

ELECTION OFFICIAL'S HANDBOOK	This handbook is for use by community election officials	
Aboriginal and Northern Affairs	October 2009	Page 1

Table of Contents

	<u>Page</u>
Introduction	
Purpose of the Handbook	4
 Part 1: Election Officials	
Appointments	5
Oaths.....	5
Remuneration	6
Other Officials.....	6
Material Required.....	6
Election Forms	6
Envelopes	6
Other Materials.....	7
Public Notice	7
Establishing Identity.....	7
Election Calendar	7
 Part 2: Senior Election Official's Duties	
Organization	
Step 1 – Election Officials Meeting	9
Step 2 – Election Officials Facilities	9
Voters List	
Step 3 – Establish and Maintain Voters List	10
Qualifications of Voters	11
Nomination Procedure	
Step 4 – Posting Notice of Nominations	12
Step 5 – Nomination Papers	12
Step 6 – Receiving Nomination Papers.....	12
Step 7 – Notice of Election.....	14
Preparing for Election	
Step 8 – Printing Ballots.....	14
Preparing for Advance Voting and Sealed Envelope Ballots	
Step 9 – Sealed Envelope Ballots.....	15
Step 10 – Preparing for Advance Voting	16
Step 11 – Holding Advance Voting.....	16
Step 12 – Closing Advance Voting	17
Preparing and Holding Regular Voting	
Step 13 – Preparing for Regular Voting.....	17
Step 14 – Holding Regular Voting	17
Step 15 – Closing Regular Voting.....	18
Step 16 – Combining Ballots.....	18
Dealing with Unusual Situations	
Challenges to the Right to Vote.....	19
Refusal to Sign	19
Voters Requiring Assistance	20
Interpreter	20
Ballots Spoiled, Declined or Discarded.....	20

ELECTION OFFICIAL'S HANDBOOK	This handbook is for use by community election officials	
Aboriginal and Northern Affairs	October 2009	Page 2

Interference and Disorderly Conduct	21
Interrupted Voting	21
Counting Ballots	
Step 17 – Ballot Tally	21
Step 18 – Statement of the Vote	22
Step 19 – Packaging Used Materials	22
Step 20 – Preparing Official Results	23
Duties after Election	
Step 21 – Information to the Public.....	23
Step 22 – Elected Candidates Taking Office.....	23
Election Complaints	
1) Challenges to Candidates Qualifications	24
2) Irregularities in Election Process	24
3) Challenging Results of Election.....	24
Recounts	25
By-Elections	25
Candidate’s Information.....	25
Qualifications of Candidates	26
Disqualifications of Candidates.....	26
Items that do not Disqualify Candidates	27

Part 3: Voting Official’s Duties

Organization	
Step 1 – Election Officials Meeting	28
Assisting at the Voting	
Step 2 – Procedures at the Voting	28
After the Voting	
Step 3 – Assisting in Counting Ballots.....	28

Part 4: Aboriginal and Northern Affairs Staff Roles

Principal Electoral Officer	
Role	30
Orders	30
Recounts	30
Municipal Development Consultants	31
Department Contact List.....	32

Part 5: Regulations and Excerpts from Acts

A. Election Regulation (Office Consolidation)	33
B. Part 4 – Elections Re Community Councils (<i>The Northern Affairs Act</i>)	58
C. Section 92 (<i>The Municipal Act</i>)	64
D. Election Offences (<i>The Municipal Councils and School Boards Elections Act</i>)	66
E. Subsection 62(1) (<i>The Manitoba Evidence Act</i>)	72

Part 6: Election Material

Election Forms	73
Notations for Document Envelopes.....	74
Other Forms.....	75

ELECTION OFFICIAL'S HANDBOOK	This handbook is for use by community election officials	
Aboriginal and Northern Affairs	October 2009	Page 3

Attachments:

- Form 1 – Declaration of Election Official
- Form 2 – Voters List
- Form 3 – Notice of Voters List/Personal Security Protection
- Form 4 – Application for Personal Security Protection
- Form 5 – Personal Security Certificate
- Form 6 – Notice of Nominations
- Form 7 – Candidate Nomination
- Form 8 – Declaration of Candidate
- Form 9 – Candidate Withdrawal
- Form 10 – Scrutineer Appointment
- Form 11 – Notice of Election
- Form 12 – Information Sheet for Scrutineers
- Form 13 – Oath of Scrutineer
- Form 14 – Ballots (Separate, Composite)
- Form 15 – Directions for Voting
- Form 16 – Oath of Voter
- Form 17 – Oath of Person Assisting a Voter
- Form 18 – Oath of Interpreter
- Form 19 – Application to Vote by Sealed Envelope
- Form 20 – Instructions for Voting by Sealed Envelope
- Form 21 – Voting by Sealed Envelope
- Form 22 – Ballot Account
- Form 23 – Statement of the Vote
- Form 24 – Statement of Official Results
- Form 25 – Oath of Office for Members of Council
- Envelope A – Accepted Ballots
- Envelope B – Accepted Ballots that were Objected to
- Envelope C – Rejected Ballots
- Envelope D – Rejected Ballots that were Objected to
- Envelope E – Spoiled Ballots
- Envelope F – Declined Ballots
- Envelope G – Discarded Ballots
- Envelope H – Unused Ballots
- Envelope I – Voters List
- Envelope J – Copy of the Statement of the Vote
- Envelope K – All Other Documents Used at the Election
- Application for Recount
- Application to Challenge an Election

ELECTION OFFICIAL'S HANDBOOK	Introduction	
Aboriginal and Northern Affairs	October 2009	Page 4

Purpose of the Handbook

This is a reference handbook for use by community election officials to guide and explain relevant election processes. The contents of this handbook should answer 99% of election official's everyday questions.

The Principal Electoral Officer (PEO) updated this handbook for changes made to the Act, regulations and departmental procedures. It covers the duties of election officials, role of departmental staff and contains copies of sample election forms.

This handbook includes the latest consolidated version of the *Community Councils Election* regulation – M.R. 71/2009 and Part 4 of *The Northern Affairs Act* along with excerpts from other relevant regulations and acts.

Changes to this handbook will be circulated to your community administrative officer.

Suggestions for improvements, changes and corrections are always welcome. Please send such material through your community administrative officer to the attention of the PEO.

Finally, should you resign as an election official, please hand your copy of the handbook to the community administrative officer to pass on to your successor.

ELECTION OFFICIAL'S HANDBOOK	Part 1: Election Officials	
Aboriginal and Northern Affairs	October 2009	Page 5

Appointments

- [Reg 3] The regulation defines the election officials.
- [Reg 9(1),(3)] The senior election official and assistant senior election official are appointed by council by-law. These positions are appointed “**for life**”, that is, until the person dies, resigns or is removed by a by-law passed by the community council.
- [Reg 9(4)] When a vacancy in one of these two positions occurs, council must immediately amend the by-law and appoint a successor.
- [Reg 15(1)] The following persons are not eligible to be appointed as an election official:
- member of the Legislative Assembly and member of the House of Commons or the Senate of Canada;
 - member of the council of a community;
 - judge of any court or justice of the peace;
 - candidate;
 - person prohibited from being an election official by an order made by the court;
 - person under the age of 18;
 - person who within five years before the proposed appointment was convicted of or served any part of a term of imprisonment for an indictable offence.
- [Reg 15(2)] An election official who becomes ineligible must immediately resign.

When an election official resigns, they shall resign in writing with the resignation given to the community administrative officer.

Oaths

- [Reg 13(1)] All persons appointed as an election official must take an oath and make the declaration on *Form 1 – Declaration of Election Official*.
- [Reg 14] An election official has the authority to administer oaths under this regulation in relation to carrying out the election and must not charge for that action. Election officials can swear one another into office, after being appointed.
- The only other persons authorized to administer oaths are described under *The Manitoba Evidence Act* (see Part 5 of the handbook).
- [Reg 73(2)] A person assisting a voter is required to take an oath on *Form 17 – Oath of Person Assisting a Voter*.
- [Reg 74(3)] A person appointed as an interpreter is required to take an oath on *Form 18 – Oath of Interpreter*.

ELECTION OFFICIAL'S HANDBOOK	Part 1: Election Officials	
Aboriginal and Northern Affairs	October 2009	Page 6

Remuneration

[Reg 9(1)] Election officials receive remuneration for their time, according to the time worked and the rates set by council in the Election Official's Appointment by-law.

- The senior election official would normally require from one and a half days for acclamation, up to five days for a full election.
- Any other election officials that assist with the election would normally require one to three days depending on the activities being performed.
- A voting official is paid only for the day of the voting.

Other Officials

[Reg 11(1)] The senior election official has the authority to appoint one or more election officials for one election at a time. Such appointments are limited to voting officials, interpreters, etc. Election officials, other than those listed, who are appointed by the senior election official do not receive remuneration, unless they are also acting as a voting official at the same time.

[Reg 11(2)] An election official holds office for the term specified in the appointment.

[Reg 74(1)] The senior election official may appoint a language or sign language interpreter to assist election officials to communicate voting instructions to voters.

The senior election official should prepare in advance to have an interpreter on hand. Alternatively, the senior election official may appoint an election official as interpreter, if the election official is qualified.

Material Required

It is the responsibility of the senior election official to ensure sufficient copies of the required election material is available to conduct the election. The community may need to purchase election supplies, where such material is not on hand.

Election Forms

All sample election forms required for the election process are included under Part 6 (Forms 1 to 25) and on the disc enclosed. Each form can be removed to make copies, if required.

Envelopes

Several different envelopes are used to keep track of the ballots that have been accepted or rejected and other election documents. If you are short of envelopes, the information from the envelope can be hand written or photocopied and pasted on the outside of the envelope. Sample notations for document envelopes are included under Part 6 of this handbook.

ELECTION OFFICIAL'S HANDBOOK	Part 1: Election Officials	
Aboriginal and Northern Affairs	October 2009	Page 7

Other Materials

This is a list of other materials required for general information and use at the voting place.

- 6 each Seals for the ballot boxes
- 2 each Voting compartments
- 2 each Ballot boxes
- 1 copy Bible
- Assortment Election supplies, pencils, pens, tape, etc.
- 1 copy *Community Councils Election regulation*
- 1 copy *The Northern Affairs Act*
- 2 copies Election Official's Handbook

Public Notice

- [Reg 5] Where a public notice is required, the senior election official must post a copy of the notice within a place accessible to the public, in
- (a) a community office;
 - (b) the place of the regular council meetings, if different than the community office; and
 - (c) at least two other locations in the community.

Establishing Identity

- [Reg 8] A person who is required to establish proof of identity must present an official document issued by a federal, provincial or local government that contains the person's name, address and photograph or at least two other documents that provide sufficient evidence to the election official of the person's identity.

Election Calendar

The following is a basic sequence of events as per the election calendar:

- The timeframe during which the voters list should be completed
- The date to post the notice of voters list/personal security protection
- The date to post notice of nominations
- The date nominations close
- The last date changes to the voters list can be received
- The date to post the notice of election
- The date for an advance voting
- The election day, which is the fourth Wednesday in October

The election calendar, included on the following page, is used by the senior election official to insert actual dates for the election. The electronic copy contained on the enclosed disc is in excel format. Simply insert the first date, which is the thirty seventh day before the date of the election, and each subsequent date in the election process up to election day is slotted in automatically.

Election Calendar for the Community of: _____

Monday	Tuesday	Wednesday	Thursday	Friday
PREPARATION OF VOTERS LIST (at least one week before posting notice)				
POST NOTICE OF VOTERS LIST/ PERSONAL SECURITY PROTECTION (at least 4 weeks before election day)		POST NOTICE OF NOMINATIONS (at least 7 days, but not more than 21 days before nomination period begins)		
		NOMINATION PERIOD BEGINS (21 days before election day)		
		NOMINATION DAY (at least 2 weeks before election day) 1:00 p.m. – 9:00 p.m. NOMINATION PERIOD ENDS (14 days before election day) LAST DAY TO REVISE VOTERS LIST	CANDIDATE WITHDRAWAL (up until 2:00 p.m.)	POST NOTICE OF ELECTION (2 days after nomination) or ACCLAMATION
		ADVANCE VOTING (anytime after ballots prepared and no later than 48 hours before election day) 5:00 p.m. – 9:00 p.m.		
		ELECTION DAY (Fourth Wed. in October) 8:00 a.m. – 8:00 p.m.	ANNOUNCE RESULTS (day after election)	

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 9

It is the senior election official's duty to see that the election process in the community is carried out in accordance to any Acts and regulations. The senior election official supervises the other election officials and is responsible to both the community council and to the Principal Electoral Officer (PEO) to ensure that the election is conducted properly. General duties of the senior election official are outlined under subsection 10(1) of the regulation.

The senior election official can call upon the community administrative officer or Aboriginal and Northern Affairs staff, specifically the Municipal Development Consultant, for direction in interpreting and applying any Acts or regulation provisions. Departmental staff in turn may call upon the PEO.

Organization

Step 1 – Election Officials Meeting

Before you begin your duties, have a meeting with the other election officials and cover these points:

1. Check dates for the election event, as per the election calendar.
2. Answer any of your election official's questions on the election procedures.
3. Check with your election officials to see if they have the necessary election forms and materials to carry out their duties.
4. Make sure all election officials understand the qualifications of voters and candidates.
5. Make sure all election officials are properly appointed and undertake the oath on *Form 1 – Declaration of Election Official.*

Step 2 – Election Officials Facilities

[Reg 46] It is your responsibility to ensure that proper facilities are available for yourself, your election officials and for the voting. These facilities **MUST** be locations that are accessible to everyone, including handicapped, and are generally owned by the public. It is not to be located in premises, which a candidate may own, nor have an interest in, nor in which a liquor license allows the sale of liquor.

There should be sufficient room and table space to allow election officials to carry out their work and voters to mark their ballots without anyone seeing how the voter votes.

A copy of the current edition of the *Community Councils Election* regulation should be posted in either your office (or place of doing business) and the council office during the period of the election. It is important that the public be able to contact you during the election process to answer questions, obtain and provide information as to election events and process.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 10

Voters List

Step 3 – Establish and Maintain Voters List

It is the responsibility of the senior election official to ensure that a permanent voters list is maintained on *Form 2 – Voters List*. This may be done by an enumeration, updating a previous years' voters list and/or obtaining information from the Chief Electoral Officer of Canada or Manitoba or a local authority. The voters list must contain every qualified voter along with their name, residential address and mailing address, if different. It is up to the senior election official to decide the format of the list, including the arrangement of names and other required information. The senior election official may establish or maintain the list on paper or electronically and reproduce the list in the manner he/she determines.

Any election official appointed other than the senior election official for preparing the voters list is responsible to the senior election official. Any costs incurred by the appointee in undertaking official duties should be submitted to council through the senior election official for payment.

At least annually, the senior election official must give public notice on *Form 3 – Notice of Voters List/Personal Security Protection* that a person wishing to have his or name added or information on the voters list changed may do so by contacting the senior election official.

[Reg 27] Except for adding voters at the time of voting or providing a sealed envelope ballot package, no revisions to the voters list can be made between the close of nominations and election day.

If the senior election official decides to conduct an enumeration, obtain a copy of the most recent voters list from the community administrative officer.

- Review the list for names of deceased persons and those who no longer qualify as voters and remove them from the list.
- Review the list for any names, which are misspelled or incorrectly entered and correct these.
- Add to the list any individuals who meet the qualifications of a voter, but do not appear on the list.
- From a map of the community, you might be able to determine if all of the residents are covered on the list. If it appears that some are missing, then you may go door to door to verify your information.

If a voter wishes to have their name obscured from the voters list they may file an application on *Form 4 – Application for Personal Security Protection* with the senior election official in person, by mail or by fax. The application must be made before the voters list is closed to revisions and set out the person's name, address and include proof of identification. If not filed in person, legible copies of identification may be provided.

After receiving an application, the senior election official must give the applicant a certificate in *Form 5 – Personal Security Certificate* that includes an identification number to be used as a replacement for the person's name and address. For a voter already on the list, the senior election official must obscure the name and address and

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 11

replace it with the voter's identification number. If the voter is not on the list, the senior election official must add the person's identification number to the list. Voters who are identified by a number must be placed at the end of the list.

A person who is given a personal security certificate may only vote by sealed envelope ballot. The senior election official should give the voter a sealed envelope ballot package in *Form 19 – Application to Vote by Sealed Envelope*, *Form 20 – Instructions for Voting by Sealed Envelope* and *Form 21 – Voting by Sealed Envelope*. When applying to vote, the voter must submit his/her personal security certificate to the senior election official.

The voters list must be used for election purposes only. The senior election official must give a candidate a copy of the voters list if requested, during the election period.

Qualifications of Voters

The qualifications of voters are outlined in *The Northern Affairs Act*, per section 82.

A person is qualified to be entered on the voters list and to vote if they are:

- (a) a Canadian citizen who is or will be on the date of the election, 18 years of age;
- (b) has their place of residence in the community for 6 months before the date of election;
- (c) is not disqualified or prohibited from voting by the Act or any other law.

The place of residence is governed by the following rules:

1. A person is a resident of the place where he or she has his or her ordinary residence and to which he or she intends to return when away from it.
2. A person may be a resident of only one place at a time.
3. A person does not change residence until he or she has a new residence.

A person who leaves a community for temporary reasons, for example a student attending university or college outside the community, but who intends to return home after the term ends, is considered a resident.

A person is not entitled to vote at an election, where the person:

- refuses to take an oath, if requested;
- receives or expects a reward for voting;
- for valuable consideration, provides a vehicle to be used to carry voters, other than the person hiring the vehicle to or from a voting place;
- hires or pays for a vehicle for someone other than himself/herself to travel to a voting place;
- is already disqualified under the Act or is otherwise prohibited by law from voting.

A person is not disqualified from voting because:

- (a) they own premises that have been rented for the purpose of an election;
- (b) prints the voters list or other documents related to the election on equipment owned by them;

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 12

- (c) owns or rents out a vehicle which is not going to be used for transporting voters;
- (d) is a clerk or member of staff of a candidate in the election.

Nomination Procedure

The nomination period begins on the 21st day before election day and ends on the 14th day before election day.

Step 4 – Posting Notice of Nominations

- [Reg 37] You must post a notice of nominations at least seven, but not more than 21 days before nomination period begins. A sample notice is contained in *Form 6 – Notice of Nominations*. This notice should be posted in several conspicuous places within your community.

Step 5 – Nomination Papers

- [Reg 38] Nomination papers consist of *Form 7 – Candidate Nomination* and *Form 8 – Declaration of Candidate*. Both forms must be completed by a candidate to be accepted by you as the senior election official.
- [Reg 39(1)] Nominations can only be accepted at the place and time specified on the notice posted in the community on *Form 6 – Notice of Nominations*.
- [Reg 34] A person may be nominated who is qualified to hold the office under section 83 and 84 of the Act and is not ineligible under any Act or otherwise prohibited by law from being nominated. Ensure each candidate knows how to complete the forms. It is a good idea to photocopy the candidate's information on qualifications and disqualifications and hand out to persons requesting nomination papers.
- [Reg 35(3)] Inform the person of the hours on nomination day, which are from 1:00 p.m. to 9:00 p.m., which must be held at least two weeks before election day.
- [Act 78(2)] Inform the person that the term of office of a mayor and councillor commences 14 days after the day of their respective election and expires 14 days after the day of the next regular election that completes the term. Members wishing to serve another term do not have to resign their positions prior to being nominated.
- [Act 78(3)] Inform the person that the term of office of a person filling a vacancy on council takes effect immediately after the day of the by-election and the person shall hold office for the balance of that term.

Step 6 – Receiving Nomination Papers

- [Reg 39(2)] Receive a completed copy of *Form 7 – Candidate Nomination* and *Form 8 – Declaration of Candidate* from each candidate or candidate's agent either in person, mail or fax.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 13

[Reg 41(1)] Before any nomination can be accepted, you must verify that they are complete and in accordance with the regulation. It is a good idea to have the person presenting the nomination papers read the list of qualifications for a person seeking council office. A person seeking nomination **MUST** be a voter of the community and be recorded on the voters list. Forms that are not complete must be refused. Advise the candidate of the reason for the refusal, so they have the opportunity to resubmit proper nomination papers.

Ensure that the **position** and **term** for which the candidate is being nominated is properly recorded on the nomination papers.

[Reg 40] Potential candidates may come to ask you who is running. This information can be provided when requested. The names of the candidates will be announced when you announce either the election or acclamation.

[Reg 42(1)] Inform the candidate or their agent; that if more candidates are nominated than are required to be elected, a candidate may submit their withdrawal in *Form 9 – Candidate Withdrawal* to the senior election official. Deadline for withdrawal is 2:00 p.m. on the day following nomination day.

[Reg 43] After the time for nominations has closed, you will have to determine for each position the number of candidates for which you have accepted nomination papers.

Three possible courses of action can take place:

- If there are no candidates for a position, then the remaining council members and the council members who are elected may fill the vacancy by appointing a person who is eligible to be nominated for the position at the election and once appointed is deemed to have been elected at a by-election.
- If there is one candidate for a position, you may declare that position filled by acclamation.
- If there is more than one candidate for a position, then you must wait until after 2:00 p.m. on the day following close of nominations to allow candidates the opportunity to withdraw their nomination if they so choose, provided there is still a candidate for acclamation.

[Reg 44] There may be an occasion where something unusual happens, such as the death of a candidate, prior to election day. The regulation allows for the continuation of the election. It is a good idea to consult with departmental staff if this occurs.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 14

Step 7 – Notice of Election

At 2:00 p.m. on the day after nomination day, you should make either a declaration of acclamation, a notice of election or a combination of these two actions.

[Reg 43(1)] If the number of candidates is equal to the number of offices to be filled, you should declare candidates elected by acclamation.

To prepare declarations of acclamation do the following:

- At the council office, publicly announce the names of candidates who have been elected by acclamation.
- Post in the community the names of candidates elected by acclamation. Be sure to state the office the person has been elected to and that the election was by acclamation.
- The person(s) acclaimed take office two weeks after election day, unless it is a by-election.

[Reg 43(2)] A notice of election can only be made when there are more candidates running for office than there are offices to be filled.

To prepare the notice of election do the following:

- Go to the community council office and publicly announce the names of candidates running for office and the dates and times when voting will be open for casting ballots.
- Post up Form 11 – Notice of Election.

Preparing for Election

Step 8 – Printing Ballots

[Reg 49(2)] You must determine whether to use separate ballots for each office or composite ballots that combine the contents of two or more separate ballots. Separate ballots work best if there are a large number of candidates running for mayor and councillor. Using different color ballots to distinguish the two greatly assists with the ballot counting process. Composite ballots are best suited where there is a limited number of candidates running for election.

[Reg 50(2)] The ballots, Form 14 – Ballots (Separate or Composite), shall have names listed in alphabetical order.

[Reg 50(4)] There shall be separate ballots for mayor and councillors, and for different terms of office. If some councillors are being elected to fill vacant positions, as in a by-election, a separate ballot for the by-election is required.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 15

As senior election official, it is your responsibility to arrange for the printing of the necessary number(s) of ballots, ensuring that names are spelled correctly and arranged on the ballot according to the regulation.

Ballots will be required for sealed envelope and advance voting. It is best to have the ballots printed as soon after notice of election as possible.

Preparing for Advance Voting and Sealed Envelope Ballots

Step 9 – Sealed Envelope Ballots

A sealed envelope ballot package in *Form 26 – Instructions for Voting by Sealed Envelope* and *Form 27 – Voting by Sealed Envelope* consists of a folded and initialed ballot, a ballot envelope, a certificate envelope, an outer return envelope and voting instructions.

- [Reg 84(1)] Sealed envelope ballots are allowed to voters who will be unable to come to either an advance voting or regular voting because of a disability, will be absent from the community or providing care to a person who is unable to leave the home.
- [Reg 30(7)] Persons who applied for and received a personal security certificate may only vote by sealed envelope ballot. When applying to vote, the person must give his/her personal security certificate to the senior election official.
- [Reg 84(2)] A voter, who qualifies according to the specified conditions, may file with the senior election official *Form 19 – Application to Vote by Sealed Envelope* in person, by mail or fax.
- [Reg 84(3)] The period during which the application must reach the senior election official begins 21 days before election day and ends on the third day before election day. If you as senior election official are aware of persons that might want to request a sealed envelope ballot package, it is helpful to let them know as soon as possible so they can comply with the regulation.
- [Reg 85(1)] If a voter applies in person, the senior election official will need to check if their name is on the voters list. If not, the voter must complete *Form 16 – Oath of Voter* and establish his or her identity prior to adding their name to the list. The voter will then need to file the application prior to the senior election official providing the person a sealed envelope ballot package.
- [Reg 86(1)] If a voter applies by mail or fax, the senior election official upon receiving the application will check if the person's name is on the voters list. If not, the senior election official would add the name if satisfied the voter is qualified and meets the requirements.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 16

[Reg 86(3)] If an application is received 10 or more days before election day, the senior election official must send the voter the sealed envelope ballot package by ordinary mail or deliver the package to the voter. If received less than 10 days, the voter will need to make other arrangements to have the package delivered that is satisfactory to the senior election official.

[Reg 88] You are required to keep a record of all voters to whom a sealed envelope ballot package was sent:

- In a separate voting record, or in a separate part of the voting record, record the voter's name, address and number from the voters list and that a sealed envelope ballot package was sent.
- Cross the voter's name off the voter's list which will be used at all voting places.

[Reg 89(2)] Upon receipt of a returned sealed envelope ballot package, you shall:

- If satisfied that the information on the certificate envelope is valid and that the voter can be identified as casting a ballot, remove the ballot envelope containing the ballot, place it in a sealed ballot box and record in the voting record that the voter voted; or
- If not satisfied that the voter can be identified or if the ballot is received after 8:00 pm on election day, place the unopened certificate envelope into the envelope that will contain "rejected" ballots.

[Reg 93(1)] At the close of the regular voting, the senior election official shall then open the ballot envelopes, which have been accepted and mix the sealed envelope ballots with the regular ballots before counting.

Step 10 – Preparing for Advance Voting

[Reg 79] At least one advance voting opportunity must be held. The purpose of the advance voting is to give voters who cannot vote on election day an opportunity to vote. An advance voting is held between 5:00 p.m. and 9:00 p.m.

[Reg 80] An election official may choose to hold more than one advance voting opportunity.

[Reg 81(1)] It is recommended the advance voting opportunity be held seven days before the regular voting. However, it may occur anytime after the ballots have been printed and no later than 48 hours before election day.

In preparing for an advance voting opportunity, follow the same process outlined under regular voting. You will require a separate ballot box for advance voting.

Step 11 – Holding Advance Voting

All forms completed at an advance voting must be marked to identify them as being completed at the advance voting. The same steps are followed as outlined subsequently under holding regular voting.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 17

Step 12 – Closing Advance Voting

[Reg 82(1)] At the end of the voting time and before leaving, place your seal securely over the opening of the ballot box. The seal should be autographed and the time and date recorded. Invite any scrutineer or candidate present at the voting place to place their seal adjacent to yours.

Sort the various forms completed, signed and sworn at the voting place into their appropriate lettered envelopes. Place all spoiled and declined ballots into their appropriately identified envelopes.

[Reg 82(2)] Keep the ballot box and other voting materials used at the advance voting under safe keeping until the regular voting.

At the closing of the regular voting, the advance voting box should be opened and the ballots mixed with the regular voting ballots for the purpose of counting.

Preparing and Holding Regular Voting

Step 13 – Preparing for Regular Voting

Regular voting is held on the date and at the place and times stated in the notice of election, which is the fourth Wednesday of October as legislated under section 79(1) of *The Northern Affairs Act*. The year is based on the term of office specified in the election schedule under section 1 of the *Community Councils Election* regulation.

[Reg 48] Before the voting opens, check to see that you have all your materials and items on hand in order to conduct the vote. You will require a copy of the voters list, a voting record, ballot box, enough ballots, one or more voting compartments, voting directions and any other necessary items.

[Reg 54, 55] Set up the voter's compartments and arrange the materials you have brought to the voting place, so they can be used with a minimum of confusion. Post up copies of *Form 15 – Directions for Voting* in the voting compartments and inside the voting place.

[Reg 60(1)] Open the unsealed ballot box, which was not used in the advance voting. Show that there are no ballots or any other papers in the box, then lock the box. The box should then be placed in public view on the table in front of the senior election official.

Step 14 – Holding Regular Voting

When a person comes to you as the senior election official wishing to vote, you should do the following:

[Reg 66(1)] Check to see if the person's name is on the voters list.

[Reg 66(2)] If the name is on the voters list, record the name in the voting record along with the voter's residence and number from the voters list and draw a line through the person's name on the voters list. The senior election official may ask the voter to establish his or her identity.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 18

- [Reg 67(1)] If the name is not on the voters list, the voter is required to take an oath in *Form 16 – Oath of Voter* and establish his or her identity before receiving a ballot.
- [Reg 67(2)] If the person complies, the senior election official must provide a ballot and add their name to the voting list and voting record.
- [Reg 70(1)] Even though a person takes an oath, an objection to receiving a ballot can be made by a scrutineer or election official. This information is recorded in the voting record.
- [Reg 70(7)] A person, even though asked to take an oath, may refuse. This information is to be recorded in the voting record. The senior election official must ensure that the voter is not given a ballot.
- [Reg 71] Before the person leaves for the voting compartment, place your initials on the back of the folded ballot and hand it to the person. Explain to the voter how to mark and fold the ballot.
- [Reg 61(1)] Record in the voting record, next to the person's name:
- if the person is required to take an oath;
 - if the persons right to vote is challenged, who made the challenge and the reason for it;
 - if the voter was required to establish his or her identity;
 - if the person was assisted and name of person assisting;
 - if the person was assisted by an interpreter and name of interpreter if not an election official;
 - if the person refuses to take an oath; and
 - if the person removes a ballot from the voting place.

Upon receiving a ballot back from the voter, check it over for your initials and deposit it into the ballot box in full view of those present.

Step 15 – Closing Regular Voting

At the end of the voting time, the only people allowed in the voting place after it is closed are the election officials, scrutineers and a peace officer (if desired).

- [Reg 92(1)] Immediately after the closing of the vote, the senior election official must count the vote in full view of the persons who are present, except a voter or interpreter.

Step 16 – Combining Ballots

In preparing for the count, the senior election official shall:

- [Reg 93(1)] Combine into one ballot box, all of the ballots used for advance and sealed envelope voting with those used for regular voting.
- [Reg 93(2)] Count the number of advance ballots and sealed envelope ballots added and list separately in the statement of vote used for regular voting.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 19

- [Reg 94(1)] Determine the number of voters who voted according to the voting record and count the number of spoiled and unused ballots and enter these numbers on Form 22 – Ballot Account.
- [Reg 94(2)] Attach the completed ballot account to the voting record.
- [Reg 95(2)] Place the spoiled and unused ballots into their respective Envelopes E & H.

Put the various other documents completed into their respective Envelopes I & K.

Dealing with Unusual Situations

At every voting place, you may find exceptions to the rule or other unusual situations. The most common situations are noted below. If you run into a situation for which you cannot find an answer, then you should contact your Municipal Development Consultant immediately. If they cannot provide the answer, they will contact the PEO.

Challenges to the Right to Vote

- [Act 82(1)] A person has the right to vote if they qualify and meet the conditions of the Act.
- [Reg 57] Every eligible voter is entitled to vote in secret, without interference and not have any information revealed about how they voted.
- [Reg 70(1)] Any scrutineer or election official can challenge a person wishing to vote.
- [Reg 70(2),(3)] The person making the challenge must state a reason and this is recorded in the voting record. If no reason is provided, the voter would proceed as if no challenge had been made.
- [Reg 70(4)] A challenge must be made before the voter is given a ballot.
- [Reg 70(5)] A person who is challenged must sign Form 16 – Oath of Voter and establish his or her identity prior to receiving a ballot.
- [Reg 70(6)] No questions can be asked of a voter, except questions that would relate to his or her identity, eligibility to vote and whether he or she has already voted.
- [Reg 70(7)] If the challenged person refuses to meet the conditions, the senior election official would not provide a ballot.

Refusal to Sign

Where a person refuses to sign Form 16 – Oath of Voter, the senior election official must deny the right to vote. When this happens, the senior election official records the person's name in the voting record and next to it records "refused to take oath".

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 20

Where a person refuses to sign election forms, such as *Form 18 – Oath of Interpreter*, the senior election official must deny that person the opportunity to carry out the task. The person must then leave the voting place.

Voters Requiring Assistance

[Reg 73(1)] If a person comes to the voting place who cannot vote because of a physical disability or has difficulty reading, the person may ask the senior election official to be assisted.

[Reg 73(2)] A person assisting a voter is required to take an oath on *Form 17 – Oath of Person Assisting a Voter*, if not otherwise an election official.

After the person having signed the oath or an election official may then receive a ballot and assist the voter to vote. Record in the voting record, that the voter was “assisted”.

In the privacy of the voting compartment, inform the person of the candidates running for election and ask for their choice in a manner which would not indicate to anyone else how the person is voting. Mark the person’s ballot as they direct. Fold and return the ballot to the senior election official who will deposit it into the ballot box.

Interpreter

If a person comes to the voting place and cannot vote because they cannot read or do not understand the language, you should appoint an interpreter to assist the voter. An election official may act as an interpreter.

[Reg 74(3)] An interpreter is required to take an oath on *Form 18 – Oath of Interpreter* who is not otherwise an election official.

Record in the voting record that the voter was “assisted”. Present the interpreter with a folded and initialed ballot.

In the privacy of the voting compartment, the interpreter is to inform the person of the candidates running for election and ask for their choice in a manner which would not indicate to anyone else how the person is voting. The interpreter may assist the person to mark the ballot. The voter or the interpreter will return the folded ballot to the senior election official who will deposit it into the ballot box.

Ballots Spoiled, Declined or Discarded

[Reg 76] A voter may accidentally spoil a ballot. The voter can return the folded spoiled ballot to the senior election official who will issue a new ballot. Mark spoiled on the back of the ballot and retain it in the envelope for that purpose.

A voter may decide not to vote after receiving a ballot. The senior election official is to mark “declined” on the back of the folded ballot and retain it in the envelope for that purpose.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 21

A voter is not allowed to remove a ballot from the voting place. If this happens, the fact is to be recorded in the voting record opposite the voters name and the voter loses the right to vote.

Interference and Disorderly Conduct

[Reg 18(1)] The senior election official must maintain peace and order at the voting place and not allow anyone to interfere with any person casting or marking a ballot. The person so doing can be removed from the voting place.

A person causing or believed to be causing disorderly conduct which may result in interference with the operation of the voting place, may be removed from the voting place.

[Reg 18(2)] The senior election official may request the assistance and presence of a peace officer during the conduct of the voting.

Interrupted Voting

There are various causes, such as an emergency or other unexpected circumstances, why voting may be interrupted. A community disaster may occur such as a forest fire or fire in the voting place. When a voting place is declared interrupted, the following procedure is used.

[Reg 90] The senior election official shall receive any ballots that are in the process of being marked, deposit them into the ballot box and declare the voting closed until reopened. The senior election official shall then seal the ballot box, autograph the seal and record the date and time. Any scrutineer present may place their initials beside the senior election official's initials. All other documentation and papers shall be put into a large envelope(s), sealed and initialed.

The senior election official shall provide notice and continue or resume the election on the following day at 8:00 a.m. and continue the election from day to day until the voting is open for a total of twelve hours or until all persons eligible to vote have voted.

Unseal the envelopes containing the documentation and papers for use in the voting. Organize your papers. Show the ballot box to those present to confirm that the seals are not broken, then unseal the ballot box and continue with the voting.

Counting Ballots

Step 17 – Ballot Tally

[Reg 95(1)] The senior election official must proceed to count the ballots following five rules. The count is very simple. Mark down on a tally sheet, one vote for each vote a candidate receives. You may have two or three persons keeping track of the tally with you.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
	Aboriginal and Northern Affairs	October 2009 Page 22

- Rule 1: Ensure that every ballot taken from the ballot box is examined and shown to each person present.
- Rule 2: Count all ballots that are marked in an acceptable manner and do not have any marks written that can identify the voter.
- Rule 3: Reject all ballots that are not marked in an acceptable manner as to show for which candidate the vote is given, for example, the word “declined” is written on it, more votes are cast than the voter is entitled to vote or has some mark that clearly identifies the voter. Mark “rejected” on the back of such ballots and initial it.
- Rule 4: A candidate or scrutineers present may raise an objection to a ballot being accepted or rejected. Having considered the objection you must make a decision to accept or reject the ballot without delay. Whether a ballot is accepted or rejected for the official count is the decision of the senior election official, whose judgement is final. Only an official recount by a judge or the PEO can change it. You may also have some objections to a ballot, which you have not rejected. Situations that may arise are:
- accepted ballots
 - accepted ballots that were objected to
 - rejected ballots
 - rejected ballots that were objected to
- You must record all objections in the voting record, numbered in sequence, then mark on the back of the objected ballot and initial it.
- Rule 5: Where a ballot does not have an initial on the back and you are satisfied it was a ballot provided by you then it may be accepted. However, if the number of ballots taken from the ballot box is more than the number recorded as voted in the voting record, discard the ballot. Mark “discarded” on the back of the ballot.

Step 18 – Statement of the Vote

[Reg 95(2)] You must organize the ballots into their respective envelopes and clearly mark the contents using *Envelopes A to H*. Put the various other forms completed, signed and sworn into their appropriate envelopes using *Envelopes I to K*. Seal the envelopes and record the number on the outside.

[Reg 96] Following the ballot tally, complete and sign *Form 23 – Statement of the Vote* and have at least one other election official sign the form.

Step 19 – Packaging Used Materials

[Reg 97] After completing the count, place into the ballot box all the packaged ballots, the voters list, a copy of the statement of the vote and all documents used at the election, excluding the voting record and the original statement of the vote. Secure the ballot box.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 23

[Reg 116(1)] The senior election official must retain the ballots and all other documents and materials related to the election for six months after the results of the election.

Step 20 – Preparing Official Results

[Reg 99(1)] The senior election official must tally the votes received by each candidate and announce the results to those present.

[Reg 99(2)] The senior election official must prepare *Form 24 – Statement of Official Results*.

[Reg 102] In the event of a tie vote, you must:

- disregard the tie vote unless the number of persons elected would be greater than the number of positions to be filled; or
- announce there is a tie and if there were no objections to the count declare the seat vacant and proceed to hold a by-election; or
- if there was an objection to the count, apply to the PEO for a recount.

Duties after Election

Step 21 – Information to the Public

[Reg 100] The senior election official must make a copy of the official results publicly available.

[Reg 101] The senior election official must forward a copy of the official results to the PEO within two days of the election.

[Reg 118(1)] All documents and material used at the election are public records and must be made available for public inspection at the times and under the conditions acceptable to the senior election official.

[Reg 118(2)] Any ballots, documents and material that pertain to personal security certificates are not subject to public inspection.

Step 22 – Elected Candidates Taking Office

[Reg 78] The term of office for each candidate who won in the election and those elected by acclamation starts two weeks after the day of the election. In the case of a **by-election**, the term of office begins the day following the election provided there is no tie and the candidate can take the oath then.

[Act 104(1)] Each elected member must make and file with the community administrative officer an oath of office in *Form 25 – Oath of Office for Members of Council*, prior to engaging in any council activity.

[Act 104(2)] Failure to comply with this requirement within 30 days of being elected, will result in the position being deemed vacant and the person disqualified from being nominated for, elected to and from membership on council until the next regular election.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 24

Election Complaints

1) Challenges to Candidates Qualifications

It is your duty as the senior election official to make sure all candidates are aware of the qualifications that must be met to be a candidate and are aware of the penalties for making a false declaration. The candidate in turn makes a declaration they do qualify.

Some residents may feel that a person is not qualified and that you as the senior election official must stop that person from being a candidate. Explain to the person making the complaint the grounds for qualification or disqualification and that there is an opportunity to file an application with the court after the election per section 119 of the regulation.

If it is subsequently determined that a candidate does not comply, then appropriate action is taken according to the provisions of the regulation.

- A candidate may be able to withdraw their nomination papers provided a sufficient number of other candidates for the same position are left. There is a specific time frame for this to happen.
- A candidate may refuse to sign the oath of office and thus refuse to accept office.
- A candidate may be elected and found to be not qualified, at which time an application to unseat the member may be received by the court.

2) Irregularities in Election Process

The Act allows the PEO to make an order if for any reason it is impossible to close nominations or hold an election in a community on the day prescribed. The order may specify a new closing day for nominations or a new election day or both. An order made by the PEO is binding on the community, election officials and candidates.

3) Challenging Results of Election

If voters feel that the results of the election are in question, because of improper procedure or other reasons, they can file an application in court under section 140 of *The Municipal Councils and School Boards Elections Act*. The process may result in declaring an elected candidate either qualified or not qualified to hold office or that the election was either valid or invalid.

An application challenging an election is valid only on the grounds that:

- an elected candidate was not eligible to hold office at the time elected;
- there were irregularities in the election or acts constituting offences that affected the result of the election.

An application in court must be presented by a candidate, an eligible voter or the senior election official within 60 days of the election result. As these applications may involve offences, the applicable offences have been listed for reference under Part 5 of this handbook. A sample *Application to Challenge an Election* is provided under Part 6.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 25

Recounts

Recounts are a process that allows independent verification of the senior election official's count of the ballots. A recount may be required where there is a tie vote that would result in more candidates being elected than there are positions to be filled.

[Reg 102] An application for a recount due to a tie vote is **not** required where there were no objections made to a decision made by an election official to accept or reject a ballot. The senior election official would declare the office vacant and proceed to hold a by-election.

[Reg 104(1)] The senior election official **must** apply for a recount to the PEO if a tie has been declared **and** an objection was made to a decision made by an election official to accept or reject any ballot.

A sample *Application for Recount* is provided under Part 6 of this handbook. The senior election official must ensure the ballot box with the material from the election is made available for the recount at the date and time set by the PEO. The election officials are to be present and assist with the recount.

By-Elections

A by-election is an election held to fill a vacancy on the council, other than vacancies caused by regular elections.

[Act 91(3)] The community administrative officer is required to give notice to council of a vacancy on council.

[Act 92(1)] A council must hold a by-election to fill a vacancy on council as soon as is practicable unless:

- (a) the vacancy occurs in the six months preceding the day on which the term of office expires;
- (b) the vacancy occurs within 12 months preceding the day on which the term expires and the remaining members of council
 - (i) are a majority; and
 - (ii) decide not to hold a by-election.

[Act 92(3)] The senior election official shall proceed to hold a by-election when requested to do so by council and select the date it will be held.

Candidate's Information

The next two pages outline the qualifications of candidates, disqualifications of candidates and items that do not disqualify candidates. This information may be copied to handout to persons requesting nomination papers.

Persons interested in running for council can review the *Running for Council* guide available by request to the community administrative officer. This guide provides an overview of the election process and highlights roles and responsibilities of council members.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 26

Qualifications of Candidates

The Act states a person is qualified to be nominated as a candidate for council if the person is:

- (a) a Canadian citizen;
- (b) at least 18 years of age on the day of the election;
- (c) a voter of the community;
- (d) and is not subject to any disqualification under the Act or any other act.

In order to meet the legal requirement of *(c) a voter of the community*, the person must be a resident of the community for at least six months prior to election day. Residency is determined based on the following three rules:

1. A person is a resident of the place where he or she has his or her ordinary residence and to which he or she intends to return when away from it.
2. A person may be a resident of only one place at a time.
3. A person does not change residence until he or she has a new residence.

A person who completes and signs the nomination papers is making a declaration that they meet the qualifications of a candidate. A person who knowingly makes a false declaration is guilty of an election offence punishable by a fine of not more than \$10,000 and/or imprisonment for a term of not more than one year.

Disqualifications of Candidates

[Act 84] Persons, who are Canadian citizens, 18 years old and a voter of the community or ward, may still not qualify as candidates. **None of the following persons** are qualified to be nominated as candidates:

- (a) a judge of the Court of Queen's Bench or the Court of Appeal;
- (b) a provincial judge or justice of the peace;
- (c) a member of the Legislative Assembly of Manitoba, the Senate or House of Commons of Canada, or of a band council;
- (d) an employee of the community or an affiliated body of the community (this does not include a person who volunteers whether or not that person receives reasonable compensation).

[Act 88(1)] Election to two offices is invalid. No person is eligible for nomination for election as, or to be, both mayor and councillor.

[Act 88(2)] A current member must resign to run in a by-election.

[Reg 36(1)] A current member must resign within 21 days before the election day to run in an election for a different office.

ELECTION OFFICIAL'S HANDBOOK	Part 2: Senior Election Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 27

Items that do not Disqualify Candidates

There are some things that may seem to be grounds for disqualification, but do not disqualify a candidate.

Under the *Conflict of Interest* regulation there are a number of contracts, which do not affect the eligibility of a person to be nominated or elected as a member or disqualifies a person from being or remaining a member of council. These are:

- (a) a contract awarded by public tender, if the member does not participate in discussion affecting the contract;
- (b) a contract for goods made in an emergency;
- (c) a mortgage on land to the council or a purchase or lease of land from the council provided,
 - (i) the mortgage, purchase agreement or lease existed before the person was elected, and
 - (ii) there are no arrears on the mortgage, agreement or lease.
- (d) a lease or tenancy agreement with the council or an extension or renewal of a lease or tenancy agreement according to its terms, provided the person first entered into it before being elected.

The *Conflict of Interest* regulation stipulates a maximum amount with respect to labour or services. A person is not disqualified from being nominated if they receive from the community or an affiliated body of a community, a fee, salary, wage or any other payment for labour or services in an amount during the year which does not exceed \$8,000. When calculating this amount the following must be excluded:

- (a) compensation received in respect of a contract awarded by public tender;
- (b) reasonable compensation or expense money received for services as a volunteer fire fighter or a driver or attendant of an emergency vehicle;
- (c) reasonable compensation received for providing labour or services to the community
 - (i) in an emergency, or
 - (ii) in an urgent situation, provided
 - (a) no other person is qualified and available to provide the labour or services, and
 - (b) the labour or services are provided within a time period that does not exceed 90 days in duration.

ELECTION OFFICIAL'S HANDBOOK	Part 3: Voting Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 28

The voting official's duty is to assist the senior election official at the voting place. The voting official is appointed by the senior election official and is responsible to the senior election official for correctly carrying out the duties. The normal duties of the voting official are one day, being the day of the voting. A voting official may also act as an interpreter, if so qualified.

[Reg 11, 12] A senior election official may appoint one or more voting officials who may, as directed by the senior election official, perform any duty that is assigned to the senior election official.

Organization

Step 1 – Election Officials Meeting

Before you begin your duties, meet with the senior election official to cover the following points:

1. Make sure you have received a written appointment from the senior election official.
2. Make sure you understand the qualifications to be a voter and voting procedures.
3. Make sure you understand your tasks and seek answers to any questions you may have in carrying out your duties.
4. Make sure you have signed *Form 1 – Declaration of Election Official* required to carry out your duties.

Assisting at the Voting

Step 2 – Procedures at the Voting

[Reg 61(1)] The voting record is the written legal account of persons who attend the voting place for the purpose of voting and any challenges or other related information.

[Reg 72] A person who being qualified receives a ballot, is considered to have voted and must leave the voting place immediately after his or her ballot is put in the ballot box.

[Reg 58(1)] A person can only vote once, in the same election.

When a person comes to you as the voting official to vote, you would follow the same process outlined under Step 14 of Part 2 in this handbook. If you encounter some unusual situations while carrying out your duties, for example a person wishing to vote refuses to take an oath when requested, check Part 2 for general direction on dealing with these.

After the Voting

Step 3 – Assisting in Counting Ballots

As voting official, you will likely assist in the counting of ballots.

ELECTION OFFICIAL'S HANDBOOK	Part 3: Voting Official's Duties	
Aboriginal and Northern Affairs	October 2009	Page 29

- You may be asked to record all notes and objections in the voting record, respecting ballots being counted.
- You may be asked to keep the ballot tally, which is a form to record the number of votes cast for each name on the ballot.
- You may also assist in completing other forms and documents required upon the completion of the count.

ELECTION OFFICIAL'S HANDBOOK	Part 4: Aboriginal and Northern Affairs Staff Roles	
Aboriginal and Northern Affairs	October 2009	Page 30

Principal Electoral Officer

[Act 95(1)] The Minister may appoint a person to be known as the Principal Electoral Officer (PEO) who has such duties and responsibilities as may be assigned or set out in the Act or regulation.

Role

The PEO has overall responsibility for the coordination of election matters in Aboriginal and Northern Affairs communities, to ensure that:

- training resources are made available to election officials and staff as may be required;
- election documents are properly stored and destroyed according to regulation and policies;
- a record is kept of all elected officials and their terms of office;
- advice is provided to election officials respecting resolution of unusual situations, including general interpretation of the election regulation;
- recounts are supervised and assistance is given to the judge in any election matter referred to the courts;
- election inquiries referred to or from the Minister are conducted as required by the regulation and policies;
- a record is kept of all orders relating to election purposes;
- an annual report is provided to the Minister of all elections and any other related matters.

Orders

The Northern Affairs Act provides authority for the PEO to make certain decisions in the form of orders where deemed necessary.

[Act 96, 97] The PEO may make orders with respect to postponing an election or appointment of election officials. An order is binding on the community council, election officials and candidates and may be made anytime prior to election day.

Recounts

Upon receipt of an application for a recount from the senior election official, the PEO would proceed as follows:

[Reg 105(1)] The PEO sets a date and time for the recount and advises all parties of this information. The PEO will advise the community, so that the ballot box with the material from the election can be made available for the recount.

ELECTION OFFICIAL'S HANDBOOK	Part 4: Aboriginal and Northern Affairs Staff Roles	
Aboriginal and Northern Affairs	October 2009	Page 31

[Reg 106(1)] Only authorized persons will be allowed to be present during the recount.

[Reg 107(1)] The ballot box containing election material is produced, opened and ballot envelopes opened.

[Reg 107(2)] The PEO will then proceed to recount the ballots following the same procedures used by the senior election official. Each ballot will be examined in the same manner. Ballot tallies will be conducted.

[Reg 108] The PEO will certify the result to the senior election official and reseal the ballots in their packets.

[Reg 109, 110] The result may be:

- (a) declaration of candidate(s) elected; or
- (b) proceed to hold a by-election.

On completion of the recount, the PEO will arrange for the ballot box and materials to be held for the times required by the regulation and then to be destroyed as permitted by the regulation.

Municipal Development Consultants

The Municipal Development Consultants can provide support to the community election by:

- ensuring council enacts the proper by-law to appoint election officials;
- providing training to election officials and ensuring the senior election official has election materials and other resources on hand to conduct the election;
- assisting the senior election official in conducting the election, provided the proper oaths are taken;
- responding to election officials questions during an election;
- advising the community on the safekeeping of election documents;
- assisting the PEO, in whatever manner the PEO directs.

ELECTION OFFICIAL'S HANDBOOK	Part 4: Aboriginal and Northern Affairs Staff Roles	
Aboriginal and Northern Affairs	October 2009	Page 32

Department Contact List

Municipal Development Consultants:

North Central Region

Dauphin Office

Aboriginal and Northern Affairs
 27 – 2nd Avenue, S.W. (Box 15)
 Dauphin, MB R7N 3E5 Phone: 622-2151, 622-2465
 Fax: 622-2305 Cell: 648-3249, 648-3477

Winnipeg Office

Aboriginal and Northern Affairs
 1680 Ellice Avenue – Bay 8
 Winnipeg, MB R3H 0Z2 Phone: 945-2163
 Fax: 948-2389 Cell: 299-9498

Northern Region

Thompson Office

Aboriginal and Northern Affairs
 59 Elizabeth Drive (Box 27)
 Thompson, MB R8N 1X4 Phone: 677-6848, 677-6790
 Fax: 677-6525 Cell: 679-7802, 679-2001

The Pas Office

Aboriginal and Northern Affairs
 3rd & Ross Avenue (Box 2550)
 The Pas, MB R9A 1M4 Phone: 627-8176
 Fax: 627-8177 Cell: 620-2705

Principal Electoral Officer (PEO)/Deputy PEO:

Program Planning & Development

Thompson Office – PEO

Aboriginal and Northern Affairs
 59 Elizabeth Drive (Box 20)
 Thompson, MB R8N 1X4 Phone: 677-6838
 Fax: 677-6525 Cell: 679-0678

Winnipeg Office – Deputy PEO

Aboriginal and Northern Affairs
 1680 Ellice Avenue – Bay 8
 Winnipeg, MB R3H 0Z2 Phone: 945-5968
 Fax: 948-2389 Cell: 470-3007

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 33

A. Election Regulation (Office Consolidation)

THE NORTHERN AFFAIRS ACT
(C.C.S.M. c. N100)

Community Councils Election Regulation

Regulation 71/2009
Registered April 6, 2009

TABLE OF CONTENTS

Section

PART 1 ELECTION SCHEDULE

- 1 Election of members – unincorporated communities
- 2 Election schedule – incorporated communities

PART 2 CONDUCT OF ELECTIONS

DIVISION 1 INTRODUCTORY PROVISIONS

- 3 Definitions
- 4 Application of regulation
- 5 Public notice
- 6 Public notices may be combined
- 7 Oaths
- 8 Establishing identity

DIVISION 2 APPOINTMENTS AND ARRANGEMENTS

- 9 Senior election official and assistant
- 10 General duties of senior election official
- 11 Other election officials
- 12 Delegation
- 13 Oaths
- 14 Power to administer oath
- 15 Who may be an election official
- 16 Replacing an election official
- 17 If election official not qualified
- 18 Keeping order

DIVISION 3 VOTERS

- 19 S.E.O. to establish and maintain voters list
- 20 One entry only

- 21 Residence determines division of list
- 22 Format of list
- 23 Content of voters list
- 24 Information for establishing and maintaining voters list
- 25 Entitlement to information on voters list
- 26 Restrictions on use of information on voters list
- 27 Period when voters list closed to revision
- 28 Enumeration
- 29 Name added to voters list at time of voting
- 30 Personal security protection
- 31 Powers of senior election official
- 32 Public notice – voters list and personal security
- 33 Candidates entitled to copy of voters list

DIVISION 4 NOMINATIONS

- 34 Who may be nominated
- 35 Nomination period
- 36 Current member must resign to run in election
- 37 Notice of nominations
- 38 What nominations must include
- 39 How to file a nomination
- 40 Nomination papers available for inspection
- 41 Verifying the nomination
- 42 Withdrawing a nomination
- 43 Acclamation or notice of election
- 44 Death of candidate
- 45 Right of access

DIVISION 5 PREPARING FOR AN ELECTION

- 46 Establishing voting stations
- 47 Changing voting place
- 48 Equipping voting stations
- 49 Ballots
- 50 Rules for ballots
- 51 Ballot if candidate dies
- 52 Record of ballots provided
- 53 Ballot boxes
- 54 Voting compartment
- 55 Voting directions
- 56 Voting record

DIVISION 6 VOTING

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 34

- 57 Rights of a voter
- 58 May only vote once
- 59 Who may be present at voting station
- 60 Preparation of ballot box
- 61 Voting record
- 62 Scrutineers
- 63 No display of election material in voting place
- 64 Voting hours
- 65 Voting at a voting station
- 66 Eligible voter whose name is on voters list
- 67 Eligible voter whose name is not on voters list
- 68 When records show voter already voted
- 69 Indication of voting made on voters list
- 70 Challenging a voter
- 71 Voting
- 72 Voter to leave after voting
- 73 Voter requiring assistance of another person
- 74 Interpreter
- 75 Moving ballot box
- 76 Spoiled ballot
- 77 Secrecy of voting
- 78 No requirement to disclose vote
- 79 Required advance voting opportunity
- 80 Additional advance voting opportunities
- 81 When advance voting may occur
- 82 Sealing ballot box between uses
- 83 Conduct of advance voting generally
- 84 Eligibility to vote by sealed envelope ballot
- 85 When application made in person
- 86 When application made in writing
- 87 Contents of sealed envelope ballot package
- 88 Record of voting by sealed envelope ballot
- 89 Procedure for voting by sealed envelope ballot
- 90 S.E.O. may declare voting to be interrupted

DIVISION 7
COUNTS AND RECOUNTS

- 91 Voting stations close at 8:00 p.m.
- 92 S.E.O. to count the vote
- 93 Ballots to be combined before counting
- 94 Ballot account
- 95 Rules for counting ballots
- 96 Completing a statement of the vote
- 97 Securing and delivering election materials
- 98 If composite ballots used

DIVISION 8
DETERMINING AND DECLARING
RESULTS

- 99 Results must be announced
- 100 Official results to be available to the public
- 101 Copy of official results to P.E.O.
- 102 If tie for an office
- 103 Postponing the declaration
- 104 Application for a recount
- 105 Date, parties and notice
- 106 Election officials to attend and assist
- 107 Recount process
- 108 Procedure when recount completed
- 109 Declaration of results after recount
- 110 If tie for an office after recount
- 111 Application for judicial recount
- 112 Procedure when recount completed
- 113 If tie for an office after recount
- 114 Delegation

DIVISION 9
OFFENCES AND CHALLENGING AN
ELECTION

- 115 Application of Municipal Councils and School Boards Elections Act

DIVISION 10
GENERAL

- 116 Disposition of election materials
- 117 No destruction if court proceedings continuing
- 118 Public records

PART 3
DECLARATION MEMBER IS
DISQUALIFIED

- 119 Application re disqualification
- 120 Appeal to Court of Appeal
- 121 Reimbursement of costs and expenses

PART 1
ELECTION SCHEDULE

Election of members – unincorporated communities

1(1) The election schedule for communities that are not incorporated is as set out in the following table. The asterisk (*) indicates the year the mayor is to be elected by voters of the community.

TABLE

Community Council	Members elected in October 2008 and every four years after that	Members elected in October 2010 and every four years after that
Barrows	2	3*
Berens River	2	1*
Bissett	3	2
Brochet	3	2*
Camperville	4*	3
Cormorant	2	3*
Crane River	3*	2
Cross Lake	3*	2
Dallas/Red Rose	1	2*
Dauphin River	2*	1
Dawson Bay	1	2*
Duck Bay	4*	3
Easterville	3*	2
Fisher Bay	2*	1
God's Lake Narrows	2	3*
Harwill	1	2*
Homebrook – Peonan Point	2	3
Ilford	3*	2
Island Lake	3*	2
Mallard	2	3*
Manigotagan	3*	2
Matheson Island	2	3*
Meadow Portage	3*	2
Moose Lake	3*	3
National Mills	2*	1
Nelson House	3*	2 (Note 1)
Norway House	4*	3
Pelican Rapids	3*	2
Pikwitonei	3*	2
Pine Dock	2	3*
Red Deer Lake	1*	2
Rock Ridge	2*	1
Seymourville	2	3* (Note 2)
Sherridon	3*	2
Spence Lake	3*	2
Thicket Portage	3*	2
Wabowden	4*	3
Waterhen	3*	2

Note 1: Data for Nelson House Incorporated Community Council is taken from regulation 45/2004.

Note 2: Data for Seymourville Incorporated Community Council is taken from regulation 44/2004.

1(2) In the communities of Bissett and Homebrook, the mayor is to be elected annually by the members of council from among the members within 30 days after the fourth Wednesday of October or, in the event of a

recount, within 30 days after the recount is completed.

Election schedule – incorporated community

2 The election schedule for an incorporated community is as set out in the regulation under which the community is incorporated.

PART 2
CONDUCT OF ELECTIONS

DIVISION 1
INTRODUCTORY PROVISIONS

Definitions

3 The following definitions apply in this regulation.

"**Act**" means *The Northern Affairs Act*.

"**by-election**" means an election that is not conducted as part of a regular election.

"**candidate**" means a person who, under subsection 41(3), is a candidate in an election.

"**court**" means the Court of Queen's Bench.

"**election**" means an election for an office on a council.

"**election day**" means the day fixed for voting in an election or on a question, other than a day fixed for advance voting.

"**election official**" means a person appointed as

- (a) a senior election official;
- (b) an assistant senior election official;
- and
- (c) an election official under subsection 11(1).

"**election period**" means the period from the beginning of nomination day for an election until the result of the election is declared by the senior election official.

"**eligible voter**" means a person who is eligible under section 82 of the Act to vote in an election or on a question.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 36

"question" means a vote on a question described in clause 4(b).

"regular election" means an election for the offices on a council required to be held under

- (a) section 1, in the case of an unincorporated community; or
- (b) the regulation incorporating a community, in the case of a community that is incorporated.

"scrutineer" means a person described in section 62.

"senior election official" means a person appointed as a senior election official under section 9.

"voters list" means the voters list of a community.

"voting place" means a place where a person votes in an election or on a question.

"voting station" means the station within a voting place that a person attends to receive and cast a ballot.

Application of regulation

- 4** This regulation applies to
- (a) an election for an office of a community; and
 - (b) a vote in respect of
 - (i) a by-law under Part VII (Local Option) of *The Liquor Control Act*, or
 - (ii) any other question required by an Act to be submitted to voters in a community.

Public notice

- 5** When public notice is required to be given by a provision of this regulation, the senior election official must post a copy of the public notice, within a place accessible to the public, in
- (a) the community office;
 - (b) the place of the regular meetings of council, if other than the community office; and
 - (c) at least two other locations in the community designated by the senior election official.

Public notices may be combined

6 Public notices may be combined as long as the requirements of the applicable provisions are met.

Oaths

- 7(1)** If this regulation requires an oath to be made, the oath must be
- (a) in writing;
 - (b) administered by a person authorized to do so under this regulation or *The Manitoba Evidence Act*; and
 - (c) signed by the person making the oath and by the person before whom the oath is made.

No fee

- 7(2)** An oath must be administered free of charge.

Establishing identity

- 8(1)** A person who is required to establish his or her identity under this regulation may do so by providing
- (a) an official document issued by a federal, provincial or municipal government that contains the person's name, address and photograph; or
 - (b) at least two other documents that provide evidence of the person's identity satisfactory to the election official who asked the person for identification.
- 8(2)** A person who is unable to comply with subsection (1) must furnish other proof of identity that is satisfactory to the election official who asked the person for identification.

DIVISION 2

APPOINTMENTS AND ARRANGEMENTS

Senior election official and assistant

- 9(1)** The council of a community must by by-law appoint, and provide for the remuneration of,
- (a) a senior election official; and
 - (b) an assistant senior election official.
- 9(2)** The community administrative officer must forward a copy of a by-law passed under subsection (1) to the principal electoral officer.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 37

9(3) A senior election official and an assistant senior election official, unless he or she sooner resigns, dies or ceases to be eligible under subsection 15(1), holds office until his or her successor is appointed.

9(4) If the office of senior election official or assistant senior election official becomes vacant, the council of the community must immediately appoint a successor.

9(5) If an assistant senior election official has been appointed and the senior election official is absent or unable to act or the office is vacant, the assistant senior election official may act in his or her place. When doing so, the assistant has all the powers of the senior election official.

General duties of senior election official

10(1) The senior election official of a community must

- (a) exercise general direction and supervision over the conduct of elections and votes on questions in the community;
- (b) ensure that election officials in the community carry out their duties with fairness and impartiality, and in compliance with the Act and this regulation; and
- (c) give election officials in the community any instructions that the senior election official considers necessary to administer this regulation.

10(2) A senior election official must discharge his or her responsibilities under the law independently and impartially.

10(3) A community may direct a senior election official only by a by-law or resolution that is authorized under the Act or another Act.

Other election officials

11(1) The senior election official may appoint one or more election officials.

11(2) Subject to section 15, an election official holds office for the term specified in his or her appointment.

11(3) An election official must ensure that the law respecting an election or vote on a question in the community is complied with.

Delegation

12(1) The senior election official may delegate any of his or her powers and duties to other election officials, subject to any restrictions or conditions specified in the delegation. The delegation must be in writing.

12(2) The senior election official may continue to exercise the delegated powers and duties despite the delegation.

Oaths

13(1) Before assuming his or her duties, an election official must take an oath that he or she

- (a) will faithfully and impartially fulfil the duties and responsibilities under the Act and this regulation that are assigned or delegated to him or her;
- (b) has not received and will not accept any inducement to perform those duties and responsibilities otherwise than faithfully, impartially and in accordance with the law;
- (c) will preserve the secrecy of the ballot in accordance with section 77; and
- (d) is not ineligible under subsection 15(1) to hold the position.

13(2) An election official who takes an oath under subsection (1) and then assumes any of the duties or responsibilities of another election official is not required to take another oath.

Power to administer oath

14 An oath required to be taken under this regulation may be administered by an election official.

Who may not be an election official

15(1) The following persons may not be appointed and may not act as an election official:

- (a) a member of the Legislative Assembly and a member of the House of Commons or the Senate of Canada;
- (b) a member of the council of a community;
- (c) a judge of any court or a justice of the peace;

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 38

- (d) a candidate;
- (e) a person prohibited from being an election official by an order made by the court;
- (f) a person who is under the age of 18 years;
- (g) a person who, within five years before the proposed appointment,
 - (i) was convicted of an indictable offence, or
 - (ii) served any part of a term of imprisonment for an indictable offence.

15(2) An election official who becomes ineligible under subsection (1) must immediately resign.

Replacing an election official

16 The senior election official may rescind the appointment of an election official – other than an assistant senior election official – if satisfied that the person

- (a) is ineligible to hold the position under subsection 15(1);
- (b) is unable to perform his or her duties satisfactorily;
- (c) has failed to perform his or her duties satisfactorily;
- (d) has failed to follow an instruction of the senior election official, assistant senior election official or supervising election official; or
- (e) after being appointed, engaged in partisan political activities, whether or not in the course of performing duties under the Act or this regulation.

If election official not qualified

17 If a person who is not eligible is appointed or holds office as an election official, no action taken by the person is invalid solely because he or she was or became ineligible.

Keeping order

18(1) The senior election official must maintain peace and order at a voting place.

18(2) A senior election official may require a peace officer or other person to assist him or her in maintaining peace and order at a voting place.

18(3) For the purpose of this section, “**voting place**” includes any place in the immediate

vicinity of the voting place designated by the senior election official.

**DIVISION 3
VOTERS**

S.E.O. to establish and maintain voters list

19(1) The senior election official must establish and maintain an up-to-date voters list for the community.

19(2) The senior election official may divide the community into voting subdivisions. If voting subdivisions are established, the voters list must contain a separate division for each subdivision.

One entry only

20 A voter’s name must not appear on the voters list more than once.

Residence determines division of list

21 If the community has been divided into voting subdivisions, a voter’s name must be placed on the division of the list that corresponds to the voting subdivision in which he or she resides.

Format of list

22 The senior election official may

- (a) determine the format of the voters list, including the arrangement of names and other content required under section 23; and
- (b) establish or maintain the voters list on paper or electronically and reproduce the list in the manner he or she determines.

Content of voters list

23 The voters list must contain the following information about each person who the senior election official has reason to believe is an eligible voter:

- (a) the voter’s name;
- (b) the voter’s residential address, and mailing address if it is different.

Information for establishing and maintaining voters list

24 For the purpose of establishing or maintaining the voters list, the senior election official may obtain information from any source,

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 39

including by an enumeration conducted under this Part.

Entitlement to information on voters list

25 Persons are entitled to have access to information on the voters list about themselves to determine whether the information is correct.

Restrictions on use of information on voters list

26 A person must not knowingly use the information that is recorded on the voters list for a purpose other than an election or vote on a question, which for certainty includes

- (a) establishing or maintaining a voters list under this regulation or another Act; or
- (b) enabling a candidate to communicate with voters in accordance with subsection 33(2).

Period when voters list closed to revision

27 Except for adding voters at the time of voting or providing a sealed envelope ballot package, the voters list must not be revised between the close of nominations and election day.

Enumeration

28(1) For the purpose of establishing or maintaining the voters list, the senior election official may cause an enumeration to be conducted.

28(2) An enumeration may be done by door-to-door canvass, telephone, mail or any other means the senior election official determines.

28(3) When conducting a door-to-door enumeration, an election official must wear identification supplied by the senior election official.

28(4) When conducting a door-to-door enumeration, an election official must be given access to the entrance door of each residence in an apartment, condominium complex or other multiple-unit residence.

28(5) Where an election official is unable to gain access to a multiple-unit residence described in subsection (4), the senior election official may contact the landlord or manager of the residence to set a mutually agreeable time for

the door-to-door enumeration to be conducted. If a time cannot be agreed upon,

- (a) the senior election official may inform the landlord or manager of the time where an election official will attend to conduct the enumeration; and
- (b) at the time set under clause (a), the landlord or manager must ensure that the election official is given access to the multiple-unit residence.

Name added to voters list at time of voting

29 An eligible voter whose name is not on the voters list is entitled to have his or her name added to the voters list at the time of voting if he or she

- (a) attends a voting place where he or she is qualified to vote, during the hours it is open for voting;
- (b) takes an oath that he or she is an eligible voter; and
- (c) establishes his or her identity in accordance with section 8.

Personal security protection

30(1) Despite any other provision of this regulation, the name, address and all other information about a person must be omitted or obscured from the voters list and any other record prepared under this regulation that is available to the public, if the person applies to have that information omitted or obscured to protect his or her personal security.

30(2) An application may be filed with the senior election official in person or by mail or fax.

30(3) The application must

- (a) be made in writing to a senior election official at any time other than during the period when the voters list is closed to revision;
- (b) set out the person's name and address; and
- (c) include the documents referred to in section 8, or legible copies of them if the application is made by mail or fax.

30(4) Upon receiving an application that meets the requirements of subsection (3), the senior election official must give the applicant a personal security certificate that includes an identification number to be used as a

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 40

replacement, in all cases, for the person's name, address and signature under this regulation.

30(5) When a person is given a personal security certificate, the senior election official must determine whether the person's name appears on the voters list. If so, the senior election official must obscure the person's name and address and add the person's identification number to the voters list. If the person's name does not appear, the senior election official must add his or her identification number to the voters list.

30(6) The identification number for a person with a personal security certificate must be placed at the end of the voters list.

30(7) A person who is given a personal security certificate may vote only by sealed envelope ballot, as provided in section 89 (procedure for voting by sealed envelope). When applying to vote, the person must give his or her personal security certificate to the senior election official.

30(8) The senior election official may establish the form of the personal security certificate to be used under this section.

Powers of senior election official

31 The senior election official may take any steps he or she considers necessary to protect the personal security of applicants under section 30, including adapting the provisions of this regulation.

Public notice – voters list and personal security

32 At least annually, the senior election official must give public notice, in accordance with section 5,

- (a) that a person who wishes to have his or her name added to the voters list, or have any information about the voter on the voters list corrected, may do so by contacting the senior election official; and
- (b) of the protections for personal security available under section 30.

Candidates entitled to copy of voters list

33(1) During the election period, the senior election official must give a candidate, on

request, a copy of the voters list. The senior election official may determine the form in which this list is given.

33(2) A candidate who receives a copy of the voters list may use the list for communicating with his or her voters during an election period, including using the list for soliciting contributions and campaigning.

**DIVISION 4
NOMINATIONS**

Who may be nominated

34 A person may be nominated as a candidate if he or she is, on election day,

- (a) qualified to hold the office under the Act; and
- (b) not ineligible under any Act or otherwise prohibited by law from being nominated for or holding the office.

Nomination period

35(1) The nomination period for an election begins on the 21st day before election day and ends on the 14th day before election day.

35(2) The senior election official must appoint the place and the date or dates when nominations will be received. The date or dates must be during the nomination period.

35(3) The time for receiving nominations must be from 1:00 p.m. to 9:00 p.m. inclusive.

35(4) The place appointed for receiving nominations must be a convenient public building in the community.

Current member must resign to run in election

36(1) A person who holds office on a council may not be nominated in an election for a different office unless the member resigns his or her office at least 21 days before the election day for that election.

36(2) Despite the provisions of this regulation, if an additional by-election is required because of a resignation under subsection (1), the senior election official may, in his or her discretion, do what is necessary to ensure that the additional by-election is held on the same day as the first by-election, including

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 41

having the nomination period for the additional by-election

- (a) begin less than 21 days before election day; and
- (b) end less than seven days after it begins.

Notice of nominations

37(1) At least seven but not more than 21 days before the nomination period begins, the senior election official must give public notice of nominations, in accordance with section 5.

37(2) The notice of nominations must include the following information, but may also include any other information that the senior election official considers appropriate:

- (a) the offices for which candidates are to be elected;
- (b) the place or places where, and the dates and times during the nomination period when, nominations will be received;
- (c) the manner in which nominations must be filed;
- (d) how interested persons can obtain information about the requirements and procedures for making a nomination.

What nominations must include

38 A nomination must include the following:

1. A statement by the prospective candidate of
 - (a) his or her surname and usual name;
 - (b) his or her telephone number and residential address, and mailing address if it is different; and
 - (c) the office for which he or she seeks to be nominated.
2. A statement under oath by the perspective candidate – either made in advance or administered by the senior election official at the time the nomination papers are filed – that he or she is qualified to be nominated for the office, and that to the best of his or her knowledge, the information provided in his or her nomination papers is true.
3. The names, addresses and signatures of at least two voters who support the nomination.

How to file a nomination

39(1) To make a nomination, the nomination papers described in section 38 must be filed with the senior election official

- (a) before the end of the time for receiving nominations; and
- (b) at the place

that is specified in the notice of nominations under subsection 37(2).

39(2) Nomination papers may be filed with the senior election official in person or by an agent or by mail or fax.

39(3) The obligation to ensure that the nomination papers are received in accordance with this section rests with the person nominated.

Nomination papers available for inspection

40 The senior election official must ensure that nomination papers are made available for public inspection, during regular office hours, from the time they are received until they are disposed of, as provided for under section 116.

Verifying the nomination

41(1) Upon receiving nomination papers, the senior election official must verify that they are complete and in accordance with this regulation.

41(2) As soon as possible after verifying the nomination papers, the senior election official must

- (a) confirm to the prospective candidate that his or her nomination papers are complete and in accordance with this regulation and have been accepted; or
- (b) advise the candidate that his or her nomination papers have been refused and the reason for the refusal.

41(3) A person becomes a candidate upon the senior election official accepting his or her nomination papers.

41(4) Nomination papers that are refused may be replaced or corrected if the new or corrected documents are filed in accordance with section 38 before the nomination period ends.

Withdrawing a nomination

42(1) At any time up until 2:00 p.m. on the day after the nomination period ends, a candidate

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 42

may withdraw his or her nomination by filing a signed declaration to that effect with the senior election official.

42(2) The candidate's signature on the withdrawal must be witnessed by another person, who must sign as witness.

42(3) A candidate may withdraw only if enough candidates remain to fill the offices to be elected.

Acclamation or notice of election

43(1) If, when the period for withdrawals expires, the number of nominated candidates for an office is the same as or less than the number to be elected, the senior election official must declare the candidate or candidates elected by acclamation.

43(2) If, when the period for withdrawals expires, the number of nominated candidates for an office is greater than the number to be elected, the senior election official must, within two days, give public notice in accordance with section 5 of the following:

- (a) a description of each office to be filled at the election;
- (b) the names of the candidates nominated for each office;
- (c) the dates and times when voting places will be open for voting;
- (d) the location of all the voting places;
- (e) information about the alternative voting opportunities available in the election, including the date, location and hours of advance voting required under section 79;
- (f) that, before being allowed to vote, a person may be required to establish his or her identity, and the manner in which the person may do so under section 8;
- (g) any other information about the election that the senior election official determines appropriate.

Death of candidate

44 If a candidate named in the notice of election dies before the close of voting on election day, the candidate is deemed to have withdrawn and

- (a) if no candidate would be elected by acclamation as a result of the death, the

election must proceed as if the deceased candidate had not been nominated; or
 (b) if the number of candidates remaining for the office is the same or less than the number to be elected, the senior election official must immediately declare the remaining candidate or candidates elected by acclamation.

Right of access

45(1) Subject to subsection (2), between 9:00 a.m. and 9:00 p.m., no person may prevent anyone who produces identification or documentation confirming that he or she is a candidate or representative of a candidate in an election from canvassing or distributing election material at the entrance door of each residence in an apartment, condominium complex or other multiple-unit residence.

45(2) If a voting station is located in an apartment, condominium complex or other multiple-unit residence, no person may canvass or distribute election materials in the building, complex or residence on election day or any day when advance voting may occur at the station.

45(3) Subsection (1) does not apply to a shelter or other residence for persons under reasonable apprehension of bodily harm.

45(4) No person may interfere with, or prevent, anyone who produces identification or documentation confirming that he or she is a candidate or representative of a candidate in an election from canvassing or distributing election material in any community.

DIVISION 5
 PREPARING FOR AN ELECTION

Establishing voting stations

46(1) The senior election official must establish a voting station for each voting subdivision.

46(2) Two or more voting stations may be located together at a central voting place.

46(3) A voting place must be in a convenient location for a majority of the voters served by it and for this purpose, it may be established outside the subdivision or the community.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 43

46(4) A voting place must be accessible to persons with physical disabilities, unless the senior election official is satisfied that it is impractical to obtain the use of such premises while complying with subsection (3).

46(5) A voting station must not be established

- (a) in a space that is being used as a dwelling;
- (b) in the part of a premises that is used as a licensed premises, as defined in *The Liquor Control Act*; or
- (c) in or on any premises in which a candidate has any estate or interest.

Changing voting place

47(1) Subject to section 90 (interrupted voting), if it becomes impossible or impractical to operate a voting station at a voting place, the senior election official must move the voting station to a new voting place located as close as possible to the old voting place.

47(2) When a voting station is moved to a new voting place, the senior election official must notify

- (a) the candidates of the change and the reason for it; and
- (b) the public of the change by
 - (i) posting notice of the new location on the old voting place, or as close to it as possible, and
 - (ii) if time permits, giving notice of the change in any other manner that he or she considers appropriate.

Equipping voting stations

48 The senior election official must ensure that each voting station is provided with the following:

- (a) a copy of the voters list, or the division of the voters list relevant to that voting station;
- (b) a voting record;
- (c) a ballot box;
- (d) enough ballots;
- (e) one or more voting compartments;
- (f) directions about the manner of voting;
- (g) any other items that the senior election official determines are necessary.

Ballots

49(1) The senior election official must arrange for enough ballots to be prepared.

49(2) The senior election official must determine which of the following will be used in an election:

- (a) separate ballots for each office and for each question;
- (b) composite ballots that combine the contents of two or more separate ballots described in clause (a).

Rules for ballots

50(1) The following rules apply to ballots:

1. Each candidate's name, as the candidate provided it on his or her nomination paper, must appear on the front of the ballot.
2. No reference to a candidate's occupation, degree, title, honour or decoration may appear on the ballot.
3. A space for marking the ballot must appear to the right of each candidate's name. For a question, the ballot must have a space for marking the ballot to the right of each answer.
4. Subject to subsection (4), all ballots for the same office or question must be identical or as nearly alike as possible.

50(2) The candidates' names must appear on the ballot in alphabetical order, based on their surnames and, in the case of identical surnames, their usual names.

50(3) If two or more candidates have the same surname and usual name, the senior election official may, subject to the restrictions in Rule 2 of subsection (1), include on the ballot additional information to help the voters identify the candidates.

50(4) The candidates for mayor and for councillor must be listed on separate ballots and, if the terms of office for councillors are not the same, the ballot for each term must be separate.

50(5) The form of a composite ballot must conform as closely as possible to the rules set out in this section.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 44

Ballot if candidate dies

51(1) If a candidate dies after the ballots are prepared, the senior election official must arrange for new ballots to be prepared that do not contain the name of that candidate.

51(2) If there is no time to arrange for new ballots after the death of a candidate, the senior election official must ensure that written notice that the deceased person is no longer a candidate is posted in a conspicuous location at each affected voting station.

Record of ballots provided

52 The senior election official must keep a record of how many ballots are provided for use at each voting station.

Ballot boxes

53 A ballot box provided for use at a voting station must be constructed and secured so that ballots can be inserted into it but cannot be withdrawn without providing evidence of the box being opened or otherwise tampered with.

Voting compartment

54 Each voting station must have at least one voting compartment that is furnished so that voters can mark their ballots conveniently, without interference or interruption, and while screened from observation.

Voting directions

55 The senior election official must ensure that directions about the manner of voting are posted near the entrance to the voting place and at each voting compartment.

Voting record

56 A voting record provided for use at a voting station must be suitable to record the information prescribed in subsection 61(1).

DIVISION 6
VOTING

Right of a voter

57 Every eligible voter is entitled to

- (a) vote in secret;
- (b) vote without inducement, interference or coercion from anyone else;
- (c) be free from any attempt or inducement, whether direct or indirect,

by anyone to show the voter's marked ballot in any manner that would reveal how he or she voted; and

- (d) not have any information about how he or she voted disclosed or compelled for any reason or in any proceeding.

May only vote once

58(1) A voter may not vote more than once in the same election.

58(2) A voter may vote only once for each candidate that he or she chooses to vote for. The voter must not vote for more candidates than the number to be elected.

58(3) For a vote on a question, a voter may vote for only one answer.

Operation of Voting Places and Stations

Who may be present at voting station

59 During voting, the following persons may be present at a voting station:

- (a) the election officials appointed for that voting station;
- (b) a voter, for the purpose of voting;
- (c) an interpreter, if required;
- (d) a candidate;
- (e) not more than two scrutineers
 - (i) appointed by each candidate, and
 - (ii) for each question;
- (f) any other person allowed to be present by the senior election official.

Preparation of ballot box

60(1) Immediately before a voting station opens, the senior election official must demonstrate to all persons present that the ballot box to be used is empty, and secure it so that it cannot be opened without providing evidence of it being opened or otherwise tampered with.

60(2) Subject to section 75 (moving ballot box), while the voting station is open and during the count, the senior election official must ensure that the ballot box remains in full view of persons at the voting station.

Voting record

61(1) The senior election official must keep the voting record at the voting station and ensure

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 45

that it is used to record the name and address of each person who is given a ballot. Any of the following that apply must be recorded beside the person's name:

- (a) if the person is required to take an oath, whether the oath is required to be taken
 - (i) under subsection 67(1), because the person seeks to have his or her name added to the voters list,
 - (ii) under subsection 68(1), because the records at the voting station show that someone using the person's name has already voted,
 - (iii) under subsection 68(2), because the records at the voting station show that a sealed envelope ballot package was provided to the person, or
 - (iv) under section 70, because the person's right to vote is challenged;
- (b) if the person's right to vote is challenged, who made that challenge and the reason for it;
- (c) if the voter was required to establish his or her identity under clause 66(1)(a);
- (d) if the person votes with the assistance of a person other than an election official as provided for under clause 73(2)(b), the name of the person who provided assistance;
- (e) if the person votes with the assistance of an interpreter who is not an election official as provided for under section 74, the name of the interpreter;
- (f) if the person refuses to take an oath required under this regulation;
- (g) if the person removes a ballot from a voting place.

61(2) The senior election official must record in the voting record the name of each person – including the name of each candidate – who acts as a scrutineer at the voting station.

61(3) A person is deemed to have voted when he or she is given a ballot.

Scrutineers

62(1) In order to act as a scrutineer, a person must

- (a) be at least 18 years old;
- (b) be a candidate or a person appointed, in a form approved by the senior election official, by a candidate; and
- (c) take an oath that he or she will
 - (i) uphold the rights of voters under section 57, and
 - (ii) preserve the secrecy of the vote in accordance with section 77.

62(2) A senior election official may appoint a person to act as a scrutineer for a vote on a question if the person

- (a) is at least 18 years old;
- (b) applies to the senior election official; and
- (c) takes an oath that he or she will
 - (i) uphold the rights of voters under section 57, and
 - (ii) preserve the secrecy of the vote in accordance with section 77.

62(3) If more than two scrutineers are appointed for a vote on a question, the senior election official may designate one or more of them as representative scrutineers.

62(4) Before acting as a scrutineer, the person must show his or her appointment to the senior election official.

62(5) A scrutineer may

- (a) enter the voting place 15 minutes before it opens and inspect the ballot box, the ballots and the other election materials to be used at the voting station; and
- (b) be present during voting and, from time to time, examine the voting record for a voting station, but only if he or she does not interfere with the activities of the election officials at the voting station.

No display of election material in voting place

63(1) No person may within 50 metres of a voting place,

- (a) distribute pamphlets, buttons or other items referring to the election or a candidate or a vote on a question;

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 46

- (b) wear or display any item that refers to the election or a candidate or a vote on a question; or
- (c) post or display a sign or poster referring to the election or a candidate or a vote on a question.

Voting place in mall

63(2) If a voting place is located in a mall, office or other building with multiple units, the voting place is deemed to be the unit in which the voting station is located.

Order to remove sign

63(3) If a sign or poster is in contravention of clause (1)(c), an election official at the voting place involved may remove it or order the person or organization that produced the sign or poster or authorized its production to remove or obscure it. The order may be made orally or in writing.

Duty to remove

63(4) Upon receiving an order under subsection (3), the individual or organization must ensure that the sign or poster is removed or obscured without delay.

Exception for notices under regulation

63(5) Subsection (1) does not apply to

- (a) a sign or notice that is posted under this regulation; or
- (b) anything used to identify an election official.

Exception for scrutineers

63(6) Despite clause (1)(b), a scrutineer may wear a badge or ribbon that does not show the name or initials of the candidate or indicate an answer to a question, but which by colour alone indicates the candidate or answer for whom he or she acts as a scrutineer.

Voting at Voting Stations
on Election Day

Voting hours

64 On election day, every voting place must open at 8:00 a.m. and close at 8:00 p.m.

Voting at a voting station

65 On election day, an eligible voter who wishes to vote must attend the voting station for his or her voting subdivision or community and give his or her name to an election official.

Eligible voter whose name is on voters list

66(1) An eligible voter whose name is on the voters list may vote if he or she

- (a) establishes his or her identity, if required to do so by the senior election official under subsection (2); and
- (b) complies with subsection 70(5) (what challenged person must do to vote), if his or her right to vote is challenged.

66(2) Before giving a ballot to an eligible voter whose name is on the voters list, a senior election official may require the voter to establish his or her identity in accordance with section 8 (establishing identity).

Eligible voter whose name is not on the voters list

67(1) An eligible voter whose name is not on the voters list may vote if he or she complies with

- (a) section 29 (name added to voters list at time of voting); and
- (b) subsection 70(5) (what challenged person must do to vote), if his or her right to vote is challenged.

67(2) The senior election official must add to the voters list the name of an eligible voter who complies with the requirements of section 29.

When records show voter already voted

68(1) An eligible voter who is shown on the voters list as already having voted may vote if

- (a) the voter
 - (i) establishes his or her identity in accordance with section 8, and
 - (ii) takes an oath that he or she is an eligible voter who has not previously voted in the election or on a question; and
- (b) the senior election official is satisfied that the person is entitled to vote, based on the documents provided and the oath.

68(2) An eligible voter who is shown on the voters list as having been provided a sealed envelope ballot package may vote if

- (a) the voter
 - (i) establishes his or her identity in accordance with section 8, and

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 47

- (ii) takes an oath that he or she is an eligible voter who did not receive a sealed envelope ballot package and has not previously voted in the election or on the question; and
- (b) the senior election official is satisfied that the person is entitled to vote, based on the documents provided and the oath.

Indication of voting made on voters list

69 In addition to making the entries in the voting record required under subsection 61(1), the senior election official must ensure that the voters list used at the voting station indicates that a voter has voted.

Challenging a voter

70(1) An election official or a scrutineer may challenge a person wishing to vote if he or she believes that the person

- (a) is not an eligible voter; or
- (b) has already voted in the election or on the question.

70(2) The person making the challenge must state the reason for it. The senior election official must ensure that the name of the person making the challenge and the reason are recorded on the voting record beside the name of the voter.

70(3) If no reason for the challenge is given, the voter who has been challenged may proceed to vote as if no challenge had been made.

70(4) A challenge must be made before the voter is given a ballot.

70(5) In order to vote, a voter who has been challenged must

- (a) take an oath that he or she is an eligible voter who has not otherwise voted in the election or on the question; and
- (b) if he or she has not already done so, establish his or her identity in accordance with section 8.

70(6) The challenged person must not be asked any questions except about his or her identity, eligibility to vote and whether or not he or she has already voted in the election or on the

question, and no further challenge may be made once a person has complied with subsection (5).

70(7) If a voter who has been challenged refuses or fails to comply with subsection (5), the senior election official must ensure that the voter is not given a ballot.

Voting

71 The following steps must be taken when a person is voting at a voting station on election day:

STEP 1: Voter to be given a ballot

The senior election official must

- (a) write his or her initials on the back of a ballot;
- (b) fold the ballot so that the initials can be seen without opening the ballot;
- (c) explain to the voter how to mark and fold the ballot; and
- (d) give the ballot to the voter.

STEP 2: Voter's handling of ballot

The voter must take the ballot directly to the voting compartment and, without delay, mark the ballot

- (a) by placing an "X" in the space beside the name of each candidate he or she wishes to vote for;
- (b) in the case of a vote on a question, by placing an "X" in the space beside the answer he or she wishes to vote for; or
- (c) by writing "declined" anywhere on the front of the ballot.

STEP 3: Ballot returned to election official

The voter must fold the ballot as instructed and immediately return it to the senior election official.

STEP 4: Election official's handling of marked ballot

Without unfolding the ballot, the senior election official must

- (a) confirm that it is the same ballot that was provided to the voter by examining his or her initials; and
- (b) ensure that the ballot is put into the ballot box in full view of those present at the voting station.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 48

Voter to leave after voting

72 A voter must leave the voting place without delay after his or her ballot is put in the ballot box.

Special Voting Situations

Voter requiring assistance of another person

73(1) A voter with a physical disability or who has difficulty reading may ask the senior election official to allow another person to come with the voter to the voting compartment and help mark his or her ballot.

73(2) A voter may be assisted by

- (a) an election official; or
- (b) any other person who is at least 18 years old and who takes an oath that he or she
 - (i) will comply with the obligations set out in subsection (4); and
 - (ii) has not assisted more than one other voter in voting at the election or on a question.

73(3) Except for an election official, no person may assist more than two voters.

73(4) A person assisting a voter must

- (a) not influence or attempt to influence how the voter votes;
- (b) mark the ballot as directed by the voter; and
- (c) not disclose how the voter voted.

Interpreter

74(1) A senior election official may appoint a language or sign language interpreter to assist election officials in communicating to a voter any information that is necessary to enable the voter to vote.

74(2) An election official may act as an interpreter.

74(3) Before acting as an interpreter, a person who is not otherwise an election official must take an oath that her or she

- (a) is able to make the translation and will do so to the best of his or her abilities; and
- (b) will not attempt to influence how the voter votes.

Moving ballot box

75(1) If a voter cannot get into a voting station or place because of a disability, the senior election official may take the ballot box and voting materials outside the voting station or place to allow the person to vote.

75(2) The senior election official must take all practical steps to ensure that a person voting outside the voting station or place may mark his or her ballot in secret and without interference or interruption.

75(3) The senior election official must ensure that any voting material not taken outside the voting station or place under subsection (1) are secured until he or she returns.

75(4) Persons acting as scrutineers who are present may accompany the senior election official when he or she leaves the voting station under subsection (1).

Spoiled Ballot

76(1) A voter who unintentionally spoils a ballot may fold it and return it to the senior election official and exchange it for a new ballot.

76(2) Without unfolding the returned ballot, the senior election official must write "Spoiled" on the back of the ballot and ensure that is placed in the spoiled ballot package prepared under subsection 95(2) (organizing the ballots).

Secrecy of the Vote

Secrecy of voting

77(1) Every person at a voting station, including persons present to vote or count the vote, must preserve the secrecy of the voting, and, in particular, must not do any of the following:

- (a) interfere with a person marking a ballot;
- (b) attempt to discover how a person voted;
- (c) communicate information about how another person voted;
- (d) induce a person, directly or indirectly, to reveal how he or she voted.

77(2) Except as provided in this Part, a person must not show his or her marked ballot to

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 49

another person or receive assistance in marking his or her ballot.

77(3) Except as provided in this Part, a person must not enter a voting compartment while a voter is in the compartment or attempt in any way to observe how a person marks his or her ballot.

No requirement to disclose vote

78 In any legal proceeding,
 (a) a voter may not be required to reveal how he or she voted; and
 (b) a person who assisted a voter in voting may not reveal how the voter voted.

Alternate Voting Opportunities

Required advance voting opportunity

79 The senior election official must
 (a) establish a date and location for an advance voting opportunity for an election or vote on a question ; and
 (b) ensure that, on the date and at the location established, a voting station is open between the hours of 5:00 p.m. and 9:00 p.m. for voters to vote in advance.

Additional advance voting opportunities

80(1) The senior election official may
 (a) establish additional advance voting opportunities; and
 (b) determine the days and hours during which voting stations for those additional opportunities are to be open, which may be different for different opportunities.

80(2) The senior election official must give notice, in a form and manner and at a time that he or she considers appropriate, of the additional advance voting opportunities established under this section.

When advance voting may occur

81(1) Advance voting under sections 79 and 80 may begin at any time after the ballots to be used for an election or vote on a question are prepared and must end at least 48 hours before election day.

81(2) The senior election official may choose to equip an advance voting station with a voting record that contains within it the information from the voters list, in which case a separate copy of the voters list is not required.

81(3) The senior election official must ensure that the voters list to be used on election day indicates which voters voted in advance.

Sealing ballot box between uses

82(1) At the end of each use of a ballot box at an advance voting opportunity the ballot box must be secured so that no ballots can be inserted into it without providing evidence of it being opened or otherwise tampered with. Once sealed, the ballot box may only be opened – and then only to the extent necessary to allow ballots to be inserted – at the beginning of its next use at an advance voting station.

82(2) The senior election official must ensure that the ballot box and the other voting materials for the advanced voting station remain secure until

- (a) in the case of the ballots, they are combined for counting, as provided for in section 93; and
- (b) in the case of the materials, they are secured in accordance with section 97.

Conduct of advance voting generally

83 Except as provided in sections 79 to 82, advance voting must be conducted in the same manner as voting at a regular voting station on election day.

Voting by Sealed Envelope

Eligibility to vote by sealed envelope ballot

84(1) A voter is eligible to vote by sealed envelope ballot if he or she

- (a) is unable to go in person to a voting station due to a disability;
- (b) is providing care to a person who is unable to leave home; or
- (c) expects, on election day and the day or days of advance voting, to be
 - (i) absent from his or her community, or
 - (ii) in a location significantly distant from the voting place where he or she is eligible to vote that it is

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 50

not reasonably possible for him or her to vote at that place.

84(2) An application may be filed with the senior election official in person or by mail or fax.

84(3) The application must be made during the period that begins on the 21st day before election day and ends on the third day before election day.

When application made in person

85(1) If a voter applies in person, the senior election official must determine if the voter's name is on the voters list. If it is not, as part of the application, the voter must

- (a) take an oath that he or she is an eligible voter; and
- (b) establish his or her identity in accordance with section 8.

85(2) Before giving a voter who applies in person a sealed envelope ballot package, the senior election official

- (a) must require the voter to sign a declaration that he or she is eligible under subsection 84(1) to vote by sealed envelope ballot; and
- (b) may require the voter
 - (i) if he or she has not already done so, to establish his or her identity in accordance with section 8; and
 - (ii) to take an oath that he or she is an eligible voter who has not otherwise voted or received a sealed envelope ballot package in the election or on the question.

When application made in writing

86(1) If a voter applies by mail or fax to vote by sealed envelope ballot, the application must

- (a) state the applicant's name, address and telephone number;
- (b) include copies of the documents referred to in section 8 (establishing identity); and
- (c) include a declaration signed by the voter that he or she
 - (i) is an eligible voter in the election or on the question;

(ii) is eligible under subsection 84(1) to vote by sealed envelope ballot; and

(iii) has not otherwise already voted in the election or on the question.

86(2) The senior election official must add to the voters list the name of a person not already on the list who applies under subsection (1) if the senior election official is satisfied that the person is an eligible voter who has met the requirements of subsection (1).

86(3) If an eligible voter applies under subsection (1)

- (a) 10 or more days before election day, the senior election official must send by ordinary mail or deliver the sealed envelope ballot package to the voter; and
- (b) less than 10 days before election day, the voter may make alternative arrangements to have the package delivered to him or her, provided those arrangements are satisfactory to the senior election official.

86(4) Under clause (3)(b), a voter may designate in writing a relative, spouse or common-law partner to deliver the sealed envelope ballot package to him or her, in which case, before giving the package, the senior election official may require the person designated to

- (a) establish his or her identity in accordance with section 8; and
- (b) take an oath as to his or her relationship with the voter.

86(5) A senior election official may take any additional actions he or she determines necessary to satisfy himself or herself that the voter wishes the relative, spouse or common-law partner to be responsible for delivering the sealed envelope ballot package to the voter.

Contents of sealed envelope ballot package

87 A sealed envelope ballot package must contain

- (a) instructions on how to vote by sealed envelope;
- (b) a ballot initialised by the senior election official;

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 51

- (c) a ballot envelope;
- (d) a certificate envelope; and
- (e) an outer envelope with the return address specified by the senior election official printed on it.

Record of voting by sealed envelope ballot

88 When a sealed envelope ballot package has been provided to a voter, the senior election official must

- (a) enter the voter's name and address in a separate voting record maintained for voters who vote by sealed envelope ballot; and
- (b) ensure that the voters list to be used on election day indicates which voters have been provided a sealed envelope ballot package.

Procedure for voting by sealed envelope ballot

89(1) To vote by sealed envelope ballot, a voter must take the following steps:

STEP 1: Complete certificate envelope

Complete and sign the certificate envelope, certifying his or her identity and that he or she has not previously voted in the election or on the question.

STEP 2: Mark ballot

Mark the ballot by

- (a) placing an "X" in the space beside the name of each candidate he or she wishes to vote for;
- (b) in the case of a vote on a question, placing an "X" in the space beside the answer he or she wishes to vote for; or
- (c) writing "declined" anywhere on the front of the ballot.

STEP 3: Put into envelopes provided

Put ballot in the ballot envelope and seal it.

Put the ballot envelope in the certificate envelope and seal it.

Put the certificate envelope in the outer envelope and seal it.

STEP 4: Deliver package to S.E.O.

Ensure that the outer envelope and its contents are received by the senior election official before 8:00 p.m. on election day.

89(2) Upon receiving a sealed envelope ballot package from a voter, the senior election official must

- (a) remove the certificate envelope ballot package from the outer envelope and examine the certificate to ensure that it is properly completed; and
- (b) make an entry beside the voter's name in the voting record maintained for voters who vote by sealed envelope ballot indicating that the voter's ballot was returned.

89(3) If the certificate has been completed properly, the senior election official must remove the ballot envelope from the certificate envelope and insert it, unopened into a ballot box set aside for sealed envelope voting.

89(4) The senior election official must write "rejected" on the back of the certificate envelope and ensure that it is placed in the rejected ballot package prepared under subsection 95(2) (organizing the ballots) if

- (a) the certificate has not been completed properly; or
- (b) the sealed envelope ballot is received by the senior election official after 8:00 p.m. on election day.

Interrupted Voting

S.E.O. may declare voting to be interrupted

90(1) The senior election official may declare voting at a voting station to be interrupted if he or she is satisfied that, due to an emergency or other unexpected circumstances, voters are unable to vote because

- (a) the voting station is unable to remain open and accessible to voters during regular voting hours on election day; and
- (b) it is not reasonably possible to move the voting station to a new voting place, as provided for in section 47.

90(2) If a voting station is declared interrupted, the senior election official must ensure that the station is reopened at the same or another location, in the seven days following election day, for a period equivalent to the period of the interruption. The period of reopening is not required to be at the same time of the day as the interruption, but it must be as continuous as

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 52

reasonably possible between the hours of 8:00 a.m. and 8:00 p.m.

90(3) The senior election official must give notice to the candidates and the voters served by the voting station, in the manner he or she considers appropriate in the circumstances,

- (a) of the hours the voting station will be reopened for voting; and
- (b) if the voting station is moved, the location of the new voting place.

90(4) If made or done in good faith, the decision or action of a senior election official under this section may not be reviewed or set aside by a court on account of unreasonableness or supposed unreasonableness.

DIVISION 7
COUNTS AND RECOUNTS

Voting stations close at 8:00 p.m.

91 At 8:00 p.m. on election day, the senior election official must close the voting station. However, any eligible voter who is in attendance at the voting station or place for the purpose of voting at that time must be allowed to vote.

S.E.O. to count the vote

92(1) Immediately after closing the voting place, the senior election official, with the assistance of at least one other election official, must count the vote in full view of the persons described in section 59 who are present, except a voter or an interpreter.

- 92(2)** The count consists of:
- (a) preparing a ballot account;
 - (b) counting and organizing the ballots;
 - (c) completing a statement of the vote;
 - (d) securing the ballots and other election materials.

Ballots to be combined before counting

93(1) For the purpose of preserving the secrecy of the ballot, the senior election official must combine into one ballot box, before they are counted, all of the ballots used for advance and sealed envelope voting with those in a ballot box used for regular voting.

93(2) The senior election official must list separately the number of advance ballots and sealed envelope ballots that were added in the

statement of vote prepared for the ballot box that was used for regular voting.

Ballot account

94(1) To determine whether all ballots supplied for use at the voting station are accounted for, the senior election official must determine the following numbers and enter them in the ballot account form

- (a) the number of voters who appear to have voted at the voting station according to the voting record;
- (b) the number of spoiled ballots;
- (c) the number of unused ballots.

94(2) The senior election official must ensure that the completed ballot account is attached to the voting record.

Rules for counting ballots

95(1) The senior election official must count the ballots according to the following rules:

RULE 1: Count must be open and visible

Every ballot taken from a ballot box must be examined by the senior election official and shown to each person present.

RULE 2: Ballots that must be counted

A ballot must be counted if it is marked in an acceptable manner and the senior election official is satisfied that it is a ballot that he or she gave to a voter.

A ballot is marked in an acceptable manner if it is marked with

- (a) an "X" as described in Step 2 of section 71; or
- (b) any other mark that
 - (i) clearly indicates an intention to vote for a candidate or an answer to a question; and
 - (ii) does not identify the voter.

RULE 3: Ballots that must be rejected

A ballot must be rejected if it is not marked in an acceptable manner or the senior election official is not satisfied that it is a ballot that he or she gave to a voter.

A ballot is not marked in an acceptable manner if

- (a) it is marked in such a way that the voter could be identified;

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 53

- (b) regardless of any other markings, “declined” has been written on it; or
- (c) more votes are cast on it than the voter is entitled to cast.

- (e) the spoiled ballots;
- (f) the declined ballots;
- (g) the discarded ballots;
- (h) the unused ballots.

However, no ballot is to be rejected merely because

- (a) the “X” or other acceptable mark is not inside the space to the right of a candidate’s name or an answer; or
- (b) the voter has marked the ballot with something other than what was provided for marking ballots in the voting compartment.

RULE 4: Objections

Every objection raised by a candidate or scrutineer present about a ballot being accepted or rejected must be considered.

Having considered an objection, the senior election official must

- (a) make a decision on the objection without delay; and
- (b) record the objection in the voting record, number the objection in sequence, and mark the corresponding number on the back of the ballot and initial it.

RULE 5: Reconciliation

A ballot that is not initialled on the back may be accepted if the senior election official is otherwise satisfied it is a ballot he or she gave to a voter.

However, if the number of ballots taken from the ballot box is greater than the number of voters who voted according to the voting record, the senior election official must discard – and mark “discarded” on the back of – every ballot that does not have his or her initials on its back.

95(2) The senior election official must ensure that the ballots are organized into the following packages, and that each package is clearly marked as to its contents:

- (a) the accepted ballots;
- (b) the accepted ballots that were objected to;
- (c) the rejected ballots;
- (d) the rejected ballots that were objected to;

Completing a statement of the vote

96(1) The senior election official must complete a statement of the vote setting out the following:

- (a) the name of the community and the name or number of the voting place and voting station;
- (b) the date of election day and the office or offices to be filled and the question voted on;
- (c) the name of each candidate and the number of votes for each;
- (d) the number of votes for each answer to each question;
- (e) the number of ballots supplied;
- (f) the number of ballots in each of the separate packages set out in subsection 95(2).

96(2) The senior election official and at least one other election official must sign the statement of the vote. Any candidate or scrutineer present may also sign it.

Securing and delivering election materials

97 As soon as reasonably possible after completing the count, the senior election official must ensure that the following are placed in the ballot box and that the box is secured:

- (a) all the ballots packaged as required under subsection 95(2);
- (b) the voters list;
- (c) a copy of the statement of the vote; and
- (d) all documents used at the election or for the vote on a question, except the voting record and the original of the statement of the vote.

If composite ballots used

98 If a composite ballot has been used, (a) in applying the rules in subsection 95(1),

- (i) each portion of the ballot that deals with an office or a vote on a question is to be considered a separate ballot; and
- (ii) the reference to counting a ballot in Rule 2 is to be read as a

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 54

- reference to counting the votes on a ballot; and
- (b) in organizing the ballots under subsection 95(2), the following packages of ballots must be prepared and the contents clearly marked:
 - (i) ballots that were accepted in part, without objection,
 - (ii) ballots that were accepted in part, subject to an objection.

**DIVISION 8
DETERMINING AND DECLARING
RESULTS**

Results must be announced

- 99(1)** The senior election official must tally the votes received
- (a) by each candidate in the election; and
 - (b) for each answer for a vote on a question;
- and announce the results to those present.

Statement of official results

- 99(2)** After completing the tally and announcing the results, the senior election official must prepare a statement of official results that sets out
- (a) for each office to be filled,
 - (i) the votes counted for each candidate, and
 - (ii) the number of ballots rejected or declined in the election; and
 - (b) for each vote on a question,
 - (i) the votes counted for each answer to a question, and
 - (ii) the number of ballots rejected or declined for the vote on a question.

Official results to be available to the public

100 Upon declaring the results of an election or vote on a question, the senior election official must make a copy of the official results publically available.

Copy of official results to P.E.O.

101 The senior election official must, within two days of declaring the results of an election, deliver a copy of the official results – in a form approved by the principal electoral officer – to the principal electoral officer.

If tie for an office

- 102** If two or more candidates for an office cannot be declared elected to an office because each has received the same number of votes, the senior election official must, except when a recount is applied for under Division 3,
- (a) declare the office vacant; and
 - (b) proceed to hold a by-election to fill that office.

Postponing the declaration

- 103(1)** The senior election official must postpone declaring the results of an election or vote on a question if
- (a) voting has been declared interrupted under subsection 90(1); or
 - (b) the senior election official is for any other reason unable to determine the number of votes cast for each candidate or each question.

103(2) The declaration may be postponed for not more than seven days.

103(3) If a voting station is unable to reopen as required in subsection 90(2), the senior election official must declare the election or vote on a question to be invalid, and proceed to hold a new election or vote on a question.

103(4) If the reason the declaration has been postponed – as set out in clause (1)(b) – is still not resolved eight days after the election day, the senior election official must nevertheless prepare a statement of official results based on the information available at that time, and declare the results of the election or vote on a question.

Recounts

Application for a recount

- 104(1)** For an election, the senior election official must apply to the principal electoral officer for a recount if
- (a) a tie has been declared; and
 - (b) an objection was made to a decision made by an election official to accept or reject any ballot.

104(2) For an election or a vote on a question, any candidate or voter in the community may apply to the principal electoral officer for a recount on one or more of the following grounds:

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 55

- (a) that ballots were not correctly accepted, rejected or discarded, as required by the rules in subsection 95(1) (rules for counting ballots);
- (b) that a statement of the vote does not accurately record the number of valid votes for a candidate or for an answer;
- (c) that the statement of official results under subsection 99(2) did not correctly tabulate the total number of valid votes for a candidate or an answer.

104(3) In addition to the grounds set out in subsection (2), any candidate may apply for a judicial recount if a candidate cannot be declared elected because there is an equal number of votes for two or more candidates.

104(4) An application by a candidate or a voter must be made within 14 days after the senior election official has finally declared the results of an election.

Date, parties and notice

105(1) The principal electoral officer must set a date for the recount that is within two weeks – or as soon as practicable following that – after the application is received.

105(2) The parties to the recount are,

- (a) in the case of an election, the applicant and each candidate in the election; or
- (b) in the case of a question, the applicant and each of the representative scrutineers designated under subsection 62(3).

They may be present, submit evidence and make submissions, and may be represented by counsel.

105(3) The applicant must serve notice of the time and place of the recount on the senior election official and each party at least four days before the date set for the recount.

Election officials to attend and assist

106(1) The senior election official and any other election official designated by the senior election official must attend at the time and place set for the recount and must bring the ballot boxes and any other required documents. They must be present during the recount to assist the principal electoral officer.

106(2) The principal electoral officer may appoint any person as an election official to assist in the recount.

Recount process

107(1) The principal electoral officer must

- (a) count all the ballots in the manner prescribed for an election official; and
- (b) hear and determine every complaint or submission made by a party about any ballot recounted under clause (a).

107(2) The principal electoral officer must conduct the recount according to the provisions of this regulation respecting the counting of ballots. For that purpose the principal electoral officer

- (a) has the powers of an election official in counting ballots;
- (b) may examine the voting record; and
- (c) must confirm or correct the statement of the vote for each ballot box opened and the statement of official results.

107(3) As far as practicable, the recount must proceed continuously.

Procedure when recount completed

108 When the recount is completed, the principal electoral officer must

- (a) announce the results;
- (b) give the following documents, as confirmed or corrected, to the senior election official and a copy to the other parties;
 - (i) the statement of the vote for each ballot box opened,
 - (ii) the statement of the official results; and
- (c) seal the ballots and other documents in their respective envelopes and boxes, and return the ballot boxes and other election documents to the senior election official.

Declaration of results after recount

109 Upon receiving the statement of official results, as confirmed or corrected by the principal electoral officer, the senior election official must declare the candidate with the most votes to be elected.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 56

If tie for an office after recount

110 If, after a recount by the principal electoral officer, two or more candidates for an office cannot be declared elected because each has received the same number of votes, the senior election official must proceed to hold a by-election to fill the office.

Application for judicial recount

111(1) A voter who applied for a recount under section 104, or a candidate, who disputes the validity of a ballot may, within 14 days after the senior election official announces the result under section 99, apply to the court for a recount limited to the disputed ballots.

111(2) The applicant must serve notice of the application on the senior election official and, if the application concerns

- (a) an office, on each candidate; or
- (b) a question, on each representative scrutineer designated under subsection 62(3).

111(3) The application is to be heard on an urgent basis and in a summary manner.

111(4) Any persons who were present at the recount under section 104 are entitled to be present at the hearing and recount under this section.

111(5) The judge must conduct the recount of the disputed ballots according to the provisions of this regulation respecting the counting of ballots.

111(6) The voting officials and assistant voting officials may be called as witnesses.

Procedure when recount completed

112(1) When the recount is completed, the judge must announce the results, seal the ballots and other documents in their respective envelopes, and prepare a certificate stating the number of votes cast for each candidate. The judge must give the original certificate to the senior election official and a copy to each other party.

112(2) Upon receiving the judge's certificate, the senior election official must declare elected the candidate with the most votes.

112(3) The judge must return the ballots and other election documents to the senior election official after giving the certificate to the senior election official.

If tie for an office after recount

113 If, after a recount by the judge, two or more candidates for an office cannot be declared elected because each has received the same number of votes, the senior election official must proceed to hold a by-election to fill the office.

Delegation

114 The principal electoral officer may delegate any of his or her powers and duties under this Division to an employee of the Department of Aboriginal & Northern Affairs.

DIVISION 9
OFFENCES AND CHALLENGING AN
ELECTION

Application of Municipal Councils and School Boards Elections Act

115 Part 8 (Offences) and Part 9 (Challenging Results of Election or Vote) of *The Municipal Councils and School Boards Elections Act* apply, with necessary changes, to elections held under this regulation.

DIVISION 10
GENERAL

Disposition of election materials

116(1) The senior election official must retain the ballots and all other documents and materials related to the election or vote on a question for six months after the results of the election or vote are declared under

- (a) section 99 (S.E.O. to declare results); or
- (b) subsection 112(1) (results after recount).

116(2) When the six-month period has elapsed, the senior election official

- (a) must destroy the ballots in the presence of two witnesses; and
- (b) may destroy any other documents and materials related to the election.

No destruction if the court proceedings continuing

117 Section 116 does not apply

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 57

- (a) if otherwise ordered by the court; or
- (b) if the materials relate to an election or vote on a question that is the subject of an application under section 111, until the final determination of that application or until the court authorizes their destruction.

Public records

118(1) Documents and materials used or relating to an election or a vote on a question that are in the custody of the senior election official are public records and, until their destruction, must be available for public inspection at the times and under the conditions acceptable to the senior election official.

118(2) Subsection (1) does not apply to ballots or any documents or materials prepared, used or relating to personal security certificates under section 30.

PART 3
DECLARATION MEMBER IS
DISQUALIFIED

Application re disqualification

119(1) An application for a declaration that alleges that the member is disqualified under section 86 of the Act must be made in accordance with this section.

Who may apply

119(2) An application for a declaration under this section may be made by the council or by four or more voters.

When application may be made

119(3) An application under this section must be made during the member's term of office.

Powers of the court on application

119(4) After hearing an application under this section, the court may

- (a) declare the member to be disqualified and the member's position on the council to be vacant; or
- (b) dismiss the application.

Appeal to Court of Appeal

120(1) The decision of a court under section 119 may be appealed to The Court of Appeal.

120(2) A person who is declared to be disqualified under section 119 remains disqualified until the appeal is finally determined.

120(3) If, on the final determination of the appeal, the disqualification is set aside, The Court of Appeal may reinstate the person as a member of the council for any unexpired portion of the term of office for which he or she was elected and require any person who has been elected to fill the balance of that term to vacate the office.

120(4) If, on the final determination of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next election in the community if otherwise qualified.

Reimbursement of costs and expenses

121 If an application under section 120 is dismissed, the council may reimburse the person in respect of whom the application was made for any costs and expenses that the council considers reasonable, other than costs awarded to the person by the court.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 58

B. Part 4 – Elections Re Community Councils (*The Northern Affairs Act*)

TABLE OF CONTENTS

77	Conduct of elections	93	Election of first council
78(1)	Four-year term	94(1)	Appointment of prescribed election officials
78(2)	Term – regular election	94(2)	Qualifications
78(3)	Term – by-election	95(1)	Appointment of principal electoral officer
79(1)	Timing of regular elections	95(2)	P.E.O. may delegate
79(2)	Staggered terms	95(3)	P.E.O. retains powers and duties
80(1)	Election of mayor	96(1)	Powers and duties of P. E.O.
80(2)	Mayor's term if appointed	96(2)	Public education and information
81	Wards or community vote may be prescribed	96(3)	Notices by P.E.O.
82(1)	Qualifications of voters	96(4)	Special powers of P.E.O.
82(2)	Residency	96(5)	Direct appointment of election officials
82(3)	Persons with no fixed address	96(6)	Community must comply
82(4)	Oath conclusive in absence of other evidence	96(7)	P.E.O. may appoint
82(5)	New or expanded community	96(8)	Order to deliver material
83	Qualification of members of council	97(1)	Postponing an election
84	Persons who are disqualified	97(2)	Terms extended
85(1)	Definition	97(3)	Effect of order
85(2)	Rights of employees in elections	97(4)	When order may be made
86(1)	When member becomes disqualified	98	Protection from liability
86(2)	Deemed resignation		
86(3)	Eligibility at next election		
86(4)	Eligibility after disqualification under conflict provisions		
87(1)	Disqualified person must resign		
87(2)	Application to court		
87(3)	How application made		
88(1)	Only one office at a time		
88(2)	Current member must resign to run in by-election		
89(1)	Vacancy in councillor position after regular election		
89(2)	Vacancy in office of mayor after regular election		
89(3)	Vacancy after by-election		
89(4)	Section does not apply in case of a tie or death		
90	Appointment of administrator if no council or quorum		
91(1)	Resignation of member		
91(2)	Effective day of resignation		
91(3)	C.A.O. to report resignation to council		
92(1)	By-election to fill vacancy on council		
92(2)	Appointment of mayor by councillors		
92(3)	By-election to be held on request of council		
92(4)	Appointed, elected person to file oath of office		

Conduct of elections

77 The election of members of a council is to be in accordance with this Part and the regulations.

Four-year term

78(1) A member of council elected at a regular election holds office for a term of four years.

Term — regular election

78(2) The term of office of a member of a council elected at a regular election starts 14 days after the day of the election and ends 14 days after the next regular election held to fill the position.

Term — by-election

78(3) An individual elected to fill a vacancy on council holds office from the day the senior election official declares the results of the by-election and ends 14 days after the next regular election held to fill the position.

Timing of regular elections

79(1) Regular elections must be held on the fourth Wednesday of October in the year prescribed by the minister.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 59

Staggered terms

79(2) A regulation under this Part may provide staggered terms for members of a council.

Election of mayor

80(1) The mayor of a community is to be elected by a vote of the voters of the whole community unless the regulation establishing the community provides that the mayor is to be appointed from among the councillors.

Mayor's term if appointed

80(2) A mayor appointed from among the councillors holds office as mayor for a term of one year, but is eligible for reappointment.

Wards or community vote may be prescribed

81 A regulation under this Part may provide for the election of councillors by a vote of the voters of the whole community or on the basis of wards. If wards are prescribed, a different number of members may be prescribed for different wards.

Qualifications of voters

82(1) A person is qualified to vote in an election of members of the council of a community if on the day of the election he or she is

- (a) a Canadian citizen who is 18 years of age or older; and
- (b) a resident of the community, and has been so for at least six months before election day.

Residency

82(2) Under this Act, the following rules apply in determining the residency of a person:

1. A person is a resident of the place where he or she has his or her ordinary residence, and to which he or she intends to return when away from it.
2. A person may be a resident of only one place at a time.
3. A person does not change residence until he or she has a new residence.

Persons with no fixed address

82(3) A person who does not have an ordinary residence is deemed to reside at the

shelter, hostel or similar institution that most frequently provides lodging, food or other social services to the person.

Oath conclusive in absence of other evidence

82(4) A person's oath regarding the place that most frequently provides lodging, food or other social services to the person is conclusive, in the absence of evidence to the contrary.

New or expanded community

82(5) When a community is formed or the boundaries of a community are extended, a person is deemed to have satisfied the residency requirement in clause (1)(b) if, for at least the six months before election day, the person has been a resident within the area that becomes included in the community.

Qualification of members of council

83 A person is qualified to be nominated for and elected as a member of council if the person is

- (a) a Canadian citizen;
- (b) at least 18 years of age on the day of the election;
- (c) a voter of the community;
- (d) in a community with wards, a resident in the ward in which the person is or may be nominated; and
- (e) not subject to any disqualification under this or any other Act.

Persons who are disqualified

84 The following persons are disqualified from being nominated for, being elected to, and from membership on, a council:

- (a) a judge of the Court of Queen's Bench or The Court of Appeal;
- (b) a provincial judge or justice of the peace;
- (c) a member of the Legislative Assembly of Manitoba, the Senate or House of Commons of Canada, or of a band council;
- (d) subject to section 85, an employee of the community or an affiliated body of the community.

Definition

85(1) In this section, "employee" means a person employed by a community or by an affiliated body, but does not include a person who volunteers services to the community,

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 60

whether or not the person receives reasonable compensation or expense money from the community for his or her voluntary service.

Rights of employees in elections

85(2) Section 92 of *The Municipal Act* applies, with necessary changes, to an employee.

When member becomes disqualified

86(1) A member of a council is disqualified from council if he or she

- (a) when nominated or elected, was not eligible as a candidate under this Act;
- (b) is liable to the community under a judgment in an action under section 227 (unauthorized expenditures);
- (c) is convicted of an offence under this or any other Act and has not paid a fine imposed on conviction within 120 days after the fine was imposed or such time as the court has permitted for payment;
- (d) is convicted of
 - (i) an offence punishable by imprisonment for five or more years, or
 - (ii) an offence under section 122 (breach of trust by public officer), 123 (municipal corruption), 124 (selling or purchasing office) or 125 (influencing or negotiating appointments or dealings in office) of the *Criminal Code* (Canada);
- (e) receives from the community or an affiliated body of a community, a fee, salary, wage or any other payment for labour or services
 - (i) in an amount that is greater than the amount prescribed by the minister, or
 - (ii) in a manner other than a manner prescribed by the minister;
- (f) ceases to be qualified as a voter; or
- (g) in the case of members elected on the basis of wards, ceases to be a resident of the ward that the person is elected to represent.

Deemed resignation

86(2) A member of a council who is absent for the full duration of three consecutive regular council meetings is deemed to have resigned unless the absences are with the leave of the council, granted by a resolution passed at any of the three meetings, a prior meeting or the next meeting following the third absence.

Eligibility at next election

86(3) A member of a council who is disqualified under this section is eligible to be elected at the next regular election in the community if the person is then otherwise eligible for nomination under section 83.

Eligibility after disqualification under conflict provisions

86(4) A member of a council who is disqualified under section 105 (conflict provisions) is eligible to be elected at the next regular election in the community if the person is then otherwise eligible for nomination under section 83.

Disqualified person must resign

87(1) A member of a council who is disqualified under this Act must resign immediately.

Application to court

87(2) If the member of a council does not resign immediately upon disqualification, the court may, on an application, declare the member to be disqualified and his or her position on the council to be vacant.

How application made

87(3) An application for a declaration that alleges that the member is disqualified must be made in accordance with the regulations.

Only one office at a time

88(1) A person may not at any one time

- (a) hold more than one office on a council; or
- (b) be nominated for more than one office on a council.

Current member must resign to run in by-election

88(2) A person who holds office on a council may not be nominated in a by-election for an office on the same council.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 61

Vacancy in councillor position after regular election

89(1) If a councillor position is not filled at a regular election, the remaining members and the members who are elected may fill the vacancy by appointing as councillor a person who was eligible to be nominated for the position at the election, and any person so appointed is deemed to have been elected at a by-election.

Vacancy in office of mayor after regular election

89(2) If the office of mayor is not filled at a regular election, the councillors who are elected may appoint one of their members as mayor, in which case the appointed councillor is deemed to have been elected as the mayor at the election and a by-election must be held to fill the councillor position.

Vacancy after by-election

89(3) If no person is elected at a by-election held to fill a vacancy on a council, subsections (1) and (2) apply with necessary changes.

Section does not apply in case of a tie or death

89(4) This section does not apply

- (a) if two or more candidates in an election cannot be declared elected because the same number of votes were cast for each; or
- (b) if a position on a council is not filled at an election because a candidate has died.

Appointment of administrator if no council or quorum

90 Despite section 89, if the number of members of a council is fewer than is required for a quorum or if a council resigns, the minister may appoint an administrator for the community, in which case section 197, except subsection 197(1), applies with necessary changes.

Resignation of member

91(1) The resignation of a member must be in writing and given to the community administrative officer.

Effective day of resignation

91(2) A resignation is effective and a vacancy on the council occurs at the time the resignation is given to the community administrative officer despite any other date set out in the resignation, and the resignation may not thereafter be revoked.

C.A.O. to report resignation to council

91(3) The community administrative officer must report a resignation at the first meeting of the council after the resignation is received.

By-election to fill vacancy on council

92(1) Subject to section 89 (vacancy after regular election), a council must hold a by-election to fill a vacancy on the council as soon as is reasonably practicable unless

- (a) the vacancy occurs in the six months preceding the day on which the term of office for the vacant position expires; or
- (b) the vacancy occurs in the 12 months preceding the day on which the term of office for the vacant position expires and the remaining members
 - (i) are a majority of the number of members comprising the council, and
 - (ii) decide not to hold a by-election.

Appointment of mayor by councillors

92(2) If the position of mayor becomes vacant and a by-election is not required under subsection (1), the council may appoint one of their members as the mayor.

By-election to be held on request of council

92(3) The community's senior election official must hold a by-election when requested to do so by a council. Election day for the election must be as soon as reasonably practicable, but in fixing the day the senior election official must consider

- (a) voter participation; and
- (b) availability of persons to serve as election officials, and facilities to be used as voting places.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 62

Appointed, elected person to file oath of office

92(4) Section 104 (oath of office) applies, with necessary changes, to a person appointed by a council or elected at a by-election.

Election of first council

93 In a regulation that designates a community, the minister must make all necessary provisions for the election of the first council of the community, including, without limitation,

- (a) providing for the appointment of one or more election officials for the community;
- (b) establishing if the mayor is to be elected by a vote of the voters of the whole community or if the council is to appoint the mayor from among the councillors;
- (c) establishing the number of councillors to be elected, and if they are to be elected by a vote of the voters of the whole community or by wards;
- (d) specifying the date by which the first voters list must be completed;
- (e) specifying the date and time when, and the place where, nominations of candidates for members of the first council must be filed;
- (f) specifying the date and time when elections must be held for the members of the first council;
- (g) specifying the date, time and place for the first meeting of the council;
- (h) designating a person to act as community administrative officer until its council appoints a community administrative officer; and
- (i) making any other provision that, in the opinion of the minister, is necessary or advisable for the establishment of the community and the election and operation of its first council.

Appointment of prescribed election officials

94(1) The council of a community must by by-law appoint, and fix and provide for the remuneration of prescribed election officials.

Qualifications

94(2) The minister may prescribe qualifications of person to be appointed as election officials.

Appointment of principal electoral officer

95(1) The minister may appoint a principal electoral officer for northern Manitoba.

P.E.O. may delegate

95(2) The principal electoral officer may delegate any of his or her powers and duties to another person, subject to any restrictions or conditions specified in the delegation.

P.E.O. retains powers and duties

95(3) The principal electoral officer may continue to exercise the delegated powers and duties despite the delegation.

Powers and duties of P. E.O.

96(1) The principal electoral officer is to

- (a) exercise general direction and supervision over the administrative conduct of elections in northern Manitoba communities;
- (b) enforce fairness, impartiality and compliance with this Act and the regulations on the part of all election officials;
- (c) issue to election officials the instructions he or she believes are necessary to ensure the effective conduct of elections in northern Manitoba; and
- (d) perform such other duties as are prescribed by this or any other enactment.

Public education and information

96(2) The principal electoral officer may at any time, using any means that the principal electoral officer considers appropriate, provide residents of northern Manitoba with information about the electoral process, the democratic right to vote and the right to be a candidate at a election in a community.

Notices by P.E.O.

96(3) The principal electoral officer may determine the form of notices and other documents under this Part and the regulations and the method of publishing them when they are required to be published.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 63

Special powers of P.E.O.

96(4) The principal electoral officer may

- (a) extend the time for doing anything under this Act or the regulations, other than extending the time for opening or closing an ordinary or advance poll;
- (b) approve forms for the purposes of elections and may provide that the forms are to be used in particular cases or classes of cases or for prescribed purposes;
- (c) modify a provision of this Act or the regulations to permit its use at a by-election; and
- (d) generally adapt the provisions of this Act and the regulations to existing circumstances.

Direct appointment of election officials

96(5) The principal electoral officer may rescind an election official's appointment by a community and direct that the community appoint a replacement if he or she is satisfied that the official

- (a) is unable, for any reason, to perform his or her duties;
- (b) has failed to perform his or her duties satisfactorily;
- (c) has not followed an instruction of the principal electoral officer; or
- (d) after being appointed, has engaged in partisan political activities, whether or not this was done in the course of performing duties under this Act or the regulations.

Community must comply

96(6) The council of a community must comply with a direction to appoint a replacement election official as soon as practicable.

P.E.O. may appoint

96(7) If, in the opinion of the principal electoral officer, there is insufficient time before an election for a council to appoint a replacement, the principal electoral officer may make the appointment.

Order to deliver material

96(8) An election official whose appointment is rescinded must deliver any

election material in his or her possession to any person the principal electoral officer directs.

Postponing an election

97(1) If for any reason it is impossible to close nominations or hold an election in a community on the day prescribed for a regular election or fixed for a by-election, the principal electoral officer may, by written order made to the community's senior election official, specify a new closing day for nominations, or a new election day, or both.

Terms extended

97(2) If a member holds a position that is to be filled at a regular election that is postponed under subsection (1), the member's term is extended until 14 days after the new election day.

Effect of order

97(3) An order made under this section is binding on the council of the community, its election officials and candidates.

When order may be made

97(4) An order may be made under this section at any time before voting begins on election day. For the purposes of this section, "election day" means the day fixed for voting in the election, other than a day fixed for advance voting.

Protection from liability

98 No action or proceeding may be brought against the principal electoral officer for anything done or not done, or for any neglect,

- (a) in the performance or intended performance of a duty under this Act or the regulations; or
 - (b) in the exercise or intended exercise of a power under this Act or the regulations;
- unless the principal electoral officer was acting in bad faith.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 64

C. Section 92 (*The Municipal Act*)

- 92(1) Definition
- 92(2) Rights of employees in elections
- 92(3) Exception of chief administrative officer
- 92(4) Leave of absence for municipal election
- 92(5) Candidacy in other elections
- 92(6) Nature of leave of absence
- 92(7) Election as member of council or committee of L.U.D.
- 92(8) Election as M.L.A. or M.P.
- 92(9) Reinstatement of defeated candidate
- 92(10) Reinstatement of elected candidate
- 92(11) Rights during leave of absence
- 92(12) Other benefits

Definition

92(1) In this section "**employee**" means a person employed by a municipality or by a body, all the members of which, or all the members of the board of management or board of directors of which, are appointed by the council of a municipality, but does not include a person who volunteers services to the municipality, whether or not the person receives reasonable compensation or expense money from the municipality for his or her voluntary service.

Rights of employees in elections

92(2) An employee may

- (a) subject to subsection (3), seek nomination as, and be, a candidate in a municipal, provincial or federal election and, if elected, serve; and
- (b) support, speak or write on behalf of a candidate or a political party in an election, if in doing so the employee does not reveal any information or matter concerning the municipality or body by which the employee is employed, or any information that the employee procures or that comes to the employee's knowledge solely because of the employment.

Exception of chief administrative officer

92(3) Clause (2)(a) does not apply to a chief administrative officer in respect of the municipality by which the officer is employed.

Leave of absence for municipal election

92(4) An employee who proposes to become a candidate for election as a member of the council of the municipality by which he or she is employed may apply to the chief administrative officer, on or before the last day for the nomination of candidates, for a leave of absence for a period starting on the last day on which nomination papers may be filed and ending not later than 30 days after the day on which the results of the election are officially declared, or for any part of that period, and every such application must be granted.

Candidacy in other elections

92(5) An employee who proposes to become a candidate for election as a member of the Legislative Assembly or the House of Commons may apply to the chief administrative officer for leave of absence for a period starting on the day on which the writ for the election is issued and ending

- (a) where the employee is nominated as a candidate, not later than 30 days after the day on which the results of the election are officially declared; and
- (b) where the employee is not nominated as a candidate, not earlier than the day fixed by law for the nomination of candidates in the election;

or a part of the applicable period of time, as requested by the employee; and every such application must be granted.

Nature of leave of absence

92(6) A leave of absence granted under subsections (4) and (5) must be granted

- (a) where the employee is entitled to vacation leave with pay, and the employee so requests, as vacation leave with pay until the vacation leave with pay expires and after that time as leave without pay; or
- (b) as leave without pay.

Election as member of council or committee of L.U.D.

92(7) An employee who is elected as a member of the council or the committee of a

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 65

local urban district in the municipality by which the employee is employed must be placed on a leave of absence without pay for a period starting on the date of the election and ending on the earlier of

- (a) the expiry of eight years and one month after the day of the election; and
- (b) one month after the employee ceases to be a member of the council or committee.

Election as M.L.A. or M.P.

92(8) An employee who is elected to the Legislative Assembly or the House of Commons may apply to the municipality for a leave of absence without pay for a period starting on the day of the election and ending on the earlier of

- (a) the expiry of five years and four months after the day of the election; and
- (b) three months after the employee ceases for any reason to be a member of the Legislative Assembly or House of Commons;

and every such application must be granted.

Reinstatement of defeated candidate

92(9) An employee who is granted a leave of absence under subsection (4) or (5) and who is not elected must, on application before the expiry of the leave of absence, be reinstated to the position held immediately before the date of the leave of absence.

Reinstatement of elected candidate

92(10) An employee who is placed on or granted a leave of absence under subsection (7) or (8) may, before the expiry of the leave of absence, apply to the municipality to be reinstated and, as long as the employee is not a member of the council, the employee must, within 60 days, be reinstated to the position held immediately before the date the leave of absence is granted or to a reasonably equivalent position.

Rights during leave of absence

92(11) Where a person is placed on or granted a leave of absence under this section,

- (a) the period of service before the leave of absence begins, and the period of service after the leave of

absence ends, is deemed for all purposes to be unbroken; and

- (b) the period of the leave of absence, for the purpose of determining the seniority of the employee in relation to other persons in that employment, is deemed to be a period of service in the employment of the municipality.

Other benefits

92(12) The rights of an employee to benefits to which employees are entitled during the period of a leave of absence must be determined in accordance with the terms of the collective agreement or other agreement or a policy of the municipality under which the benefits are provided, and the period of the leave of absence must be treated, for the purpose of qualification for a benefit, in accordance with the agreement or policy.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 66

D. Election Offences (*The Municipal Councils and School Boards Elections Act*)

PART 8 OFFENCES BRIBERY AND INTIMIDATION OFFENCES

- 127(1) Offering a bribe
- 127(2) Accepting a bribe
- 127(3) Soliciting a bribe
- 127(4) Additional penalty
- 128 Force and intimidation

VOTING OFFENCES

- 129 Corrupt voting
- 130 Interfering with voting places
- 131 Other voting related offences

OFFENCES RELATING TO ELECTION OFFICIALS AND OTHERS

- 132(1) Offences relating to election and other officials
- 132(2) Bribery, etc. of official
- 132(3) Obstructing an official

OFFENCES RELATING TO FALSE INFORMATION AND STATEMENTS

- 133 Offence re use of information
- 134 Offence re false or misleading information
- 135 False statements respecting voters list
- 136(1) Use of false pretenses
- 136(2) Secrecy of the vote
- 137(1) False statement of candidate's withdrawal
- 137(2) False statement of candidate's character

GENERAL

- 138 Other offences

PENALTIES

- 139(1) Penalty for serious offences
- 139(2) Penalty for other offences
- 139(3) Prohibition against election or appointment

PART 9 CHALLENGING RESULTS OF ELECTION OR VOTE

- 140(1) Application
- 140(2) Grounds for application
- 140(3) Exception
- 140(4) Deadline for application
- 141(1) Who can apply
- 141(2) Respondent
- 141(3) Service
- 141(4) Addition of parties
- 142(1) Court procedure
- 142(2) Frivolous applications
- 143(1) Decision of the court
- 143(2) Where election or vote valid despite contravention
- 144(1) Appeal to Court of Appeal
- 144(2) Appeal to be heard on an urgent basis
- 144(3) No stay
- 144(4) Reinstatement
- 144(5) No reinstatement if term has expired

COMPENSATION AND COSTS

- 145(1) Costs of application
- 145(2) Recovery of costs
- 146 Compensation

DISCLAIMER

- 147(1) Disclaimer after application
- 147(2) Manner of making disclaimer
- 147(3) S.E.O. to inform C.A.O. or secretary-treasurer
- 147(4) Resignation
- 147(5) Effect on liability for costs

CHANGE IN APPLICANT

- 148(1) Applicant's death
- 148(2) Costs if application deemed dismissed

PART 8 OFFENCES BRIBERY AND INTIMIDATION OFFENCES

Offering a bribe

- 127(1)** A person who, directly or indirectly, offers a bribe to induce or influence another

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 67

person to do any of the following is guilty of an offence:

- (a) to vote or refrain from voting;
- (b) to vote or refrain from voting for or against a particular candidate or a particular answer to a question;
- (c) to nominate or refrain from nominating a person as a candidate;
- (d) to become nominated or refrain from becoming nominated as a candidate or to withdraw as a candidate.

Accepting a bribe

127(2) A person who, directly or indirectly, accepts or agrees to accept a bribe offered in circumstances described in subsection (1) is guilty of an offence.

Soliciting a bribe

127(3) A person who, directly or indirectly, solicits a bribe in circumstances described in subsection (1) is guilty of an offence.

Additional penalty

127(4) In addition to the penalty provided for in subsection 139(1), a person convicted of an offence under this section is liable to a further fine in the amount that is double the value of the bribe involved.

Force and intimidation

128 A person is guilty of an offence who

- (a) directly or indirectly
 - (i) uses or threatens to use force, violence or restraint, or
 - (ii) inflicts or threatens to inflict an injury, damage, harm or loss,
 upon or against a person in order to induce or compel the person to vote or refrain from voting, or on account of that person having voted or refrained from voting at an election or for a vote on a question; or
- (b) impedes or prevents the free exercise of the right to vote by an eligible voter.

VOTING OFFENCES

Corrupt voting

129 A person who does any of the following is guilty of an offence:

- (a) knowingly votes or applies to vote in an election or for a vote on a question when not eligible to do so;

- (b) having already voted in an election or on a question, either votes or applies for a ballot to vote in the same election or on the same question;
- (c) induces or causes another person to vote knowing that the person is not eligible to vote;
- (d) obtains a ballot in the name of another person, whether the other person is alive, dead or fictitious;
- (e) knowingly violates or attempts to violate the secrecy of voting.

Interfering with voting places

130 A person who interferes or disrupts, or attempts to interfere or disrupt, the proceeding at a voting place or station is guilty of an offence.

Other voting related offences

131 A person who does any of the following without being authorized to do so under this Act is guilty of an offence:

- (a) supplies a ballot to another person;
- (b) takes a ballot out of the voting station;
- (c) places anything other than a ballot in the ballot box;
- (d) gives to the voting official, to be placed in the ballot box, anything other than the ballot given to him or her by the voting official;
- (e) as a voting official, puts his or her initials on the back of a paper that is not a ballot but is capable of being used as one;
- (f) alters, defaces, destroys, takes, opens or otherwise interferes with a ballot, voting record, ballot box, vote-counting machine or a document or package used at or prepared for an election or vote on a question;
- (g) prints or reproduces a ballot or a paper that is capable of being used as a ballot.

OFFENCES RELATING TO ELECTION OFFICIALS AND OTHERS

Offences relating to election and other officials

132(1) An election official or other person who does any of the following is guilty of an offence:

- (a) accepts appointments or acts as an election official when not eligible;

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 68

- (b) knowingly omits or deletes from a voters list the name of a person entitled to have his or her name on the list, unless acting under the authority of section 34 (personal security protection);
- (c) having given a person a personal security certificate, knowingly fails to obscure the person's name and address on the voters list;
- (d) knowingly adds to or keeps on a voters list the name of a fictitious person or the name of a person not eligible to have his or her name added or kept on the list;
- (e) knowingly falsifies a voters list or voting record, whether by making a false addition or deletion, or otherwise;
- (f) as a voting official, fails without lawful excuse to deliver the ballot box to the senior election official under section 108;
- (g) knowingly miscounts ballots during a count or a recount under Part 7.

Bribery, etc. of official

132(2) A person who pays, gives or lends inducement for the purpose of procuring a contravention of subsection (1) is guilty of an offence.

Obstructing an official

132(3) A person who impedes or obstructs an election official in performing a duty or exercising a power under this Act is guilty of an offence.

OFFENCES RELATING TO FALSE INFORMATION AND STATEMENTS

Offence re use of information

133 A person is guilty of an offence who uses information obtained from a voters list, or provided to or obtained by an election official under Part 3, for a purpose other than a purpose

- (a) referred to in section 30; or
- (b) authorized by another Act.

Offence re false or misleading information

134 A person who knowingly does either of the following is guilty of an offence:

- (a) provides false or misleading information when required or authorized by this Act to provide

information;

- (b) makes a false or misleading statement or declaration when required by this Act to make a statement or declaration.

False statements respecting voters lists

135 A person is guilty of an offence who knowingly makes a false statement for the purpose of

- (a) having the name of an eligible voter omitted or deleted from the voters list; or
- (b) having the name of a dead or fictitious person – or of a person, including himself or herself, who is not an eligible voter – added to or kept on a voters list.

Use of false pretences

136(1) A person who by false pretences induces a voter to vote or refrain from voting, or to vote or refrain from voting for or against a particular candidate or for a particular answer, is guilty of an offence.

Secrecy of the vote

136(2) In subsection (1), false pretences includes representing that the ballot or the manner of voting is not secret.

False statement of candidate's withdrawal

137(1) A person who knowingly publishes a false statement that a candidate has withdrawn is guilty of an offence.

False statement of candidate's character

137(2) A person who, during an election, knowingly makes, distributes or publishes a false statement of fact about a candidate's character or conduct for the purpose of influencing the election is guilty of an offence.

GENERAL

Other offences

138 A person who contravenes a provision of this Act is guilty of an offence.

PENALTIES

Penalty for serious offences

139(1) A person who is guilty of an offence under sections 127 to 137 is liable on summary

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
	Aboriginal and Northern Affairs	October 2009 Page 69

conviction to one or more of the following penalties:

- (a) a fine of not more than \$10,000.;
- (b) imprisonment for a term of not more than one year.

Penalty for other offences

139(2) A person who is guilty of an offence under this Act not mentioned in subsection (1) is liable on summary conviction to one or more of the following penalties:

- (a) a fine of not more than \$2,000.;
- (b) imprisonment for a term of not more than two months.

Prohibition against election or appointment

139(3) In addition to imposing any other penalty under this section, the convicting judge may prohibit the person from one or both of the following for a period of not longer than eight years:

- (a) being elected to an office on a local authority;
- (b) being appointed as an election official.

PART 9 CHALLENGING RESULTS OF ELECTION OR VOTE

Application

140(1) The right of an elected candidate to take office or the validity of an election or vote on a question may be challenged only by an application to the court under this Part.

Grounds for application

140(2) An application may be made to the court on the following grounds:

- (a) that an elected candidate was not eligible to hold office at the time he or she was elected;
- (b) that there were irregularities in the election or acts constituting offences under sections 127 to 138 (offences) that affected the result of the election;
- (c) that there were irregularities in the vote on a question or acts constituting offences under sections 127 to 138 (offences) that affected the result of the vote.

Exception

140(3) An application may not be made under this Part on the grounds for which an application for a judicial recount may be made under Part 7.

Deadline for application

140(4) An application may not be made more than 60 days after the result of an election or vote on a question is officially declared.

Who can apply

141(1) For an election or question, an application may be made only by

- (a) a candidate;
- (b) an eligible voter; or
- (c) the senior election official.

Respondent

141(2) If an application seeks a declaration that

- (a) an elected candidate was not eligible to hold office at the time he or she was elected, that candidate must be named as the respondent;
- (b) an election was invalid because of irregularities or acts constituting offences under sections 127 to 137, the senior election official and any candidate declared elected must be named as the respondents; or
- (c) a vote on a question was invalid, the senior election official must be named the respondent, but where the senior election official is the applicant, the judge may name any other interested person as the respondent.

Service

141(3) For an election, the applicant must serve the notice of application on the senior election official and every candidate. For a vote on a question, the applicant must serve the notice of application on the senior election official.

Addition of parties

141(4) Any of the persons required to be served under subsection (3) are entitled to be parties to the application, and the court may by order add any other person as a party.

Court procedure

142(1) An application must be heard on an urgent basis and in a summary manner.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 70

Frivolous applications

142(2) The court may at any time dismiss an application that it considers to be frivolous, vexatious or made in bad faith.

Decision of the court

- 143(1)** After hearing an application
- (a) in respect of a candidate's election, the court may do any of the following:
 - (i) declare that the elected candidate is qualified to take and hold office,
 - (ii) declare that the elected candidate is not qualified to hold office and that the office is vacant, or another candidate is duly elected,
 - (iii) declare the election was valid,
 - (iv) declare the election is invalid and that the office is vacant or that another candidate is duly elected; or
 - (b) in respect of a vote on a question, the court may declare that the vote was valid or invalid.

Where election or vote valid despite contravention

- 143(2)** The court must not declare an election or vote on a question invalid by reason only of an irregularity or contravention of this Act if it is satisfied that
- (a) the election or vote was conducted in good faith and in accordance with the principles of this Act; and
 - (b) the irregularity or contravention did not materially affect the results of the election or vote.

Appeal to Court of Appeal

144(1) An appeal from the court's decision on an application under this Part must be filed with The Court of Appeal no later than seven days after the decision is made.

Appeal to be heard on an urgent basis

144(2) The Court of Appeal must hear the appeal on an urgent basis.

No stay

144(3) A person who is declared not to be qualified to hold office under section 143 remains disqualified until the appeal is finally determined.

Reinstatement

144(4) If, on the final determination of the appeal, the disqualification is set aside, The Court of Appeal may reinstate the person as a member of the elected authority for any unexpired portion of the term of office for which he or she was elected and require any person who has been elected to fill the balance of that term to vacate the office.

No reinstatement if term has expired

144(5) If, on the final determination of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next election in the local authority if otherwise qualified.

COMPENSATION AND COSTS

Costs of application

145(1) If the court declares that a candidate was not qualified to hold office or that an election is invalid, the affected local authority must, in accordance with the *Queen's Bench Rules* and the *Court of Appeal Rules*, pay the costs of the applicant.

Recovery of costs

145(2) A court may order that the costs paid under subsection (1) may be recovered by the local authority from any other person in the same manner as a judgement of the court.

Compensation

146 If a court orders that an office is vacant or that a vote on a question was invalid, it may make such other orders as it considers just against a person whose act or omission unlawfully affected the results of the election or vote for compensation of the candidates, the local authority or both.

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 71

DISCLAIMER

Disclaimer after application

147(1) A candidate whose election is challenged in an application under this Part may disclaim all right to the office.

Manner of making disclaimer

147(2) A disclaimer must be

- (a) made in writing;
- (b) signed by the candidate making it, and the candidate's signature on the disclaimer must be witnessed by another person, who must sign as witness;
- (c) delivered to the senior election official who was responsible for the conduct of the election; and
- (d) delivered to the court and the applicant or his or her counsel.

S.E.O. to inform C.A.O. or secretary-treasurer

147(3) When a senior election official receives a disclaimer, he or she must immediately communicate it to the chief administrative officer or secretary-treasurer of the local authority.

Resignation

147(4) The disclaimer operates as a resignation and takes effect when the chief administrative officer or secretary-treasurer receives notice of it.

Effect on liability for costs

147(5) The disclaimer relieves the candidate making it from any liability for costs in an application that are incurred after the court receives the disclaimer.

CHANGE IN APPLICANT

Applicant's death

148(1) If the applicant dies before the court hears the application, the court may, on any person's motion, order that another person who is qualified be substituted as an applicant, on any conditions the court considers proper. Otherwise, the application is deemed to have been dismissed.

Costs if application deemed dismissed

148(2) The court may make an award of costs in respect of an application even if it is dismissed under subsection (1).

ELECTION OFFICIAL'S HANDBOOK	Part 5: Regulations and Excerpts from Acts	
Aboriginal and Northern Affairs	October 2009	Page 72

E. Subsection 62(1) (*The Manitoba Evidence Act*)

Affidavit, etc., to be taken within province

62(1) Any oath, affidavit, affirmation, or statutory declaration, for use in the province may be administered, sworn, affirmed, made, or declared, within the province before any of the following persons:

- (a) A commissioner for oaths.
- (b) The Lieutenant Governor.
- (c) The Clerk of the Executive Council of the province.
- (d) A justice of the peace in the province.
- (e) The judge of any court in the province.
- (f) The master, referee, Registrar or deputy registrar of the Court of Queen's Bench, or the deputy of any of them.
- (g) A district registrar, deputy district registrar, or a deputy of a district registrar, of any land titles office in the province, or the Registrar-General under *The Real Property Act*.
- (h) A barrister-at-law or attorney-at-law duly admitted and entitled to practise as such in the province.
- (i) A notary public appointed for the province.
- (j) The mayor, reeve, or clerk of any municipality, the resident administrator of any local government district, or the secretary-treasurer of any school district or school division, established under *The Public Schools Act*.
- (k) The postmaster of any post office in the province who is appointed under the *Canada Post Corporation Act* (Canada).
- (l) The chief sheriff or any sheriff in the province or the deputy of any of them.
- (m) A member of the Royal Canadian Mounted Police Force.
- (n) A surveyor authorized to practise under *The Land Surveyors Act*.

ELECTION OFFICIAL'S HANDBOOK	Part 6: Election Material	
Aboriginal and Northern Affairs	October 2009	Page 73

All election material under this Part is attached to this handbook and can be removed for use as applicable.

Election Forms

Form 1 – Declaration of Election Official – oath required to be taken by all election officials.

Form 2 – Voters List – suggested format for establishing the voters list.

Form 3 – Notice of Voters List/Personal Security Protection – notice posted to advise residents when and where changes to the voters list will be accepted and how persons can apply for personal security protection.

Form 4 – Application for Personal Security Protection – application for persons wishing to have their personal information obscured from the voters list.

Form 5 – Personal Security Certificate – certificate provided to persons who applied for personal security protection.

Form 6 – Notice of Nominations – notice posted to advise on the date, time and place the senior election official will accept nominations.

Form 7 – Candidate Nomination – first part of a candidate's nomination papers.

Form 8 – Declaration of Candidate – second part of a candidate's nomination papers.

Form 9 – Candidate Withdrawal – used by a candidate who wishes to withdraw their name as a candidate following nomination day.

Form 10 – Scrutineer Appointment – used by candidates to appoint a scrutineer.

Form 11 – Notice of Election – notice posted to advise of the candidates running and the date, time and place for voting opportunities.

Form 12 – Information Sheet for Scrutineers – handed out to the appointed scrutineers.

Form 13 – Oath of Scrutineer – oath required to be taken by all scrutineers.

Form 14 – Ballots (Separate, Composite) – suggested format for printing of ballots. The senior election official decides on whether to use separate or composite ballots.

Form 15 – Directions for Voting – posted in all voting places to instruct voters.

Form 16 – Oath of Voter – oath required by voters who are challenged, required under the regulation or where requested by an election official.

Form 17 – Oath of Person Assisting a Voter – oath required by persons assisting a voter.

Form 18 – Oath of Interpreter – oath required by persons acting as interpreters.

ELECTION OFFICIAL'S HANDBOOK	Part 6: Election Material	
	Aboriginal and Northern Affairs	October 2009 Page 74

Form 19 – Application to Vote by Sealed Envelope – used by those persons who are unable to vote at either an advance or regular voting opportunity.

Form 20 – Instructions for Voting by Sealed Envelope – part of the package sent to persons eligible to vote by sealed envelope ballot.

Form 21 – Voting by Sealed Envelope – part of package sent for persons to vote by sealed envelope ballot.

Form 22 – Ballot Account – tally of ballots completed by the senior election official.

Form 23 – Statement of the Vote – filled out by the senior election official following the count of the ballots.

Form 24 – Statement of Official Results – filled out by the senior election official and posted to advise the public of the successful candidates.

Form 25 – Oath of Office for Members of Council – oath required by the elected candidates prior to taking office.

Notations for Document Envelopes

Envelope A – Accepted Ballots – to contain the ballots which have not been objected to, but counted by the senior election official.

Envelope B – Accepted Ballots that were Objected to – to contain the ballots which have been objected to, but counted by the senior election official.

Envelope C – Rejected Ballots – to contain the ballots which have been rejected by the senior election official and not objected to by anyone else.

Envelope D – Rejected Ballots that were Objected to – to contain the ballots which have been rejected by the senior election official and objected to by someone else.

Envelope E – Spoiled Ballots – to contain the spoiled ballots.

Envelope F – Declined Ballots – to contain the declined ballots.

Envelope G – Discarded Ballots – to contain the discarded ballots.

Envelope H – Unused Ballots – to contain the unused ballots.

Envelope I – Voters List – to contain the voters list used at the voting places.

Envelope J – Copy of the Statement of the Vote – to contain a copy of the statement of the vote completed by the senior election official.

Envelope K – All Other Documents Used at the Election – to contain all other documents which were completed, prepared or used at the election.

ELECTION OFFICIAL'S HANDBOOK	Part 6: Election Material	
Aboriginal and Northern Affairs	October 2009	Page 75

Other Forms

Application for Recount – used by the senior election official to apply for a recount to the PEO in the event of a tie vote where there was an objection to one or more of the ballots counted.

Application to Challenge an Election – used by a candidate, voter or election official to challenge the results of an election in court.