



Province of Alberta

LOCAL AUTHORITIES ELECTION ACT

Revised Statutes of Alberta 2000
Chapter L-21

Current as of December 15, 2022

Office Consolidation

© Published by Alberta King's Printer

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

Copyright and Permission Statement

The Government of Alberta, through the Alberta King's Printer, holds copyright for all Alberta legislation. Alberta King's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and copyright is acknowledged in the following format:

© Alberta King's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

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

Amendments Not in Force

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

2024 c11 s1 amends ss1, 5, 6; adds s6.1; amends s12; repeals and substitutes s13(3); amends ss16(2), 21; adds s21.1; amends s22; adds s23.1; amends ss27, 28, 29(1), 30(1), 31, 32; repeals and substitutes s37(3); amends ss42(1)(c) and (2)(c), 46(4), 49; repeals ss50 and 51; amends ss52, 53; repeals s53.01; adds s53.011; amends s53.02(1)(a); repeals ss53.1 and 54; amends ss55(4), 59(c) and (d), 69, 70, 77.1; repeals and substitutes s77.2 and adds s77.21; amends s77.3; repeals and substitutes s79(3.1); amends s83(1); repeals and substitutes s84; amends s85.1(5); repeals ss88(1)(m) and 91(1)(g); adds s91.1; repeals and substitutes s93; repeals s93.1; amends ss94(1), 98, 100, 101; repeals and substitutes ss108(2) and 110(2); amends ss134, 147.1, 147.13(1); repeals and substitutes s147.2; repeals and substitutes s147.22 and adds s147.221; repeals and substitutes s147.24(1) and (2); amends s147.3(1); repeals and substitutes s147.33(2) and (3); amends ss147.4, 147.5; repeals s147.51; amends s147.52; adds s147.53; amends ss147.7, 147.8; repeals and substitutes ss147.82 and 147.84(1); repeals ss147.93 to 147.96 and 150(3) and (4); amends ss156, 158, 158.1; adds s158.3; amends ss159(2)(c), 160; adds ss160.1 and 160.2; amends ss162, 163, 167(2.1), 193.

Regulations

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

	Alta. Reg.	<i>Amendments</i>
Local Authorities Election Act		
Ballot Box Repeal	263/2018	
Deficit Elimination Transitional Repeal Regulation	191/2020	
Local Authorities Election Act Regulations Repeal.....	221/2018	
Local Authorities Election Forms	106/2007	68/2008, 81/2010, 164/2010, 73/2013, 84/2017, 264/2018, 81/2019, 298/2020, 160/2021
Referendum, Senate Election and Local Authorities Election Forms	254/2020	

LOCAL AUTHORITIES ELECTION ACT

Chapter L-21

Table of Contents

1	Definitions
	Part 1
	Election Procedure
2,3	Joint elections
4	Improvement district and special area elections
5	Procedure modification
6	Ministerial powers
7	Voting on bylaw or question
8	First elections
9	Term of office
10	General term of office
11	Election day
12	Summer villages
13	Appointment of returning officer and substitute returning officer
13.1	Impartiality
14	Duties of returning officer
14.1	Presiding deputy
15	Constable
16	Oath, statement
18	Substitute deputy or constable
19	Secretary's duties
20	Administration of oaths
21	Qualification of candidates
22	Ineligibility
23	Ineligibility for nomination
24	Re-election
25	Nomination day
26	Notice of nomination day
27	Form of nomination

- 28 Nominations
- 28.1 Material to be provided to candidate
- 29 Deposit
- 30 Disposition of deposit
- 31 Insufficient nominations
- 32 Withdrawal of nomination
- 33 Death of candidate
- 34 Election by acclamation
- 35 Notice of election

Part 2

Voting Procedure

- 36 Voting subdivisions
- 37 Voting stations
- 38 Compartments for voting
- 39 Ballot boxes
- 40 Sealing the ballot box
- 41 Printing of ballots
- 42 Names on ballot
- 43 Contents of ballot
- 44 Form of ballot
- 45 Instructions for voters
- 46 Voting hours
- 47 Eligibility to vote
- 48 Rules of residence
- 49 Permanent electors register
- 50 List of electors
- 51 Enumerators' appointment and identification
- 52 Access for enumerators and campaigners
- 53 Proof of elector eligibility
- 53.01 Bylaws with respect to proof of elector eligibility
- 53.02 Other acceptable identification
- 53.1 Advertising a proof of elector eligibility bylaw
- 54 Person objected to
- 55 Secrecy of vote
- 56 Maintenance of secrecy
- 57 Number of votes
- 58 Voting time for employees
- 59 Entries in elector register
- 60 Initialling of ballot
- 61 Explanation of manner of voting
- 62 Marking of ballots
- 63 Disposal of marked ballot

- 64 Person deemed to have voted
- 65 Replacement of spoiled ballot
- 66 Elector declining to vote
- 67 Persons at voting station
- 68 Prohibited removal of ballots
- 68.1 Option for official agent
- 69 Candidate's scrutineer
- 70 Bylaw scrutineers
- 71 Proof of appointment
- 72 Interpreter
- 73 Advance vote
- 74 Notice of advance vote
- 75 Advance vote stations
- 77.1 Vote by special ballot
- 77.2 Voting by special ballot
- 77.3 Late receipt of special ballot
- 78 Elector assistance
- 79 Elector assistance at home
- 80 Institutional vote location, eligibility and appointments
- 81 Attendance at an institutional vote
- 82 Institutional vote procedure
- 83 Deputy's and constable's votes
- 84 Alternative voting equipment

Part 3 Post-vote Procedure

- 85 Counting of votes
- 85.1 Counting centres
- 86 Void ballots
- 87 Note of objection
- 88 Ballot account
- 89 Signatures to ballot account
- 90 Certificate in elector register
- 91 Packets of ballots
- 92 Sealing ballot packets
- 93 Securing election documents
- 93.1 Elector registers with objection
- 94 Delivery of ballot box and ballot account
- 95 Election results
- 96 Declaration of vote result
- 97 Declaration of election result
- 98 Recount
- 99 Equal number of votes

- 100 Delivery of election material
- 101 Disposition of election material
- 102 Order for inspection of ballots

Part 4 Recount Procedure

- 103 Judicial recount application
- 104 Notice of application
- 105 Time and place for recount
- 106 Persons permitted at recount
- 107 Process for recount
- 108 Examination of ballots
- 109 Recess during recount
- 110 Statement after recount
- 111 Equal number of recount votes
- 112 Certification of recount
- 113 Costs of recount
- 114 Payment of costs
- 115 Bylaw vote recount

Part 5 Controverted Elections

- 116 Bribery
- 117 Undue influence
- 119 Oral evidence
- 120 Forfeiture of seat
- 121 Penalty for bribery or undue influence
- 122 Report of bribery or undue influence convictions
- 123 Witnesses
- 124 Limitation of action
- 125 Recovery of penalties
- 126 Trial of an election
- 127 Fiat for application
- 128 Application requirements
- 129 Filing of documents
- 130 Service of application
- 131 Application to try validity of election
- 132 Combination of applications
- 133 Grounds not allowed
- 134 Production of election material
- 135 Adding parties
- 136 Intervention
- 137 Hearing

- 138 Invalid election
- 139 Liability for costs — improper refusal
- 140 Liability for costs — non-feasance or misfeasance
- 141 Form and effect of order
- 142 Return of judge's order
- 143 Disclaimer after application
- 144 Effect of disclaimer
- 145 Delivery of duplicate disclaimer
- 146 Right of appeal
- 147 Regulations

Part 5.1 Election Finances and Contributions Disclosure

- 147.1 Interpretation
- 147.12 Application of Part
- 147.13 Responsibility of contributors
 - 147.2 Limitations on contributions
 - 147.22 Acceptance of contributions
 - 147.23 Anonymous and unauthorized contributions
 - 147.24 Contributions not belonging to contributor
- 147.3 Duties of candidate
 - 147.31 Fund-raising functions
 - 147.32 Receipts
 - 147.33 Loans
 - 147.34 Campaign expense limits
- 147.4 Campaign disclosure statements
- 147.5 Campaign surplus
 - 147.51 Transitional — campaign surplus
 - 147.52 Campaign deficit
- 147.7 Late filing
 - 147.8 Effect of non-compliance in relation to disclosure statements
- 147.81 Prosecution
- 147.82 Offences relating to contributions
- 147.83 Failure of candidate to comply with duties
- 147.84 Failure to file
- 147.85 Expenses more than maximum
- 147.91 Regulations and bylaw
- 147.93 Transitional — definitions
- 147.94 Transitional — all candidates
- 147.95 Transitional — municipal candidates
- 147.96 Transitional — school board trustee candidates

**Part 6
Offences**

- 148 Prohibitions
- 149 Offences — returning officer or deputy returning officer
- 150 Offences — integrity of the vote
- 151 Offence — candidate's acceptance
- 152 Advertisement distribution
- 152.1 Campaign activities at a voting station
- 153 Interference with posted documents
- 154 Improper appointment
- 155 Provision of time to vote
- 156 Offence
- 157 Penalty — general
- 158 Offence re use of information

**Part 7
General**

- 158.1 Methods of notification
- 158.2 Transitional
- 159,160 Regulations
- 161 Bylaws valid

**Part 8
Third Party Advertising**

- 162 Definitions
- 162.1 Appointment of Registrar
- 163 Registration of third parties
- 164 Cancellation of registration
- 165 Election advertising expense limit
- 166 Collusion
- 167 Restrictions on advertising contributions and expenses
- 168 Payments made by third party
- 169 Deposit of advertising contributions
- 170 Additional rules for groups
- 171 Valuing contributions other than money
- 172 Fund-raising functions
- 173 Advertising contributions less than \$50
- 174 Loans
- 175 Anonymous contributions and unauthorized contributions
- 176 Contributions not belonging to contributor
- 177 Receipts
- 178 Third party advertising expenses

- 179 Identification of third parties
- 180 Disclosure of contributions for election advertising
- 182 Third party election advertising return
- 183 Disposition of advertising account funds
- 184 Late filing fee
- 185 Records
- 186 Prosecution
- 187 Third party election advertising offences
- 188 Regulations
- 188.1 Transitional — political advertising

Part 9 Election Commissioner

- 190 Interpretation
- 191 Duties and powers of the Election Commissioner
- 192 Notice of investigation and conclusion
- 193 Administrative penalties
- 194 Time limit
- 195 Appeal of administrative penalty
- 196 Compliance agreements
- 197 Notice of compliance agreement
- 198 Failure to comply
- 199 Publication of notice
- 200 Application for injunction
- 201 Election Commissioner's orders
- 202 Notice of prosecution
- 203 Disclosure
- 204 Duty to provide documents or information
- 205 Duty to refer complaints and allegations
and to report acts or omissions

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

Definitions

- 1 In this Act,
 - (a) “advance vote” means a vote taken in advance of election day;
 - (b) “area” means the area within the boundaries of a local jurisdiction;

- (c) “bribery” means bribery within the meaning of section 116;
- (d) “by-election” means an election other than a general election or a first election;
- (e) “bylaw” includes a resolution on which the opinion of the electors is to be obtained;
- (e.1) “candidate” means an individual who has been nominated to run for election in a local jurisdiction as a councillor or school board trustee;
- (f) “constable” means a person appointed under this Act as a constable;
- (g) “council” means the council of a municipality as described in the *Municipal Government Act*;
- (h) “councillor” means a member of council;
- (i) “Court” means the Court of King’s Bench;
- (j) “deputy” means the deputy returning officer;
- (k) “elected authority” means
 - (i) a council under the *Municipal Government Act*, or
 - (ii) a board of trustees under the *Education Act*;
 - (iii) repealed 2001 c11 s4;
- (l) “election” means a general election, first election, by-election and a vote on a bylaw or question;
- (m) “election day” means the day fixed for voting at an election;
- (n) “elector” means a person eligible to vote at an election;
- (n.1) “elector register” means the prescribed form on which the name of a person who has registered to vote is recorded;
- (o) “first election” means first election referred to in section 8;
- (p) “general election” means an election held for all the members of an elected authority to fill vacancies caused by the passage of time;
- (q) “judge” means a judge of the Court;

- (r) “local jurisdiction” means a municipality or a school division as defined in the *Education Act*;
- (s) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (s.1) “nomination day” means the day referred to in section 25(1);
- (s.2) “nomination period” means the relevant period referred to in section 25(2);
- (t) “officer” means a returning officer or deputy;
- (t.1) “official agent” means a person appointed as an official agent pursuant to section 68.1;
- (t.2) “prescribed form” means the appropriate form as set out in the regulations;
- (t.3) “presiding deputy” means a deputy who has been appointed as a presiding deputy pursuant to section 14, by a returning officer;
- (t.4) “registered charity” means a registered charity within the meaning of subsection 248(1) of the *Income Tax Act* (Canada);
- (u) repealed 2001 c11 s4;
- (v) “relevant Minister” means,
 - (i) in the case of a municipality, the Minister responsible for the *Municipal Government Act*, or
 - (ii) repealed 2001 c11 s4,
 - (iii) in the case of a school division as defined in the *Education Act*, the Minister responsible for Part 5 of the *Education Act*;
- (w) “returning officer” means a person appointed under this Act as a returning officer and includes a person acting in the returning officer’s place;
- (w.1) “scrutineer” means a person recognized as a scrutineer pursuant to section 69 or appointed pursuant to section 70;

- (x) “secretary” means a chief administrative officer or designated officer of a municipality if the council has assigned the functions of the secretary under this Act to the designated officer, or the secretary of a school board;
- (y) repealed 2018 c23 s2;
- (z) “spoiled ballot” means a spoiled ballot as described in section 65;
- (z.1) “spouse” means the spouse of a married person but does not, for the purposes of section 22(4), include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order;
- (z.2) “supportive living facility” means
 - (i) a lodge accommodation as defined in the *Alberta Housing Act*, or
 - (ii) a facility for adults or senior citizens that provides assisted living and accommodationbut does not include a treatment centre;
- (z.3) “treatment centre” means
 - (i) a hospital or a facility under the *Mental Health Act*, or
 - (ii) any facility not referred to in subclause (i)providing medical treatment or care on an in-patient basis;
- (aa) “undue influence” means undue influence within the meaning of section 117;
- (bb) repealed 2018 c23 s2;
- (cc) “voting station” means the place where an elector votes;
- (dd) “voting subdivision” means that area of a local jurisdiction or ward designated as a voting subdivision by the elected authority or the returning officer;
- (ee) “ward” means
 - (i) a ward under the *Municipal Government Act*, or

- (ii) repealed 2001 c11 s4,
- (iii) a ward or an electoral subdivision under the *Education Act*.

RSA 2000 cL-21 s1;2001 c11 s4;2002 cA-4.5 s52;2003 c27 s2;2006 c22 s2;
2012 cE-0.3 s276;2014 c8 s17;2018 c23 s2;2020 c22 s2;AR 217/2022

Part 1 Election Procedure

Joint elections

2(1) An elected authority may hold an election separately or in conjunction with another elected authority in the same area.

(2) An elected authority may by resolution enter into an agreement with one or more elected authorities in the same area for the conduct of an election.

(3) The agreement referred to in subsection (2) must state which elected authority is responsible for the conduct of the election, and that elected authority must ensure that the procedures prescribed under this Act for holding an election are complied with, including procedures in respect of the retention and destruction of election materials.

(4) The elected authority that is responsible for the conduct of the election under an agreement referred to in subsection (2) has all the rights, powers and duties of the elected authorities that have entered into that agreement respecting the conduct of the election in the area to which the agreement applies, including the power to pass bylaws and resolutions but not the power to pass bylaws under section 27.

RSA 2000 cL-21 s2;2006 c22 s3;2012 c5 s103;2018 c23 s3

Joint elections

3(1) An elected authority may by resolution enter into an agreement for the conduct of an election with one or more elected authorities of local jurisdictions that do not have contiguous boundaries but do have areas in common.

(2) An agreement under subsection (1)

- (a) must state which elected authority and which returning officer is responsible for the conduct of the election in which area or part of an area,
- (b) must require each elected authority to appoint a returning officer, and

(c) may, subject to subsections (3) and (4), provide for all other matters necessary for the conduct of the election.

(3) A person may be a returning officer for more than one elected authority.

(4) The elected authority that is responsible for the conduct of the election under an agreement referred to in subsection (1) has all the rights, powers and duties of the elected authorities that have entered into the agreement respecting the conduct of the election in the area to which the agreement applies, including the power to pass bylaws and resolutions but not the power to pass bylaws under section 27.

(5) The elected authority that is responsible for the conduct of the election must ensure that the procedures prescribed under this Act for holding an election are complied with, including procedures in respect of the retention and destruction of election materials.

RSA 2000 cL-21 s3;2006 c22 s4;2012 c5 s104;2018 c23 s4

Improvement district and special area elections

4 If an election is to be held in an improvement district or special area, the Minister may assume any of the powers, duties or functions of an elected authority under this Act in respect of that election.

1985 c38 s3;1995 c24 s99(15)

Procedure modification

5 All proceedings that, in the opinion of an elected authority, are necessary to give full effect to section 73, 77.1, 77.2, 77.3, 79, 80 or 81 are deemed to be authorized notwithstanding any inconsistencies that may arise between any of those sections and any other provision of this Act.

RSA 2000 cL-21 s5;2006 c22 s5

Ministerial powers

6(1) The relevant Minister may

- (a) give directions governing the conduct of a general election, first election, by-election or vote on a bylaw or question if the relevant Minister considers the provisions of this Act insufficient, and
- (b) require the elected authority to conduct a vote of the electors on any question specified by the relevant Minister at the same time as a general election is held or any question respecting any matter over which the elected authority has jurisdiction.

(2) The relevant Minister may decide any questions arising from the difficulty or impossibility of applying this Act and in so deciding the relevant Minister may by order alter dates prescribed by this Act for the doing of any matter or thing and may give other directions.

(3) If there are wards in an area, the provisions of this Act respecting a general election apply unless specifically varied in this Act, and if the bylaw, resolution or order establishing wards does not provide for any matter, the relevant Minister may by order give direction as to that or any other matter or thing requisite to the proper conduct of an election.

(4) The *Regulations Act* does not apply to directions given under this section.

1983 cL-27.5 s5

Voting on bylaw or question

7 If this or any other Act provides for the submission of a bylaw or question to the electors for their assent or approval, the bylaw or question shall be submitted to a vote in accordance with this Act.

1983 cL-27.5 s6;1994 eM-26.1 s642(42)

First elections

8(1) In a newly formed local jurisdiction,

- (a) nominations, and
- (b) the first election, if an election is required,

shall be held on the dates fixed by the relevant Minister and the persons elected hold office from the beginning of the first organizational meeting of the elected authority to immediately before the beginning of the organizational meeting of the elected authority after the next general election.

(2) The relevant Minister shall provide for the conduct of a first election.

(2.1) Parts 5.1 and 8 apply, with necessary modifications as determined by the relevant Minister, to a first election.

(3) Notwithstanding any other Act, if an Act or an order under an Act is passed to create a new municipality or a new school division as defined in the *Education Act*, the first election for the municipality or school division may be held on a date prior to the date on which the Act or order comes into force.

(4) A person elected at an election referred to in subsection (3) shall not be sworn into office before the effective date of the

formation of the municipality or school division, as the case may be.

RSA 2000 cL-21 s8;2012 cE-0.3 s276;2018 c23 s5

Term of office

9(1) A person elected under this Act, unless otherwise disqualified from remaining in office, holds office from the beginning of the organizational meeting of the elected authority following the general election to immediately before the beginning of the organizational meeting of the elected authority after the next general election.

(2) A person elected to an elected authority to fill a vacancy caused other than by the passage of time holds office from when the person takes the oath of office for the remainder of the period the person's predecessor would have held office had that predecessor continued in office.

1983 cL-27.5 s8;1994 cM-26.1 s642(42)

General term of office

10(1) Commencing with the year 2013,

- (a) the members of an elected authority elected at a general election hold office for a term of 4 years, and
- (b) a general election shall be held every 4th year.

(2) If a declaration is made under section 34(1) with respect to every office of the elected authority, those declared elected may hold an organizational meeting before the date of the general election.

(3) Despite subsection (1), an organizational meeting held pursuant to subsection (2) terminates the term of office of the members of the elected authority elected at the previous general election.

RSA 2000 cL-21 s10;2003 c27 s3;2006 c22 s6;2012 c5 s105

Election day

11(1) Election day for a local jurisdiction

- (a) in the case of a general election, if required, is to be the 3rd Monday in October, or
- (b) in the case of a by-election or vote on a bylaw or question, shall be the day fixed by a resolution of the elected authority.

(2) Notwithstanding subsection (1)(a), an elected authority may, by a bylaw passed prior to June 30 of a year in which a general

election is to be held, provide that the election day in the local jurisdiction is to be the Saturday immediately preceding the 3rd Monday in October.

(3) In a year where either, or both, of the following occur in conjunction with a general election, a bylaw referred to in subsection (2) is of no force and effect for the purpose of that general election and election day for that general election shall be the day referred to in subsection (1)(a):

- (a) a Senate election under the *Alberta Senate Election Act*;
- (b) a referendum vote under the *Referendum Act*.

RSA 2000 cL-21 s11;2020 c38 s2

Summer villages

12 The provisions of this Act that apply to municipalities apply to summer villages except that in respect of a summer village

- (a) election day
 - (i) in the case of a general election for council or for school representatives, shall be 4 weeks after the day established by council for the receipt of nominations for that election, and
 - (ii) in the case of a by-election or vote on a bylaw or question, shall be as established by resolution of the summer village council,
- (b) a person is entitled to vote at an election if
 - (i) the person is eligible to vote under section 47,
 - (ii) the person is 18, a Canadian citizen and is named on a certificate of title as the person who owns property within the summer village, or
 - (iii) the person is 18, a Canadian citizen and is the spouse or adult interdependent partner of a person referred to in subclause (ii),
- (c) the nomination of candidates for election as councillors shall be in the form prescribed for use under section 27(1) and shall be signed by at least 5 electors eligible to vote at that election,
- (d) in the case of a general election, nominations for councillors shall be received by the returning officer in June or July or both June and July in the year in which an election is to be

held at a date and place and between the hours established by council, and sections 25 and 28(1), (1.1) and (1.2) do not apply,

- (e) in the case of a by-election, nominations for councillors and school representatives, if any, shall be received by the returning officer between the hours of 10 a.m. and 12 noon at a date and place established by council,
- (f) voting hours in an election or in a vote on a bylaw or question shall be between the hours of 10 a.m. and 7 p.m., and section 46 applies except as to hours,
- (g) the time limit for withdrawal of nominations shall be 48 hours and section 32 applies except as to hours, and
- (h) in order to qualify for nomination as a councillor, a person is not required to be a resident of the summer village but must be entitled to vote in the election and have been a resident of Alberta for the 12 consecutive months immediately preceding election day.

RSA 2000 cL-21 s12;2002 cA-4.5 s52;2003 c27 s4;
2006 c22 s7;2018 c23 s6;2020 c22 s3

Appointment of returning officer and substitute returning officer

13(1) An elected authority may, by resolution, appoint a returning officer for the purposes of conducting elections under this Act by June 30 of the year in which the election occurs or, for a by-election or vote on a question or bylaw, in the resolution or bylaw that fixes the day for the by-election or vote on a question or bylaw.

(2) If the elected authority does not appoint a returning officer, the secretary is deemed to have been appointed as the returning officer.

(2.1) An elected authority must, by resolution, appoint a substitute returning officer by June 30 of the year in which the election occurs or, for a by-election or vote on a question or bylaw, in the resolution or bylaw that fixes the day for the by-election or vote on a question or bylaw.

(3) The returning officer or substitute returning officer for a local jurisdiction may not be a candidate for the elected authority for that local jurisdiction.

(4) If, through illness, absence or other incapacity, the returning officer is incapable of performing the duties of returning officer, the substitute returning officer has and may exercise all the duties,

functions and powers of a returning officer for the purposes of conducting elections under this Act.

RSA 2000 cL-21 s13;2018 c23 s7;2020 c22 s4

Impartiality

13.1(1) A returning officer must be independent and impartial when performing the duties of a returning officer.

(2) No local jurisdiction, its officers or any other person shall obstruct or attempt to influence the returning officer in the carrying out of the duties of a returning officer.

2006 c22 s8

Duties of returning officer

14(1) In addition to performing the duties specified in this or any other Act, a returning officer shall

- (a) appoint a presiding deputy, deputies, constables and other persons as required;
- (b) establish voting stations;
- (c) designate at least 2 deputies to work at each voting station, one of whom shall be designated as the presiding deputy, who is to be in charge of the voting station;
- (d) provide for the supply and delivery of ballots, ballot boxes, instructions to electors and other necessary supplies to all voting stations;
- (e) give notice of nominations;
- (f) receive and process nominations;
- (g) declare acclamations;
- (h) give notice of elections;
- (i) do all things necessary for the conduct of an election.

(2) A returning officer has all the duties and powers of a presiding deputy and deputy.

(3) A returning officer may delegate any of the returning officer's powers and duties to a constable, presiding deputy or deputy and may impose conditions and restrictions on the delegation.

RSA 2000 cL-21 s14;2006 c22 s9;2018 c23 s8

Presiding deputy

14.1 A presiding deputy shall carry out the duties of a presiding deputy under this Act and any other duties that a returning officer assigns to the presiding deputy.

2006 c22 s10

Constable

15(1) The presiding deputy at a voting station is charged with maintaining the peace at the voting station and with the approval of the returning officer, may appoint a constable to maintain order at the voting station, and may summon to the deputy's assistance in a voting station a police officer or any other person for the purpose of maintaining order, preserving the public peace, preventing any breach of the public peace, or removing any person who, in the opinion of the deputy presiding at the voting station, is obstructing the voting or contravening this Act.

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

1983 cL-27.5 s15;1991 c23 s2(6)

Oath, statement

16(1) Every returning officer before performing the duties of that office must take and subscribe to the official oath in the prescribed form.

(2) Every deputy, enumerator, scrutineer and constable before performing the duties of that office must subscribe to a statement in the prescribed form.

RSA 2000 cL-21 s16;2003 c27 s5;2006 c22 s11;2012 c5 s106

17 Repealed 2018 c23 s9.

Substitute deputy or constable

18 If a person who has been appointed a deputy or constable becomes incapable of carrying out the duties of that office, the returning officer or a deputy returning officer may, in writing, appoint another person to act in the place of that person.

RSA 2000 cL-21 s18;2003 c27 s6

Secretary's duties

19(1) The secretary shall for the purposes of this Act,

- (a) on the request of the returning officer, provide the returning officer with information and assistance, and

- (b) on the vote results being declared by the returning officer, take custody of election materials and provide for their destruction in accordance with this Act.

(2) The secretary may delegate any powers and duties of the secretary under this Act to the returning officer.

RSA 2000 cL-21 s19;2003 c27 s7

Administration of oaths

20 The returning officer, a presiding deputy or a commissioner for oaths is authorized to administer an oath to a person making an oath that is authorized or required by this Act.

RSA 2000 cL-21 s20;2003 c27 s8;2006 c22 s12

Qualification of candidates

21(1) A person may be nominated as a candidate in any election under this Act if on nomination day the person

- (a) is eligible to vote in that election,
- (b) has been a resident of the local jurisdiction and the ward, if any, for the 6 consecutive months immediately preceding nomination day, and
- (c) is not otherwise ineligible or disqualified.

(2) Notwithstanding subsection (1), in the case of a city, a candidate for councillor is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the city.

(3) Notwithstanding subsection (1), a candidate for trustee of a board of a school division that is wholly or partly within the boundaries of a city is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the school division.

(4) If the boundaries of a local jurisdiction are altered by the addition of land, a person who has been a resident of the added land for at least the 6 months immediately preceding nomination day is deemed, for the purposes of this section, to have been a resident, during that time, of the local jurisdiction to which the land was added.

RSA 2000 cL-21 s21;2012 cE-0.3 s276;2018 c23 s10

Ineligibility

22(1) A person is not eligible to be nominated as a candidate in any election under this Act if on nomination day

- (a) the person is the auditor of the local jurisdiction for which the election is to be held;
- (b) subject to subsection (4), the person is an employee of the local jurisdiction for which the election is to be held unless the person takes a leave of absence under this section;
- (c) the person is indebted to the municipality of which the person is an elector for taxes in default exceeding \$50, excluding from that amount
 - (i) any indebtedness for current taxes, and
 - (ii) any indebtedness for arrears of taxes for which the person has entered into a consolidation agreement with the municipality, unless the person is in default in the payment of any money due under the agreement;
- (d) the person is indebted to the local jurisdiction for which the election is to be held for any debt exceeding \$500 and in default for more than 90 days;
- (d.1) the person has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act* (Canada).
- (e),(f) repealed 2006 c22 s13.

(1.1) A person is not eligible to be nominated as a candidate for election as a trustee of a board of a school division if on nomination day the person is employed by

- (a) a school division,
- (b) a charter school, or
- (c) a private school,

in Alberta unless the person takes a leave of absence under this section.

(1.2) A person is not eligible to be nominated as a candidate for election as a councillor or a school board trustee if

- (a) a report was transmitted under section 147.8(1) in respect of the person,

- (b) the Court did not dispense with, or extend the time for, compliance with section 147.4 by an order under section 147.8(3), and
- (c) subject to subsection (1)(d.1), nomination day for the election occurs within
 - (i) the 8-year period following the day on which the secretary transmitted the report to council or the school board, or
 - (ii) where the disclosure statement required by section 147.4 has been filed with the secretary, the 3-year period following the day of filing,whichever period expires first.

(1.3) Subsection (1.2) applies

- (a) with respect to a candidate for election as a councillor, if a report has been transmitted under section 147.8(1)(a) respecting a campaign period beginning on or after January 1, 2014, and
- (b) with respect to a candidate for election as a school board trustee, if a report has been transmitted under section 147.8(1)(b) respecting a campaign period beginning on or after January 1, 2019.

(2) Repealed 2006 c22 s13.

(3) Subsection (1)(b) to (d) do not apply to a candidate for election as a trustee of a board of a school division.

(4) Subsection (1)(b) does not apply to a person by reason only

- (a) - (f) repealed 2018 c23 s11;
- (g) that the person is appointed to a position under the *Emergency Management Act*;
- (h) repealed 2018 c23 s11;
- (i) that the person has received a gratuity or allowance for services on a committee or board appointed by or responsible to the local jurisdiction;
- (j) - (l) repealed 2018 c23 s11;

(m) that the person is a volunteer chief, officer or member of a fire, ambulance or emergency measures organization established by a local jurisdiction or that the person is a volunteer for another purpose who performs duties under the direction of the local jurisdiction.

(5) A person who is an employee of a municipality and who wishes to be nominated as a candidate in an election to be held for that municipality may notify that person's employer on or after July 1 in the year of a general election or on or after the day the council passes a resolution to hold a by-election but before the person's last working day prior to nomination day that the person is taking a leave of absence without pay under this section.

(5.1) A person employed by an entity referred to in subsection (1.1) who wishes to be nominated as a candidate for election as a trustee of a board of a school division may notify that person's employer on or after July 1 in the year of an election but before the person's last working day prior to nomination day that the person is taking a leave of absence without pay under this section.

(6) Notwithstanding any bylaw, resolution or agreement of a local jurisdiction, every person who notifies an employer in accordance with subsection (5) or (5.1) is entitled to a leave of absence without pay.

(6.1) Repealed 2012 c5 s107.

(7) An employee who takes a leave of absence under this section is subject to the same conditions that apply to taking a leave of absence without pay for any other purpose.

(8) If an employee who takes a leave of absence under this section is not elected, the employee may return to work, in the position the employee had before the leave commenced, on the 5th day after election day or, if the 5th day is not a working day, on the first working day after the 5th day.

(9) If an employee who takes a leave of absence under this section is declared elected, the employee is deemed to have resigned that position as an employee the day the employee takes the official oath of office as an elected official.

(10) If an employee who takes a leave of absence under this section is declared elected but, after a recount under Part 4, is declared not to be elected, the employee may return to work on the first working day after the declaration is made, and subsections (7) and (8) apply.

(11) Subject to subsection (12), an employee who takes a leave of absence under this section and is declared elected continues to be deemed to have resigned that position as an employee if the employee subsequently forfeits the elected office or if the employee's election is adjudged invalid.

(12) If, through no act or omission of the employee, an employee forfeits the elected office or the employee's election is adjudged invalid, the employee may return to work on the first working day after the office is forfeited or the election is adjudged invalid, and subsections (7) and (8) apply.

RSA 2000 cL-21 s22;2001 cC-28.1 s458;2001 c23 s1(11);
2002 cA-4.5 s52;2002 c23 s1;2006 c22 s13;2007 c12 s12;
2009 c53 s104;2010 c9 s1;2012 cE-0.3 s276;2012 c5 s107;2018 c23 s11

Ineligibility for nomination

23(1) A person is not eligible to be nominated for more than one office of the same elected authority.

(2) A member who holds office on an elected authority is not eligible to be nominated for or elected to the same or any other office on the elected authority

- (a) unless the member's term of office is expiring, or
- (b) if the member's term of office is not expiring, unless the member has resigned that office effective 18 days or more before nomination day.

1983 cL-27.5 s23

Re-election

24(1) A person who held office on a board of trustees under the *Education Act* and

- (a) who resigned that office to avoid making restitution for money the person received that disqualified the person from holding that office pursuant to this or any other Act and has been ordered by a judge to make restitution, or
- (b) who was declared by a judge to be disqualified to hold that office pursuant to this or any other Act,

is not eligible to become a member of that board of trustees until after 2 general elections have occurred after the date on which the person was ordered to make restitution or was declared to be disqualified.

(2) Notwithstanding that a by-election or general election has been held between the time when the disqualification of the member or former member arose and the time when the order or declaration

has been made by the judge, subsection (1) applies and, if the person was re-elected, the person is not eligible to remain a member of the board of trustees.

(3) Notwithstanding subsections (1) and (2), a judge

- (a) who has made an order described in subsection (1)(a), or
- (b) who has declared a person to be disqualified

may reduce the period of disqualification.

(4) An appeal against the decision of a judge under this section lies to the Court of Appeal.

RSA 2000 cL-21 s24;2012 cE-0.3 s276

Nomination day

25(1) Nomination day is 4 weeks before election day.

(2) A person may file a nomination to become a candidate

- (a) for a general election, within the period beginning on January 1 in a year in which a general election is to be held and ending at 12 noon on nomination day, and
- (b) for a by-election, within the period beginning on the day after the resolution or bylaw is passed to set election day for the by-election and ending at 12 noon on nomination day.

RSA 2000 cL-21 s25;2018 c23 s12;2020 c22 s5

Notice of nomination day

26(1) The returning officer shall give notice of nomination day in the prescribed form by publishing a notice at least once a week in each of the 2 weeks before nomination day in a newspaper or other publication circulating in the area, or by mailing or delivering a notice to every residence in the local jurisdiction at least one week before nomination day.

(2) On complying with subsection (1), the returning officer may publish, mail and deliver additional notices and give notice by any other method as many times as the returning officer considers appropriate.

RSA 2000 cL-21 s26;2003 c27 s9

Form of nomination

27(1) Every nomination of a candidate must

- (a) be in the prescribed form,

- (b) be signed by at least 5 persons who are electors eligible to vote in that election and resident in the local jurisdiction on the date of signing the nomination,
 - (c) be accompanied with a written acceptance sworn or affirmed in the prescribed form by the person nominated, stating
 - (i) that the person is eligible to be elected to the office,
 - (ii) the name, address and telephone number of the person's official agent, if one has been appointed,
 - (iii) that the person will accept the office if elected,
 - (iv) that the person will read and comply with the municipality's code of conduct if elected, and
 - (v) that the persons who have signed the nomination are electors who are eligible to vote in that election and resident in the local jurisdiction on the date of signing the nomination,
- and
- (d) if required by bylaw, be accompanied with a deposit in the required amount.

(1.1) A person who files a nomination shall also submit, in the prescribed form, the following information to the returning officer:

- (a) the full name and contact information of the candidate;
- (b) the address of the place or places where records of the candidate are maintained and of the place to which communications may be addressed;
- (c) the name and address of the financial institutions to be used by or on behalf of the candidate for the candidate's campaign account, if applicable;
- (d) the names of the signing authorities for each account referred to in clause (c), if applicable.

(1.2) When there is any change in the information required to be provided under subsection (1.1), the candidate shall notify the local jurisdiction in writing within 48 hours after the change, and on receipt of the notice the local jurisdiction shall update the information accordingly.

(1.3) Notice under subsection (1.2) may be sent by fax or e-mail.

(2) Notwithstanding subsection (1), a city that is a local jurisdiction with a population of at least 10 000 or a board of trustees under the *Education Act* of a local jurisdiction with a population of at least 10 000 may, by a bylaw passed prior to December 31 of the year before a year in which a general election is to be held, specify the minimum number of electors required to sign the nomination of a candidate for an office, but that number must be at least 5 and not more than 100.

(3) Notwithstanding subsection (1), if a system of wards is in effect, only an elector who is a resident of the ward for which a candidate for election is being nominated may sign the nomination of the candidate.

(4) Repealed 2018 c23 s13.

RSA 2000 cL-21 s27;2003 c27 s10;2006 c22 s14;
2012 cE-0.3 s276;2017 c13 s4;2018 c23 s13;2020 c22 s6

Nominations

28(1) Subject to subsection (1.2), nominations shall be submitted at the local jurisdiction office at any time during the nomination period.

(1.1) An elected authority may, by a bylaw passed prior to December 31 of the year before a year in which a general election is to be held, provide that a returning officer may establish one or more locations, in addition to the local jurisdiction office, where a deputy may receive nominations.

(1.2) If an elected authority passes a bylaw referred to in subsection (1.1), nominations shall be submitted to the local jurisdiction office or any location established by the returning officer at any time during the nomination period.

(2) The person nominated as a candidate is responsible for ensuring that the nomination filed under this section meets the requirements of section 27.

(3) Any person may file a nomination described in section 27 in accordance with this section.

(4) A returning officer shall not accept the following for filing:

- (a) a nomination that is not completed in the prescribed form;
- (b) a nomination that is not signed by at least the minimum number of persons required to sign the nomination;

- (c) a nomination that is not sworn or affirmed by the person nominated;
 - (d) if a bylaw has been passed under section 29(1), a nomination that is not accompanied by the deposit required by the bylaw.
- (5) If the returning officer has not rejected a nomination form under subsection (4), the returning officer must sign the form to indicate that the form has been accepted.
- (6) At any time after the commencement of the nomination period until the term of office to which the filed nomination papers relate has expired, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary.
- (7) The returning officer or secretary must retain all the filed nomination papers until the term of office to which the papers relate has expired.
- (8) Twenty-four hours after the close of nominations on nomination day, the returning officer shall, as soon as practicable, forward a signed statement showing the name of each nominated candidate and any information about the candidate that the candidate has consented to being disclosed to the relevant Minister's Deputy Minister.
- (9) A statement referred to in subsection (8) may be forwarded by electronic means, including by fax or e-mail.
- (10) Within 48 hours of the close of nominations on nomination day, the returning officer shall post or cause to be posted at the local jurisdiction office the names of all candidates that have been nominated and the offices for which they were nominated.

RSA 2000 cL-21 s28;2003 c27 s11;2006 c22 s15;
2012 c5 s108;2018 c23 s14;2020 c22 s7

Material to be provided to candidate

28.1 The returning officer, on receiving a nomination paper, must, if requested by the candidate, provide to the candidate a sufficient number of copies of the prescribed form for the identification of an official agent, campaign workers and scrutineers for the purposes of identification under section 52.

2006 c22 s16

Deposit

29(1) An elected authority may, by bylaw passed not fewer than 30 days before nomination day, require that every nomination be accompanied with a deposit in the amount fixed in the bylaw.

- (2) An amount fixed in a bylaw under subsection (1) may not exceed
- (a) \$1000, in the case of a local jurisdiction with a population of more than 10 000, or
 - (b) \$100, in any other case.

RSA 2000 cL-21 s29;2006 c22 s17

Disposition of deposit

30(1) When a bylaw has been passed to provide for a deposit, the returning officer shall require the deposit to be provided in cash, by certified cheque or by money order.

- (2) The candidate's deposit shall be returned to the candidate
- (a) if the candidate is declared elected,
 - (b) if the candidate obtains a number of votes at least equal to 1/2 of the total number of votes cast for the candidate elected to the office with the least number of votes, or
 - (c) if the candidate withdraws as a candidate in accordance with section 32.
- (3) If a candidate dies before the closing of the voting stations on election day, the sum deposited by the candidate shall be returned to the candidate's estate.
- (4) If a candidate does not obtain the number of votes described in subsection (2)(b), the deposit shall be paid into the general revenue of the local jurisdiction for which the deposit requirement has been established.

RSA 2000 cL-21 s30;2003 c27 s12

Insufficient nominations

- 31(1)** If the number of persons nominated for any office is less than the number required to be elected, the time for receipt of nominations
- (a) shall stand adjourned to the next day at the same place at the hour of 10 a.m. and shall remain open until 12 noon for the purpose of receiving further nominations for the office, and
 - (b) shall continue to remain open and be adjourned in the same manner from day to day until 12 noon of the day that the required number of nominations has been received or a period of 6 days, including nomination day but not including Saturday, Sunday and holidays, as defined in the *Interpretation Act*, has elapsed.

(2) Repealed 2018 c23 s15.

(3) Notwithstanding subsection (1)(b), in the case of a summer village the period of 6 days includes Saturday and Sunday.

(4) If sufficient nominations to fill all vacancies are not received, the secretary shall immediately notify the relevant Minister, who may recommend a change in the status of the local jurisdiction or any other action the relevant Minister considers necessary.

RSA 2000 cL-21 s31;2018 c23 s15

Withdrawal of nomination

32(1) A person nominated as a candidate may withdraw as a candidate at any time during the nomination period.

(2) Subject to subsection (3), at any time within 24 hours after the close of the nomination period, if more than the required number of candidates for any particular office are nominated, any person so nominated may withdraw as a candidate for the office for which the candidate was nominated by filing with the returning officer a withdrawal in writing.

(3) If, after one or more candidates have withdrawn in accordance with subsection (2), the number of remaining candidates does not exceed the number of vacancies to be filled, the returning officer shall refuse to accept further withdrawals.

RSA 2000 cL-21 s32;2020 c22 s8

Death of candidate

33(1) An elected authority may, by a bylaw passed prior to nomination day, provide that if prior to the opening of the voting stations on election day a candidate for an elected authority dies after being nominated,

- (a) the election for the position for which the deceased candidate was nominated shall be discontinued, and
- (b) the elected authority shall as soon as practicable provide for the holding of a new election for that office.

(2) If a candidate dies after being nominated and a bylaw has not been passed under subsection (1), the returning officer shall cause a notice of the death to be posted at a conspicuous location in all the relevant voting stations.

1983 cL-27.5 s33;1991 c23 s2(14)

Election by acclamation

34(1) When at the close of nominations the number of persons nominated for any office is the same as the number required to be

elected, the returning officer shall declare the persons nominated to be elected to the offices for which they were nominated.

(2) Forthwith after having declared a person elected, the returning officer shall give to the secretary and the relevant Minister's Deputy Minister written notification signed by the returning officer of the names of the persons so elected and of the offices to which they were elected and the returning officer shall deliver the nomination papers and other material relating to the receipt of nominations to the secretary.

(2.1) Repealed 2006 c22 s18.

(3) At any time after 12 noon on nomination day until the term of office to which the filed nomination papers relate has expired, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary.

(4) The returning officer or secretary must retain all the filed nomination papers until the term of office to which the nomination papers relate has expired.

RSA 2000 cL-21 s34;2003 c27 s13;2006 c22 s18

Notice of election

35(1) If more than the required number of persons for any office remain nominated 24 hours after the close of nominations, the returning officer shall declare that an election shall be held for filling that office.

(2) Subject to subsection (2.1), if an election is required, the returning officer shall give notice of it in the prescribed form by publishing a notice at least once a week in each of the 2 weeks before election day in a newspaper or other publication circulating in the area, or by mailing or delivering a notice to every residence in the local jurisdiction at least one week before election day.

(2.1) If an election does not apply to an entire local jurisdiction, a notice published, mailed or delivered under subsection (2) is only required to be published, mailed or delivered in a ward or voting subdivision within that local jurisdiction where an election is required.

(3) The notice of a vote on a bylaw or question shall set out the text or a reasonably complete summary of the bylaw or question.

(4) On complying with subsection (2), the returning officer may publish, mail and deliver additional notices and give notice by any

other method as many times as the returning officer considers appropriate.

RSA 2000 cL-21 s35;2003 c27 s14;2018 c23 s16

Part 2 Voting Procedure

Voting subdivisions

36(1) The elected authority by resolution, or the returning officer if authorized by resolution of the elected authority, may divide the local jurisdiction into voting subdivisions and may from time to time alter their boundaries but may not alter them between the time of the giving of notice of an election and the election day.

(2) If voting subdivisions are not established under subsection (1),

- (a) the area, or
- (b) the ward, if there are wards,

is considered to be one voting subdivision.

1983 cL-27.5 s36;1985 c38 s9

Voting stations

37(1) The returning officer shall designate the location of one voting station only for each voting subdivision and the location may be outside the area.

(2) When a voting station designated by the returning officer is not available, the returning officer shall designate another place in the vicinity and shall, by notice posted at the original voting station, direct the electors to the other voting station.

(3) The elected authority may pass a bylaw by June 30 of a year in which a general election is to be held allowing the returning officer of the elected authority to designate more than one voting station for each subdivision and the location of those voting stations for that election.

RSA 2000 cL-21 s37;2018 c23 s17

Compartments for voting

38(1) The returning officer shall ensure that each voting station is furnished with one or more voting compartments arranged so that an elector is screened from observation and may mark the elector's ballot without interference or interruption.

(2) In each voting compartment there shall be provided for the use of the electors in the marking of ballots a table, desk or shelf with a

hard surface and a suitable marking instrument that shall be kept operational during the hours of voting.

1983 cL-27.5 s38;1997 c15 s11

Ballot boxes

39(1) The secretary shall provide sufficient ballot boxes to the returning officer.

(2) A ballot box must be made of durable material and so constructed that ballots can be deposited into the ballot box and cannot be removed from it unless the seal is broken and the ballot box opened.

RSA 2000 cL-21 s39;2018 c23 s18

Sealing the ballot box

40(1) The presiding deputy at a voting station shall, immediately after the opening of the voting station, show each ballot box to the persons present at the voting station so that they can see that it is empty, close and seal the box so that it cannot be opened without breaking the seal and place the box in the presiding deputy's view for the receipt of ballots.

(2) The presiding deputy at the voting station shall keep each ballot box closed and sealed and in full view of all present during the hours of voting.

(3) Subsections (1) and (2) apply to additional ballot boxes that are required at the voting station after the voting station has been opened.

RSA 2000 cL-21 s40;2006 c22 s19

Printing of ballots

41 If an election is required, the returning officer shall forthwith cause a sufficient number of ballots to be printed at the expense of the local jurisdiction.

1983 cL-27.5 s41

Names on ballot

42(1) A separate ballot shall be used for

- (a) the office of chief elected official;
- (b) the offices of councillors;
- (c) the offices of school representatives or trustees.

(2) The names of the candidates for

- (a) the office of chief elected official;

- (b) the offices of councillors;
- (c) the offices of school representatives or trustees;

must be placed on the ballot in the prescribed form.

(3) Every ballot used in an election for a member of an elected authority shall contain a brief explanatory note stating the maximum number of candidates who can be voted for in order not to make the ballot subject to being rejected.

(4) Every ballot used in an election for chief elected official shall contain a brief explanatory note stating that the ballot shall not be marked for more than one candidate.

RSA 2000 cL-21 s42;2006 c22 s20

Contents of ballot

43(1) Each ballot shall contain the name of each candidate.

(2) The names of the candidates on each ballot shall be arranged alphabetically in order of the surnames and, if 2 or more candidates have the same surname, the names of those candidates shall be arranged alphabetically in the order of their given names.

(3) Notwithstanding subsection (2), if an elected authority passes a bylaw 2 months before an election that provides that

- (a) ballots shall be printed in as many lots as there are candidates for the office,
- (b) in the first lot the names of the candidates shall appear in alphabetical order,
- (c) in the 2nd lot the names shall appear in the same order, except that the first name in the first lot shall be placed last,
- (d) in each succeeding lot, the order shall be the same as that of the preceding lot, except that the first name in the preceding lot shall be placed last, and
- (e) tablets of ballots to be used at each voting station shall be made up by combining ballots from the different lots in regular rotation so that no 2 consecutive electors may receive ballot papers from the same lot and so that each candidate's name shall appear first and in each other position substantially the same number of times on the ballots used,

then the ballots used in an election while the bylaw is in force shall be in the form described in this subsection.

1983 cL-27.5 s43;1991 c23 s2(17)

Form of ballot

44(1) If there is to be a vote on a bylaw or question, the elected authority by resolution

- (a) must determine the wording to be used on the ballot, and
- (b) may determine the form of the ballot.

(2) If the elected authority does not determine the form of the ballot under subsection (1), the returning officer must do so.

1983 cL-27.5 s44;1997 c15 s12

Instructions for voters

45(1) Before the opening of the voting station, the presiding deputy at the voting station shall cause the printed instructions for the electors to be posted within each voting compartment and at a conspicuous location within the voting station and shall ensure that they remain posted there until the close of the voting station.

(2) The instructions shall be printed in clearly legible characters in the prescribed form.

(3) The local jurisdiction may authorize the presiding deputy to post the printed instructions in languages other than English at the voting stations as the local jurisdiction considers appropriate.

RSA 2000 cL-21 s45;2006 c22 s21

Voting hours

46(1) Every voting station shall be kept open continuously on election day from 10 a.m. until 8 p.m.

(2) Notwithstanding subsection (1), an elected authority may, by a bylaw passed prior to June 30 of a year in which an election is to be held, provide that the voting station is to be open before 10 a.m.

(2.1) Despite subsection (1), an elected authority that is responsible for the conduct of an election under an agreement referred to in section 2(2) or 3(1) may, by a bylaw passed before June 30 of a year in which an election is to be held, provide that voting stations in an area that is subject to the agreement are to be open before 10 a.m.

(3) Promptly at 8 p.m. on election day, the deputy shall declare the voting station closed.

(4) If, when the voting station is declared closed, there is an elector in the voting station who wishes to vote, the elector shall be permitted to do so, but no other person shall be allowed to enter the voting station for that purpose.

RSA 2000 cL-21 s46;2006 c22 s22

Eligibility to vote

47(1) A person is eligible to vote in an election held pursuant to this Act if the person

- (a) is at least 18 years old,
- (b) is a Canadian citizen, and
- (c) resides in Alberta and the person's place of residence is located in the local jurisdiction on election day.

(2) Subject to subsection (3) and sections 75, 77.1, 79, 81 and 83, an elector is eligible to vote only at the voting station for the voting subdivision in which the elector's place of residence is located on election day.

(3) If a local authority establishes a voting station at a work site, the local authority may direct that those workers who are electors who wish to vote and who are required to work at the site during the hours for which the voting station is open shall vote at that voting station, notwithstanding that those workers do not reside in the voting subdivision in which that voting station is located.

(4) Repealed 2018 c23 s19.

RSA 2000 cL-21 s47;2003 c27 s15;2006 c22 s23;2018 c23 s19

Rules of residence

48(1) For the purposes of this Act, the place of residence is governed by the following rules:

- (a) a person may be a resident of only one place at a time for the purposes of voting under this Act;
- (a.1) if a person has more than one residence in Alberta, that person shall, in accordance with subsection (1.1), designate one place of residence as the person's place of residence for the purposes of this Act;
- (b) the residence of a person is the place where the person lives and sleeps and to which, when the person is absent, the person intends to return;
- (c) a person does not lose the person's residence by leaving the person's home for a temporary purpose;

- (d) subject to clause (e), a student who
 - (i) attends an educational institution within or outside Alberta,
 - (ii) temporarily rents accommodation for the purpose of attending an educational institution, and
 - (iii) has family members who are resident in Alberta and with whom the student ordinarily resides when not attending an educational institutionis deemed to reside with those family members;
- (e) if a person leaves the area with the intention of making the person's residence elsewhere, the person loses the person's residence within the area.

(1.1) For the purposes of subsection (1)(a.1), a person shall designate the person's place of residence in accordance with the following factors in the following order of priority:

- (a) the address shown on the person's driver's licence or motor vehicle operator's licence issued by or on behalf of the Government of Alberta or an identification card issued by or on behalf of the Government of Alberta;
- (b) the address to which the person's income tax correspondence is addressed and delivered;
- (c) the address to which the person's mail is addressed and delivered.

(2) A person who is a resident of a public school division or of a separate school division under the *Education Act* is deemed to be a resident of that public school division or that separate school division, as the case may be, under this Act.

(3) Repealed 2012 cE-0.3 s276.

RSA 2000 cL-21 s48;2003 c27 s16;2010 c9 s1;2012 cE-0.3 s276

Permanent electors register

49(1) Subject to this section, a municipality may, by bylaw,

- (a) direct the secretary to prepare a permanent electors register of residents in the municipality who are entitled to vote in elections,

- (b) prescribe procedures and forms governing the enumeration of electors and any other methods of compiling and revising a permanent electors registry, and
 - (c) provide for the use of the permanent electors register to create a list of electors who are entitled to vote in an election.
- (2)** If a bylaw is enacted under subsection (1), the municipality may enter into an agreement with the Chief Electoral Officer under the *Election Act*
- (a) to receive from the Chief Electoral Officer information that will assist the secretary of the municipality in compiling or revising the permanent electors register, and
 - (b) to provide to the Chief Electoral Officer information that will assist the Chief Electoral Officer in preparing or revising information for the purpose of compiling or revising the register of electors under the *Election Act*.
- (3)** In addition to the procedures, forms and methods prescribed by bylaw under subsection (1), with respect to compiling and revising a permanent electors register, the secretary may use any other information obtained by or available to the secretary.
- (4)** The permanent electors register may be compiled or revised manually or by means of any computer-based system and may be kept in printed form or may be stored in any computer-based system or any other information storage device that is capable of reproducing any required information in legible printed form within a reasonable time.
- (5)** The permanent electors register may contain only the following information about persons ordinarily resident in the municipality who are electors or may be eligible to be electors:
- (a) the residential address, including the postal code of the residence of the person, and the mailing address, including the postal code, if the mailing address is different from the residential address,
 - (b) the surname, given name and middle initial of the person,
 - (c) the residential telephone number of the person,
 - (d) the gender of the person,
 - (e) the day, month and year of birth of the person, and

- (f) repealed 2018 c23 s20,
- (g) whether the person is a public school resident or a separate school resident.

(6) The information referred to in subsection (5)(d) and (e) obtained under this Act may be used only to verify the identification of an elector when compiling or revising the permanent electors register.

(7) Persons are entitled to have access to information in the permanent electors register about themselves or about another person on whose behalf they are authorized to act, to determine whether the information is correct.

RSA 2000 cL-21 s49;2006 c22 s24;2018 c23 s20

List of electors

50(1) The elected authority if it so desires may, by bylaw,

- (a) direct the secretary or returning officer to prepare a list of electors who are entitled to vote in an election, and
- (b) prescribe procedures and forms governing the enumeration of electors and provide for the use of information from a permanent electors register, if any.

(2) When a candidate files a nomination paper the returning officer shall, on the request of the candidate, provide the candidate the day after nominations may be withdrawn under section 32, if the candidate has not withdrawn, with a copy of the list of electors prepared pursuant to subsection (1), if any.

(3) The list of electors may be used only by

- (a) candidates for the purposes of campaigning for election, and
- (b) officers for the purposes of carrying out their duties under this Act.

RSA 2000 cL-21 s50;2003 c27 s17;2006 c22 s25

Enumerators' appointment and identification

51 If an elected authority passes a bylaw described in section 50, the elected authority shall

- (a) appoint, or authorize the secretary or returning officer to appoint, a sufficient number of enumerators to complete an enumeration of the electors residing in each voting subdivision or ward where an election is required, and

- (b) provide each enumerator with an identification badge.

1983 cL-27.5 s50

Access for enumerators and campaigners

52(1) A person to whom an enumerator, a candidate, an official agent or a campaign worker on behalf of a candidate has produced identification in the prescribed form indicating that the person is an enumerator, a candidate, an official agent or a campaign worker, shall not

- (a) obstruct or interfere with, or
(b) cause or permit the obstruction or interference with,

the free access of the enumerator, candidate, official agent or campaign worker to each residence in a building containing 2 or more residences or to each residence in a mobile home park.

(2) A municipality may issue photo identification to an enumerator and that photo identification is deemed to be identification of that enumerator in the prescribed form for the purposes of subsection (1).

RSA 2000 cL-21 s52;2003 c27 s18;2006 c22 s26;2018 c23 s21

Proof of elector eligibility

53(1) Every person who attends at a voting station for the purpose of voting must be permitted to vote if

- (a) the person's name appears on the list of electors, if any, or
(b) the person
- (i) makes a statement that the person is eligible to vote as an elector in the presence of an officer at the voting station, in the prescribed form,
(ii) validates the person's identity and address of the person's residence in accordance with subsection (3), and
(iii) where required by a bylaw passed under section 53.01, produces the number and types of identification permitted by the bylaw to verify the person's age.

(2) A statement referred to in subsection (1)(b)(i) must include the address of the person's residence.

(3) A person may validate the person's identity and the address of the person's residence for the purpose of subsection (1)(b)(ii)

- (a) if a bylaw has been passed under section 53.01, by producing the number and types of identification required by the bylaw, or
 - (b) by producing one of the following:
 - (i) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of that government, that contains a photograph of the person, the person's name and the address of the person's residence;
 - (ii) one piece of identification authorized by the Chief Electoral Officer under the *Election Act* for the purposes of section 100(2)(b) of that Act that establishes the person's name and current address;
 - (iii) one piece of other acceptable identification referred to in section 53.02.
- (4)** Notwithstanding subsection (1)(b)(ii) and (iii), a person may validate the person's identity, the address of the person's residence and, if applicable, the person's age if the person is accompanied by an elector who
- (a) validates the elector's identity and the address of the elector's residence in accordance with subsection (3) and, if applicable, verifies the elector's age in accordance with subsection (1)(b)(iii), and
 - (b) vouches for the person in accordance with subsection (7).
- (5)** A scrutineer shall not vouch for a person under subsection (4)(b).
- (6)** An elector shall not vouch for a person if any of the following circumstances apply:
- (a) the elector has relied on the process described in subsection (4) to validate the elector's identity, address and, if applicable, age;
 - (b) subject to subsection (6.1), the elector has already vouched for another person.
- (6.1)** An elector may vouch for more than one person if every person the elector vouches for shares the same place of residence.
- (7)** For the purposes of subsection (4)(b), an elector who vouches for a person must make a statement, in the prescribed form, that

- (a) the elector knows the person,
- (b) the elector knows that the person resides at the address indicated in the person's statement, and
- (c) the elector has not relied on the process described in subsection (4) to validate the elector's identity, address and, if applicable, age.

(8) A person who attends at a voting station shall not be permitted to vote unless that person meets the requirements of this section.

RSA 2000 cL-21 s53;2006 c22 s27;2012 c5 s109;2018 c23 s22;
2020 c22 s9;2021 c24 s7

Bylaws with respect to proof of elector eligibility

53.01(1) An elected authority may, by a bylaw passed no later than 6 months prior to nomination day of a year in which an election is to be held, provide for the number and types of identification that are required to be produced by a person to verify the person's name and current address for the purpose of determining whether the person is eligible to vote.

(2) An elected authority may, by a bylaw passed no later than 6 months prior to nomination day of a year in which an election is to be held, provide for the number and types of identification that are required to be produced by a person who wishes to vote by a special ballot to verify the person's name and current address for the purpose of determining whether the person is eligible to vote.

(3) A bylaw passed under subsection (1) or (2) must provide that a returning officer shall accept one piece of identification referred to in section 53(3)(b) for that purpose.

(4) A bylaw under subsection (1) or (2)

- (a) may specify identification that a person may produce to validate the person's identity and the address of the person's residence in addition to the identification referred to in section 53(3)(b), and
- (b) may provide for the number and types of identification that a person must produce to validate the person's age.

(5) Before passing a bylaw in accordance with subsection (1) or (2), an elected authority must

- (a) advertise the proposed bylaw in accordance with section 53.1, and

- (b) include in the notice of election day under section 35 the proposed number and types of identification to be required.

2018 c23 s22

Other acceptable identification**53.02(1)** The relevant Minister may, by order,

- (a) establish other acceptable identification for the purpose of section 53(1)(b)(iii), and
- (b) provide a process for establishing the address of a person's residence if the person produces identification under section 53(1)(b) that uses a non-residential address.

(2) The *Regulations Act* does not apply to an order referred to in subsection (1).

2018 c23 s22

Advertising a proof of elector eligibility bylaw**53.1(1)** Notice of a bylaw to be passed under section 53 must

- (a) be published at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw relates, or
- (b) be mailed or delivered to every residence in the area to which the proposed bylaw relates.

(2) A notice under subsection (1) must be advertised before second reading of the proposed bylaw.**(3)** A notice under subsection (1) must contain

- (a) a statement of the general purpose of the proposed bylaw and the proposed requirements for the number and types of identification that must be produced to verify elector name and current address and, if applicable, age,
- (b) the address where a copy of the proposed bylaw may be inspected, and
- (c) an outline of the procedure to be followed by anyone wishing to file a petition in respect of the proposed bylaw, as provided for in the *Municipal Government Act*.

(4) A certificate of a designated officer as defined in the *Municipal Government Act* certifying that something has been advertised in accordance with this section is proof, in the absence of evidence to the contrary, of the matters set out in the certificate.

(5) The certificate is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

2006 c22 s28;2012 c5 s110

Person objected to

54(1) If a candidate or the candidate's official agent or scrutineer objects to a person who makes a statement, a deputy shall note in the elector register the reason for the objection and the name of the candidate or official agent or scrutineer making the objection and shall initial the objection.

(1.1) A candidate, official agent or scrutineer may only make an objection under subsection (1) at the time the person makes the statement under section 53(1)(b) or (2) or 78.

(2) If a returning officer on reasonable and probable grounds believes that a person is not eligible to be an elector, the returning officer must note in the elector register the reason for the belief and initial it.

RSA 2000 cL-21 s54;2003 c27 s19;2006 c22 s29;
2012 c5 s111;2018 c23 s23

Secrecy of vote

55(1) Voting shall be by secret ballot.

(2) While an elector is in a voting compartment for the purpose of marking the elector's ballot, no other person may, except as permitted in section 78, enter the voting compartment or be in a position from which the person can see how the elector marks the elector's ballot.

(3) Except as provided in section 78, it is an offence for an elector to show the elector's ballot to any person so as to allow the elector's vote to be known.

(4) Notwithstanding subsections (2) and (3), an elector may be accompanied in a voting compartment by a minor if the deputy consents.

RSA 2000 cL-21 s55;2003 c27 s20

Maintenance of secrecy

56 No person shall be required to disclose in any legal proceedings whether the person has voted for a particular candidate or voted for or against a particular bylaw or question.

1983 cL-27.5 s56

Number of votes

57(1) Subject to subsection (2), an elector in an election may vote once for each of the persons the elector chooses to vote for.

(2) An elector may not vote for more than the number of persons to be elected to the office.

(3) In an election an elector may vote once on each bylaw or question.

1983 cL-27.5 s57;1997 c15 s17

Voting time for employees

58(1) An employee who is an elector shall, while the voting stations are open on election day, have 3 consecutive hours for the purpose of casting the employee's vote.

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

(3) No employer shall make any deduction from the pay of an employee nor impose on the employee or exact from the employee any penalty by reason of the employee's absence from the employee's work during the 3 consecutive hours or part of it.

(4) Subsections (1), (2) and (3) do not apply if the employer provides for the attendance of an employee who is an elector at a voting station while it is open during the hours of the employee's employment with no deduction from the employee's pay and without exacting any penalty.

1983 cL-27.5 s58

Entries in elector register

59 The deputy shall record on the elector register that an elector has received a ballot for any one or more of the following that are applicable to the election:

- (a) chief elected official;
- (b) councillors;
- (c) public school trustees or representatives;
- (d) separate school trustees or representatives;
- (e) bylaw or question.

RSA 2000 cL-21 s59;2018 c23 s24

Initiailling of ballot

60 When a deputy issues a ballot to an elector, it must be folded and initialled by the deputy so that the initials are visible without opening the ballot.

1983 cL-27.5 s60;1991 c23 s2(26)

Explanation of manner of voting

61 A deputy may, and on request shall, explain to an elector as concisely as possible the proper method of voting in accordance with the instructions to electors.

1983 cL-27.5 s61;1991 c23 s2(27)

Marking of ballots

62 On receiving the ballots that an elector is entitled to receive from a deputy, the elector shall forthwith proceed into the voting compartment provided and shall mark each of the elector's ballots

- (a) by placing an "X" on the right hand side opposite the name of the candidate of the elector's choice, or within the division on the paper containing the name of the candidate of the elector's choice, and
- (b) in the case of a ballot for a bylaw or question, by placing an "X" within the division of the paper marked "for" or "against", or within the division of the paper marked "yes" or "no",

whichever way the elector desires to vote.

1983 cL-27.5 s62;1991 c23 s2(28)

Disposal of marked ballot

63(1) After marking a ballot, the elector shall fold the ballot so as

- (a) to conceal the names of the candidates or the bylaw or question, and the marks on the face of the ballot, and
- (b) to expose the initials of the deputy issuing the ballot at the voting station,

and immediately after leaving the voting compartment shall, without delay and without showing the front to anyone, deliver the ballot so folded to the deputy who is supervising at the ballot box.

(2) The deputy supervising at the ballot box shall, without unfolding a ballot or in any way disclosing the marks made by the elector on the ballot, verify the initials on the ballot and deposit the ballot at once in the ballot box.

(2.1) Notwithstanding subsection (2), the deputy supervising at the ballot box may permit an elector to deposit the elector's ballot into the ballot box.

(3) After the elector's ballots are deposited in the ballot box, the elector shall forthwith leave the voting station.

RSA 2000 cL-21 s63;2003 c27 s21

Person deemed to have voted

64 A person whose ballot is deposited in a ballot box is deemed to have voted.

RSA 2000 cL-21 s64;2006 c22 s30

Replacement of spoiled ballot

65(1) An elector who has inadvertently dealt with the elector's ballot in a manner that it cannot be conveniently used as a ballot may,

- (a) on returning it to the deputy, and
- (b) on establishing the fact of the inadvertence to the satisfaction of the deputy,

receive another ballot in the place of the ballot so returned.

(2) The deputy shall immediately write the word "spoiled" on the returned ballot and shall preserve it.

1983 cL-27.5 s65

Elector declining to vote

66 If an elector returns a ballot and states that the elector is declining to vote, the elector is not entitled to another ballot for that office, and the deputy who is supervising at the ballot box shall deposit the declined ballot in the ballot box.

1983 cL-27.5 s66;1989 c17 s17;1991 c23 s2(30)

Persons at voting station

67(1) Except for the returning officer, deputy, constable, candidates, official agents or scrutineers authorized to attend at the voting station and the electors who are for the time being actually engaged in voting, no other person is entitled to be present, nor shall any other person be permitted to be present, in the voting station during the time appointed for voting.

(2) Notwithstanding subsection (1), the presiding deputy at the voting station may authorize a person temporarily to observe the voting procedures from a location within the voting station designated by the presiding deputy.

(3) The presiding deputy shall not designate a location under subsection (2) that would allow the observer to see how electors mark their ballots.

(4) A person permitted to be present in the voting station pursuant to subsection (2) shall leave the voting station on the request of the presiding deputy.

RSA 2000 cL-21 s67;2006 c22 s31

Prohibited removal of ballots

68(1) No person who has received a ballot from the deputy shall take the ballot out of the voting station.

(2) Any person who, having received a ballot from the deputy, leaves the voting station without first delivering it to the deputy in the manner provided by this Act, forfeits the person's right to vote at that election and the deputy shall record in the elector register an entry to the effect that the person left the voting station without first delivering the ballot.

RSA 2000 cL-21 s68;2018 c23 s25

Option for official agent

68.1(1) Each person nominated as a candidate may, on the nomination form, appoint an elector to be the candidate's official agent.

(1.1) If it becomes necessary to appoint a new official agent, the candidate shall immediately notify the returning officer in writing of the contact information of the new official agent.

(2) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed as an official agent.

(3) No candidate shall act as an official agent for any other candidate.

(4) The duties of an official agent are those assigned to the official agent by the candidate.

2006 c22 s32;2012 c5 s112;2020 c22 s10

Candidate's scrutineer

69(1) If, at any time during voting hours, a person who is at least 18 years old presents to the presiding deputy a written notice, in a form acceptable to the returning officer,

(a) signed by a candidate, and

- (b) stating that the person presenting the notice is to represent that candidate as the candidate's scrutineer at the voting station,

the person presenting the notice shall be recognized by the presiding deputy as the scrutineer of the candidate.

(1.1) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act* (Canada) is not eligible to be recognized as a scrutineer.

(2) Before a person is recognized as a scrutineer, the person shall make and subscribe before the presiding deputy at the voting station a statement in the prescribed form.

(3) The presiding deputy shall not permit a candidate to have an official agent or a scrutineer present while the candidate is present in a voting station during voting hours.

(3.1) The presiding deputy shall not permit a candidate to have both an official agent and a scrutineer present at the same time in a voting station during voting hours.

(4) A candidate or official agent personally may

- (a) undertake the duties that the candidate's scrutineer may undertake, and
- (b) attend any place that the candidate's scrutineer is authorized by this Act to attend.

(5) The presiding deputy may designate the place or places at a voting station where a candidate, an official agent or a scrutineer of a candidate may observe the election procedure, and in designating the place or places, the presiding deputy shall ensure that the candidate, official agent or scrutineer can observe any person making a statement under section 53(1)(b) or (2) or 78.

(6) When, in the provisions of this Act that relate to the election of a member of an elected authority, expressions are used requiring or authorizing an act or thing to be done or implying that an act or thing is to be done in the presence of an official agent, a scrutineer or a candidate, the expression is deemed to refer to the presence of those an official agents and scrutineers

- (a) that are authorized to attend, and

- (b) that have in fact attended at the time and place where that act or thing is being done,

and if the act or thing is otherwise properly done, the non-attendance of an official agent or a scrutineer at that time and place does not invalidate it.

RSA 2000 cL-21 s69;2006 c22 s33;
2012 c5 s113;2018 c23 s26;2020 c22 s10

Bylaw scrutineers

70(1) At any time fixed for a vote on a bylaw or question under this Act, the returning officer, if requested in writing by 2 or more electors, shall appoint, in writing, those persons named in the request as scrutineers to attend at the voting stations on behalf of the persons interested in promoting the passing of the bylaw or voting in the affirmative on the question and, if so requested by 2 or more electors, shall appoint, in writing, those persons named in the request to attend as scrutineers on behalf of the persons interested in opposing the passage of the bylaw or voting in the negative on the question.

(2) A person named in a request under subsection (1) shall not be appointed unless the person is at least 18 years old.

(2.1) A person who has, within the previous 10 years, been convicted of an offence under this Act, the *Election Act*, the *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act* (Canada) is not eligible to be appointed under subsection (1).

(3) The presiding deputy shall not permit more than one scrutineer for each side of a bylaw or question to be present at the same time at a voting station or at a counting of the votes.

(4) The presiding deputy may designate the place or places at a voting station where a scrutineer may observe the conduct of the election.

(5) Before any scrutineer is appointed, the scrutineer shall make and subscribe before the presiding deputy a statement in the prescribed form.

RSA 2000 cL-21 s70;2003 c27 s22;2006 c22 s34;
2020 c22 s10

Proof of appointment

71 If a person is appointed as a scrutineer under section 70, the person shall

- (a) before being admitted as a scrutineer to the voting station during voting hours, or

- (b) before being permitted to attend at the voting station for the counting of votes,

produce to the person in charge of the voting station the person's appointment as a scrutineer and take and subscribe to the statement under section 16 in the prescribed form.

RSA 2000 cL-21 s71;2003 c27 s23;2006 c22 s35

Interpreter

72(1) If an elector is unable to read or does not understand the English language, the deputy may allow an interpreter to read or to translate the statement as well as any question necessary for the proper purposes of the election put to the elector, and the elector's answers.

- (2) Before acting as an interpreter, the interpreter shall make a statement in the prescribed form.

RSA 2000 cL-21 s72;2003 c27 s24

Advance vote

73(1) Repealed 2020 c22 s11.

- (2) Subject to subsection (3), an elected authority may by resolution provide for holding an advance vote for an election.

(3) Subject to subsections (4) and (7), a municipality having a population greater than 5000 must provide for holding an advance vote on

- (a) the election of municipal councillors, including by-elections, and
- (b) the submission of a bylaw or question to electors under section 7.

(4) If the election is being held in only one ward but that ward is within a local jurisdiction with a population greater than 5000, the requirements of subsection (3) apply.

(5) No advance vote shall be held within 24 hours of election day.

(6) The returning officer must determine the days and hours when the advance vote under subsection (2) or (3) is to be held.

(7) The Minister may, at any time, make an order to exempt an elected authority from the requirement to provide for holding an advance vote under subsection (3).

RSA 2000 cL-21 s73;2018 c23 s27;2020 c22 s11

Notice of advance vote

74(1) Notice of the days, the locations of the voting stations and the hours fixed for an advance vote shall be given in the form prescribed for use under section 35 by publishing a notice at least one week before the date set for the advance vote in a newspaper or other publication circulating in the area, or by mailing or delivering a notice to every residence in the local jurisdiction at least one week before the date set for the advance vote.

(1.1) A notice of advance vote referred to in subsection (1) may be given by including it in the notice of election day provided under section 35(2) in respect of the same election, provided that the requirements of both subsection (1) and section 35(2) are met.

(1.2) If an election does not apply to an entire local jurisdiction, a notice of advance vote published, mailed or delivered in accordance with subsection (1.1) is only required to be published, mailed or delivered in a ward or voting subdivision within that local jurisdiction where an election is required.

(2) On complying with this section, the returning officer may publish, mail and deliver additional notices and give notice by any other method as many times as the returning officer considers appropriate.

RSA 2000 cL-21 s74;2018 c23 s28

Advance vote stations

75(1) When an advance vote is authorized, the returning officer shall establish the number of advance voting stations the returning officer considers necessary.

(1.1) If there are wards in a local jurisdiction, the returning officer is not required to establish an advance voting station in each ward but must establish at least one advance voting station.

(2) If there are wards in a local jurisdiction, the presiding deputy shall maintain separate ballot boxes for each elected authority.

(3) A vote held at an advance voting station must be conducted in the same manner as a vote on election day except that

- (a) a fresh ballot box must be used on each day of the advance vote, and
- (b) on the completion of each day of the advance vote, the ballot box used that day must be sealed so that no ballots can be deposited in it without breaking the seal, and the ballot box must remain like that and be stored in a secure

place until it is opened for the counting of ballots at the close of the voting stations on election day.

RSA 2000 cL-21 s75;2003 c27 s25;2018 c23 s29

76 Repealed 2006 c22 s36.

77 Repealed 2018 c23 s30.

Vote by special ballot

77.1(1) An elector who is unable to vote at an advance vote or at the voting station on election day because of

- (a) physical disability,
- (b) absence from the local jurisdiction, or
- (c) being a returning officer, deputy returning officer, substitute returning officer, constable, candidate, official agent or scrutineer who may be located on election day at a voting station other than that for the elector's place of residence

may apply to vote by special ballot.

(2) An elected authority may, by resolution passed prior to nomination day, provide for special ballots and provide that the application for special ballots may be made by any one or more of the following methods:

- (a) in writing;
- (b) by telephone;
- (c) by fax;
- (d) in person;
- (e) by e-mail;
- (f) by secure website.

(2.1) If an elected authority has made a resolution described in subsection (2), an elector may apply to the returning officer of the elector's local jurisdiction for a special ballot, by a method provided for in the resolution, and during the period of time specified in the resolution.

(2.2) Repealed 2012 c5 s114.

(2.3) Repealed 2018 c23 s31.

(2.4) An application for a special ballot must include the following:

- (a) first and last name of the elector;
- (b) municipal address of the residence of the elector;
- (c) school elector status, if the elector is voting for a trustee of a board of a school division;
- (d) mailing address to which the special ballot is to be sent;
- (e) contact telephone number;
- (f) contact e-mail address, if the elector is unavailable by telephone;
- (g) reason why a special ballot is requested.

(3) On receipt of an application under this section, if the elected authority by resolution before nomination day provides for special ballots, the returning officer or deputy must

- (a) enter in the special ballot elector register
 - (i) the elector's name and the elector's place of residence, and
 - (ii) the name and number of the voting subdivision for the elector's place of residence,and
- (b) cause the appropriate forms to be provided to the applicant.

(4) The returning officer must, on request, make available to any candidate or a candidate's official agent or scrutineer in the voting station the names and addresses of those electors in the voting station who have applied for and been provided with the appropriate forms under this section.

2003 c27 s27;2006 c22 s37;2012 cE-0.3 s276;2012 c5 s114;2018 c23 s31

Voting by special ballot

77.2(1) On receipt of the appropriate forms pursuant to section 77.1(3), the elector must vote by either writing or printing, in a legible manner, the names of the candidates of the elector's choice, or by any other method provided for by the elected authority but if there is to be a vote on a bylaw or question, the wording must be

determined in accordance with section 44 and be supplied as part of the appropriate forms.

(2) After marking the appropriate forms, the elector must

- (a) place them in the ballot envelope,
- (b) seal the ballot envelope,
- (c) place the ballot envelope in the certificate envelope,
- (d) complete and sign Part 1 of the certificate and seal the certificate envelope,
- (d.1) attach a copy of the elector's identification that meets the requirements of section 53(1)(b),
 - (i) - (ii) repealed 2018 c23 s32,
 - (e) place the certificate envelope in the outer envelope, and
 - (f) seal the outer envelope.

(2.1) A copy of the elector's identification, as described in subsection (2)(d.1), may be used only to verify the elector's name, current address and, if applicable, age, for the purpose of determining whether the elector is eligible to vote.

(3) The outer envelope, when sealed, must be forwarded so that it reaches the returning officer not later than the close of the voting station on election day or by the time and date set out in a resolution under subsection (3.1).

(3.1) An elected authority may, by resolution, set a time and date earlier than the closing of the voting station on election day for when an outer envelope must be received by a returning officer.

(4) On receipt of the outer envelope, the returning officer must open the outer envelope, remove from it the certificate envelope and determine

- (a) whether the name on the certificate envelope is the same as that of an individual already recorded in the special ballot elector register under this section,
- (b) whether Part 1 of the certificate is properly completed, and
- (c) whether the elector has attached a copy of the elector's identification that meets the requirements of section 53(1)(b).

(i) - (ii) repealed 2018 c23 s32.

(5) On determining that the elector is recorded in the special ballot elector register, that Part 1 of the certificate is properly completed and that the copy of the elector's identification meets the requirements of section 53(1)(b),

(a.01), (a.02) repealed 2018 c23 s32,

the returning officer must

- (a) sign Part 2 of the certificate,
- (b) if the elector's name appears on the list of electors, if any, for the voting station in which the elector is entitled to vote, enter opposite the name of that person on the list of electors the word "special",
- (c) if the elector's name does not appear on the list of electors, if any, for the voting station in which the elector is entitled to vote, enter the elector's name on the list of electors and, opposite the name, the word "special",
- (d) record in the special ballot elector register in the appropriate column the date and time the returning officer received the certificate envelope,
- (e) open the certificate envelope, remove from it the sealed ballot envelope and place the sealed ballot envelope in a sealed ballot box marked "special ballot", and
- (f) enter in the special ballot elector register, in the appropriate column, the word "voted" and the reason for using the special ballot, that is, physical disability, absence, election officer, candidate, official agent or scrutineer.

(5.1) If the returning officer is not satisfied

- (a) that Part 1 of the certificate is properly completed,
 - (b) that the copy of the elector's identification meets the requirements of section 53(1)(b),
- (i) - (ii) repealed 2018 c23 s32,
- (c) that the elector has not already been entered on the special ballot elector register, or
 - (d) that the elector has not already returned a special ballot,

the returning officer must retain the certificate envelope unopened, attach the copy of the elector's identification, if any, to the certificate envelope, treat the ballot in the envelope as a rejected ballot and mark the certificate envelope accordingly.

(5.2) to (5.6) Repealed 2018 c23 s32.

(6) At the close of the voting station on election day, the returning officer must deliver the special ballot box to the deputy of the voting station of the electors who have voted under this section in the local jurisdiction and advise the deputy of the names of the electors who have so voted, and the deputy must proceed in accordance with section 85 as if the ballot box were from an advance poll.

(7) After completing the count of the ballots, the deputy must record the results on the prescribed form.

(8) Subject to this section and section 77.1, the voting procedures for a special ballot must as nearly as possible follow the provisions of this Act except that the returning officer may use one special ballot box for the local jurisdiction, ward or subdivision.

(9) If the appropriate forms for voting by special ballot have been provided under section 77.1 to an elector but the special ballot is not returned to a returning officer under this section before the close of voting on election day or before the time and date set out in a resolution under subsection (3.1), the returning officer must record the special ballots on the ballot account referred to in section 88(1) as not returned.

2003 c27 s27;2006 c22 s38;2012 c5 s115;2018 c23 s32

Late receipt of special ballot

77.3 If an outer envelope is received by a returning officer after the close of the voting station on election day or by the time and date set out in a resolution under section 77.2(3.1), the ballot it contains must be considered a rejected ballot and the outer envelope must be retained unopened by the returning officer, who must record on it the reason for its rejection.

2003 c27 s27;2006 c22 s39

Elector assistance

78(1) The deputy, at the request of an elector who is unable to vote in the usual manner, shall mark the vote of that elector on the elector's ballot in the manner directed by that elector, and shall immediately deposit the ballot in the ballot box.

(2) The deputy shall not act under subsection (1) until the elector has made the prescribed statement.

(3) The deputy, if requested by an elector described in subsection (1) who is accompanied by a friend or relative who is at least 18 years of age, shall permit that friend or relative, on making the prescribed statement, to accompany the elector into a voting compartment for the purpose of marking the elector's ballot and the ballot when marked shall be delivered by the elector or the friend or relative to the deputy to be deposited in the ballot box.

(4) The deputy shall not permit an elector to vote under subsection (3) until the elector and the elector's friend or relative have made the prescribed statements.

(4.1) If an elector requests a blind elector template by June 30 in a year in which a general election is to be held, a municipality must pass a bylaw setting out the blind elector template.

(4.2) A municipality may pass a bylaw setting out the blind elector template even if no request is made under subsection (4.1).

(4.3) The bylaw referred to in subsections (4.1) and (4.2) must specify when the blind elector template is available and how the municipality will notify electors of the availability of the blind elector template.

(5) If an elector who is blind is not accompanied by a friend or relative into a voting compartment under subsection (3) and the municipality has passed a bylaw setting out the blind elector template in accordance with subsection (4.1), the deputy must

- (a) provide the elector with a blind elector template, and
- (b) instruct the elector in its use.

(5.1) If an elector is physically unable to enter a voting compartment, the deputy may set up a voting compartment for the elector elsewhere in the voting station or at the closest point of access to the voting station that the elector is able to attend.

(6) No candidate, official agent or scrutineer shall be present in the voting compartment at the marking of a ballot under this section.

(7) When a ballot has been marked pursuant to this section, the deputy shall enter in the elector register opposite the name of the elector and in the appropriate column either "elector assistance" or "template".

RSA 2000 cL-21 s78;2003 c27 s28;2006 c22 s40;2018 c23 s33

Elector assistance at home

79(1) An elected authority may by resolution provide for the attendance of 2 deputies at the residence of an elector, during the

hours an advance voting station is open or other times as may be fixed by the resolution, in order to take the votes of an elector who, because of physical disability, is unable to attend a voting station or an advance voting station to vote.

(2) When a resolution has been passed under subsection (1), an elector described in subsection (1) may request the returning officer to have 2 deputies attend at the elector's residence to take the elector's vote within the time fixed by the resolution.

(3) If the returning officer is satisfied that an elector is unable to attend a voting station or an advance voting station because of physical disability, the returning officer shall include that elector's name and address on a list.

(3.1) Notwithstanding subsection (3), a returning officer may include the name and address of an elector who is not unable to attend a voting station or an advance voting station because of physical disability on a list if the elector resides in a facility at which an elector whose name and address has been included on a list in accordance with subsection (3) resides.

(4) When the returning officer has completed the list in accordance with this section, the returning officer shall

- (a) advise each applicant that the applicant's application has been accepted or rejected, as the case may be, and in the event of rejection, give reasons for it,
- (b) inform each elector whose application has been accepted of the date and the approximate time at which 2 deputies will attend at the elector's residence, and
- (c) appoint sufficient deputies to give full effect to this section.

(5) All attendances by deputies under this section shall be made during the hours fixed by the resolution and no vote shall be taken at any other time.

(6) A ballot box used in an election under this section must be sealed on completion of the voting so that no ballots can be deposited in it without breaking the seal and it shall remain sealed until opened to allow the deposit of ballots in each subsequent residence that is attended for the taking of votes or until opened for the counting of ballots at the close of the voting stations on election day.

(7) Every residence where a vote is taken under this section is a voting station and the voting procedures shall as nearly as possible follow the provisions of this Act.

RSA 2000 cL-21 s79;2003 c27 s29;2018 c23 s34

Institutional vote location, eligibility and appointments

80(1) The elected authority by resolution or the returning officer, if authorized by resolution of the elected authority, may designate the location of one or more institutional voting stations for an election in addition to voting stations designated under section 37.

(2) An elector who on election day

- (a) is confined to a treatment centre in the local jurisdiction, or
- (b) is a resident in a supportive living facility in the local jurisdiction,

that is established as an institutional voting station for the election is eligible to vote at that institutional voting station.

(2.1) Notwithstanding subsection (2), an elected authority may designate a self-contained housing unit in a lodge accommodation as an institution for the purposes of holding an institutional vote under this section.

(3) The returning officer may appoint at least 2 deputies to take the votes of the electors referred to in subsection (2).

(4) If an elected authority provides for the holding of an advance vote, the returning officer may appoint the number of deputies that the returning officer considers necessary to take the votes on the day the advance vote is held of any electors who are residents of supportive living facilities or confined to treatment centres that are located in the local jurisdiction.

RSA 2000 cL-21 s80;2003 c27 s30;2018 c23 s35

Attendance at an institutional vote

81(1) If an institutional vote is provided for, the returning officer shall fix the times on election day at which the votes in the institutions shall be taken, and the presiding deputies, accompanied by candidates, official agents and scrutineers, if present, and by an official of the institution, if available, shall take the votes of any of those patients and residents who express a desire to vote.

(2) Despite subsection (1), candidates and a candidate's official agent and scrutineer may attend an institutional vote only if the vote is conducted at a fixed location in a public area of the institution and may not attend voting conducted in the room of a resident of the institution.

(3) Despite subsection (1), the presiding deputy shall not permit a candidate to have an official agent or a scrutineer present while the candidate is present at an institutional vote.

(4) Despite subsection (1), a candidate may not have both an official agent and a scrutineer attend an institutional vote at the same time.

RSA 2000 cL-21 s81;2003 c27 s31;2006 c22 s41

Institutional vote procedure

82(1) Every institution at which a vote is taken is a voting station and the voting procedures shall as nearly as possible follow the provisions of this Act, except that

- (a) repealed 2003 c27 s32,
- (b) the ballot boxes shall not be opened until the close of the voting stations on election day.

(2) The deputy shall post a copy of the notice prescribed under section 35 in at least one conspicuous place in the institution, not fewer than 2 days before the day on which the vote is to be taken.

RSA 2000 cL-21 s82;2003 c27 s32

Deputy's and constable's votes

83(1) Subject to subsection (3), the returning officer, on the request of an elector who has been appointed deputy or constable to attend at a voting station during the whole of election day other than where that elector is entitled to vote, shall provide the elector with a certificate stating that the elector is eligible to vote at the voting station where the elector is to be stationed during election day.

(2) On the production of the certificate, the deputy or constable may vote at the voting station where the deputy or constable is stationed, instead of the voting station where the deputy or constable would otherwise have been eligible to vote, and a deputy shall attach the certificate to the elector register.

(3), (4) Repealed 2018 c23 s36.

(5) Section 58 does not apply to an officer.

RSA 2000 cL-21 s83;2003 c27 s33;2018 c23 s36

Alternative voting equipment

84(1) An elected authority may by bylaw provide for the taking of the votes of electors by means of voting machines, vote recorders or automated voting systems.

(2) Notwithstanding any other provision of this Act, the bylaw referred to in subsection (1) shall prescribe

- (a) the form of the ballot,
- (b) directions for the marking of a ballot by an elector, and
- (c) directions for the voting procedures to be used including the procedures to be followed
 - (i) in the taking of the votes by any of the means provided for in subsection (1),
 - (ii) in the examination of the ballots, by machine or otherwise, to determine which votes should be declared void,
 - (iii) in the counting, by machine or otherwise, of the votes taken by any of the means provided for in subsection (1), and
 - (iv) if a returning officer makes a recount pursuant to section 98, in the recounting, by machine or otherwise, of the votes taken by any of the means provided for in subsection (1).

(2.1) Notwithstanding any other provision of this Act, the bylaw referred to in subsection (1) may prescribe

- (a) directions for the use of ballot boxes,
- (b) directions for the use of tabulators,
- (c) the time allowed for counting special ballots, advance votes and institutional votes, and
- (d) directions for the use of technology for electors who are unable to vote in the usual manner.

(2.2) The bylaw referred to in subsection (1) must follow the provisions of this Act as nearly as possible.

(2.3) Notwithstanding any other provision of this Act, the bylaw referred to in subsection (1) may provide that a single ballot card may be used for all the offices referred to in section 42(1).

(2.4) If the bylaw referred to in subsection (1) prescribes directions for the use of tabulators, the bylaw must require that the equipment must not be part of or connected to an electronic network, except that the equipment may be securely connected to a network after

the close of polls for the purpose of transmitting information to the local jurisdiction.

(2.5) If the bylaw referred to in subsection (1) authorizes the use of an electronic ballot marking device, section 78(5) does not apply.

(2.6) In this section, “electronic ballot-marking device” means an electronic device that has an audio instruction and vote confirmation component and Braille-embossed voting buttons.

(3) Sections 75, 85 and 103 to 115 do not apply when the votes of the electors are taken by any of the means provided for in subsection (1).

RSA 2000 cL-21 s84;2006 c22 s42;2018 c23 s37

Part 3 Post-vote Procedure

Counting of votes

85(1) Immediately after the close of the voting station, the presiding deputy shall in the presence of

- (a) at least one and any additional officers that the deputy considers necessary, and
- (b) the candidates, official agents or scrutineers, if any,

ensure that each ballot box is opened and that the votes are counted.

(2) A deputy shall not permit more than the candidate or the candidate’s official agent or scrutineer, or more than one official agent or scrutineer of either side of a vote on any bylaw or question to be present at the same time in a voting station during the counting of the votes.

RSA 2000 cL-21 s85;2006 c22 s43

Counting centres

85.1(1) A returning officer may designate a single location as a counting centre for the purpose of this section.

(2) The returning officer must notify all affected candidates, official agents and scrutineers of the location of the counting centre.

(3) If a ward or division system exists in a local jurisdiction, the special ballot box, advance vote ballot box and institutional vote ballot box shall be counted at the counting centre if one is designated by the returning officer for that local jurisdiction.

(4) An elected authority may pass a bylaw by June 30 of a year in which a general election is to be held allowing the returning officer of the elected authority to count the special ballot box, advance vote ballot box and institutional vote ballot box no earlier than 7:30 p.m. on election day.

(5) The deputy of a counting centre shall in the presence of

- (a) at least one and any additional officers that the deputy considers necessary, and
- (b) the candidates, official agents or scrutineers, if any,

ensure that each special ballot box, advance vote ballot box and institutional ballot box is opened and that the votes are counted in accordance with the bylaw made under section 84(1).

(6) There shall be present at the counting centre during the counting of the votes, for each candidate, not more than one of the following for each ballot box:

- (a) the candidate;
- (b) the candidate's official agent;
- (c) the candidate's scrutineer.

(7) The results of a count conducted in accordance with this section shall not be publicly disclosed until after 8:00 p.m. on election day.

2018 c23 s38

Void ballots

86(1) A deputy shall examine the ballots and reject any ballot

- (a) that does not bear the initials of the officer,
- (b) on which more votes are cast than an elector is entitled to cast,
- (c) on which anything is written or marked by which an elector can be identified,
- (d) that has been torn, defaced or otherwise dealt with by an elector so that the elector can be identified,
- (e) that is not marked by an "X", or
- (f) on which no vote has been cast by an elector,

and the rejected ballots shall not be counted.

(2) On the back of a ballot a deputy shall

- (a) endorse “rejected” if the deputy rejects it as void, and
- (b) endorse “rejection objected to” if any objection is made to the deputy’s decision,

and shall initial each endorsement.

(3) Notwithstanding subsection (1)(e), if a vote, though incorrectly marked on a ballot, clearly indicates for whom or what the elector intended to vote, the deputy may count that ballot.

RSA 2000 cL-21 s86;2006 c22 s44

Note of objection

87(1) A deputy shall in the prescribed form make note of any objection made by a candidate or the candidate’s official agent or scrutineer or in the case of a bylaw or question by any person authorized to attend, to any ballot found in the ballot box and shall decide any question arising out of the objection.

(2) Every objection shall be numbered and a corresponding number shall be placed on the back of the ballot and initialled by a deputy.

RSA 2000 cL-21 s87;2006 c22 s45

Ballot account

88(1) A deputy shall count the ballots marked for each candidate on the ballots not rejected and the presiding deputy shall prepare a ballot account in the prescribed form with the following information:

- (a) the name of the local jurisdiction;
- (b) the name or number of the voting subdivision and voting station;
- (c) the date of the election;
- (d) the name of each candidate and the number of valid ballots marked for each;
- (e) the number of ballots supplied;
- (f) the number of valid ballots;
- (g) the number of valid ballots objected to;

- (h) the number of rejected ballots;
- (i) the number of ballots rejected because no vote was cast by an elector;
- (i.1) the number of special ballots not returned;
- (j) the number of unused ballots;
- (k) the number of spoiled ballots;
- (l) the number of ballots not accounted for;
- (m) the number of persons objected to under section 54.

(2) In the case of a vote on a bylaw or question, a deputy shall count the number of ballots marked for and against the bylaw, or in the affirmative and negative on the question, and the presiding deputy shall prepare a ballot account in the prescribed form with the following information:

- (a) the name of the local jurisdiction;
- (b) the name or number of the voting subdivision and voting station;
- (c) the date of the election;
- (d) the number of ballots supplied;
- (e) the question or a description of the bylaw and the number of valid ballots marked for the bylaw or in the affirmative on the question;
- (f) the question or a description of the bylaw and the number of valid ballots marked against the bylaw or in the negative on the question;
- (g) the number of valid ballots objected to;
- (h) the number of rejected ballots;
- (i) the number of ballots rejected because no vote was cast by an elector;
- (j) the number of unused ballots;
- (k) the number of spoiled ballots;
- (l) the number of ballots not accounted for.

RSA 2000 cL-21 s88;2006 c22 s46

Signatures to ballot account

89(1) The ballot account shall be signed by at least 2 deputies involved in the count and may be signed by those of the candidates or their official agents or scrutineers present who desire to sign it.

(2) A deputy, on being requested to do so, shall as soon as practicable provide a copy of the ballot account to persons authorized to sign the ballot account.

RSA 2000 cL-21 s89;2006 c22 s47

Certificate in elector register

90 Every presiding deputy at the close of the voting station shall certify in words, in the prescribed form, the number of persons who registered to vote at the voting station at which the deputy was designated to preside.

RSA 2000 cL-21 s90;2006 c22 s48;2018 c23 s39

Packets of ballots

91(1) At the completion of the counting of the ballots, the presiding deputy shall make up into separate packets

- (a) the valid ballots;
- (b) the valid ballots objected to together with the notes of objections made to the ballots found in the ballot box;
- (c) the rejected ballots, including those on which no vote has been cast by an elector;
- (d) the spoiled ballots;
- (e) the unused ballots;
- (f) the elector register together with the prescribed form referred to in section 90;
- (g) the list of electors, if any.

(2) Repealed 2003 c27 s34.

RSA 2000 cL-21 s91;2003 c27 s34;2018 c23 s40

Sealing ballot packets

92 Each packet of ballots shall be sealed and each packet must be marked on the outside with

- (a) a short statement of the contents of the packet,
- (b) the date of the election,
- (c) the name of the deputy, and

- (d) the voting subdivision name or number.

1983 cL-27.5 s92;1991 c23 s2(51);1997 c15 s27

Securing election documents

93 The presiding deputy shall then place all the packets containing ballots, the elector register, the special ballot certificate envelopes and copies of special electors' identification, if any, all statements made on voting day and the list of electors, if any, in the ballot box and the ballot box shall be closed and sealed with a deputy's seal so that it cannot be opened without breaking the seal and marked on the outside with the voting station name or number.

RSA 2000 cL-21 s93;2003 c27 s35;2006 c22 s49;

2012 c5 s116;2018 c23 s41

Elector registers with objection

93.1(1) Notwithstanding section 92, at the completion of the counting of the ballots, the presiding deputy shall

- (a) make a packet of the elector registers on which an objection has been noted in accordance with section 54, if any, separate from the packet made under section 91(1)(f) that contains the rest of the elector register,
- (b) seal the packet and mark it on the outside with the information referred to in section 92, and
- (c) deliver the sealed packet to the returning officer with the sealed ballot box and the ballot account under section 94.

(2) Commencing the day after election day, if a person makes a request to view the copy of the elector register on which objections have been noted in accordance with section 54, the returning officer shall

- (a) open the packet containing the elector registers on which objections have been noted and make a copy of the elector registers, and
- (b) once a copy has been made, seal the packet with the returning officer's seal.

(3) The copy of the elector registers made under subsection (2)(a) shall be shown to the person who made the request and to any subsequent person who requests to view the copy.

(4) The secretary shall retain and dispose of the packet containing the copies of the elector register made under subsection (2)(a), if any, in accordance with section 101.

2018 c23 s42

Delivery of ballot box and ballot account

94(1) The presiding deputy personally shall as soon as practicable deliver to the returning officer the sealed ballot box, the ballot account and the copies made under section 93.1 of the elector registers on which objections have been noted.

(2) Notwithstanding subsection (1), if the presiding deputy is unable to deliver the items personally to the returning officer, the presiding deputy shall deliver them to a person chosen by the presiding deputy for the purpose, and shall obtain a receipt for them.

(3) The person chosen under subsection (2) shall personally deliver the items to the returning officer as soon as practicable and obtain a receipt for them.

RSA 2000 cL-21 s94;2006 c22 s50;2018 c23 s43;
2020 c22 s12

Election results

95(1) At any general election or by-election the candidate or candidates receiving the highest number of votes shall be declared to be elected and in the event of an equality of votes, section 99 applies.

(2) Unless another enactment provides otherwise,

- (a) if more than 50% of the persons voting vote in favour of the bylaw or affirmatively on the question, then the bylaw or the question is assented to by the electors, and
- (b) if 50% or less of the persons voting vote in favour of the bylaw or affirmatively on the question, then the bylaw or question is defeated.

RSA 2000 cL-21 s95;2018 c23 s44

Declaration of vote result

96(1) In the case of a vote on a bylaw or question, when there is only one voting station, the returning officer shall declare the result of the vote immediately after the returning officer completes the counting of the ballots.

(2) In the case of a vote on a bylaw or question, if there is more than one voting station, the returning officer, after the returning officer has received the ballot boxes from all the voting stations and without opening any of the sealed packets of ballots, shall calculate the number of ballots marked for and against the bylaw or question from the ballot account of the number of ballots given and shall declare the result in accordance with section 97(2).

(3) The returning officer shall, on declaring the result, certify the percentage of persons who have voted in the affirmative and exclude from the total number of ballots all ballots that have not been counted.

(4) On complying with subsections (1) to (3), the returning officer shall forward a signed statement showing the number of votes for and against a bylaw or question to the secretary and the relevant Minister's Deputy Minister.

1983 cL-27.5 s96;1991 c23 s2(54)

Declaration of election result

97(1) The returning officer may publish unofficial results of the counting of ballots after an election as the results are received from voting stations.

(2) The returning officer shall, at 12 noon on the 4th day after election day, at the office of each local jurisdiction for which an election was held,

- (a) announce or cause to be announced, or
- (b) post or cause to be posted

a statement of the results of the voting for candidates, including a declaration that the candidate receiving the highest number of votes for each office to be filled is elected.

(3) The returning officer shall, if the result was announced, post in some conspicuous place a statement signed by the returning officer showing the number of votes for each candidate.

(4) On complying with subsection (2), the returning officer shall forward a signed statement showing the number of votes for each candidate and indicate each candidate declared to be elected to the secretary and the relevant Minister's Deputy Minister.

1983 cL-27.5 s97;1985 c38 s30;1991 c23 s2(55)

Recount

98(1) The returning officer may make a recount of the votes cast at one or more voting stations if

- (a) a candidate or an official agent or a scrutineer of a candidate recognized pursuant to section 69 or, in the case of a vote on a bylaw or question, a scrutineer appointed pursuant to section 70(1) shows grounds that the returning officer considers reasonable for alleging that the record of the result of the count of votes at any voting station is inaccurate,
- (b) the returning officer considers that the number of

- (i) valid ballots objected to, or
 - (ii) rejected ballots other than those on which no vote has been cast by an elector,

was sufficient to affect the result of the election if they had not been counted or rejected, as the case may be, or
 - (c) the returning officer is of the opinion that there may have been an administrative or technical error that may cause an error in the count of votes.
- (2)** If the returning officer makes a recount, the returning officer shall
- (a) 12 hours before the recount, notify
 - (i) any candidates who may be affected by the recount or, in the case of a vote on a bylaw or question, one scrutineer in support of the passage of the bylaw or voting in the affirmative on the question and one scrutineer in opposition to the passage of the bylaw or voting in the negative on the question, and
 - (ii) those officers that the returning officer considers necessary to assist in the recount,
 - (b) break the seal of the ballot box, and
 - (c) proceed to count the ballots contained in it in the same manner as the deputy presiding at the voting station is directed to do.
- (3)** After the recount, the returning officer shall
- (a) correct the ballot account if necessary,
 - (b) place in the ballot box all the documents contained in it at the time the returning officer broke the seal, and
 - (c) close the ballot box and seal it with the returning officer's seal.
- (4)** An application under this section may be made during the 44 hours immediately following the closing of the voting stations but may not be made afterwards.
- (5)** The returning officer shall complete the recount

- (a) in the case of an election other than a vote on a bylaw or question, prior to the time set for the declaration of the results under section 97(2), or
 - (b) in the case of a vote on a bylaw or question, within 96 hours of the close of the voting stations on election day.
- (6) A declared vote under section 99 at the original count of ballots shall be counted at the recount of ballots only if the recount confirms the equality of votes among the same candidates as at the original count.
- (7) If the recount results in an equality of votes different from the result of the original count and it is necessary to determine which candidate is elected, section 99 applies.
- (8) If votes have been taken and counted under section 84, a reference in this section to a voting station is deemed to include the place where the votes were counted.
- (9) If a returning officer determines that a recount will be made in a local jurisdiction that is divided into wards or divisions, the returning officer may determine the number of voting stations for which a recount is required in accordance with subsection (1).

RSA 2000 cL-21 s98;2006 c22 s51;2012 c5 s117;2018 c23 s45

Equal number of votes

99 If it appears on the calculation of the votes that 2 or more candidates for any office have received the same number of votes, and if it is necessary for determining which candidate is elected, the returning officer shall write the names of those candidates separately on blank sheets of paper of equal size and of the same colour and texture, and after folding the sheets of paper in a uniform manner and so that the names are concealed, shall deposit them in a receptacle and direct some person to withdraw one of the sheets, and the returning officer shall declare the candidate whose name appears on the withdrawn sheet to have one more vote than the other candidate.

1983 cL-27.5 s99

Delivery of election material

100(1) As soon as practicable after the election, the returning officer shall deliver to the secretary the sealed ballot boxes, the ballot account and the nomination papers, and the secretary is subsequently responsible for their delivery when required.

(1.1) The secretary must retain the ballot account and the nomination papers until the term of office to which they relate has expired.

(2) The nomination papers and ballot account may be inspected by an elector during regular business hours in the presence of the secretary.

RSA 2000 cL-21 s100;2003 c27 s36

Disposition of election material

101(1) The secretary shall retain the following for a period of at least 6 weeks from the date of voting:

- (a) the ballot boxes with their seals unbroken;
- (b) copies of elector registers, if any, made under section 93.1.

(2) The secretary shall, in the presence of 2 witnesses, cause the ballot boxes to be opened and their contents destroyed, and cause the copies of elector registers, if any, to be destroyed

- (a) no later than 12 weeks after voting day, or
- (b) if a judge has ordered that the ballot boxes and any copies of the elector register must be kept until a date that is more than 12 weeks after voting day, as soon as practicable after that date.

(3) Each of the 2 witnesses referred to in subsection (2) shall make an affidavit that the witness has witnessed the destruction of the contents of the ballot boxes.

RSA 2000 cL-21 s101;2006 c22 s52;2018 c23 s46;
2020 c22 s13

Order for inspection of ballots

102(1) No person may inspect the contents of a ballot box in the custody of the secretary except on order of a judge.

(2) An order referred to in subsection (1) may be granted on evidence on oath, satisfactory to the judge, that the inspection or production of the contents of a ballot box is required for the purpose of

- (a) maintaining a prosecution for an offence in relation to the election,
- (b) taking proceedings under this Act to contest an election return, or
- (c) preparing an application for a recount.

(3) The order shall

- (a) state the time and place for inspection of the papers,

- (b) name the persons to be present at the inspection, and
- (c) name the other persons entitled to be present at the inspection,

and may prescribe any conditions the judge considers advisable.

1983 cL-27.5 s102;1985 c38 s32

Part 4

Recount Procedure

Judicial recount application

103(1) At any time within 19 days after the close of the voting stations on election day, any elector may apply to the Court for a recount, after the elector has

- (a) filed an affidavit with the clerk of the Court alleging reasonable grounds for believing that the returning officer or a deputy or other officer presiding at the voting station, in counting the ballots given at the election, improperly counted or rejected ballots, and
- (b) deposited with the clerk of the Court \$300 in cash, or by certified cheque or by money order, as security for the payment of costs and expenses.

(2) The deposit of \$300 shall not be paid out by the clerk without the order of a judge.

RSA 2000 cL-21 s103;2003 c27 s37;2009 c53 s104

Notice of application

104 At least 3 days prior to the application for a recount, a copy of the application and the affidavit filed shall be served by the applicant on the secretary, the returning officer and all candidates for the affected office.

RSA 2000 cL-21 s104;2009 c53 s104

Time and place for recount

105 On the hearing of the application for a recount, a judge may appoint a time and place to recount the ballots and cause a notice in writing to be given to the secretary, to all candidates for the affected office and to any other person the judge may direct, of the time and place where the ballots will be recounted.

1983 cL-27.5 s105

Persons permitted at recount

106(1) The judge, the clerk of the Court, the secretary, the returning officer, each candidate notified to attend the recount, each

notified candidate's official agent, scrutineer and solicitor and persons permitted by the judge may be present at the recount.

(2) The secretary shall be present at the recount with the sealed ballot boxes and the ballot account used at the election.

RSA 2000 cL-21 s106;2006 c22 s53

Process for recount

107(1) At the time and place appointed, the judge shall, in the presence of the parties in attendance, proceed to open all the seals of the packets containing the ballots and count or cause to be counted all the ballots received by the secretary from the returning officer as having been cast in the election complained of.

(2) In counting the ballots, care shall be taken not to disclose how any elector has voted.

1983 cL-27.5 s107

Examination of ballots

108(1) The judge shall examine the ballots that are objected to and recount the ballots.

(2) Any ballot

- (a) that lacks the initials of an officer,
- (b) on which votes are cast for more candidates than are to be elected to the office,
- (c) on which anything is written or marked by which the elector could be identified, or
- (d) that has been torn, defaced or otherwise dealt with, with the result that an elector could be identified,

is void and shall not be counted.

(3) The judge shall take a note of any objection made by a candidate or by the candidate's official agent or scrutineer to a ballot, and shall decide any question arising out of the objection, and the decision of the judge is final.

RSA 2000 cL-21 s108;2006 c22 s54

Recess during recount

109(1) The judge shall, as far as practicable, proceed continuously with the recount except during any hours excluded by the judge.

(2) During the excluded time, the judge shall take precautions for the security of the ballots and documents.

1983 cL-27.5 s109

Statement after recount

110(1) The judge shall, after counting the votes marked for each candidate on the ballots not rejected, prepare a written statement that includes the number of ballots marked for each candidate and the number of ballots rejected and not counted by the judge.

(2) The statement shall be made under the following headings:

- (a) names of candidates;
- (b) number of ballots for each candidate;
- (c) ballots that lack initials of deputy;
- (d) ballots on which votes are cast for more candidates than are to be elected to the office;
- (e) ballots on which anything is written or marked by which an elector could be identified;
- (f) ballots that have been torn, defaced or otherwise dealt with, with the result that an elector could be identified;
- (g) ballots rejected as unmarked or void.

(3) If the ballot box for a voting station has been lost or destroyed, the judge shall use the ballot account and allow the candidates named in it the number of votes shown by it as given for those candidates.

1983 cL-27.5 s110

Equal number of recount votes

111(1) If the judge has counted an equality of ballots for 2 or more candidates for the same office, and if it is necessary for determining which candidate is elected, the judge shall write the names of those candidates separately on blank sheets of paper of equal size and of the same colour and texture, and after folding the sheets of paper in a uniform manner and so that the names are concealed, shall deposit them in a receptacle and direct the clerk of the Court or some other person to withdraw one of the sheets, and the judge shall declare the candidate whose name appears on the withdrawn sheet to have one more vote than the other candidate or candidates.

(2) Subsection (1) does not apply if the candidates having received an equality of ballots also had an equality of ballots at the time of the calculating of ballots by the returning officer, in which case the judge shall declare the candidate who previously has been declared

to have received one more ballot still to have one more ballot than the other candidate.

1983 cL-27.5 s111

Certification of recount

112 On the completion of the recount or as soon as the judge has ascertained the result of the voting, the judge shall replace the ballots in the respective ballot boxes and return the boxes to the secretary and shall forthwith certify the result to the secretary, who shall forthwith post a statement in the secretary's office declaring the result.

1983 cL-27.5 s112

Costs of recount

113(1) All costs, charges and expenses of and incidental to an application for a recount, and to the proceedings consequent on it, shall be defrayed by the local jurisdiction, applicant, persons served with a notice, or any of them, in the manner and in the proportion that the judge determines, having regard to any costs, charges or expenses that, in the opinion of the judge, have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part of the applicant or any person served with a notice.

(2) The costs may, if the judge so orders, be assessed and reviewed in the same manner and according to the same principles as costs are assessed and reviewed under the *Alberta Rules of Court*.

RSA 2000 cL-21 s113;2009 c53 s104

Payment of costs

114 The payment of any costs ordered by the judge may, on the filing of the order of the judge and a certificate showing the amount at which the costs were assessed and an affidavit of non-payment, be enforced by writ proceedings taken pursuant to a writ of enforcement issued in respect of that order.

RSA 2000 cL-21 s114;2009 c53 s104

Bylaw vote recount

115 Sections 103 to 110 and 112 to 114 apply, with necessary modifications, to a recount of the votes for and against a bylaw or question.

RSA 2000 cL-21 s115;2018 c23 s47

Part 5 Controverted Elections

Bribery

116 A person commits the offence of bribery

- (a) who directly or indirectly by himself or herself or by any other person on his or her behalf,
 - (i) gives, lends or agrees to give or lend or offers or promises money or valuable consideration, or gives or procures or agrees to give or procure or offers or promises an office, place or employment to or for an elector or to or for a person on behalf of an elector or any person, in order to induce an elector or a person to vote or to refrain from voting at an election, or
 - (ii) corruptly does an act described in subclause (i) because a person has voted or has refrained from voting at an election,
- (b) who directly or indirectly by himself or herself or by any other person on his or her behalf, makes a gift, loan, offer, promise or agreement described in clause (a) to or for a person in order to induce that person to procure or defeat or endeavour to procure or defeat
 - (i) the election of a candidate,
 - (ii) the passing of a bylaw,
 - (iii) the result of a vote on a question, or
 - (iv) the vote of an elector at an election,
- (c) who in return for a gift, loan, offer, promise or agreement procures or defeats or engages or promises or endeavours to procure or defeat
 - (i) the election of a candidate,
 - (ii) the passing of a bylaw,
 - (iii) the result of a vote on a question, or
 - (iv) the vote of an elector at an election,
- (d) who
 - (i) advances or pays or causes to be paid money to or for the use of any other person with the intent that the money or part of it be expended in bribery at an election, or

- (ii) knowingly pays or causes to be paid any money to a person in discharge or repayment of any money wholly or in part expended in bribery at an election,
- (e) who, being an elector, before or during an election directly or indirectly by himself or herself or by any other person on his or her behalf receives, agrees to, accepts or contracts for any money, gift, loan or valuable consideration, office, place or employment for the elector or any other person for
 - (i) voting or agreeing to vote,
 - (ii) refraining or agreeing to refrain from voting, or
 - (iii) voting or agreeing to vote for or against a particular candidate, bylaw or question,
at an election, or
- (f) who after an election directly or indirectly by himself or herself or by any other person on his or her behalf receives any money or valuable consideration because some person
 - (i) has voted or refrained from voting,
 - (ii) has induced any other person to vote or refrain from voting, or
 - (iii) has voted for or against or has induced any other person to vote for or against a candidate, bylaw or question,
at an election.

1983 cL-27.5 s116

Undue influence**117** A person commits the offence of undue influence who

- (a) directly or indirectly by himself or herself or by any other person on his or her behalf,
 - (i) makes use of or threatens to make use of any force, violence or restraint,
 - (ii) inflicts or threatens the infliction personally or by or through any other person of any injury, damage, harm or loss, or
 - (iii) in any manner practises intimidation,

on or against any person in order to induce or compel any person to vote or refrain from voting, or to vote for or against a particular candidate, bylaw or question, at an election, or on account of an elector having voted or refrained from voting at an election, or

- (b) by abduction, duress or any fraudulent device or contrivance
 - (i) impedes, prevents or otherwise interferes with the free exercise of the franchise of an elector, or
 - (ii) compels, induces or prevails on an elector to give or refrain from giving the elector's vote, or to vote for or against a candidate, bylaw or question, at an election.

1983 cL-27.5 s117

118 Repealed 2018 c23 s48.

Oral evidence

119 When on an application in the nature of a quo warranto a question is raised relating to whether the candidate, elector or other person has been guilty of bribery or undue influence, oral evidence shall be used to prove the offence, and evidence by affidavit may not be used to prove the offence.

RSA 2000 cL-21 s119;2011 c14 s17

Forfeiture of seat

120 A candidate elected at an election who is found guilty, on the hearing of an application in the nature of a quo warranto, of bribery or of using undue influence

- (a) forfeits the elected office, and
- (b) is ineligible to be nominated as a candidate until after 2 general elections have taken place following the candidate's conviction.

RSA 2000 cL-21 s120;2018 c23 s49

Penalty for bribery or undue influence

121(1) A person adjudged guilty of bribery or undue influence is liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years or to both a fine and imprisonment and the fine must be paid to the local jurisdiction on behalf of which the election was conducted.

(2) The judge shall direct that, in default of payment of the penalty within the time fixed by the judge, the person adjudged guilty of

bribery or undue influence be imprisoned for the period the judge directs, not exceeding 30 days, or until the penalty is sooner paid.

(3) If the person adjudged guilty of bribery or undue influence fails to pay the penalty within the time fixed by the judge, the judge shall issue a warrant for the person's arrest and imprisonment.

1983 cL-27.5 s121;1997 c15 s29

Report of bribery or undue influence convictions

122(1) A judge who finds a person guilty of bribery or undue influence shall report that finding forthwith to the secretary.

(2) The secretary shall enter in a book to be kept for that purpose the names of all persons who have been reported to the secretary by the judge pursuant to subsection (1).

1983 cL-27.5 s122

Witnesses

123(1) A witness is bound to attend before a judge

- (a) on being served with a notice signed by the judge or by the solicitor of either party directing the witness's attendance, and
- (b) on payment of the proper fees, expenses and allowances in accordance with the *Alberta Rules of Court*,

and in default of attendance the witness may be punished for contempt of court.

(2) No person shall be excused from answering any questions put to the person

- (a) on the hearing of an application in the nature of a quo warranto, or
- (b) in a proceeding touching or concerning an election or the conduct of a person in relation to an election,

on the ground that the answer to the question will tend to incriminate the person.

(3) No incriminating answer given to any question in proceedings under this Act shall be used against the person who gave the answer in proceedings, under this or any other Act, except in a prosecution for perjury or for the giving of contradictory evidence.

(4) No person who has voted at an election shall be required to state in evidence in any legal proceedings whether the person has voted for or against a particular candidate, bylaw or question.

RSA 2000 cL-21 s123;2009 c53 s104

Limitation of action

124 No proceedings against a person for bribery or undue influence may be commenced after 6 weeks from the election day in respect of which the offence is alleged to have been committed.

1983 cL-27.5 s124

Recovery of penalties

125(1) No pecuniary penalty or forfeiture imposed by this Act for an act of bribery or undue influence at an election is recoverable if it appears

- (a) that the person charged and another person or other persons were together guilty of the act charged either as giver or receiver or as accomplices, or otherwise, and
- (b) that the person charged has previously prosecuted in good faith the other person or persons or any of them for that act.

(2) Subsection (1) does not apply if the judge certifies that it clearly appears to the judge that the person charged took the first step toward the commission of the offence charged and was in fact the principal offender.

1983 cL-27.5 s125

Trial of an election

126(1) If the validity of an election of a member of an elected authority or the member's right to hold the seat is contested, or if the validity of a vote on a bylaw or question is contested, the issue may be tried by the Court.

(2) The issue may be raised before the Court by

- (a) a candidate at the election,
 - (a.1) the elected authority,
- (b) any elector
 - (i) if the right to sit is by acclamation, or
 - (ii) if the right to sit is contested on the grounds that a member of the elected authority is ineligible, disqualified or has forfeited the member's seat since the member's election,

or

- (c) an elector who gave or tendered the elector's vote at the election.

RSA 2000 cL-21 s126;2006 c22 s56

Fiat for application

127(1) For the purposes of this section and sections 128 to 138, "respondent" means the party against whom an application is made.

(2) If within 6 weeks after an election the person raising an issue shows by affidavit to a judge reasonable grounds

- (a) for supposing that the election was not legal or was not conducted according to law,
- (b) for supposing that an unsuccessful candidate was not eligible for nomination and that the results of the election would have been different had that candidate not run,
- (c) for contesting the validity of the election of a member of the elected authority, or
- (d) for contesting the validity of the result of a vote on a bylaw or question,

the judge may grant a fiat authorizing the person raising the issue, on entering into a sufficient recognizance as provided by subsection (4), to apply for judicial review for an order in the nature of a quo warranto to determine the matter.

(3) If at any time the person raising the issue shows to a judge by affidavit reasonable grounds for supposing that a member of an elected authority other than a member of council has become disqualified since the member's election and has not resigned the member's seat, the judge may grant a fiat authorizing the person raising the issue, on entering into a sufficient recognizance as provided by subsection (4), to apply for judicial review for an order in the nature of a quo warranto to determine the matter.

(4) The recognizance to be allowed as sufficient by the judge shall be entered into before the judge or before a commissioner for oaths by

- (a) the person raising the issue, in the sum of \$300, and
- (b) 2 sureties on affidavits of justification, each in the sum of \$100,

and shall be conditioned to prosecute the application with effect to pay to the respondent any costs that may be adjudged to the respondent against the person raising the issue.

(5) When the sufficiency of the sureties has been determined and the recognizance has been allowed as sufficient by the judge, the judge shall note or endorse on it and on the fiat allowing service of the application the words “recognizance allowed” and shall initial it.

RSA 2000 cL-21 s127;2009 c53 s104

Application requirements

128(1) An application may either state

- (a) the return day of the application, being not fewer than 7 clear days after the day of the service of it, or
- (b) that the application will be made on the 8th day after the day of service of the copy of the application.

(2) The person raising the issue shall in the person’s application set out the person’s name in full, the person’s place of residence and the interest, as a candidate, elector or otherwise, that the person has in the election and shall also state specifically under distinct heads

- (a) all the grounds of objection to the validity of the election complained against,
- (b) if the person raising the issue claims that the person or any other person or persons should have been declared elected, the grounds in favour of the validity of the election of the person raising the issue or of the other person or persons,
- (c) the grounds of forfeiture or disqualification of the respondent,
- (d) if the person raising the issue claims that the result of the voting on the bylaw should be reversed, the grounds in support of that contention, and
- (e) if the person raising the issue makes any other claim, the grounds in support of that claim.

RSA 2000 cL-21 s128;2009 c53 s104;2011 c14 s17

Filing of documents

129 Before serving the application, the person raising the issue shall file all affidavits and material on which the person intends to rely, except where oral evidence is to be taken, in which case the

person shall name in the application the witnesses whom the person proposes to examine.

RSA 2000 cL-21 s129;2009 c53 s104

Service of application

130(1) The application shall be served on the persons and in the manner that the judge directs.

(2) Service of the application shall be made within 2 weeks from the date of the fiat granted by the judge unless otherwise ordered by the judge.

RSA 2000 cL-21 s130;2009 c53 s104

Application to try validity of election

131 When the person raising the issue alleges that the person personally or some other person or persons have been elected, the application shall be to try the validity both of the election complained of and of the alleged election of the person raising the issue or of the other person or persons.

RSA 2000 cL-21 s131;2009 c53 s104

Combination of applications

132 If any of the grounds of objection apply equally to 2 or more persons declared elected, the person raising the issue may proceed by one application against all those persons.

RSA 2000 cL-21 s132;2009 c53 s104

Grounds not allowed

133(1) On the hearing of the application, the person raising the issue shall not be allowed

- (a) to object to the voting on the bylaw or question,
- (b) to object to the election of the respondent,
- (c) to attack the respondent's right to sit, or
- (d) to support the election of any person alleged to have been elected,

on any ground not specified in the application.

(2) Notwithstanding subsection (1), the judge in the judge's discretion may entertain any substantial ground of objection to or any substantial contention in support of

- (a) the voting on a bylaw or question, or

- (b) the validity of the election or of the right to sit of either or any of the parties who may appear in evidence before the judge.

RSA 2000 cL-21 s133;2009 c53 s104

Production of election material

134 The judge may require the secretary to produce any ballots, books, lists of electors and other lists and any other records of the election and documents in the secretary's possession and connected with the election that the judge considers necessary.

1983 cL-27.5 s134

Adding parties

135 The judge may, if the judge thinks proper at any stage of the proceedings, make an order adding the returning officer, deputy or any other person as a party.

1983 cL-27.5 s135

Intervention

136 The judge may allow any person described in section 126(2) to intervene in the proceedings and to prosecute or defend and may grant a reasonable time for that purpose, and an intervening party is as liable to pay and as entitled to receive costs as any other party to the proceedings.

1983 cL-27.5 s136

Hearing

137(1) The judge shall without formal pleadings hear and determine

- (a) the validity of the voting on the bylaw or question or in the election, or
- (b) the right of the respondent to sit,

and may inquire into the facts on affidavit or affirmation or by oral testimony.

(2) If the validity of an election is contested before a judge on the grounds of

- (a) a contravention of this Act or of any other Act applicable to
 - (i) the election,
 - (ii) the procedure at the voting station, or
 - (iii) the counting of the votes,

- (b) a mistake in the use of any of the forms required in connection with the election, or
- (c) any other irregularity,

the judge, in the judge's discretion, may adjudge the election invalid.

(3) If the validity of an election is contested before a judge on the grounds mentioned in subsection (2) and it appears to the judge that the election was conducted substantially in accordance with the requirements of this Act and that the contravention, mistake or irregularity did not materially affect the result of the election, the judge may adjudge the election valid.

RSA 2000 cL-21 s137;2009 c53 s104

Invalid election

138(1) If the election of a candidate complained of is adjudged invalid, the judge shall, by the judgment, order the respondent to be removed and the respondent's office vacated, and if the judge determines that any other person was elected the judge shall forthwith order the other person to be admitted to the office.

(2) If the voting on a bylaw or question complained of is adjudged invalid, the judge shall, by the judgment, declare the voting on the bylaw or question invalid and may order a new election to be held or make any order the judge considers just having regard to all the circumstances.

(3) If the judge determines

- (a) that the election of all members of an elected authority is invalid, or
- (b) that all members of an elected authority have become disqualified,

the judge shall forthwith order a new election to be held and the order shall be directed to the secretary, who on receipt of the order has all powers in connection with the holding of the election that are conferred by law on the elected authority for filling vacancies on the elected authority.

(4) Notwithstanding subsection (3), the relevant Minister may make any regulations for the conduct of the election not inconsistent with any Act that the relevant Minister considers proper and the secretary shall conform in all respects to those regulations.

(5) The *Regulations Act* does not apply to regulations made under subsection (4).

1983 cL-27.5 s138

Liability for costs — improper refusal

139(1) If an election has been held invalid owing to the improper refusal of a returning officer or deputy to receive ballots tendered by electors or to give ballot papers to electors, the judge may in the judge's discretion order that the costs of the proceedings to unseat the candidate declared elected, or to declare the bylaw or any part of it or a vote on a question invalid, or any other costs, be paid by the returning officer or deputy.

(2) Nothing in subsection (1) affects any right of action against a returning officer or deputy or relieves the returning officer or deputy from any other penalty or punishment to which the returning officer or deputy may be liable.

1983 cL-27.5 s139

Liability for costs — non-feasance or misfeasance

140 If it appears to the judge that an election is invalid by reason of any act of non-feasance or misfeasance on the part of

- (a) the returning officer, or
- (b) a deputy,

the judge may in the judge's discretion order that the costs of the proceedings to unseat the person declared elected, or to declare the voting on the bylaw or question, or any part of it, invalid, or any other costs, be paid by the local jurisdiction in and for which the election was held.

1983 cL-27.5 s140;1991 c23 s2(59)

Form and effect of order

141 After the adjudication of the case, an order shall be drawn up in the usual manner that shall state concisely the ground and effect of the decision, and the order

- (a) may at any time be amended by the judge in regard to any matter or form, and
- (b) has the same force and effect as a writ of mandamus formerly had in similar cases.

1983 cL-27.5 s141

Return of judge's order

142(1) The judge, immediately after the judge's decision, shall return the judge's order to the proper office of the Court to be kept as a record of the judgment of the Court.

(2) The judgment of the Court may be enforced in the same manner as an ordinary order of mandamus of the Court and a writ of enforcement may be issued under it to recover any costs awarded by the judgment.

1983 cL-27.5 s142;1994 cC-10.5 s140

Disclaimer after application

143 A candidate

- (a) whose election is complained of, unless the election is complained of on the ground of bribery or undue influence on the part of that person, or
- (b) other than a member of council, whose seat is attacked on the ground that the candidate has become ineligible or disqualified,

may within 7 days after service on the candidate of an application described in section 128 cause to be delivered to, or may transmit by prepaid registered mail directly to the clerk of the Court and also to the person raising the issue, or that person's solicitor, a disclaimer signed by the candidate in the prescribed form.

RSA 2000 cL-21 s143;2009 c53 s104

Effect of disclaimer

144(1) A disclaimer in the prescribed form delivered

- (a) before the election, or
- (b) before the person disclaiming is complained of,

relieves the person making it from all liability to costs.

(2) A disclaimer in the prescribed form delivered or transmitted under this Act operates as a resignation and the vacancy so created shall be filled in the manner provided by this Act.

(3) A disclaimer in the prescribed form delivered to the returning officer before election day may be posted by the returning officer in the voting stations.

RSA 2000 cL-21 s144;2003 c27 s38;2018 c23 s50

Delivery of duplicate disclaimer

145 A person disclaiming after service on the person of an application for judicial review for an order in the nature of a quo warranto shall deliver a duplicate of the person's disclaimer to the secretary, and the secretary shall forthwith communicate it to the elected authority.

RSA 2000 cL-21 s145;2009 c53 s104

Right of appeal

146 An appeal against the decision of a judge lies to the Court of Appeal and the proceedings appertaining to it shall be as nearly as possible the same as in an appeal in other cases from a decision of the Court of King's Bench.

RSA 2000 cL-21 s146;AR 217/2022

Regulations

147 The Minister may make regulations respecting the form of any notices, orders or other proceedings to be issued, given, made or taken under this Part.

RSA 2000 cL-21 s147;2011 c14 s17

Part 5.1 Election Finances and Contributions Disclosure

Interpretation

147.1(1) In this Part,

- (a) "campaign expense" means any expense incurred, or non-monetary contribution received, by a candidate to the extent that the property or service that the expense was incurred for, or that was received as a non-monetary contribution, is used to directly promote or oppose a candidate during a campaign period, and includes an expense incurred for, or a non-monetary contribution in relation to,
 - (i) the production of advertising or promotional material,
 - (ii) the distribution, broadcast or publication of advertising or promotional material in any media or by any other means during a campaign period, including by the use of a capital asset,
 - (iii) the payment of remuneration and expenses to or on behalf of a person for the person's services as a chief financial officer or in any other capacity,
 - (iv) securing a meeting place,
 - (v) the conduct of election surveys or other surveys or research during a campaign period, or
 - (vi) the production of a review engagement required by this Act;
- (b) "campaign period" means

- (i) in the case of a general election, the period of time from January 1 to December 31 in a year in which a general election is held, and
 - (ii) in the case of a by-election, the period of time set by bylaw or resolution to 60 days immediately following the by-election;
 - (c) “contribution” means any money, personal property, real property or service that is provided to or for the benefit of a candidate’s election campaign without fair market value compensation from that candidate, but does not include a service provided by an individual who voluntarily performs the services and receives no compensation, directly or indirectly, in relation to the services or time spent providing the services;
 - (d) “employee organization” means an organization, other than a trade union, that bargains collectively for employees;
 - (e) “group” means an unincorporated group of individuals or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of individuals, corporations, trade unions or employee organizations;
 - (f) “prohibited organization” means a corporation and an unincorporated organization, including a trade union and an employee organization;
 - (f.1) “review engagement” means a review engagement as defined in the *Chartered Professional Accountants Act*;
 - (g) “trade union” means an organization of employees that has a written constitution, rules or bylaws and has as one of its objects the regulation of relations between employers and employees.
- (2) The value of a contribution, other than money, provided to a candidate is the fair market value of the contribution at the time it is provided.
- (3) If any personal property, real property or service or the use of personal property or real property is provided to a candidate for a price that is less than the fair market value at the time it is provided, the amount by which the value exceeds the price is a contribution for the purposes of this Part.

(4) For the purposes of this section, the use of goods in a 2nd or subsequent election is a non-monetary contribution.

(5) In this section, “expense incurred” means an expense that is incurred, whether it is paid or unpaid.

2009 c10 s3;2010 c9 s1;2018 c23 s51;2020 c22 s14

147.11 Repealed 2018 c23 s51.

Application of Part

147.12 This Part applies to candidates for election as a councillor in a municipality or as a trustee of a school board.

2018 c23 s51

Responsibility of contributors

147.13(1) A prospective contributor is responsible for ensuring, before making a contribution under this Act, that the contributor is not prohibited from making a contribution and is not making a contribution that is in excess of the limit prescribed by section 147.2(3).

(2) Every candidate and every person acting on behalf of a candidate shall make every reasonable effort to advise prospective contributors of the provisions of this Part relating to contributions.

2018 c23 s51

Limitations on contributions

147.2(1) Only an individual ordinarily resident in Alberta may make a contribution to a candidate.

(2) No prohibited organization and no individual ordinarily resident outside Alberta shall make a contribution to a candidate.

(3) Subject to subsection (4), no individual ordinarily resident in Alberta shall contribute in any campaign period an amount that exceeds

(a) \$5000 to any candidate for election as a councillor, and

(b) \$5000 to any candidate for election as a school board trustee.

(4) A candidate may contribute an amount of up to \$10 000 that is not reimbursed to the candidate from the candidate’s campaign account by the end of the campaign period to the candidate’s own campaign expenses.

(4.1) Any amount paid by a candidate for campaign expenses from the candidate’s own funds that is not reimbursed to the candidate

from the candidate's campaign account by the end of the campaign period, including an amount referred to in subsection (4), is a contribution to the candidate's own campaign for the purposes of this Act.

(5) No candidate and no person acting on behalf of a candidate shall, directly or indirectly, solicit or accept a contribution if the candidate or person knows or ought to know that the prospective contributor is a prohibited organization or an individual ordinarily resident outside Alberta.

(6) No candidate and no person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the amount of the contribution will exceed the amounts referred to in subsection (3).

2009 c10 s3;2010 c9 ss1,2;2018 c23 s51;2020 c22 s15

147.21 Repealed 2018 c23 s51.

Acceptance of contributions

147.22(1) No person shall accept a contribution or incur a campaign expense unless the person has been nominated as a candidate.

(2) No candidate and no person acting for a candidate shall accept a contribution except during the campaign period.

(3) Subsections (1) and (2) do not apply to the following:

- (a) a person who accepts not more than \$5000 in the aggregate per year in contributions outside the campaign period;
- (b) a candidate who makes a contribution of not more than \$10 000 in the aggregate per year to the candidate's own campaign from the candidate's own funds.

2018 c23 s51;2020 c22 s16

Anonymous and unauthorized contributions

147.23 Any anonymous contributions and any contribution or portion of a contribution made in contravention of this Part accepted by a candidate or a person acting on behalf of a candidate must not be used or expended, and the candidate or the person acting on behalf of the candidate shall

- (a) return the contribution to the contributor if the contributor's identity can be established, or
- (b) if the contributor's identity cannot be established, pay an amount equivalent to the contribution to a registered charity

or to the local jurisdiction for which the candidate is running for election.

2018 c23 s51

Contributions not belonging to contributor

147.24(1) No individual shall contribute to a candidate

- (a) funds not belonging to that individual, or
- (b) funds that have been given or furnished to the individual by another individual or a prohibited organization for the purpose of making a contribution of those funds to a candidate.

(2) No individual and no prohibited organization shall give or furnish funds to another individual for the purpose of having that other individual make a contribution of those funds to a candidate.

(3) No candidate and no person acting on behalf of a candidate shall solicit or accept a contribution if the candidate or person knows or ought to know that the contribution is contrary to subsection (1).

2018 c23 s51

Duties of candidate

147.3(1) A candidate shall ensure that

- (a) a campaign account in the name of the candidate or the candidate's election campaign is opened at a financial institution for the purposes of the election campaign at the time of nomination or as soon as possible after the total amount of contributions first exceeds \$1000 in the aggregate,
- (b) if a campaign account has been opened in accordance with clause (a), all contributions of money are deposited into the campaign account,
- (c) money in the campaign account shall only be used for the payment of campaign expenses,
- (d) contributions of real property, personal property and services are valued,
- (e) receipts are issued for every contribution and obtained for every expense,
- (f) records are kept of contributions and campaign expenses and are retained by the candidate for a period of 3 years

following the date on which disclosure statements were required to be filed under section 147.4, and

- (g) proper direction is given to the candidate's official agent and any other person who is authorized to incur campaign expenses and accept or solicit contributions on behalf of the candidate.

(2) A candidate shall not knowingly make a false or misleading statement in any disclosure statement or financial statement or other information required to be filed under this Part.

2009 c10 s3;2010 c9 s2;2015 c5 s120;2018 c23 s51

Fund-raising functions

147.31(1) In this section, "fund-raising function" includes any social function held for the purpose of raising funds for the candidate's election campaign by whom or on whose behalf the function is held.

(2) The gross income from any fund-raising function must be recorded by the candidate on whose behalf the function was held.

(3) If a fund-raising function is held by the sale of tickets by or on behalf of a candidate, the amount of the contribution is to be determined under clause (a) or under clause (b), at the option of the candidate:

- (a) if the individual charge
 - (i) is \$50 or less, it is not considered to be a contribution unless the individual who pays the charge specifically requests that it be so considered, in which case 1/2 of the amount is allowed for expenses and 1/2 is considered to be a contribution,
 - (ii) is more than \$50 but not more than \$100, \$25 is allowed for expenses and the balance is considered to be a contribution, and
 - (iii) is more than \$100, 25% of the amount is allowed for expenses and the balance is considered to be a contribution;
- (b) the amount of the contribution is the difference between the price of the ticket and the fair market value of what the ticket entitles the bearer to obtain.

(4) The price paid at a fund-raising function in excess of the fair market value at that time for goods or services received is

considered to be a contribution to the candidate's election campaign.

2018 c23 s51

Receipts

147.32 Every candidate or a person acting on behalf of the candidate shall issue a receipt for every contribution accepted in a form acceptable to the local jurisdiction.

2018 c23 s51

Loans

147.33(1) A candidate

- (a) may borrow money only from a financial institution, and
- (b) shall record all loans and their terms and shall report accordingly to the relevant local jurisdiction.

(2) Only a person ordinarily resident in Alberta may make a payment on behalf of the borrower in respect of a loan to which subsection (1) applies.

(3) Any payment in respect of a loan to which subsection (1) applies made by a person referred to in subsection (2) becomes, for the purposes of this Act, including, without limitation, section 147.2,

- (a) a contribution by that individual, and
- (b) a contribution accepted by the borrower,

if the individual is not reimbursed by the borrower before the borrower is next required to file a disclosure statement.

(4) This section does not apply to the borrowing of money for purposes unrelated to the candidate's election campaign.

2018 c23 s51

Campaign expense limits

147.34 No candidate and no chief financial officer of a candidate shall incur campaign expenses that exceed, in the aggregate, the amounts determined by the regulations.

2018 c23 s51

Campaign disclosure statements

147.4(1) On or before March 1 immediately following a general election or, in the case of a by-election, within 120 days after the by-election, a candidate shall file with the secretary of the candidate's local jurisdiction a disclosure statement in the prescribed form, which must include

- (a) the total amount of all contributions received during the campaign period that did not exceed \$50 in the aggregate from any single contributor,
 - (b) the total amount contributed, together with the contributor's name and address, for each contributor whose contributions during the campaign period exceeded \$50 in the aggregate,
 - (c) the total amount of all contributions received as referred to in section 147.22(3),
 - (d) the total amount from fund-raising functions,
 - (e) the total amount of other revenue,
 - (f) the total amount of campaign expenses,
 - (g) an itemized campaign expense report setting out the campaign expenses incurred by the candidate,
 - (h) the total amount paid by the candidate out of the candidate's own funds not reimbursed from the candidate's campaign fund,
 - (i) the total amount of any campaign surplus, including any surplus from previous campaigns, and
 - (j) the amount of any deficit.
- (2)** A candidate who has incurred campaign expenses or received contributions of \$50 000 or more shall file a review engagement with the disclosure statement referred to in subsection (1).
- (3), (4)** Repealed 2020 c22 s17.
- (5)** With respect to the period during which a candidate is nominated, this section applies to a candidate who withdraws as a candidate.
- (6)** If a candidate becomes aware that any of the information reported in the disclosure statement required under subsection (1) or the review engagement required under subsection (2) has changed or has not been completely or accurately disclosed, the candidate shall, within 30 days, submit a supplementary statement in the prescribed form to the local jurisdiction.
- (7)** The local jurisdiction must ensure that all documents filed under this section are available to the public during regular business hours for a period of 4 years after the election.

(7.1) A document made available to the public under subsection (7) must be made available in a partial or redacted form as necessary to ensure that the following are not disclosed:

- (a) the mailing address of the candidate;
- (b) any address provided for a contributor, except any portion of an address that names a municipality or a province;
- (c) any other candidate or contributor contact information not required by this section but included on a document filed with a local jurisdiction.

(7.2) If a document that does not comply with subsection (7.1) was made available to the public under subsection (7) before this subsection comes into force, the local jurisdiction must immediately withhold any further public access to the document and make the document available to the public in a partial or redacted form in accordance with subsection (7.1).

(8) to (10) Repealed 2020 c22 s17.

2009 c10 s3;2010 c9 s1;2015 c5 s121;2018 c23 s51;2020 c22 s17;
2022 c16 s7

Campaign surplus

147.5(1) If a candidate's disclosure statement shows a surplus, the candidate, within 60 days after filing the disclosure statement with the local jurisdiction,

- (a) shall, with respect to any amount that is \$1000 or more, donate an amount to a registered charity that results in the surplus being less than \$1000, and
- (b) may, with respect to any amount that is less than \$1000,
 - (i) retain all or any portion of that amount, and
 - (ii) donate all or any portion of that amount to a registered charity.

(2) A candidate who donates an amount to a registered charity in accordance with subsection (1)(a) or (b)(ii) shall, within 30 days after the expiration of the 60-day period referred to in subsection (1), file an amended disclosure statement showing that the surplus has been dealt with in accordance with this section.

(3) This section applies to a candidate whether or not the candidate is elected.

2009 c10 s3;2010 c9 s1;2015 c5 s122;2018 c23 s51;2020 c22 s18

Transitional — campaign surplus

147.51(1) Where, on September 1, 2020, an amount is held in trust under section 147.5(2) as it read on August 31, 2020, the candidate in respect of whom the amount is held in trust, no later than January 1, 2022,

- (a) shall, with respect to any amount that is \$1000 or more, donate an amount to a registered charity that results in the surplus being less than \$1000, and
- (b) may, with respect to any amount that is less than \$1000,
 - (i) retain all or any portion of that amount, and
 - (ii) donate all or any portion of that amount to a registered charity.

(2) If a local jurisdiction does not receive a direction under subsection (1) on or before January 1, 2022, the money becomes the property of the local jurisdiction.

(3) This section applies to money paid to a local jurisdiction pursuant to a court order under section 147.84(2).

2020 c22 s18

Campaign deficit

147.52(1) If a candidate's disclosure statement shows a deficit, the candidate shall eliminate the deficit within 60 days after filing the disclosure statement with the local jurisdiction.

(2) For the purpose of eliminating a deficit referred to in subsection (1), a candidate may, notwithstanding section 147.22(2), accept contributions in accordance with this Act during the period referred to in subsection (1).

(3) Subject to subsection (4), a candidate shall not accept a contribution of an amount that exceeds \$5000 from any individual for the purpose of this section.

(4) A candidate may make a contribution from the candidate's own funds that does not exceed \$10 000 to reduce a deficit shown on the candidate's disclosure statement for the purpose of this section.

(5) A candidate referred to in subsection (1) shall, within 30 days after the expiration of the 60-day period referred to in subsection (1), file an amended disclosure statement showing that the deficit has been eliminated.

2020 c22 s18

147.6 Repealed 2012 c5 s123.

Late filing

147.7(1) In this section, “filing deadline” means the day by which a disclosure statement referred to in section 147.4 is required to be filed with a local jurisdiction.

(2) A candidate who is required to file a disclosure statement under section 147.4 and fails to file that document by the filing deadline must pay a late filing fee of \$500 to the relevant local jurisdiction.

(3) A local jurisdiction shall not transmit a report in relation to a candidate under section 147.8 if the return is filed no later than 10 days after the filing deadline.

(4) If the late filing fee is not paid within 30 days after the date the fee was payable, the local jurisdiction shall send a notice to the candidate, indicating the amount of the late filing fee that is required to be paid.

(5) If a candidate who is sent a notice by the local jurisdiction under subsection (4) fails to pay the late filing fee set out in the notice, the local jurisdiction may file a copy of the notice with the clerk of the Court of King’s Bench, and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

2009 c10 s3;2012 c5 s124;2018 c23 s51;AR 217/2022

Effect of non-compliance in relation to disclosure statements

147.8(1) Subject to section 147.7, if a candidate fails to file a disclosure statement as required by section 147.4

- (a) in the case of an election of municipal councillors, the secretary shall transmit a report to that effect to council, which shall on its receipt make the report public, and
- (b) in the case of an election of school board trustees, the secretary of the school board shall transmit a report to that effect to the school board, which shall on its receipt make the report public.

(2) A candidate under subsection (1) may, within the 60-day period following the date on which the report under subsection (1) is made public, apply to the Court for relief.

(3) On hearing the application, the Court may

- (a) dispense with compliance with section 147.4, or any provision of it, if it considers that the non-compliance is due to circumstances beyond the control of the candidate and that it is not reasonably possible to comply with that section,
 - (b) extend the time for compliance with section 147.4, or any provision of it, if it finds mitigating reasons for non-compliance with the section,
 - (c) make any order that it considers appropriate to secure compliance with as much of section 147.4 as it considers reasonable in the circumstances, or
 - (d) refuse the application.
- (4) A candidate may apply to the Court under this section and name the municipality or the school board, as the case may be, as the respondent.
- (5) The decision of the Court is final and not subject to appeal.

2009 c10 s3;2010 c9 s1;2018 c23 s51

Prosecution

147.81 A prosecution under this Part may be commenced within 3 years of the commission of the alleged offence but not afterwards.

2018 c23 s51

Offences relating to contributions

147.82(1) A prohibited organization or a person acting on its behalf that contravenes section 147.2 is guilty of an offence and liable to a fine of not more than \$10 000.

(2) An individual who contravenes section 147.2 is guilty of an offence and liable to a fine of not more than \$5000.

(3) A candidate who contravenes section 147.22(1) or (2) is guilty of an offence and liable to a fine of not more than \$1000.

(4) A candidate or a person acting on behalf of a candidate who fails to return or pay an amount referred to in section 147.23(a) or (b) is guilty of an offence and liable to a fine of not more than \$5000.

(5) A prohibited organization or a person acting on its behalf that contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$10 000.

(6) An individual who contravenes section 147.24 is guilty of an offence and liable to a fine of not more than \$5000.

2018 c23 s51

Failure of candidate to comply with duties

147.83 A candidate who contravenes section 147.3 is guilty of an offence and liable to a fine of not more than \$1000.

2018 c23 s51

Failure to file

147.84(1) A candidate who fails to comply with section 147.4(1) or (2) by April 1 in the year following a general election, or, in the case of a by-election, within 150 days after the by-election, is guilty of an offence and liable to a fine of not more than \$5000.

(1.1) A candidate who fails to comply with the following sections within 30 days after the expiration of the period referred to in that section is guilty of an offence and liable to a fine of not more than \$5000:

- (a) section 147.4(6);
- (b) section 147.5(1) and (2);
- (c) section 147.52(1) and (5).

(2) If a candidate is found guilty of contravening section 147.4, the Court may, in addition to the penalty provided for in subsection (1), order the candidate to pay any surplus to the local jurisdiction as soon as possible.

(3) Repealed 2020 c22 s19.

2018 c23 s51;2020 c22 s19

Expenses more than maximum

147.85 A candidate who contravenes section 147.34 is guilty of an offence and liable to a fine of not more than \$10 000.

2018 c23 s51

147.9 Repealed 2010 c9 s2.

Regulations and bylaw

147.91(1) The Minister may make regulations

- (a) determining campaign expense limits for the purpose of section 147.34;
- (b) respecting transitional matters relating to the coming into force of *An Act to Renew Local Democracy in Alberta* not

otherwise provided for in that Act, including remedying any confusion, difficulty, inconsistency or impossibility resulting from the enactment of that Act.

(2) An elected authority may pass a bylaw determining campaign expense limits for the purpose of section 147.34 in an amount that is less than the amount determined by regulation under subsection (1)

- (a) with respect to a general election, prior to December 31 of the year before the general election is held, and
- (b) with respect to a by-election, at least 180 days before the by-election at which the bylaw is to take effect.

2009 c10 s3;2018 c23 s51

147.92 Repealed 2018 c23 s51.

Transitional — definitions

147.93 In sections 147.94 to 147.96,

- (a) “former Act” means the *Local Authorities Election Act* as it read immediately before the Bill received first reading;
- (b) “the Bill” means the Bill to enact *An Act to Renew Local Democracy in Alberta*.

2018 c23 s51

Transitional — all candidates

147.94(1) In this section, “candidate” means a candidate for election as a municipal councillor and, subject to subsection (2), for election as a school board trustee.

(2) For the purpose of this section, an individual is a candidate for election as a school board trustee if, before the Bill receives first reading, the individual accepted contributions or incurred campaign expenses on or after January 1, 2018, for the purposes of a school board election campaign.

(3) Subject to subsection (4), section 147.95(4) and 147.96(4), if a candidate or a person acting on behalf of a candidate received a contribution on or after January 1, 2018 but before the date the Bill receives Royal Assent, other than a contribution used to eliminate a deficit shown on the candidate’s disclosure statement for the most recent election campaign, the contribution is deemed to be collected in the next campaign period.

(4) If a candidate or a person acting on behalf of a candidate receives a contribution from a prohibited organization, trade union

or employee organization within the meaning of section 147.1 of the former Act on or after the date the Bill receives first reading but before the date it receives Royal Assent, the candidate, no later than 30 days after the Bill receives Royal Assent, shall

- (a) return the contribution to the contributor if the contributor's identity can be established, or
- (b) if the contributor's identity cannot be established, pay an amount equivalent to the contribution to a registered charity or to the local jurisdiction in which the individual is a candidate.

(5) If a candidate fails to comply with subsection (4), the candidate is deemed to have contravened section 147.2(5) as enacted by section 51 of *An Act to Renew Local Democracy in Alberta*.

(6) A candidate who fails to comply with subsection (4) is guilty of an offence and liable to a fine of not more than \$5000.

2018 c23 s51

Transitional — municipal candidates

147.95(1) In this section, “candidate” means a candidate for election as a municipal councillor.

(2) If during the campaign period that commenced January 1, 2018, money paid by a candidate in accordance with section 147.11 of the former Act before the Bill receives first reading equalled or exceeded \$4000, the candidate is not entitled to make any further contributions under section 147.2, as enacted by section 51 of *An Act to Renew Local Democracy in Alberta*.

(3) An individual ordinarily resident in Alberta who, before the Bill receives first reading, made contributions in 2018 to one or more candidates in accordance with section 147.2 of the former Act that in the aggregate equalled or exceeded \$4000 shall not make any further contributions to a candidate in 2018 under section 147.2, as enacted by section 51 of *An Act to Renew Local Democracy in Alberta*, and no candidate shall accept those contributions.

(4) On or after the day the Bill receives first reading but before the day it receives Royal Assent, if a candidate receives a contribution from a person who has, on or after January 1, 2018, already contributed \$4000 or more to one or more candidates, the candidate, no later than 30 days after the Bill receives Royal Assent, shall return any contribution in excess of \$4000 to the contributor, or pay an amount equivalent to the excess beyond \$4000 to a registered charity or to the local jurisdiction in which the individual is a candidate.

(5) If a candidate fails to comply with subsection (2), (3) or (4), or an individual fails to comply with subsection (3), the candidate or the individual, as the case may be, is guilty of an offence and liable to a fine of not more than \$5000.

2018 c23 s51

Transitional — school board trustee candidates

147.96(1) In this section, subject to subsection (2), “candidate” means a candidate for election as a school board trustee.

(2) For the purpose of this section, an individual is a candidate for election as a school board trustee if, before the Bill receives first reading, the individual accepted contributions or incurred campaign expenses on or after January 1, 2018, for the purposes of a school board election campaign.

(3) An individual ordinarily resident in Alberta who, before the Bill receives first reading, made contributions in 2018 to one or more candidates for school board trustee under the former Act that in the aggregate equalled or exceeded \$4000 shall not make any further contributions to a candidate in 2018 under section 147.2, as enacted by section 51 of *An Act to Renew Local Democracy in Alberta*, and no candidate shall accept those contributions.

(4) On or after the day the Bill receives first reading but before the day it receives Royal Assent, if a candidate receives a contribution from a person who has, since January 1, 2018, already contributed \$4000 or more to one or more candidates, the candidate, no later than 30 days after the Bill receives Royal Assent, shall return any contribution in excess of \$4000 to the contributor, or pay an amount equivalent to the excess beyond \$4000 to a registered charity or to the local jurisdiction in which the individual is a candidate.

(5) A candidate shall, no later than 90 days after the Bill receives Royal Assent,

- (a) file with the local authority a statement disclosing the total amount of all campaign contributions held by the candidate, and
- (b) pay any campaign surplus held by the candidate to the local authority.

(6) If an individual fails to comply with subsection (3), or a candidate fails to comply with subsection (4) or (5), the candidate or the individual, as the case may be, is guilty of an offence and liable to a fine of not more than \$5000.

(7) A bylaw made under section 118 of the former Act applies only with respect to campaign expenses accepted and campaign expenses incurred before the Bill receives first reading, and section 118(2.2) of the former Act continues to apply with respect to the examination of the statements of contributions and campaign expenses made under that section.

(8) Despite the repeal of section 118 of the former Act, a school board may make bylaws respecting the transition from its bylaw passed under section 118(2) of the former Act and the coming into force of *An Act to Renew Local Democracy in Alberta*, for the purposes of reporting contributions.

2018 c23 s51

(NOTE: Sections 147.93 to 147.96 are deemed to have come into force on November 5, 2018.)

Part 6 Offences

Prohibitions

148(1) No person shall

- (a) without authority supply a ballot to any person,
- (b) fraudulently put into a ballot box any paper other than a ballot that the person is authorized by this Act to deposit,
- (c) fraudulently take a ballot out of the voting station,
- (d) without authority destroy, take, open or otherwise interfere with any ballot box or packet of ballots then in use for the purpose of an election.

(2) No person shall

- (a) request a ballot in the name of some other person, whether the name is that of a person living or dead or of a fictitious person, or
- (b) having voted once, request at the same election a ballot in the person's own name.

(3) No person shall vote knowing that the person has no right to do so.

(3.1) No person shall obstruct any person carrying out an inquiry, investigation or examination under this Act or withhold from that person or conceal or destroy any books, papers, documents or

things relevant to the subject-matter of the investigation or examination.

(4) No person shall make or sign a false statement for any purpose related to an election or vote held or to be held under this Act.

(5) No person shall print or distribute or cause to be printed or distributed in any advertisement, handbill, placard, poster, circular, pamphlet, newspaper or other paper a form of ballot printed by the returning officer, indicating or showing it to be marked for any candidate or candidates.

(6) Notwithstanding anything in this section, the returning officer may at any time after nomination day cause a facsimile of the ballot for chief elected official, member of an elected authority, bylaw or question to be published as often as the returning officer considers necessary in a newspaper circulating in the area, for the information of the electors.

(7) A person who contravenes subsection (1), (2), (3), (3.1), (4) or (5) is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for not more than 6 months or to both fine and imprisonment.

RSA 2000 cL-21 s148;2018 c23 s52

Offences — returning officer or deputy returning officer

149 A returning officer or deputy who

- (a) takes or receives a vote in contravention of this Act,
- (b) refuses or wilfully omits to sign the returning officer's or deputy's initials on any ballot,
- (c) acts wilfully in contravention of this Act, or
- (d) commits a wilful omission,

is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years or to both fine and imprisonment.

1983 cL-27.5 s149;1991 c23 s2(62);1997 c15 s33

Offences — integrity of the vote

150(1) Every returning officer, deputy, candidate, constable, official agent and scrutineer in attendance at a voting station shall maintain and aid in maintaining the secrecy of the voting at the voting station.

(2) No person shall interfere with or attempt to interfere with an elector when the elector is marking the elector's ballot, or shall

otherwise attempt to obtain at the voting station information as to which candidate or candidates any elector at that voting station is about to vote or has voted for.

(3) No person shall

- (a) during the hours when a voting station is open, canvass or solicit votes in a building where the voting station is located, or
- (b) make any communication to an elector in a voting station respecting the election otherwise than through the deputy.

(4) When a voting station is located in a building containing a complex of interlocking offices, stores or other facilities, the prohibition in subsection (3) applies only to the store, office or facility comprising the area used as a voting station.

(5) No person shall display at the voting station or distribute or post in it a specimen ballot paper marked for a candidate or any other material purporting to explain to the electors how to vote or leave or post a ballot or other material in a voting compartment other than the material that is required to be posted in accordance with this Act.

(6) No person shall communicate at any time to any person any information obtained at a voting station as to which candidate any elector at that voting station is about to vote or has voted for.

(7) No returning officer, deputy, official agent or scrutineer in attendance at the counting of the votes shall communicate or attempt to communicate any information obtained at that counting as to which candidate or candidates any vote is given for.

(8) No person shall directly or indirectly induce an elector to display the elector's ballot, after the elector has marked it, so as to make known to any person the name of any candidate for whom the elector has or has not marked the elector's ballot.

(9) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for a term not exceeding 2 years or to both fine and imprisonment.

RSA 2000 cL-21 s150;2006 c22 s57

Offence — candidate's acceptance

151 A candidate for elective office who signs a candidate's acceptance form that contains a false statement is guilty of an offence and liable to a fine of not more than \$1000.

1983 cL-27.5 s151

Advertisement distribution

152(1) Subject to subsection (2), a person who, at an advance vote or on election day,

- (a) displays within a building used for a voting station or within the boundaries of the land on which a building used for a voting station is located, or
- (b) distributes within a building used for a voting station or within the boundaries of the land on which the building used for a voting station is located,

an advertisement, handbill, placard, poster, circular, pamphlet, newspaper or other paper except those posted by the deputy in accordance with this Act is guilty of an offence and liable to a fine of not more than \$500.

(2) When a voting station is located in a building containing a complex of interlocking offices, stores or other facilities, the prohibition in subsection (1) applies only to the store, office or facility comprising the area used as a voting station.

(3) Repealed 2018 c23 s53.

(4) Where a person displays an advertisement, handbill, placard, poster, circular, pamphlet, newspaper or other paper contrary to subsection (1), the deputy may cause it to be removed, and neither the deputy nor any person acting under the deputy's instructions is liable for trespass or damages resulting from or caused by the removal.

RSA 2000 cL-21 s152;2006 c22 s58;2018 c23 s53;2020 c22 s20

Campaign activities at a voting station

152.1(1) Subject to subsection (2), a person who, at an advance vote or on election day, canvasses or solicits votes, or communicates with any person for the purpose of influencing that person's vote, in a voting station or within the boundaries of the land on which a building used for a voting station is located is guilty of an offence and liable to a fine of not more than \$500.

(2) When a voting station is located in a building containing a complex of interlocking offices, stores or other facilities, the prohibition in subsection (1) applies only to the store, office or facility comprising the area used as a voting station.

(3) If a person contravenes this section, the deputy may issue one or more of the following directions to the person:

- (a) to cease all conduct that constitutes a contravention;

(b) to leave a location referred to in subsection (1) or (2);

(c) to move to a location specified by the deputy.

(4) A person who, on receiving a direction under subsection (3), fails to immediately comply with the direction is guilty of an offence and liable to a fine of not more than \$500.

(5) If a person contravenes this section, the deputy may request the assistance of a peace officer

(a) to aid the deputy in maintaining unobstructed public access to the voting station, and

(b) to remove a person who has refused to comply with a direction referred to in subsection (3) from a location referred to in subsections (1) and (2).

2018 c23 s54;2020 c22 s21

Interference with posted documents

153 A person who, without authorization, takes down, covers up, mutilates, defaces or alters any notice or other document required to be posted under this Act is guilty of an offence and liable

(a) if the person is an officer, to a fine of not more than \$1000, and

(b) in any other case, to a fine of not more than \$200.

1983 cL-27.5 s155;1997 c15 s36

Improper appointment

154 A person who

(a) procures an appointment as a returning officer, deputy or constable by false pretence, deceit or other improper means, or

(b) acts as a returning officer, deputy or constable without lawful authority,

is guilty of an offence and liable to a fine of not more than \$1000.

1983 cL-27.5 s156;1991 c23 s2(66)

Provision of time to vote

155 An employer who directly or indirectly

(a) refuses to allow, or

(b) by intimidation, undue influence or in any other manner interferes with the allowance of,

an employee to have a period of absence for voting provided for under section 58 is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years or to both fine and imprisonment.

1983 cL-27.5 s157;1997 c15 s37

Offence

156 A person who obstructs or interferes with the free access of

- (a) an enumerator,
- (b) a candidate, or
- (c) a campaign worker on behalf of a candidate

to a residence in a building containing 2 or more residences or to a residence in a mobile home park is, if the enumerator, candidate or campaign worker produces identification of that person's status as an enumerator, candidate or campaign worker, guilty of an offence and liable to a fine of not more than \$1000.

1983 cL-27.5 s158

Penalty — general

157 A person who is guilty of an offence under this Act for which a penalty is not otherwise provided is liable to a fine of not more than \$500.

1983 cL-27.5 s159

Offence re use of information

158 Any person who

- (a) uses any information obtained from the permanent electors register for a purpose other than that referred to in section 49 or 50,
- (b) uses any information provided to, or obtained by, a secretary under section 49 other than for the purpose of compiling or revising the permanent electors register or preparing a list of electors under section 50(1),
- (c) contravenes section 50(3), or
- (d) uses any information obtained while carrying out an enumeration pursuant to a bylaw under section 50 other than for the purposes of the enumeration,

is guilty of an offence and liable to a fine of not more than \$100 000 or to imprisonment for not more than one year or to both fine and imprisonment.

1997 c15 s38

Part 7 General

Methods of notification

158.1 Notwithstanding any provision of this Act, if a municipality has passed a bylaw in accordance with section 606.1 of the *Municipal Government Act*, the method or methods for advertising authorized by that bylaw may be used by that municipality for the purpose of notifications referred to in sections 26, 35, 53.01, 53.1 and 74 of this Act.

2018 c23 s55

Transitional

158.2(1) In this section, “former Act” means the *Local Authorities Election Act* as it read on August 31, 2020.

(2) The former Act applies to the following:

- (a) a by-election, where the vacancy to which the by-election relates occurs before September 1, 2020 and the election day for that by-election occurs on or after September 1, 2020;
- (b) a vote on a question or bylaw, where the resolution or bylaw that fixes the day for the vote on the question or bylaw is passed before September 1, 2020 and the election day for that vote on a question or bylaw occurs on or after September 1, 2020.

2018 c23 s55;2020 c22 s22

Regulations

159(1) The Lieutenant Governor in Council may make regulations providing for any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next session of the Legislature.

(2) The Minister may make regulations

- (a) prescribing forms and their contents for use under this Act;
- (b) respecting standards for ballot boxes;
- (c) respecting identification indicating that a person is an enumerator, a candidate, an official agent, a scrutineer or a campaign worker.

RSA 2000 cL-21 s159;2003 c27 s39;2006 c22 s59

Regulations

160(1) Notwithstanding anything in this Act, the Lieutenant Governor in Council may make regulations

- (a) prescribing a system for the conduct and procedure of an election or vote that is not provided for in this Act or that is a modification of a system under this Act;
- (a.1) respecting standards for a system described in clause (a) and respecting evidence of compliance with those standards;
- (b) prescribing forms for use in connection with a system prescribed by regulations under this subsection;
- (c) with respect to a system prescribed by regulations under this subsection, providing for any matter not provided for or insufficiently provided for in this Act;
- (d) providing that any person who contravenes any provision of the regulations under this subsection is guilty of an offence and liable to imprisonment for a term not exceeding 6 months or to a fine of not more than \$500 or to both fine and imprisonment.

(1.1) A regulation under subsection (1)(a.1) may adopt or incorporate in whole or in part, or with modifications, standards, codes or other bodies of rules that relate to any matter in respect of which a regulation may be made under subsection (1)(a.1) if the standards, codes or other bodies of rules have been published and copies are available.

(2) On the application of an elected authority, the relevant Minister may, by order, on any terms and conditions the relevant Minister may prescribe, authorize the elected authority to pass a bylaw adopting the system for conducting an election prescribed by regulations under subsection (1).

(3) Subject to regulations made under subsection (1) and adopted by a bylaw authorized by an order made under subsection (2), the provisions of this Act apply to an election held under this section.

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

RSA 2000 cL-21 s160;2003 c27 s40;2020 c22 s23

Bylaws valid

161 A bylaw passed pursuant to this Act remains in force until it is repealed.

1991 c23 s2(67)

Part 8 Third Party Advertising

Definitions

162(1) In this Part,

- (a) “advertising account” means the account on record with the local jurisdiction or the Registrar for the purpose of accepting advertising contributions for election advertising and for the payment of advertising expenses for election advertising;
- (b) “advertising contribution” means, subject to subsection (2),
 - (i) money provided to or for the benefit of a third party, or
 - (ii) real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,

without compensation from that third party, for the purpose of election advertising, whether provided before or after the third party becomes registered under section 163;
- (c) “advertising expense” means an expense incurred in relation to
 - (i) the production of an election advertising message in the format in which the message is to be transmitted, and
 - (ii) the acquisition of the means of transmission to the public of an election advertising message;
- (d) “election advertising” means, subject to subsection (3), the transmission to the public by any means during an election advertising period of an advertising message that promotes or opposes the election of a candidate and for greater certainty does not include
 - (i) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news,
 - (ii) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election,

- (iii) the transmission of a document or the communication directly by a corporation or a group to its members, employees or shareholders, as the case may be,
 - (iv) the transmission by an individual, corporation or group, on a non-commercial basis on the Internet, of the political views of that individual, corporation or group,
 - (v) the making of telephone calls to electors only to encourage them to vote,
 - (vi) advertising by the local jurisdiction in any form, or
 - (vii) the transmission to the public in a local jurisdiction that is not a local jurisdiction for which the advertising message was intended and in which there is no candidate and no vote on a question or bylaw to which the transmission relates;
- (e) “election advertising period” means
- (i) in the case of a general election, the period commencing May 1 in the year in which a general election is held and ending at the end of the election day,
 - (ii) in the case of a by-election, the period commencing on the date the by-election is set by bylaw or resolution and ending at the end of the election day, and
 - (iii) in the case of a vote on a question or bylaw, the period commencing on the date the election is set by bylaw or resolution and ending at the end of the election day;
- (f) “employee organization” means an organization, other than a trade union, that bargains collectively for employees;
- (g) “expenses” means
- (i) amounts paid,
 - (ii) liabilities incurred,
 - (iii) subject to subsection (2)(a), the market value of real property, goods and services that are donated or provided, and
 - (iv) subject to subsection (2)(a), amounts that represent the difference between an amount paid or a liability incurred for real property, goods or services and the market value

of the real property, goods or services, when they are provided at less than their market value;

- (h) “group” means an unincorporated group of individuals or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of individuals, corporations, trade unions or employee organizations;
 - (i) repealed 2020 c22 s24;
 - (j) “prohibited corporation” means a prohibited corporation as defined in the *Election Finances and Contributions Disclosure Act*;
 - (k) “registered third party” means a third party registered under this Part;
 - (k.1) “Registrar” means the Registrar for Third Party Advertising appointed under section 162.1;
 - (l) “third party” means an individual, corporation or group, but does not include a candidate;
 - (m) “trade union” means an organization of employees that has a written constitution, rules or bylaws and has as one of its objects the regulation of relations between employers and employees.
- (2) For the purposes of subsection (1)(b), “services” does not include
- (a) volunteer labour provided by an individual, so long as that individual does not receive from that individual’s employer or any person, compensation or paid time off to volunteer,
 - (b) professional services provided free of charge for work relating to compliance with this Act,
 - (c) services provided free of charge by an individual acting as the chief financial officer of the recipient of the services for work relating to compliance with this Act, or
 - (d) services that a third party provides in support of its own campaign,

but for greater certainty “services” includes services provided by an individual who is self-employed if the services are normally charged for by that individual.

(3) For the purposes of subsection (1)(d), “election advertising” includes

- (a) canvassing for the benefit of a candidate, and
- (b) organizing events where the primary purpose of the event is to promote or oppose a candidate.

(4) In determining the primary purpose of an event under subsection (3)(b), the following factors, in addition to any other relevant information, shall be used:

- (a) whether it is reasonable to conclude that the event was specifically planned to coincide with an election;
- (b) whether the formatting or branding of promotional materials for the event is similar to the formatting, branding or election material used by a candidate;
- (c) the extent to which an election or any candidate is referred to, either directly or indirectly, in promotional materials for the event or at the event;
- (d) whether the event is consistent with previous events held by that third party;
- (e) whether messages conveyed at the event are political messages associated with a candidate.

(5), (6) Repealed 2020 c22 s24.

(7) The Minister may issue guidelines respecting the application of this Part and shall publish any guidelines on the Minister’s department’s website.

2018 c23 s56;2020 c22 s24

Appointment of Registrar

162.1 The Minister may appoint a Registrar for Third Party Advertising for the purposes of this Part.

2020 c22 s25

Registration of third parties

163(1) Subject to subsection (1.3), a third party shall apply for registration in a local jurisdiction under this section

- (a) when it has incurred expenses of at least \$1000 or plans to incur advertising expenses of at least \$1000 for election advertising, or

- (b) when it has accepted advertising contributions of at least \$1000 or plans to accept advertising contributions of at least \$1000.

(1.1) A third party may apply to the Registrar for registration under this section when it is registered in a register referred to in subsection (2) in more than 10 local jurisdictions.

(1.2) When a third party is registered with the Registrar under this section, the registration of that third party with any local jurisdiction is deemed to be cancelled.

(1.3) If a third party is registered with the Registrar, the third party is not required to apply for registration with a local jurisdiction for the purpose of subsection (1).

(2) A local jurisdiction and the Registrar shall maintain a register of third parties who engage in election advertising.

(3) Subject to this section, the local jurisdiction or the Registrar, as applicable, shall register in the appropriate register any third party who is eligible to be registered and who files with the local jurisdiction or the Registrar an application for registration in the prescribed form setting out the following:

- (a) the name and contact information
 - (i) if the third party is an individual, of the individual,
 - (ii) if the third party is a corporation, of the corporation and of the officer who has signing authority for it, and
 - (iii) if the third party is a group, of the group and of the principal officers of the group or, if there are no principal officers, the principal members;
- (b) repealed 2020 c22 s26;
- (c) in the case of a third party who engages or will be engaging in election advertising, the address and telephone number of the place or places in Alberta where records of the third party are maintained and of the place in Alberta to which communications may be addressed;
- (d) repealed 2020 c22 s26;
- (e) the name and contact information of the chief financial officer responsible for the advertising account of the third party;

- (f) the name and address of the financial institution to be used by the third party for its advertising account;
- (g) the names of the signing authorities for the advertising account;
- (h) any additional information required by the local jurisdiction concerning an advertising account.

(4) If the third party has a governing body, the application must include a copy of the resolution passed by the governing body authorizing the third party to incur election advertising expenses.

(5) A local jurisdiction shall not register a third party if

- (a) the name or the abbreviation of the name of the applicant so nearly resembles the name or abbreviation of the name or a nickname of a candidate that is active anywhere in that local jurisdiction, in the local jurisdiction's opinion, that confusion is likely, or
- (b) the proposed name was the name of a registered third party whose registration with the local jurisdiction was cancelled or whose name was changed since the last election.

(5.1) No third party shall apply to the Registrar for registration under a name or the abbreviation of the name that so nearly resembles the name or abbreviation of the name or a nickname of a candidate that is active anywhere in the Province that confusion is likely.

(5.2) The Registrar shall not register a third party if the proposed name was the name of a registered third party whose registration with the Registrar was cancelled or whose name was changed since the last election.

(6) The following are not eligible to be registered in a register referred to in subsection (2)(a):

- (a) a corporation that does not carry on business in Alberta;
- (b) an individual who is not ordinarily resident in Alberta;
- (c) a trade union or employee organization that is not an Alberta trade union or Alberta employee organization;
- (d) a group where any member of the group is ineligible under clause (a), (b) or (c);
- (e) a registered charity;

(f) a prohibited corporation.

(7) A local jurisdiction or the Registrar shall, as soon as possible after receiving an application,

- (a) determine whether the requirements set out in this section are met,
- (b) notify the individuals who signed the application whether the applicant is accepted for registration, and
- (c) in the case of a refusal to register, give reasons for the refusal.

(8) When there is any change in the information required to be provided under this section, the registered third party shall notify any local jurisdiction with which it is registered or, if the third party is registered with the Registrar, the Registrar, in writing within 30 days after the alteration and, subject to section 164, on receipt of the notice a local jurisdiction or the Registrar shall vary the register of third parties accordingly.

(9) A notice under subsection (8) may be sent by fax or e-mail.

2018 c23 s56;2020 c22 s26

Cancellation of registration

164(1) The local jurisdiction or the Registrar, as applicable, may cancel the registration of a registered third party on application by the third party.

(2) If the chief financial officer of a third party fails to file a report under section 180, an election advertising return or a report under section 182, the local jurisdiction or the Registrar, as applicable, may cancel the registration of the third party.

(3) When the registration of a third party is cancelled, all funds in the advertising account must be dealt with in accordance with section 183.

(4) If the registration of a third party is cancelled in accordance with this section, the third party shall

- (a) repealed 2020 c22 s27,
- (b) if the third party received advertising contributions for the purpose of election advertising or incurred election advertising expenses prior to the cancellation, file a report in accordance with section 180 and a return in accordance with section 182 for the general election, by-election or vote on

the question or bylaw to which the advertising contributions or election advertising expenses, as applicable, relate.

2018 c23 s56;2020 c22 s27

Election advertising expense limit

165(1) During an election advertising period, no registered third party shall incur election advertising expenses that exceed, in the aggregate, the amounts determined by the regulations.

(2) A third party shall not circumvent, or attempt to circumvent, a limit set out in this section in any manner, including by splitting itself into 2 or more third parties for the purpose of circumventing a limit or acting in collusion with another third party so that their combined election advertising expenses exceed a limit.

(3) For greater certainty, for the purposes of this section, if election advertising is transmitted during an election advertising period, the expense incurred for that advertising is considered to be an election advertising expense, regardless of when it was incurred.

(4) The chief financial officer of a registered third party shall prepare an election advertising expense limit report for the purposes of a return required to be filed under section 182 relating to third party advertising expenses in relation to election advertising.

2018 c23 s56

Collusion

166(1) A registered third party shall not circumvent, or attempt to circumvent, a contribution limit or an expense limit set out in Part 5.1 or an expense limit set out in this Part by colluding with a candidate.

(2) A candidate shall not collude with a third party to circumvent, or attempt to circumvent, a contribution limit or an expense limit set out in Part 5.1 or an expense limit set out in this Part.

2018 c23 s56

Restrictions on advertising contributions and expenses

167(1) Subject to subsections (3) and (4), no advertising contribution shall be made by an individual, a corporation, a trade union or an employee organization to a third party or used to incur election advertising expenses unless

- (a) the third party to whom the advertising contribution is made is registered under section 163, or
- (b) the third party is not required to be registered under section 163.

(2) No third party required to be registered under section 163 and no individual acting for a third party required to be registered under section 163 shall accept advertising contributions or incur advertising expenses unless the third party is registered under section 163.

(2.1) No individual, corporation, trade union or employee organization shall make advertising contributions to any third party during an election advertising period that exceed, in the aggregate, \$30 000.

(3) The following shall not make an election advertising contribution:

- (a) an individual ordinarily resident outside Alberta;
- (b) a prohibited corporation;
- (c) a trade union or employee organization that is not an Alberta trade union or Alberta employee organization;
- (d) a registered charity;
- (e) a group of which any member of the group is ineligible under clause (a), (b) or (c).

(4) A third party shall not incur election advertising expenses in a total amount of \$1000 or more if the third party is not eligible to be registered under section 163.

(5) No third party shall, directly or indirectly, accept an election advertising contribution if the third party knows or ought to know that the contribution is made by an individual, organization or group referred to in subsection (3).

(6) If the chief financial officer of a third party learns that an advertising contribution was accepted in contravention of this section, the chief financial officer shall, within 30 days after learning of the contravention,

- (a) if the third party is registered with a local jurisdiction, advise the local jurisdiction in writing of the fact and circumstances and return the contribution in accordance with the directions of the local jurisdiction, or
- (b) if the third party is registered with the Registrar, advise the Registrar in writing of the fact and circumstances and return the contribution in accordance with the directions of the Registrar.

2018 c23 s56;2020 c22 s28;2020 c38 s3

Payments made by third party

168 Any money paid by a third party from its own funds for election advertising is an advertising contribution of the third party for the purposes of this Part.

2018 c23 s56;2020 c22 s29

Deposit of advertising contributions

169(1) Advertising contributions for election advertising accepted by or on behalf of a registered third party shall be paid into the appropriate advertising account.

(2) When any advertising contribution, other than money, accepted by or on behalf of a registered third party is converted at any time into money, that amount shall be paid into the appropriate advertising account.

2018 c23 s56;2020 c22 s30

Additional rules for groups

170 The following rules apply where a group wishes to make an advertising contribution to a third party or wishes to use funds collected to pay for advertising expenses:

- (a) an advertising contribution from funds collected from a group's members may be attributed to its members only if
 - (i) the amounts paid by its members were made on a voluntary basis,
 - (ii) it was made explicit that the amounts being collected were for election advertising, and
 - (iii) the names of the members who made the payments, and the amounts they each paid, are recorded by the group and, if applicable, provided to the third party;
- (b) a group other than a trade union or employee organization may make advertising contributions only from funds collected from its members in accordance with clause (a);
- (c) advertising contributions by a trade union or employee organization from funds collected from its members but not in accordance with clause (a) are deemed to be advertising contributions of the trade union or employee organization and cannot be attributed to its members;
- (d) amounts making up advertising contributions that are attributed to members under clause (a) are advertising contributions of those members for the purposes of this Part.

2018 c23 s56;2020 c22 s31

Valuing contributions other than money

171(1) The value of advertising contributions, other than money, provided to a third party is the market value of the advertising contributions at that time.

(2) If any real property, goods or services or the use of real property, goods or services is provided to a third party for a price that is less than the market value at that time, the amount by which the value exceeds the price is an advertising contribution for the purposes of this Part.

2018 c23 s56

Fund-raising functions

172(1) In this section, “fund-raising function” includes any social function held for the purpose of raising funds for a third party required to be registered under section 163 by whom or on whose behalf the function is held.

(2) The gross income from any fund-raising function must be recorded by the chief financial officer of the third party that held the function or on whose behalf the function was held.

(3) If a fund-raising function is held by the sale of tickets by or on behalf of a third party, the amount of the advertising contribution is to be determined under clause (a) or under clause (b), at the option of the third party:

- (a) if the individual charge
 - (i) is \$50 or less, it is not considered to be an advertising contribution unless the individual who pays the charge specifically requests that it be so considered, in which case 1/2 of the amount is allowed for expenses and 1/2 is considered to be an advertising contribution,
 - (ii) is more than \$50 but not more than \$100, \$25 is allowed for expenses and the balance is considered to be an advertising contribution, and
 - (iii) is more than \$100, 25% of the amount is allowed for expenses and the balance is considered to be an advertising contribution;
- (b) the amount of the advertising contribution is the difference between the price of the ticket and the market value of what the ticket entitles the bearer to obtain.

(4) The price paid by an individual at a fund-raising function in excess of the market value at that time for goods or services

received is considered to be an advertising contribution to the third party.

(5) This section does not apply to a fund-raising function for purposes unrelated to election advertising.

2018 c23 s56;2020 c22 s32

Advertising contributions less than \$50

173(1) When, at a meeting held on behalf of or in relation to the affairs of a third party, money is given in response to a general collection of money solicited from the individuals in attendance at the meeting, individual amounts given of \$50 or less shall not be considered to be advertising contributions, but the chief financial officer of the third party shall record the aggregate amount received.

(2) Subsection (1) does not apply to funds raised for or on behalf of a third party for purposes unrelated to election advertising.

2018 c23 s56;2020 c22 s33

Loans

174(1) A third party

- (a) may borrow money only from a financial institution, and
- (b) shall record all loans and their terms and shall report accordingly to,
 - (i) if the third party is registered with a local jurisdiction, the local jurisdiction, or
 - (ii) if the third party is registered with the Registrar, the Registrar.

(2) Any payment in respect of a loan to which subsection (1) applies is considered an advertising contribution by the individual, corporation or group that made the payment unless that individual, corporation or group is reimbursed by the borrower prior to the filing by the borrower of the applicable advertising report or return next required to be filed pursuant to section 182.

(3) This section does not apply to the borrowing of money by a third party for purposes unrelated to election advertising.

2018 c23 s56;2020 c22 s34

Anonymous contributions and unauthorized contributions

175(1) Any anonymous advertising contribution in excess of \$50 and any advertising contribution or portion of a contribution made

in contravention of this Part accepted by a registered third party must not be used or expended, and the registered third party

- (a) shall return the advertising contribution or the portion, as the case may be, to the contributor if the contributor's identity can be established, or
- (b) if the contributor's identity cannot be established, shall pay an amount equivalent to the advertising contribution to,
 - (i) if the third party is registered with a local jurisdiction, the local jurisdiction, or
 - (ii) if the third party is registered with the Registrar, the Registrar.

(2) Any amounts received by a local jurisdiction under subsection (1)(b)(i) must be paid into the local jurisdiction's general revenue.

(3) Any amounts received by the Registrar under subsection (1)(b)(ii) must be paid into the General Revenue Fund.

2018 c23 s56;2020 c22 s35

Contributions not belonging to contributor

176(1) No individual, corporation, group, trade union or employee organization shall contribute to any third party that is registered or is required to be registered under section 163 funds not actually belonging to that individual, corporation, group, trade union or employee organization, or any funds that have been given or furnished to the individual, corporation, group, trade union or employee organization by any group or by a corporation, trade union or employee organization for the purpose of making an advertising contribution of those funds to the third party that is registered or is required to be registered under section 163.

(2) No third party that is registered or is required to be registered under section 163 and no individual on its behalf shall solicit or accept any advertising contribution if the third party or individual knows or ought to know that the contribution is contrary to subsection (1).

(3) If the chief financial officer learns that an advertising contribution received by or on behalf of the third party that is registered or is required to be registered for whom the chief financial officer acts was made contrary to subsection (1), the chief financial officer shall, within 30 days after learning of it,

- (a) if the third party is registered with a local jurisdiction, advise the local jurisdiction in writing of the fact and

circumstances and return the advertising contribution in accordance with the directions of the local jurisdiction, or

- (b) if the third party is registered with the Registrar, advise the Registrar in writing of the fact and circumstances and return the advertising contribution in accordance with the directions of the Registrar.

2018 c23 s56;2020 c22 s36

Receipts

177 A third party shall issue receipts for every advertising contribution accepted by the third party in the form and manner approved by,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is registered with the Registrar, the Registrar.

2018 c23 s56;2020 c22 s37

Third party advertising expenses

178(1) All election advertising expenses must be paid from the third party's advertising account.

(2) Every registered third party shall appoint a chief financial officer.

(3) Every election advertising expense that is incurred by or on behalf of a registered third party must be authorized by its chief financial officer.

(4) No advertising contribution shall be accepted by a registered third party otherwise than through the third party's chief financial officer.

(5) The chief financial officer may delegate a function described in subsection (3) or (4) to another individual, but the delegation does not limit the chief financial officer's responsibility.

(6) Subject to the requirements of this Part, a registered third party that operates an advertising account may transfer amounts from its election advertising account to the election advertising accounts of other registered third parties and any amounts transferred shall not be considered as advertising contributions for the purposes of this Part, but must be recorded as to source and amount.

(7) Repealed 2020 c22 s38.

(8) All election advertising expenses paid for by a third party from its advertising account must be recorded in its advertising report.

2018 c23 s56;2020 c22 s38

Identification of third parties

179(1) A third party, or an individual acting on a third party's behalf, must ensure that election advertising sponsored by the third party complies with the following in accordance with the guidelines of the Minister:

- (a) the election advertising must include the third party's name and contact information and must indicate whether the third party authorizes the election advertising;
- (b) subject to clause (c), in the case of election advertising that is broadcast or is made through electronic media, the information referred to in clause (a) must be stated at the beginning of the election advertising;
- (c) in the case of election advertising transmitted to a telephone, whether in the form of a live call or an automated pre-recorded call,
 - (i) the telephone number of the third party must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed,
 - (ii) the name of the third party must be stated at the beginning of the election advertising,
 - (iii) the election advertising must state whether the third party authorizes the election advertising, and
 - (iv) the telephone number of the third party at which the third party can be contacted must be stated at the end of the election advertising.

(2) The Minister shall establish guidelines respecting the requirements referred to in subsection (1).

(3) The guidelines established under subsection (2) must be published on the Minister's department's website.

(4) If election advertising is not in compliance with this section,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction may cause it to be removed or discontinued, or

- (b) if the third party is registered with the Registrar, the Registrar may cause it to be removed or discontinued.

(5) In the case of election advertising displayed on a sign, poster or other similar format, no person acting on behalf of the local jurisdiction or the Registrar in accordance with this section is liable for trespass or damage resulting from or occasioned by the removal of that election advertising.

2018 c23 s56;2020 c22 s39

Disclosure of contributions for election advertising

180(1) This section applies only to advertising contributions provided for the purpose of election advertising.

(2) In addition to the report referred to in section 182, every registered third party who engages in election advertising shall file a report about advertising contributions received during the election advertising period, in the prescribed form, on or before March 1 in the year following a general election or, in the case of a by-election or a vote on a question or bylaw, within 120 days after the by-election or the vote on the question or bylaw, with,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is registered with the Registrar, the Registrar.

(3) A report referred to in subsection (2) must set out

- (a) the total amount of all advertising contributions received during the election advertising period that did not exceed \$250 in the aggregate from any single contributor, and
- (b) for each contributor who made advertising contributions during the election advertising period totalling more than \$250, the total amount contributed, together with the contributor's name and address and the amount and date of each advertising contribution.

2018 c23 s56;2020 c22 s40

181 Repealed 2020 c22 s41.

Third party election advertising return

182(1) Subject to subsection (2), on or before March 1 in the year after a general election, or, in the case of a by-election or a vote on a question or bylaw, within 120 days after the by-election or the vote on the question or bylaw, the chief financial officer of a third

party who is registered under section 163 shall file a third party election advertising return with,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is registered with the Registrar, the Registrar.

(1.1) A third party election advertising return must include

- (a) a financial statement,
- (b) a list of all advertising contributions received during the election advertising period,
- (c) an election advertising expense limit report referred to in section 165(4),
- (d) the time and place of broadcast or publication of the advertisements to which the election advertising expenses relate, and
- (e) any supporting information and documents relating to the election advertising return.

(2) If a registered third party has not incurred election advertising expenses, that fact shall be indicated in its election advertising return.

(3) For the purposes of subsection (1.1)(b), the list of contributions received shall set out, for each contributor who made election advertising contributions totalling more than \$250, the contributor's name and address and the amount and date of each advertising contribution.

(4) A chief financial officer shall provide the original of any bill, voucher or receipt for an election advertising expense of more than \$50 at the request of,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is registered with the Registrar, the Registrar.

(5) The Minister may issue guidelines relating to the preparation and contents of the election advertising return referred to in this section and shall publish any guidelines on the Minister's department's website.

2018 c23 s56;2020 c22 s42

Disposition of advertising account funds

183(1) Subject to subsection (2), any funds held by a registered third party in its election advertising account with respect to an election advertising period shall continue to be held in the election advertising account to be expended for election advertising during a subsequent election advertising period.

(2) If a registered third party decides not to expend funds for election advertising during the next election advertising period for a general election or does not engage in election advertising during the next election advertising period for a general election, the registered third party shall, within 6 months after that period, deal with the funds remaining in the election advertising account in accordance with subsection (4).

(3) Repealed 2020 c22 s43.

(4) Funds remaining in the advertising account referred to in subsection (2) must be dealt with in one or more of the following ways:

- (a) by transferring the funds in accordance with section 178;
- (b) by donating the funds to a registered charity;
- (c) by returning the funds to the third party's contributors if they can be identified;
- (d) if the funds or any portion of the funds cannot be dealt with in accordance with clauses (a) to (c), by paying the funds or that portion of the funds, as the case may be,
 - (i) if the third party is registered with a local jurisdiction, to the local jurisdiction to become the property of the local jurisdiction, or
 - (ii) if the third party is registered with the Registrar, to the Registrar to be transferred to the General Revenue Fund.

(5) A registered third party to which subsection (2) applies shall notify the local jurisdiction or the Registrar, as applicable, of its decisions under this section and shall apply to the local jurisdiction or the Registrar under section 164 to cancel its registration.

(6) The chief financial officer of a registered third party that has not dealt with the funds remaining in the advertising account referred to in subsection (2) shall, until such time as the funds have been disposed of completely, file an election advertising return on or before March 1 of each year with,

- (a) if the third party is registered with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is registered with the Registrar, the Registrar.

2018 c23 s56;2020 c22 s43

Late filing fee

184(1) In this section, “filing deadline” means the day by which a report and return under this Part are required to be filed with a local jurisdiction or the Registrar.

(2) A third party that is required to file a report and return under this Part and fails to file that report or return by the filing deadline must pay a late filing fee of \$500 to,

- (a) if the third party is required to file a report and return with a local jurisdiction, the local jurisdiction, or
- (b) if the third party is required to file a report and return with the Registrar, the Registrar.

(3) A local jurisdiction or the Registrar, as applicable, shall not cancel the registration of the third party under section 164(2) if the report or return is filed no later than 30 days after the filing deadline.

(4) The third party and the chief financial officer of the third party are jointly and severally liable for payment of the fee referred to in subsection (2).

(5) If the late filing fee is not paid within 30 days after the date the fee was payable, a local jurisdiction or the Registrar, as applicable, shall send a notice to the third party and the chief financial officer referred to in subsection (4) indicating the amount of the late filing fee that is required to be paid.

(6) If the third party and the chief financial officer who are sent notices by a local jurisdiction or the Registrar under subsection (5) fail to pay the late filing fee set out in the notice, the local jurisdiction or the Registrar, as applicable, may file a copy of the notice with the clerk of the Court of King’s Bench, and on being

filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

2018 c23 s56;2020 c22 s44;AR 217/2022

Records

185 A registered third party shall retain all of the records of that registered third party for a period of 3 years following the date on which the financial statements, returns or reports required under this Act for the period to which the records relate are required to be filed.

2018 c23 s56

Prosecution

186 A prosecution under this Part may be commenced within 3 years of the commission of the alleged offence but not afterwards.

2018 c23 s56

Third party election advertising offences

187 A third party that contravenes a provision of this Part is guilty of an offence and liable to a fine not exceeding

- (a) \$10 000 if the third party is an individual;
- (b) \$100 000 if the third party is a trade union, employee organization, corporation or other organization.

2018 c23 s56

Regulations

188 The Minister may make regulations determining election advertising expense limits for the purpose of section 165.

2018 c23 s56

Transitional — political advertising

188.1(1) In this section,

- (a) “political advertising” means political advertising as defined in section 162 of the *Local Authorities Election Act* as it read on August 31, 2020;
- (b) “political advertising account” means the account on record with the local jurisdiction for the purpose of accepting advertising contributions for political advertising and for the payment of advertising expenses for political advertising on September 1, 2020.

(2) Subject to the requirements of this Part, a registered third party that operates a political advertising account shall, no later than May 1, 2021, deal with any funds remaining in that account in one or more of the following ways:

- (a) by donating the funds to a registered charity;
- (b) by returning the funds to the third party's contributors if they can be identified;
- (c) if the funds or any portion of the funds cannot be dealt with in accordance with clause (a) or (b), by paying the funds or that portion of the funds, as the case may be, to the local jurisdiction with which the registered party is registered to become the property of the local jurisdiction.

2020 c22 s45

189 Repealed 2020 c22 s46.

Part 9 Election Commissioner

Interpretation

190(1) In this Part, "Election Commissioner" means the Election Commissioner as defined in the *Election Act*.

(2) The definitions in Parts 5.1 and 8 apply to this Part.

2018 c23 s56;2019 c15 s27

Duties and powers of the Election Commissioner

191(1) The Election Commissioner may, on the Election Commissioner's own initiative or at the request of another person or organization, conduct an investigation into any matter that might constitute an offence under Part 5.1 or 8.

(2) For the purpose of conducting an investigation under this Act, the Election Commissioner has all the powers of a commissioner under the *Public Inquiries Act* as though the investigation were an inquiry under that Act.

(3) For the purpose of conducting an investigation under this Act, a representative of the Election Commissioner, on production of the representative's authorization from the Election Commissioner, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a candidate or third party relevant to the subject-matter of the investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.

(4) Before entering a private dwelling or a part of premises used as a private dwelling to carry out the powers described in subsection (3), a representative of the Election Commissioner shall

- (a) obtain the consent of the occupant or the legal representative of the occupant of the private dwelling or the part of the premises used as a private dwelling, or
- (b) obtain an order from the Court.

(5) A candidate or third party shall, within 30 days after receiving a written request from the Election Commissioner or within an extended period that the Election Commissioner may determine, provide any information with respect to the affairs of the candidate or third party that is reasonably required by the Election Commissioner in the course of the Election Commissioner's duties under this Act.

2018 c23 s56

Notice of investigation and conclusion

192(1) At any time before completing an investigation referred to in section 191(1), the Election Commissioner shall notify any person or organization who is the subject of an investigation that the person or organization is being investigated and the nature of the matter being investigated before completing the investigation, unless the Election Commissioner believes that notification would compromise or impede the investigation.

(2) The Election Commissioner may refuse to conduct an investigation, or may cease an investigation, if the Election Commissioner believes that

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

(3) The Election Commissioner shall not make an adverse finding against a person or organization unless that person or organization has had reasonable notice of the substance of the allegations and a reasonable opportunity to present his or her or its views.

(4) If the Election Commissioner refuses to conduct or ceases an investigation under subsection (2) or determines that no offence was committed, the Election Commissioner

- (a) shall provide notice of that decision to
 - (i) every person or organization who
 - (A) is the subject of the investigation, or

(B) would have been the subject of an investigation if the Election Commissioner had not refused to conduct an investigation,

and

(ii) every person or organization who requested an investigation, if any,

and

(b) may, as the Election Commissioner considers to be appropriate, provide notice of that decision to any other person or organization involved in the matter referred to in section 191(1).

2018 c23 s56

Administrative penalties

193(1) In subsections (2) and (3) and section 195, “individual or entity” means the individual, corporation, trade union, employee organization, prohibited organization, prohibited corporation, local jurisdiction or third party, as the case may be, on whom a notice of administrative penalty or letter of reprimand is served under this section.

(2) If the Election Commissioner is of the opinion that

- (a) an individual has made one or more contributions in excess of a limit prescribed by section 147.2(3),
- (b) a prohibited individual or entity has made a contribution in contravention of section 147.2(1) or (2),
- (c) an individual or a third party fails to comply with a direction of the Election Commissioner,
- (c.1) an individual, a corporation, a trade union or an employee organization has made one or more advertising contributions in excess of the limit referred to in section 167(2.1),
- (d) a prohibited corporation, an individual ordinarily resident outside Alberta or a trade union or employee organization that is not an Alberta trade union or Alberta employee organization has made an election advertising contribution in contravention of section 167(3), or
- (e) an individual, a prohibited individual or entity or a third party has contravened a provision of Part 5.1 or 8, otherwise than as referred to in clause (a), (b) or (d),

the Election Commissioner may serve on the individual or entity either a notice of administrative penalty requiring the individual or entity to pay to the Crown the amount set out in the notice, or a letter of reprimand.

(3) A notice of administrative penalty must contain the following information:

- (a) the name of the individual or entity required to pay the administrative penalty;
- (b) the particulars of the contravention;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal the imposition or the amount of the administrative penalty to the Court of King's Bench.

(4) In determining the amount of an administrative penalty required to be paid or whether a letter of reprimand is to be issued, the Election Commissioner must take into account the following factors:

- (a) the severity of the contravention;
- (b) the degree of wilfulness or negligence in the contravention;
- (c) whether or not there were any mitigating factors relating to the contravention;
- (d) whether or not steps have been taken to prevent reoccurrence of the contravention;
- (e) whether or not the individual or entity has a history of non-compliance;
- (f) whether or not the individual or entity reported the contravention on discovery of the contravention;
- (g) any other factors that, in the opinion of the Election Commissioner, are relevant.

(5) The amount of an administrative penalty that may be imposed under subsection (2) must not exceed

- (a) in the case of a contravention referred to in subsection (2)(a) or (c.1), twice the amount by which the contribution or contributions exceed the limit prescribed by section

147.2(3) and in no case may the amount of the administrative penalty exceed \$10 000 for each contravention,

- (b) in the case of a contravention of section 147.2(1) or (2) or 167(3), twice the amount that was contributed in contravention of that provision, and in no case may the amount of the administrative penalty exceed \$10 000 for each contravention,
 - (c) in the case of a contravention referred to in section 147.4, \$1000,
 - (d) in the case of a contravention referred to in section 187,
 - (i) \$10 000 if the third party is an individual, and
 - (ii) \$100 000, if the third party is a trade union, employee organization, corporation or other organization,
- and
- (e) in the case of any other contravention, \$10 000.

(6) An individual or entity who pays an administrative penalty in respect of a contravention shall not be charged under this Act with an offence in respect of the same contravention that is described in the notice of administrative penalty.

(7) An individual or entity who has been served with a notice of administrative penalty shall pay the amount of the administrative penalty within 30 days from the date of service of the notice.

(8) Subject to the right to appeal, where an individual or entity fails to pay the administrative penalty in accordance with a notice of administrative penalty, the Election Commissioner may file a copy of the notice of administrative penalty with the clerk of the Court of King's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

2018 c23 s56;2020 c38 s4;AR 217/2022

Time limit

194(1) A letter of reprimand or a notice of administrative penalty may not be served more than 3 years after the date on which the alleged contravention occurs.

(2) A disclosure under section 203(3)(a) may be made with respect to an alleged contravention that occurred before the coming into force of this section, but may not be made with respect to an

alleged contravention that occurred more than 3 years before the coming into force of this section.

2018 c23 s56

Appeal of administrative penalty

195(1) An individual or entity who is served with a notice of administrative penalty under section 193 may appeal the Election Commissioner's decision by filing an application with the Court of King's Bench within 30 days from the date the notice was served.

(2) The application must be accompanied with a copy of the notice of administrative penalty and state the reasons for the appeal.

(3) A copy of the application must be served on the Election Commissioner not less than 30 days before the appeal is to be heard.

(4) The Court of King's Bench may, on application either before or after the time referred to in subsection (1), extend that time if it considers it appropriate to do so.

(5) On hearing the appeal, the Court of King's Bench may confirm, rescind or vary the amount of the administrative penalty.

2018 c23 s56;AR 217/2022

Compliance agreements

196(1) In this Part, "contracting party" means an individual or a local jurisdiction with whom the Election Commissioner enters into a compliance agreement under this Act.

(2) If the Election Commissioner believes on reasonable grounds that an individual or a local jurisdiction has committed, is about to commit or is likely to commit an act or omission that could constitute a contravention of Part 5.1 or 8, the Election Commissioner may enter into a compliance agreement with that individual or local jurisdiction for the purpose of ensuring compliance with Part 5.1 or 8.

(3) A compliance agreement may contain any terms and conditions that the Election Commissioner considers necessary to ensure compliance with Part 5.1 or 8.

(4) Before entering into a compliance agreement, the Election Commissioner shall require the consent of the prospective contracting party to the publication of a notice under section 199.

(5) A compliance agreement may include a statement by the contracting party that the contracting party admits responsibility for the act or omission that constitutes a contravention of Part 5.1 or 8.

(6) The fact that a compliance agreement was entered into, and any statement referred to in subsection (5), is not admissible in evidence against the contracting party in any civil or criminal proceedings.

(7) When a compliance agreement is entered into, a prosecution of the contracting party for an act or omission that led to the agreement shall not be instituted and any prosecution already instituted is suspended.

(8) The Election Commissioner and the contracting party may renegotiate the terms of the compliance agreement at the request of the Election Commissioner or contracting party at any time before it is fully executed.

2018 c23 s56

Notice of compliance agreement

197(1) When, in the opinion of the Election Commissioner, the compliance agreement has been complied with, the Election Commissioner shall give a notice to that effect to the contracting party.

(2) On the giving of a notice under subsection (1), any prosecution of the contracting party that is based on the act or omission in question terminates and no further prosecution shall be instituted based on that act or omission.

2018 c23 s56

Failure to comply

198 If the Election Commissioner is of the opinion that a contracting party

- (a) failed to disclose all material facts when the compliance agreement was entered into, or
- (b) has failed to comply with a term of the compliance agreement,

the Election Commissioner shall give notice of the failure to the contracting party, informing the contracting party that the Election Commissioner may serve a notice of administrative penalty or a letter of reprimand under section 193, or may consent to a prosecution in respect of the original act or omission or, if a prosecution has been suspended by section 196(7), that those proceedings are no longer suspended.

2018 c23 s56

Publication of notice

199 The Chief Electoral Officer may publish a notice on the Chief Electoral Officer's website that sets out the contracting party's name, the act or omission in question and a summary of the compliance agreement.

2018 c23 s56;2019 c15 s27

Application for injunction

200(1) If the Election Commissioner has reasonable grounds to believe that a person has committed or is likely to commit an act or omission that is contrary to Part 5.1 or 8, the Election Commissioner may, during a campaign period or an election advertising period, after taking into account the nature and seriousness of the act or omission, the need to ensure fairness of the electoral process and the public interest, apply by originating application to the Court for an injunction described in subsection (2).

(2) If the Court, on application by the Election Commissioner under subsection (1), is satisfied that there are reasonable grounds to believe that a person has committed or is likely to commit an act or omission that is contrary to this Act, and that the nature and seriousness of the act or omission, the need to ensure fairness of the electoral process and the public interest justify the issuing of an injunction, the Court may issue an injunction ordering any person named in the application to do one or both of the following:

- (a) refrain from committing any act that appears to the Court to be contrary to Part 5.1 or 8;
- (b) do any act that appears to the Court to be required by Part 5.1 or 8.

(3) No injunction may be issued under subsection (2) unless at least 48 hours' notice is given to each person named in the application, or the urgency of the situation is such that service of notice would not be in the public interest.

2018 c23 s56

Election Commissioner's orders

201(1) Where a contribution or an advertising contribution has been made or accepted in contravention of this Act, the Election Commissioner may order that the amount of the contribution or advertising contribution that was made or accepted in contravention of this Act be returned to the contributor by a date determined by the Election Commissioner.

(2) If it cannot be determined who made the contribution or advertising contribution that was made or accepted in

contravention of this Act, the amount ordered under subsection (1) must be paid to the local jurisdiction or, if the contribution was made to or accepted by a third party that is registered with the Registrar, to the Registrar.

(3) A person who fails to comply with an order of the Election Commissioner made under this section is guilty of an offence and liable to a fine of not more than \$5000.

2018 c23 s56:2020 c22 s47

Notice of prosecution

202 No prosecution shall be instituted under Part 5.1 or 8 without the consent of

- (a) the Election Commissioner before the coming into force of section 153.093(1) of the *Election Act*, or
- (b) the Chief Electoral Officer under the *Election Act* after the coming into force of section 153.093(1) of that Act.

2018 c23 s56:2019 c15 s27

Disclosure

203(1) Except as provided in subsection (2), a secretary of a local jurisdiction, a returning officer, the Registrar, the Election Commissioner, any former secretary of a local jurisdiction, any former returning officer, any former Registrar, any former Election Commissioner, every person who is or was employed or engaged by a local jurisdiction, a returning officer or the Registrar to carry out the duties of the local jurisdiction, returning officer or Registrar and every person who was employed or engaged by the Office of the Election Commissioner to carry out the duties of the Election Commissioner shall maintain the confidentiality of all information, complaints and allegations that come to their knowledge.

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

- (a) disclosed by a local jurisdiction, a returning officer or the Registrar to the Election Commissioner for the purpose of carrying out the Election Commissioner's powers, duties and functions under this Act,
- (b) disclosed by the Election Commissioner to a local jurisdiction, a returning officer or the Registrar for the purposes of carrying out the local jurisdiction's, returning officer's or Registrar's powers, duties and functions under this Act,

- (c) disclosed to the person or organization whose conduct is the subject of proceedings under this Act,
- (d) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person,
- (e) disclosed in the course of an application to the Court under this Act,
- (f) adduced in evidence at an inquiry, or
- (g) disclosed where the Election Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice or a law enforcement agency of an alleged offence under this Act, any other enactment of Alberta, an Act or regulation of Canada or a municipal bylaw or school board bylaw.

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

- (a) subject to section 194(2), if an administrative penalty is imposed or a letter of reprimand is issued under section 193;
- (b) if the Election Commissioner has provided notice under section 192(4) and receives a written request for disclosure from a person or organization who received the notice.

2018 c23 s56;2019 c15 s27;2020 c22 s48;2022 c21 s52

Duty to provide documents or information

204(1) On the request of the Election Commissioner, a local jurisdiction, a returning officer or the Registrar shall disclose to the Election Commissioner any document or information that the local jurisdiction, returning officer or Registrar obtained under this Act that the Election Commissioner considers necessary for the purposes of carrying out his or her powers, duties and functions under this Act.

(2) On the request of a local jurisdiction, a returning officer or the Registrar, the Election Commissioner shall disclose to the local jurisdiction, returning officer or Registrar any document or information that the Election Commissioner obtained under this Act that the local jurisdiction, returning officer or Registrar considers necessary for the purposes of carrying out his or her powers, duties and functions under this Act, unless the Election

Commissioner believes that notification would compromise or impede an investigation.

2018 c23 s56;2020 c22 s49

**Duty to refer complaints and allegations
and to report acts or omissions**

205 A local jurisdiction, a returning officer or the Registrar shall, within a reasonable time,

- (a) refer any complaint or allegation received by the local jurisdiction, returning officer or Registrar under Part 5.1 or 8 to the Election Commissioner, and
- (b) report any act or omission that in the local jurisdiction's, returning officer's or Registrar's opinion likely constitutes an offence under Part 5.1 or 8 to the Election Commissioner.

2018 c23 s56;2020 c22 s50



Printed on Recycled Paper 