

CHAPTER E.6

Election Act

Amended by: 1993, c. 27, Sched.; 1994, c. 27, s. 46; 1996, c. 7; 1996, c. 28, s. 2; 1998, c. 9, s. 1-50; 1999, c. 6, s. 21; 1999, c. 7, Sched. A, s. 22.

As of March 29, 2000

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INTERPRETATION

Definitions

1. In this Act,

“advance poll” means a poll held under section 44; (“vote par anticipation”)

“ballot” means a ballot used for the conduct of an election; (“bulletin de vote”)

“Board” means the Board of Internal Economy referred to in section 87 of the *Legislative Assembly Act*; (“Conseil”)

“by-election” means an election other than a general election; (“élection partielle”)

“candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or herself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued; (“candidat à une élection”, “candidat”)

“corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; (“manoeuvre frauduleuse”)

“election” means an election of a member or members to serve in the Assembly; (“élection”)

“elector” means a person who is entitled under this Act to vote at an election to the Assembly; (“électeur”)

“electoral district” means an electoral district as determined under the *Representation Act, 1996*; (“circonscription électorale”)

“general election” means an election in respect of which election writs are issued for all electoral districts; (“élection générale”)

“polling division” means a polling division established by the returning officer in accordance with this Act; (“section de vote”)

“polling list” means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act; (“liste électorale”)

“prescribed” means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer; (“prescrit”)

“registered candidate” means a candidate registered with the Chief Election Officer under the *Election Finances Act*; (“candidat inscrit”)

“registered party” means a political party registered with the Chief Election Officer under the *Election Finances Act*; (“parti inscrit”)

“same-sex partner” means a person of the same sex with whom the person is living in a conjugal relationship outside marriage, if the two persons,

- (a) have cohabited for at least one year,
- (b) are together the parents of a child, or
- (c) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“partenaire de même sexe”)

“spouse” means a person of the opposite sex,

- (a) to whom the person is married; or
- (b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
 - (i) have cohabited for at least one year,
 - (ii) are together the parents of a child, or
 - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“conjoint”)

“voter” means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his or her ballot and so declared. (“votant”) R.S.O. 1990, c. E.6, s. 1; 1996, c. 28, s. 2 (1); 1998, c. 9, s. 1; 1999, c. 6, s. 21 (1).

Residence

1.1 (1) For the purposes of this Act, a person’s residence is the permanent lodging place to which, whenever absent, he or she intends to return.

Rules

(2) The following rules apply in determining a person’s residence:

1. A person may only have one residence at a time.
2. The place where a person’s family resides is also his or her residence, unless he or she moves elsewhere with the intention of changing his or her permanent lodging place.
3. If a person has no other permanent lodging place, the place where he or she occupies a room or part of a room as a regular lodger or to which he or she habitually returns is his or her residence.
4. In the case of a person who is an inmate in a penal or correctional institution under sentence of imprisonment, the place where he or she last resided before being imprisoned shall be deemed to be his or her residence.

Rules if no permanent lodging place

(3) If a person has no permanent lodging place as described in subsections (1) and (2), the following rules apply in determining his or her residence:

1. The place to which the person most frequently returned to sleep or eat during the five weeks preceding the determination is his or her residence.
2. If the person returns with equal frequency to one place to sleep and to another to eat, the place to which he or she returns to sleep is his or her residence.
3. Multiple returns to the same place during a single day, whether to eat or sleep, shall be considered one return.

4. A person's affidavit regarding the places to which he or she returned to eat or sleep during a given time period is conclusive, in the absence of evidence to the contrary. 1998, c. 9, s. 2.

TIME

References to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be. R.S.O. 1990, c. E.6, s. 2.

OATHS AND AFFIRMATIONS

Oaths, affirmations and statutory declarations, who may take

3. (1) Except where otherwise provided, an oath, affirmation or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, all election officers appointed by the returning officer are empowered to take such oaths, affirmations or declarations at the poll. R.S.O. 1990, c. E.6, s. 3 (1); 1998, c. 9, s. 3.

No charge for taking oath, affirmation or declaration

(2) Every person taking an oath, affirmation or statutory declaration under or for the purposes of this Act shall do so gratuitously. R.S.O. 1990, c. E.6, s. 3 (2).

ADMINISTRATION

Appointment of C.E.O. and A.C.E.O.

4. (1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary paid out of Consolidated Revenue Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and duties of C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and duties of A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his or her place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment of Acting C.E.O.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant and if the Chief Election Officer is absent or through illness is unable to perform the duties of the office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

In cases of emergency, etc.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, the Chief Election Officer may make such appointments or give such directions as he or she considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

Delegation

(8) The Chief Election Officer may delegate in writing to any officer on his or her staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to the Chief Election Officer by this Act.

Forms

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Administrative in nature

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he or she is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature. R.S.O. 1990, c. E.6, s. 4.

Testing voting and vote-counting equipment, alternative voting methods

4.1 (1) At a by-election, the Chief Election Officer may direct the use of voting equipment, vote-counting equipment or alternative voting methods that are different from what this Act requires, if an agreement authorizing their use is in effect.

Agreement

(2) The following rules apply to the agreement mentioned in subsection (1):

1. The parties to the agreement shall be the Chief Election Officer and the leader of every political party that has a recognized membership of 12 or more persons in the Assembly.
2. The agreement shall describe the voting equipment, vote-counting equipment or alternative voting methods in detail and refer to the provisions of this Act that will not be complied with.
3. The agreement shall be unanimous.

Validity of election

(3) An election held in accordance with an agreement under this section is not invalid by reason of any non-compliance with this Act that is authorized by the agreement.

Report to Speaker

(4) Within 12 months after polling day in the election, the Chief Election Officer shall,

- (a) make a report to the Speaker of the Assembly on the voting equipment, vote-counting equipment or alternative voting methods used at the election; and
- (b) make recommendations to the Speaker with respect to amending this Act so as to adopt the voting equipment, vote-counting equipment or alternative voting methods on a permanent basis. 1998, c. 9, s. 4.

Persons excluded from being returning officers, etc.

5. (1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

1. Judges of federal or provincial courts or justices of the peace.
2. Crown Attorneys.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.
6. Persons who have at any time been found guilty of a corrupt practice.

Validity of election not affected

(2) A contravention of this section does not affect the validity of the election. R.S.O. 1990, c. E.6, s. 5.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Application

6. (1) Subsection (1.1) applies in respect of an employee who is a returning officer or has been appointed by a returning officer to be a poll official.

Leave

(1.1) Every employer shall, on an employee's request made at least seven days before the leave is to begin, grant the employee leave to perform his or her duties under this Act; the employer shall not dismiss or otherwise penalize the employee because the employee has exercised the right to be granted leave. 1998, c. 9, s. 5.

Remuneration

(2) The employer is not required to remunerate an employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to have three consecutive hours for voting

(3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his or her employment do not allow for three consecutive hours, the employee may request that his or her employer allow such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction from pay prohibited

(4) No employer shall make any deduction from the pay of any employee or impose upon or exact from the employee any penalty by reason of his or her absence from work during the consecutive hours that the employer is required to allow under subsection (3).

Time off best suiting convenience of employer

(5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer. R.S.O. 1990, c. E.6, s. 6 (2-5).

RETURNING OFFICERS

Appointment of R.O.

7. (1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications of R.O.

(2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or incapacity to act

(3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

Notification of appointment

(4) The Chief Election Officer shall notify every person appointed as returning officer of the appointment, and thereupon such person shall enter upon his or her duties under this Act.

Oath or affirmation of R.O.

(5) Every returning officer immediately upon receiving notice of his or her appointment shall take the prescribed oath or affirmation, faithfully to perform his or her duties without partiality, fear, favour or affection.

Clerical and other assistance

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his or her duties.

Powers and duties of R.O.

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and the returning officer or the returning officer's election clerk or delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Instructions from C.E.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Term of office

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until the returning officer dies, or, with prior permission of the Chief Election Officer, resigns, or unless he or she is removed from office under subsection (10) or (11).

Removal from office

- (10) The Lieutenant Governor in Council may remove from office any returning officer who,
- (a) has attained the age of sixty-five years; or
 - (b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his or her duties under this Act. R.S.O. 1990, c. E.6, s. 7 (1-10).

Idem

(11) The Chief Election Officer may remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently the returning officer's duties, or any of them, under this Act. R.S.O. 1990, c. E.6, s. 7 (11); 1998, c. 9, s. 6.

Obstruction

(12) No person shall obstruct or interfere with the returning officer or the returning officer's staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act. R.S.O. 1990, c. E.6, s. 7 (12).

READJUSTMENT OF ELECTORAL DISTRICTS

Application

7.1 (1) This section applies when there is a federal readjustment as defined in the *Representation Act, 1996*.

Appointment of returning officers for new electoral districts

(2) During the transitional period described in subsection (3), the Lieutenant Governor in Council may appoint returning officers under subsection 7 (1) for the electoral districts set out in the draft representation order as well as for the existing electoral districts.

Same

(3) The transitional period begins on the proclamation date of the draft representation order under the *Electoral Boundaries Readjustment Act* (Canada) and ends on the day of the first dissolution of the Legislature that occurs after the first anniversary of the proclamation date.

Same

(4) Any appointments of returning officers for the existing electoral districts that are still in effect expire on the last day of the transitional period. 1996, c. 28, s. 2 (2).

Transition, Representation Act, 1996

7.2 (1) During the transitional period described in subsection (2), the Lieutenant Governor in Council may appoint returning officers under subsection 7 (1) for the electoral districts determined under the *Representation Act, 1996* as well as for the electoral districts set out in the *Representation Act*.

Same

(2) The transitional period begins on the day named by proclamation under subsection 5 (1) of the *Fewer Politicians Act, 1996* and ends on the day of the first dissolution of the Legislature that occurs after the first anniversary of the day named by proclamation.

Same

(3) Any appointments of returning officers for the electoral districts set out in the *Representation Act* that are still in effect expire on the last day of the transitional period. 1996, c. 28, s. 2 (2).

ELECTION CLERK

Election clerk

8. (1) Forthwith upon appointment, the returning officer may appoint in writing a person who is of voting age, a Canadian citizen and resident in Ontario to be the returning officer's election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment. R.S.O. 1990, c. E.6, s. 8 (1).

Persons not to be appointed

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse or same-sex partner of the returning officer shall be appointed as election clerk. R.S.O. 1990, c. E.6, s. 8 (2); 1998, c. 9, s. 7; 1999, c. 6, s. 21 (2).

Appointment of new election clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his or her duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his or her duties during an election and has not been replaced, shall act in his or her stead as the returning officer.

Oath or affirmation of election clerk

(5) The election clerk before entering upon his or her duties shall take the prescribed oath or affirmation. R.S.O. 1990, c. E.6, s. 8 (3-5).

DATES FOR CLOSE OF NOMINATIONS AND POLLING

Close of nominations and election day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,
- (a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday that is not more than 42 days and not less than 14 days after the date of the writs of election; and
 - (b) for the taking of a poll, which day shall be the Thursday that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week. R.S.O. 1990, c. E.6, s. 9; 1998, c. 9, s. 8.

WRITS

Writs to bear same date

10. (1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state nomination and polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

Endorsement on writ

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Where appointment superseded

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk. R.S.O. 1990, c. E.6, s. 10.

NOTICE OF ELECTION

Notice by returning officer

11. (1) Forthwith after receiving the writ of election, the returning officer shall prepare a notice of election that states,
- (a) the dates and times during which and the place where the list of electors may be revised;
 - (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
 - (c) the days and times fixed for holding the advance polls and the general poll.

Posting, etc., of notice

(2) The returning officer shall cause the notice to be printed and copies to be posted in conspicuous places in the electoral district.

Publication

- (3) The Chief Election Officer shall publish the notice,
- (a) in *The Ontario Gazette*; and
 - (b) on a website on the Internet. 1998, c. 9, s. 9.

POLLING DIVISIONS

Polling divisions

12. (1) The returning officer shall divide the electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review the electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries.

Description of polling divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division. R.S.O. 1990, c. E.6, s. 12.

POLLING PLACES

Polling places

13. (1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of polling divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location of polling places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When landlord, municipality, school board, etc., to furnish facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his, her or its control available as a polling location. R.S.O. 1990, c. E.6, s. 13 (1-4).

Same

(4.1) A municipality, school board or provincially funded institution that makes premises available under subsection (4) shall do so free of charge. 1998, c. 9, s. 10.

Where polling places not to be

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional polling places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

List of polling places

(7) The returning officer shall prepare a list of the polling places within the electoral district showing the location of each by polling division number.

Access to poll

(8) Every elector shall have free access to the poll. R.S.O. 1990, c. E.6, s. 13 (5-8).

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND OTHER INSTITUTIONS

Polling places in hospitals, etc.

14. (1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situated in an electoral district, a polling place shall be provided in such institution or upon the premises.

Voting

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots. R.S.O. 1990, c. E.6, s. 14 (1, 2).

Continuation of poll

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote. R.S.O. 1990, c. E.6, s. 14 (3); 1993, c. 27, Sched.

Presence of candidate and scrutineer

(4) Each candidate and one of his or her scrutineers may be present at such a polling place except when a ballot is marked under section 55. R.S.O. 1990, c. E.6, s. 14 (4).

QUALIFICATION OF ELECTORS

Electors

15. (1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

(a) has attained eighteen years of age;

(b) is a Canadian citizen;

(d) resides in the electoral district; and

(e) is not disqualified under this Act or otherwise prohibited by law from voting. R.S.O. 1990, c. E.6, s. 15 (1); 1993, c. 27, Sched.; 1998, c. 9, s. 11 (1).

Intention to return to Ontario

(1.1) Despite clause (1) (d), a person who ceased to reside in the electoral district within the two years before polling day is entitled to vote there if,

(a) he or she resided in Ontario for at least 12 consecutive months before ceasing to reside in Ontario;

(b) he or she intends to reside in Ontario again; and

(c) his or her last Ontario residence was in the electoral district.

Exceptions to two-year limitation

(1.2) The two-year limitation in subsection (1.1) does not apply to,

(a) a person who is absent from Ontario,

(i) on active military duty as a member of the armed forces of Canada,

(ii) in the service of the Government of Ontario, or

(iii) to attend an educational institution;

(b) a person who is absent from Canada in the service of the Government of Canada; or

(c) a person who is absent from Ontario as a member of the family of a person to whom clause (a) or (b) applies. 1998, c. 9, s. 11 (2).

Evidence of person claiming to be elector

(2) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is proof, in the absence of evidence to the contrary, of the facts declared to. R.S.O. 1990, c. E.6, s. 15 (2).

Requirement to receive ballot and vote

(3) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under this Act. R.S.O. 1990, c. E.6, s. 15 (3); 1998, c. 9, c. 11 (3).

APPLICATIONS RE PERMANENT REGISTER OF ELECTORS

Self-registration

15.1 (1) An elector may apply to have his or her name added to or removed from the permanent register of electors maintained under section 17.1.

Supporting information

(2) The application shall be accompanied by information establishing the elector's identity, as required by the Chief Election Officer.

Where application is made

- (3) The application may be made,
- (a) during the period that begins with the issue of a writ for an election and ends on the day before polling day, at an office of the returning officer;
 - (b) at all other times except on polling day, at the office of the clerk of any municipality with territorial jurisdiction in the electoral district.

Polling day

(4) On polling day, an elector may not make an application under this section, but may apply to the deputy returning officer under section 18.3 to be added to the list of electors. 1998, c. 9, s. 12.

16. REPEALED: 1998, c. 9, s. 13.

PROXIES

Appointment of proxy

17. (1) An elector who has reason to believe that he or she will, for any reason, be unable to vote at the advance poll or on polling day may apply in writing to vote by proxy and appoint some other elector in the electoral district to vote for him or her at the election. 1998, c. 9, s. 14.

Term of appointment

(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day.

Limitation

(3) An elector may not act as proxy for more than two electors. R.S.O. 1990, c. E.6, s. 17 (2, 3).

Certificate

(4) On any day up to and including the day before polling day, a person appointed as a proxy voter under subsection (1) may present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district. 1998, c. 9, s. 14.

Idem

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote.

Certificate to be presented

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Proxy may vote in own right

(7) An elector who has been appointed as a voting proxy is entitled to vote in his or her own right in his or her own polling division and, if within the same electoral district, may apply to the returning officer to have his or her name transferred to the

polling list of the place where the proxy vote is to be cast or to have the name of the person appointing the proxy transferred to the polling list of the elector's polling place.

Cancellation of appointment

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more than one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election. R.S.O. 1990, c. E.6, s. 17 (5-9).

PERMANENT REGISTER OF ELECTORS

Duty of Chief Election Officer

17.1 (1) The Chief Election Officer shall establish and maintain a permanent register of electors for Ontario.

Updating

(2) The Chief Election Officer shall verify the accuracy of the permanent register and take any steps that he or she considers necessary to ensure that it is as accurate as reasonably possible.

Same

(3) The following rules apply to updating under subsection (2):

1. The permanent register shall be updated with respect to all of Ontario,
 - i. at least once in each calendar year, and
 - ii. as soon as possible after a writ is issued for a general election, unless the most recent previous updating was done within two months before the day the writ is issued.
2. The permanent register shall be updated with respect to an individual electoral district as soon as possible after a writ is issued for a by-election to be held there, unless the most recent previous updating was done within two months before the day the writ is issued.
3. The permanent register shall be updated with respect to all of Ontario at a registered party's request. However, in that case the costs of updating, as determined by the Chief Election Officer, shall be paid by the party.

Sources of information

(4) For the purposes of subsections (1) and (2), the Chief Election Officer may obtain information in any combination of the following ways:

1. In accordance with section 15.1.
2. By obtaining it from any source that he or she considers reliable, including, without limiting the generality of "any source",
 - i. the Chief Electoral Officer of Canada,
 - ii. the Government of Canada and its agencies,
 - iii. the Government of Ontario and its agencies,
 - iv. any municipality in Ontario (including regional and district municipalities and the County of Oxford) and its local boards.
3. By having an enumeration conducted under section 18.

Obligation to provide information

(5) When the Chief Election Officer, for the purposes of subsections (1) and (2), requests information from an entity mentioned in subparagraph iii or iv of paragraph 2 of subsection (4), the entity is required to provide the information. 1998, c. 9, s. 15.

Provision of information by Chief Election Officer

17.2 The Chief Election Officer may, for electoral purposes, provide information from the permanent register of electors to,

- (a) the Chief Electoral Officer of Canada; and

- (b) any municipality in Ontario (including regional and district municipalities and the County of Oxford) and its local boards. 1998, c. 9, s. 15.

Access by registered parties and MPPs to updated permanent register

- 17.3** (1) Whenever the permanent register of electors has been updated under paragraph 1 or 2 of subsection 17.1 (3),
- (a) the Chief Election Officer shall notify every registered party and every member of the Assembly that updating is complete;
 - (b) a registered party is entitled to receive, on request,
 - (i) a copy of the permanent register, if it was updated with respect to all of Ontario, or
 - (ii) a copy of the part of the permanent register that relates to an electoral district, if the updating was done with respect to the electoral district; and
 - (c) a member of the Assembly is entitled to receive, on request, a copy of the part of the permanent register that relates to his or her electoral district, if the updating was done in respect to all of Ontario or in respect to the electoral district.

Exception, updating at party's request

(2) When the permanent register is updated under paragraph 3 of subsection 17.1 (3), only the party that made the request and its members of the Assembly are entitled to receive copies of the permanent register from the Chief Election Officer.

Printed or electronic format

(3) A copy of the permanent register may be provided in printed or electronic format, at the Chief Election Officer's option. 1998, c. 9, s. 15.

Restrictions on use of information

17.4 (1) A person who obtains information, directly or indirectly, from the permanent register or from a list of electors prepared from the permanent register,

- (a) shall use it only for electoral purposes;
- (b) shall not use it for commercial purposes; and
- (c) may disclose it to others only after obtaining their written acknowledgment that they are bound by the restrictions in this subsection.

Scope

- (2) Subsection (1) applies,
- (a) whether the information was obtained under section 17.3, under subsection 19 (3) or in some other way; and,
 - (b) whether the person obtained it in printed or electronic format or examined it in either format without obtaining a copy.

Downloading

(3) A person who obtains information from the permanent register in electronic format shall not reproduce, store or transmit any part of the information by electronic means for any purpose.

Exception

- (4) Subsection (3) does not apply to,
- (a) a person or party who obtains the information under section 17.3; or
 - (b) a person or entity who obtains the information from a person or party described in clause (a), if there is compliance with clause (1) (c). 1998, c. 9, s. 15.

Guidelines

17.5 The Chief Election Officer may provide guidelines for compliance with section 17.4 and publish them,

- (a) in *The Ontario Gazette*; and
- (b) on a website on the Internet. 1998, c. 9, s. 15.

Policy re information from permanent register or list of electors

17.6 (1) Every registered party shall develop and implement a policy to ensure that its candidates, members of the Assembly, employees and agents comply with section 17.4 and any guidelines provided under section 17.5.

Disclosure of policy to Chief Election Officer

(2) The party shall disclose the policy to the Chief Election Officer on his or her request.

Publication of policy and discrepancies

(3) The Chief Election Officer is entitled to make public,

(a) a policy disclosed under subsection (2);

(b) any discrepancies among,

(i) the policy,

(ii) the guidelines, if any, provided under section 17.5, and

(iii) the actual practices of the party and of its candidates, members of the Assembly, employees and agents.

Independent candidates and members

(4) Subsections (1), (2) and (3) also apply to independent candidates and members of the Assembly, with necessary modifications. 1998, c. 9, s. 15.

ENUMERATION

Application

18. (1) Subsection (2) applies if the Chief Election Officer is of the opinion that the register of electors will not be sufficiently complete and accurate with respect to an electoral district if updating is based only on information obtained under paragraphs 1 and 2 of subsection 17.1 (4).

Enumeration

(2) The Chief Election Officer may cause an enumeration to be conducted and, in that case, shall designate the period during which it shall take place.

Part or all of electoral district

(3) An enumeration may be conducted,

(a) for the entire electoral district; or

(b) for any part of the electoral district, including a building with multiple dwelling units.

Appointment of enumerators

(3.1) The returning officer shall appoint two persons as enumerators for each polling division affected by the enumeration.

Political interests

(3.2) The enumerators for each polling division shall, as far as possible, represent two different political interests.

Age

(3.3) Only a person who is of voting age may be an enumerator, unless the Chief Election Officer authorizes the returning officer to appoint persons who are at least 16 years of age.

Nomination by constituency associations

(3.4) When an enumeration is to be conducted, the following entities shall give the returning officer lists of nominations for appointment as enumerators:

1. The constituency association endorsed by the registered party represented by the government of the day.

2. The constituency association endorsed by the registered party whose candidate received the highest or next highest number of votes, as the case may be, at the previous election. 1998, c. 9, s. 16 (1).

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district. R.S.O. 1990, c. E.6, s. 18 (4).

Candidates

(5) No person who apparently will be a candidate at the next election for the electoral district shall be an enumerator. 1998, c. 9, s. 16 (2).

Enumerators; oath or affirmation, supplies

(6) Forthwith upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath or affirmation and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration.

Enumerators to act jointly

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final.

Hours of enumeration

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m.

Enumerator's record

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit.

Notice of inability to obtain information

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information.

Enumerators to have free access

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit.

Obstruction, etc., of enumerators

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act.

Replacement of enumerator

(13) The returning officer may at any time replace any enumerator by appointing another to act in his or her place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied.

Forfeiture of right to payment

(14) An enumerator who neglects, omits or refuses to perform any of his or her duties under this Act or who refuses to comply with any direction in writing from the returning officer may forfeit the right to payment for any service or part thereof already rendered. R.S.O. 1990, c. E.6, s. 18 (6-14).

Same

(15) The forfeiture referred to in subsection (14) is in addition to any penalty that may be imposed on conviction under section 93.

Preparation and delivery of list

(16) Immediately after completing the canvass of their polling division the enumerators shall,

- (a) prepare from their records of the canvass a list of electors, in the prescribed form and as directed by the returning officer;
- (b) certify the total number of names contained in the list; and
- (c) deliver the list, together with all used and unused material, to the returning officer or to the person the returning officer designates.

Deadline

(17) The enumerators shall complete the performance of all their duties under this section within four days after their appointment.

Notice of enumeration

(18) The returning officer shall ensure that a notice of enumeration is delivered to each elector whose name appears in the list. 1998, c. 9, s. 16 (3).

BY-ELECTION SHORTLY AFTER GENERAL ELECTION

18.1, 18.2 REPEALED: 1998, c. 9, s. 17.

Addition on polling day

18.3 (1) On polling day, an elector whose name is not on the list may apply to the deputy returning officer or to a revision assistant to have it added. 1998, c. 9, s. 18 (1).

Proof of identity

(2) The elector shall,

- (a) make a statutory declaration in the prescribed form, substantiating his or her identity and qualifications as an elector and stating that he or she has not already voted in the election; and
- (b) to establish his or her identity and residence, supply the deputy returning officer or revision assistant with documents of a class determined by the Chief Election Officer. 1996, c. 7, s. 1; 1998, c. 9, s. 18 (2).

Duty of deputy returning officer or revision assistant

(3) If the deputy returning officer or revision assistant is satisfied as to the contents of the statutory declaration, he or she shall add the applicant's name to the list and the poll record, and shall write the words "added, declaration" or the words "ajouté, déclaration" after the name in the poll record. 1996, c. 7, s. 1; 1998, c. 9, s. 18 (3).

Applicant entitled to vote

(4) An applicant whose name is added under subsection (3) is entitled to vote.

Advance polls

(5) This section does not apply at advance polls. 1996, c. 7, s. 1.

LIST OF ELECTORS

Duty of Chief Election Officer

19. (1) As soon as possible after a writ of election is issued, the Chief Election Officer shall,

- (a) provide the returning officer with a copy of a list of electors, prepared from the permanent register of electors; and
- (b) advise the returning officer of the date on which the permanent register was most recently updated.

Same

(2) If subparagraph ii of paragraph 1 or paragraph 2 of subsection 17.1 (3) (updating for election) applies, the Chief Election Officer shall provide the returning officer with a copy of the resulting list of electors, prepared from the newly updated permanent register, as soon as possible.

Disposition of list

(3) As soon as possible after receiving a copy of the list of electors under subsection (1) or (2), the returning officer shall arrange for,

- (a) one copy of the list to be retained in the returning office and made available for public examination;
- (b) one copy of the list to be furnished as soon as possible to the clerk of each municipality with territorial jurisdiction in the polling division;
- (c) two printed copies and one electronic version of the list to be furnished to each candidate in the electoral district.

Duty of municipal clerk

(4) A municipal clerk who receives a copy of the list under clause (3) (b) shall ensure that it is retained and made available for public examination in an office of the municipality.

Printed or electronic format

(5) A copy referred to in clause (3) (a) or (b) may be provided in printed or electronic format, at the Chief Election Officer's option.

Number of electors

(6) A list of electors provided under subsection (1) or (2) shall include a statement of the total number of names it contains. 1998, c. 9, s. 19.

COMPLAINT AGAINST NAME ON LIST

Complaint for wrongful entry on list

20. (1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors. R.S.O. 1990, c. E.6, s. 20 (1).

Signature of complainant

(1.1) The complaint shall identify the complainant and bear his or her signature. 1998, c. 9, s. 20.

Notice to person objected to

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his or her representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Hearing of complaint

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final. R.S.O. 1990, c. E.6, s. 20 (2-4).

REVISION

Application for additions, corrections, etc., to list

21. (1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and the returning officer's decision is final.

Revision assistants

(2) The returning officer may appoint the returning officer's election clerk to assist him or her and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer. R.S.O. 1990, c. E.6, s. 21 (1, 2).

Revising agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district whose names do not appear on the list of electors. R.S.O. 1990, c. E.6, s. 21 (3); 1998, c. 9, s. 21.

Oath or affirmation

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath or affirmation.

Grounds must be sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before the returning officer understands the effect of any statements made in the application.

Procedure where application refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with the reasons and the applicant informed.

Irregularity not to affect result of election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

Interpreter where necessary

(8) Where the returning officer or his or her revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath or affirmation, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

List of persons issued certificate

(9) The returning officer shall, on request made to him or her, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

Certificate to be presented

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Deletion of name from list

(11) A person whose name appears in a list of electors and who wishes to have the entry relating to him or her deleted, must appear before the returning officer and complete a declaration to that effect. R.S.O. 1990, c. E.6, s. 21 (4-11).

ADDITIONS

Application for certificate to vote

22. (1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his or her assistant as set out in section 21 or have some other person apply on the elector's behalf and by statutory declaration substantiate his or her identity and qualifications as an elector. R.S.O. 1990, c. E.6, s. 22 (1).

For whom elector may act

(2) An elector acting on behalf of another under subsection (1) or subsection 23 (1.1), 24 (1) or 24 (2.1) may do so for his or her child, grandchild, brother, sister, parent, grandparent, spouse or same-sex partner but may act for only one additional person and a person who is not an elector may act for only one elector. R.S.O. 1990, c. E.6, s. 22 (2); 1998, c. 9, s. 22; 1999, c. 6, s. 21 (3).

(3) REPEALED: 1999, c. 6, s. 21 (4).

CORRECTIONS

Corrections to list

23. (1) The returning officer or his or her assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished may make the necessary corrections. R.S.O. 1990, c. E.6, s. 23 (1).

Who may apply

(1.1) An application referred to in subsection (1) may be made by the elector or by another person acting on the elector's behalf. 1998, c. 9, s. 23.

Mistake in name, etc.

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath or affirmation, if required to do so by the deputy returning officer. R.S.O. 1990, c. E.6, s. 23 (2).

TRANSFERS

Change of residence

24. (1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his or her assistant as set out in section 21 or have some other person apply on the elector's behalf to have the elector's name included in the polling list for the polling division where he or she now resides. R.S.O. 1990, c. E.6, s. 24 (1).

Restricted mobility

(1.1) Subsection (1) also applies, with necessary modifications, to an elector who could vote more conveniently in another polling division because his or her mobility is impaired by disability or by some other cause. 1998, c. 9, s. 24.

Proxy voters, election officials

- (2) Where an elector whose name appears on a polling list for the polling division where he or she resides,
- (a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or
 - (b) has been appointed,
 - (i) to cast a proxy vote at a polling place other than his or her own but in the same electoral district, or
 - (ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his or her own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place. R.S.O. 1990, c. E.6, s. 24 (2).

Who may apply

(2.1) An application referred to in subsection (2) may be made by the elector or by another person acting on the elector's behalf. 1998, c. 9, s. 24.

Notice of transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made. R.S.O. 1990, c. E.6, s. 24 (3).

POLLING LISTS

Official polling list

25. (1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his or her direction.

Copy to D.R.O.s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day. R.S.O. 1990, c. E.6, s. 25.

CANDIDATES

Who may be candidate

- 26.** (1) Every person is qualified to be a candidate who, at the time of signing the consent to nomination,
- (a) is of voting age;
 - (b) is a Canadian citizen;
 - (c) has resided in Ontario for the six months next preceding polling day; and
 - (d) is not disqualified by the *Legislative Assembly Act* or by any other Act.

Who may not be candidate

(2) No person who has been engaged as a returning officer, election clerk, enumerator or revision assistant at the revision of any list of electors to be used at the election, is eligible as a candidate. R.S.O. 1990, c. E.6, s. 26 (1, 2).

(3) REPEALED: 1994, c. 27, s. 46 (1).

Right of candidate to undertake duties of scrutineer

(4) A candidate may undertake any of the duties that the candidate's scrutineer might have undertaken if appointed, or may assist his or her scrutineer in the performance of such duties, and may be present at any place at which his or her scrutineer may attend in pursuance of this Act. R.S.O. 1990, c. E.6, s. 26 (4).

CLOSE OF NOMINATIONS

Time for close of nominations

27. (1) The close of nominations of candidates shall be 2 p.m. of the day stated as such in the writ of election.

Procedure on nomination day

(2) One hour before the close of nominations, the returning officer shall make or cause to be made a pronouncement in the prescribed form and shall read or cause to be read publicly the writ of election.

Separate nomination papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by the candidate's consent in writing to the nomination.

Contents of nomination papers

(4) The nomination paper of a candidate shall state the candidate's name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate. R.S.O. 1990, c. E.6, s. 27 (1-4).

Deposit

(5) A deposit of \$200 shall be handed to the returning officer at the time the nomination paper is filed.

Same

(5.1) The deposit may be paid in cash, by money order or by certified cheque made payable to the Chief Election Officer. 1998, c. 9, s. 25 (1).

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a cheque, be refunded to the issuer of the cheque.

How name to be shown on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his or her nomination papers, a candidate shall state in writing to the returning officer how the candidate wishes his or her name to be shown on the ballot.

Similarity of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot. R.S.O. 1990, c. E.6, s. 27 (6-8).

Registration

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he or she has filed, or an undertaking by the candidate that, prior to polling day, he or she will file an application for registration with the Chief Election Officer under the *Election Finances Act*. R.S.O. 1990, c. E.6, s. 27 (9); 1998, c. 9, s. 25 (2).

When nomination papers to be filed

(10) The nomination paper shall be filed with the returning officer at his or her office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

Certificate of R.O. as to regularity

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if satisfied of the regularity thereof, he or she shall so certify in writing, and the certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Nomination paper

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Acceptance

(a) the returning officer shall accept and examine the nomination papers; and

Rejection

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, the returning officer shall communicate the facts to the candidate and to the Chief Election Officer but shall not

reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

Candidate need not be present

(13) It is not necessary for a candidate to be present when his or her nomination paper is filed with the returning officer.

Receipt

(14) The returning officer shall issue a receipt for any nomination paper accepted by him or her under subsections (11) and (12). R.S.O. 1990, c. E.6, s. 27 (10-14).

Election by acclamation

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his or her return to the Chief Election Officer as provided by section 81. R.S.O. 1990, c. E.6, s. 28.

NOTICE OF POLL

Grant of poll

29. (1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Notice of grant of polls

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll. R.S.O. 1990, c. E.6, s. 29.

WITHDRAWAL OF CANDIDATE

Withdrawal of candidate after nomination

30. (1) A candidate may withdraw at any time between filing his or her nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by the candidate in the presence of a subscribing witness.

Idem

- (2) In the case of a candidate withdrawing after the close of nominations his or her deposit is forfeited and,
- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his or her return to the Chief Election Officer as provided by section 81; or
 - (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots. R.S.O. 1990, c. E.6, s. 30.

DEATH OF CANDIDATE

Death of candidate

31. (1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of deposit on death of candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate. R.S.O. 1990, c. E.6, s. 31.

SCRUTINEERS

Appointment of scrutineer

32. (1) A candidate or a person designated in writing by the candidate, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When scrutineer may not challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

Number of scrutineers in polling place

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes.

Non-attendance of scrutineers

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. R.S.O. 1990, c. E.6, s. 32.

BALLOT PAPER

Ballot paper

33. (1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a security feature so placed as to run through each ballot. R.S.O. 1990, c. E.6, s. 33 (1); 1998, c. 9, s. 26 (1).

Declaration by manufacturer

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the quantity received to be accounted for and a receipt issued to the manufacturer. R.S.O. 1990, c. E.6, s. 33 (2); 1998, c. 9, s. 26 (2).

Custody of ballot paper

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer. R.S.O. 1990, c. E.6, s. 33 (3).

BALLOTS

Uniformity

34. (1) All ballots shall be of the same description and as nearly alike as possible.

Form of ballot

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his or her request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names.

Idem

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name.

Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black.

Idem

(5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.

Numbering of ballots

(6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer. R.S.O. 1990, c. E.6, s. 34.

Printing of ballots

35. (1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district. R.S.O. 1990, c. E.6, s. 35 (1).

Printer's name, etc.

(2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the quantity of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer. R.S.O. 1990, c. E.6, s. 35 (2); 1998, c. 9, s. 27.

Count of ballots and affidavit

(3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2). R.S.O. 1990, c. E.6, s. 35 (3).

Supply to D.R.O.

36. (1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.

Record of quantity of ballots provided

(2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.

Count of ballots by D.R.O.

(3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded. R.S.O. 1990, c. E.6, s. 36.

BALLOT BOXES

Ballot boxes to be supplied

37. (1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

How made

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering. R.S.O. 1990, c. E.6, s. 37.

VOTING SCREENS

Voting screens to be furnished

38. (1) The returning officer shall furnish each deputy returning officer with at least two voting screens.

Privacy when marking ballots

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked.

One elector only at a time

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time. R.S.O. 1990, c. E.6, s. 38.

POLL OFFICIALS

Appointment by R.O.

39. (1) The returning officer shall appoint a deputy returning officer and a poll clerk for each polling place.

Rules

(2) The following rules apply to the appointment of deputy returning officers and poll clerks:

1. They shall be appointed so as to represent two different political interests.
2. They shall be electors in the electoral district and shall not be candidates.
3. If possible, the deputy returning officer shall be appointed from a list of persons provided by the candidate of the registered party represented by the government of the day, and the poll clerk from a list of persons provided by the candidate of a different political interest the candidate for which at the most recent election received the highest or next highest number of votes, as the case may be.
4. The returning officer shall make the appointments on the 10th day before polling day, but may do so earlier if the candidate who would be entitled to provide a list advises the returning officer that the right to provide the list will not be exercised.

5. Nothing in this section requires the returning officer to appoint a person who, in the returning officer's opinion, is unlikely to perform the duties of the office in a satisfactory manner. 1998, c. 9, s. 28.

(3) REPEALED: 1998, c. 9, s. 28.

Oath or affirmation

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath or affirmation and their appointment shall be endorsed upon or attached to the poll record.

Duties of poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his or her office and shall obey his or her orders.

Forfeiture of right to payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or absence of D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his or her duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath or affirmation. R.S.O. 1990, c. E.6, s. 39 (4-7).

TIME OF GENERAL POLL

Hours of polling generally

40. (1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may establish different hours

(3) The Chief Election Officer may at his or her discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When voting not commenced or interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his or her discretion, the Chief Election Officer shall,

- (a) extend the closing time; or
- (b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total. R.S.O. 1990, c. E.6, s. 40.

PRESERVATION OF THE PEACE

Assistance by justices and police officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid in maintaining peace and order at the election and may appoint as many such other persons as he or she considers necessary. R.S.O. 1990, c. E.6, s. 41.

SECURITY OF PROCEEDINGS

Who may be in polling places

42. (1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Oath or affirmation of secrecy

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath or affirmation of secrecy.

Interference with electors

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place. R.S.O. 1990, c. E.6, s. 42 (1-3).

Communications devices

(3.1) No person shall operate a communications device in a polling place unless he or she does so with the permission of the returning officer, obtained in advance. 1998, c. 9, s. 29.

Elector not to display ballot

(4) Subject to sections 14 and 55, an elector shall not display his or her ballot to any person so as to indicate how the elector has voted.

Inducing elector to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his or her ballot to any person so as to indicate how the elector has voted.

Communicating information as to how elector is voting

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether the elector declined to vote.

No person compellable to disclose vote

(7) In any legal proceedings no person may be compelled to state for whom he or she voted or whether he or she marked his or her ballot or not. R.S.O. 1990, c. E.6, s. 42 (4-7).

VOTING AT ONE PLACE ONLY

Person to vote in one division only

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division the person shall nevertheless vote only at one polling place. R.S.O. 1990, c. E.6, s. 43.

ADVANCE POLLS

Advance polls

44. (1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

- (a) at an office of the returning officer, provided the ballots have been printed, on the 12th, 10th and 9th days before polling day; and
- (b) at an office of the returning officer and at designated other locations on the 8th, 7th and 6th days before polling day. R.S.O. 1990, c. E.6, s. 44 (1); 1998, c. 9, s. 30 (1).

Advance polling places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs. R.S.O. 1990, c. E.6, s. 44 (2).

Time of poll

(3) The advance polls in an electoral district shall be open from 10 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer. R.S.O. 1990, c. E.6, s. 44 (3); 1998, c. 9, s. 30 (2).

Notice of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district. R.S.O. 1990, c. E.6, s. 44 (4).

Declaration

45. (1) Every person offering himself or herself as a voter at the polling place shall be required, before being allowed to vote, to take the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

List of electors who have voted

(2) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other D.R.O. lists

(3) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his or her right to vote.

Candidates and scrutineers

(4) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting of ballots

(5) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

Application

(6) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

Vouching not to apply at advance poll

(7) The vouching provisions of section 51 do not apply at an advance poll. R.S.O. 1990, c. E.6, s. 45.

PROCEDURE AT THE POLL

Attendance of D.R.O. and poll clerk at polling place

46. (1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Counting ballots at opening of poll

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

D.R.O. to show box empty, then seal it

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

Placement of ballot box

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll. R.S.O. 1990, c. E.6, s. 46 (1-4).

When ballot box may be moved

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector. R.S.O. 1990, c. E.6, s. 46 (5); 1993, c. 27, Sched.

Statement of name, etc., by elector

47. (1) Every elector upon entering the room or area where the poll is being held shall state his or her name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

D.R.O. to initial back of ballot

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his or her initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy returning officer shall instruct the elector in the manner of marking and how to refold the ballot. R.S.O. 1990, c. E.6, s. 47 (1, 2).

Statutory declaration

- (3) A deputy returning officer shall require a person offering to vote to execute the prescribed statutory declaration if,
- (a) the deputy returning officer has reason to believe that the person,
 - (i) is not an elector,
 - (ii) has already voted,
 - (iii) is attempting to vote under a false name, or
 - (iv) is falsely representing himself or herself as being on the list; or
 - (b) a candidate or scrutineer who is an elector requests that the deputy returning officer require the person to execute the statutory declaration.

Alleged personation

(4) A person who has executed the prescribed statutory declaration and otherwise established his or her identity to the deputy returning officer's satisfaction is entitled to receive a ballot, even if another person has already voted under the first-named person's name.

Poll record

- (5) When a person is required to execute the prescribed statutory declaration under subsection (3), a note shall be made in the poll record,
- (a) indicating whether he or she executed the statutory declaration or refused to do so;
 - (b) confirming that the person received a ballot, if that is the case;
 - (c) stating that another person had already voted under the first-named person's name, if that is the case;
 - (d) stating any objections made on behalf of a candidate and, if so, which candidate.

Effect of refusal

(6) An elector who refuses to execute the prescribed statutory declaration when required to do so forfeits the right to vote. 1998, c. 9, s. 31.

MARKING A BALLOT

Mode of marking ballot

48. (1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his or her choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour. R.S.O. 1990, c. E.6, s. 48 (1).

Verification of ballot

- (2) The elector shall then refold the ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall, without unfolding it,
- (a) ascertain by examining his or her initials that it is the same ballot that was issued to the elector; and
 - (b) return it to the elector.

Deposit in ballot box

(2.1) The elector shall immediately and in full view of all present place the ballot in the ballot box, whereupon the poll clerk shall indicate in the poll record that the elector has voted. 1998, c. 9, s. 32.

Electors to leave polling place after voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place. R.S.O. 1990, c. E.6, s. 48 (3).

CERTIFICATE OF ERROR

Certificate of error

49. (1) If satisfied that a person's name was added at the revision but omitted from the polling list in error, the returning officer may issue a certificate of the fact.

Information for candidates

(2) The returning officer shall furnish each candidate with a list of certificates issued under subsection (1). 1998, c. 9, s. 33.

VOTING CERTIFICATES

Surrender of certificate

50. (1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot.

Entry in poll record

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words "voted under certificate" and shall file the certificate in the envelope of election documents to be returned to the returning officer. R.S.O. 1990, c. E.6, s. 50.

VOUCHING

Where elector's name omitted in rural polling division

51. (1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his or her name added to the list and it shall be added,

- (a) if the elector takes the prescribed oath or affirmation as to his or her eligibility to vote; and
- (b) if the elector is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath or affirmation that,
 - (i) he or she knows the person whose name has been omitted, and
 - (ii) he or she believes such person to be qualified to be entered on the list.

May vouch for more than one elector

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

Name to be added to list

(3) The deputy returning officer after taking the prescribed oath or affirmation shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Right to vote

(4) The applicant, upon taking the oath or affirmation and being vouched for, is entitled to vote. R.S.O. 1990, c. E.6, s. 51.

BALLOT TAKEN FROM POLL

Elector not to take ballot from polling place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits the right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his or her ballot out of the polling place. R.S.O. 1990, c. E.6, s. 52.

DECLINED BALLOT

Declined ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits the right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote. R.S.O. 1990, c. E.6, s. 53.

CANCELLED BALLOT

Replacement of ballot

54. (1) The deputy returning officer may replace a ballot with another one if,

- (a) it has been improperly printed;
- (b) it has inadvertently been dealt with in such a manner that it cannot be used; or
- (c) it has been returned as described in subsection (2).

Return by elector

(2) An elector is entitled to return the ballot that was issued to him or her to the deputy returning officer and receive another one if,

- (a) the elector objects to the ballot for any reason; or
- (b) the elector has marked the ballot issued to him or her otherwise than he or she intended.

Ballot marked in error

(3) Before returning a ballot described in clause (2) (b) to the deputy returning officer, the elector shall make it unusable by placing a mark or cross in all the circular spaces.

Poll record

- (4) When a ballot is replaced under subsection (1), the deputy returning officer shall,
 - (a) immediately write “cancelled” or “annulé” on the back of the replaced ballot;
 - (b) keep the replaced ballot to be returned to the returning officer; and
 - (c) cause an entry to be made in the poll record stating the reasons for cancelling the ballot. 1998, c. 9, s. 34.

DISABLED ELECTORS

Disabled elector

55. (1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his or her inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his or her ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Ballot marked by friend

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath or affirmation and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector’s ballot for him or her.

Declaration to be made by friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath or affirmation that he or she will keep secret the name of the candidate for whom the ballot was marked.

May act as friend once only

(4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

Entry in poll record

(5) The deputy returning officer shall enter in the poll record opposite the elector’s name the reason why the ballot was marked by the deputy returning officer or by a friend of the elector. R.S.O. 1990, c. E.6, s. 55.

INTERPRETER AT THE POLL

When language spoken by elector not understood

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath or affirmation, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot. R.S.O. 1990, c. E.6, s. 56.

COUNTING THE BALLOTS

Duties of D.R.O. at close of poll

57. (1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall sign his or her name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), the deputy returning officer shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

What may be accepted as valid ballot

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

Where ballot not to be rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection. R.S.O. 1990, c. E.6, s. 57 (1-3).

Ballot not initialed at time of issue

(3.1) Without limiting the generality of subsection (3), if the deputy returning officer is satisfied that a ballot lacking the initials required by subsection 47 (2) was nevertheless duly issued, he or she shall initial it and accept it as a valid ballot. 1998, c. 9, s. 35.

Objections to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered and initialed

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialed by the deputy returning officer. R.S.O. 1990, c. E.6, s. 57 (4, 5).

How ballots to be counted

58. (1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates and scrutineers may sign envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals. R.S.O. 1990, c. E.6, s. 58.

STATEMENT OF THE POLL

Statement to be made by D.R.O.

59. (1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him or her by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition of statements

- (2) The deputy returning officer shall ensure that,
 - (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;
 - (b) one part is placed in or attached to the poll record; and
 - (c) one part is retained by the deputy returning officer. R.S.O. 1990, c. E.6, s. 59.

CERTIFICATE OF COUNT

Certificate of result of poll

60. The deputy returning officer shall complete a prescribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scrutineer is present the certificates shall be forwarded to the returning officer in the poll return envelope. R.S.O. 1990, c. E.6, s. 60.

FINAL POLL PROCEDURE

Polling list, etc., to be placed in poll return envelope

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the prescribed oath or affirmation that their duties have been completed. R.S.O. 1990, c. E.6, s. 61.

Delivery of poll return envelope to R.O.

62. (1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Candidate or scrutineer may affix seal

(2) Any candidate or scrutineer present may affix his or her seal or write his or her signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Registered mail

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Delivery to be forthwith

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before the returning officer the prescribed oath or affirmation and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer. R.S.O. 1990, c. E.6, s. 62.

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING OFFICER

R.O. to seal poll return envelope

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself or herself and the election clerk from having access to it. R.S.O. 1990, c. E.6, s. 63.

STATEMENT OF NUMBER OF ELECTORS ENTITLED TO VOTE

Statement by C.E.O. of number of electors entitled to vote

64. Immediately following polling day, the Chief Election Officer shall determine the number of electors that were entitled to vote in each electoral district and, as soon as possible thereafter, shall furnish a certified statement thereof to each candidate in the electoral district. R.S.O. 1990, c. E.6, s. 64; 1998, c. 9, s. 36.

OFFICIAL TABULATION

Conduct of official tabulation by R.O.

65. (1) The returning officer, at the place, day and hour stated in his or her notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to the returning officer or from such other sources as may be available to him or her but without opening any of the sealed envelopes containing ballots.

Adjournment of official tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him or her as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate. R.S.O. 1990, c. E.6, s. 65.

Procedure when poll envelopes lost, statements not available, etc.

66. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he or she is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him or her, at a time and place to be named by him or her, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question. R.S.O. 1990, c. E.6, s. 66; 1993, c. 27, Sched.

Declaration of result

67. (1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes. R.S.O. 1990, c. E.6, s. 67 (1).

Difference less than 25

(2) If the difference between the number of votes cast for the candidate with the largest number of votes and the candidate with the next largest number is less than 25, the returning officer shall apply for a recount under section 71. 1998, c. 9, s. 37.

EFFECT OF IRREGULARITIES

Irregularities not affecting result

68. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election. R.S.O. 1990, c. E.6, s. 68.

RECOUNT

Notice

69. Notice in writing of an application to be made under subsection 71 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district. R.S.O. 1990, c. E.6, s. 69.

Definition

70. In sections 71 to 81, unless otherwise stated,

“judge” means a judge of the Ontario Court (Provincial Division). R.S.O. 1990, c. E.6, s. 70.

Where recount may be had

71. (1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate;
- (b) the returning officer has improperly tabulated the votes; or
- (c) subsection 67 (2) applies. R.S.O. 1990, c. E.6, s. 71 (1); 1998, c. 9, s. 38 (1).

Time for recount

(1.1) The recount shall be held within 10 days after the judge’s hearing of the application. 1998, c. 9, s. 38 (2).

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with a clerk of the Ontario Court (Provincial Division) as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a bank listed in Schedule I or II to the *Bank Act* (Canada) or trust corporation doing business in Ontario. R.S.O. 1990, c. E.6, s. 71 (2).

Exception

(3) Subsection (2) does not apply if the returning officer is the applicant. 1998, c. 9, s. 38 (2).

Notice

72. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 69. R.S.O. 1990, c. E.6, s. 72.

Notice of time and place of recount

73. (1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 69 in such manner as the judge directs.

Presence of clerk

(2) The judge may require the clerk to be present at the time and place appointed.

Who to be present at recount

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

Documents to be produced at recount

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer who is responsible for them subject to any direction given by the judge. R.S.O. 1990, c. E.6, s. 73 (1-4).

Procedure

(5) At the appointed time and place, the judge shall supervise the recount.

Same

(6) The recount may be made from the original statements of the poll or from the actual ballots, for which purpose the sealed envelopes referred to in section 58 may be opened. 1998, c. 9, s. 39.

Rules to govern judge at recount

74. The judge shall supervise the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll. R.S.O. 1990, c. E.6, s. 74; 1998, c. 9, s. 40.

Distinguishing disputed ballots

75. (1) On the request of any person, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Sealing up ballots at close of recount

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents. R.S.O. 1990, c. E.6, s. 75.

Review of decision of R.O. when documents missing

76. (1) Where a poll return envelope used at a polling place was not available to the returning officer when he or she made his or her decision in respect of the number of votes given for a candidate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Powers of judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or the judge may act upon the evidence taken by the returning officer. R.S.O. 1990, c. E.6, s. 76.

When judge to certify result of recount

77. (1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of the recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 80.

Declaration of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote. R.S.O. 1990, c. E.6, s. 77.

Costs

78. (1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Assessing and allowing costs

(2) The judge shall assess the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Ontario Court (General Division).

Where judge makes no provision re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. R.S.O. 1990, c. E.6, s. 78.

Deposits, disposal of

79. Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the Ontario Court (Provincial Division) upon the judge's order for the balance. R.S.O. 1990, c. E.6, s. 79.

APPEAL FROM DECISION ON RECOUNT

Appeal from decision of judge

80. (1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of the party's intention to appeal, and the party may by the notice limit the appeal to specified ballots.

Service of notice of appeal

(2) The notice may be served upon the other parties personally, or upon the solicitors who acted for them upon the recount by the judge, personally or at their offices, or as a judge of the Ontario Court (General Division) may direct.

Ballots, etc., to be forwarded to local registrar

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 75 (1), the ballots that are the subject of appeal together with the notice and a certificate showing the judge's findings as to the ballots in dispute, by registered mail to a local registrar of the Ontario Court (General Division), but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the local registrar, and in either case the judge shall await the result of the appeal before sending his or her certificate to the returning officer.

Allowing copy of certificate of judge

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his or her findings before it is forwarded to the local registrar.

Appointment for hearing of appeal

(5) On receipt of the ballots and notice, the local registrar shall forthwith obtain an appointment from a judge of the Ontario Court (General Division) for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Procedure on hearing of appeal, certificate of result

(6) At the time appointed, the judge of the Ontario Court (General Division) shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his or her decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Costs of appeal

(7) The judge of the Ontario Court (General Division) may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid.

Assessing and allowing costs

(8) The judge of the Ontario Court (General Division) shall assess the costs of the appeal.

Idem

(9) Where the judge of the Ontario Court (General Division) makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. R.S.O. 1990, c. E.6, s. 80.

ELECTION RETURN

When return to be made

81. (1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer,

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his or her dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of the return to each candidate.

Report by R.O.

(2) The returning officer shall include with the return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he or she thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he or she ascertained the votes given for each candidate under section 66, if applicable.

Declaration by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending the return, and it shall be sent forthwith to the Chief Election Officer. R.S.O. 1990, c. E.6, s. 81.

Application to compel R.O. to add up votes, make return, etc.

82. (1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give the casting vote where he or she is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of application shall be served upon the returning officer and upon the persons who were candidates at the election.

Application

(2) In other respects the *Courts of Justice Act*, and the rules of court made thereunder apply to such application.

Other rights and remedies

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer. R.S.O. 1990, c. E.6, s. 82.

Notice of return in *The Ontario Gazette*

83. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected. R.S.O. 1990, c. E.6, s. 83.

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

Shipment to C.E.O. of election documents

84. (1) Forthwith after making his or her return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to the returning officer by the deputy returning officers, and all documents, papers, and materials in his or her possession relating to the conduct of the election. R.S.O. 1990, c. E.6, s. 84 (1); 1998, c. 9, s. 41.

Endorsement thereon

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked "Used" or "Unused" and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate. R.S.O. 1990, c. E.6, s. 84 (2).

How long to be retained

85. (1) The Chief Election Officer shall retain in his or her possession the used documents transmitted to him or her by the returning officer under section 84 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

When documents not to be destroyed

(2) If notice is served on the Chief Election Officer under subsection 99 (5) or if an order is made directing that documents relating to an election are not to be destroyed, the Chief Election Officer shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". R.S.O. 1990, c. E.6, s. 85.

Inspection of documents

86. (1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by the Chief Election Officer, and he or she shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word.

Inspection of ballots only under order of judge

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Ontario Court (General Division). R.S.O. 1990, c. E.6, s. 86 (1, 2).

Exception

(2.1) Subsection (2) does not prohibit the Chief Election Officer or an authorized member of his or her staff from inspecting ballots in the course of investigating a possible corrupt practice. 1998, c. 9, s. 42.

When order to be granted

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath or affirmation that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where inspection takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of a local registrar of the Ontario Court (General Division) who shall be present during the inspection, and, so long as the ballots are in the custody of the local registrar and not under inspection, they shall be kept in a secure place under lock and key. R.S.O. 1990, c. E.6, s. 86 (3-5).

Evidence as to documents, etc., in certain cases

87. Where an order is made by a judge of the Ontario Court (General Division) for the production by the Chief Election Officer of any document in his or her possession relating to an election, the production of it by him or her, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1990, c. E.6, s. 87.

Inspection of documents under order of committee of Assembly

88. Despite the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto. R.S.O. 1990, c. E.6, s. 88.

Report re conduct of election

89. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in the Chief Election Officer's opinion the

conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act. R.S.O. 1990, c. E.6, s. 89.

CORRUPT PRACTICES AND OTHER OFFENCES: PENALTIES AND ENFORCEMENT

Voting when not qualified, etc.

90. Every person who, at an election,

(a) not being qualified to vote, votes; or

(b) being qualified to vote, votes more than once; or

(c) votes in an electoral district or polling division other than the one in which the person is entitled to vote by this Act,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. E.6, s. 90; 1994, c. 27, s. 46 (2).

Improper voting by proxy, etc.

91. Every person who,

(a) appoints a proxy for reward or remuneration;

(b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;

(c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;

(d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;

(e) knowingly appoints more than one person as a voting proxy; or

(f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy knowing that the appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1990, c. E.6, s. 91; 1994, c. 27, s. 46 (3).

Wilful miscount of ballots

92. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1990, c. E.6, s. 92.

Neglect of duties

93. Every returning officer, election clerk, revision assistant, deputy returning officer, poll clerk or enumerator who refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. E.6, s. 93; 1998, c. 9, s. 43.

Offences relating to ballot papers

94. Every person who,

(a) without authority, supplies a ballot to any person;

(b) without authority, places in a ballot box anything other than an official ballot;

(c) delivers to the deputy returning officer to be placed in the ballot box any paper other than the ballot given to him or her by the deputy returning officer;

(d) takes a ballot out of the polling place;

(e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;

(f) being a deputy returning officer, knowingly puts his or her initials on the back of any paper that is not a ballot but purports to be a ballot or is capable of being used as such at an election;

(g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he, she or it is authorized to print; or

(h) attempts to commit any offence mentioned in this section,
is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. E.6, s. 94; 1994, c. 27, s. 46 (4, 5).

Furnishing false information

95. Every person who furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1994, c. 27, s. 46 (6).

Inducing unqualified person to vote, etc.

96. Every person who,
(a) induces or procures any person to vote who has no right to vote; or
(b) before or during an election publishes a false statement of the withdrawal of a candidate,
is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1994, c. 27, s. 46 (6).

Bribery

96.1 No person shall, directly or indirectly,
(a) offer, give, lend, or promise or agree to give or lend any valuable consideration in connection with the exercise or non-exercise of an elector's vote;
(b) advance, pay or cause to be paid money intending that it be used to commit an offence referred to in clause (a), or knowing that it will be used to repay money used in the same way;
(c) give, procure or promise or agree to procure an office or employment in connection with the exercise or non-exercise of an elector's vote;
(d) apply for, accept or agree to accept any valuable consideration or office or employment in connection with the exercise or non-exercise of an elector's vote;
(e) give, procure or promise or agree to procure an office or employment to induce a person to become a candidate, refrain from becoming a candidate or withdraw his or her candidacy. 1998, c. 9, s. 44.

General offence

97. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. E.6, s. 97.

Corrupt practice

97.1 If, when a person is convicted of an offence under section 90, 94, 95, 96 or 96.1, the presiding judge finds that the offence was committed knowingly, the person is also guilty of a corrupt practice and, in addition to any other penalty, is liable to imprisonment for a term of not more than six months. 1994, c. 27, s. 46 (7); 1998, c. 9, s. 45.

Corrupt practice, effect of conviction

98. (1) A person who is convicted of a corrupt practice,
(a) shall forfeit any office to which he or she was elected; and
(b) is ineligible to stand as a candidate at any election or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council until the eighth anniversary of the date of the official return.

Office vacant

(2) When clause (1) (a) applies, the forfeited office is vacant.

Exception

(3) If the presiding judge finds that the act constituting a corrupt practice was committed without any intent of causing or contributing to a false outcome of the election, clause (1) (b) does not apply. 1994, c. 27, s. 46 (8).

CONTESTED ELECTIONS

Validity of election, determination by action

99. (1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly shall be tried and determined by an action commenced in the Ontario Court (General Division). R.S.O. 1990, c. E.6, s. 99 (1); 1994, c. 27, s. 46 (9).

(2) REPEALED: 1994, c. 27, s. 46 (10).

Who may commence action

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he or she considers that it is in the public interest that an action be commenced, may commence an action.

Time for commencing action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time. R.S.O. 1990, c. E.6, s. 99 (3, 4).

Special requirements, plaintiff other than C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer,

(a) security shall be given on behalf of the plaintiff in the amount of \$2,000, in accordance with the practice in cases where a plaintiff resides out of Ontario; and

(b) after the security has been given, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

Purpose of security

(5.1) The security given under subsection (5) is to be applied towards payment of the costs, charges and expenses, if any, that become payable by the plaintiff, including the costs and charges of the returning officer incurred under subsection (7). 1998, c. 9, s. 46.

C.E.O. to notify Assembly and returning officer

(6) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication of notice by returning officer

(7) The returning officer, after receipt of a notification under subsection (6), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district. R.S.O. 1990, c. E.6, s. 99 (6, 7).

Practice and procedure

100. (1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Ontario Court (General Division) apply to an action commenced under section 99.

Judge without jury

(2) The action shall be tried by a judge without a jury. R.S.O. 1990, c. E.6, s. 100.

Intervention in action by C.E.O.

101. (1) The Chief Election Officer, following receipt of the notice under subsection 99 (5), may apply to a judge of the Ontario Court (General Division), or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of application to be filed and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he or she shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave granted

(3) If the judge grants leave to intervene, he or she shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to summon witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action. R.S.O. 1990, c. E.6, s. 101.

102. REPEALED: 1998, c. 9, s. 47.

Disclaimer not to affect action

103. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 99 and an action may be commenced in the same manner as if the member elected had not disclaimed. R.S.O. 1990, c. E.6, s. 103.

Abatement of action

104. (1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Liability for costs

(2) The abatement of an action does not affect any liability for costs previously incurred.

Substitution of plaintiff

(3) On the abatement of an action, notice of the abatement shall be given by the local registrar of the Ontario Court (General Division) in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Ontario Court (General Division) or, during the trial, to the trial judge to be substituted as the sole plaintiff. R.S.O. 1990, c. E.6, s. 104.

Substitution for unqualified plaintiff

105. Where a plaintiff is not qualified to be a plaintiff in an action under section 99, the action shall not on that account be dismissed if within such time as a judge of the Ontario Court (General Division) or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. R.S.O. 1990, c. E.6, s. 105.

Death of defendant, etc., at or before trial

106. (1) If, before or during the trial,

(a) the defendant dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the defendant gives notice to the court that he or she does not intend to oppose, or further oppose the action,

notice of such event shall be given by the local registrar of the Ontario Court (General Division) in the prescribed form in the electoral district.

Substituted as further defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Ontario Court (General Division) or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice of intention not to oppose given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly. R.S.O. 1990, c. E.6, s. 106.

Removal of candidate

107. (1) Where the election of a person is declared void, the court may order that he or she be removed from office and, if it was determined that another person would have been elected but for the reasons leading to the election being declared void, that the other person be admitted to take his or her seat in the Assembly or, if it is determined that no other person is elected, the court may provide for holding a new election.

Affecting result of election

(2) Where it is determined that any act or omission unlawfully affected the result of an election, the court may declare the election void and provide for holding a new election.

Compensation

(3) Where a new election is ordered, the court may make such order as it considers just against a person whose act or omission unlawfully affected the result of the election that has been declared void, for the compensation of candidates at that election, not exceeding \$15,000 per candidate.

Judgment forwarded to Assembly

(4) The registrar of the court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly. 1994, c. 27, s. 46 (11).

Where election set aside and appeal entered

108. (1) If the court determines that a member was not duly returned, even if an appeal from the decision is pending, he or she is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, even if an appeal is pending, entitled to take his or her seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Notice of appeal to Clerk

(2) In the cases to which subsection (1) applies, where an appeal is entered, the local registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court. R.S.O. 1990, c. E.6, s. 108.

Time for issue of writ for new election

109. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Ontario Court (General Division) that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal. R.S.O. 1990, c. E.6, s. 109.

Appeals to Court of Appeal

110. (1) An appeal lies from the judgment of the Ontario Court (General Division) to the Court of Appeal.

Appeal to be heard speedily

(2) The appeal shall be heard as speedily as practicable.

Judgment or new trial

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Appeal from decision on new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section. R.S.O. 1990, c. E.6, s. 110.

Inquiry as to extensive corrupt practices

111. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1990, c. E.6, s. 111.

ELECTION FEES AND EXPENSES

Regulations

112. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act;
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 78 and 80. R.S.O. 1990, c. E.6, s. 112.

Payment of expenses of Act

113. (1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his or her responsibilities under this Act.

Clerical and technical assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Audit by Provincial Auditor

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor. R.S.O. 1990, c. E.6, s. 113.

OFFICE OF THE CHIEF ELECTION OFFICER

Staff

114. (1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his or her permanent staff as are necessary in the performance of his or her duties and for the efficient and proper operation of his or her office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his or her office. R.S.O. 1990, c. E.6, s. 114 (1); 1998, c. 9, s. 48 (1, 2).

Estimates

(1.1) The Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required,

(a) for the purposes mentioned in subsection (1); and

(b) for the performance of the Chief Election Officer's functions under the *Election Finances Act* and the *Taxpayer Protection Act, 1999*. 1998, c. 9, s. 48 (3); 1999, c. 7, Sched. A, s. 22.

Review of estimates by Board

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1.1), and the chair of the Board shall cause the estimates as altered by the Board to be laid before the Assembly, which shall refer them to one of its committees for review. 1998, c. 9, s. 48 (4).

Money

(3) The money required for the purposes of this section shall be paid out of the money appropriated therefor by the Legislature. R.S.O. 1990, c. E.6, s. 114 (3).

Oath or affirmation of office and secrecy and oath or affirmation of allegiance

115. (1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath or affirmation of office and secrecy and, if required by the Chief Election Officer, the prescribed oath or affirmation of allegiance.

Idem

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths or affirmations referred to in subsection (1).

Record of oaths or affirmations

(3) A copy of each oath or affirmation administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Cause for dismissal

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths or affirmations required by subsection (1) may be considered as cause for dismissal. R.S.O. 1990, c. E.6, s. 115.

Benefits

116. (1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits. R.S.O. 1990, c. E.6, s. 116 (1); 1998, c. 9, s. 49.

Superannuation benefits

(2) The office of the Chief Election Officer shall be deemed to have been designated by the Lieutenant Governor in Council under the *Public Service Pension Act* as a Commission whose full-time permanent and probationary employees are required to be members of the Public Service Pension Plan.

Idem

(3) The positions of Chief Election Officer and Assistant Chief Election Officer shall be deemed to have been designated by the Lieutenant Governor in Council under the *Public Service Pension Act* as positions, the persons employed in which are required to be members of the Public Service Pension Plan.

Idem

(4) All credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, immediately before the 14th day of December, 1984 are preserved and continued in accordance with that Act. R.S.O. 1990, c. E.6, s. 116 (2-4).

Conduct and discipline

117. (1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his or her delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

Appeals

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him or her, to the Public Service Grievance Board established under the *Public Service Act*. R.S.O. 1990, c. E.6, s. 117 (1-3).

Board authorized to hear appeals

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant. R.S.O. 1990, c. E.6, s. 117 (4); 1998, c. 9, s. 50.