names of the voters referred to in subsection (1).

19. Subsection 112(4) is repealed and the following substituted:

Voting quickly and leaving

(4) Each voter shall vote quickly and, as soon as the voter's ballot is deposited in the ballot box, he or she shall leave the polling station or other polling place and not loiter within 10 metres of that place.

20. The following is added after section 118:

Powers to control place of voting

118.1. (1) A deputy returning officer, acting as a peace officer, may

- (a) restrict or regulate the number of persons admitted at any time to a place where the vote is being conducted;
- (b) evict a person from a place where the vote is being conducted or its vicinity if the deputy returning officer has reasonable grounds to believe the person
 - (i) is not permitted to be present at that place,
 - (ii) is creating a disturbance at that place,
 - (iii) is interfering with the conduct of the proceedings, or
 - (iv) appears to be contravening any provision of this Act or the regulations;
- (c) require the person referred to in paragraph (b) to provide proof of identification; and
- (d) remove or have removed, from a place where the vote is being conducted or its vicinity, anything that in his or her opinion is being or has been used in the commission of an offence.

Compliance with order

(2) A person evicted under subsection (1) shall, without delay, leave the place where the vote is being conducted and its vicinity and shall not return while the election proceedings are being conducted, unless permitted to do so by the deputy returning officer.

21. Subsection 119(4) is amended by striking out ", but not including the day of the advance vote".

22. The following is added after subsection 123(3):

Electronic distribution

(3.1) Notwithstanding subsection (3), the Chief Electoral Officer may authorize the electronic distribution of applications for proxy certificates.

23. Subsection 126(1) is amended by striking out "proxy voter is qualified to vote" and substituting "voter who appointed the proxy voter is qualified to vote".

24. (1) Paragraph 131(2)(a) is repealed and the following substituted:

(a) the returning officer or assistant returning officer;

(2) The following is added after paragraph 131(2)(b):

(b.1) the Chief Electoral Officer and counsel for Elections Nunavut;

25. (1) Subsection 142(2) is amended by adding "financial" before "agents".

(2) The following is added after subsection 142(2):

Valid votes

(3) For greater certainty, only valid votes are to be counted for the purposes of subsection (1).

26. The following are amended by striking out "1,500" and substituting "2,500":

(a) subsection 169(3);

(b) paragraph 174(1)(b).

27. The following is added after section 172:

Prohibition on use of contributions

172.1. Subject to section 176, no person shall use a contribution made to a candidate for any purpose other than to pay an election expense for that candidate.

28. The following is added after section 181:

Auditor of financial returns

181.1. (1) The Chief Electoral Officer shall obtain the services of an auditor to audit financial returns.

Eligibility

(2) Only the following persons are eligible to be the auditor:

(a) a person who is a member in good standing of a corporation, an association or an institute of professional accountants in Canada;

- (b) a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants in Canada.

Written report

(3) The auditor shall make a written report to the Chief Electoral Officer on each financial return stating whether the return presents fairly the information contained in the accounting records on which the return is based.

Auditor's statements

(4) In the auditor's written report, the auditor shall make any statements that the auditor considers necessary if

- (a) the return does not present fairly the information contained in the accounting records on which it is based;
- (b) the auditor did not receive from the financial agent or the candidate all the information and explanations that the auditor requested; or
- (c) it appears that proper accounting records were not kept by the financial agent or candidate.

Generally accepted accounting principles

(5) The auditor shall apply generally accepted accounting and auditing principles when conducting the audit.

Examinations

(6) The auditor may make any examinations that the auditor considers necessary to enable the auditor to conduct the audit.

Access

- (7) Each financial agent and candidate shall provide the auditor with
- (a) access at all reasonable times to all records, documents, books, bank accounts and receipts relevant to the candidate's contributions and election expenses; and
 - (b) any information and explanation that, in the auditor's opinion, may be necessary to enable the auditor to make his or her report.

29. The French version of subsection 197(4) is renumbered as subsection 197(2).

30. Subsection 202(2) is repealed and the following substituted:

Term of office

(2) An assistant returning officer holds office, at the pleasure of the returning officer, until the end of the election period.

31. Subsection 209(2) is repealed and the following substituted:

Specific tasks

(2) Subject to subsection 203(7), no returning officer shall act as a deputy returning officer or poll clerk at a polling station.

32. Section 213 is repealed and the following substituted:

Application of *Electronic Commerce Act*

213. (1) Elections Nunavut is a public body within the meaning of the *Electronic Commerce Act* and that Act applies to information and documents under this Act.

Authority respecting electronic documents

(2) The Chief Electoral Officer may

- (a) use electronic means to create, collect, receive, store, transfer, distribute, publish or otherwise deal with documents or information;
- (b) establish information technology standards and acknowledgement rules for electronic documents;
- (c) issue electronic versions of forms and other documents used under this Act;
- (d) consent, or refuse to consent, to the acceptance of an electronic document; and
- (e) establish systems for the submission or sending of electronic documents under this Act.

Statements declaring truth, etc.

(3) A statement under this Act declaring or certifying that information given by a person making the statement is true, accurate or complete may be made in electronic form if the person signs it with that person's electronic signature.

Witnessed signatures

(4) A requirement under this Act for a signature to be witnessed is satisfied with respect to an electronic document if each signatory and each witness signs the electronic document with their electronic signature.

Internet

(5) The Chief Electoral Officer may establish a presence on the Internet to distribute and receive information and documents related to elections.

33. The following is added after paragraph 217(1)(a):

- (a.1) respecting electronic documents and electronic signatures for the purposes of this Act;

34. The following is added after section 247:

Disturbance or disruption

247.1. A person is guilty of an offence if he or she, in any manner, creates a disturbance or interferes with the conduct of the proceedings at, or within 10 metres of, a place where the vote is being conducted.

35. Subsection 268(3) is repealed and the following substituted:

Duration of prohibition

(3) The prohibition in subsection (2) begins on the day the person is convicted and continues for five years.

36. Each provision listed in Column 1 of the Schedule is amended by striking out the word or words set out in the same row of Column 2 of the Schedule, wherever they appear, and substituting the word or words set out in the same row of Column 3 of the Schedule.

CONSEQUENTIAL AMENDMENTS

Income Tax Act

37. (1) The *Income Tax Act* is amended by this section.

(2) The following are amended by striking out "official agent" wherever it appears and substituting "financial agent":

- (a) subsection 5(3);**
- (b) subsection 6(1).**

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

Issue of receipts

(3.1) The financial agent shall, in accordance with the *Nunavut Elections Act*, issue a receipt referred to in subsection (3) only to the contributor who made it and only in respect of the contribution for which it provides evidence.

(4) Subsection 6(2) is repealed.

SCHEDULE

COLUMN 1 Provisions Amended	COLUMN 2 Word or Words Struck Out	COLUMN 3 Word or Words Substituted
<ul style="list-style-type: none"> • French version of paragraph 21(1)(f) 	"Qaujimajatuqangit inuit"	"Inuit Qaujimajatuqangit"
<ul style="list-style-type: none"> • French version of subsection 22(1) 	"Qaujimajatuqangit inuit"	"Inuit Qaujimajatuqangit"
<ul style="list-style-type: none"> • subsection 33(2) • paragraph 73.1(a) • subsection 78(1) • subsection 84(1) • subsection 89(1) 	"close of nominations"	"close of candidacy"
English version of: <ul style="list-style-type: none"> • subsection 74(1) • paragraphs 160(2)(b) and (c) 	"nomination paper"	"declaration of candidacy"
<ul style="list-style-type: none"> • subsections 71(1) 	"receive nomination papers"	"accept declarations of candidacy"
<ul style="list-style-type: none"> • subsections 71(2) 	"receive the nomination papers"	"accept declarations of candidacy"
<ul style="list-style-type: none"> • paragraph 71(2)(a) 	"receive nominations"	"accept declarations of candidacy"
English version of: <ul style="list-style-type: none"> • subsections 72(1) and (3) • subsections 73(1) and (3) • paragraph 73(4)(b) • subsection 80(4) 	"nomination papers"	"declaration of candidacy"
<ul style="list-style-type: none"> • subsection 77(1) 	"nominations close"	"of the close of candidacy"
<ul style="list-style-type: none"> • French version of subsection 80(3) 	"sans concurrent"	"par acclamation"
<ul style="list-style-type: none"> • paragraph 80(3)(a) 	"an election return"	"a return of the writ and an election report"
<ul style="list-style-type: none"> • paragraph 80(3)(b) • subsection 80(4) 	"return"	"election report"
<ul style="list-style-type: none"> • French version of subsection 128(3) 	"respectifen"	"respectif en"
English version of: <ul style="list-style-type: none"> • subsection 149(1) • subsections 153(1), (2), (4) and (5) 	"return to the writ"	"return of the writ"

COLUMN 1 Provisions Amended	COLUMN 2 Word or Words Struck Out	COLUMN 3 Word or Words Substituted
• English version of the heading preceding section 153	"Return to the Writ"	"Return of the Writ"
• subsection 153(6)	"election report"	"return of the writ"
• paragraphs 168(1)(b) and (2)(b)	"nominated as a candidate"	"accepted as a candidate"
• subsection 190(2)	"nomination period"	"period for filing declarations of candidacy"
• English version of paragraph 210(b)	"return to the writs"	"returns of the writs"
• subsection 257(1)	"signs a nomination paper consenting to be a candidate at"	"files a declaration of candidacy in"