

SAWRIDGE FIRST NATION

ELECTIONS ACT AMENDMENT ACT

Tabled for First Reading: November 17, 2012

First Reading: November 17, 2012

Second Reading: September 14, 2013

Third Reading: October 26, 2013

CAME INTO FORCE OCTOBER 26, 2013

SAWRIDGE FIRST NATION

ELECTIONS ACT AMENDMENT ACT

The Sawridge General Assembly enacts as follows:

Title

1. This Act may be cited as the *Elections Act Amendment Act*.

Primary Residence Definition

2. Subsection 2(2) of the *Elections Act* is amended by inserting between the definitions of "Membership Registrar" and "scrutineer" the following:

"primary residence" means the place which at the time of determination in respect of a person has been for a period of at least six months the principal place of his or her true, fixed and permanent home and place of habitation whereto, when absent or away therefrom, not including absences for normal vacations, temporary work assignments, study or training, always without intention to establish a domicile at some other place, he or she intends to return;

Good Standing Definition

3. Subsection 2(2) of the *Elections Act* is amended by inserting at the end of the definition of "in good standing" the following:

Where no payment terms are specified in a loan, the loan is due upon demand. A payment on a demand loan is not due until demanded.

Preparation of Electors List

4. Subsection 16(1) of the *Elections Act* is amended by
 - (a) replacing the word "seven" with "two"
 - (b) inserting the words "declared Primary Residence" after the words "birth date" and after the words "date of birth";
 - (c) replacing the word "Electors," with "members who will be Electors on the day of the Election".

Notification of Lists

5. Section 17 of the *Elections Act* is amended as follows:
 - (a) In Subsection 17(1) the number “70” is replaced with the number “75”.
 - (b) Subsection 17(2) of the *Elections Act* is deleted and replaced with the following:
 - (2) Not less than 75 days prior to the Election Day, the Electoral Officer shall mail to each Elector a copy of both Sub-Lists.

Access to Lists

6. Section 17 of the *Elections Act* is amended by inserting the following after subsection (3):
 - (4) The Electoral Officer must show the Public List and Sub-Lists to any Elector who asks to see the sub-lists.

Application to Correct Sub-Lists

7. Section 18 of the *Elections Act* is deleted and replaced with the following:

Application to correct the Sub-Lists

18. At any time prior to the 25th day prior to the day set for the nomination meeting, any person whose name is on the Electoral List considers his/her name is on the wrong Sub-List, or any Elector who believes that another person’s name is on the wrong Sub-List, may request the Electoral Officer to correct the Sub-Lists by giving to the Electoral Officer a statutory declaration setting out the basis of the correction requested, and any facts or evidence in support of the correction requested.

Correction of Sub-Lists

8. The *Elections Act* is amended by inserting the following after section 18:

Correcting the Sub-Lists

18.1 (1) If the Electoral Officer decides that the information provided in the statutory declaration is sufficient evidence, if unrefuted, that the elector’s name should be moved from one list to another, the Electoral Officer shall make reasonable efforts to notify all electors that based on the information received, he or she is considering changing the list on which that elector’s name appears and offer all electors the opportunity to show cause as to why that elector’s name should not be moved from one list to the other.

(2) If any elector wishes to show cause as to why the change should not be made, they may at any time prior to 11 days prior to the date set for the nomination meeting provide the Electoral Officer with a statutory declaration containing evidence and the Electoral Officer shall consider the evidence and make a determination as to which list the elector's name shall appear on and notify all Electors.

(3) The Electoral Officer may ask the Elders Commission any question with regard to a dispute as to whether a correction, omission, or addition should be made with respect to the Electoral Lists, and shall consider the counsel, opinion, or recommendation of the Elders Commission before making a decision.

(4) When considering a request to move an Elector's name from one Sub-List to another Sub-List in a situation where the Elector has more than one Residence, the Electoral Officer and the Elders' Commission may consider the following in relation to each residence:

- i. An Elector may have only one Primary Residence at any point in time;
- ii. The location around which the Elector's life is focussed;
- iii. The location of the Elector's usual place of employment or education;
- iv. The location where the Elector spends the most time;
- v. The location which the Elector represents to be the Elector's Residence;
- vi. Whether people other than the immediate family of the Elector reside in the residence;
- vii. Whether other members of the Elector's immediate family reside in the residence;
- viii. Whether the residence is owned or rented, and if rented or leased, the duration of the lease (daily, weekly, monthly, or annual) and the term of the lease (whether it is fixed or indefinite);
- ix. The Elector's social, religious, business, and financial connections to the location of the residence;
- x. The location where the majority of the Elector's clothes and personal belongings are located;
- xi. Regularity and length of stays in a Residence; and
- xii. The center of the Elector's vital interests;

(5) The Electoral Officer shall make a decision with respect to any appeal received no less than 7 days prior to the date set for the nomination meeting.

Appeal of Electoral Officer's decision

18.2 If any elector wishes to appeal the decision of the Electoral Officer, the matter shall be referred to the Elders Commission no less than 4 days prior to the date set for the nomination meeting which shall decide whether it wishes to hear the appeal, and if not, the Electoral Officer's decision is final. If the Elders Commission decides to hear the appeal, it shall hear the evidence of the electors who have filed statutory declarations, the elector in question, and the Electoral Officer as to the reasons for his or her decision, and after which, shall decide on which list the name of the Elector in question shall appear. The decision of the Elders Commission must be provided to the Electoral Officer prior to the date set for the nomination meeting.

18.3 After the commencement of the nomination meeting the names which appear on the Electoral List may not be changed and the names which appear on a Sub-List may not be removed from that Sub-List and placed on the other Sub-List.

Application to Correct Electors Lists

9. Subsection 19 of the *Elections Act* is deleted and replaced with the following:

No Delay in Nomination Meeting or Election

19. Notwithstanding any other section of this Act, no question with respect to the names on the Electoral List or a Sub-List shall cause a delay in the date set for either the Nomination Meeting or the Election or the holding of the Nomination Meeting or the Election.

Correcting the Electors Lists

10. Section 20 of the *Elections Act* is deleted and replaced with the following:

Correcting the Electors Lists

20. (1) The Electoral Officer shall revise the Electors Lists where it is demonstrated to the Electoral Officer's satisfaction prior to the commencement of the Nomination Meeting that

- (a) the name of an Elector has been omitted from the Electors List;
- (b) the name or birth date of an elector is incorrectly set out in the Electors List;
- (c) the name of a person who is not qualified to vote is included in the Electors List.

(2) For any change made, the Electoral Officer shall give written notice of the correction to any affected person and to any person who provided information which led to the correction.

(3) The Electoral Officer may ask the Elders Commission any question with regard to a dispute as to whether a correction, omission, or addition should be made with respect to the Electoral Lists, and shall consider the counsel, opinion, or recommendation of the Elders Commission before making a decision.

(4) Where a name is added to or deleted from the Electoral List, the Electoral Officer shall make a corresponding change to the appropriate Sub-List.

Request for Reconsideration of Electoral Officer's Decision

11. Sub-Section 21(1)(e) of the *Elections Act* is deleted.

Declaration of Residency

12. Subsection 23 is amended by replacing the period at the end of subsection (2) with a semicolon and inserting the following after subsection (2):

- (3) providing the Membership Registrar with a Declaration of his or her Primary Residence within 120 days of the enactment of this provision or within 120 days of becoming an Elector thereafter, and thereafter within 60 days of any change of his or her Primary Residence.

Coming into Force

13. This Act shall come into force on the date it is passed by the Assembly.