

SAWRIDGE FIRST NATION

REFERENDUM ACT

Introduced at a General Assembly held November 14, 2015

First Reading – November 14, 2015

Second Reading – February 20, 2016

Third Reading – April 2, 2016

Came in to Force – April 2, 2016

REFERENDUM ACT

The Sawridge General Assembly enacts as follows:

Title

1. This Act may be cited as “the Referendum 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”,
“First Nation”,
“General Assembly”,
“Law of the First Nation”,
“Member”,
“Principal Office”,
“Resident”,
“Sawridge Lands”.

- (2) The following terms are defined herein:

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

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

“Electors List” means the list of Electors prepared and amended from time to time pursuant to this Act;

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

"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;

"referendum" means a referendum held pursuant to this Act;

"referendum day" means the day fixed for a referendum by the Council;

"scrutineer" means a person appointed by an Elector who has filed a Declaration of Interest to act pursuant to this Act to observe the referendum 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 Referendum;

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

Interpretation

3. A Referendum Day may coincide with an Election Day.

Regulations

4. The Council may make regulations
 - (a) respecting forms which are required for the administration of this Act;
 - (b) respecting such other subjects as are permitted by this Act.

PART I

**LAYING A REFERENDUM QUESTION
BEFORE THE GENERAL LEGISLATIVE ASSEMBLY**

CALLING OF A REFERENDUM: THE REFERENDUM CALL

5. (1) The Council shall place before the General Assembly a referendum question when it is required to do so by the Constitution or any law of the First Nation.

(2) As well, the Council may lay a referendum question before the General Assembly for consideration;

(3) In either case, before the proposed question is laid before the General Assembly, it shall be discussed in a regular or special meeting of the Council, and after considering the discussion, the Council may draft, or propose amendments to, the question before setting it before the General Assembly.

(4) The question proposed in the motion shall be worded so that if it goes to a referendum, each qualified elector may express an opinion on the question by making a mark after the word “yes” or the word “no” on the ballot paper.

(5) The question shall also include a statement as to whether the result of the referendum

(a) is an amendment to the Constitution and therefore would be binding on the First Nation,

(b) is not an amendment to the Constitution, but is to be binding on the First Nation;

(c) is to be binding upon the Council,

(d) is to be binding upon the Assembly, or

(e) is to be considered an expression of the opinion of the Electors.

6. (1) The General Assembly may by motion, prior to calling a Referendum refer the question to a solicitor, who has expertise in the field or area in which the question is asked, which the Assembly may name, seeking advice on the question including advice as to whether or not the referendum will require the government of the Sawridge First Nation to take any action that could detract from, remove, or deny any acknowledged right or freedom of any member, be inconsistent with any existing law of the Sawridge First Nation, or is so contrary to the principles of the Sawridge First Nation as set out in the preamble to its Constitution that its passage would be repugnant to the Nation’s principles.

(2) After a discussion of a motion for advice but before submitting the motion to a vote, the Assembly may refer the matter to a committee of the General Assembly to consider the text of the motion and any issues related to the motion, or the General Assembly may table the motion for consideration at some future time, or it may proceed to discuss the motion.

(3) If the motion is referred to Committee, the Assembly shall receive the report of the Committee and after considering the report, decide how the matter should proceed.

(4) Concurrently with any aspect of this process or after the process has been completed, the Assembly may by a further motion name the solicitor from whom the opinion is sought, and the motion once passed will be referred to the Council, and the Council shall retain the solicitor for the Assembly, as provided in the motion.

7. Upon tabling of the opinion of the solicitor, the General Assembly shall open discussion of the referendum question by considering the opinion and whether it wishes to call a referendum on the question as it may have been amended in the process.

8. The Motion calling for a Referendum shall include the text of the referendum question.

9. (1) If the motion is adopted by the Assembly, the Council shall by resolution within thirty days call the Referendum.

(2) The Resolution of the Council calling a Referendum shall include the following:

(a) the Referendum Question adopted by the General Assembly pursuant to this Act,

(b) a date set for Referendum Day at a time in the future which meets the requirements of this Act, and is no less than 80 days from the date the Referendum is called, provided that

(i) if another referendum proposal has been placed before the General Assembly, the Council may delay the setting of a date until the General Assembly has decided whether the referendum question shall be the subject of a referendum, in which case two or more referendum questions may be decided on the same day, or

(ii) if an election is scheduled within six months after the earliest possible date of a Referendum, in which case the referendum and the election may be held on the same day; or

(iii) notwithstanding these two situations which could delay the date set for the referendum, if the Council or the General Assembly determines and declares it is critical that the referendum be decided at the earliest possible date, the Council shall set a date to hold the referendum at the earliest time possible pursuant to this Act.

10. The Council shall then carry out the process for the Referendum stipulated by this Act.

Voter may vote in either or both of the election and the referendum

11. If the Referendum is held concurrently with an Election,

(1) subject to this section, a voter may vote in either or both Referendum and Election.

(2) a voter who wishes to vote in both the election and the referendum may only obtain the ballots for the election and for the referendum at the same time.

(3) if a voter chooses to obtain a ballot to vote only in the election or only in the referendum, but not both, the Electoral Officer shall note against the voter's name in the voting book which ballot was declined.

(4) the Electoral Officer shall distribute the ballots in the same manner at the same time, but shall place all materials related to the Referendum in a separate internal envelope.

(5) Referendum ballots shall be printed on paper of a different colour than the paper used for election ballots.

(6) Both election ballots and referendum ballots shall be deposited in the same ballot boxes.

(7) The same voting books will be used for both the election and the referendum, and must include a space for recording that a voter has declined to obtain an election ballot or a referendum ballot, whichever might be the case.

(8) The same person who is the Electoral Officer for the Election shall be the Electoral Officer for the Referendum.

When the referendum is binding

12. (1) If a majority of the ballots validly cast at a referendum vote the same way on the question stated and the question provided that it would be binding as provided in subsection 5(5) of this Act, the result is binding, within the meaning of subsection (2), on the Council that initiated the referendum.
- (2) If the results of a referendum are binding, the Council who initiated the referendum shall, as soon as practicable, take any steps within the competence of the Council that it considers necessary or advisable to implement the results of the referendum.

PART II

CONDUCT OF REFERENDUM

Appointment of a n Electoral Officer

13. The Council shall appoint an Electoral Officer to conduct the referendum at least 80 days before the date upon which the Referendum is to be held.
14. A person appointed by Chief and Council as Electoral Officer shall not be a Member of the First Nation or an employee of the First Nation or the Council or any institution of the First Nation, associated with any interests which will benefit from the results of the referendum, shall not have been convicted of an indictable offence, and in the opinion of the Council, have the knowledge, experience, and ability to conduct a referendum under this Act.
15. 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.
16. The name of the Electoral Officer who has been appointed shall appear in the Notice of Referendum.
17. The Council shall set the remuneration and expenses payable to the Electoral Officer and the budget to be utilized by the Electoral Officer in conducting the referendum.

18. Where an election and a referendum are being held on the same day, the budget for the election may include the costs of the referendum,.
19. The Council may only terminate the appointment of the Electoral Officer
 - (a) for just cause or
 - (b) for incapacity.

Responsibility of Electoral Officer

20. (1) The Electoral Officer shall be responsible for the fair, efficient and proper conduct of a referendum 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 a Referendum.
 - (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 referendum within generally accepted standards for the conduct of a referendum.

Appointment and authority of Deputy Electoral Officers

21. (1) The Electoral Officer
 - (a) shall appoint at least one Deputy Electoral Officer;
 - (b) shall determine the nature and extent of the Deputy Electoral Officer's authority that a deputy Electoral Officer is permitted to exercise with respect to the referendum, 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 Officer's 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;
 - (c) associated with any interests which will benefit from the results of the referendum.
- (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

22. (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 a referendum, 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 Referendum Clerks

23. (1) The Electoral Officer may appoint referendum clerks.

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

Oaths of Office

24. Before undertaking any duties under this Act, the individual appointed as Electoral Officer must make a solemn declaration that the individual will

(a) faithfully and impartially fulfill the duties of the office,

(b) has not received and will not accept any inducement to perform the duties otherwise than impartially and in accord with this Act, or to otherwise subvert the referendum, and

(c) will preserve the secrecy of the ballots.

25. Upon appointing any officials to assist, the Electoral Officer shall ensure that the appointed official shall make a similar solemn declaration before undertaking the duties pursuant to the appointment.

Appropriation

26. The cost of conducting a referendum shall be paid from Sawridge General Funds.

**PART III
THE ELECTORAL LIST**

Preparation of Electors List

27. (1) Within two days after the Council has called a referendum pursuant to this Act, the Membership Registrar shall provide the Electoral Officer named by the Council with an alphabetical list of all members who will be Electors-on the day of the Referendum, containing the birth date, declared primary residence 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, declared primary residence 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.
- (3) When a Referendum is held on the same day as an election, the same list as provided for the election shall be used for the referendum.

Creation and Posting of Resident and Non-Resident Voters Lists

28. Subject to the Constitution and any other Act, if in the calling of a Referendum, the Council determines that the interests of the electors who are resident are or may be different than the interests of the electors who are non-resident as to the result of the referendum, or if the Council or any member of Council considers it important that the results of the referendum indicate the preference of the resident voters as compared to those of the non-resident voters, it may order the creation and posting of resident and non-resident voter lists. In that event, from the Public List, the Electoral Officer shall create a Resident Electors Sub-List and a Non-Resident Electors Sub-List. 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. For greater certainty, this section shall not apply in the case of a Referendum called to amend the Constitution in accordance with Article 21 of the Constitution.
29. (1) Not less than 75 days prior to Referendum Day, the Electoral Officer shall post the sub-lists or the Public List (if there are no sub-lists) in all Principal Offices.
- (2) Not less than 75 days prior to the Referendum Day, the Electoral Officer shall mail to each Elector a copy of both Sub-Lists, or the Public List (if there are no

sub-lists).

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

(4) The Electoral Officer must show the Public List and the Sub-Lists (if any) to any Elector who asks to see the List or Sub-Lists.

Application to correct the List or Sub-Lists

30. At any time prior to the 60th day prior to the day set for the Referendum, any person whose name is on the Electoral List who considers his/her name is on the wrong Sub-List (if Any), or any Elector who believes that another person's name is on the wrong Sub-List (if any) or is incorrectly on the Public List or who believes that a name including his or her own name has been incorrectly omitted from the Public List, may request the Electoral Officer to correct the Public List or the Sub-Lists as the case may be 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.

Correcting the Public List or Sub-Lists

31. (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 added to the Public List, deleted from the Public List or moved from one sub-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 and offer all electors the opportunity to show cause as to why that change should not be made.

(2) If any elector wishes to show cause as to why the change should not be made, they may at any time prior to 46 days prior to the date set for the referendum 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 if any 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 Electors'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 Declaration of Interests.

Appeal of Electoral Officer's decision

32. If any elector wishes to appeal the decision of the Electoral Officer, the matter shall be referred to the Elders Commission no less than 39 days prior to the date set for the Referendum 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, if

any, 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 deadline for Declaration of Interests*.

33. After the deadline for Declaration of Interest, 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.
34. In the event that no determination is made by Council that the results of the resident vote and the non-resident vote shall be kept separately, the marked ballots for the referendum from each group shall be mixed one with the other so that no separate results from the referendum may be known or announced.

No Delay in Deadline for Declaration of Interest or Referendum

35. 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 Deadline for Declarations of Interest or the Referendum.

Correcting the Electors Lists

36. (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 Declaration of Interest 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, if any.

Request for Reconsideration of Electoral Officer's decision

37. (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 Referendum 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;**
- (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

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

39. Only a qualified elector whose name is on the corrected Electors List shall be entitled to vote in a Referendum.

Responsibility of Each Elector To Keep His/Her Address Current

40. Each Elector is responsible for 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
DECLARATION OF INTEREST AND REFERENDUM DISCUSSION MEETING

Setting date and procedure for Declaration of Interest Meeting

41. (1) The Electoral Officer shall make arrangements for and set dates for a Declaration of Interest Meeting which shall be no fewer than 35 days prior to the Referendum 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 Declaration of Interest Meeting, how the notice is to be given, and the information to be contained in the notice.
42. (1) The Council may make regulations for one or more Referendum Discussion Meetings to be held after the Declaration of Interest Meeting has taken place, how notice of the meetings is to be given, the general locations of the meetings, the information to be contained in the notice, and the conduct of the meeting.
- (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 Declarations of Interest Must Be Made

43. The Electoral Officer shall at least 21 days prior to the date set for the Declaration of Interest Meeting send or deliver to each Elector on the Electoral List, to the address shown on the list, a notice stating:
- (a) that a Referendum will be held on the specified date, setting out the time and place of the meeting;
- (b) that any Elector with an interest in the outcome of the Referendum, or who has received or been promised any remuneration or inducements to influence the result of the Referendum, or who will benefit if the Referendum is decided in one manner or another, shall attend or send a representative to the Declaration of Interest meeting and table a sworn or affirmed Declaration providing full disclosure of the interest held by the Elector and answer questions of any Elector present at the meeting regarding the nature of the Interest or information contained in the Declaration.

The Declaration of Interests Meeting

44. The Council shall ensure that a Commissioner of Oaths is available upon fifteen minutes notice throughout the Declaration of Interest Meeting in the event an Elector making a Declaration may swear it or affirm it or change a Declaration already prepared.
45. At the appointed time and place for the Declaration of Interest, the Electoral Officer shall convene the meeting.
 - (1) After the meeting has been opened, the Electoral Officer shall open all Declarations of Interest which have been received, making them available for inspection by any Elector present.
 - (2) At any time before the close of the meeting, the Electoral Officer may also receive additional Declarations handed to him/her.
 - (3) After the Declarations have been viewed, the Electoral Officer will chair a meeting during which any Elector present may question any Elector who has made a Declaration with regard to the Declaration.
 - (4) No person other than Electors and Officials of the Electoral Officer may attend the Declaration of Interest Meeting.
 - (5) The Electoral Officer shall provide assistance to any Elector who requests assistance in completing or changing his or her Declaration of Interest.
46. The meeting shall remain open until
 - (a) all Electors present having a Declaration of Interest to file have had the opportunity to file their respective Declarations;
 - (b) all Electors present wishing to view all Declarations filed have had the opportunity to do so;
 - (c) all Electors present have had an opportunity to ask questions and listen to answers of any person who has filed a Declaration,
 - (d) the Electoral Officer has provided each person present with a copy of each Declaration of Interest which has been filed.
47. Any time prior to the closing of the Declaration of Interest meeting, an Elector having made a Declaration may make a further Declaration, including a

Declaration that the Elector has taken steps to cancel and make null and void any interest the Elector had previously declared and withdraws the previously made Declaration, and

(1) Once the Electoral Officer has acknowledged the withdrawal of a Declaration of Interest, the Elector shall be prohibited from resubmitting a Declaration of Interest.

(2) Once the Declaration of Interest Meeting has been closed, no Elector may withdraw his or her Declaration.

Contested Declarations or Allegations of Failure To Make a Declaration

48. (1) The Electoral Officer is not required to investigate the contents of any Declaration of Interest or the failure to file a Declaration of Interest unless credible information which brings the contents of a Declaration or the failure to file a Declaration comes to the Electoral Officer's attention seven or more days prior to Referendum Day, in which case the Electoral Officer shall investigate, and after giving the Elector making the Declaration an opportunity to be heard and present evidence, make a decision as to whether the allegations are sufficiently founded and should be put before the Electors prior to or on Referendum Day, and whether any recommendations should be made to the Council as to actions it might take independently of the Referendum, and to inform the Elector of the actions taken.

(2) After the Electoral Officer has made a decision pursuant to subsection (1), the Elector involved may, within three days after the Electoral Officer's decision or prior to Referendum 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 Electoral Officer's decision should not stand.

(3) 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.

Retention of documents

49. (1) The Electoral Officer shall retain all documents and notes made or submitted in Declaration of Interest process and shall include them in the binder compiled by the Electoral Officer after the referendum.

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

PART V

DECLARATION OF REFERENDUM AND NOTICE OF REFERENDUM

Preparation of Ballots

50. (1) Within seven days from the date the Declaration of Interest Meeting is concluded, the Electoral Officer shall, in accordance with regulations, prepare ballots for the referendum, showing the Question to be answered.

(2) A copy of the ballots to be used in the Referendum shall be available for public inspection.

Notice of the Referendum

51. (1) The Electoral Officer shall not less than 28 days prior to Referendum Day

(a) post notices of the Referendum in one or more conspicuous public places on Sawridge lands frequented by Electors;

(b) provide on request up to four copies of Referendum 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 Referendum shall contain at a minimum:

(a) the date of Referendum Day,

(b) the Question to be answered by the Electors;

(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 absentee vote

52. The Electoral Officer shall, not less than 28 days prior to Referendum Day

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

(a) a notice of the Referendum,;

(b) an absentee voter 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 secrecy envelope marked "Ballot" for insertion of the completed ballot, and containing on it a printed Voter Declaration Form with a space in which to record the full name, residential address and date of birth of the Elector who is voting and a printed declaration to be signed by the Elector, stating as follows:

"I declare that I am an Elector of the Sawridge First Nation and that I have not previously voted in this referendum."

(e) a letter of instruction stating that each Elector may vote either in person at the voting station on Referendum Day or by absentee ballot and providing the name, telephone number and e-mail address of the Electoral Officer;

(f) instructions as to how mail-in ballots are to be used, namely

(i) mark the ballot with a cross or tick in either the blank space marked "Yes" or the space marked "No";

(ii) place the ballot in the secrecy envelope and seal the envelope;

(iii) fill in the blank spaces printed on the Voter's Declaration form, sign the declaration, and have the signature witnessed by a person of the age of 18 years or older;

(iv) place the Voter's Declaration form in the return envelope provided,

(v) seal the return envelope;

(vi) ensure the return envelope is delivered so that it is received by the Electoral Officer prior to the closing of the polls on Referendum Day.

(g) the location of the voting station or stations where the Elector may vote on Referendum Day if the Elector has not submitted an absentee ballot.

(2) The Electoral Officer shall indicate on his/her official copy of the Electors List that an absentee 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 absentee ballot was mailed or delivered.

(3) An Elector who loses an absentee ballot may obtain another ballot by delivering to the Electoral Officer a written affirmation that the Elector has not voted in the Referendum 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

53. (1) Persons who have submitted Declarations of Interest 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 Electors who have filed Declarations of Interest to cover the cost of distributing the materials provided by such Electors to the Electoral Officer;**
- (d) requiring the name of the Elector who has filed a Declaration of Interest 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 referendum being called, place all campaign advertising to be distributed in a distinct envelope labeled "Information Provided By Electors Who Have Filed Declarations of Interest", together with copies of all Declarations of Interest which have been filed, 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 Referendum into disrepute.

54. The Electoral Officer shall maintain as confidential all campaign advertising material received until such time as it is distributed.

Absentee votes: regulations

55. (1) The Council may make regulations consistent with the Constitution and this Act

- (a) respecting the verification of absentee votes;**
- (b) respecting the maintenance of secrecy of absentee votes;**
- (c) governing how absentee voting is to be conducted;**

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

Voting by Absentee Ballot

56. An Elector to whom an absentee ballot was mailed, delivered or provided is not entitled to vote in person at a voting station other than in accordance with this Act.
57. (1) An Elector may vote by absentee 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 Referendum.
- (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 Referendum Day shall exchange his/her unmarked absentee 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 an absentee ballot may obtain another ballot by making a signed written affirmation to the Electoral Officer that the Elector has not voted in the referendum by mail or in person.

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

Preparation for Referendum Day

58. 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

59. (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 Referendum 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.

REFERENDUM DAY

PART VI VOTING

Scrutineers appointed by Electors who have filed Declarations of Interest

60. (1) Each Elector who has filed a Declaration of Interest may appoint scrutineers by providing written notice of the appointment to the Electoral Officer.

(2) Not more than two scrutineers for each Elector who has filed a Declaration of Interest 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 an Elector who has filed a Declaration of interest up to the time voting stations close.

No electioneering in or near Voting Station

61. No Elector who has filed a Declaration of Interest or person on their behalf may on Referendum day, electioneer or display referendum campaign advertising in a voting station or within an area outside the voting station designated by the Electoral Officer.

Preparing for voting

62. The Council may make regulations

- (a) respecting the acquisition and use of ballot boxes for the referendum 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

63. A vote in the Referendum may be cast
- (a) on Referendum day, in person, or
 - (b) by absentee ballot.

Voting rules

64. If an order has been made pursuant to this Act that ballots of residents and of non-residents shall be counted separately, 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.
65. If no order has been made pursuant to this Act that ballots of Resident Electors and of Non-Resident Electors shall be counted separately, ballots shall be placed in a common ballot box and counted together.
66. An Elector may only vote either "Yes" or "No" and a Ballot marked both "Yes" and "No" will be regarded as a spoiled ballot and not counted.
67. 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

68. (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 Referendum 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 referendum 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 an absentee ballot was mailed, delivered, or otherwise provided prior to Referendum Day may obtain a ballot and vote in person at a voting station if

- (a) the Elector returns the absentee ballot to the Electoral Officer; or
- (b) where the Elector has lost or forgotten the absentee ballot, the Elector provides the Electoral Officer with a written affirmation that the Elector has not voted in the referendum 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 "Yes" or next to the "No" as the Elector wishes to vote;

(c) fold the ballot in a manner that conceals 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.

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

70. 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.

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

72. 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

73. 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 Referendum 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

74. (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

75. (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 Referendum 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

76. (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.

77. Only ballots issued by the Electoral Officer on Referendum Day may be cast in person on referendum day.

**PART VII
COUNTING OF VOTES**

78. (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 absentee ballots, and ballots cast in an advance vote, if any, and how and when they are counted;**
- (g) the role, responsibility and function of Referendum 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 absentee ballot 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 absentee ballots that are spoiled, declined, rejected or set aside;

(d) procedures to prevent an eligible voter from voting both by absentee 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 a referendum.

79. 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 of the absentee ballots and proceed to examine the Voter Declaration Form without opening it and

(a) set aside the Voter Declaration Form and Ballot Envelope if

(i) it is not signed or witnessed or is not an official Voter Declaration Form ;

(ii) the name of the Elector set out in the Voter Declaration Form is not on the Electors List,

(iii) the name of the Elector set out in the Voter Declaration Form is not the person to whom the absentee ballot was provided,

(iv) the Electors List shows that the Elector has already voted;

and if the Voter Declaration Form is not set aside,

(b) open the Ballot Envelope and

(i) if the Envelope contains more than one ballot, leave the ballots inside the Envelope, seal it, and set it aside, noting on the envelope that it contained more than one ballot;

(ii) if the Envelope contains only one ballot, 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.

Arrangements for the count

80. (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

81. (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 Elector who submitted a Declaration of Interest and appointed that Scrutineer may immediately appoint a replacement scrutineer notwithstanding that the polls have closed.

Counting duties of Electoral Officer

82. (1) As soon as is practicable after the absentee ballots have been deposited under section 79(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 one by one, deal with the ballots in each box before proceeding to the next box by examining each ballot cast and rejecting 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,
- (e) there is no mark in either blank space opposite the question;
- (f) the ballot does not clearly indicate the intention of the voter respecting the question;
- (g) the ballot is uniquely marked or has otherwise been uniquely dealt with in such a manner that the voter could be identified;
- (h) the ballot has been altered in any way by the voter, including, without limitation, by the amendment of the wording of the question or any written

comments.

(2) The Electoral Officer shall then count the number of votes cast "Yes" and the number of votes cast "No" and shall document the results of the count of ballots and record the results of the official results of the vote.

Declaration of Referendum Results

83. (1) Immediately after completing the official result of the vote, the Electoral Officer shall declare the number of votes cast "Yes" and the number of votes cast "No".

(2) The Electoral Officer shall then declare whether the "Yes" votes or the "No" votes had the greatest number, or whether the vote is a tie.

Tie votes

84. (1) If the number of votes for "Yes" is the same as the number of votes for "No", then this shall be declared a "tie vote" and the Electoral Officer must conduct a recount of the votes.

(2) If the recount determines

(a) the vote is not a tie vote, the Electoral Officer shall declare the Referendum results, or

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

85. In the event of a tie vote, the Referendum is over and is so reported to the Council.

Statement of Official Results

86. (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 Referendum, 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;

- (v) the number of ballots set aside in accordance with this Act,
 - (vi) the number of ballots rejected,
 - (vii) the total number of ballots cast and not rejected,
 - (viii) the number of ballot papers printed,
 - (ix) the number of ballot papers mailed out,
 - (x) the number of mailed-out ballot papers which were put in the ballot box,
 - (xi) the number of mailed-out ballot papers which were returned for replacement,
 - (xii) the number of mailed-out ballot papers which were not cast or returned,
 - (xiii) the number of unused ballot papers,
 - (xiv) the number of spoiled ballot papers, and
 - (xv) a reconciliation of the ballot papers and an explanation of any discrepancy
- (b) the number of votes cast "Yes" and the number of votes cast "No",
- 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

87. (1) If an Elector who has cast a Declaration of Interest 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 referendum, or

(b) the Electoral Officer's report and results do not accurately record the number of votes cast "Yes" and the number cast "No",

the Elector 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 referendum 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 any time in the period beginning immediately after the Declaration of Referendum Results and ending 24 hours thereafter.

Recount of Close Votes

88. (1) If the margin between the number of “Yes” votes and the number of “No” votes is less than 5% of the total votes cast, then the Electoral Officer shall not declare the results of the Referendum 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.

**PART VIII
FINAL RESPONSIBILITIES OF ELECTORAL OFFICER**

Report of the Referendum

89. When the Referendum is finally decided the Electoral Officer shall

- (a) send to the Council a report of the Referendum results;
- (b) promptly post the Referendum results in the Principal Office;
- (c) mail a copy of the Referendum results to each Elector at the address shown on the Electors List;
- (d) report to the Speaker of the General Assembly at its next meeting a report of the referendum results and any comments or recommendations the Electoral Officer considers appropriate.

Disposal of referendum materials

90. (1) The Electoral Officer must retain the ballots and documents related to the referendum in a secure location until they are disposed of.

(2) The Electoral Officer shall dispose of the ballots, declarations and affidavits used in the referendum in the presence of two witnesses who must then 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 Referendum Day, or if there is an appeal, not earlier than 60 days after the appeal is conclusively resolved.

Completion of referendum binder

91. On final completion of the referendum, 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 involved in conducting recounts;**
- (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.**

PART IX REGULATIONS

Regulation-making authority

92. The Council may make regulations and prescribe forms with respect to this Act. Such regulations may provide for any referendum-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 a referendum and the day following the referendum.
93. Regulations may include the following matters and any other matters the Council considers prudent and necessary:
- (a) prescribing additional duties and powers of the Electoral Officer which are not stipulated in this Act;
 - (b) prohibiting or regulating campaigning for or against any question put to the electors at a referendum, including
 - (i) contributions that may be made to persons and groups of persons, and
 - (ii) expenses that may be incurred by persons and groups of persons;
 - (c) generally respecting any other matters and things relating to the holding and conduct of a referendum that the Council considers necessary to carry out the intent of this Act.

PART X OFFENCES AND PENALTIES

Definitions

94. 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 general public referendum promises

made by an Elector who has filed a Declaration of Interest;

“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.

Prosecution of offences

95. (1) A prosecution for an offence under this Act may not be commenced without the approval of the Electoral Officer. If the Electoral Officer is satisfied that there are reasonable grounds to believe that an individual or organization has contravened this Act, the Electoral Officer may refer the matter to a court with proper jurisdiction to determine whether an offence has occurred, and if so, what penalty shall be applied.

(2) The time limit for laying an information respecting an offence under this Act is one year after the facts on which the information is based first came to the knowledge of the Electoral Officer.

Prosecution of organizations and their directors and agents

96. (1) An act or thing done or omitted by an officer, director, employee or agent of an organization within the scope of the individual's authority to act on behalf of the organization is deemed to be an act or thing done or omitted by the organization.

(2) If an organization commits an offence under this Act an officer, director, employee or agent of the organization who authorizes, permits or acquiesces in the offence commits the same offence, whether or not the organization is convicted of the offence

(3) A prosecution for an offence under this Act may be brought against an unincorporated organization in the name of the organization and, for the purposes of the prosecution, the unincorporated organization is deemed to be a person.

Inducement Offences; Vote Buying

97. An individual or an organization is guilty of an offence who, by paying, advancing, or otherwise providing inducement, directly or indirectly, through an

agent or personally, seeks to persuade another person to vote or refrain from voting in a Referendum, or seeks to persuade another person to vote or refrain from voting for or against the Referendum question, or rewards an individual for having voted or refrained from voting, by paying, giving, lending or procuring an inducement knowing or with the intent that it is to be used for any of the acts prohibited by this Act.

98. A person is guilty of an offence who accepts an inducement to vote or refrain from voting in a Referendum or to vote or refrain from voting for or against the Referendum question, or as a reward for having voted or refrained from voting.
99. An individual or organization prohibited from doing something by this Act must not do the prohibited act directly, indirectly or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.

Intimidation offences

100. 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 a Referendum;
- (b) to persuade or compel a person to vote or refrain from voting for or against the Referendum question;
- (c) to penalize, punish or take measures against a person for having voted or refrained from voting in a referendum or for voting or not voting for or against the Referendum question.

Interference with voting offences

101. 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 a Referendum;
- (b) compels, persuades or otherwise causes a person to vote or refrain from voting at a Referendum;

(c) compels, persuades or otherwise causes a person to vote or refrain from voting for or against the Referendum question.

Corrupt Voting

102. An individual who does any of the following commits an offence:

- (a) attempts to vote in a referendum when not entitled to do so;
- (b) attempts to vote more than once in a referendum;
- (c) applies for more than one absentee voting package;
- (d) in assisting a voter who requires assistance, fails to mark a ballot in accordance with the directions of the voter being assisted;
- (e) attempts to obtain a ballot in the name of another individual, whether the name is of a living or deceased individual or of a fictitious individual.

103. (1) An individual or organization who does any of the following without authority under this Act commits an offence:

- (a) supplies a ballot to an individual or organization;
- (b) prints or reproduces a ballot or a paper that is capable of being used as a ballot;
- (c) destroys, takes, opens or otherwise interferes with a ballot paper, ballot, or declaration envelope, ballot box or voting book.

(2) An individual or organization who commits an offence under subsection (1) is liable to a fine of not more than \$10 000 or imprisonment for a term not longer than one year, or both.

Offences in relation to false or misleading information

104. (1) An individual or organization who does any of the following commits an offence:

- (a) provides false or misleading information when required or authorized under this Act to provide information;
- (b) makes a false or misleading statement or declaration when required

under this Act to make a statement or declaration.

(2) An individual or organization is not guilty of an offence under this section if, at the time the information was given or the statement or declaration was made, the individual or organization did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

(3) An individual or organization who commits an offence under this section is liable to a fine of not more than \$20 000 or imprisonment for a term not longer than 2 years, or both.

General offences

105. A person is guilty of an offence who contravenes any provision of this Act or the regulations and is liable to one or more of the penalties referred to in this Act.

Specific Referendum Offences

106.(1) A person is guilty of an offence who purports to withdraw an Elector's Declaration of Interest from a Referendum without authority to do so or to publish or cause to be published a false statement that a Declaration has been withdrawn.

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

- (a) votes in a Referendum 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 referendum.

(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 Clerk or Scrutineer, contravenes this Act with the intention of affecting the result or validity of an election.

Penalties

107. Except where otherwise specified, 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 \$20 000;

(b) imprisonment for a term not longer than 2 years;

(c) a prohibition for a period of not longer than seven years from acting in any official capacity in the conduct of an election or referendum.

Defence of due diligence

108. It is a defense 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.

Proof that an individual has voted

109. The signature of an individual in a Declaration indicating that the individual applied for a ballot on a Voter Declaration Form is proof for the purposes of this Act that the individual has voted.

Access to and use of information in records

110. If a record is available for the inspection of Electors' inspection in the office of an Electoral official an Elector may obtain a copy of the record on payment of the reasonable costs of reproduction.

Investigations and audits by electoral officer

111. The Electoral Officer may conduct investigations of any matter that might constitute a contravention of this Act or a regulation under this Act.

Complaints regarding contraventions

112. (1) If the Electoral Officer receives a complaint alleging that this Act or a regulation under this Act has been contravened, the Electoral Officer must consider whether to investigate the matter.

(2) The Electoral Officer must refuse to investigate a complaint that in the view of the Electoral Officer appears to be frivolous, vexatious or obviously unfounded.

(3) If a complaint is made in writing and the Electoral Officer decides not to conduct an investigation, the Electoral Officer must notify the complainant in writing of the reasons for the decision.

Enforcement by court injunction

113. (1) On application of the Electoral Officer, a court of competent jurisdiction may grant an injunction as follows:

(a) the court may grant an injunction restraining an individual or organization from contravening this Act if the court is satisfied that there are reasonable grounds to believe that the individual or organization has contravened or is likely to contravene this Act or its regulations;

(b) the court may grant an injunction requiring an individual or organization to comply with this Act if the court is satisfied that there are reasonable grounds to believe that the individual or organization has not complied or is likely not to comply with this Act or its regulations.

(2) An order under subsection (1) may be made without notice to others if it is necessary to do so in order to protect the interest of the Sawridge First Nation.

(3) A contravention of this Act or its regulations may be restrained under

subsection (1) whether or not a penalty or other remedy has been provided by this Act.

PART XI EMERGENCY CIRCUMSTANCES

Emergencies and other extraordinary circumstances

114. (1) The Electoral Officer may, by specific or general order, make exceptions to this Act or its regulations in accordance with the purposes of this Act if, in the opinion of the Electoral Officer, this is necessary because of an emergency, a mistake or extraordinary circumstances in relation to proceedings under this Act in relation to the referendum.

(2) Without limiting subsection (1), the Electoral Officer may make orders extending a time period or establishing a new date in place of one set under this Act and giving any other direction the Electoral Officer considers appropriate in relation to this.

(3) If an order is made under this section, the report of the Electoral Officer to the General Assembly must include a report on the order and the circumstances under which it was made and be filed with the Council.

Coming into force

115. This Act comes into effect on the day of passage.