

Chapter 14

AN ACT TO AMEND THE NUNAVUT ELECTIONS ACT

(Assented to December 2, 2005)

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**
 - (a) **repealing the definition "campaign material" and substituting the following:**

"campaign material" means any advertisement, including advertisements on the radio, television and the Internet as well as placards, posters or banners, in favour of or on behalf of a candidate or against a candidate; (*matériel utilisé au cours de la campagne électorale*)

- (b) **repealing the definition "charitable organization" and substituting the following:**

"charitable organization" means a "society" as defined in the *Societies Act*; (*organisme de charité*)

- (c) **adding the following definitions in alphabetical order:**

"court" means the Nunavut Court of Justice, except in paragraph 11(2)(b); (*Cour*)

"financial return" means the return respecting election contributions and expenses required under section 180, including the declarations by the candidate and financial agent required by that section; (*rapport financier*)

3. **Paragraphs 4(9)(b) and (c) are repealed and the following substituted:**

- (b) any place, in the constituency in which the candidate seeks election, that candidate selects as a place of residence for the purposes of the election; or

4. **The English version of subsection 7(2) is amended by renumbering paragraphs "(c)" and "(d)" as "(b)" and "(c)".**

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 Subsection 15(2) is repealed and the following substituted:

Electoral quotient

(2) The electoral quotient for Nunavut equals the number of voters on the most accurate, current voters list for Nunavut, as certified by the Chief Electoral Officer, divided by the number of constituencies.

6. The English version of subsection 27(5) is amended by striking out "Boundary".

7. Paragraph 32(2)(b) is amended by striking out "450" and substituting "550".

8. The English version of that portion of subsection 39(1) preceding paragraph (a) is amended by striking out the comma after "receives".

9. (1) Paragraph 58(1)(a) is amended by striking out "adding" and substituting "recording".

(2) That portion of subsection 58(2) preceding paragraph (a) is repealed and the following substituted:

Additions to voters list

(2) A returning officer shall record on the statement of revisions that a voter is to be added to the voters list, or the information on the preliminary voters list is to be corrected, where

(3) That portion of subsection 58(3) preceding paragraph (a) is repealed and the following substituted:

Striking from the list

(3) A returning officer shall record on the statement of revisions that a voter is to be struck from the voters list where

10. The following are added after paragraph 72(2)(a):

- (a.1) an individual not resident in Nunavut;
- (a.2) a corporation, unless it is authorized to carry on the business of accounting in Nunavut;

11. (1) Subsection 75(1) is repealed and the following substituted:

Refusal of nomination

75. (1) A returning officer shall refuse to accept the nomination papers and shall reject the candidacy of a person where the returning officer is aware that

- (a) the nomination papers are incomplete or were not filed before the deadline;

- (b) all the necessary documents for the nomination were not properly filed according to the requirements of this Act;
- (c) the person has been nominated as a candidate in more than one constituency; or
- (d) the person is ineligible to be a candidate under paragraph 11(2)(a), (b), (c), (d) or (g).

(2) Subsection 75(4) is repealed and the following substituted:

Certificate

(4) Unless the nomination paper is rejected under subsection (1), the returning officer shall issue to the prospective candidate a certificate indicating that the prospective candidate's nomination paper has been accepted.

12. The following is added after section 75:

Notice of suspected ineligibility

75.1. (1) If the returning officer or the Chief Electoral Officer has reason to suspect that the candidacy of a person should be rejected on grounds other than those listed in subsection 75(1), he or she shall immediately notify the prospective candidate of the suspicion and the reasons for it in the approved form.

Notice to Chief Electoral Officer

(2) A returning officer must also send a copy of any notice he or she makes under subsection (1) to the Chief Electoral Officer at the same time.

Time for submission

(3) The prospective candidate must make any submissions to the Chief Electoral Officer immediately on being notified of the suspicion of being ineligible.

Decision of Chief Electoral Officer

(4) The Chief Electoral Officer shall, after considering any submissions on behalf of the prospective candidate and no later than 2 days after the close of nominations, make a decision on whether the person is ineligible and his or her candidacy is to be rejected.

Appeal of Chief Electoral Officer's decision

(5) Despite section 216, any party aggrieved by the decision of the Chief Electoral Officer under subsection (4) may, by originating notice within 2 days after being notified of the decision, appeal the decision to the court.

Hearing of appeal

(6) A judge shall hear any appeal from the Chief Electoral Officer's decision no later than 10 days after the day the court is seized with the appeal application and shall render a decision as soon as possible.

Practice and procedure

(7) Subject to this Act, the Rules of the Nunavut Court of Justice and the practice and procedure of the court apply to the application with such modifications as the circumstances require.

Cancellation of election

(8) If an appeal is made under subsection (5), the Chief Electoral Officer shall cancel the election in that constituency.

New election

(9) After the judge hearing the appeal renders a decision,

- (a) the Chief Electoral Officer shall fix a new election day and issue a writ for a new election; and
- (b) the new election shall be conducted in the usual manner.

13. Section 79 is repealed and the following substituted:

Transmission of nomination paper

79. Immediately after accepting a nomination paper under section 75, the returning officer shall send to the Chief Electoral Officer a copy of

- (a) the nomination paper;
- (b) all documents accompanying the nomination paper; and
- (c) the certificate issued to the prospective candidate.

14. That portion of subsection 89(1) preceding paragraph (a) is repealed and the following substituted:

Documentation

89. (1) The Chief Electoral Officer shall, as soon as possible after the close of nominations, send to each returning officer

15. The English version of that portion of subsection 92(2) preceding paragraph (a) is amended by striking out "station:" and substituting "station,".

16. The following is added after subsection 94(2):

Deemed advance vote

(3) Voting in the office of the returning officer, under section 119, on Monday the 7th day before election day is deemed to be an advance vote as required by this section.

17. Subsections 96(2) and (3) and 97(4) are amended by striking out "register" and substituting "record".

18. Subsection 99(4) is amended by adding "penal or" before "correctional".

19. Subsection 100(3) is repealed and the following substituted:

Registration

(3) A voter who applies for a special ballot but who is not included on a preliminary voters list must first register before a special ballot may be provided to him or her.

Record

(4) When a voter is provided with a special ballot, the Chief Electoral Officer or returning officer shall ensure that a record is made that the voter has received a special ballot.

Sole method of voting

(5) A voter who is provided with a special ballot is not entitled to vote by any other method.

20. Subsection 104(1) is repealed and the following substituted:

Hours of the polling station

104. (1) On election day, the polling stations shall be open from 9 a.m. to 7 p.m. Central Standard Time, as modified by Daylight Saving Time when applicable, for all constituencies.

21. The English version of paragraph 110(1)(c) is amended by striking out "candidates" and substituting "candidate's".

22. Subsection 120(1) is repealed and the following substituted:

Voting by radio or satellite phone

120. (1) A voter who has the right to vote in a constituency may vote by radio or telephone if

- (a) the voter is unable to vote at a polling station on election day because of remoteness;
- (b) the voter is able to communicate by radio or telephone, including mobile or satellite phone; and
- (c) the voter had no other means of voting before going to this remote location.

23. The following is added after subsection 121(3):

Suspension of voting in office of returning officer

(4) The returning officer may suspend voting in his or her office on the day of the advance vote and use that poll to conduct the mobile poll.

24. Subsection 123(4) is repealed and the following substituted:

Forms for application and certificates

(4) All applications for a proxy certificate and all proxy certificates must be in the approved form and each proxy certificate must be separately numbered.

25. Subsection 129(2) is repealed.

26. The English version of subsection 131(4) is amended by striking out "the" before "envelopes".

27. That portion of subsection 132(1) preceding paragraph (a) is amended by striking out "agents of the candidates" and substituting "candidates or their representatives".

28. Subsection 133(1) is amended by striking out "polling record" and substituting "statement of the poll and on the back of the ballot".

29. (1) The English version of paragraph 135(4)(c) is amended by striking out "and".

(2) Paragraph 135(4)(d) is amended by striking out the period at the end of the paragraph and substituting "; and".

(3) The following is added after paragraph 135(4)(d):

(e) a record of the ballots.

30. (1) Subsection 136(1) is repealed and the following substituted:

Counting special ballots

136. (1) On election day, immediately after the close of the polls, a deputy returning officer appointed by the Chief Electoral Officer for the purposes of administering the special ballots shall open the ballot boxes used for the special ballots, open the secrecy envelopes and count the votes.

(2) Subsection 136(2) is amended by striking out "Chief Electoral Officer" wherever it appears and substituting "deputy returning officer".

31. (1) Subsection 137(1) is amended by striking out "Chief Electoral Officer" where it first appears and substituting "deputy returning officer appointed by the Chief Electoral Officer".

(2) Subsection 137(2) is repealed and the following substituted:

Informing returning officer

(2) The deputy returning officer appointed by the Chief Electoral Officer shall inform the returning officer of each affected constituency of the number of votes cast for each candidate and the number of special ballots rejected during the count.

32. The English version of subsection 146(2) is amended by striking out "it" before "if".

33. Subsection 153(3) is repealed and the following substituted:

Sending return

(3) The returning officer shall send the return of the writ to the Chief Electoral Officer as soon as it is complete.

34. Section 165 is repealed and the following substituted:

Managing documents and ballot boxes

165. (1) The returning officer shall manage and then send to the Chief Electoral Officer, for storage or destruction, the ballot boxes and all election material as directed by the Chief Electoral Officer.

Preservation of election material

(2) The Chief Electoral Officer shall ensure that all election material, including all returns and documents generated or received in respect of an election, are maintained in accordance with accepted archival standards.

Destruction

(3) The ballots, ballot envelopes and unsigned election material may be destroyed 12 months after the date of publication of the notice of the election result in the *Nunavut Gazette*, unless they are required for a future use, an archival purpose or an application or proceeding under this Act.

35. (1) Subsection 168(4) is repealed and the following substituted:

Group contributions

(4) Subject to subsection 47(1) of the *Public Service Act*, an unincorporated association or organization may make contributions to a candidate during an election period in the same manner as a corporation, if the association or organization

- (a) attaches to each contribution a list of the individual sources and amounts making up the contribution; or
- (b) if the number of the individual sources is greater than 25, has a list of those sources available for public inspection.

(2) Subsection 168(5) is repealed and the following substituted:

Maximum contribution

(5) Subject to subsection (8), no individual, corporation or unincorporated association or organization shall make contributions to a candidate exceeding \$2,500 in total during an election period.

(3) Subsection 168(8) is amended by striking out "\$1,500" and by substituting "\$2,500".

36. Subsections 176(1) to (3) are repealed and the following substituted:

Surplus contributions

176. (1) Subject to subsection 178(7), the financial agent shall, before the end of the post election period, give any contributions that were not expended on his or her candidate's campaign to

- (a) a charitable organization of the candidate's choice; or
- (b) the Consolidated Revenue Fund.

Cheque or receipt to Chief Electoral Officer

(2) The financial agent shall,

- (a) in the case of a gift to a charitable organization, send a copy of the receipt issued by the organization to the Chief Electoral Officer no later than 30 days after making the gift; or
- (b) in the case of a gift to the Consolidated Revenue Fund, send a cheque payable to that fund to the Chief Electoral Officer.

No tax benefit

(3) No financial agent or candidate shall gain any benefit under the *Income Tax Act* (Nunavut) or *Income Tax Act* (Canada) for the gift of a surplus contribution.

37. Subsections 178(4) and (5) are repealed and the following substituted:

Proof of expenses

(4) Every financial agent shall ensure that every payment in respect of an election expense is proved by a receipt or bill providing details of the expense.

38. Section 180 and the heading immediately preceding it are repealed and the following substituted:

Financial Returns

Preparation of financial return

180. (1) Every financial agent shall, before the end of the post election period, prepare for his or her candidate an accurate, signed financial return in the approved form.

Sending financial return

(2) Every candidate shall, before the end of the post election period, send the financial return to the Chief Electoral Officer in the approved manner.

Contents of financial return

(3) Each financial return sent to the Chief Electoral Officer must contain

- (a) detailed statements in respect of the candidate of
 - (i) the total amount of contributions received during the election period,
 - (ii) the total amount of contributions received after election day but deemed to have been made during the election period under subsection 176(5),
 - (iii) the individual amounts of contributions in excess of \$100 and the name and address of each such contributor,
 - (iv) the gross amount collected at any meeting, dance, dinner or other function and the name of each sponsor of the meeting, dance, dinner or other function, and
 - (v) all election expenses including disputed claims and unpaid claims;
- (b) all receipts and bills proving payment of election expenses as required by subsection 178(4);
- (c) a declaration signed by the financial agent certifying that the financial return is accurate, complete and does not contain any false or misleading information; and
- (d) a declaration signed by the candidate certifying that the financial return is accurate, complete and does not contain any false or misleading information.

Application for extension of time

(4) A candidate or his or her financial agent may apply to the Chief Electoral Officer for an extension of the time limit for sending to the Chief Electoral Officer the financial return required under subsection (2).

Exception

(5) No application for an extension of time may be made to the Chief Electoral Officer in respect of a candidate declared elected.

Deadline

(6) An application for an extension of time made to the Chief Electoral Officer must be made before the end of the post election period.

Extension of time

(7) The Chief Electoral Officer may, on an application under subsection (4), extend the time limit for sending the financial return for such period of time as the Chief Electoral Officer considers appropriate.

Effect of death of candidate

(8) If a candidate dies before completing his or her obligations under this section, the financial agent shall send the financial return to the Chief Electoral Officer.

39. (1) The following is added after subsection 182(1):

Publication of non-compliant candidates

(1.1) The Chief Electoral Officer shall, as soon as is reasonably practicable, cause a notice to be published in the *Nunavut Gazette* of the names of any candidates and financial agents who failed to comply with section 180.

(2) Subsections 182(3) and (4) are repealed.

40. Section 186 is repealed and the following substituted:

Requirement to identify candidate and others

186. All campaign material must identify the candidate for whom it is made and the candidate's campaign manager, sponsor or financial agent, in accordance with guidelines of the Chief Electoral Officer.

41. The English version of subsection 188(1) and paragraph 223(c) are amended by adding "the" before the first instance of "Legislative Assembly".

42. Paragraph 189(2)(d) is repealed and the following substituted:

- (d) meet with the Management and Services Board and appropriate committees of the Legislative Assembly to discuss matters related to this Act;

43. Subsection 196(2) is repealed and the following substituted:

Time of report

- (2) The report must be submitted no later than
 - (a) April 1 of the following year; or
 - (b) in the case of a report for a year in which there was a general election, the 280th day after the date of the writ.

44. The following is added after subsection 203(6):

Authorization of other functions

(7) The Chief Electoral Officer may authorize an assistant returning officer or an additional assistant returning officer to perform the functions of a deputy returning officer at an advance vote or a mobile poll.

45. Section 206 is amended by adding "be" after "must".

46. Section 226 is amended by striking out "police" and substituting "police, the prosecutor".

47. Subsection 227(2) is repealed.

48. Section 229 is repealed and the following substituted:

Notice of investigation

229. (1) The police shall, before the end of an investigation, notify any person who is the subject of the investigation that he or she is being investigated, the allegations being made against the person and the nature of the offence being investigated, unless the police believe that doing so would compromise or impede the investigation.

Notice of results of investigation

(2) If no prosecution is to be initiated, the police shall notify the complainant and any person who is the subject of the investigation of the results of the investigation.

Service of notice

(3) A notice under subsection (1) or (2) must be served personally on the person or sent by registered mail to the last known address of the person.

49. Subsection 231(3) is repealed and the following substituted:

Compliance statement

(3) The Integrity Commissioner shall cause a notice to be sent to the person referred to in subsection (1)

- (a) informing the person that a compliance agreement is being offered;
and
- (b) setting out the proposed clauses of the compliance agreement.

50. (1) Subsection 232(1) is amended by striking out "person and to the police" and substituting "person, the police and the prosecutor".

(2) Subsection 232(3) is amended by striking out "police" and substituting "police and the prosecutor".

51. Subsections 238(1) and (2) are repealed and the following substituted:

Certificate evidence and presumptions

238. (1) In a proceeding under this Act a certificate signed by the Chief Electoral Officer or a returning officer certifying the following matters is, in the absence of evidence to the contrary, proof of the facts stated in the certificate and of the authority of the Chief Electoral Officer or returning officer without further proof of his or her appointment or signature:

- (a) the due holding of the election;
- (b) whether any action was or was not taken by an election officer;

- (c) whether any document was issued, filed or sent in an election;
- (d) whether a copy is a true copy of a document;
- (e) whether a person was a candidate, financial agent, campaign manager, election officer or other participant at an election.

Original documents

(2) If an original election document, rather than a certified true copy, is required in a proceeding under this Act,

- (a) a judge may, at the instance of any of the parties to the proceedings, order the Chief Electoral Officer to ensure that the original election documents are produced on or before the day fixed for the trial; and
- (b) the Chief Electoral Officer shall cause the election documents to be deposited with the court in the manner that the judge may order.

52. Subsection 249(2) is repealed and the following substituted:

Campaign material requirements

(2) Any person printing, publishing, broadcasting or distributing or causing to be printed, published, broadcast or distributed any campaign material that does not comply with section 186 is guilty of an offence.

53. The following is added after section 254:

Prohibition on telecommunication devices

254.1. (1) No person, other than an election officer, shall use any telecommunications device, including a mobile telephone or text messaging device, in a polling station.

Cameras and recorders

(2) No person shall use any device to record images or sound in a polling station, except for use by the news media before the polling station is open for voting with the approval of the Chief Electoral Officer.

54. Subsections 267(3) and (4) are repealed and the following substituted:

Offence

- (3) A financial agent is guilty of an offence if he or she
 - (a) makes a payment in contravention of section 178;
 - (b) reimburses a candidate in contravention of section 179; or
 - (c) fails to prepare a financial return in accordance with section 180, without an excuse authorized by this Act.

False or late return

(4) A candidate is guilty of an offence if he or she fails to send a financial return in accordance with section 180, without an excuse authorized by this Act.

55. 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 AMENDMENT

Plebiscite Act

56. (1) The *Plebiscite Act* is amended by this section.

(2) The English version of that portion of subsection 20(2.1) preceding paragraph (a) is amended by adding "list" after "voters".

SCHEDULE

COLUMN 1 Provisions Amended	COLUMN 2 Word or Words Struck Out	COLUMN 3 Word or Words Substituted
• paragraph 11(2)(g)	"return"	"financial return"
• the French version of paragraph 164(1)(d)	"registre"	"cahier"
• subsection 182(1)	"return described in section 180"	"financial return"
• subsection 182(2)	"returns"	"financial returns"
• subsection 183(1)	"return or declaration, or their additional return or declaration, respecting election contributions and expenses"	"financial return"
• that portion of subsection 184(1) preceding paragraph (a)	"return or declaration"	"financial return"
• subparagraph 184(4)(a)(i) • subparagraph 184(4)(b)(i)	"make the return"	"prepare the financial return"
• subparagraph 184(4)(a)(ii) • subparagraph 184(4)(b)(ii)	"return and declaration to be made"	"financial return to be prepared and sent"
• subsection 184(5)	"make a return"	"prepare or send a financial return"
• paragraph 184(6)(a)	"make the return"	"prepare or send the financial return"
• paragraph 184(7)(a)	"making of a return or declaration"	"preparation and submission of the financial return"
• paragraph 184(9)(a)	"return and declaration respecting election contributions and expenses"	"financial return"
• paragraph 185(1)(a)	"files a complete return within the post election period"	"sends a financial return in accordance with section 180"
• the French version of section 235	"le tribunal"	"la Cour"

PRINTED BY
TERRITORIAL PRINTER FOR NUNAVUT
©2005
