

SAWRIDGE FIRST NATION

ELECTIONS ACT

**Introduced At A Special Assembly Held October 23, 2009
Pursuant to Provisions of the Sawridge Constitution**

**First Reading - October 23, 2009
Second Reading – November 29, 2009
Third Reading – January 9, 2010**

Came in to Force – January 9, 2010

ELECTIONS ACT

The Sawridge General Assembly enacts as follows:

Title

1. This Act may be cited as “the Elections Act”.

Definitions

2. In this Act,

(1) the following terms shall each be defined as each is defined in the Sawridge Constitution:

“Chief”,
“Constitution”,
“Council”,
“Elders Commission”,
“Elder Commissioner”,
“Elector”,
“Electoral Officer”,
“First Nation”,
“General Assembly”,
“Law of the First Nation”,
“Member”,
“Principal Office”,
“Resident”,
“Sawridge Lands”.

(2) The following terms are defined herewith:

“candidate” means a candidate for election;

“Deputy Electoral Officer” means a person appointed to that position pursuant to this Act;

“election” means a general election for various offices as stipulated in the Constitution or any Law of the First Nation, or a by-election for one or more of these offices;

“election day” means the day fixed for an election by the Council;

“Electors List” means the list of Electors prepared pursuant to this Act, as corrected from time to time;

“in good standing” with reference to debts owed to the First Nation means that no payments due to the First Nation or a First Nation corporation, as defined by regulation, pursuant to the agreement through which the debt was incurred, may be more than 90 days overdue on the date a certificate of good standing is issued for purposes of eligibility for nomination.

“Membership Registrar” is the person named by Council to maintain the Registry of Members pursuant to the Constitution;

“scrutineer” means a person appointed by a candidate to act pursuant to this Act to observe the election process and to call the attention of the Electoral Officer to any mistake, contravention of this Act and its regulations, or any other matter which might unfairly or unjustly affect the conduct of the election;

“Sawridge entity” means any department, agency, or unit of the Sawridge government.

Interpretation

3. The Constitution is hereby interpreted as meaning that the number of Elders Commissioners shall be the same as the number of Councilors on Council.

Regulations

4. The Council may make regulations
 - (a) respecting forms which are required for the administration of this Act, including the form of notices to be given by the Electoral Officer, how the notice is to be given, and the information to be contained in the notice;
 - (b) respecting such other subjects as are permitted by this Act.

PART I

CALLING OF AN ELECTION: THE ELECTION CALL

5. After the first General Election has been called pursuant to the Constitution, and that election has been completed pursuant to this Act, the Council shall call further General Elections and By-Elections as stipulated by the Constitution.

6. The Notice calling for a General Election shall set out the date of Election Day, providing that this date shall not be earlier than 30 days before the term of office of the incumbents expires. The Notice of Election shall state that the winning candidates will take office on the date the terms of office of the incumbents expires, and indicate when that date is.
7. The Notice calling for a By-Election shall set out the date of Election Day and the date the winning candidate take office, providing that the date on which the candidate takes office shall be not more than seven days after the Election Day.

CONDUCT OF AN ELECTION

PART II

APPOINTMENT OF ELECTORAL OFFICER

Appointment of an Electoral Officer

8. A person appointed by Chief and Council as Electoral Officer shall, in the opinion of the Council, have the knowledge, experience, and ability to conduct an election under this Act.
9. The appointment of an Electoral Officer shall not take effect until the person appointed
 - (a) accepts the appointment in writing and delivers the written acceptance to the Council, and
 - (b) provides a statutory declaration to the Council with respect to the absence of circumstances which would cause the appointment to be invalid.
10. The Council may set the remuneration and expenses payable to the Electoral Officer and the budget to be utilized by the Electoral Officer in conducting the election.
11. The Council may only terminate the appointment of the Electoral Officer
 - (a) for just cause or
 - (b) for incapacity.

Responsibility of Electoral Officer

12. (1) The Electoral Officer shall be responsible for the fair, efficient and proper conduct of an election held in accordance with this Act and the regulations.
- (2) The Electoral Officer may take all reasonable means to encourage, in an impartial manner, all Electors to engage in and to vote at an election.
- (3) As such, the Electoral Officer may make such decisions and rules, that are not inconsistent with the provisions of the Constitution, this Act or any regulation made pursuant to this Act, to fulfill his/her responsibilities and to deal with any matter that circumstances require so as to protect the integrity of the election within generally accepted standards for the conduct of elections.

Appointment and authority of Deputy Electoral Officers

13. (1) The Electoral Officer
 - (a) shall appoint at least one Deputy Electoral Officer;
 - (b) shall determine the nature and extent of the Electoral Officer's authority that a deputy Electoral Officer is permitted to exercise with respect to the election, and may amend such authority at any time.
- (2) In the absence of any direction from the Electoral Officer to the contrary, each Deputy Electoral Officer shall have all of the powers and duties of the Electoral Officer except that in any disagreement between Deputy Electoral Officers or a Deputy Electoral Officer and the Electoral Officer, the Electoral Officers decision or direction shall be paramount.
- (3) A deputy Electoral Officer must not be
 - (a) a member of the First Nation;
 - (b) an employee of the First Nation or of an institution of the First Nation.
- (4) The Council may set the remuneration and expenses payable to Deputy Electoral Officers. If the Council does not set these, then the Electoral Officer may set these in accordance with his/her budget;
- (5) The Electoral Officer may, at any time, terminate the appointment of a Deputy Electoral Officer.

Appointment of Peacekeeper

14. (1) For each voting station, the Electoral Officer may appoint one or more persons as a peacekeeper for the purpose of preserving the public peace during the conduct of an election, and before, during or after voting.

(2) Any peacekeeper appointed by the Electoral Officer may act on his/her own initiative but must comply with any directions of the Electoral Officer.

Appointment of election clerks

15. (1) The Electoral Officer may appoint election clerks.

(2) Election clerks must, as directed by the Electoral Officer, perform the duties required of them by the regulations and by the Electoral Officer.

**PART III
THE ELECTORAL LIST**

Preparation of Electors List

16. (1) Within seven days after the Council has called an election pursuant to the Constitution, the Membership Registrar shall provide the Electoral Officer named by the Council pursuant to the Constitution with an alphabetical list of all Electors, containing the birth date and last-known address of each Elector. The list shall be in two forms:
 - (i) one, the Master List, containing the name, date of birth, and address of each Elector and
 - (ii) the other, the Public List, containing only the names of the Electors.
- (2) When the Electoral Officer is required to post or give public notice of the Electors List, the Electoral Officer shall use only the Public List.

Creation and Posting of Resident and Non-Resident Voters Lists

17. (1) From the Public List, the Electoral Officer shall create a Resident Electors Sub-List and a Non-Resident Electors Sub-List. Not less than 70 days prior to the Election Day, the Electoral Officer shall post the sub-lists in all Principal Offices. Each Elector's name shall be on either the Resident Electors Sub-List or the Non-

Resident Electors Sub-List, but no name shall appear on both sub-lists. These sub-lists shall not contain addresses or dates of birth.

(2) On the request of any person, the Electoral Officer shall confirm whether the person's name is on the Public List, and if so, which sub-list it is entered on.

(3) Any Elector is entitled to confirm with the Electoral Officer the information regarding the Elector which is shown on the Master List.

18. The Electoral Officer must show the Public List and Sub-Lists to any Elector who asks to see the sub-lists, providing the Elector asking to see the sub-lists first signs an agreement that any information obtained from the list will remain strictly confidential and will not be disclosed to any other person or used for any purpose other than to determine whether the information on the list is the same as the information which the Elector believes to be true, and in the event of any difference, to ask the Electoral Officer to determine which information is correct.

Application to correct the Electors Lists

19. Any person whose name is not on the Electoral List and believes he/she is eligible to be on the Electoral List, or whose name is on Electoral List but believes his/her name is on the wrong Sub-List, may request the Electoral Officer to correct one or both Lists by giving to the Electoral Officer
- (a) written confirmation from the Membership Registrar that the person is a member and is or will be 18 years of age or older on the day of the election, where the person's name is not on the Electoral List; and
 - (b) a statutory declaration of the right to be on the Electors List and setting out the basis of eligibility for entry onto one or the other the Sub-List.

Correcting the Electors Lists

20. (1) The Electoral Officer shall revise the Electors Lists where it is demonstrated to the Electoral Officer's satisfaction 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; or
 - (d) the name of an Elector was included in the Resident Elector Sub-List or the Non-Resident Elector Sub-List when it should have been included in the other sub-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.

Request for Reconsideration of Electoral Officer's decision

21. (1) If an Elector who requested that the Electoral Officer make a correction in the Electors' List or any Elector affected by a decision of the Electoral Officer to correct the Electors' List is not satisfied with the Electoral Officer's decision, such Electors may at any time before the polls close request the Electoral Officer to reconsider his/her decision on one or more of the following grounds, and only on these grounds, namely, that:

- (a) the person is eligible to be on the Electors List;
- (b) the person's name is on the Membership Registry and he/she will be 18 years of age or over on election day;
- (c) the person's name was mistakenly omitted from the Electors List;
- (d) the person is not disqualified from being on the Electors List;
- (e) the person's residency is different than that indicated by the Electors List;
- (f) the person is ineligible to be on the Electors List.

(2) After reconsidering the matter, the Electoral Officer may correct the Electoral List or let the Electoral List stand. The Electoral Officer shall consider the matter within five days of receiving the request or prior to the close of the polls, whichever is first, and shall notify the Elector making the request or any person affected within two days of making the decision or prior to the close of the polls, whichever is first.

Corrected Electors List

22. After any disputes over the Electors List have been resolved or decided, the Electoral Officer shall post a corrected Electors List. Changes made on Election Day do not require the posting of a corrected Electors List.

Responsibility of Each Elector To Keep His/Her Address Current

23. Each Elector is responsible for
- (1) keeping the Membership Registrar informed of his/her current address and for notifying the Membership Registrar of any change of address;
 - (2) checking that his/her address is shown correctly on the Electors' List and notifying the Electoral Officer of any correction to be made.

PART IV
NOMINATION OF CANDIDATES AND ALL-CANDIDATES MEETING

Setting date and procedure for nominations and all-candidates meetings

24. (1) The Electoral Officer shall make arrangements for and set dates for a nomination meeting which shall be no fewer than 35 days prior to the Election Day and which meeting shall be held at a Principal Office.
- (2) The Council may make regulations respecting the notice to be given by the Electoral Officer regarding the nomination meeting, how the notice is to be given, and the information to be contained in the notice.
25. (1) The Council may make regulations for one or more all-candidates meetings to be held after candidates have been declared by the Electoral Officer to be properly nominated for the Election, how the notice is to be given, the general locations of the meetings, the information to be contained in the notice, and the conduct of the meeting.
- 7 (2) If such regulations are in place, the Electoral Officer shall be responsible for the arrangements for the meetings and the conduct of the meetings pursuant to the regulations.

Notice that Nominations may be made

26. The Electoral Officer shall at least 21 days prior to date set for the Nomination Meeting send or deliver to each Elector on the Electoral List, to the address shown on the list, a notice stating:
- (a) that an Election will be held on the specified date,

- (b) that nominations may be made, eligibility requirements for candidates, and the deadline for nominations to be submitted;
- (c) how nominations of candidates are to be submitted, including by mail, by courier, or handed to the Electoral Officer in person
- (d) the form for nominations,
- (e) when and where the nomination meeting will be held, and
- (f) that if at the end of the stipulated duration of the Nomination Meeting any vacant office lacks a nomination for that office, the Electoral Officer may adjourn the nomination meeting, announce the date, time and place that the nomination meeting will be resumed, and that no further notice will be provided of the adjournment.

The Nomination Meeting

- 27. The Council shall ensure that a person it has designated as Chief Financial Officer is available upon fifteen minutes notice throughout the Nomination Meeting.
- 28. The Electoral Officer shall ensure that a Commissioner of Oaths is available upon fifteen minutes notice throughout the Nomination Meeting.
- 29. At the appointed time and place for the Nomination Meeting, the Electoral Officer shall convene the meeting.
 - (1) After the meeting has been opened, the Electoral Officer shall open all nominations which have been received, making the nominations available for inspection by any Elector present.
 - (2) At any time before the close of the meeting, the Electoral Office may also receive additional nomination forms handed to him/her.
 - (3) The Electoral Officer shall provide assistance to any elector who requests assistance in completing any required forms for a nomination.
- 30. (1) The meeting shall be open for four consecutive hours after which the Electoral Officer shall, subject to subclause (2), close the Meeting, provided that if an elector is at the Nomination Meeting and actively completing the required forms for a nomination at the time the Electoral Officer is required to close the meeting, the

Electoral Officer shall extend the meeting for a reasonable period of time solely to permit the completion of Nomination papers by those who were in the Nomination Meeting at the time it was set to close.

(2) If there are an insufficient number of nominations to fill all positions, the Electoral Officer may extend the meeting for additional periods up to a total of four additional hours solely to receive nominations for the positions for which there are insufficient candidates.

(3) Before the nomination meeting is closed, extended or adjourned, the Electoral Officer shall provide to each Elector present a list of all candidates nominated and the office for which the nomination is made.

Nominating candidates

31. The Electoral Officer shall not accept the nomination of any person
 - (a) who is not eligible to be a candidate pursuant to the Constitution;
 - (b) for whom no nomination form properly completed and submitted has been received;
 - (c) where the nomination has not been signed by two Electors who have the same Residency status as the position for which the nomination is made where the Constitution requires this.
32. No elector may nominate more than one candidate for each position for which the election is being held.
33.
 - (1) If an elector is nominated as candidate for more than one position, any affidavit made by the elector after the time and date of the first affidavit made by that elector shall be declared invalid, except that any elector may withdraw any of his/her affidavits before the nomination of that elector is announced by the Electoral Officer at the Nomination Meeting, with the result that the nomination is invalidated.
 - (2) Any time prior to the closing of the Nomination meeting, a nominee may withdraw his/her affidavit.
 - (3) Once the Electoral Officer has acknowledged the withdrawal of a nominee's affidavit, that elector shall be prohibited from resubmitting the affidavit for a

nomination to that same office.

(4) Once the Nomination Meeting has been closed, no nominee may withdraw his/her nomination.

After the Nomination Meeting

34. Within 3 days after the nomination meeting closes, the Electoral Officer shall send to each nominated candidate a notice of his/her nomination and the names of other candidates for the same position.

Contested Candidacies

35. (1) The Electoral Officer is not required to investigate the eligibility, candidacy or nomination of a candidate unless credible information which brings the eligibility of a candidate into question comes to the Electoral Officer's attention seven or more days prior to the Election Day, in which case the Electoral Officer shall:

(a) investigate, and after giving the candidate an opportunity to be heard and present evidence, make a decision about whether the person is a valid candidate and whether the candidate and nomination complies with this Act and the regulations, and

(b) notify the candidate and any other Elector who has provided information or evidence in regard to the candidate's eligibility, giving written reasons within three days of making the decision or prior to Election Day, whichever comes sooner.

(2) Until the Electoral Officer's decision has been made, the candidate continues to be a candidate.

(3) After the Electoral Officer has made a decision pursuant to subsection (1), any Elector may, within three days after the Electoral Officer's decision or prior to Election Day, whichever comes sooner, ask the Electoral Officer to reconsider the decision, and to consider that Elector's submissions and evidence as to why the decision should not stand.

(4) After considering the matter and conducting any hearings the Electoral Officer considers necessary or appropriate in the circumstances, the Electoral Officer shall decide whether his/her decision should stand or be changed.

Too few candidates

36. (1) If

(a) no nominations are received for a candidate for an office for which the election is being held or the number of candidates is fewer than the number of vacancies to be filled;

(b) through disqualification, withdrawal, or other circumstance, the number of candidates remaining is fewer than the number of vacancies to be filled,

the Electoral Officer must before the close of the nomination meeting adjourn the nomination meeting and announce the date, time and place that the nomination meeting will be resumed. The adjournment may not be more than 7 days after the original Nomination Meeting.

(2) In circumstances described in subsection (1), the Electoral Officer may adjust any dates or time periods prescribed by the regulations to accommodate the adjournment of the nomination meeting and the consequences that result, but the Electoral Officer may not change the date of Election Day.

Retention of documents

37. (1) The Electoral Officer shall retain all documents and notes made or submitted in the nomination process and shall include them in the binder compiled by the Electoral Officer after the election.

(2) On written request at any time prior to sixty days after the Election, the Electoral Officer shall produce for inspection by an Elector any of the documents received in the nomination process.

PART V
DECLARATION OF CANDIDATES AND NOTICE OF ELECTION

Declaration of recognized candidates

38. (1) Within seven days from the date of Nomination Meeting is concluded, the Electoral Officer shall, in accordance with regulations, prepare
- (a) separate ballots for Electors who are Resident and for Electors who are non-Resident, setting out in each case the Candidates for whom each set of Electors is permitted to vote, and
 - (b) a further ballot for those offices which are filled by the votes of both Resident and Non-Resident Electors counted together.
- (2) Each ballot shall have separate sections for each office for which the election is being held, with each section showing the candidates who have been nominated for that office in alphabetical order by last name followed by first name.
- (3) A copy of the ballots to be used in the election shall be available for public inspection.
- (4) References in this Act to “a ballot” shall be read to mean both the “separate ballot” described in subsection (1)(a) above and the “further ballot” as described in subsection (1)(b) above.

Notice of the election

39. (1) The Electoral Officer shall not less than 28 days prior to Election Day
- (a) post notices of the election in one or more conspicuous public places on Sawridge lands frequented by Electors;
 - (b) provide on request up to four copies of election notices to any Elector who requests copies, and
 - (c) cause other notice to be provided as required by regulations.
- (2) The form for the notice of the election shall contain at a minimum:
- (a) the date of election day,
 - (b) the Electors who are declared by the Electoral Officer to be candidates for each office,

- (c) the times during which voting station(s) will be open,
- (d) the location of the voting station(s) where Electors may vote,
- (e) the methods for voting at the election, and
- (f) any other matters required by the regulations.

Distribution of ballots for mail-in vote

40. The Electoral Officer shall, not less than 28 days prior to Election Day

(1) mail or deliver to every Elector for whom an address has been provided:

- (a) a notice of the Election;
- (b) a mail-in ballot, with a distinctive mark made on the back by the electoral officer and folded so that the distinctive mark can be seen without unfolding it and so that no other printing can be seen.
- (c) an outer, postage-paid return envelope, pre-addressed to the Electoral Officer;
- (d) a second inner envelope marked "Ballot" for insertion of the completed ballot;
- (e) a Voter Declaration Form;
- (f) a letter of instruction stating that each Elector may vote either in person at the voting station on Election Day or by mail-in ballot and providing the name, telephone number and e-mail address of the Electoral Officer;
- (g) instructions as to how mail-in ballots are to be used;
- (h) the location of the voting station or stations where the Elector may vote on election day if the Elector has not submitted a mail-in ballot.

(2) The Electoral Officer shall indicate on his/her official copy of the Electors List that a mail-in ballot has been mailed, delivered, or otherwise provided to each Elector, and keep a record of the date on which and the address to which each mail-in ballot was mailed or delivered.

(3) An Elector who loses a mail-in ballot may obtain another ballot by delivering to the Electoral Officer a written affirmation that the Elector has not voted in the Election by mail or in person, signed by the Elector in the presence of a Justice of the Peace, a Notary Public, or a Commissioner of Oaths.

Campaign advertising

41. (1) Candidates may send to the Electoral Officer sufficient quantities of campaign advertising to be distributed by the Electoral Officer.
- (2) The Council may make regulations
- (a) respecting the ethical standards required for campaign advertising;
 - (b) limiting the type, amount, size and weight of the campaign advertising material;
 - (c) establishing fees to be paid by candidates to cover the cost of distributing the materials provided by the candidates to the Electoral Officer;
 - (d) requiring the name of the candidate for whom the advertising is distributed to be identified on the campaign advertising;
 - (e) the dates by which materials must be submitted;
 - (f) requiring the Electoral Officer to conduct the mail outs as stipulated by the regulations.
- (3) The Electoral Officer shall, in accordance with regulations established by Council prior to the election being called, place all campaign advertising to be distributed in a distinct envelope labeled "Information Provided By Candidates" and distribute it to the Electors together with the ballot or as otherwise provided for by the regulations.
- (4) The Electoral Officer shall reject campaign advertising that does not meet the requirements of the regulations, or that the Electoral Officer considers to be in violation of the regulations set by Council or that brings the Election into disrepute.
42. The Electoral Officer shall maintain as confidential all campaign advertising material received until such time as it is distributed.

Mail-in votes: regulations

43. (1) The Council may make regulations consistent with the Constitution and this Act
- (a) respecting the verification of mail-in votes;
 - (b) respecting the maintenance of secrecy of mail-in votes;

- (c) governing how mail-in voting is to be conducted;
- (d) ensuring that an eligible voter only votes once in each election;
- (e) respecting any other matter to regulate mail-in voting and to protect the integrity of the election;
- (f) respecting the preparation, printing and security of mail-in ballots;
- (g) respecting the nature and form of mail-in ballots, including distinguishing features for mail-in ballots.
- (h) that Electors may vote either in person at the voting station on Election Day or by mail-in ballot, and

Voting by Mail-In Ballot

44. An Elector to whom a mail-in ballot was mailed, delivered or provided is not entitled to vote in person at a voting station other than in accordance with subsection 45(4) or (5).
45. (1) An Elector may vote by mail-in ballot by
- (a) marking the ballot by placing a cross, check mark, or other mark clearly indicating the elector's response to the situation stated on the ballot;
 - (b) folding the ballot in a manner that conceals the ballot and any marks but exposes the distinctive mark made by the Electoral Officer on the back;
 - (c) placing the ballot in the inner envelope and sealing that envelope;
 - (d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
 - (e) placing the inner envelope and the completed, signed and witnessed voter declaration form in the outer envelope, and
 - (f) delivering, or mailing the outer envelope to the Electoral Officer for delivery before the time at which the polls close on the day of the Election.
- (2) When an Elector is unable to vote in the manner set out in subsection 1, the Elector may request the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with subsection 1.
- (3) A witness referred to in subsection (1) d) shall attest to
- (a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form, or

(b) where the Elector enlisted the assistance of another person under subsection (2), the fact that the Elector is the person whose name is set out in the form, and that the ballot was marked according to the directions of the Elector.

(4) An Elector who chooses to vote at a voting station on Election Day shall exchange his/her unmarked mail-in ballot with the Electoral Officer for a ballot to be marked and deposited in a ballot box at the voting station.

(5) An Elector who forgets a mail-in ballot may obtain another ballot by making a signed written affirmation to the Electoral Officer that the Elector has not voted in the Election by mail or in person.

(6) Mail-in ballots not received by the Electoral Officer before the time at which the polls close on the day of the Election are void and shall not be counted as a vote cast.

Preparation for Election Day

46. The Electoral Officer shall

(a) prepare sufficient ballots to be available to Electors who choose to vote at a voting station;

(b) procure a ballot box for each voting station made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed, unlocked or being unsealed and unlocked, as the case may be.

Voting Stations

47. (1) The Electoral Officer shall establish a voting station on Sawridge Lands.

(2) The Council may pass regulations authorizing the establishment of more than one voting station by the Electoral Officer, and other matters relating to the establishment of voting stations.

(3) If there is more than one voting station, the Electoral Officer shall name a Deputy Electoral Officer for each of the voting stations and all of the duties required of the Electoral Officer from that point forward may be performed by a Deputy Electoral Officer under the direction of the Electoral Officer.

(4) The Electoral Officer shall provide a compartment at each voting place where the Elector can mark his ballot paper free from observation.

(5) The Electoral Officer shall, immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots.

(6) Voting stations shall be kept open from 10 a.m., local time, until 6 p.m., local time, on the day of the election unless regulations establish variations in these hours.

(7) An Elector who is inside a voting station at the time that the voting station is to close is entitled to vote.

(8) If the Electoral Officer is satisfied that Electors are unable to enter the voting station to vote before the polls close, the Electoral Officer may extend the period for voting by a limited time.

Election by acclamation

48. (1) If only one person is nominated for an office for which the election is being held, no ballot shall be prepared with respect to that office, and the Electoral Officer shall, after the close of the polls, declare that person elected to that office.

(2) Where there is more than one person to be elected to an office, if there are the same number of candidates as there are vacancies to be filled, or if there are fewer candidates than there are vacancies to be filled, the Electoral Officer shall, after the close of the polls, declare those persons elected to that office.

Contingencies

49. If a person who is declared elected resigns before taking office, then that resignation takes effect and creates a vacancy as it would if the resignation were effective immediately after the person took office.

ELECTION DAY

PART VI VOTING

Scrutineers appointed by candidates

50. (1) Each candidate may appoint scrutineers by providing written notice of the appointment to the Electoral Officer.
- (2) Not more than two scrutineers for each candidate are entitled to be present at each poll to watch the process of voting and the counting of ballots.
- (3) Scrutineers may be appointed by a candidate up to the time voting stations close.

No electioneering in or near Voting Station

51. No candidate or person on their behalf may on election day, electioneer or display election campaign advertising in a voting station or within an area outside the voting station designated by the Electoral Officer.

Preparing for voting

52. The Council may make regulations
- (a) respecting the acquisition and use of ballot boxes for the election and their security;
 - (b) respecting the acquisition, use and location of voting booths to ensure a secret ballot and accessibility for eligible voters;
 - (c) respecting the materials to be provided for marking ballots and the instructions to be provided;
 - (d) respecting who may or who may not be present in voting stations before, during and after voting takes place.

How votes may be cast

53. A vote for a candidate may be cast
- (a) on election day, in person, or
 - (b) by mail-in ballot.

Voting rules

54. (1) Ballots provided for Non-Resident Electors may only be cast by Non-Resident Electors, and Ballots provided for Resident Electors may only be cast by Resident Electors. Ballots upon which both Non-Resident Electors and Resident Electors can vote can be cast by both Non-Resident Electors and Resident Electors, and those ballots shall be placed in a common ballot box and counted together.
- (2) An Elector may only vote for one candidate on the ballot where there is only one office to be filled;
- (3) Where there is more than one office to be filled, an Elector may vote for as many candidates as there are vacancies to be filled.
- (4) If an Elector, in the opinion of the Electoral Officer, deliberately votes or attempts to vote more than once
- (a) the second and subsequent ballot must be marked “spoiled”, and
 - (b) the Electoral Officer shall record the reason why the ballot is marked “spoiled” .

Voting in person

55. (1) When an Elector wishes to vote in person at a poll, the Electoral Officer shall
- (a) verify that the person’s name is on the Electors List and may request photographic identification so the person can be reliably identified as an Elector and the person they claim to be;
 - (b) verify on the Electors List whether or not the person has already voted;
 - (c) if the person is an Elector and has not already voted in the election for which he or she wishes to vote, issue a ballot to the Elector and indicate on the Electors List that a ballot has been provided to the Elector;
 - (d) ensure that the Elector votes in secrecy and that the Elector’s ballot remains secret;
 - (e) mark the back of the ballot in a distinctive manner;
 - (f) provide instructions for marking the ballot; and
 - (g) indicate on the Electors List that the Elector has voted as soon as the ballot has been deposited in the ballot box.
- (2) If a person who wishes to vote on election day is not on the Electors List, the

Electoral Officer may issue the person a ballot and allow the person to vote only if the Electoral Officer is satisfied the person is an Elector and was omitted from the Electors List in error, and if so required by the Electoral Officer, the person provides the Electoral Officer with a statutory declaration that the individual is an Elector and any other verification the Electoral Officer considers necessary to verify the person is an Elector. The Electoral Officer may rely on any credible evidence in determining whether the person is or is not an Elector, including information sought and provided by the Membership Registrar.

(3) An Elector to whom a mail-in ballot was mailed, delivered, or otherwise provided prior to Election Day may obtain a ballot and vote in person at a voting station if

- (a) the Elector returns the mail-in ballot to the Electoral Officer; or
- (b) where the Elector has lost or forgotten the mail-in ballot, the Elector provides the Electoral Officer with a written affirmation that the Elector has not voted in the Election by mail or in person, signed by the Elector in the presence of the Electoral Officer, a Deputy Electoral Officer, a justice of the peace, a notary public or a commissioner for oaths.

(4) The Electoral Officer shall explain the mode of voting to an Elector when requested to do so by such Elector.

(5) On the application of an Elector who is

- (a) not able to read, or
- (b) incapacitated by blindness or other physical cause so as to be unable to read or mark the ballot,

the Electoral Officer shall make an entry on the Electoral List opposite the name of the Elector that the ballot paper was marked by him/her at the request of the Elector and the reasons therefore.

(6) Except as has been provided in subsection (5), every Elector receiving a ballot shall

- (a) proceed immediately to the compartment provided for marking the ballot paper;
- (b) mark the ballot by placing a cross, checkmark or other mark next to the name of each candidate the Elector wishes to vote for, but not exceeding the number of candidates to be elected for any position, in a manner which clearly indicates the name so marked is the candidate's choice for the office in

question;

(c) fold the ballot in a manner that conceals the any printing and any mark placed thereon by the Elector but exposes the distinctive mark on the back of the ballot made by the Electoral Officer;

(d) forthwith deliver the ballot to the Electoral Officer for deposit in the ballot box without unfolding the ballot.

56. The Electoral Officer shall allow only one Elector in the compartment for marking ballots at any one time.

57. No person shall interfere or attempt to interfere with an Elector when marking his/her ballot or obtain or attempt to obtain at the voting station information as to how an Elector is about to vote or has voted.

58. The Electoral Officer shall ensure that peace and good order is maintained during the voting.

59. Whenever the Electoral Officer does not understand the language spoken by an Elector, he or she shall enlist the aid of an interpreter to communicate with respect to all matters required to enable that Elector to vote.

Special voting provisions

60. The Council may make regulations with regard to any special considerations to be given to Electors with a disability or who are incapacitated or in a medical facility or otherwise unable to attend a poll on election day

(a) respecting the conditions and time period for applying for and casting a vote under this section;

(b) respecting the procedures to be followed when a vote is cast under this section;

(c) extending the area or circumstances to which this section applies.

Cancelled ballots

61. (1) If an Elector makes a mistake on a ballot or inadvertently spoils his/her ballot paper in marking it prior to depositing it in the Ballot Box, then the Elector is entitled to another ballot to be issued by the Electoral Officer upon return of the spoiled ballot to the Electoral Officer.

- (2) The Electoral Officer shall write the word "Cancelled" on the spoiled ballot and without examining the ballot, store it separately.
- (3) An Elector who receives a soiled or improperly printed ballot paper upon returning the ballot paper to the Electoral Officer is entitled to another ballot paper. The Electoral Officer shall write the word "Cancelled" on the spoiled ballot and store it separately.

Forfeited ballots

62. (1) An Elector who has received a ballot paper and
 - (a) leaves the compartment for marking ballots without forthwith delivering the ballot to the Electoral Officer in the manner provided, or
 - (b) refuses to vote,forfeits his/her right to vote in the Election and the Electoral Officer shall make an entry on the Electors List opposite the name of the Elector that the Elector did not return the ballot or refused to vote as the case may be.
- (2) If a ballot is returned by an eligible voter who has forfeited their vote, the Electoral Officer shall mark the ballot "Forfeited" and not deposit or allow the ballot to be deposited in the ballot box.

Deposit of ballots in ballot box

63. (1) After marking their ballot, the Elector must return the folded ballot to the Electoral Officer.
 - (2) The Electoral Officer shall verify that the ballot bears the distinctive mark he/she placed on it and the folded ballot is then deposited in the ballot box.
64. Only ballots issued by the Electoral Officer on Election Day may be cast in person on election day.

**PART VII
COUNTING OF VOTES**

65. (1) The Council may make regulations respecting
 - (a) when, how and the manner in which ballots are collected, verified and counted;

- (b) processes and procedures to ensure that the secrecy of the vote is maintained;
- (c) means for a fair, efficient and accurate count and if necessary, recount of ballots;
- (d) processes to ensure all valid ballots are counted;
- (e) when a ballot must not be counted because it is spoiled, would result in an eligible voter voting twice, and when ballots must be declined or forfeited;
- (f) the mailing, marking, receipt, security, verification and, unless a person has voted in person, counting of mail-in ballots, and ballots cast in an advance vote, if any, and how and when they are counted;
- (g) the role, responsibility and function of Election Clerks and Peacekeepers;
- (h) the sealing and unsealing of ballot boxes and the verification or examination of those processes;
- (i) the integrity, honesty, and fairness of voting at an election and the counting of ballots, and the verification of processes required by this Act and the regulations.

(2) The Council may make regulations respecting

- (a) who, how and when mail-in packages are opened and how envelopes appearing to contain ballots are to be securely stored, handled, opened, not opened, and counted;
- (b) the process to identify whether the ballot is a proper ballot and cast by an eligible voter;
- (c) record-keeping of mail-in ballots that are spoiled, declined, rejected or set aside;
- (d) procedures to prevent an eligible voter from voting both by mail-in ballot and in person and to prevent ballots being counted contrary to this Act or the regulations;
- (e) the record to be made that an eligible voter has voted in an election.

66. As soon as is practicable after the close of the polls, the Electoral Officer shall, in the presence of the Deputy Electoral Officer and any Electors who are present, open each outer envelope without opening the inner envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot,

- (a) set aside the ballot if

- (i) it was not accompanied by a Voter Declaration Form, or the Voter Declaration Form is not signed or witnessed,
 - (ii) the name of the Elector set out in the Voter Declaration Form is not on the Electors' List, or
 - (iii) the Electors List shows that the Elector has already voted,
- or if the ballot is not set aside,
- (b) open the inner envelope and without unfolding the ballot deposit the ballot in the ballot box and place a mark on the Electors List opposite the name of the Elector set out in the Voter Declaration Form and deposit the ballot in a ballot box.

Arrangements for the count

67. (1) The Electoral Officer must

- (a) where ballot boxes are not in the location where the ballots will be counted, seal the ballot boxes after the vote is concluded, verify that fact and arrange to collect all ballot boxes in one location;
- (b) arrange the room in which ballots are to be counted so that those Electors who wish to do so, and other persons permitted to do so, may watch the count without interfering with the ballots or the count;
- (c) verify those present are Electors or others who are permitted to be present.

(2) The Council may make regulations respecting any of the matters described in subsection (1), including who is permitted to watch the count of ballots in addition to Electors.

Right to watch the count

68. (1) Scrutineers and Electors are entitled to be present and watch the counting of ballots, and other persons are only entitled to be present if so permitted under the regulations, unless any person is excluded by the Electoral Officer under subsection (2).

(2) The Electoral Officer may exclude or direct the exclusion from the place where ballots are counted any person whose activities interfere, or are likely to interfere, with the efficient and accurate counting of ballots. Where a scrutineer is excluded,

the Candidate may immediately appoint a replacement scrutineer notwithstanding that the polls have closed.

Counting duties of Electoral Officer

69. (1) As soon as is practicable after the mail-in ballots have been deposited under section 66(b), the Electoral Officer shall, in the presence of the Deputy Electoral Officer, any Electors and any other persons permitted by this Act or its Regulations, open all ballot boxes and shall examine each ballot cast and reject ballots that:

- (a) were not issued, mailed out or handed out by the Electoral Officer,
- (b) does not have the distinctive mark of the Electoral Officer on the back;
- (c) are marked "spoiled" "cancelled" or "declined",
- (d) contain a mark that identifies or may identify an Elector.

(2) Ballots that contain votes for less than the number of vacancies to be filled must be counted if they are otherwise proper ballots.

(3) The Electoral Officer shall then count the votes cast in favour of each candidate and shall document the results of the count of ballots and record the results of the official results of the vote.

(4) If a portion of a ballot contains votes for more than the number of vacancies to be filled in that portion, then that portion shall be rejected and the rejection of the vote shall be noted in the tabulation. The portions of such a ballot which do not contain votes for more than the number of vacancies to be filled shall not be affected by the rejection of one or more other portions of the ballot.

70. A ballot set aside under section 66(a), or which is cancelled or forfeited or set aside is void and shall not be counted as having been cast.

Declaration of Election Results

71. (1) Immediately after completing the official result of the vote, the Electoral Officer shall declare the number of votes received by each candidate.

(2) The candidate for each office who receives one or more votes than any other candidate for the same office shall be declared by the Electoral Officer as elected to that office.

(3) Where there are two or more positions for the same office and the number of Candidates for those positions exceeds the number of positions by one or more, then the candidate with one or more votes than any other candidate for the same office shall be declared by the Electoral Officer as elected to the first position of that office, then the candidate with one or more votes than any other candidate for the same office (other than the first candidate) shall be declared by the Electoral Officer as elected to the second position of that office and so on until all of the positions of that office have been filled.

Tie votes

72. (1) If two or more candidates for an office or a position of an office each have the same number of votes, there is no candidate with more votes for that office or position and there are not enough positions left in that office for all of the candidates with the same number of votes, then this shall be declared a "tie vote" and the Electoral Officer must conduct a recount of the votes for that office or position.

(2) If the recount determines

(a) the vote is not a tie vote, the Electoral Officer shall declare the election results for that office, or

(b) the vote remains a tie vote, the Electoral Officer shall declare a tie vote.

(3) In the event of a tie vote, the Electoral Officer shall, within seven days of the day on which the tie vote is declared, in accordance with regulations,

(a) prepare ballots containing the names of those candidates in the tie and only those candidates;

(b) send out notices of a run-off vote to be held on a date 28 days from the date the notices are sent, said notices to be sent only to those electors who were eligible to vote for the position which is the subject of the tie vote;

(c) conduct the run-off vote in a manner similar to the conduct of an election held pursuant to this Act, making those changes as are appropriate and necessary for a run-off vote.

(4) At any time after the declaration of a tie vote, any of the candidates in the tie may withdraw their candidacy.

(5) If all candidates involved in the tie vote except one have withdraw from the run-off for the position, the Electoral Office shall declare the remaining candidate to have

been acclaimed for the position and no run-off vote shall be held. If the notices of the run-off vote have been sent, prompt notice that no run-off vote will be held shall be provided.

Statement of Official Results

73. (1) As soon as is practicable, but not longer than three days after the results of the count are known, the Electoral Officer shall prepare a Statement of the Official Results of the Election, signed by the Electoral Officer and by the Deputy Electoral Officer and witnessed by any persons assisting in the vote at each voting station or any other persons.

(2) The Statement shall include:

(a) a ballot count that indicates

- (i) the number of Electors who were entitled to vote,
- (ii) the number of Electors who cast ballots,
- (iii) the total number of ballots in the ballot box,
- (iv) the total number of ballots forfeited pursuant to s. 62;
- (v) the number of ballots rejected in accordance with subsections 69(1) and 69(4),
- (vi) the total number of ballots cast and not rejected
- (vii) the number of ballot papers printed,
- (viii) the number of ballot papers mailed out,
- (ix) the number of mailed-out ballot papers which were put in the ballot box,
- (x) the number of mailed-out ballot papers which were returned for replacement,
- (xi) the number of mailed-out ballot papers which were not cast or returned,
- (xii) the number of unused ballot papers,
- (xiii) the number of spoiled ballot papers, and
- (xiv) a reconciliation of the ballot papers and an explanation of any discrepancy

(b) the number of votes cast in favour of each candidate appearing on the ballot.

and shall post a copy of the Statement in the Principal Office, retain one copy, deliver a copy to the Council, and provide a copy to any Elector who requests one.

Application for Official Recount

74. (1) If a candidate believes

(a) votes were incorrectly cancelled, forfeited, set aside or not set aside, accepted or rejected or were inaccurately counted or recounted and that this affected or may have affected the outcome of the election, or

(b) the Electoral Officer's report and results do not accurately record the number of votes for a candidate,

the candidate may make Application to the Electoral Officer that an Official Recount be conducted. .

(2) Upon receipt of an application for an official recount, the Electoral Officer shall consider whether a recount could change the result of the election, and if so, the Electoral Officer shall conduct the recount within 24 hours after receiving the application.

(3) The application for a recount by the Electoral Officer may be made anytime in the period immediately after the Declaration of Election Results for 24 hours thereafter.

Recount of Close Votes

75. (1) If the margin between the winning candidate and the candidate with the next nearest number of votes is less than 5% of the votes cast, or there is a tie vote between two or more candidates for a position, then the Electoral Officer shall not declare a candidate to be elected but rather automatically and without further application conduct an Official Recount of a Close Vote.

(2) The recount shall follow the process set out for counting ballots set out in this Act.

(3) If the recount results in a "tie vote", the process for resolving tie votes shall take place.

PART VIII
FINAL RESPONSIBILITIES OF ELECTORAL OFFICER

Disposal of election materials

76. (1) The Electoral Officer must retain the ballots and documents related to the election in a secure location until they are disposed of.
- (2) The Electoral Officer shall dispose of the ballots, and voters declarations, affidavits, used in the election and then in the presence of two witnesses who must certify that they witnessed the destruction of the ballots and materials by signing a certificate.
- (3) The disposal must not take place earlier than 60 days after Election Day, or if there is an appeal, not earlier than 60 days after the appeal is conclusively resolved.

Report of the election

77. When an election is finally decided the Electoral Officer shall
- (a) send to the Council a report of the election results;
 - (b) promptly post the election results in the Principal Office;
 - (c) mail a copy of the election results to each Elector at the address shown on the Electors List;
 - (d) table before the General Assembly at its next meeting a report of the election results and any comments or recommendations the Electoral Officer considers appropriate.

Completion of election binder

78. On final completion of the election, the Electoral Officer shall compile and deliver to the Council a binder containing
- (a) the appointment and agreement between Council and the Electoral officer;
 - (b) a copy of all appointments made by the Electoral Officer;
 - (c) a copy of all forms completed pursuant to regulations relating to this binder,
 - (d) a copy of all Electoral Lists
 - (e) a copy of the official vote;

- (f) a copy of any reports made by persons conducting recounts or of the Election Review Board;
- (g) a copy of the final report;
- (h) anything else required by the regulations;
- (i) the Electoral Officer's own report with comments and recommendations addressed to the Council and to the General Assembly;
- (j) a copy of any other document prepared or received in the course of fulfilling his duty as Electoral Officer, including any document related to any appeal and a copy of the ballots, but not including any ballots cast.

ADMINISTRATION OF AN ELECTION AND ELECTION REGULATIONS

PART IX REGULATIONS

Regulation-making authority

79. The Council may make regulations and prescribe forms with respect to this Act. Such regulations may provide for any Election-related matter which is not inconsistent with this Act or the Constitution and may prescribe any form to be utilized in relation to this Act or the regulations, providing that no regulations shall be made pursuant to this section or any other section of this Act in the period between the calling of an election or the appointment of an Electoral Officer and the day following the election.

PART X OFFENCES AND PENALTIES

Definitions

80. In this Part,

“inducement” means provision or promise to provide money, gifts, valuable consideration, entertainment, office, placement, employment or any other benefit

but does not include a candidate's general public election promises;

"intimidate" means to do or threaten to do any of the following:

- (a) use force, violence or restraint against a person;
- (b) inflict injury, harm, damage or loss on a person or property;
- (c) intentionally frighten, bully, make threats, engage in aggressive behavior,

Inducement Offences

- 81. A person is guilty of an offence who, by inducement, directly or indirectly, through an agent or personally, seeks to persuade another person to vote or refrain from voting in an election, or seeks to persuade another person to vote or refrain from voting for or against a particular candidate.
- 82. A person is guilty of an offence who accepts an inducement to vote or refrain from voting in an election, or to vote or refrain from voting for or against a particular candidate.

Intimidation offences

- 83. A person is guilty of an offence who intimidates or coerces another person or that person's family, friends or associates for any of the following purposes:
 - (a) to persuade or compel a person to vote or refrain from voting in an election;
 - (b) to persuade or compel a person to vote or refrain from voting for or against a particular candidate;
 - (c) to penalize, punish or take measures against a person for having voted or refrained from voting in an election or for voting or not voting for or against a particular candidate.

Interference with voting offences

- 84. A person is guilty of an offence who directly or indirectly, personally or through an agent, by abduction, duress or fraudulent means, does any of the following:
 - (a) impedes, prevents or otherwise interferes with a person's right to vote at an election;
 - (b) compels, persuades or otherwise causes a person to vote or refrain from voting at an election;

- (c) compels, persuades or otherwise causes a person to vote or refrain from voting for a particular candidate.

General offences

85. A person is guilty of an offence who contravenes any provision of this Act or the regulations.

Specific election offences

86. (1) A person is guilty of an offence who purports to withdraw a candidate from an election without authority to do so or to publish or cause to be published a false statement that a candidate has withdrawn.

(2) A person is guilty of an offence who does any of the following:

- (a) votes in an election when not entitled to do so;
- (b) without authority, obtains a ballot in the name of another person.

(3) A person is guilty of an offence who does any of the following:

- (a) without authority, obtains a ballot;
- (b) without authority, supplies a ballot to another person;
- (c) puts in a ballot box, or causes to be put in a ballot box, anything other than a ballot that the person is authorized to deposit there;
- (d) without authority destroys, tampers with, takes, opens or interferes with a ballot box or ballots;
- (e) votes or attempts to vote more than once in the same election.

(4) A person is guilty of an offence who

- (a) interferes or attempts to interfere with an eligible voter marking their ballot;
- (b) in a voting station, deliberately finds out or tries to find out how a person voted or discloses, without the permission of the voter, how a person voted.

(5) A person is guilty of an offence who does any of the following:

- (a) makes a false or misleading statement or declaration when required under this Act or the regulations to make a statement or declaration, or gives a false or misleading certificate;
- (b) except as authorized under this Act or the regulations, inspects, accesses,

discloses or uses information from:

- (i) the voters list,
 - (ii) nomination documents, or
 - (iii) disclosure statements or supplementary reports;
- (c) impedes or obstructs the Electoral Officer or Deputy Electoral Officer or other person performing duties and exercising powers given to the person under this Act or the regulations.

(6) A person is guilty of an offence who, being the Electoral Officer, Deputy Electoral Officer, Election Witness, election clerk or Scrutineer, contravenes this Act with the intention of affecting the result or validity of an election.

Penalties

87. A person who is guilty of an offence under this Act or the regulations is, on conviction, liable to one or more of the following penalties:

- (a) a fine of not more than \$10,000;
- (b) a prohibition for a period of not longer than seven years from being a candidate in an election held pursuant to this act or acting in any official capacity in the conduct of the election.

Defence to prosecution

88. It is a defence to a prosecution under this Act or the regulations if a person proves to the satisfaction of the judge that the person exercised due diligence to prevent or avoid contravening this Act or the regulations.

PART XI MANNER AND FORM OF AMENDING THIS ACT

89. No Bills to amend or repeal this Act may be considered or passed by any Special or General Assembly unless the Bills have been proposed by the Council.

90. (1) Prior to Third Reading of a Bill to amend or repeal this Act, the General Assembly may by resolution elect to submit the Bill for consideration of the electors of the First Nation in either a referendum or a plebiscite.

(2) If such a Bill is submitted to a referendum or a plebiscite, the General Assembly shall not further consider the Bill until the referendum or plebiscite has been held and formal notice of the results have been sent to the electors together with a notice of the General Assembly at which the Bill and the results of the referendum or plebiscite will be on the Agenda.

(3) The meeting of the General Assembly referred to in subsection (2) shall not take place until at least one month after the date the notice is sent. The Council shall not propose a shorter period.

(4) If the General Assembly decides to proceed with consideration of a Bill to amend or repeal this Act without submitting the Bill for a referendum or a plebiscite, no consideration shall take place until at least thirty days after the Electors have been sent notice of the meeting where the Bill will be discussed and full details of the proposed changes to this Act which are under consideration.

91. The Council may at anytime withdraw a Bill to amend or repeal this Act.

Repeal

92. Any election laws, codes, customs, or rules which may be in variation with these rules are hereby repealed.

Coming into force

93. This Act comes into effect on the day of enactment.