



PLEBISCITES ACT

ENGLISH VERSION

(Current to November 5, 2015)

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Plebiscites Act

*Statutes of Nunavut 2013, c.25
In force January 1, 2014*

Current as of November 5, 2015

AS AMENDED BY:

Statutes of Nunavut 2014, c.14, s.2 (November 6, 2014)
Statutes of Nunavut 2015 c.18 (November 5, 2015)

OFFICE CONSOLIDATION

Prepared by Elections Nunavut under s. 272(2)(a) of the *Nunavut Elections Act*

Notes: Sections 273 to 278 (Consequential Amendments) have been deleted from this Consolidation.

Warning: This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of the statutes can be obtained from the published annual Statutes of Nunavut or from copies of the Acts certified by the Clerk of the Legislative Assembly.

Summary

This Bill repeals and replaces the *Plebiscites Act* and amends related statutes to modernize the conduct of plebiscites and to harmonize the plebiscite process with the conduct of elections under the *Nunavut Elections Act*.

The provisions of this Bill mirror the provisions of the *Nunavut Elections Act* in respect of all matters relevant to the conduct of plebiscites.

The power to initiate plebiscites is vested in the following six plebiscite authorities, to the extent that the plebiscite question is within their respective jurisdictions: the Legislative Assembly, the Commissioner in Executive Council, a Minister, the council of a municipal corporation, an education authority and any other person or body that enters into an agreement with Elections Nunavut to conduct a plebiscite on its behalf.

A plebiscite authority can ask voters to answer any question of public interest or concern where an expression of public opinion is desired, either on its own initiative or when requested by a petition from the public. The question to be asked in a plebiscite must be clearly expressed in a way that is not misleading, equivocal or confusing to the voters. This Bill does not cover liquor plebiscites conducted under the *Liquor Act*.

A plebiscite may be binding on the plebiscite authority or may be for consultation purposes only. The plebiscite may be conducted throughout Nunavut or may be limited to one community or area in Nunavut. Persons who are eligible to vote in an election for members of the Legislative Assembly have the right to vote in a plebiscite, unless the plebiscite is targeted at a different group of Nunavummiut.

The rules on campaigning in a plebiscite allow persons and entities resident in or doing business in Nunavut to participate, but the ability to collect contributions from these persons and entities for campaigning is only available in a Nunavut-wide plebiscite to groups that register with Elections Nunavut. Registered groups will be required to file financial reports in a manner similar to candidates in an election.

PLEBISCITES ACT

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PLEBISCITES ACT

PART I GENERAL PROVISIONS

Purpose of this Act

Main Purpose

1. (1) The purpose of this Act is to establish a regime for the conduct of plebiscites that is consistent with the *Nunavut Elections Act* and promotes opportunities to participate in expressing popular opinion on issues of interest and concern to Nunavummiut.

Basic principles

(2) To achieve its purpose, this Act revises and consolidates the legislation respecting plebiscites on the basis of the following principles:

- (a) the plebiscite system should be comprehensive enough to accommodate a complete range of possible issues and should encourage participation by residents in Nunavut, taking into consideration the unique circumstances in Nunavut;
- (b) the public should be made aware of the issues surrounding the question or questions being asked in a plebiscite before being asked to vote;
- (c) information at every stage of the plebiscite process should be in the Official Languages of Nunavut, including both Inuktitut and Inuinnaqtun;
- (d) plebiscites conducted in Nunavut should be conducted as effectively and efficiently as possible and in a manner that is consistent with the *Nunavut Elections Act*;
- (e) the rules governing plebiscites should incorporate flexibility to address unique circumstances in Nunavut as they arise, be they geographic, demographic, linguistic, or otherwise, in addition to new technologies;
- (f) the plebiscite process should be evaluated frequently, to learn from experience and ensure it is meeting the needs of Nunavummiut.

Interpretation

Definitions

2. (1) In this Act,

"advance vote" means a poll held before plebiscite day; (*scrutin par anticipation*)

"approved" means as approved by the Chief Electoral Officer; (*approuvé*)

"authorized representative" means the person designated or appointed under section 24 to represent

- (a) a group of petitioners,
- (b) a plebiscite authority, or
- (c) a registered group; (*représentant autorisé*)

"campaign" means to make public statements or issue campaign material promoting or opposing a response to a question or a side in a plebiscite; (*faire campagne*)

"campaign material" means any advertisement, including advertisements on the radio, television and the Internet as well as placards, posters or banners, in favour of, against, promoting or opposing a response to question or a side in a plebiscite; (*matériel de campagne*)

"Chief Electoral Officer" means the Chief Electoral Officer appointed under the *Nunavut Elections Act*; (*directeur général des élections*)

"close of registrations" means 2:00 pm on the 14th day before plebiscite day; (*clôture des enregistrements*)

"contribution" includes money, services and goods but does not include volunteer labour or any goods produced by volunteer labour; (*contribution*)

"court" means the Nunavut Court of Justice; (*Cour*)

"education authority" means a District Education Authority as defined in the *Education Act*, or the governing body of a school established under section 197 of that Act; (*administration scolaire*)

"election" means an election of a member to the Legislative Assembly under the *Nunavut Elections Act*; (*élection*)

"family", when used with reference to a person, means

- (a) his or her spouse and minor children, and
- (b) anyone who is related to the person or his or her spouse, shares a residence with the person and is primarily dependent on the person or his or her spouse for financial support; (*famille*)

"financial agent" means the person appointed by a registered group under section 27 to be responsible for managing the financial and reporting requirements for the group; (*agent financier*)

"financial return" means the return respecting plebiscite contributions and expenses required under section 154, including the declarations by the financial agent required by that section; (*rapport financier*)

"Integrity Commissioner" means the Integrity Commissioner appointed under the *Integrity Act*; (*commissaire à l'intégrité*)

"Management and Services Board" means the Management and Services Board established under the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

"Nunavut-wide plebiscite" means a plebiscite where the plebiscite area is all of Nunavut; (*référendum tenu dans tout le Nunavut*)

"petition" means a petition submitted under section 11; (*pétition*)

"plebiscite" means a vote conducted under this Act for a plebiscite authority to determine the opinion of voters in relation to a question submitted in the plebiscite; (*référendum*)

"plebiscite area" means the geographic area within which a plebiscite is to be conducted; (*région référendaire*)

"plebiscite authority" means the body or person authorized to initiate a plebiscite under section 7; (*instance référendaire*)

"plebiscite day" means the day fixed by a writ for the holding of the vote on a plebiscite; (*jour du scrutin*)

"plebiscite expense" means any amount paid or liability incurred during a plebiscite period to campaign in the plebiscite, including

- (a) any contribution of services or goods, and
- (b) the costs of any staff working for a registered group, including a financial agent; (*dépense référendaire*)

"plebiscite officer" has the same meaning as "election officer" in the *Nunavut Elections Act*; (*membre du personnel référendaire*)

"plebiscite period" means the period beginning from the date of a writ for a plebiscite and ending on the close of polls on plebiscite day or the day the writ is withdrawn; (*période référendaire*)

"polling place" means any place for voting under this Act, including a central polling place, a polling station, a mobile poll and the office of the returning officer when used for voting; (*lieu de scrutin*)

"polling record" means the document containing the name and other particulars of every person on the voters list and to which other voting particulars are added by the poll clerk; (*cahier du scrutin*)

"polling station" means premises secured by a returning officer for the taking of the votes on plebiscite day or the day of the advance vote; (*bureau de scrutin*)

"post plebiscite period" means the 60-day period after plebiscite day; (*période postréférendaire*)

"pre-plebiscite expense" means any amount paid or liability incurred during a pre-plebiscite period to campaign in the plebiscite, and includes any contribution of services or goods; (*dépense préréférendaire*)

"pre-plebiscite period" means the period beginning from the day when the date of a forthcoming plebiscite is publicly announced and ending on the day the writ is issued; (*période préréférendaire*)

"question" means, in relation to a plebiscite, the question, questions, option or options set out in the writ; (*question*)

"satisfactory evidence of identity" means documentary evidence of a person's identity approved as being satisfactory by the Chief Electoral Officer; (*preuve suffisante d'identité*)

"send" means to send by mail, hand delivery, courier, facsimile transmission, or where specifically authorized, by electronic transmission; (*envoyer*)

"Speaker" means the Speaker of the Legislative Assembly elected under the *Legislative Assembly and Executive Council Act*; (*président*)

"vote" means to vote in a plebiscite; (*voter*)

"voter" means a person who has the right to vote in a plebiscite under section 20; (*électeur*)

"writ" means a plebiscite writ. (*bref*)

Local time

(2) For the purposes of this Act, all references to time shall be interpreted as a reference to the local time in the relevant place, unless otherwise provided.

Overlapping time zones

- (3) In a plebiscite area in which two or more local times are observed,
- (a) the returning officer shall determine the hours of the day for performing every activity under this Act with the approval of the Chief Electoral Officer;
 - (b) the returning officer shall give public notice of those hours; and
 - (c) those hours, after public notice to that effect has been given, shall be uniform throughout the plebiscite area.

Application

Application

3. (1) This Act applies to every plebiscite initiated by a plebiscite authority, except a

plebiscite initiated under the *Liquor Act*.

Government bound

(2) This Act is binding on the Government of Nunavut.

Determining Residence

Residence rules

4. (1) For the purposes of this Act, the place of residence of a voter shall be determined by reference to all the facts of the case and by the provisions of this section, as far as they are applicable.

Place of home or dwelling

(2) The residence of a person is the place of the person's home or dwelling in which he or she actually resides.

Absence for temporary purpose

(3) A person does not lose residence in the place of the person's home or dwelling by leaving it for a temporary purpose, including

- (a) the pursuit of education at an educational institution, whether inside or outside Nunavut; or
- (b) temporary employment at a place, whether inside or outside Nunavut.

Limit on absence for temporary purpose

(4) A person who leaves his or her home or dwelling for more than 10 months is considered to have lost residence in that place, except in the case of a full time student who is attending an educational institution and working toward a degree, diploma or certificate.

Selection of residence

(5) A person to whom subsection (3) applies may, instead of the place of the person's home or dwelling, select the place where the person is temporarily residing as his or her place of residence.

Homeless persons

(6) The residence of a person who has no home or dwelling is any place offering food or lodging where the person usually sleeps or takes meals.

Single residence

(7) A person may have a residence in only one place and, if a person maintains a home or dwelling in more than one place, the person must select one home or dwelling as his or her place of residence.

Prisoners

(8) Despite subsections (3), (4) and (5), a person who is confined to a penal or correctional institution shall select one of the following places of residence:

- (a) the person's place of residence before being confined; or
- (b) the place where the person's family resides.

Deemed residence

(9) A place of residence selected by a person under this section shall be deemed to be the place in which the person resides.

Change of residence during plebiscite

(10) Despite paragraph 20(1)(d), a person who changes his or her place of residence within Nunavut after the day the writ is issued may vote in the plebiscite area to which he or she moved by registering to vote in that new place in accordance with section 54.

Seasonal residence

(11) No person is to be considered resident in a home or dwelling that the person occupies seasonally for a period not exceeding a total of 180 days a year, unless at the time of a plebiscite the person has no residence in any other place.

Official Languages

Use of Official Languages

5. (1) The Official Languages of Nunavut apply in respect of a Nunavut-wide plebiscite.

Same

(2) Where a plebiscite is not Nunavut-wide, the Official Languages of Nunavut that are indigenous to or spoken in the plebiscite area apply to the plebiscite.

Materials for translation

(3) The Chief Electoral Officer shall ensure that all plebiscite materials for public use are provided to the returning officer in all languages applicable to the plebiscite at the same time.

Late transmission

(4) Where it is not possible to prepare and deliver a copy of a document in a language within the required time, the Chief Electoral Officer shall ensure that it is delivered at the earliest possible time.

Languages of plebiscite officers

6. (1) Plebiscite officers should be appointed to represent the languages spoken in the community in which they will be performing their functions.

Interpreters

(2) Where a deputy returning officer or poll clerk does not understand the language spoken by a voter, the deputy returning officer shall, where possible, appoint and swear in an interpreter, who shall translate communications between the deputy returning officer and the voter.

Validity of plebiscite

(3) The failure to comply with any provision of this section shall not affect the validity of a plebiscite.

PART II
INITIATING A PLEBISCITE, PUBLIC AWARENESS
AND RIGHTS RELATED TO VOTING AND PARTICIPATION

Initiating a Plebiscite

Plebiscite authorities

- 7.** (1) A plebiscite may only be initiated by the following plebiscite authorities:
- (a) the Legislative Assembly;
 - (b) the Commissioner in Executive Council;
 - (c) a Minister;
 - (d) the council of a municipal corporation;
 - (e) an education authority;
 - (f) any other organization or body that enters into an agreement with the Chief Electoral Officer under paragraph 158(2)(h) to conduct a plebiscite on its behalf.

Public interest or concern

- (2) Subject to this section, a plebiscite authority may initiate a plebiscite if it
- (a) considers that an expression of public opinion from voters is desirable on any matter of public interest or concern;
 - (b) receives a petition requesting that a plebiscite be held on a matter set out in the petition; or
 - (c) is authorized to initiate a plebiscite under an enactment.

Ministerial plebiscite

(3) A Minister may only initiate a plebiscite on a matter for which that Minister is responsible.

Municipal plebiscite

(4) The council of a municipal corporation may only initiate a plebiscite in the municipality on a matter within the jurisdiction of the municipal corporation.

Education authority plebiscite

(5) An education authority may only initiate a plebiscite on a matter for which the education authority is responsible and may hold the plebiscite only at the same time as an election for the education authority.

Plebiscite Questions

Clarity of question

- 8.** (1) The question to be asked in a plebiscite must be clearly expressed in a way that is not misleading, equivocal or confusing to the voters.

Question to be asked

(2) The question to be asked in a plebiscite initiated on the request of a petition must reflect the content of the petition but may include another question that the plebiscite authority considers appropriate to be included in the plebiscite.

Limit on repeat plebiscites

(3) If a plebiscite is conducted on a question, no further plebiscite on the same or a similar question may be initiated or conducted in the same plebiscite area within five years of the plebiscite day.

Effect of Plebiscites

No binding effect

9. (1) The results of a plebiscite have no binding effect or legal consequences unless the instructions to issue the writ and the writ declare that the results of the plebiscite are to have binding effect.

Application to municipal by-law

(2) For greater certainty, subsection (1) applies to a plebiscite for the approval of a bylaw under the *Cities, Towns and Villages Act* or the *Hamlets Act*.

Implementation

10. If the results of a plebiscite have binding effect, the plebiscite authority must, as soon as practicable, implement the results of the plebiscite and take those steps within its competence that it considers necessary or advisable for this purpose, including

- (a) changing programs or policies, or introducing new programs or policies; and
- (b) taking steps to enact an appropriate enactment or by-law.

Petitions

Public petition

11. (1) Persons eligible to be petitioners may, in accordance with this section, submit a petition to a plebiscite authority requesting it to initiate a plebiscite.

Filing municipal petition

(2) A petition submitted to the council of a municipal corporation must be filed with the senior administrative officer.

Contents

(3) The petition must

- (a) concisely set out the question to be asked in the plebiscite on each page of the petition;
- (b) describe the proposed plebiscite area;
- (c) contain the full name, postal and civic address and signature of each petitioner;

- (d) contain the full name and signature of the person who witnessed a petitioner's signature;
- (e) contain a declaration by the petitioner that he or she is entitled to be a petitioner;
- (f) contain the full name, postal and civic address, telephone number and any email address of the authorized representative of the petitioners;
- (g) contain a signed statement of consent by the authorized representative of the petitioners; and
- (h) set out the date on which each petitioner signs the petition.

Threshold number of petitioners

(4) The petition must be signed by a number of petitioners equal to at least 20 percent of the number of voters on the most recent voters list available for the proposed plebiscite area under the *Nunavut Elections Act*.

Certification of threshold number

(5) The Chief Electoral Officer shall, on written request, certify the threshold number of petitioners required under subsection (4) for a proposed plebiscite area, and a petition signed by at least that number of eligible petitioners is deemed to meet the requirements of that subsection for the proposed plebiscite area.

Eligible petitioner

(6) To be eligible to be a petitioner and sign a petition a person must, at the time of signing the petition, be

- (a) a citizen of Canada;
- (b) at least 18 years of age;
- (c) a resident in Nunavut for a consecutive period of at least 12 months; and
- (d) a resident in the proposed plebiscite area.

Signature of witness

(7) The signature of each petitioner must be witnessed by an adult person who must sign opposite the signature of the petitioner.

Question to be submitted

(8) The question set out in the petition must respect the criteria of section 8.

No changes to petition

(9) No name may be added to or removed from a petition after it is submitted to a plebiscite authority.

Validity

(10) A petition that does not comply with this section is not valid.

Guide for petitions

(11) The Chief Electoral Officer may prepare a guide to assist the public in the preparation of petitions.

Public awareness of petition

- 12.** (1) On receiving a petition, the plebiscite authority shall, without delay,
- (a) send the petition to the Chief Electoral Officer;
 - (b) take reasonable steps to inform the public and each municipal corporation in the proposed plebiscite area of the contents of the petition; and
 - (c) allow the petition to be inspected by the public during the normal business hours of the plebiscite authority.

Duty of authorized representative

(2) The authorized representative of the petitioners shall, from the date of the petition to plebiscite day, answer all inquiries about the petition from the plebiscite authority, the Chief Electoral Officer and the public.

Report on validity of petition

- 13.** (1) The Chief Electoral Officer shall, within 30 days after receiving a copy of the petition,
- (a) review the petition and determine whether it is valid under section 11; and
 - (b) send a written report on that determination, with reasons, to the plebiscite authority and to the authorized representative of the petitioners.

If petition not valid

(2) The plebiscite authority is not required to take any action in respect of a petition that the Chief Electoral Officer has determined is not valid under section 11.

Consultation

14. The plebiscite authority may consult with the public and specific persons, groups or entities in a proposed plebiscite area on a petition received by the plebiscite authority or any plebiscite proposed to be initiated by the plebiscite authority, including the suitability or clarity of a question and the level of public support for conducting a plebiscite.

Instructions to Conduct a Plebiscite

Instructions

15. (1) A plebiscite is initiated by the issuance of written instructions to issue a writ from the plebiscite authority to the Chief Electoral Officer.

Signature for instructions

- (2) The instructions to issue a writ must be signed as follows:
- (a) by the Speaker, in the case of a plebiscite initiated by the Legislative Assembly;
 - (b) by the Commissioner, in the case of a plebiscite initiated by the Commissioner in Executive Council;
 - (c) by the Minister, in the case of a plebiscite initiated by a Minister;
 - (d) by the presiding council member, in the case of a plebiscite initiated by the council of a municipal corporation;
 - (e) by the presiding member, in the case of a plebiscite initiated by an education authority;
 - (f) by the person authorized in an agreement with the Chief Electoral Officer under paragraph 158(2)(h) to give instructions to conduct a plebiscite under that agreement.

Contents of instructions

- (3) The instructions to issue a writ must be in the prescribed form and
- (a) state the question to be asked in the plebiscite;
 - (b) direct the Chief Electoral Officer to issue a writ for the plebiscite;
 - (c) specify the plebiscite area;
 - (d) indicate the period desired for the conduct of the plebiscite;
 - (e) specify any special qualifications of the voters entitled to vote, referred to in subsection 20(3), and the reasons for those qualifications;
 - (f) declare whether the results of the plebiscite are to be binding; and
 - (g) contain the full name, postal and civic address, telephone number and email address of the authorized representative of the plebiscite authority.

Lack of clarity and other limits on question

(4) If the Chief Electoral Officer considers that a plebiscite question would contravene the criteria of section 8, he or she shall advise the plebiscite authority on how the question could be revised to comply with those criteria.

Revising instructions

- (5) A plebiscite authority may
- (a) seek an opinion from the Chief Electoral Officer on whether a proposed question complies with the criteria of section 8 before issuing any instructions; and
 - (b) revise and reissue any instructions on the advice of the Chief Electoral Officer under subsection (4).

Refusal

(6) The Chief Electoral Officer must reject any instructions to issue a writ if, after giving advice under subsection (4), the instructions are not revised or reissued to comply with the criteria of section 8.

Writs

Plebiscite writ

16. (1) The holding of a plebiscite in a plebiscite area is instituted on the issue of a writ.

Issuance of writs

(2) The Chief Electoral Officer shall, without delay and in accordance with the instructions issued under section 15, issue a writ to the returning officer of the plebiscite area.

Plebiscite day

(3) The Chief Electoral Officer shall use all reasonable efforts to conduct the plebiscite within the period desired by the plebiscite authority in the plebiscite instructions.

Contents of the writ

(4) Each writ shall be in the prescribed form and shall

- (a) bear the date of its issue;
- (b) specify the plebiscite day and the day of the return of the writ;
- (c) state the question to be asked in the plebiscite;
- (d) specify the plebiscite area;
- (e) specify the eligibility criteria of the voters to whom the plebiscite is to be directed; and
- (f) declare whether the results of the plebiscite are binding.

Publication in Gazette

(5) A copy of the writ must be published in the *Nunavut Gazette*.

Withdrawal of Writ

Withdrawal by Chief Electoral Officer

17. (1) The Chief Electoral Officer may withdraw a writ if, after consulting with the plebiscite authority, the Chief Electoral Officer is of the opinion that it is impracticable to hold the plebiscite because of a disaster or similar event.

Withdrawal by plebiscite authority

(2) A plebiscite authority may, for any reason and at any time before the first day of voting, instruct the Chief Electoral Officer to withdraw the writ, in which case the Chief Electoral Officer shall immediately withdraw the writ.

Notice of withdrawal

(3) The Chief Electoral Officer shall publish notice of any withdrawal of a writ in a special issue of the *Nunavut Gazette*.

Public notice

(4) The Chief Electoral Officer shall, without delay, send a notice of the withdrawal of the writ to the returning officer who shall, without delay, take all reasonable steps to give public notice of the withdrawal.

New writ

(5) If the writ was withdrawn because of a disaster or similar event, the Chief Electoral Officer shall, no later than the 90th day after publication of the withdrawal of the writ in the *Nunavut Gazette*, issue a new writ to hold the plebiscite.

Public Awareness of Plebiscite

Public access to information

18. (1) Any member of the public in Nunavut may request information related to the subject matter of a plebiscite from the authorized representative of

- (a) the petitioners in any petition submitted to the plebiscite authority in respect of the plebiscite;
- (b) the plebiscite authority; and
- (c) any registered group in the plebiscite.

Duty to provide information

(2) An authorized representative shall, as soon as practicable, take reasonable steps to provide the information requested to the person making the request under subsection (1).

Information to the Chief Electoral Officer

(3) An authorized representative shall, without delay, provide the Chief Electoral Officer with whatever information the Chief Electoral Officer may need to properly inform the public under section 19.

Information from Chief Electoral Officer

19. (1) The Chief Electoral Officer shall, in addition to any other functions under this Act, prepare one or more statements containing

- (a) a neutral explanation of the subject matter of the plebiscite;
- (b) a neutral explanation of the question to be asked in the plebiscite;
- (c) the text of the question;
- (d) an explanation of whether the results will have any binding effect; and
- (e) any other information that the Chief Electoral Officer considers appropriate to promote public awareness of the plebiscite and encourage voters to vote at the plebiscite.

Promotion methods

(2) The Chief Electoral Officer shall

- (a) publish and distribute the statements referred to in subsection (1) in such manner and by such means including the use of print, radio,

television, Internet and other media as the Chief Electoral Officer considers most likely to bring them to the attention of the voters; and

- (b) generally promote public awareness of the plebiscite and encourage voters to vote at the plebiscite.

Registered groups

(3) A registered group in the plebiscite may, in accordance with guidelines of the Chief Electoral Officer, submit a written statement on its position to the Chief Electoral Officer for simultaneous publication with the statements prepared under subsection (1).

Voting Rights

Right to vote

20. (1) Subject to this section, every person has a right to vote in a plebiscite if, on plebiscite day, the person is or would be

- (a) a citizen of Canada;
- (b) at least 18 years of age;
- (c) a resident in Nunavut for a consecutive period of at least 12 months; and
- (d) a resident in the plebiscite area.

Disqualification

(2) A person who is otherwise qualified to be a voter is not entitled to vote if, on plebiscite day, the person

- (a) is subject to a regime established to protect the person or the person's property, pursuant to the law in Nunavut, or elsewhere in Canada, because the person is incapable of understanding the nature and appreciating the consequences of the person's acts;
- (b) is involuntarily confined to a psychiatric or other institution as a result of being acquitted of an offence under the *Criminal Code* by reason of a mental disorder; or
- (c) had been convicted, within the previous five years, of an offence in relation to an election, a plebiscite or a referendum in Nunavut, or elsewhere in Canada.

Special qualifications

(3) If the plebiscite authority is required by law or otherwise wishes to direct the question to be asked in a plebiscite to a group or class of persons other than the class of persons with the right to vote under subsection (1), the writ shall set out or establish the qualifications of the voters entitled to vote at that plebiscite.

Secret ballot

21. A voter has a right to vote by secret ballot.

One vote

22. (1) The right to vote may only be exercised once in a plebiscite.

Residence in plebiscite area

(2) Subject to subsection 20(3), a voter may only vote in the plebiscite area if the voter resides in the plebiscite area.

Right to time to vote

23. (1) A voter has a right to two consecutive hours for the purpose of casting his or her vote and, if the hours of employment of the voter do not allow for two consecutive hours, the employer shall allow the voter any additional time for voting that may be necessary to provide these two consecutive hours.

Convenience of employer

(2) The time off work for voting shall be granted at the convenience of the employer and no employer shall penalize the voter for not working during that time.

Deduction in pay or penalties

(3) No employer shall make any deduction from the pay of an employee or impose on or exact from an employee any penalty by reason of the absence of the employee from work during these consecutive hours.

Hourly and piece-work workers

(4) A voter who is paid on an hourly, piece-work or other basis and who would normally work during the period of time off work that an employer is required to grant under this section has a right to be paid for that time at the voter's average rate of pay for equivalent time.

Deemed deduction in pay

(5) For the purposes of this section, an employer shall be deemed to have made a deduction from the pay of an employee if the employer does not pay the employee the amount that the employee would normally have earned during the time the employee was absent for the purpose of casting his or her vote.

Exempted voters

(6) This section does not apply to any plebiscite officer or member of the staff of Elections Nunavut or to any employee who, by reason of employment, is so far away from the polling station that the employee would be unable to reach a polling place during the hours it is open.

Authorized Representatives

Appointment of authorized representative

24. (1) A plebiscite authority, a group of petitioners and a body applying for registration as a registered group shall designate or appoint one person to be its

authorised representative for the purposes of this Act.

Ineligible persons

- (2) The following persons are not eligible to act as an authorized representative:
- (a) an individual who is not eligible to be a voter;
 - (b) an individual who is a member of the Legislative Assembly or who is a candidate for election to the Legislative Assembly;
 - (c) a corporation;
 - (d) a plebiscite officer;
 - (e) **Repealed**
 - (f) a person who had, within the previous five years, contravened a law in relation to an election, a plebiscite or a referendum in Nunavut, or elsewhere in Canada;
 - (g) a person who signed a compliance agreement, in respect of a plebiscite or election within the previous five years and who did not comply with that compliance agreement.

Effective date

- (3) The designation or appointment of a person as an authorized representative takes effect from the moment the person
- (a) in the case of a group of petitioners, signs the consent to act in that capacity;
 - (b) in the case of a plebiscite authority, is designated in writing by the plebiscite authority in its plebiscite instructions; and
 - (c) in the case of a registered group, signs the application in that capacity.

Campaigning in a Plebiscite

Prohibited campaigning

25. (1) Subject to subsection (2), the following persons or entities shall not campaign in a plebiscite:

- (a) any individual who is not resident in Nunavut;
- (b) any corporation or other entity that
 - (i) is not incorporated, established or continued by or under the laws of Nunavut, and
 - (ii) does not carry on business in Nunavut in compliance with any registration or licensing requirements applicable to it under the laws of Nunavut.

Exceptions

(2) Subsection (1) does not prohibit a person or entity from merely declaring support for a side in a plebiscite, making general statements on an issue of public policy or personally displaying campaign material, if done in good faith and not for any purpose related to the manipulation or oppression of a voter or to circumvent the provisions of this Act respecting contributions and plebiscite expenses.

No interference at work

(3) No person shall, at his or her place of work, influence or induce an employee, worker or person under his or her supervision or control to campaign in a plebiscite, unless campaigning is within the duties of that employee, worker or person.

Prohibition

(4) No plebiscite officer or member of the staff of Elections Nunavut shall campaign in a plebiscite.

Campaigning by government limited

(5) During the plebiscite period, no Minister, department, board, commission, corporation or agency of the Government of Nunavut or the Legislative Assembly shall campaign in the plebiscite.

Registered Groups

Registered groups

26. (1) A registered group may solicit and receive contributions to finance campaigning in a Nunavut-wide plebiscite.

Eligible bodies

(2) The following bodies are eligible to become a registered group:

- (a) a corporation incorporated, established or continued by or under the laws of Nunavut;
- (b) a society incorporated under the *Societies Act*;
- (c) a co-operative association registered under the *Co-operative Associations Act*;
- (d) a trade union representing employees working in Nunavut;
- (e) a partnership all of whose partners are individuals resident in Nunavut or corporations incorporated, established or continued by or under the laws of Nunavut;
- (f) an unincorporated association of individuals, if all the individuals are resident in Nunavut.

Disqualification

(3) A body that is otherwise qualified to become a registered group is not eligible to be registered if,

- (a) the body does not have a bona fide interest in the plebiscite question;
- (b) the body is not governed by a written constitution, memorandum of association, membership agreement or similar document;
- (c) the body is not in good standing under the statute governing the incorporation or registration of the body;
- (d) the body is bankrupt; or
- (e) on the day the writ was issued, the body or, in the case of a partnership or unincorporated association, one of its partners or

members had, within the previous five years, contravened a law in relation to an election, a plebiscite or a referendum in Nunavut, or elsewhere in Canada.

Application

(4) An application for registration under this section must be submitted in the approved form to the Chief Electoral Officer before 2:00 pm on the 14th day before plebiscite day.

Deposit

(5) A non-refundable deposit in the prescribed amount must be given to the Chief Electoral Officer along with the application for registration.

Form of deposit

(6) The deposit must be in the form of a money order, certified cheque, Northern Stores draft or Co-op draft payable to the Government of Nunavut.

Prohibition on false information

(7) No person shall knowingly furnish false information to the Chief Electoral Officer in relation to an application for registration.

Appointment of authorized representative and financial agent

27. (1) A body applying for registration as a registered group shall, in its application, appoint

- (a) one person to be its authorised representative for the purposes of this Act; and
- (b) one person to be its financial agent.

Ineligible persons

(2) The following persons are not eligible to act as a financial agent:

- (a) an individual who is not qualified to be a voter under paragraphs 20(1)(a) to (c), or who is not entitled to vote under subsection 20(2);
- (b) an individual who is a member of the Legislative Assembly or who is a candidate for election to the Legislative Assembly;
- (c) a corporation, except for a corporation authorized to carry on the business of accounting in Nunavut;
- (d) a plebiscite officer or election officer appointed for the purposes of this Act or the Nunavut Elections Act, other than a registration clerk;
- (e) **Repealed**
- (f) a person who had, within the previous five years, contravened a law in relation to an election, a plebiscite or a referendum in Nunavut, or elsewhere in Canada;
- (g) a person who signed a compliance agreement, in respect of a plebiscite or election within the previous five years and who did

not comply with that compliance agreement.

Effective date

(3) The appointment of a person as a financial agent takes effect from the moment the person signs the application in that capacity.

Change in authorized representative or financial agent

(4) A registered group shall give written notice to the Chief Electoral Officer of any revocation or new appointment of an authorized representative or a financial agent.

Certificate

28. (1) The Chief Electoral Officer shall issue to the applicant group a certificate indicating that their application has been accepted and that they are a registered group, unless there are grounds for refusing registration.

Refusal of registration

(2) The Chief Electoral Officer shall refuse to register a group if the Chief Electoral Officer is satisfied that

- (a) the application is incomplete or was not filed before the deadline;
- (b) all documents required for the registration under this Act were not properly filed according to the requirements of this Act;
- (c) false information was furnished in the application;
- (d) the name of the group is misleading, confusing or deceiving;
- (e) the body is ineligible to be registered; or
- (f) the persons appointed by the body are not eligible to act as an authorized representative or financial agent.

Corrections

(3) Where registration is refused for reasons that may be corrected, the application may be corrected, completed or replaced with a new one before the close of registration.

Notice of suspected ineligibility

29. (1) If the Chief Electoral Officer has reason to suspect that the registration of a group should be refused, he or she shall immediately notify the applicant body of the suspicion and the reasons for it in the approved form.

Time for submission

(2) The applicant body must make any submissions to the Chief Electoral Officer immediately on being notified of the suspicion of being ineligible.

Decision of Chief Electoral Officer

(3) The Chief Electoral Officer shall, after considering any submissions on behalf of the applicant body and no later than five days after the close of registrations, make a decision on whether its registration is to be rejected.

Publishing decision

(4) After determining an application for registration, the Chief Electoral Officer shall as soon as possible publish, in the approved manner, a notice of the result of the

determination, including any reasons for a refusal.

PART III PLEBISCITE AREAS AND POLLING STATIONS

Nunavut-wide Plebiscite

Nunavut-wide plebiscite

30. (1) In a Nunavut-wide plebiscite, the plebiscite area is all of Nunavut.

Use of constituencies

(2) For the purpose of conducting a Nunavut-wide plebiscite, the returning officers and other plebiscite officers are to be appointed and organized on the basis of the constituencies of Nunavut, described under the *Nunavut Elections Act*, and except as otherwise provided in this Act the plebiscite is to be conducted as if each constituency were a separate plebiscite area.

Establishment of Polling Stations

Polling stations for plebiscite day

31. (1) The returning officer shall establish at least one polling station for the plebiscite area, at such place or places as best suit the convenience of voters for voting on plebiscite day and at the advance vote.

Basis of polling stations

(2) The returning officer shall organize the voters for the purpose of each polling station and shall

- (a) consider whether the groupings of voters established for the plebiscite area in any previous election or plebiscite need to be changed;
- (b) ensure that no polling station serves more than 550 voters, unless necessary; and
- (c) take into account any geographic or other factors that might affect the convenience of voters.

Mobile polling stations

(3) The returning officer shall, when required under this Act and in accordance with the directions of the Chief Electoral Officer, establish a mobile polling station on the day of the advance vote.

Descriptions to Chief Electoral Officer

(4) After establishing polling stations, the returning officer shall forward to the Chief Electoral Officer a description of the location and identification of each polling station.

Informing registered groups

(5) As soon as possible after the close of registrations, a returning officer shall forward to any registered group in the plebiscite a description of the location and identification of each polling station.

Mobile poll

(6) The returning officer shall give notice to any registered group in the plebiscite of the itinerary of any mobile poll in accordance with the directions of the Chief Electoral Officer.

Central polling place

(7) If it is more convenient for the voters, the returning officer may establish a central polling place consisting of two or more polling stations, instead of having several polling stations separately located in a single community.

Furnishing a polling station

- (8) Every polling station shall be furnished with
- (a) a table with a hard smooth surface;
 - (b) at least one voting compartment arranged so as to preserve the secrecy of the vote; and
 - (c) a ballot box supplied by the Chief Electoral Officer and a sharpened pencil.

Registration station

(9) The returning officer shall, in any polling place, provide a place where voters who are not on the voters list may register.

Office of the Returning Officer

Office of returning officer

- 32.** (1) The returning officer shall, in accordance with the directions of the Chief Electoral Officer,
- (a) establish an office in a place that is easily accessible to most of the voters in the plebiscite area; and
 - (b) keep the office open to the public and be available there during the plebiscite period.

Additional or shared offices

(2) The returning officer may, with the approval of the Chief Electoral Officer, establish additional offices or share an office with another returning officer.

Public notice

(3) The returning officer shall, in accordance with the regulations and the directions of the Chief Electoral Officer, give public notice concerning details of the plebiscite.

Plebiscite Officers at Polling Places

Plebiscite officers at a polling station

33. (1) Each polling station must be staffed by a deputy returning officer, a poll clerk and a registration clerk.

Other plebiscite officers

(2) The Chief Electoral Officer and returning officer may assign such other plebiscite officers to staff a polling place as he or she considers necessary or appropriate.

Public information

34. The returning officer shall make public, in the approved manner, the name and address of each plebiscite officer working in the plebiscite area.

PART IV VOTER REGISTRATION

Collection of Information for Voters Lists

Preparation of voters lists

35. (1) The Chief Electoral Officer shall ensure the preparation of a voters list for the plebiscite area.

Methods available

(2) Voters lists may be compiled with information from any combination of the following sources:

- (a) direct registration of voters from time to time;
- (b) voter information collected under the *Nunavut Elections Act*;
- (c) lists of voters from Elections Canada;
- (d) lists of voters used by municipalities and other local authorities;
- (e) such other sources as the Chief Electoral Officer considers reliable.

Direct Registration of Voters

Direct registration

36. (1) The Chief Electoral Officer may at any time direct that voter information be collected by the direct registration of voters and designate the locations and periods during which the registration shall take place.

Notifying returning officers

(2) The Chief Electoral Officer shall notify the returning officer if a direct registration of voters in the plebiscite area is required and shall specify the registration period.

Extension of registration period

(3) The Chief Electoral Officer may extend the registration period in respect of all or part of a plebiscite area at the request of the returning officer.

Appointment of registration clerks

37. (1) If the direct registration of voters is required, the returning officer shall appoint sufficient registration clerks for the plebiscite area and assign them responsibility for various areas in the plebiscite area.

Eligible persons

(2) Any competent person is eligible to be appointed as a registration clerk.

Replacement

(3) The returning officer may revoke the appointment of a registration clerk at any time and appoint another.

List of registration clerks

38. (1) The returning officer shall prepare a list of the names and addresses of the registration clerks.

Access to list

(2) The returning officer shall, without delay after completing the list of registration clerks,

- (a) send a copy of the list to the Chief Electoral Officer; and
- (b) permit any person to inspect the list at any reasonable time.

Duties of returning officer

39. (1) A returning officer shall supervise the registration clerks during the registration period and take all reasonable steps to ensure that every voter in the plebiscite area is registered.

Notice

(2) At the beginning of the registration period, the returning officer shall give public notice that registration clerks will register voters.

Responsibility of registration clerks

40. (1) A registration clerk shall, during the registration period, make his or her best efforts to register every voter in the area or group for which the registration clerk is responsible by such methods as the returning officer and Chief Electoral Officer consider effective.

Record of information

(2) A registration clerk shall obtain and record information in respect of each voter in accordance with the regulations.

Registration card

41. (1) The returning officer may make registration cards available to the public to send to the returning officer if the registration clerk is unable to obtain information from voters personally.

Contents of registration card

(2) The registration card must contain the prescribed information.

Notice to disabled voters

(3) Where a registration clerk believes that a voter may have a disability that would interfere with voting at a polling place, the registration clerk shall give the voter written notice of the opportunities for special ballots and other special voting opportunities.

Using registration cards

42. (1) Any voter who is not directly or personally registered by a registration clerk

may register by

- (a) filling in the voter's full name, sex, date of birth and such other information as may be required on the registration card;
- (b) signing the certification on the accuracy of the information set out on the card; and
- (c) sending the card to the returning officer at the address noted on the card or any other office of the returning officer.

Deadline

(2) Each voter who completes a registration card should allow sufficient time for delivery of the card to the returning officer before the end of the period designated by the Chief Electoral Officer for registration of voters.

Late card

(3) Where a registration card is received after the date referred to in subsection (2), a voter may still register to vote in accordance with section 54.

Identification of registration clerks

43. (1) A registration clerk shall, while conducting the registration, wear or carry approved identification.

Entry into apartment buildings

(2) A registration clerk has, upon showing the approved identification, authority to enter any apartment building or other multiple residence for the purpose of registering the voters residing there.

Submission of information

44. (1) A registration clerk shall submit the voter information gathered during the registration process to the returning officer in such form and at such times and at such frequency as the returning officer may determine.

Certification of voter information

(2) A registration clerk shall, in the prescribed form, certify the voter information submitted to the returning officer.

Completion of registration

- (3) A registration clerk shall, by the end of the registration period,
- (a) complete the registration of voters; and
 - (b) submit to the returning officer any remaining voter information gathered.

Voters List

Compile voters list

45. (1) The Chief Electoral Officer shall compile the voters list for the plebiscite area without delay after the writ is issued.

Contents of voters lists

(2) The voters list must set out the qualified voters in the plebiscite area, based on the most accurate information compiled under subsection 35(2).

Accuracy of information

(3) The Chief Electoral Officer shall take reasonable measures to verify the accuracy of information incorporated into a voters list.

Form of voters list

(4) The voters list shall be in the approved written or electronic form and arranged by alphabetical order, address or whatever other method is most convenient.

Sending copies of voters list

46. (1) The Chief Electoral Officer shall, after compiling the voters list, send a copy to the returning officer.

Posting copy of list

(2) A returning officer shall, after receiving the voters list from the Chief Electoral Officer, post a copy of it in his or her office.

Voter Information Card

Sending the card

47. (1) In the case of a Nunavut-wide plebiscite, the returning officer shall send a voter information card to every voter who is included on the voters list no later than the 34th day before plebiscite day.

Contents of voter information card

(2) The voter information card shall contain the prescribed information.

Changes to Voters List

Notice of voters list

48. A returning officer shall, immediately upon issue of the writ, give public notice of the voters list that includes

- (a) the name of the returning officer;
- (b) the place and times where voters can inspect the voters list;
- (c) the manner of making changes or objections to the voters list; and
- (d) the place and times for the determination of objections to the voters list.

Duty of returning officer

49. (1) A returning officer shall, during the plebiscite period, continually revise the voters list for the plebiscite area by

- (a) recording voters who were omitted from the voters list;
- (b) correcting voter information in the voters list; and

- (c) striking persons who are not entitled to be on the voters list.

Adding to voters list

(2) A returning officer shall add a voter to the voters list, or correct the information on the voters list, where

- (a) a proper registration card for the voter is received by the returning officer; or
- (b) the voter applies in person to the returning officer, provides identification and establishes that he or she is qualified to vote and is entitled to be on the voters list.

Striking from voters list

(3) A returning officer shall, in accordance with the directions of the Chief Electoral Officer, strike a person from the voters list where it is established to the satisfaction of the returning officer that

- (a) the person desires to be struck from the voters list;
- (b) the person has moved from the plebiscite area;
- (c) the person is being added to a voters list for another plebiscite area;
- (d) the person is not qualified to vote in the plebiscite;
- (e) the person has died; or
- (f) the name of the person appears more than once on a voters list.

Objection to Voters List

Objection to voters list

50. (1) Any individual who believes that a person on a voters list is not qualified to vote may object to the inclusion of that person on the voters list by applying to the Chief Electoral Officer before the 20th day before plebiscite day.

Objection

(2) An application under subsection (1) must be in the approved form and include

- (a) the name of the applicant;
- (b) the postal address and phone number of the applicant;
- (c) the name of the person to be struck; and
- (d) the grounds for striking the person from the voters list.

Burden of proof

(3) Any individual objecting to the inclusion of a person on a voters list has the burden of proving that the person should be struck from the voters list.

Notice to person

51. (1) Where an apparently valid objection is made under section 50, the Chief Electoral Officer shall, by the most expeditious means available, take reasonable steps to notify the person who is the subject of the objection of

- (a) the name of the individual making the objection;
- (b) the grounds for the objection;
- (c) the time and manner of responding to the objection; and
- (d) the evidence necessary to override the objection.

Determination of objection

(2) The Chief Electoral Officer shall, no later than the 17th day before plebiscite day,

- (a) consider the objection and any response made to it;
- (b) make whatever investigation the Chief Electoral Officer considers necessary;
- (c) make a decision on whether the person should be struck from the voters list; and
- (d) give written notice of the decision to the individual making the objection and the person who was the subject of the objection.

Revision of voters list

(3) The voters list must be revised where necessary to accord with the decision of the Chief Electoral Officer.

General power

52. The Chief Electoral Officer may revise the voters list in any case where the Chief Electoral Officer is satisfied that it is necessary to strike duplicate names or to correct inaccurate information.

Sending Voters List to Registered Groups

Distribution of voters list

53. No later than the 20th day before plebiscite day, the Chief Electoral Officer or the returning officer shall send a copy of the most accurate voters list to any registered groups in the plebiscite.

Registration at Place of Voting

Right to register to vote

54. (1) Any voter who is not on a voters list may register to vote if the voter

- (a) attends a polling place; and
- (b) establishes his or her identity, place of residence and right to vote in the plebiscite area and signs a registration form, in accordance with the regulations.

Registering voters

(2) Where a voter complies with subsection (1), the deputy returning officer, or other plebiscite officer designated for this purpose, shall

- (a) complete the registration form in accordance with the regulations;
- (b) add the voter to the voters list; and
- (c) send the attached copies of the registration form in accordance with the distribution requirements of the form.

Administrative Matters

Public Access

55. (1) Subject to subsection (2), the returning officer shall keep available in the returning officer's office a copy of the voters list and shall permit any person to inspect it

during office hours during the plebiscite period.

Protection of voter information

(2) The Chief Electoral Officer may issue directions that the address of voters or other information about voters on a voters list be removed or obscured to protect their privacy or security.

Restricted use of voters lists

56. (1) No person shall copy or use a voters list prepared under this Act for any purpose other than a plebiscite or election under this Act, the *Nunavut Elections Act* or another enactment, or an election or referendum under the *Canada Elections Act* or the *Referendum Act* (Canada).

Access to Information and Protection of Privacy Act

(2) This section applies despite any provisions to the contrary in the *Access to Information and Protection of Privacy Act*.

Marks in lieu of signatures

57. A voter who must sign a document under this Act but is unable to write may place a distinctive mark on the document instead if a witness who can attest to the voter's identity also signs the document.

PART V CONDUCT OF A PLEBISCITE

Plebiscite Notice

Plebiscite notice

58. (1) Where a plebiscite is to be held in a plebiscite area, the returning officer shall, without delay, issue a plebiscite notice in the approved form.

Distribution of notice

(2) The returning officer shall, no later than the 28th day before plebiscite day, send a copy of the plebiscite notice to the Chief Electoral Officer and any registered group in the plebiscite.

Content of plebiscite notice

(3) The plebiscite notice must include the approved information and be made public in the approved manner.

Publication of plebiscite details

(4) The Chief Electoral Officer shall ensure that, at the earliest possible time, a notice is published specifying the plebiscite area and providing information on any registered group in the plebiscite.

Plebiscite Conducted in Conjunction with an Election

Conditions

59. (1) No plebiscite may be conducted in conjunction with an election unless

- (a) the plebiscite area is in a constituency where an election is being conducted;
- (b) the plebiscite day is the same day as the election day;
- (c) the eligibility and disqualification criteria for voters is the same for both the plebiscite and the election; and
- (d) the Chief Electoral Officer is of the opinion that it is more efficient to conduct them conjointly.

Form of ballots

(2) Where a plebiscite is conducted in conjunction with an election, the plebiscite ballots must be printed in such a manner that they are distinguishable from the election ballots when completed and folded.

Single package of special ballots

(3) Where a plebiscite is conducted in conjunction with an election and special ballots are being used for both the plebiscite and the election,

- (a) a single package of special ballots may be sent to any voter who is eligible to vote in both the plebiscite and the election; and
- (b) a voter who receives the single package must place both ballots in

the same secrecy envelope.

Separate ballot boxes

(4) Where a plebiscite is conducted in conjunction with an election, the election ballots and plebiscite ballots must be deposited in separate ballot boxes.

Separate polling records

(5) Where a plebiscite is conducted in conjunction with an election, the polling records for the election and the plebiscite must be separate.

Ballots and Ballot Boxes

Ballots and ballot boxes

60. The Chief Electoral Officer shall

- (a) approve the specifications for the construction of ballot boxes;
- (b) supply the required ballot boxes for the plebiscite area;
- (c) cause the ballots to be printed in the approved form and in the required number, plus an extra 10 percent for contingencies; and
- (d) supply the required voting compartments and give instructions respecting the placing of the voting compartments to ensure that each voter may
 - (i) be screened from observation, and
 - (ii) mark his or her ballot paper without interference or interruption.

Form of ballot

61. (1) Each ballot must be in the approved form and clearly state, in accordance with the writ, the question to be asked in the plebiscite.

Books of ballot papers

(2) The ballot papers must be bound in books containing 25 ballots.

Printer

(3) The Chief Electoral Officer may print the ballots at Elections Nunavut or enter a contract with another person to print them.

Name of printer

(4) Each ballot must state the date of the plebiscite and the name of its printer on its reverse side.

Declaration of printer

(5) If the ballots were printed by a person other than the Chief Electoral Officer, the printer of the ballots shall deliver to the Chief Electoral Officer a declaration, in the approved form, setting out

- (a) the description of the ballot papers printed by the printer;
- (b) the number of ballot papers supplied to the Chief Electoral Officer;

- and
- (c) a confirmation that any excess ballots have been destroyed and that no ballots have been supplied to any other person.

Electronic equipment

62. The Chief Electoral Officer may authorize the use of electronic equipment for ballots, voting, vote recording and vote counting and the provisions of this Act apply with such modifications as the circumstances require.

Property of the Legislative Assembly

63. The Legislative Assembly is the owner of the ballot boxes, ballots and all other supplies and material provided for use at a plebiscite.

Documentation

- 64.** (1) The Chief Electoral Officer shall, as soon as possible, send to the returning officer
- (a) an indexed copy of this Act and instructions for the proper conduct of the plebiscite for use by the returning officer and the plebiscite officers at polling places; and
 - (b) the supplies and accessories necessary for taking the vote, other than the ballots.

Material for deputy returning officer

(2) The returning officer shall supply to each deputy returning officer the prescribed materials, no later than the 3rd day before the day of the advance vote and the 3rd day before plebiscite day.

Safekeeping

(3) The deputy returning officer shall keep the plebiscite materials, including the ballots and polling record, in the sealed ballot box and shall take all reasonable precautions to prevent unauthorized access to them.

General Voting Process

Methods of voting

- 65.** (1) A voter may, where allowed under this Act, vote at a plebiscite using one of the following methods:
- (a) voting in person at a polling station on plebiscite day;
 - (b) voting in person at a polling station at an advance vote;
 - (c) voting in person at a mobile poll.

Additional methods

- (2) In a Nunavut-wide plebiscite, a voter may, where allowed under this Act, vote using one of the following additional methods:
- (a) voting in person in the office of the returning officer;
 - (b) voting by sending a special ballot;

- (c) voting by proxy;
- (d) voting by an emergency method.

Plebiscite area comparable to one or more constituencies

(3) After consultation with the plebiscite authority, the Chief Electoral Officer may make any of the additional voting methods available under subsection (2) available to voters in any plebiscite if all the voters of at least one constituency reside in the plebiscite area.

Secrecy of the vote

66. (1) Every person present at a polling place or present for the counting of the vote shall preserve the secrecy of the vote and in particular shall not

- (a) interfere or attempt to interfere with a voter who is marking a ballot;
- (b) attempt, during voting, to discover how a voter voted;
- (c) communicate information on how a ballot was marked;
- (d) cause, directly or indirectly, a voter to show the ballot once marked in a way that reveals how the voter voted; or
- (e) attempt, during the counting of the vote, to obtain or communicate information on how a voter voted.

Prohibitions

(2) No voter shall, at a polling place,

- (a) openly declare the choice for which the voter intends to vote, except if the voter requires assistance to vote in accordance with this Act;
- (b) openly declare how the voter voted; or
- (c) show the ballot, when marked, to reveal the choice for which the voter has voted.

Procedure where voter contravenes secrecy

(3) A deputy returning officer shall inform any voter who contravenes subsection (2) that the contravention is an offence under this Act and that the voter may be liable to a penalty, but shall allow the voter to vote in the usual way.

No campaign material at polling place

(4) No person shall use, wear or display or cause to be used, worn or displayed any flag, ribbon, label, badge or similar object as campaign material in a polling place, except as authorized by the Chief Electoral Officer.

No identification of a voter on ballot

(5) No person shall mark a ballot in a way that may identify the voter.

Protection of secrecy

(6) No person may be forced to reveal the choice for which the person has voted.

Role of Registered Groups' Representatives at a Polling Station

Presence of representatives

67. (1) In a Nunavut-wide plebiscite, the authorized representative of a registered group, or another person designated by the group's financial agent as a representative, may be present during any operations relating to the conduct of the vote at a polling station, and may remain for the counting of the ballots.

Proof of authorization or designation

(2) Each registered group's representative shall, on first arrival at the polling station,

- (a) give the deputy returning officer a copy of the representative's authorization or the designation signed by the registered group's financial agent; and
- (b) take an oath or affirmation, in the approved form, to keep secret the choice for which any ballot may be marked at the polling station.

Single representative

(3) A registered group may have a different representative at a polling station at different times but may not have more than one representative present at any given time.

Taking information from the polling record

(4) A registered group's representative may, only during the hours that the polling station is open,

- (a) examine that part of the polling record on which the poll clerk has crossed out or circled the names of voters who have voted and take notes in respect of that record, except where it would interfere with the proper conduct of the poll; and
- (b) communicate to the registered group any information obtained as a result as well as the names of any voters who have not yet voted.

Schedule and Proceedings at the Advance Vote

Holding an advance vote

68. (1) An advance vote must be held in the plebiscite area, and where the plebiscite area includes more than one municipality, in each municipality, on Monday the 7th day before plebiscite day or such other day as may be specified in the writ.

Schedule

(2) The polling station for an advance vote must be open from 12:00 noon to 7:00 p.m.

Deemed advance vote

(3) Voting in the office of the returning officer, under section 92, on Monday the 7th day before plebiscite day, or such other day as may be specified in the writ, is deemed

to be an advance vote as required by this section.

Voting by plebiscite officers

69. All plebiscite officers eligible to vote shall endeavour to vote at an advance vote.

Voting procedure

70. (1) The voting procedures applicable to voting at a polling station on plebiscite day apply to the procedure at an advance vote, with such modifications as the circumstances require.

Polling record

(2) The poll clerk at the advance vote shall, under the direction of the deputy returning officer, keep a polling record of the advance vote in the approved form.

Procedure at close of advance vote

71. (1) At the close of the advance vote at 7:00 p.m., in view of all present, the deputy returning officer shall sort the ballots and seal the materials inside the ballot box in the prescribed manner.

Custody of the ballot box

(2) In the interval between the close of the advance vote at the advance polling station and the counting of the votes on plebiscite day, the deputy returning officer shall ensure that the sealed ballot box is kept safely, in accordance with the directions of the Chief Electoral Officer.

Transmission of polling record

(3) A deputy returning officer shall send the advance polling record to the returning officer's office as soon as possible after the close of the advance vote.

Recording Votes Cast Before Plebiscite Day

Recording the names of voters

72. The returning officer shall, each day during the period from the day of the advance vote to plebiscite 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 recorded in the polling record.

Application for Special Ballot

Exercise of right to vote

73. (1) In a Nunavut-wide plebiscite, every voter who has reason to believe that he or she will be unable to vote at his or her polling station on plebiscite day has the right to vote by means of a special ballot issued in accordance with this Act.

Availability

(2) Applications for special ballots shall be made available, after the writ is issued, from the Office of the Chief Electoral Officer and in any other office in Nunavut

or outside Nunavut that the Chief Electoral Officer may designate.

Electronic availability

(3) The Chief Electoral Officer shall establish a toll-free telephone number and Internet web site for the distribution of applications and forms for special ballots.

Prisoners

(4) The Chief Electoral Officer shall, as soon as possible after the date of the writ, take all reasonable steps to advise any voter who is a prisoner in a penal or correctional facility in Nunavut or outside Nunavut that they may request an application for a special ballot.

Obtaining a special ballot

74. (1) To obtain a special ballot, a voter must apply at the office of the returning officer or, if the voter does not reside in the same community as the returning officer, apply directly to the Chief Electoral Officer.

Providing special ballot

(2) The Chief Electoral Officer or returning officer shall take all reasonable steps to send the voter a special ballot and instruction package if he or she determines that

- (a) the application is validly made; and
- (b) the voter has provided sufficient evidence to establish the voter's identity, place of residence and right to vote.

Registration

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

Deemed receipt and record

(4) When a voter is sent a special ballot, the voter is deemed to have received the special ballot and 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 sent a special ballot is not entitled to vote by any other method.

Voting By Special Ballot

Form of special ballot

75. (1) The special ballot shall be in the approved form.

Voting procedure

(2) To use a special ballot, a voter must

- (a) properly mark the voter's choice on the ballot; and
- (b) enclose the ballot in the secrecy envelope, certification envelope and return envelope, in the prescribed manner.

Deadline

(3) A voter is solely responsible for ensuring that the voter's special ballot is received by the returning officer, or the Chief Electoral Officer if the voter is not in the community where the office of the returning officer is located, as the case may be, prior to 5:00 p.m. on plebiscite day.

Secrecy of the vote

76. (1) The provisions on the secrecy of the vote apply to special ballots with such modifications as the circumstances may require.

One special ballot only

(2) No person shall obtain or attempt to obtain more than one special ballot at a plebiscite.

Prohibition

(3) No person who is sent a special ballot shall vote by any other means.

Recording special ballot sent

77. (1) When a voter is sent a special ballot, the returning officer shall record that fact in the polling record.

Custody of envelopes

(2) The returning officer and Chief Electoral Officer shall keep safe custody of the special ballot envelopes received until the counting of the votes.

Informing returning officers

(3) The Chief Electoral Officer shall regularly inform the returning officer of any special ballots received at the Office of the Chief Electoral Officer.

Operation of Polling Stations

Hours of the polling station

78. (1) On plebiscite day, the polling stations shall be open from 9:00 a.m. to 7:00 p.m. local time, but if there is more than one time zone in the plebiscite area, the time is Central Standard Time, as modified by Daylight Saving Time when applicable.

Extension of time

(2) The returning officer may, if instructed by the Chief Electoral Officer, extend the time of closing of that polling station if

- (a) the opening of a polling station has been delayed beyond the time provided for in subsection (1) or its operation has been halted during plebiscite day because of an accident, riot, weather conditions or another similar factor; and
- (b) a significant number of voters would not be able to vote without the extension.

Maximum open period

(3) An extension or postponement cannot result in the polling station being open

for a total period exceeding 11 hours.

Postponement of poll

(4) The Chief Electoral Officer may instruct a returning officer to postpone the operation of a polling station because of an accident, riot, weather conditions or another similar factor.

Maximum postponement

(5) The operation of a polling station may not be postponed for any period longer than is necessary because of the accident, riot, weather conditions or another similar factor.

Public notice

(6) The returning officer shall, as soon as possible, notify the public of the extension or postponement in the approved manner.

Delay counting

(7) Where the time of closing of a polling station is extended or postponed, the procedure for counting the ballots at all other polling stations in the plebiscite area shall be similarly delayed.

Presence of voters at closing of poll

79. (1) If, at the time fixed for the closing of the polling station, there are still voters within the polling station or at its entrance, the polling station must remain open for the period of time required to enable these voters to cast their votes, but a person who is not present at the time fixed for the closing of the polling station may not vote.

Presence of representatives

(2) If the representative of one or more registered groups is present at the polling station at least 15 minutes before the hour fixed for opening the poll, he or she is entitled, without causing any delay in the opening of the poll,

- (a) to have the ballot papers for the polling station counted in his or her presence before the opening of the poll; and
- (b) to inspect the ballot papers and all other papers, forms and documents relating to the poll.

Inspection of ballot box

80. (1) The deputy returning officer shall, at the time fixed for opening the polling station and in full view of all present, open the ballot box and establish that it is empty.

Closing the ballot box

(2) The ballot box must then be closed and sealed in accordance with the directions of the Chief Electoral Officer and, in full view of all present, placed on a table, where it must remain until the closing of the poll.

Voting Procedure at a Polling Station

Opening the polling station

81. (1) The deputy returning officer shall, immediately after the ballot box is sealed, call on voters to cast their ballots.

Free access

(2) The deputy returning officer shall admit the voters into the polling station and see that they are not disturbed.

One voter at a time

(3) The deputy returning officer may, if it seems advisable, direct that only one voter for each voting compartment be allowed to enter the premises of the polling station at a time.

Orderly circulation

(4) In a central polling place, the plebiscite officer responsible for regulating the entry of persons assumes the duties under this section and may take appropriate measures to ensure the orderly circulation of persons present in the central polling place.

Presentation of voters

82. (1) A voter shall, on entering the polling station, give his or her name and address to the deputy returning officer, and the poll clerk shall ascertain whether the voter's name appears on the voters list or if the voter is otherwise qualified to vote.

Persons allowed to vote

(2) Subject to this Act, every voter whose name appears on the voters list for the polling station is to be allowed to vote there.

Voter who registers on plebiscite day

(3) A voter who registers at the polling station and whose name is added to the polling record may vote without further formality.

Proof of identity

83. (1) A person who wishes to vote must, before voting, provide satisfactory evidence of identity and take an oath or affirmation, in the approved form, in circumstances where

- (a) the voters list used at the polling station contains a name or address other than that of the voter but is so similar as to be, in all probability, that of the voter;
- (b) the voters list indicates that the voter has already voted; or
- (c) a plebiscite officer or a registered group's representative present at the polling station has doubts concerning the identity or right to vote of a person intending to vote in the polling station, even if the person's name appears on the voters list.

Contents of oath or affirmation

(2) In the cases referred to in paragraphs (1)(b) and (c),

- (a) the oath or affirmation must state that the person did not vote before and did not apply for or receive a special ballot in the plebiscite; and
- (b) the deputy returning officer or poll clerk must confirm with the returning officer that the voter was inadvertently identified as having previously voted or applied for a special ballot.

Entry in polling record

- (3) The poll clerk shall enter in the polling record, opposite the name of the voter,
 - (a) in the case of a voter who appears to have voted more than once, a note that the voter voted on a second ballot paper issued under the same name;
 - (b) a note that the oath or affirmation was taken;
 - (c) any objections made by or on behalf of a registered group; and
 - (d) any other information required by the Chief Electoral Officer.

Refusal

(4) No person who refuses to take the oath or affirmation or tender satisfactory evidence of identity under this section shall vote.

Receipt of ballot

84. (1) A voter who enters a polling station and who has the right to vote there is entitled to receive a ballot and to vote.

Delivery of ballot

(2) The deputy returning officer shall ensure that each voter with a right to vote at the polling station is handed a properly initialled ballot in such a way that the initials are visible after the ballot is marked and folded.

Instructions to voter

85. (1) The deputy returning officer shall instruct the voter on how to properly mark and handle the ballot.

Marking a ballot

(2) The proper way to mark a ballot is to make a cross, checkmark or other mark clearly indicating the voter's intention only within the circular space on the ballot adjacent to the voter's choice, using the pencil provided or any other pen or pencil.

Deposit in ballot box

(3) The voter, or the deputy returning officer if the voter is unwilling or unable to do so, shall deposit the marked ballot in the ballot box in the prescribed manner.

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 place and not loiter within 10 metres of that place.

Spoiled ballot

86. (1) Any voter who, having received a ballot, inadvertently marks or damages it, shall return it to the deputy returning officer who shall cancel the ballot by defacing it, deposit the spoiled ballot in the envelope provided for this purpose and deliver another ballot to the voter.

Misprinted ballots

(2) The deputy returning officer shall treat any misprinted ballot as a spoiled ballot.

Special Assistance to Voters

Assistance by deputy returning officer

87. (1) If a voter requests assistance in marking the voter's ballot, the deputy returning officer shall, in the presence of the poll clerk, assist the voter by any means likely to enable the voter to vote.

Assistance by friend or relative

(2) A friend or relative may accompany a voter requiring assistance into the voting compartment to assist the voter in voting.

Assisting only once

(3) No person, other than a plebiscite officer, shall assist more than one voter in marking a ballot.

Promise before assistance

(4) Any friend or relative who wishes to assist a voter in marking a ballot shall first solemnly promise and declare that they

- (a) shall mark the ballot as instructed by the voter;
- (b) shall keep the choice of the voter secret;
- (c) shall not influence the voter in making a choice; and
- (d) have not assisted, during the current plebiscite, another person to vote.

Record of assistance

(5) The poll clerk shall, in addition to the other requirements of this Act, record the fact that the voter received assistance and enter the name of the person who assisted the voter in the remarks column of the polling record opposite the entry for the voter.

Disabled voter

88. (1) Any voter with a physical disability who has difficulty entering the polling station where the voter is qualified to vote on plebiscite day may request the deputy returning officer to allow the voter to vote at the nearest possible place outside the polling station to which the voter has access.

Taking vote outside polling station

(2) The deputy returning officer shall, for the purpose of subsection (1),

- (a) temporarily halt all operations in the polling station;
- (b) with the poll clerk, bring the ballot box and a ballot to the voter outside the polling station; and
- (c) take whatever steps are necessary to ensure the secrecy of the vote.

Resumption of operations

(3) When the voter's ballot is deposited in the ballot box, the deputy returning officer shall bring the ballot box back into the polling station and resume operations in the polling station.

Maintaining Peace and Order at Polling Place

Maintaining peace and order

89. (1) The returning officer, during a plebiscite, and the deputy returning officer, during the hours that the polls are open, shall take reasonable measures to maintain peace and order.

Assistance

(2) A deputy returning officer may request the assistance of justices of the peace, peace officers or other persons to maintain peace and order at a polling place.

Peace officers

(3) A deputy returning officer may arrange in advance for peace officers to be ready to maintain peace and order throughout plebiscite day.

Taking of information

90. (1) Where a person in a polling place alleges that someone has committed or is attempting to commit the offence of impersonation or voting without the right to do so, the deputy returning officer shall take the information of the person under oath or affirmation, in the approved form.

Power to detain

(2) The deputy returning officer may detain or order the detention of any person against whom an allegation under subsection (1) is made and who has not yet left the polling place, until the deputy returning officer has finished taking the information under subsection (1).

Warrant of arrest

(3) As soon as an information under oath or affirmation is received under subsection (1), the deputy returning officer may deliver a warrant, in the approved form, for the arrest of any person against whom the information is laid.

Eviction

- (4) The deputy returning officer, acting as a peace officer, may
- (a) evict from the polling place any person believed to have committed

- an offence under this Act; and
- (b) remove or have removed anything that in the opinion of the deputy returning officer has been used in the commission of the offence.

Powers to control place of voting

- 91.** (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 polling place 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 identity; 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 plebiscite proceedings are being conducted, unless permitted to do so by the deputy returning officer.

Voting in the Office of the Returning Officer

Eligibility to vote in office of returning officer

92. (1) In a Nunavut-wide plebiscite, a voter who is on the voters list may vote in the office of the returning officer in accordance with this section.

Application of other provisions

(2) Subject to this section, the provisions of this Act respecting polls and voting on plebiscite day apply to voting in the office of a returning officer with such modifications as the circumstances require or as the Chief Electoral Officer may direct.

Where voter not on voters list

(3) A voter may vote in the office of the returning officer, even if the voter is not on the voters list, by registering in accordance with section 54.

Time for voting in office of returning officer

(4) A person may vote at the office of the returning officer only during the hours of operation of the office, commencing the 14th day before plebiscite day, and ending the 4th day before plebiscite day.

Recording votes

(5) The returning officer shall, in accordance with the instructions of the Chief Electoral Officer,

- (a) keep a record of voters who have voted in the office of the returning officer and notify the deputy returning officers of the voters who have so voted;
- (b) secure the ballot box and ballot papers during the period in which persons may vote at the office of the returning officer until the time for the counting of votes on plebiscite day;
- (c) count the votes in the office of the returning officer at the close of the polls on plebiscite day; and
- (d) secure the ballot papers and other material associated with the voting after the counting of the votes.

Emergency Voting Procedure

Voting by telecommunications device

93. (1) In a Nunavut-wide plebiscite, a voter who has the right to vote may vote by means of a telecommunications device, including a radio, telephone or Internet telephony device, if the voter

- (a) is able to communicate with the office of the returning officer by means of a telecommunications device;
- (b) requests the returning officer to provide an opportunity to vote by this method; and
- (c) establishes that he or she
 - (i) is unable to vote by any other method because of the voter's remote location, and
 - (ii) had no other means of voting before going to this remote location.

Procedure

(2) The procedure for voting by a telecommunications device is as follows:

- (a) the returning officer or a deputy returning officer designated for this purpose shall receive the voter's vote by the device in the presence of another plebiscite officer;
- (b) the voter's identity must be established to the satisfaction of the returning officer or deputy returning officer;
- (c) a reasonable degree of secrecy in the voter's choice must be maintained, given the possibly open nature of the communications; and
- (d) the returning officer or deputy returning officer who receives a voter's vote shall mark the voter's choice on a special ballot and place it in the secrecy envelope, certification envelope and return envelope, in the prescribed manner, on the voter's behalf.

Deemed special ballot

(3) A vote made under this section is valid and shall be deemed to be a vote made by special ballot.

Mobile Poll

Request for mobile poll

94. (1) A returning officer shall give public notice that voters who are shut in and unable to attend either the office of the returning officer or the polling station may call the returning officer to request a visit by a mobile poll.

Having a mobile poll

(2) A mobile poll must be conducted in a plebiscite area on the day of the advance vote if the Chief Electoral Officer considers that there is sufficient need for it.

Itinerary

(3) The returning officer shall determine the appropriate schedule for any mobile poll and determine the places where and the hours during which the mobile poll will be available to voters.

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.

Application of Act

95. (1) Unless the Chief Electoral Officer instructs otherwise, the provisions of this Act respecting the conduct of voting at a polling station apply to a mobile poll with such modifications as the circumstances require.

Close of poll

(2) At the close of the mobile poll, the deputy returning officer of the mobile poll shall keep the sealed ballot box in his or her custody and send the polling record to the returning officer.

Recording names of voters

(3) As soon as the returning officer receives the polling record from a mobile poll, the returning officer shall record the names of all voters who voted at the mobile poll for the purpose of ensuring those voters are excluded from subsequent voting opportunities.

Proxy Voting

Voting by proxy

96. (1) In a Nunavut-wide plebiscite, a voter who is on the voters list may vote by proxy if

- (a) the voter will be unable to vote on plebiscite day because of an unexpected absence from the plebiscite area; and

- (b) the voter has no opportunity to vote except by using the proxy vote.

Application for proxy certificate

(2) To vote by proxy, a voter must apply to the returning officer for a proxy certificate to authorize another voter who is on the voters list for the plebiscite area to vote on his or her behalf as a proxy voter.

Prohibition on distribution

(3) No person other than a returning officer shall distribute applications for proxy certificates or blank proxy certificates.

Electronic distribution

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

Forms for application and certificates

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

Completion of proxy certificate

(6) When the voter receives a proxy certificate, the voter must complete the certificate and have the person who is to be authorized as a proxy voter sign the certificate to indicate his or her consent.

When applications available

97. (1) The returning officer shall not make any application for a proxy certificate available before the 5th day before plebiscite day.

Deadline for application

(2) An application for a proxy certificate must be sent so that it is received by the returning officer no later than 3:00 p.m. on plebiscite day.

Limit on proxy votes

98. (1) A voter may only vote once as a proxy voter at a plebiscite.

Voting in own right

(2) A voter who votes as a proxy voter at a plebiscite is entitled to vote in his or her own right at the plebiscite.

Presentation of proxy certificate

99. (1) On plebiscite day, a voter who has been authorized as a proxy voter shall present the proxy certificate to the deputy returning officer at the polling station for which the voter who appointed the proxy voter is qualified to vote.

Voting as proxy voter

- (2) After presenting the proxy certificate, the proxy voter may vote at the plebiscite on behalf of the voter who completed the certificate if the proxy voter
- (a) verifies by statutory declaration made before the deputy returning officer
 - (i) that he or she has not already voted in the plebiscite as a proxy voter, and
 - (ii) that, to the best of his or her knowledge, the voter who appointed him or her is absent from the plebiscite area; and
 - (b) takes an oath or affirmation under section 83, where so required.

Poll clerk

- (3) The poll clerk shall enter in the polling record opposite the name of the voter, in addition to any other required entry, a notation that the voter voted by proxy and the name of the proxy voter, and shall attach the proxy certificate to the polling record

PART VI PLEBISCITE RESULTS

Verification of Special Ballots

Appointment of plebiscite officers

100. In a Nunavut-wide plebiscite, the Chief Electoral Officer may appoint a deputy returning officer and a poll clerk to verify and count the special ballots issued to voters that have been returned to the Office of the Chief Electoral Officer.

Preservation of sealed envelopes

101. (1) Upon receiving a special ballot in their respective offices in a Nunavut-wide plebiscite, the returning officer and the Chief Electoral Officer may open the return envelope but shall ensure that the other envelopes are kept sealed until the voter's identity is verified.

Envelopes received after deadline

- (2) The returning officer and Chief Electoral Officer shall
- (a) keep separate and sealed all return envelopes received at their respective offices after the deadline referred to in subsection 75(3); and
 - (b) initial the envelopes and mark them with the date and time of their receipt.

Verification of special ballots

(3) The returning officer and the Chief Electoral Officer shall verify the special ballots received in their respective offices by opening the return envelopes, in accordance with the rules established by the Chief Electoral Officer, and ascertaining whether the voter whose signature and identification appear on the certification envelope is entitled to vote in the plebiscite.

Rejecting ballots

102. (1) When verifying the special ballots in a Nunavut-wide plebiscite, the returning officer and the Chief Electoral Officer shall reject any special ballot where

- (a) the voter's identification does not correspond with the application of the voter;
- (b) more than one special ballot was sent to the voter; or
- (c) the return envelope was received at the Office of the Chief Electoral Officer or the returning officer's office after the deadline referred to in subsection 75(3).

Reasons

(2) The returning officer and the Chief Electoral Officer shall, without breaking the seal, set aside any certification envelope not considered acceptable to be counted, note the reasons for not counting the special ballot on the certification envelope and initial it.

Handling ballots by returning officer

(3) The returning officer shall open the certification envelopes and put the secrecy envelopes in the ballot box used for ballots of voters who vote in the office of the returning officer.

Handling ballots by Chief Electoral Officer

(4) The Chief Electoral Officer shall open the certification envelopes and put the secrecy envelopes in a ballot box designated for that plebiscite area.

Special ballots in Office of Chief Electoral Officer

- 103.** (1) In a Nunavut-wide plebiscite, the Chief Electoral Officer shall,
- (a) keep a record of voters who were sent a special ballot from the Office of the Chief Electoral Officer and notify the returning officers of those voters; and
 - (b) secure the ballot box used for special ballots and the special ballot papers during the period that persons may vote by special ballot until the time for the counting of votes.

Special ballots in office of returning officer

- (2) In a Nunavut-wide plebiscite, the returning officer shall, in accordance with the instructions of the Chief Electoral Officer,
- (a) keep a record of voters who were sent a special ballot from his or her office;
 - (b) notify the deputy returning officers of all voters who were sent a special ballot; and
 - (c) secure the ballot box used for special ballots and special ballot papers during the period that persons may vote by special ballot until the time for the counting of votes.

Counting the Votes

Time of counting

104. (1) On plebiscite day, immediately after the close of the polls, the counting of the votes shall take place in every polling station open that day or during the period of the advance vote.

Who may be present when counting the votes

- (2) No person may be present in the room where the votes are to be counted other than the following:
- (a) plebiscite officers and counsel for Elections Nunavut;
 - (b) any observer with written authorization from the Chief Electoral Officer;
 - (c) one representative of any registered group in the plebiscite;
 - (d) any peace officer referred to in subsection 89(2);
 - (e) any two voters selected under subsection (3).

Procedure for counting the votes

(3) The deputy returning officer shall, in the presence of the representatives of any registered groups in the plebiscite or, if no representatives are present, in the presence of at least two voters selected by the deputy returning officer, make the count in accordance with the regulations.

Counting the other votes

(4) To count the special ballots and the ballots taken at any time other than on plebiscite day, the deputy returning officer shall empty the contents of the ballot boxes used for these purposes onto a table, open any secrecy envelopes and proceed in the same manner as for the counting of the votes cast at a polling station.

Rejection of ballots

(5) When counting the ballots, the deputy returning officer shall reject any ballot that was

- (a) not supplied by the Chief Electoral Officer;
- (b) not marked in favour of a choice allowed in the plebiscite;
- (c) marked in favour of more than the choices allowed in the plebiscite or in favour of incompatible choices;
- (d) not marked in accordance with subsection 85(2); or
- (e) marked in a way that might identify the voter.

Minor problems

(6) No ballot shall be rejected pursuant to subsection (5) for the sole reason that the deputy returning officer

- (a) placed a note, number or mark on the ballot;
- (b) did not remove the counterfoil when the voter voted; or
- (c) did not initial the ballot.

Openness

(7) The deputy returning officer shall give a full opportunity to those present to look at, but not to touch, each ballot paper.

Guidelines

(8) The Chief Electoral Officer may issue guidelines for rejecting ballots and on what marks are acceptable or might identify the voter on ballots for the purposes of this Act.

Effect of failure to initial

105. (1) Where, in the course of counting the votes, a deputy returning officer discovers that the back of any ballot paper was not initialled by the deputy returning officer, the deputy returning officer shall, in the presence of the poll clerk and the representatives of any registered groups, affix his or her initials to the ballot paper and count the ballot paper as if it had been initialled in the first place, if the deputy returning officer is satisfied that

- (a) the ballot paper was supplied by the deputy returning officer;

- (b) an omission was in fact made; and
- (c) every ballot paper supplied to the deputy returning officer by the returning officer is accounted for.

Liability of deputy returning officer

(2) Nothing in subsection (1) relieves a deputy returning officer from any penalty to which the deputy returning officer may have become liable by reason of the failure of the deputy returning officer to initial the back of any ballot paper before handing it to a voter.

Objections

106. (1) Where a person present during the counting of the ballots objects to the validity of a ballot, the deputy returning officer shall record the objection in accordance with subsection (3) and render a decision on the questions raised by the objection.

Decision final

(2) The decision of a deputy returning officer on an objection under subsection (1) is final, and may only be reversed by a recount or by an application to void a plebiscite.

Objections recorded

- (3) The deputy returning officer shall
- (a) record each objection in the polling record with the name of the objector, the grounds of the objection and an identifying number;
 - (b) inscribe the identifying number of the objection on the back of the ballot; and
 - (c) initial the ballot.

Statement of the poll

107. (1) The deputy returning officer shall prepare a statement of the poll that sets out

- (a) the total number of valid votes cast;
- (b) the number of votes in favour of each choice;
- (c) the number of rejected ballots; and
- (d) such other information as may be required by the Chief Electoral Officer.

Copies of statement of poll

(2) The deputy returning officer shall make copies of the statement of the poll, in the approved form, and distribute them as follows:

- (a) one copy to remain with the polling record;
- (b) one copy to be kept by the deputy returning officer;
- (c) one copy to be faxed and delivered to both the returning officer and the Chief Electoral Officer; and
- (d) one copy for any registered group in the plebiscite.

Handling of ballots

108. (1) After completing the statement of the poll, the deputy returning officer shall,

using envelopes supplied by the Chief Electoral Officer,

- (a) place all the valid ballots in separate envelopes for each choice;
- (b) place all the rejected ballots in another envelope; and
- (c) place all the unused ballots in another envelope.

Sealing envelopes

(2) The deputy returning officer shall seal each envelope and note the contents on outside of each envelope.

Signing the seals

(3) The deputy returning officer and the poll clerk shall each sign the seals on all the envelopes containing ballots. Any other person present may also sign the seals.

Placement in large envelope

(4) The deputy returning officer shall place the following in a large envelope supplied by the Chief Electoral Officer:

- (a) the separate envelopes containing the various categories of ballots;
- (b) the envelope containing the voters list and other documents used at the poll;
- (c) the polling record;
- (d) the statement of the poll; and
- (e) a record of the ballots.

Closing and delivery of ballot box

(5) The deputy returning officer shall seal the ballot box pursuant to the instructions of the Chief Electoral Officer and shall send it immediately to the returning officer or the Chief Electoral Officer.

Notification of results

(6) The deputy returning officer shall immediately notify the returning officer of the results of the poll.

Counting the Special Ballots in the Office of the Chief Electoral Officer

Counting special ballots

109. (1) In a Nunavut-wide plebiscite, immediately after the close of the polls on plebiscite day, 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.

Rejecting ballots

(2) When counting ballots, the deputy returning officer appointed by the Chief Electoral Officer shall reject any special ballot that was

- (a) not supplied by the Chief Electoral Officer;
- (b) not marked in favour of a choice;
- (c) not marked in accordance with subsection 85(2);

- (d) marked for more than one choice or incompatible choices; or
- (e) marked in a way that identifies the voter.

Statement of poll

110. (1) The deputy returning officer appointed by the Chief Electoral Officer shall prepare a statement of the poll in respect of the special ballots cast in the Office of the Chief Electoral Officer.

Informing returning officer

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

Secrecy of results

111. (1) No person present at the counting of special ballots shall disclose any information which could inform a person who did not take part in the counting of the votes of the results before the Chief Electoral Officer has informed the returning officer.

Pooling results

(2) Before publishing the results of the special ballots, the Chief Electoral Officer may pool the results of the special ballots with the results of other polls to protect the secrecy of those ballots.

Verification of Votes by Returning Officer

Verifying statements of poll

112. Immediately after the close of the polls, the returning officer shall verify the votes in favour of each choice from the various statements of the poll for the plebiscite area.

Plebiscite report

113. (1) The returning officer shall, in a plebiscite report in the approved form, certify the number of votes cast in favour of each choice, according to the verified statements of the poll.

Deadline

(2) The plebiscite report must be completed as soon as the verification of all the votes is completed, unless, in exceptional circumstances, the Chief Electoral Officer authorizes otherwise.

Sending report

(3) The returning officer shall immediately send a copy of the plebiscite report to the Chief Electoral Officer and to any registered group in the plebiscite.

Nunavut-wide plebiscite

(4) In the case of a Nunavut-wide plebiscite, the Chief Electoral Officer shall

issue a plebiscite report for Nunavut as a whole, based upon the plebiscite reports received from the returning officers.

Adjournment of addition of votes

114. (1) The returning officer may adjourn the official addition of the votes where the statement of the poll for a polling station is not received or the number of votes cast at the polling station cannot be ascertained.

Limit

(2) The aggregate of all adjournments shall not exceed two weeks.

Lack of statement of poll

(3) Where a statement of the poll or an accurate copy of it cannot be obtained, the returning officer shall ascertain, by the evidence that the returning officer is able to obtain, the total number of votes given to each choice at the several polling stations, and the returning officer

- (a) may summon any deputy returning officer, poll clerk or other person to appear before the returning officer at a day and hour to be named by the returning officer, and to bring all necessary papers and documents;
- (b) shall give notice of the date and hour of the intended proceedings to the public; and
- (c) may examine on oath the deputy returning officer, poll clerk or other person, respecting the matter in question.

Reporting

(4) Where a ballot box or statement of the poll has been lost or has not been returned, the returning officer shall issue the plebiscite report and shall report to the Chief Electoral Officer

- (a) the reasons for the lack of any statement of the poll; and
- (b) the method by which the returning officer ascertained the number of votes cast for each choice.

Judicial Recount

Application for recount by returning officer

115. (1) When the difference between the number of votes in favour of the choice that received the most votes and any other choice is nil or less than 2 % of the total number of votes cast in the plebiscite, the returning officer shall, without delay, apply to the court for a recount.

Nunavut-wide plebiscite

(2) In the case of a Nunavut-wide plebiscite, the Chief Electoral Officer shall perform the functions of the returning officer under this section.

Notice

(3) The returning officer shall give notice to the public of the recount.

Valid votes

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

Application for recount for impropriety

116. (1) The Chief Electoral Officer or any voter in the plebiscite area may, before the end of the 8th day after the declaration by the returning officer of the result of the plebiscite, apply to the court for a recount.

Grounds for application

(2) An application for a judicial recount may only be made under this section on the grounds that

- (a) a plebiscite officer improperly counted the votes or improperly rejected ballots;
- (b) a deputy returning officer made an incorrect statement of the number of votes cast for any choice; or
- (c) the returning officer improperly added up the votes.

Supporting facts

117. (1) An application for a recount under section 115 or 116 must be made in accordance with the *Rules of the Nunavut Court of Justice* and the practice and procedure of the court for an originating application and must

- (a) set out the facts on which the application is based; and
- (b) be supported by an affidavit or statutory declaration in relation to those facts.

Security for costs

(2) Any applicant for a recount under section 115, other than the Chief Electoral Officer, shall deposit with the Clerk of the Nunavut Court of Justice, at the time of filing, the sum of \$250 as security for the costs of the respondent under the application.

Recount date

118. (1) The court shall appoint a time and place to commence recounting the votes, which shall be within 10 days after the receipt by the court of the application, or as soon as possible thereafter.

Appointment of another judge

(2) The judge that receives the application may appoint another judge to hear the application.

Notice and service

119. (1) The judge shall appoint and give written notice to the applicant, the Chief Electoral Officer if he or she is not the applicant, the plebiscite authority and any

registered group in the plebiscite of the time and place at which the judge will proceed to recount the votes and may, at the time of the application or afterward, decide and announce the method of service of notice.

Attendance by returning officer

(2) The returning officer shall attend at the time and place appointed under subsection (1) with the ballot boxes containing the used and counted, unused, rejected and spoiled ballot papers, or the original statements of the poll signed by the deputy returning officers, as the case may be, that are relevant to the recount that is to take place.

Chief Electoral Officer

(3) The Chief Electoral Officer shall perform the functions of the returning officer under subsection (2) in the case of a Nunavut-wide plebiscite or if the Chief Electoral Officer is the applicant.

Attendance by representatives of registered groups

(4) The authorized representative and counsel of the plebiscite authority and any registered group in the plebiscite may attend the recount and make any objection which is permitted under the procedures applicable to the first counting of votes.

Attendance by Elections Nunavut

(5) The Chief Electoral Officer and his or her counsel may attend the recount and provide administrative assistance to the court.

Attendance by voters

(6) Any three voters who ask the court to attend on behalf of the unrepresented side in the plebiscite are entitled to attend the recount and make any objection which is permitted under the procedures applicable to the first counting of votes.

Recount procedure

120. (1) The judge undertaking the recount shall review the ballots and the accuracy of the statements of the poll.

Dismissal

(2) The judge may dismiss the application, before or during the hearing, if it appears to be frivolous, vexatious or unfounded.

Additional information

(3) The judge may order the production of additional information or documents.

Extension of time

(4) A judge may extend the time limits respecting recounts.

Continuity of proceedings

121. (1) The judge shall, as far as practicable, proceed continuously with the recount,

allowing only recesses for refreshment if necessary.

Sealing during recess

(2) During a recess at a recount, the ballot papers and other documents shall be kept enclosed in packages under the seal of the court and under any other seals that persons who are authorized to attend at the recount desire to affix to the packages.

Supervision of sealing

(3) The judge shall personally supervise the packaging and sealing of ballot papers and documents at a recount and take all necessary precautions for the security of the papers and documents.

Assistance to judge

(4) Subject to the approval of the Chief Electoral Officer, the judge may retain the services of clerical assistants as required to properly perform the recount.

Procedure at conclusion

- 122.** (1) At the conclusion of a recount, the judge shall
- (a) seal all the ballot papers in separate packages;
 - (b) add the number of votes cast for each choice as ascertained at the recount; and
 - (c) certify the result of the recount, in the approved form.

Copies

- (2) The judge shall immediately send a copy of the certified result of the recount to
- (a) the Chief Electoral Officer;
 - (b) the plebiscite authority; and
 - (c) any registered group in the plebiscite.

Decisions

- (3) When considering a recount application, the judge may
- (a) dismiss the application;
 - (b) terminate the application on request in writing by the applicant; or
 - (c) decide any other matter relating to the application.

Choice with highest number of votes

123. (1) If the judge certifies that one choice in the plebiscite obtained a higher number of votes than any other, the returning officer, or the Chief Electoral Officer in the case of a Nunavut-wide plebiscite, shall declare that choice as the result in the return of the writ.

New plebiscite

(2) If the judge certifies a tie in the number of votes, the Chief Electoral Officer shall as soon as practicable issue a new writ, unless the plebiscite authority gives the Chief Electoral Officer written instructions to cancel the plebiscite.

Applicable instructions

(3) A plebiscite that takes place pursuant to a recount shall be held in accordance with the instructions applicable to the original plebiscite in the plebiscite area.

Costs

- 124.** (1) Where a recount under section 116 does not alter the result of the plebiscite, the judge may
- (a) order the applicant to pay the costs of the respondent; and
 - (b) specify the amount of those costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the court.

Payment of costs

(2) The moneys deposited as security for costs shall, so far as necessary, be paid out to the respondent and, if the deposit is insufficient, the respondent may take action for the balance.

Appeal of recount

125. (1) Where a judge omits, neglects or refuses to comply with this Act in respect of a recount, any party aggrieved may, within 8 days after the recount, make an application to the Court of Appeal.

Hearing of appeal

(2) The Court of Appeal shall hear any appeal from a decision within 14 days of the day it is seized with the appeal application and shall render its decision as soon as possible.

Costs

(3) Remedies for the recovery of the costs awarded under this Act shall be the same as for costs in ordinary cases in the Court of Appeal.

Return of the Writ

Declaration of results

126. (1) The returning officer shall declare the results of the plebiscite in the return of the writ, which is inscribed on the back of the writ.

Time of return

- (2) The return of the writ must be made not later than
- (a) seven days after certifying the vote count in the plebiscite report; or
 - (b) the day the certificate of any recount is received by the returning officer.

Sending return

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

Return sent prematurely or containing errors

(4) The Chief Electoral Officer may return to the returning officer a return of the writ that was sent prematurely or that contains errors and, in such a case, the returning officer shall diligently remedy any defect as directed by the Chief Electoral Officer.

Nunavut-wide plebiscite

(5) In the case of a Nunavut-wide plebiscite, the Chief Electoral Officer shall perform the functions of the returning officer under this section, and subsections (3) and (4) are not applicable.

Publication of results

(6) Upon receipt of a return of the writ in due form prepared by the returning officer, the Chief Electoral Officer shall publish the plebiscite result in the *Nunavut Gazette*.

Delay for recount

(7) Where a returning officer receives notice of a recount, the returning officer shall delay the return of the writ until the returning officer has received the certified results of the recount from the judge.

Reporting by Chief Electoral Officer

127. The Chief Electoral Officer shall, without delay, send a copy of the return of the writ to the plebiscite authority that initiated the plebiscite.

Voiding a Plebiscite

Making the application

128. (1) An application to void a plebiscite may be brought by originating notice in the court by

- (a) the Chief Electoral Officer, where he or she considers it to be in the public interest;
- (b) the plebiscite authority;
- (c) any registered group in the plebiscite; or
- (d) a voter.

Grounds of application

(2) An application to void a plebiscite may only be made on the grounds that

- (a) a person or any registered group in the plebiscite has not complied with this Act and that non-compliance affected the result of the plebiscite; or
- (b) an act or omission of a plebiscite officer affected the result of the plebiscite.

Time for bringing the application

(3) The application must be filed with the Clerk of the Nunavut Court of Justice no later than 30 days after publication of the plebiscite result in the *Nunavut Gazette*.

Exception

(4) The limitation specified in subsection (3) does not apply to the Chief Electoral Officer, who may file the application at any time.

Practice and procedure

129. (1) 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.

Security for costs

(2) The applicant, other than the Chief Electoral Officer, shall deposit with the Clerk of the Nunavut Court of Justice, at the time of filing, the sum of \$500 as security for the costs of the respondent under the application.

Service of application

130. A copy of the application shall be served, within 20 days after it is filed, on

- (a) the plebiscite authority, unless it is the applicant;
- (b) the Chief Electoral Officer, unless he or she is the applicant;
- (c) any registered group in the plebiscite; and
- (d) any person whose act or omission is alleged to have affected the result of the plebiscite.

Intervention by Chief Electoral Officer

131. (1) The Chief Electoral Officer may apply to a judge for leave to intervene in an application to void a plebiscite.

Notice of application

(2) The Chief Electoral Officer shall serve a copy of the application for leave on all parties.

Where leave granted

(3) Where a judge grants leave to intervene,

- (a) the judge shall give directions as to appearance and procedure in respect of the Chief Electoral Officer, including leave to subpoena witnesses to attend at the hearing; and
- (b) the Chief Electoral Officer shall be served with all proceedings in respect of the application that are served after the date on which leave is granted.

Application to set aside

132. (1) The respondent may, within 20 days after service of the application to void a plebiscite on the respondent, apply to a judge to set it aside on the following grounds:

- (a) the applicant is not qualified to bring the application;
- (b) the application was not filed or served within the time allowed under this Act;
- (c) the security for costs was not deposited; or
- (d) the application does not disclose sufficient facts and grounds for declaring void or setting aside the plebiscite.

Particulars

(2) The respondent may apply to a judge for an order for particulars, or for further and better particulars, of the facts and grounds relied on to support the application

- (a) within 20 days after service of the application on the respondent;
or
- (b) if the respondent has made application under this section to set the application aside, within five days after the disposal of that application.

Order

- (3) A judge may, by order,
- (a) require the production of such particulars as the judge considers necessary to ensure a fair trial;
 - (b) fix the time in which the particulars shall be delivered to the respondent; and
 - (c) provide that, in default of delivery, the applicant be precluded from adducing evidence at the hearing of the application with respect to the facts and grounds on which the particulars are ordered.

Hearing of Application to Void Plebiscite

Hearing

133. (1) Any time after the application to void a plebiscite is filed, the applicant may apply to the court to appoint a time and place for the hearing of the application and the court shall, on being satisfied that the application is at issue, appoint a time and place for trial.

Application to dismiss

(2) The respondent may apply to a judge to dismiss the application where the applicant does not, within 30 days after the application is filed, apply to set it down for hearing.

Order

(3) The judge may, on an application under subsection (2), dismiss the application or appoint a time and place for the hearing.

Open court

- (4) An application to void a plebiscite shall be heard in open court.

Decision of Court

Declaration that plebiscite void

134. (1) The judge may declare that a plebiscite is void where the judge determines that one or more of the grounds in subsection 128(2) have been established.

Effect of non-compliance

(2) No plebiscite shall be declared invalid for any of the following reasons, if it appears to the judge who is considering the matter that the plebiscite was otherwise conducted in accordance with this Act and that the non-compliance did not affect the result of the plebiscite:

- (a) non-compliance with this Act relating to limitations of time, the taking of the poll or the counting of the votes;
- (b) a lack of qualifications in the persons signing an application for registration of a group;
- (c) an error in the name, or omission of, or error in the address of any registered group on its application; or
- (d) an insufficiency in any posting or publication of a notice or other document, or a mistake in the use of the forms under this Act.

Judgment forwarded to plebiscite authority

(3) The Clerk of the Nunavut Court of Justice shall forward the judgment and the reasons for judgment to the plebiscite authority that initiated the plebiscite.

No implementation

135. Where a judge determines that a plebiscite was not lawfully conducted, even if an appeal from the decision is pending, the results of that plebiscite may not be implemented until

- (a) the appeal is disposed of; and
- (b) the judgment of the Court of Appeal is received by the plebiscite authority that initiated the plebiscite.

Appeal

Appeal

136. (1) An appeal lies to the Court of Appeal from a judgment of the court on an application to void a plebiscite.

Hearing

(2) The Registrar of the Court of Appeal shall set the appeal down for hearing at the next sitting and the appeal shall be heard by the Court of Appeal as soon as practicable.

Notice

(3) The appellant shall, within 10 days of setting the appeal down for hearing, give notice in writing that the case has been set down to

- (a) the parties affected by the appeal, or to their counsel;

- (b) the Chief Electoral Officer; and
- (c) the plebiscite authority that initiated the plebiscite.

Judgment

- (4) The Court of Appeal may give any judgment that it considers appropriate.

Costs

137. Costs of an appeal on an application to void a plebiscite and any proceeding arising from that application may be awarded as the Court of Appeal may, in its discretion, decide.

Management of Plebiscite Material

Safekeeping of ballot boxes

- 138.** (1) A returning officer, on receipt of each ballot box, shall
- (a) take every precaution for its safekeeping and for preventing any person other than the returning officer or a deputy returning officer from having access to a ballot box;
 - (b) examine the special seal affixed to each ballot box by a deputy returning officer;
 - (c) affix a new approved seal if the seal is not in good order; and
 - (d) record the condition of the special seal required to be affixed by the deputy returning officer to the ballot box in the appropriate column of the record book of the returning officer.

Collection of boxes and other material

(2) After the close of the polls, each deputy returning officer shall send to the returning officer or the Chief Electoral Officer, whichever is more convenient, any ballot boxes and the plebiscite material and documents for which the deputy returning officer was responsible.

Destruction or loss of ballot boxes

(3) Where any ballot box was destroyed, lost or for any other reason was not returned within the times fixed by this Act, other than destruction authorized under this Act, the returning officer shall ascertain the cause of the disappearance of the ballot box and report it in writing to the Chief Electoral Officer.

Remission of plebiscite material

(4) A plebiscite officer who is replaced, relieved of his or her duties or refuses or is unable to act, shall immediately send to his or her successor, or to any other person directed by the Chief Electoral Officer, any ballot boxes, plebiscite material and documents that the plebiscite officer obtained or prepared in the course of his or her duties.

Managing documents and ballot boxes

139. (1) The returning officer shall manage and then send to the Chief Electoral

Officer, for storage or destruction, the ballot boxes and all plebiscite material as directed by the Chief Electoral Officer.

Preservation of plebiscite material

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

Destruction

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

Public records

140. (1) The following are public documents and may be inspected at the Office of the Chief Electoral Officer by any person on request during business hours:

- (a) all statements of the poll;
- (b) all instructions or certifications issued by the Chief Electoral Officer under this Act;
- (c) all decisions, directions or rulings by the Chief Electoral Officer on points arising under this Act.

Request for access to documents

(2) Any person may request the Chief Electoral Officer provide access to any documents kept by the Chief Electoral Officer pursuant to this Act that are not public under subsection (1).

Granting access

(3) The Chief Electoral Officer shall provide access for the person requesting a document referred to in subsection (2) to consult the document, unless the Chief Electoral Officer considers that

- (a) the request is frivolous or vexatious;
- (b) the requested document is sealed inside a ballot box;
- (c) the requested document has been destroyed under subsection 138(3); or
- (d) the requested document contains information that should not or must not be disclosed for the same reasons as are applicable to records of a public body under the *Access to Information and Protection of Privacy Act*

Copies

(4) Any person may make copies of documents referred to in subsection (1) and is entitled to certified copies of those papers on payment for the preparation of those certified copies at the approved rate for each page.

Evidence

(5) Any copies of documents purporting to be certified by the Chief Electoral Officer are admissible in evidence without further proof.

Removal of campaign material

141. Any person or registered group that posted campaign material in the plebiscite shall ensure that all their campaign material is removed from public display within 10 days after plebiscite day.

PART VII
PLEBISCITE CONTRIBUTIONS AND EXPENSES

Contributions

Prohibition on making contributions

- 142.** (1) No person shall make a contribution to another person for the purpose of supporting campaigning by that other person in a plebiscite unless
- (a) the plebiscite is a Nunavut-wide plebiscite;
 - (b) the contribution is made during the plebiscite period;
 - (c) the contribution is for the purpose of supporting the conduct of campaigning by a registered group in the plebiscite; and
 - (d) the person receiving the contribution is the financial agent of a registered group in the plebiscite or a person authorized in writing to accept contributions on behalf of that financial agent.

Prohibited contributions

- (2) No person or entity that is prohibited from campaigning under subsections 25(1) and (4) shall make a contribution to a registered group.

Prohibition on accepting contributions

- (3) No person may solicit or receive a contribution for the purpose of campaigning in a plebiscite unless
- (a) the plebiscite is a Nunavut-wide plebiscite;
 - (b) the contribution is made during the plebiscite period;
 - (c) the contribution is to be made to a registered group; and
 - (d) the person is the financial agent of the registered group or is authorized in writing to accept contributions on behalf of the financial agent.

Group contributions

- (4) Subject to subsection 47(1) of the *Public Service Act*, an unincorporated association of individuals resident in Nunavut may make contributions to a registered group during a plebiscite period in the same manner as a corporation, if the association
- (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.

Maximum contribution

- (5) No individual, corporation or unincorporated association shall make contributions exceeding \$2,500 in total during a plebiscite period.

Value of goods and services

- (6) The value of a contribution made in goods and services is the market value of the goods and services.

Volunteer labour

(7) A contribution does not include any service provided free of charge by a person outside of the working hours of that person or any goods produced by that service, but does include any service, or goods produced by that service, provided by a person who is self-employed if the service is one that is normally sold or otherwise charged for by that person.

Status of association dues and donations

(8) Where an association is formed for the purpose of campaigning or otherwise participating in a plebiscite, any dues or donations collected by the association from its members or the others are considered to be contributions in the plebiscite.

Use of group funds

143. (1) A body that becomes a registered group in a plebiscite may, during the pre-plebiscite period and the plebiscite period, use an amount of its own funds on its campaign.

Record of contribution

(2) Any amount of funds used under subsection (1) shall be recorded as if it were a contribution from the registered group to itself.

Prohibition on use of contributions

144. Subject to section 151, no person shall use a contribution made to a person for any purpose other than to pay a plebiscite expense for a registered group.

Collection of contributions

145. (1) Only a financial agent or a person whom the financial agent authorizes in writing to act on behalf of the financial agent may receive a contribution on behalf of a registered group.

Bank account

(2) A financial agent shall

- (a) open an account at a bank or, where no bank exists where the financial agent resides, at an approved institution; and
- (b) deposit in that account all contributions of money collected on behalf of the registered group.

Anonymous contribution

146. (1) A financial agent may accept an anonymous contribution not exceeding \$100.

Contribution exceeding \$100

(2) Where a financial agent receives an anonymous contribution exceeding \$100, the financial agent shall

- (a) if the identity of the contributor can be established, return the contribution; or
- (b) if the identity of the contributor cannot be established, send the whole contribution to the Chief Electoral Officer to be credited to

the Consolidated Revenue Fund.

Record of contribution

147. (1) The financial agent shall, in addition to the record keeping obligations under the *Income Tax Act*, record and report all contributions received during a plebiscite period and, where a contribution exceeds \$100, the financial agent shall record and report the name and address of the contributor.

Contribution of goods or services

(2) The financial agent shall determine the market value of a contribution of goods and services and record that as the amount of the contribution, including food and drink provided to voters at a meeting, dance, dinner or other function in relation to the plebiscite by someone other than the financial agent.

Prohibited contributions

148. No financial agent shall knowingly accept a contribution from a person or entity not authorized under section 142.

Collection of money at functions

149. (1) Where money is given in response to a general collection of money solicited from the persons in attendance at a meeting, dance, dinner or other function held in relation to the plebiscite,

- (a) no amount of money shall be received anonymously from any person exceeding \$100; and
- (b) the amounts given anonymously shall not be considered as a contribution for the purposes of calculating the \$2,500 limit in subsection 142(5), but the total amount of money collected shall be recorded and reported by the financial agent.

Name of sponsor

(2) The financial agent shall record and report the name of each sponsor of the meeting, dance, dinner or other function referred to in subsection (1).

Advertising contribution

150. (1) The cost of advertising shall be considered a contribution to a registered group where a person, with the knowledge and consent of the registered group, campaigns

- (a) through the facilities of a broadcaster;
- (b) in a newspaper, magazine or other periodical publication or other printed document; or
- (c) through the use of any billboard, sign or outdoor advertising medium.

Identification of sponsor

(2) Where an advertisement referred to in subsection (1) is made, the authorized representative of the registered group making the advertisement and any other person making the advertisement shall provide their names and addresses to the broadcaster or

publisher of the advertisement.

Mixed expenses

(3) Where advertising or campaign material includes messages referring to both a plebiscite and an election, the cost of that advertising or campaign material is an election expense for the purposes of the *Nunavut Elections Act*.

Surplus contributions

151. (1) Subject to subsection 153(6), the financial agent shall, before the end of the post plebiscite period, give any contributions that were not expended on the registered group's campaign to the Consolidated Revenue Fund.

Cheque to Chief Electoral Officer

(2) The financial agent shall, for the purposes of subsection (1), send a cheque payable to the Consolidated Revenue Fund to the Chief Electoral Officer.

No tax benefit

(3) No registered group shall gain any benefit under the *Income Tax Act* (Nunavut) or *Income Tax Act* (Canada) for the payment of a surplus contribution to the Consolidated Revenue Fund.

Deficit

(4) Subject to sections 142 and 144, where a registered group has a campaign deficit, persons may give and the financial agent may receive additional contributions within the post plebiscite period to make up the deficit.

Additional contributions

(5) Additional contributions made under subsection (4) shall be deemed to have been made during the plebiscite period.

Expenses

No expense limit

152. (1) For greater certainty, there is no limit on the amount of plebiscite expenses that may be spent during a plebiscite.

Records of pre-plebiscite expenses

(2) Any registered group in a plebiscite shall keep proper records of its pre-plebiscite expenses.

Records of plebiscite expenses

(3) The financial agent of any registered group in a plebiscite shall keep proper records of contributions received and plebiscite expenses incurred.

Contracts for registered groups

153. (1) Only a financial agent, or a person authorized in writing by a financial agent, may enter into a contract to incur a plebiscite expense for a registered group

Liability

(2) A contract not entered into under subsection (1) is void.

Petty expenses

(3) A person may, if authorized in writing by a financial agent, pay any necessary expenses for a registered group for stationery, postage, communications and other petty expenses to a total amount not exceeding the amount authorized.

Proof of expenses

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

Payment of bills

(5) Subject to subsection (6), all bills must be submitted to and paid by the financial agent at the latest within the post plebiscite period.

Exception

(6) The Chief Electoral Officer may approve the receipt and payment of a bill by a financial agent after the post plebiscite period where, in the opinion of the Chief Electoral Officer, extraordinary circumstances exist.

Financial Returns

Preparation of financial return

154. (1) The financial agent of any registered group in a plebiscite shall, before the end of the post plebiscite period, prepare for the registered group an accurate, signed financial return in the approved form.

Sending financial return

(2) Every registered group in a plebiscite shall, before the end of the post plebiscite period, send its 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 registered group of
 - (i) the total amount of contributions received during the plebiscite period,
 - (ii) the total amount of contributions received after plebiscite day but deemed to have been made during the plebiscite period under subsection 151(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 plebiscite expenses including disputed claims and unpaid claims;
- (b) all receipts and bills proving payment of plebiscite expenses as required by subsection 153(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 authorized representative of the registered group certifying that the financial return is accurate, complete and does not contain any false or misleading information.

Application for extension of time

(4) A registered group or its 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).

Deadline

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

Extension of time

(6) 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.

Publication of notice – financial returns

155. (1) The Chief Electoral Officer shall, after receiving financial returns filed in a plebiscite, cause a notice to be published in a newspaper of general circulation in Nunavut, or circulating in the plebiscite area where the plebiscite was held, advising the public on how to obtain a copy of the financial returns.

Publication of non-compliant persons or groups

(2) 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 registered groups and financial agents who failed to comply with section 154.

Order allowing authorized excuse

156. (1) A judge may make such order as the judge considers just allowing the failure to send all or part of a financial return when due, or for an error or false statement in the return or declaration, if

- (a) the financial agent or authorized representative of a registered group applies to a judge and shows that the failure to send it, or the error or false statement, arose by reason of inadvertence, the illness of the authorized representative of the registered group, the absence, death, illness or misconduct of the financial agent or of a clerk or officer of the financial agent, or any other similar

- reasonable cause and not by reason of lack of good faith on the part of the registered group; or
- (b) the financial agent or authorized representative applies to a judge and shows that the failure, error or false statement arose by reason of inadvertence, the absence or illness of the financial agent, the death or illness of any prior financial agent, the absence, death, illness or misconduct of the authorized representative of the registered group or a clerk or officer of the financial agent or any other similar reasonable cause, and not by reason of lack of good faith on the part of the financial agent.

Grounds

- (2) The order may only be made on production of evidence of
 - (a) the grounds stated in the application;
 - (b) the good faith of the applicant; and
 - (c) such other matters as the judge sees fit.

Notice

- (3) The applicant must give notice of the application under subsection (1)
 - (a) to the public in the plebiscite area; and
 - (b) to the Chief Electoral Officer, if the Chief Electoral Officer is a party to the application.

Order for attendance and production of particulars

- (4) On hearing an application under subsection (1), the judge shall order the financial agent or authorized representative of the registered group to attend before the judge where it appears to the judge that
 - (a) the registered group is unable to comply with this section by reason of the refusal or failure of the financial agent or prior financial agent
 - (i) to prepare the financial return, or
 - (ii) to supply the particulars that would enable the financial return to be prepared and sent; or
 - (b) the financial agent is unable to comply with this section by reason of the refusal or failure
 - (i) of a prior financial agent to prepare the financial return, or
 - (ii) of a prior financial agent or the registered group to supply the particulars that would enable the financial return to be prepared and sent.

Service

- (5) The order to attend must be served personally on the person who refused or failed to prepare or send a financial return or supply particulars.

Contents of order

- (6) On the attendance of that person, the judge shall, unless the person shows cause to the contrary, order that person to

- (a) prepare or send the financial return or supply the particulars that are required to be contained in the return and to do so within the time and to the person and in the manner that the judge may direct; or
- (b) be examined with respect to the particulars.

Conditions for order

(7) An order made under subsection (1) must provide that an allowance of an authorized excuse is conditional on

- (a) the preparation and submission of the financial return in a modified form within an extended time; or
- (b) compliance with such other conditions as the judge considers just for satisfying the requirements of this Act.

Effect of order allowing excuse

(8) An order allowing an authorized excuse relieves the applicant from any liability or consequence under this Act in respect of the matters excused by the order.

Relief from act or omission of financial agent

(9) A judge may relieve a registered group from the consequences of an illegal act or omission on the part of the financial agent of the registered group where the judge is satisfied that

- (a) any act or omission of the financial agent in relation to the financial return was without the sanction or connivance of the registered group; and
- (b) the registered group exercised due diligence to prevent the act or omission.

Date of order

(10) Where an order is made under subsection (1), the date of the allowance of the excuse for the purposes of this section shall be deemed to be

- (a) the date of the order; or
- (b) if the order specifies that conditions are to be complied with, the date on which the applicant fully complies with those conditions.

Identification in Campaigning

Requirement to identify campaigner

157. (1) Every person or registered group who campaigns shall, in accordance with instructions issued under subsection (4), ensure that all his, her or its campaign material includes

- (a) the name of the person or registered group who is campaigning;
- (b) the name and a valid telephone number or email address of an individual who is responsible for the content of the campaign material, which in the case of a registered group is its financial agent.

Clarity of information

(2) The information required under subsection (1) must be communicated in a way that is as easy to read, hear or see as the majority of the substance of the message being communicated by the campaign material.

Minors

(3) If the person campaigning is a minor, the person referred to in paragraph (1)(b) must be an adult who is responsible for the minor.

Instructions

(4) Any person campaigning shall comply with instructions from the Chief Electoral Officer on the form and manner of including and communicating the information required by this section.

**PART VIII
ADMINISTRATION**

Chief Electoral Officer

Duties of the Chief Electoral Officer

- 158.** (1) In order to fulfill the purposes of this Act, the Chief Electoral Officer shall
- (a) formulate policies regarding the conduct of plebiscites;
 - (b) exercise general direction and supervision over the conduct of a plebiscite to promote compliance with this Act;
 - (c) prepare guidelines with respect to the plebiscite process for plebiscite authorities, registered groups, authorized representatives, financial agents, plebiscite officers and other interested groups or persons;
 - (d) establish any forms that may be required under this Act;
 - (e) provide direction to and manage the staff of the Office of the Chief Electoral Officer;
 - (f) issue instructions or directions to plebiscite authorities, registered groups, authorized representatives, financial agents, plebiscite officers, and persons who are campaigning;
 - (g) coordinate the plebiscite process with bodies responsible for other plebiscites elsewhere in Canada; and
 - (h) perform any other functions related to the purpose and principles of this Act or otherwise provided for under this Act.

Administrative powers

- (2) In order to carry out the duties of office, the Chief Electoral Officer may
- (a) prepare interpretation bulletins on the interpretation of this Act;
 - (b) issue any form required by this Act and establish any forms, not otherwise provided for, that may be necessary for the proper administration of this Act;
 - (c) modify any form prescribed by the regulations;
 - (d) meet with the Management and Services Board and appropriate committees of the Legislative Assembly to discuss matters related to this Act;
 - (e) conduct public hearings with respect to regulations, policies and guidelines or any issue related to plebiscites;
 - (f) intervene, with leave, in any proceedings before a court in which a provision of this Act or the regulations is in dispute;
 - (g) implement, either alone or in co-operation with other bodies, public education and information programs intended to make the plebiscite process better known to the public, particularly to persons or groups likely to experience difficulties in exercising their democratic rights;
 - (h) make agreements with an organization or body in Nunavut to conduct a plebiscite on its behalf;

- (i) make such agreements as necessary to perform his or her duties and to improve the plebiscite system in Nunavut; and
- (j) exercise all other powers assigned to the Chief Electoral Officer by this Act.

Mutual cooperation

(3) The Chief Electoral Officer and any department or agency of government that is initiating a plebiscite must coordinate information and resources to ensure the efficient administration of the plebiscite.

Powers to adapt this Act

159. (1) The Chief Electoral Officer may adapt any provision of this Act to achieve the purposes of this Act where it appears to the Chief Electoral Officer during a plebiscite period that, because of any mistake, emergency, disaster or unusual or unforeseen circumstance, the Act does not accord with the urgent needs of the situation.

Exception

(2) Despite subsection (1), the Chief Electoral Officer has no power to extend the registration period or the time to receive a special ballot.

Order to cease activity or take action

160. (1) The Chief Electoral Officer may issue an order requiring a person to

- (a) cease an activity, where it appears to the Chief Electoral Officer that the activity is in contravention of this Act; or
- (b) take action, where it appears to the Chief Electoral Officer that such action is required by this Act.

Hearing

(2) No order shall be made under subsection (1) without a hearing unless, in the opinion of the Chief Electoral Officer,

- (a) there exist urgent circumstances that justify making the order without first holding a hearing; and
- (b) the length of time needed for the holding of a hearing would be prejudicial to the effectiveness of the order.

Temporary order

(3) An order made under subsection (1) without a hearing shall expire no later than 5th day after its issue but, where a hearing is commenced before the expiry of the order, the Chief Electoral Officer may extend the order for the duration of the hearing, with or without variation.

Delegation

161. (1) The Chief Electoral Officer may delegate, in writing, generally or specifically, any of his or her powers or duties.

Instructions

(2) The Chief Electoral Officer shall ensure that any instructions that the Chief Electoral Officer issues respecting any matter or form that is to be approved under this Act are retained in a register kept by the Chief Electoral Officer.

Staff of the Office of the Chief Electoral Officer

Staff

162. (1) The Chief Electoral Officer may use staff appointed under the *Nunavut Elections Act* and appoint such other staff as is necessary for the proper conduct of plebiscites, despite the *Public Service Act*.

Appointments to indeterminate positions

(1.1) Appointments to indeterminate positions under this section must be made following a competition, unless the Management and Services Board allows otherwise.

Public service employees

(2) For greater certainty, any other staff appointed under subsection (1) are deemed to be employees of the public service as defined in the *Public Service Act*.

Assistant Chief Electoral Officer

(2.1) For greater certainty, the provisions applicable to the Assistant Chief Electoral Officer appointed under section 192.1 of the *Nunavut Elections Act* apply in respect of this Act.

Excluded employees

(3) The Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer are not eligible for membership in a bargaining unit as defined in the *Public Service Act*.

Contracting services

163. The Chief Electoral Officer may, despite the *Public Service Act*, hire and determine the remuneration of additional staff on a temporary basis to assist the Chief Electoral Officer and, for specific work, may contract for the services of counsel and experts.

Chief Electoral Officer's Reports

Annual report

164. The Chief Electoral Officer shall submit to the Speaker an annual report, either included in the annual report under section 196 of the *Nunavut Elections Act* or as a separate report, for each fiscal year no later than July 1 following the end of the fiscal year on any matter referred to in subsection 196(2) of that Act relevant to plebiscites.

Plebiscite report

165. (1) The Chief Electoral Officer shall submit to the Speaker a report, either included in an election report under section 197 of the *Nunavut Elections Act* or as a separate report, on the conduct of each plebiscite no later than 280 days after the date of the writ.

Contents of plebiscite report

- (2) The plebiscite report shall include, in particular,
- (a) the number of votes cast for each choice at each polling station;
 - (b) the number of rejected ballots;
 - (c) the number of names on the final voters list;
 - (d) any complaints made by or on behalf of a registered group in a plebiscite;
 - (e) the details of any instance where the Chief Electoral Officer exercised the power to adapt this Act during a plebiscite period or extended the voting period;
 - (f) a list of all returning officers and assistant returning officers with their names and addresses; and
 - (g) a summary of the complaints, investigations and prosecutions under this Act and their outcome.

Laying report before Legislative Assembly

(3) The Speaker shall, at the first opportunity, lay a copy of the Chief Electoral Officer's plebiscite report before the Legislative Assembly.

Returning Officers

Designating existing returning officers

166. The Chief Electoral Officer may designate a returning officer appointed under the *Nunavut Elections Act* as the returning officer for a plebiscite or appoint another person as the returning officer for a plebiscite.

Appointment of new returning officer

167. (1) This section applies if the Chief Electoral Officer appoints a returning officer for a plebiscite instead of designating a returning officer appointed under the *Nunavut Elections Act*.

Publication of appointment

(2) The Chief Electoral Officer shall, without delay, publish notice of the appointment of the returning officer, describing the plebiscite area and setting out the person's name and address, in the *Nunavut Gazette* and a newspaper of general circulation in the plebiscite area.

Term of office

(3) Each returning officer shall hold office for the term specified in his or her appointment.

Resignation

(4) Any resignation of a returning officer shall not take effect earlier than the day it is accepted by the Chief Electoral Officer.

Dismissal of returning officer

(5) The Chief Electoral Officer may remove any returning officer from office on the grounds that the returning officer, for any reason,

- (a) has not performed, or is unable to perform, the returning officer's duties in a satisfactory manner;
- (b) has resigned his or her position as returning officer;
- (c) has not followed the directions or the instructions of the Chief Electoral Officer;
- (d) has not been impartial in relation to the plebiscite, whether or not in the course of the returning officer's functions;
- (e) no longer resides in the plebiscite area or is otherwise no longer eligible to be a returning officer; or
- (f) at any time after being appointed, engages in partisan conduct in respect of the plebiscite, whether or not in the course of the returning officer's functions.

Duties of office

168. Each returning officer shall, subject to the direction of the Chief Electoral Officer,

- (a) take whatever reasonable measures are necessary for the proper and timely conduct of a plebiscite;
- (b) ensure that plebiscite officers are properly trained in accordance with guidelines of the Chief Electoral Officer;
- (c) determine the hours of the day in a plebiscite area in which two or more time zones are observed, with the approval of the Chief Electoral Officer;
- (d) take whatever reasonable measures are necessary to ensure that voter participation in the plebiscite is facilitated; and
- (e) perform such other duties as may be assigned to a returning officer by the Chief Electoral Officer or otherwise under this Act.

Peace officer

169. A returning officer is a peace officer for the purposes of the administration of this Act during the hours that the polls are open.

Assistant Returning Officer

Appointment of assistant returning officer

170. (1) A returning officer shall, without delay after being appointed, appoint in writing an assistant returning officer.

Term of office

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

Duties

(3) An assistant returning officer shall perform such duties as the returning officer may assign.

Dismissal

171. (1) A returning officer who intends to revoke the appointment of an assistant returning officer shall do so in writing and state the reasons for the revocation.

Resignation

(2) An assistant returning officer may resign by informing the returning officer or, when the position of returning officer is vacant, the Chief Electoral Officer.

Notification of Chief Electoral Officer

(3) The returning officer shall notify the Chief Electoral Officer where the appointment of an assistant returning officer is revoked, or where the assistant returning officer resigns or dies.

Absence or inability of returning officer

(4) Where the office of returning officer is vacant, or the returning officer is absent or unable to act, the assistant returning officer shall inform the Chief Electoral Officer and shall perform the duties of the returning officer on an interim basis.

Other assistant returning officers

- (5) At the request of the returning officer, the Chief Electoral Officer may
- (a) authorize the returning officer to appoint an assistant returning officer for a specific community or area in the plebiscite area; and
 - (b) authorize the establishment of an office for that assistant returning officer.

Limitation of authorization

(6) An assistant returning officer appointed for a community or area may exercise powers and shall perform the duties of office only for that area.

Authorization of other functions

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

Other Plebiscite Officers

Appointment of other plebiscite officers

172. The returning officer shall, as soon as possible after the issuance of the writ, appoint a deputy returning officer and a poll clerk for each polling station.

Qualifications of Plebiscite Personnel

Eligibility

173. (1) To be eligible for appointment as a plebiscite officer, other than a registration clerk or a poll clerk, a person must be entitled to vote in the plebiscite.

Disqualification

- (2) No person is eligible to be a plebiscite officer if he or she
- (a) is a member of a registered group or an authorized representative or a financial agent of a registered group;
 - (b) is associated with the subject matter of the plebiscite in such a way as to raise a reasonable apprehension of bias or a conflict of interest;
 - (c) is a member of the Legislative Assembly, or was a member during the previous session;
 - (d) is a member of the Queen's Privy Council for Canada;
 - (e) is a member of the House of Commons or the Senate;
 - (f) is a member of the legislative assembly of a province or another territory;
 - (g) is a mayor or councillor of a municipality;
 - (h) is a judge;
 - (i) was convicted of an offence, or entered into a compliance agreement, under this Act, the *Nunavut Elections Act*, the *Canada Elections Act*, the *Criminal Code* or any enactment of Canada, a province or another territory relating to elections, plebiscites or referendums.

Related persons

(3) No member of the family of the returning officer is eligible to be an assistant returning officer.

Form of appointments

174. All appointments under this Act must be in the approved form.

General Duties of Office

Duty of impartiality

175. (1) Plebiscite officers and the staff of the Office of the Chief Electoral Officer shall act impartially and shall not, in the performance of functions under this Act, in any way favour any registered group in a plebiscite or any side in a plebiscite.

Training

(2) Plebiscite officers must satisfactorily complete any plebiscite training required by the Chief Electoral Officer.

Holding a single office

176. The returning officer and assistant returning officer shall not hold any other office under this Act.

Prohibited activities

177. No plebiscite officer shall, while in office,

- (a) accept or hold any office or employment or participate in an activity that is inconsistent with the person's duties under this Act;
- (b) make a contribution in a plebiscite; or
- (c) incur a plebiscite expense.

Administrative Matters

Preservation of documents

178. The Chief Electoral Officer shall ensure that

- (a) a register is kept of all approved forms and any instructions he or she issues respecting any matter; and
- (b) all writs, return of the writs, certificates and declarations in respect of plebiscites are preserved for archival purposes.

Remuneration of Chief Electoral Officer and staff

179. (1) The Chief Electoral Officer shall be paid such remuneration for his or her duties under this Act as the Management and Services Board determines and the staff of the Office of the Chief Electoral Officer shall be paid such remuneration as the Chief Electoral Officer determines for their duties under this Act.

Expenses

(2) The Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer shall be reimbursed for reasonable living and travel expenses while performing their functions.

Notices

Manner of giving notice

180. When a plebiscite officer is authorized or required to give a public notice by this Act and no special method of notification is indicated, the notice may be by advertisement, placard, handbill or otherwise as the plebiscite officer considers will best achieve the purpose.

Application of *Electronic Commerce Act*

181. (1) The *Electronic Commerce 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 signatures.

Internet

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

Oaths and Affirmations

Oath of office

182. (1) Before taking office, all plebiscite officers shall take the oath or affirmation of office in the approved form, unless they have already taken an oath of office under the *Nunavut Elections Act*.

Transmission of oaths

(2) The returning officer shall, without delay, send to the Chief Electoral Officer the original written copy of

- (a) the returning officer's own oath or affirmation; and
- (b) the appointment and oath or affirmation of the assistant returning officer and every other plebiscite officer in the plebiscite area.

Persons to administer oaths

183. (1) Where an oath, affirmation or affidavit is to be made, taken or administered under this Act and no particular person is required to administer it by this Act, it may be administered by

- (a) the Chief Electoral Officer or a person designated by the Chief Electoral Officer in writing;
- (b) a returning officer;

- (c) an assistant returning officer;
- (d) a deputy returning officer;
- (e) a judge;
- (f) a notary public;
- (g) a justice of the peace;
- (h) a member of the Royal Canadian Mounted Police; or
- (i) a commissioner for oaths.

Prohibition of fees

(2) All oaths, affirmations or affidavits administered under this Act shall be administered without charge.

Judicial Review

Decisions final

184. (1) Every order, decision or determination of the Chief Electoral Officer is final and is not subject to appeal.

No review

(2) No order shall be made, processed, or entered or proceeding taken in any court to contest, review, impeach or limit the action of the Chief Electoral Officer.

Review on matters of jurisdiction

(3) Despite subsection (2), judicial review may be taken within 30 days of the decision of the Chief Electoral Officer in respect of a question of jurisdiction.

Regulations

General regulation-making power

185. (1) The Management and Services Board may make such regulations as it considers advisable governing plebiscites and for carrying out the purposes, principles and provisions of this Act.

Examples of regulation-making power

(1.1) Without restricting the generality of subsection (1), examples of the regulations that the Management and Services Board may make include regulations respecting

- (a) any matter that under this Act is to be done in accordance with or as provided by the regulations;
- (b) any matter that shall or may be prescribed by or done subject to the regulations;
- (c) the form and content of documents or records required or desirable for the purposes of this Act, including electronic documents and electronic signatures; and
- (d) any matter governing plebiscites that is not expressly provided for by this Act.

Tariff of fees

(2) The regulations may amend the Tariff of Fees under the *Nunavut Elections Act* to establish

- (a) the fees, allowances, expenses and remuneration payable to plebiscite officers in the performance of their functions under this Act;
- (b) the method and procedure of applying for payment for services given and expenses incurred under this Act;
- (c) the fees payable for any goods and services that are provided at a plebiscite; and
- (d) the procedure for paying the fees and recovering payment of the fees.

Applicability of *Statutory Instruments Act*

186. The following are not statutory instruments within the meaning of the *Statutory Instruments Act*:

- (a) any guidelines given by the Chief Electoral Officer;
- (b) any instructions or directions given by the Chief Electoral Officer under this Act; and
- (c) any forms approved by the Chief Electoral Officer.

Financial Matters

Fees and allowances

187. All plebiscite officers, other than the Chief Electoral Officer, shall receive fees, allowances and other payments in accordance with the Tariff of Fees.

Failure to carry out functions

188. (1) Where a returning officer is of the opinion that a plebiscite officer has failed to carry out any of the duties required to be performed by the plebiscite officer at a plebiscite, the returning officer shall notify the Chief Electoral Officer in writing.

Loss of payment

(2) On receipt of the notice referred to in subsection (1), the Chief Electoral Officer may, as disciplinary measure, refuse to pay some or all of the amount due to the plebiscite officer for services and expenses.

Appeal

(3) A plebiscite officer who is subject to the disciplinary measure provided in subsection (2) may appeal the measure to the Management and Services Board within 30 days of the decision to impose it.

Accountable advance

189. (1) The Chief Electoral Officer may authorize an accountable advance to a returning officer to defray office or other expenses related to the returning officer's functions.

Payment of additional amounts

(2) The Chief Electoral Officer may authorize the payment of such additional amounts as the Chief Electoral Officer considers just and reasonable in the circumstances where the amounts in the Tariff of Fees are not sufficient for the services performed at a plebiscite.

Certificate

(3) Each returning officer shall

- (a) record all reimbursable expenses incurred by the returning officer and other plebiscite officers in the plebiscite area;
- (b) certify, to the Chief Electoral Officer, all accounts submitted to the returning officer; and
- (c) assume responsibility for the correctness of all certified accounts.

Handling of accounts

(4) All accounts relating to a plebiscite must

- (a) be reviewed by the Chief Electoral Officer; and
- (b) sent to the plebiscite authority that initiated the plebiscite.

Appropriation required

190. All expenditures related to the conduct of a plebiscite by Elections Nunavut and the Integrity Commissioner must be

- (a) appropriated for that purpose by the plebiscite authority; and
- (b) paid for by the plebiscite authority.

Agreements

Agreements

191. The Speaker, in consultation with the Chief Electoral Officer, may enter into agreements with the Government of Canada, the government of a province or another territory, a municipal government or any other body respecting the conduct of plebiscites.

PART IX ENFORCEMENT

Complaints

Making a complaint

192. (1) Any person who believes that an offence under this Act has been, is being or may be committed may make a complaint to the police.

Deadline for complaints

(2) Any complaint to the police must be made no later than 90 days after the complainant acquired knowledge of the event upon which the complaint is based.

Request by Chief Electoral Officer

(3) The Chief Electoral Officer may request the police to investigate any situation that might constitute an offence under this Act.

Enforcement protocol

193. The protocol among the Chief Electoral Officer, the police, the prosecutor and the Integrity Commissioner arranged respecting the enforcement of the *Nunavut Elections Act* shall apply to the enforcement of this Act, with such modifications as the circumstances require or as may be agreed to among the parties.

Investigations

Investigations

194. (1) The police shall take all reasonable measures in the investigation of a complaint.

Advising the Integrity Commissioner

(2) The police shall advise the Integrity Commissioner of any case where, during the course of an investigation, the police have reasonable and probable grounds for believing that an offence under this Act has been committed.

Request for information

(3) The police and the Chief Electoral Officer shall, on request, supply whatever information in their possession relevant to the offence may be required by the Integrity Commissioner to determine whether a compliance agreement is appropriate in a case where there are reasonable and probable grounds for believing that an offence under this Act has been committed.

Warrant

195. (1) A judge may, on *ex parte* application, issue a warrant authorizing a police officer or other person named in the warrant to enter and search premises for any

evidence relevant to an investigation under this Act where the judge is satisfied by information on oath that there are reasonable grounds to believe there is relevant evidence on the premises.

Power to enter

(2) A peace officer or person named in a warrant issued under subsection (1) may, subject to the terms and conditions in the warrant, enter and search any premises authorized under the warrant in order to carry out such inquiries as are reasonably necessary for the investigation.

Use of force

(3) A person, other than a police officer, executing a warrant issued under subsection (1) shall not use force unless the person is, or is accompanied by, a peace officer and the use of force has been specifically authorized in the warrant.

Production of records

(4) A person executing a warrant may require any individual found in any premises entered pursuant to the warrant to produce for inspection or copying any record that appears to contain any matter relevant to the investigation.

Obstruction

(5) No person shall obstruct a police officer or other person conducting an investigation.

Notice of investigation

196. (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.

Compliance Agreements

Nature of agreement

197. (1) A compliance agreement is an agreement whereby a person who is alleged to have committed an offence agrees, in exchange for the stay of any prosecution in respect of the offence, to one or more of the following:

- (a) to pay a sum of money, including restitution and damages, to one or more specified recipients;
- (b) to make an apology, including both public and private apologies;
- (c) to seek atonement in accordance with Inuit Qaujimajatuqangit;
- (d) to perform community service;
- (e) to do or refrain from doing any action agreed upon.

Without prejudice

(2) The process of negotiating a compliance agreement shall be without prejudice to any party's position.

Compliance agreement

198. (1) If the Integrity Commissioner believes on reasonable grounds that a person has committed, is about to commit or is likely to commit an act or omission that could constitute an offence under this Act, the Integrity Commissioner may enter into a compliance agreement with that person, after considering the following factors:

- (a) the nature and gravity of the act or omission;
- (b) the penalty provided for the act or omission;
- (c) the public interest;
- (d) the interests of justice;
- (e) any other factor that the Integrity Commissioner considers relevant.

Terms and conditions

(2) A compliance agreement may contain any terms and conditions that the Integrity Commissioner considers necessary to promote the purposes of this Act or to ensure compliance with this Act, and shall include time limits for the performance of any obligations and a method to monitor compliance with the agreement.

Written offer

(3) The Integrity Commissioner shall send a notice to the person referred to in subsection (1) informing the person of the following:

- (a) that a compliance agreement is being offered and the time limit on the offer;
- (b) the proposed terms and conditions of the compliance agreement;
- (c) that the person has a right to be represented by legal counsel;
- (d) that a summary of the contents of the agreement will be publicly disclosed.

Request

(4) A person who is alleged to have committed an offence under this Act may request the Integrity Commissioner to consider entering into a compliance agreement.

Protection of rights

(5) The Integrity Commissioner shall give a person to whom a compliance

(6) agreement is being offered a reasonable opportunity to consult with legal counsel.

Admission of responsibility

(6) A compliance agreement must include a statement by the person in which he or she accepts responsibility for the act or omission that constitutes the offence.

Taking effect

(7) A compliance agreement takes effect only when it is signed by the person and the Integrity Commissioner.

Inadmissible in evidence

(8) The fact that a compliance agreement was entered into, and any statement of the person admitting responsibility, is not admissible in evidence against the person in any proceeding.

Copy to be provided

(9) The Integrity Commissioner shall provide the person with a copy of a compliance agreement without delay after it is signed.

Publication

(10) The Integrity Commissioner shall publish, in the manner and form that he or she considers appropriate, a notice that sets out

- (a) the name of any person who signed a compliance agreement;
- (b) the act or omission in respect of which the compliance agreement was made; and
- (c) a summary of the compliance agreement.

Notice of compliance

199. (1) If the Integrity Commissioner is of the opinion that the compliance agreement has been complied with, the Integrity Commissioner shall send a notice to that effect to

- (a) the person who signed it;
- (b) the Chief Electoral Officer;
- (c) the police; and
- (d) the prosecutor.

Notice of non-compliance

(2) If the Integrity Commissioner is of the opinion that a person has not complied with a compliance agreement, the Integrity Commissioner shall send a notice to that effect and that proceedings may be instituted or resumed in respect of the original act or omission to

- (a) the person who signed it;
- (b) the Chief Electoral Officer;
- (c) the police; and
- (d) the prosecutor.

Publication of compliance or non-compliance

(3) After determining whether a person did or did not comply with a compliance agreement, the Integrity Commissioner shall publish, in the manner and form that he or she considers appropriate, a notice that sets out

- (a) the name of the person who signed it;
- (b) the act or omission in respect of which the compliance agreement was made;
- (c) a summary of the compliance agreement; and
- (d) whether or not, in the opinion of the Integrity Commissioner, the person has complied with the compliance agreement.

Access to Information and Protection of Privacy Act

(4) The requirement to publish information under this section and section 198 applies despite any provisions to the contrary in the *Access to Information and Protection of Privacy Act*.

No further proceedings

200. (1) When a compliance agreement is entered into, no further proceedings under this Act shall be taken against the person in respect of the act or omission, unless the agreement is not complied with.

Dismissal of proceedings

(2) A judge must dismiss proceedings against a person who has signed a compliance agreement if the judge is satisfied on a balance of probabilities that

- (a) the person has totally complied with the terms and conditions of the compliance agreement; or
- (b) the person has partially complied with the terms and conditions of the compliance agreement and, in the opinion of the judge, the proceedings would be unfair, having regard to the circumstances and the person's performance with respect to the agreement.

Proceedings

Jurisdiction of court

201. The Nunavut Court of Justice has exclusive jurisdiction to hear all offences under this Act.

Assistance to court

202. The Chief Electoral Officer may intervene in the prosecution of an offence under this Act to assist the court.

Disqualification obtained by perjury

203. (1) A person who is disqualified from voting under this Act on the testimony of a witness who is later convicted of perjury with respect to the testimony may apply to the judge determining the perjury conviction for an order that the disqualification be lifted.

Court order

(2) The judge, on being satisfied that the disqualification was procured by reason of the perjury, shall order that the disqualification be lifted.

Denial of privilege

204. (1) Subject to this section, no person shall be excused on the ground of privilege from answering a question put to them in an action, suit or other proceeding in a court or before any justice, board or other tribunal concerning a plebiscite, the conduct of a person at a plebiscite or in relation to a plebiscite.

Exception

(2) Evidence protected by solicitor client privilege or evidence of the choice for which a voter voted in a plebiscite is not admissible in evidence.

Answer

(3) An answer given by a person claiming to be excused on the ground of privilege shall not be used or admissible in evidence against that person in any prosecution or civil proceeding against that person after the prosecution or proceeding, other than a prosecution for perjury in the giving of such evidence.

Certificate evidence and presumptions

205. (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 plebiscite;
- (b) whether any action was or was not taken by a plebiscite officer;
- (c) whether any document was issued, filed or sent in a plebiscite;
- (d) whether a copy is a true copy of a document;
- (e) whether a person was a designated representative, financial agent, plebiscite officer or other participant at a plebiscite.

Original documents

(2) If an original plebiscite 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 plebiscite documents are produced on or before the day fixed for the trial; and
- (b) the Chief Electoral Officer shall cause the plebiscite documents to be deposited with the court in the manner that the judge may order.

Costs

206. (1) The judge hearing an offence under this Act may order payment by the accused to the prosecutor of the costs and expenses that appear to the judge to have been reasonably incurred in the conduct of the prosecution.

Recognizance

(2) A judge shall not make an order under subsection (1) unless the prosecutor, before or on the laying of the information, enters into a recognizance with two sureties, in the sum of \$500 and to the satisfaction of the judge, to conduct the prosecution with effect and to pay the accused's costs if the accused is acquitted.

Costs in private prosecution

(3) In the case of an information by a private prosecutor for an offence under this Act, if judgment is given for the accused, the accused is entitled to recover from the prosecutor the costs sustained by the accused by reason of the proceedings, which shall be taxed by the proper officer of the court.

Limitation period

207. (1) A prosecution for an offence under this Act, and an action, writ or proceeding for a penalty under this Act,

- (a) may not be commenced after one year from the day on which the offence was committed or the action, suit or proceeding might first have been brought or taken, whichever is later; and
- (b) shall, when commenced, be proceeded with and carried on without wilful delay.

Extension of limitation period

(2) Despite subsection (1),

- (a) where the withdrawal or absconding of the accused from the jurisdiction prevents a prosecution, action, suit or proceeding referred to in subsection (1), the limitation period is extended until one year from the day the accused returns;
- (b) where a compliance agreement is entered into but a notice of default has been sent by the Integrity Commissioner, the limitation period is extended until 60 days after the notice of default; and
- (c) a prosecution, suit or proceeding against a returning officer for wilful delay, neglect or refusal to act may not be commenced after six months from the day the hearing of any application to void a plebiscite relating to the action is concluded.

PART X
OFFENCES AND PUNISHMENT

Publication of Offences

Public information

208. The Chief Electoral Officer shall, in the Official Languages, including both Inuktitut and Inuinnaqtun, take reasonable measures to inform the public, especially any registered groups in the plebiscite and their financial agents, what actions constitute offences under this Act.

Offences Related to Voting

Voting offences

209. (1) A person is guilty of an offence if he or she

- (a) votes or attempts to vote at a plebiscite knowing that he or she is not qualified to vote in the plebiscite;
- (b) votes or attempts to vote more than once in a plebiscite;
- (c) appoints more than one proxy voter;
- (d) actively seeks to be a proxy voter;
- (e) applies under this Act to be included in a voters list in the name of some other person, whether the name belongs to a person living or dead or is fictitious;
- (f) except as authorized by section 88, applies for a ballot paper in the name of some other person, whether the name belongs to a person living or dead or is fictitious; or
- (g) induces or procures another person to vote at a plebiscite knowing that the other person is not qualified to vote at the plebiscite.

Exception

(2) A person is not guilty of an offence under paragraph (1)(d) if the person merely provides information on proxy voting.

False statement

(3) Any voter who knowingly makes a false statement for the purpose of attempting to register to vote is guilty of an offence.

Offence – non-compliance affecting vote

210. A person is guilty of an offence if he or she contravenes or fails to comply with the provisions of this Act and that causes

- (a) a vote to be received which should not have been cast; or
- (b) a vote properly cast not to be received.

Offence – time to vote

211. (1) An employer is guilty of an offence if he or she, directly or indirectly,

- (a) refuses or by intimidation, undue influence, or in any other way, interferes with the time off work to which the voter is entitled

- under section 23;
- (b) does not pay the voter in accordance with section 23; or
- (c) otherwise penalizes the voter contrary to section 23.

Effect of agreement

(2) Where an employer is required to allow an employee additional time for voting, the employer does not commit an offence for the reason only that the employee works during all or part of the additional time under an agreement with the employer.

Ballot offences

212. A person is guilty of an offence if he or she

- (a) forges a ballot paper or puts a forged ballot paper into circulation;
- (b) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer signed on the ballot;
- (c) without authority under this Act, supplies a ballot paper to any person;
- (d) not being a person entitled under this Act to be in possession of a ballot paper, has, without authority, any ballot paper in his or her possession;
- (e) fraudulently puts or causes to be put into a ballot box a ballot paper or any other paper;
- (f) fraudulently takes a ballot paper out of a polling place;
- (g) without authority under this Act, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers;
- (h) without authority under this Act, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at a plebiscite;
- (i) being authorized by the Chief Electoral Officer to print the ballot papers for a plebiscite, fraudulently prints more ballot papers than he or she is authorized to print;
- (j) constructs, imports into Nunavut or has in his or her possession a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated;
- (k) supplies or causes to be supplied to a plebiscite officer, or uses for the purposes of a plebiscite, a ballot box containing a compartment, appliance, device or mechanism by which a ballot paper may be secretly placed or manipulated; or
- (l) makes a written record of the printed serial number appearing on the counterfoil of a ballot paper.

Offences for Improperly Influencing Voters

Inducement of voters

213. (1) Any person who, personally or through another person, during a plebiscite, directly or indirectly offers, procures, provides or promises to procure or provide money,

office, employment, food, drink, gifts or prizes or other valuable consideration to induce a person to vote for or against a question or to refrain from voting is guilty of an offence.

Receipt of money or other valuable consideration

(2) Any person who accepts or receives money, office, employment, food, drink, gifts, prizes or other valuable consideration to vote for or against a question or to refrain from voting is guilty of an offence.

Influencing voters

(3) A person is guilty of an offence if he or she personally or through another person, directly or indirectly, during a plebiscite and with intent to influence any person to vote for or against a question or to refrain from voting, pays or indemnifies or promises to pay or indemnify any person for loss of wages or other earnings suffered by that person in going to, being at, or returning from a polling place or the neighbourhood of a polling place.

Influencing voters at a meeting

(4) Any person who provides money, food, drink, gifts or prizes or other valuable consideration at a meeting of voters assembled for the purpose of campaigning in a plebiscite is guilty of an offence.

Exemptions

(5) This section does not apply to

- (a) a meal or non-alcoholic refreshments provided at a meeting of voters assembled for the purpose of campaigning in the plebiscite;
- (b) a meal or non-alcoholic refreshments provided at a polling station to the authorized representative of any registered group in the plebiscite; or
- (c) a gift or prize provided at a meeting of voters if the total value of all gifts or prizes provided at that meeting does not exceed \$500.

Proof of intent

(6) In any proceedings in respect of an offence under this section, evidence that a person has offered, procured or provided or has promised to procure or provide money, office, employment, food, drink, gifts or prizes or other valuable consideration to any person is, in the absence of evidence to the contrary, proof of intent to influence a person to vote for or against a question or to refrain from voting, unless

- (a) the matter is exempted under subsection (5); or
- (b) the person is acting strictly in accordance with an obligation to pay employees for time to vote under section 23.

Undue influence

214. (1) A person is guilty of an offence if, by intimidation, duress or any pretence or contrivance, he or she

- (a) compels, induces or prevails upon a person to vote for or against a question or to refrain from voting at a plebiscite; or

- (b) represents to a person that the ballot or the manner of voting at a plebiscite is not secret.

Disrupting a public meeting

(2) Any person who, between the date of the issue of the writ for a plebiscite and the day immediately after plebiscite day, acts, incites others to act or conspires to act in a disorderly manner with the intention of preventing the transaction of the business of a public meeting called for the purposes of the plebiscite is guilty of an offence.

Disturbance or disruption

215. 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 polling place.

Offences Related to Information

Failure to protect secrecy of vote

216. Any person who contravenes or fails to observe any provision of this Act respecting the secrecy of the vote is guilty of an offence.

Restricted use of voters lists

217. Any person who copies or uses a voters list prepared under this Act for any purpose other than one allowed under subsection 56(1) is guilty of an offence.

Illegal campaigning

218. (1) Any person who campaigns in a plebiscite contrary to section 25 is guilty of an offence.

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 157 is guilty of an offence.

Identity of campaigner in broadcasts

(3) No broadcaster who operates a community or educational broadcasting service shall broadcast any campaign material that does not comply with section 157.

Removal of campaign material

219. (1) The authorized representative of any registered group in a plebiscite who fails to ensure that the group's campaign material is removed from public display within 10 days after plebiscite day is guilty of an offence.

Same

(2) Any person who fails to ensure that all his or her campaign material is removed from public display within 10 days after plebiscite day is guilty of an offence.

Authority for removal

(3) Any person who without authority takes down, removes, covers up, mutilates, defaces or alters any campaign material is guilty of an offence.

Inducement to make false oath or affirmation

220. (1) Any person who, in any case where an oath or affirmation is authorized or directed to be taken by this Act, knowingly compels or attempts to compel, or induces or attempts to induce a person to take that oath or affirmation falsely, is guilty of an offence.

Taking false oath or affirmation

(2) Any person who knowingly takes a false oath or affirmation under this Act is guilty of an offence.

Publishing false statements

(3) Any person who, before or during a plebiscite, knowingly makes or publishes any false statement of fact in relation to the question to be asked in the plebiscite is guilty of an offence.

Improper placement of campaign material

221. (1) Any person who places campaign material on any premises used as a polling place is guilty of an offence.

No campaign material in polling place

(2) Any person who uses, wears or displays or causes to be used, worn or displayed any flag, ribbon, label, badge or similar object in a polling place as campaign material is guilty of an offence.

Removal of notices

222. (1) Any person who without authority takes down, covers up, mutilates, defaces or alters any printed or written proclamation, placard, notice, list of voters or other document required by this Act to be posted is guilty of an offence.

Posting of warning

(2) An easily read copy of subsection (1), in large type, must be printed on, or posted near, any posted document referred to in subsection (1).

Refusal of summons

223. Any person who refuses or neglects to attend on the summons of a returning officer issued under paragraph 114(3)(a) is guilty of an offence.

Prohibition on telecommunication devices

224. (1) No person, other than a plebiscite officer, shall use any telecommunications device, including a mobile telephone or text messaging device, in a polling place.

Cameras and recorders

(2) No person shall use any device to record images or sound in a polling place, except for use by the news media before the polling place is open for voting with the

approval of the Chief Electoral Officer.

225. Repealed

Offences Involving Financial Agents

Ineligible financial agent

226. (1) Any person who accepts an appointment or acts as a financial agent knowing that he or she is ineligible to be appointed or to act in that capacity is guilty of an offence.

Breach of duty of financial agent

(2) Any financial agent who does not carry out the responsibilities of that office as required under this Act is guilty of an offence.

Offences Involving Plebiscite Officers

Plebiscite officer offence

227. Any plebiscite officer who wilfully fails to promptly perform his or her functions respecting the holding of a plebiscite is guilty of an offence.

Registration clerks

228. (1) A registration clerk is guilty of an offence if he or she wilfully

- (a) registers the name of a person who the registration clerk has good reason to believe does not have the right to have his or her name included; or
- (b) fails to register the name of a person who the registration clerk has good reason to believe has the right to have his or her name included.

Obstruction

(2) Any person who impedes or obstructs a registration clerk performing functions under this Act is guilty of an offence.

Deputy returning officers

229. A deputy returning officer is guilty of an offence if he or she

- (a) fraudulently puts his or her initials on the back of any paper purporting to be or capable of being used as a ballot paper at a plebiscite; or
- (b) places on a ballot paper any writing, number or mark with the intent that the voter to whom the ballot paper is to be, or has been, given may be identified.

Failure to send plebiscite material

230. Any plebiscite officer who is replaced and fails to send plebiscite material as required under section 138(4) is guilty of an offence.

Liability of plebiscite officers

231. (1) Despite anything in this Act, any plebiscite officer who contravenes or refuses to comply with this Act is guilty of an offence, unless the plebiscite officer establishes that

- (a) he or she was acting in good faith in contravening, failing or refusing to comply;
- (b) the contravention, failure or refusal was reasonable; and
- (c) he or she did not intend to affect the result of the plebiscite.

Offence – counting votes

(2) Any person who, in any manner, makes a count of the votes except at the time and in the manner provided by this Act is guilty of an offence.

Improper advice

(3) Any deputy returning officer or poll clerk who, in administering an oath or affirmation, incorrectly asserts that a fact or circumstance is a disqualification under this Act is guilty of an offence.

Offence – returning officer

232. A returning officer is guilty of an offence if the returning officer wilfully delays, neglects or refuses to issue a proper return.

Financial Offences

Illegal contributions

233. (1) Any person who makes a contribution contrary to section 142 is guilty of an offence.

Offences – financial agent

- (2) A financial agent is guilty of an offence if he or she
- (a) accepts a contribution contrary to section 142, 146 or 148;
 - (b) makes a payment contrary to section 153; or
 - (c) fails to prepare a financial return in accordance with section 154, without an excuse authorized by this Act.

False or late return

(3) The authorized representative of any registered group in a plebiscite is guilty of an offence if he or she fails to send a financial return in accordance with section 154, without an excuse authorized by this Act.

Offence – failure to attend

(4) Any person who is ordered to attend a court hearing or is the subject of an order referred to in section 156 and does not comply with the order is guilty of an offence.

Punishment

General offence and punishment

234. (1) Except as otherwise provided in this Act, any person who contravenes this Act

is guilty of an offence and liable on summary conviction to

- (a) a fine not exceeding \$5,000;
- (b) imprisonment for a term not exceeding one year; or
- (c) to both a fine and imprisonment.

Additional punishment

(2) Any person who is convicted of an offence under this Act, in addition to any other punishment, is ineligible to

- (a) be elected to the Legislative Assembly;
- (b) sit as a member of the Legislative Assembly; or
- (c) hold any office to which a person may be appointed by the Commissioner, a Minister or official of the Government of Nunavut or the Legislative Assembly.

Duration of prohibition

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

Liability for employees or agents

235. (1) A person may be convicted of an offence, if the offence was committed by an employee or agent of the person during the course of his or her work, whether or not the employee or agent is identified or prosecuted for the offence.

Liability of corporate officers

(2) If a corporation commits an offence under this Act, any director, corporate officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation is prosecuted.

Original liability

(3) Nothing in this section relieves the person who actually committed the offence from liability for it.

Orders of judge

236. (1) If a person is convicted of an offence, the judge may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the judge, result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the judge considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence;
- (c) directing the person to publish, in any manner that the judge considers appropriate, the facts relating to the commission of the offence;
- (d) directing the person to perform community service in accordance

- with any conditions that the judge considers reasonable;
- (e) directing the person to pay to the Consolidated Revenue Fund an amount for all or any of the cost of remedial or preventive action taken, or to be taken, by or on behalf of the Legislative Assembly as a result of the commission of the offence;
- (f) directing the person to pay restitution or damages to any person who suffered loss or damage as a result of the commission of the offence, in the manner prescribed by the judge;
- (g) directing the person to post security or pay to the court an amount that the judge considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section; and
- (h) requiring the person to comply with any other conditions that the judge considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

Collection of amount owing

(2) The amount to be paid under paragraph (1)(e) and any interest payable on that amount constitute a debt due to the Legislative Assembly and may be recovered as such in any court of competent jurisdiction.

Suspended sentence

(3) If a person is convicted of an offence and the judge suspends the passing of sentence, the judge may, in addition to any probation order, make an order containing one or more of the prohibitions, directions or requirements mentioned in subsection (1).

Imposition of sentence

(4) If the person does not comply with the order, or is convicted of another offence within three years after the order is made, the judge may, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

Variation of sentencing

(5) On an application by the Attorney General or the convicted person, if the judge considers variation appropriate because of a change in circumstances, the judge may make an order

- (a) changing the original order or any conditions specified in it;
- (b) relieving the person subject to the order absolutely or partially from compliance with all or part of the original order;
- (c) reducing the period for which the original order is to remain in effect; and
- (d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must not be longer than one year.

Fraud

Fraud

237. For the purposes of this Act, an act or an omission to act is deemed to be fraudulent if

- (a) the act or omission was done knowingly; and
- (b) the act or omission results or would likely result in receiving a vote that should not have been cast or in not receiving a vote that should have been cast.

PART XI
TRANSITIONAL PROVISIONS, CONSEQUENTIAL AMENDMENTS, REPEAL

Transitional Provisions

Proceedings in progress

238. (1) Every proceeding in which the Chief Plebiscite Officer, appointed under the *Plebiscites Act* (Nunavut), R.S.N.W.T. 1988, c. P-8, is a party when this Act comes into force may be continued by or against the Chief Electoral Officer in the same manner and to the same extent as could have been done by or against the Chief Plebiscite Officer immediately before this Act came into force.

Property, rights, obligations

(2) The Chief Electoral Officer shall continue to have all the property, rights, obligations and liabilities of the Chief Plebiscite Officer as they existed immediately before this Act came into force.

Amendments

Amendments to this Act or plebiscite area boundaries

239. (1) No amendment to this Act applies to a plebiscite for which the writ is issued within 180 days after the commencement of the amendment unless, before the issue of the writ, the Chief Electoral Officer publishes in the *Nunavut Gazette* a notice that the necessary preparations for bringing the amendment into force have been made and that the amendment applies to the plebiscite.

Implementation of amendments

- (2) Where this Act is amended, the Chief Electoral Officer shall, without delay,
- (a) provide consolidated copies of this Act for the use of plebiscite officers;
 - (b) correct and reprint any forms, guidelines, directions or instructions affected by the amendment; and
 - (c) publish a notice in the *Nunavut Gazette* as soon as the Chief Electoral Officer has performed his or her duties under paragraphs (a) and (b).

Consequential Amendments

Cities Towns and Villages Act

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

(2) **Section 63 is repealed and the following is substituted:**

Application of *Plebiscites Act*

63. Where this Act requires a by-law to be approved by the voters or ratepayers of a

municipality, the council shall obtain the approval of the voters or ratepayers by initiating a plebiscite, in accordance with the *Plebiscites Act*, to be held at the same time as the next election or at such other date as the council may require.

(3) Subsection 64.1(1) is repealed and the following is substituted:

Petition for by-law

64.1. (1) If the voters in a municipality, in accordance with the *Plebiscites Act*, petition the council to submit, for the approval of the voters, a by-law dealing with any matter within its power to make by-laws, the council shall

- (a) cause a by-law dealing with the subject matter of the petition to be prepared and read for the first time within 30 days of receiving the report of the Chief Electoral Officer, under section 13 of the *Plebiscites Act*, determining that the petition is valid;
- (b) cause a copy of the by-law to be forwarded to the Minister; and
- (c) submit the by-law to the voters for their approval under section 63.

(4) Section 64.2 is repealed.

(5) Section 64.3 is repealed.

(6) Section 64.4 is repealed.

Education Act

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

(2) Section 197 is amended by

- (a) **striking "referendum has been held" and substituting "plebiscite has been held in accordance with the *Plebiscites Act*" in subsection (3);**
- (b) **striking "referendum" and substituting "plebiscite" in the English version of subsection (4); and**
- (c) **striking "for the conduct of a referendum and" in subsection (5).**

Hamlets Act

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

(2) Section 63 is repealed and the following is substituted:

Application of *Plebiscites Act*

63. Where this Act requires a by-law to be approved by the voters or ratepayers of a municipality, the council shall obtain the approval of the voters or ratepayers by initiating

a plebiscite, in accordance with the *Plebiscites Act*, to be held at the same time as the next election or at such other date as the council may require.

(3) Subsection 64.1(1) is repealed and the following is substituted:

Petition for by-law

64.1. (1) If the voters in a municipality, in accordance with the *Plebiscites Act*, petition the council to submit, for the approval of the voters, a by-law dealing with any matter within its power to make by-laws, the council shall

- (a) cause a by-law dealing with the subject matter of the petition to be prepared and read for the first time within 30 days of receiving the report of the Chief Electoral Officer, under section 13 of the *Plebiscites Act*, determining that the petition is valid;
- (b) cause a copy of the by-law to be forwarded to the Minister; and
- (c) submit the by-law to the voters for their approval under section 63.

(4) Section 64.2 is repealed.

(5) Section 64.3 is repealed.

(6) Section 64.4 is repealed.

Local Authorities Elections Act

243. (1) The *Local Authorities Elections Act* is amended by this section.

(2) Subsection 4(2) is repealed.

(3) Subsection 7(2) is repealed and the following substituted:

Plebiscites Act

(2) The local authority shall submit the question by initiating a plebiscite, in accordance with the *Plebiscites Act*.

Public Service Act

244. (1) The *Public Service Act*, R.S.N.W.T. 1988, c.P-16, as amended for Nunavut under section 76.05 of the *Nunavut Act* (Canada), is amended by this section.

(2) Subsection 34(11) is repealed and the following substituted:

Election or plebiscite officer

(11) An employee may be appointed to serve as an election officer under the *Nunavut Elections Act* or as a plebiscite officer under the *Plebiscites Act* where no other suitable person is available for that position in the community.

(3) Subsection 47(1) is repealed and substituting the following:

Prohibition on contributions and campaigns

47. (1) No money deducted from an employee's salary for payment to an employees' association or paid to an employees' association by an employee shall be used directly or indirectly

- (a) on behalf of any political party or on behalf of any candidate for political office; or
- (b) to campaign in a plebiscite within the meaning of the *Plebiscites Act*.

Conditional Amendments

Public Service Act

245. (1) If Bill 58, *Public Service Act*, introduced in the Third Session of the Third Legislative Assembly, receives assent, then on the day on which the *Public Service Act* comes into force subsection 142(4) of this Act is amended by striking "47(1)" and substituting "74(1)".

(2) If Bill 58, *Public Service Act*, introduced in the Third Session of the Third Legislative Assembly, receives assent, then on the later of the day on which this Act comes into force and the day the *Public Service Act* comes into force, the *Public Service Act* is amended as follows:

- (a) section 37 is repealed and the following substituted:

Election or plebiscite officer

37. An employee may be appointed to serve as an election officer under the *Nunavut Elections Act* or as a plebiscite officer under the *Plebiscites Act* where no other suitable person is available for that position in the community.

- (b) subsection 74(1) is repealed and the following substituted:

Prohibition on contributions and campaigns

74. (1) No money deducted from an employee's salary for payment to an employees' association or paid to an employees' association by an employee as membership fees or amounts in lieu of membership fees shall be used directly or indirectly

- (a) on behalf of any political party or on behalf of any candidate for political office; or
- (b) to campaign in a plebiscite within the meaning of the *Plebiscites Act*.

Repeal

Plebiscites Act (Nunavut)

246. The *Plebiscites Act (Nunavut)*, R.S.N.W.T. 1988, c. P-8, as duplicated and amended for Nunavut under section 29 of the *Nunavut Act (Canada)*, is repealed.

Coming into Force

Commencement

247. This Act comes into force on January 1, 2014.