

# Proportional Representation Electoral Amendment Act

## *Electoral Boundaries Commission Act*

1. *The Electoral Boundaries Commission Act, RSBC 1996, c. 107 is repealed.*

## *Electoral Districts Act*

2. *The Electoral Districts Act SBC 1999, c. 31 is repealed.*

## *Constitution Act*

3. *Section 1 of the Constitution Act RSBC 1996, c. 66 is amended by adding the following definitions:*

“**party member**” means a member elected to the Legislative Assembly as a party candidate, in accordance with the provisions of the *Election Act*.

“**constituency member**” means a member elected to the Legislative Assembly as a constituency candidate, in accordance with the provisions of the *Election Act*.

4. *Section 18 is repealed, and the following substituted:*

### **Members in the Legislative Assembly**

s. 18

- (1) The Legislative Assembly consists of the number of members provided for by the *Election Act*.
- (2) Members of the Legislative Assembly shall be either constituency members elected to represent an electoral district established under the *Electoral Boundaries Readjustment Act R.S. 1985, c. E-3* or party members elected on a province-wide basis.

5. *Section 35 is repealed, and the following substituted:*

### **Filling Vacancies in the Legislative Assembly**

35

- (1) If, in the case of a seat held by a constituency member, any of the following circumstances apply, the Speaker must issue and deliver to the Chief Electoral Officer a warrant for the issue of a writ for a by-election:
  - (a) the Speaker is informed of a vacancy caused by the death of a member of the Legislative Assembly by notice
    - (i) being given by another member in that other member's place in the Legislative Assembly, or
    - (ii) in writing signed by 2 members and delivered to the Speaker;
  - (b) there is a vacancy in the Legislative Assembly caused by the adoption of a report under section 27;
  - (c) there is a vacancy in the Legislative Assembly by reason of a resignation under section 33;
  - (d) there is a vacancy in the Legislative Assembly by reason of section 34;
  - (e) the Chief Electoral Officer reports under the *Election Act* to the Speaker or Clerk of the Legislative Assembly that
    - (i) no member was elected for an electoral district because 2 or more candidates in an election had the same number of votes,

- (ii) on the final determination of an application under Part 8 of that Act, the court has declared that an election was invalid or that the seat of a member of the Legislative Assembly is vacant,
  - (iii) the seat of a member has become vacant under section 217 of that Act because the election expenses of the member were greater than permitted under that Act,
  - (iv) the seat of a member has become vacant under section 221 of that Act because the member failed to file the election financing report required under that Act,
  - (v) the seat of a member has become vacant under section 222 of that Act because the member failed to file the leadership contestant financing report required under that Act, or
  - (vi) the seat of a member has become vacant under section 226 of that Act in relation to a conviction for making a false or misleading report under that Act;
- (f) the Chief Electoral Officer reports under the *Recall and Initiative Act* to the Speaker or Clerk of the Legislative Assembly that the seat of a member has become vacant under section 25 of that Act.
- (2) The Speaker must deliver a copy of the warrant to the Clerk of the Executive Council.
- (3) The writ for a by-election authorized by a warrant under this section must be issued
- (a) in the case of a warrant under subsection (1) (a) to (e), within 6 months after the receipt of the warrant by the Chief Electoral Officer, and
  - (b) in the case of a warrant under subsection (1) (f), within 90 days after the receipt of the warrant by the Chief Electoral Officer.
- (4) If, in the case of a seat held by a party member, any of the following circumstances apply, the Speaker must issue and deliver to the Chief Electoral Officer a notice of party seat vacancy:
- (a) the Speaker is informed of a vacancy caused by the death of a member of the Legislative Assembly by notice
    - (i) being given by another member in that other member's place in the Legislative Assembly, or
    - (ii) in writing signed by 2 members and delivered to the Speaker;
  - (b) there is a vacancy in the Legislative Assembly caused by the adoption of a report under section 27;
  - (c) there is a vacancy in the Legislative Assembly by reason of a resignation under section 33;
  - (d) there is a vacancy in the Legislative Assembly by reason of section 34;
  - (e) the Chief Electoral Officer reports under the *Election Act* to the Speaker or Clerk of the Legislative Assembly that
    - (i) the seat of a member has become vacant under section 218 of that Act because the election expenses of the party in relation to that member were greater than permitted under that Act,
    - (ii) the seat of a member has become vacant under section 222 of that Act because the member failed to file the leadership contestant financing report required under that Act, or
    - (iii) the seat of a member has become vacant under section 226 of that Act in relation to a conviction for making a false or misleading report under that Act;
- (5) The Clerk of the Legislative Assembly has the duties and powers of the Speaker under this section if there is no Speaker, if the Speaker is absent from British Columbia or if the member in question is the Speaker.

***Recall and Initiative Act***

**6. *The definition of member in section 1 of the Recall and Initiative Act RSBC 1996, c.398 is repealed, and the following substituted:***

**“Member”** means a member elected to the Legislative Assembly as a constituency candidate, as defined in the *Election Act*.

## *Election Act*

### **7. Section 1 of the Election Act RSBC 1996, c. 106 is amended by adding the following definitions:**

**“constituency candidate”** means an individual who is a candidate within the meaning of section 63, and for the purposes of Parts 10 and 11 includes an individual who becomes a candidate or who was a candidate;

**"federal Act"** means the *Electoral Boundaries Readjustment Act R.S. 1985, c. E-3*

**"federal electoral district"** means an electoral district established under the federal Act.

**"federal readjustment"** means any establishment of federal electoral districts under the federal Act that occurs after this Act comes into force.

**“party candidate”** means an individual listed on the party list of a registered political party and accepted by the chief electoral officer as a party candidate;

**“party representative”** means the financial agent of a political party or a representative of the party appointed under section 70; and

**“party list”** means a ranked list of party candidates submitted by a registered political party, under section 60A;

### **7.1 Section 1 of the Election Act RSBC 1996, c. 106 is amended by repealing and substituting the following definitions:**

**“candidate”** means a constituency candidate, unless otherwise specified;

**"ordinary ballots"** means ordinary ballots as referred to in section 86 (2); and

**"write-in ballot"** means a ballot referred to in section 86 (4).

### **8. Sections 24 and 25 are repealed and the following substituted:**

#### **Part 3A – Electoral Boundaries**

##### **Incorporating Federal Boundaries**

###### **24A**

For the purpose of electing certain members of the Legislative Assembly, British Columbia is divided into electoral districts whose number, names and boundaries are identical to those of its federal electoral districts.

##### **Federal Boundary Readjustments**

###### **24B**

When there is a federal readjustment, new provincial electoral districts are deemed to be established in accordance with subsection 24A in place of the existing provincial electoral districts that are affected, immediately after the first dissolution of the Legislature that follows the first anniversary of the proclamation date of the representation order under the federal Act.

### **Readjustments During an Election**

#### **24C**

If the federal readjustment takes place after a writ for an election is issued in the corresponding provincial electoral district, the provincial change does not take place until the next dissolution of the Legislature.

### **Notice of Readjustments**

#### **24D**

The Chief Electoral Officer shall publish in the British Columbia Gazette notice of federal readjustments upon their proclamation.

## **Part 3B -- Calling an Election**

### **Order for a general election**

#### **25A**

- (1) For a general election to be held, the Lieutenant Governor in Council must issue an order under this section that
  - (a) directs the chief electoral officer to issue writs of election for all electoral districts,
  - (b) sets the date of issue for the writs of election, which must be the same for all writs,
  - (c) specifies the general voting day for the election in accordance with section 27, and
  - (d) directs that the writs of election be returned in accordance with this Act.
- (2) If a general election is called before general voting day for a by-election that is in progress, the by-election is cancelled and the election for that electoral district is to take place as part of the general election.

### **Order for a by-election**

#### **25B**

- (1) On receiving a warrant under the Constitution Act for a by-election, the chief electoral officer must notify the Lieutenant Governor in Council for the purposes of allowing the writ of election to be issued within the time limit established by that Act.
- (2) For a by-election to be held, the Lieutenant Governor in Council must issue an order that
  - (a) directs the chief electoral officer to issue a writ of election for the electoral district,
  - (b) sets the date of issue for the writ of election,
  - (c) specifies the general voting day for the election in accordance with section 27, and
  - (d) directs that the writ of election be returned in accordance with this Act.
- (3) In a by-election, voters will receive a constituency ballot only and not a party ballot.

### **Notice of Party Seat Vacancy**

#### **25C**

On receiving a notice of party seat vacancy from the Speaker of the Legislative Assembly pursuant to section 35(4) of the *Constitution Act*, the chief electoral officer must:

- (a) Provide written notification to the individual whose name, in the previous general election, was placed on the party list of the vacating member, next in priority after the last person on that party list to be elected to the Legislative Assembly.
- (b) The written notification must be served on the individual, and provide the individual with an invitation to become a member of the Legislative Assembly until the next general election, in place of the vacating member.
- (c) If the individual does not respond in writing to the invitation within ten days of receipt, or if the chief electoral officer determines that the individual has declined the invitation, is deceased, or is otherwise ineligible to sit as a member of the Legislative Assembly, a further notification will be sent to the individual who ranked next in priority on the same party list.
- (d) This process will be repeated until the position is filled, unless the party list becomes exhausted, in which case the seat shall be declared vacant until the next general election.

**9. The following sections are added:**

**Endorsement of party candidate by registered political party**

**60A**

- (1) In order to be listed on the party ballot in an election, a registered political party must
  - (a) be represented by at least four constituency candidates, and
  - (b) file its party list, signed by at least two principal officers of the political party, with the chief electoral officer before the end of the nomination period.
- (2) A party list submitted to the chief election officer must be accompanied by a \$100 fee and the following documentation for each individual on the party list who is not a registered constituency candidate:
  - (a) the full name of the individual;
  - (b) the usual name of the individual, if this is different from the full name and the individual wishes to have his or her usual name on election materials instead;
  - (c) the residential address of the individual;
  - (d) a signed consent of the individual to their party candidacy;
  - (e) a solemn declaration of the individual that he or she is qualified to stand as a candidate;
  - (f) in the case of an individual making a request under subsection (2) (b), a solemn declaration of the individual that the name requested to be used on election materials is his or her usual name;
  - (g) a statement signed by the individual of an address at which documents will be accepted for delivery to or service on the individual and a telephone number at which the individual can be contacted;
  - (h) the disclosure required by section 2 (1) of the Financial Disclosure Act.
- (3) After documentation under subsection (2) has been accepted for filing, it may be amended by the chief electoral officer on the basis of information provided by the party candidate in writing, but only in relation to matters of fact that have changed since the time of filing.
- (4) Documentation filed under subsection (2) must be available for public inspection at the office of the chief electoral officer during its regular office hours
- (5) A registered political party may amend its party list at any time before the end of the nomination period by submitting;
  - (a) a \$50 fee,
  - (b) an amended party list signed by at least 2 principal officers of the political party, and
  - (c) any necessary supplementary documentation.to the Chief Electoral Officer.
- (6) A registered political party may remove names from its party list at any time after an election period by submitting;
  - (a) a \$50 fee, and
  - (b) an amended party list signed by at least 2 principal officers of the political partyto the Chief Electoral Officer.
- (7) A party list must not contain more names than the total number of seats in the Legislative Assembly.
- (8) An individual may stand as both a constituency candidate and a party candidate.
- (9) When all the required nomination documents are accepted for filing, the chief electoral officer must issue to the party a certificate indicating that the individuals named on the party list are party candidates in the election.

**Candidate Includes Party Candidate**

**60B**

The word "candidate" includes a party candidate for the purposes of section 52 (1), 67, 109(7), 183, 203, 226, 255(6), 259, 266, and 276.

## **Declaration of Party Candidates**

### **61A**

- (1) Immediately following the end of the nomination period under section 56, the chief electoral officer must publicly declare the following:
  - (a) that the nomination period for the election is closed;
  - (b) that the individuals listed on the party list of a registered political party accepted for filing under section 60A are the party candidates for that party in the election, subject only to a court order under section 66;
- (2) The chief electoral officer must deliver certified party lists declared under subsection (1) to each of those party candidates who requests it.

## **10. Section 62 is repealed and the following substituted:**

### **Notice of election by voting**

#### **62**

- (1) As soon as possible after the declaration of an election by voting, the district electoral officer must publish a notice of election in accordance with section 270.
- (2) The notice of election must include the following information:
  - (a) the names of the candidates in the order and as the names will appear on the ballots;
  - (b) as applicable, the status of each candidate as the representative of a registered political party or as an independent candidate;
  - (c) the date, voting hours and voting places for general voting;
  - (d) the dates, voting hours and voting places for advance voting;
  - (e) how an individual may obtain information regarding other opportunities for voting in the election;
  - (f) the list of political parties that will appear on the party ballot.

## **11. Section 63 is repealed and the following substituted:**

### **When an individual is a candidate**

#### **63**

- (1) An individual becomes a constituency candidate when all the required nomination documents are accepted for filing and a certificate is issued by the district electoral officer under section 56 (8) or by the chief electoral officer under section 57 (8).
- (2) An individual becomes a party candidate when a party list including the name of the individual is accepted for filing by the chief electoral officer under section 60A(9).
- (3) A constituency candidate or party candidate continues to be a candidate until the date of the return of the writ for the election, unless the individual earlier withdraws, dies or is declared under section 66 to no longer be a candidate.

## **12. Section 64 is repealed and the following substituted:**

### **Withdrawal of candidate**

#### **64**

- (1) At any time up until 48 hours before the start of general voting, a constituency candidate may withdraw from the election by delivering a signed withdrawal to the district electoral officer.
- (2) At any time up until 48 hours before the start of general voting, a party candidate may withdraw from the election by delivering a signed withdrawal to the chief electoral officer.
- (3) The constituency candidate or party candidate's signature on a withdrawal must be witnessed by at least one other individual who must sign the withdrawal as witness.

- (4) If only one constituency candidate remains after a withdrawal, the district electoral officer must declare the constituency candidate elected by acclamation and must as soon as possible after the declaration return the writ of election to the chief electoral officer certifying the name of the individual elected.

**13. Section 66 is repealed and the following substituted:**

**Challenge of candidate**

**66**

- (1) The nomination of a candidate may only be challenged by an application to the Supreme Court in accordance with this section.
- (2) The time period during which an application may be made is between the time the individual becomes a candidate in accordance with section 63(1) or 63(2) and noon on the 4th day after the end of the nomination period.
- (3) A challenge
  - (a) to a constituency candidate may only be made by a voter of the electoral district for which the election is being held or by another candidate for the election in the electoral district, and
  - (b) to a party candidate may be made by a voter in any electoral district in the province.
- (4) A challenge may only be made on one or more of the following bases:
  - (a) that the individual is not qualified to be nominated or elected;
  - (b) that the nomination was not made in accordance with Division 1 of this Part;
  - (c) that the individual is not in fact nominated as an independent candidate, as stated in the nomination documents;
  - (d) that the usual name given under section 54 (2) (c) or 60A(2)(b) in the nomination documents is not in fact the usual name of the individual.
- (5) At the time the petition commencing a challenge is filed in the court registry, the court
  - (a) must set a time for the hearing that is adequate to allow the court to give its decision on the matter within the time limit established by subsection (7), and
  - (b) may in its discretion fix the place for the hearing.
- (6) The individual making a challenge must notify affected individuals by
  - (a) in the case of constituency candidates, immediately notifying the district electoral officer and the affected candidate of the challenge and of the time and place at which it will be heard by the court,
  - (b) in the case of party candidates, immediately notifying the chief electoral officer and the affected candidate of the challenge and of the time and place at which it will be heard by the court, and
  - (c) within 24 hours of commencing the application, serving on these individuals the petition, the accompanying affidavit and a notice of the time and place for the hearing.
- (7) Within 72 hours after the end of the period for commencing a challenge, not including Saturdays, Sundays and other holidays, the court must hear and determine the challenge.
- (8) On the hearing of a challenge, the court may issue an order
  - (a) confirming the individual as a candidate,
  - (b) declaring that the individual is not a candidate,
  - (c) in the case of a constituency candidate, declaring that the individual is or is not entitled to have the usual name indicated in the nomination documents used on the constituency ballot, or
  - (d) declaring that the individual is not nominated as an independent candidate.
- (9) For certainty, the jurisdiction of the court under this section may be exercised by a master of the court.
- (10) The decision of the court on a challenge under this section is final and may not be appealed.

**14. Section 70 is repealed and the following substituted:**

### **Appointment of scrutineers and other representatives**

#### **70**

- (1) A candidate or the candidate's official agent may appoint candidate representatives in accordance with this section to represent the candidate by observing the conduct of voting and counting proceedings for the election.
- (2) An appointment as a candidate representative must be in writing, signed by the individual making the appointment, and include the following:
  - (a) the name of the individual appointed;
  - (b) if the individual is appointed as a scrutineer, the voting or counting proceedings for which the individual is appointed;
  - (c) if the individual is appointed as a candidate representative for the purpose of section 93 (2) (d) (iv), a statement of this appointment.
- (3) A registered political party may appoint one or more party representatives in accordance with this section to represent the party by observing the conduct of voting and counting proceedings for the election.
- (4) An appointment as a party representative must be in writing, signed by two officers of the party making the appointment, and include the following:
  - (a) the name of the individual appointed;
  - (b) if the individual is appointed as a scrutineer, the voting or counting proceedings for which the individual is appointed;
  - (c) if the individual is appointed as a party representative for the purpose of section 93 (2) (e) (iii), a statement of this appointment.

### **15. Section 81 is repealed and the following substituted:**

#### **Voting places**

#### **81**

- (1) So far as reasonably possible, a voting place must be in a convenient location for a majority of the voters and must be easily accessible to individuals who have a physical disability or whose mobility is impaired.
- (2) A voting place must be in the electoral district unless the district electoral officer considers that another location will be more convenient for a majority of the voters.
- (3) If requested by a district electoral officer,
  - (a) accommodation in a school that is the property of a board of school trustees under the School Act must be made available by the board for use as a voting place, and
  - (b) accommodation in a facility that is owned by a francophone education authority as defined in the School Act or leased by a francophone education authority from a board of school trustees must be made available by the francophone education authority for use as a voting place.
- (4) The party lists for registered political parties appearing on the party ballot will be prominently posted at each voting place during the hours of voting.

### **16. Section 86 is repealed and the following substituted:**

#### **Ballots**

#### **86**

- (1) A ballot or party list must not include any of the following:
  - (a) an indication that a candidate is holding or has held an elected office;
  - (b) a candidate's occupation;
  - (c) an indication of a title, honour, degree or other decoration received or held by a candidate.
- (2) Ordinary ballots must be prepared as follows:



- (a) A "constituency" ballot must be prepared in Form 2A as set out in the Schedule to this Act and must include the following:
  - (i) the full name of each candidate in the election or, if a candidate specified a different usual name in the nomination documents, this usual name;
  - (ii) in the case of a candidate nominated as a representative of a registered political party, the identification of the political party filed with the chief electoral officer under section 155 (3) (c);
  - (iii) if requested by an independent candidate in his or her nomination documents, an indication that the candidate is independent; and
- (b) A "party" ballot must be prepared in Form 2B as set out in the Schedule to this Act and must include the name of each registered political party that has endorsed party candidates in the election arranged in alphabetical order.
- (c) The ballots will be printed in different colours so that the constituency ballots can be visually distinguished from the party ballots in order to facilitate voting and counting.
- (3) The names of the candidates must be arranged on an ordinary constituency ballot alphabetically by their surnames and, if 2 or more candidates have the same surname, must be arranged alphabetically in order of their first given or usual names to be used on the ballot.
- (4) Write-in ballots must be prepared in Form 3A for constituency ballots and Form 3B for party ballots as set out in the Schedule to this Act to permit the voter to vote by writing in the name of the candidate for whom the individual wishes to vote on the constituency ballot or the name of the political party for which the individual wishes to vote on the party ballot.
- (5) If 2 or more candidates
  - (a) have the same surnames and given names, or
  - (b) have names so similar that, in the opinion of the chief electoral officer, they are likely to cause confusion,
 the chief electoral officer may modify the names or include additional information to assist voters to identify the candidates, subject to the restrictions under subsection (1) and the approval of those candidates, and may establish their order on the ballot.
- (6) If an election by voting is still required after a candidate withdraws under section 64 or an order is made under section 66 (8) (b) and the ordinary constituency ballot papers for the electoral district have been prepared, the district electoral officer must notify each voting officer as soon as possible and, as time allows,
  - (a) have constituency ballot papers prepared without the name of the individual,
  - (b) indicate on the constituency ballots that the individual has ceased to be a candidate, or
  - (c) have posted at each voting station a notice that the individual has ceased to be a candidate.
- (7) If the ordinary constituency ballot papers for the electoral district have been prepared before an order is made under section 66 (8) (c) or (d), the district electoral officer must notify each voting officer as soon as possible and, as time allows,
  - (a) have ballot papers prepared in accordance with the order of the court,
  - (b) indicate on the ballot, as applicable, the status or usual name of the candidate in accordance with the order of the court, or
  - (c) have posted at each voting station a notice of the order of the court.
- (8) No ballot is invalid by reason that it includes the name of an individual who is not a candidate or a name or status that is not as ordered by a court under section 66.
- (9) Subject to this section, the decision of the chief electoral officer respecting the form and content of a ballot is final and may not be the subject of an application under Part 8.

***17. Section 87(6) is repealed and the following substituted:***

**Ballot papers, certification envelopes and other materials**

**87**

- (6) For the purpose of voting under section 106, alternative absentee voting packages must be prepared containing the following:

- (a) a write-in constituency ballot and a write-in party ballot;
- (b) a secrecy envelope;
- (c) a certification envelope;
- (d) an outer envelope on which is printed the address of the office of the election official to whom the envelopes are to be returned;
- (e) instructions on how to vote by alternative absentee voting.

**18. Section 89 is repealed and the following substituted:**

**Each individual may vote only once in an election**

**89**

An individual must not cast more than one constituency ballot and one party ballot in the same general election and not more than one constituency ballot in the same by-election.

**19. Section 91 is repealed and the following substituted:**

**How to mark a ballot**

**91**

- (1) In the case of an
  - (a) ordinary constituency ballot an individual votes by making a cross or a tick mark in the blank space opposite the name of the candidate for whom the individual wishes to vote; and
  - (b) ordinary party ballot an individual votes by making a cross or a tick mark in the blank space opposite the name of the registered political party for whom the individual wishes to vote.
- (2) In the case of a
  - (a) write-in constituency ballot, an individual votes by writing in the blank space provided on the ballot either
    - (i) the name of the candidate for whom the voter wishes to vote, or
    - (ii) the name of the registered political party of the candidate for whom the individual wishes to vote; and
  - (b) write-in party ballot, an individual votes by writing in the blank space provided on the ballot the name of the registered political party for which the individual wishes to vote.
- (3) When providing a ballot, an election official may explain the proper method for voting by ballot and must explain this if requested by a voter or an individual assisting a voter under section 109.

**20. Section 93 is repealed and the following substituted:**

**Individuals who may be present at voting proceedings**

**93**

- (1) Except as provided in this section, an individual must not be present at a voting place while voting proceedings are being conducted.
- (2) The following individuals may be present at a voting place while voting proceedings are being conducted:
  - (a) election officials authorized to be present at the voting place;
  - (b) individuals who are present at the voting place for the purpose of voting, individuals in the care of an individual attending to vote or individuals assisting in voting under section 109;
  - (c) individuals acting as translators under section 269 at the voting place;
  - (d) for each candidate,
    - (i) the official agent of the candidate,
    - (ii) one scrutineer at each voting station at the voting place,
    - (iii) one additional scrutineer at the voting place, and
    - (iv) candidate representatives temporarily present at the voting place for the purpose of conveying information to and from scrutineers, to a maximum number equal to the number of voting stations;

- (e) for each registered political party that has endorsed party candidates,
    - (i) one scrutineer at each voting station at the voting place,
    - (ii) one additional scrutineer at the voting place, and
    - (iii) party representatives temporarily present at the voting place for the purpose of conveying information to and from scrutineers, to a maximum number equal to the number of voting stations;
  - (f) other individuals permitted to be present at the voting place by the district electoral officer or an election official authorized by the district electoral officer.
- (3) Other than for the purpose of voting, a constituency candidate or party candidate must not be present while voting proceedings are being conducted.
  - (4) Other than an individual attending to vote, an individual in the care of an individual attending to vote or a peace officer assisting the voting officer under section 273, each individual present at a voting place while voting proceedings are being conducted and each candidate representative or party representative present at a special voting opportunity must make a solemn declaration to preserve the secrecy of the ballot in accordance with section 90.

**21. Section 96 is repealed and the following substituted:**

**General Voting**

**96**

- (1) For general voting in accordance with this section, an individual must attend to vote at the general voting opportunity established for the voting area in which the individual is resident.
- (2) In order to obtain ballots for general voting, the following requirements must be met:
  - (a) the individual voting must sign a written declaration that he or she is entitled to vote in the election;
  - (b) the individual voting must sign in the voting book opposite his or her name, residential address and voter number;
  - (c) if the individual is registering as a voter for the electoral district in conjunction with voting, the election official responsible must add the individual's name and residential address to the list of voters being used at the voting station;
  - (d) if the individual requires assistance to vote, the requirements of section 109 must also be met;
  - (e) if the individual is challenged under section 111, the individual must also meet the requirements of that section;
  - (f) if it appears that another individual has already voted using the individual's name, the individual must also meet the requirements of section 112.
- (3) Once the requirements referred to in subsection (2) have been met, the election official responsible must
  - (a) announce the name and voter number of the individual,
  - (b) mark the voter number of the individual
    - (i) on the stub and counterfoil of an ordinary constituency ballot and an ordinary party ballot, and
    - (ii) sequentially on a list prepared in accordance with the directions of the chief electoral officer,
  - (c) remove the stub from the ballots and their counterfoils,
  - (d) fold the ballots, and
  - (e) hand to the individual the folded ballots with their counterfoils still attached.
- (4) To vote after receiving the ballots, an individual must
  - (a) go directly to a voting screen provided,
  - (b) while the ballots are screened from observation, mark them in accordance with section 91,
  - (c) refold the ballots to conceal the names of the candidates, the parties and any marks made on the ballots by the individual,

- (d) directly return the folded ballots to the election official responsible who must, without opening the ballots, confirm from the attached counterfoils that the ballots are the ones that were given to the individual, and then remove and discard the counterfoils, and
- (e) at the voter's choice, either
  - (i) accept the ballots back and deposit them in the appropriate sealed ballot box while observed by the election official, or
  - (ii) observe the election official deposit the ballots in the appropriate sealed ballot box.

**22. Section 97 is repealed and the following substituted:**

**Advance Voting**

**97**

- (1) For advance voting in accordance with this section, an individual must attend to vote at a voting place established for advance voting for the electoral district for which the individual is a voter.
- (2) In order obtain ballots for advance voting, the following requirements must be met:
  - (a) the individual voting must obtain an advance voting certificate from the election official responsible at the voting place, which must be signed and dated by that election official and signed by the individual receiving the certificate;
  - (b) the individual must deliver the advance voting certificate to the election official responsible for issuing ballots;
  - (c) the individual must sign a written declaration that he or she is entitled to vote in the election;
  - (d) the name, residential address and advance voting certificate number of the individual must be recorded in the voting book and the individual must sign the voting book opposite this information;
  - (e) if applicable, the additional requirements referred to in section 96 (2) (d) to (f) must be met.
- (3) An advance voting certificate is only effective for the day it is issued.
- (4) Once the requirements referred to in subsection (2) have been met, the election official responsible must
  - (a) announce the name of the individual,
  - (b) mark the advance voting certificate number on the stub and counterfoil of a constituency ballot and a party ballot paper,
  - (c) remove the stub from the ballots and their counterfoils,
  - (d) fold the ballots,
  - (e) hand to the individual the folded ballots with their counterfoils still attached,
  - (f) if the ballots are write-in ballots, provide the individual, as appropriate, with a copy of
    - (i) the list of constituency candidates, indicating the names of the candidates for the electoral district for which the individual is a voter and, as applicable, the status of the candidates as representatives of specific registered political parties or as independent candidates, and
    - (ii) the list of registered political parties appearing on the party ballot.
  - (g) note on the advance voting certificate that it has been used to obtain ballots.
- (5) In order to vote after receiving their ballots, an individual must proceed in accordance with section 96 (4)
- (6) A copy of an advance voting certificate used to vote under this section must be forwarded to the district electoral officer, who must arrange for a note of the certificate to be made in the applicable voting book to be used for general voting against the name of the individual to whom it was issued.

**23. Section 98 is repealed and the following substituted:**

**Voting at a Special Voting Opportunity**

**98**

- (1) For voting at a special voting opportunity in accordance with this section, an individual must

- (a) attend to vote at the time and place where the voting opportunity is being conducted, and
  - (b) be entitled to vote at the special voting opportunity, if any restrictions referred to in section 77(2) on who may vote at the voting opportunity apply.
- (2) Unless the time for voting is extended under section 114 or the voting opportunity is adjourned under section 272, an individual may not vote under this section after the time set by section 75 (3) for the close of general voting for the election in which the individual is voting.
- (3) In order to obtain ballots at a special voting opportunity, the following requirements must be met:
- (a) the individual voting must sign a written declaration that he or she is entitled to vote in the election and, if restrictions referred to in subsection (1) (b) apply, that he or she is entitled to vote at the special voting opportunity;
  - (b) the name and residential address of the individual must be recorded in the voting book and the individual must sign the voting book opposite this information;
  - (c) except for an individual who is voting as a voter of a special voting area under section 80 (4) for which the voting opportunity is being conducted, the individual must sign the declaration printed on a certification envelope prepared for the purposes of this section;
  - (d) if applicable, the additional requirements referred to in section 96 (2) (d) to (f) must be met.
- (4) Once the requirements of subsection (3) have been met, unless other procedures have been established under section 77, the election official responsible must
- (a) announce the name of the individual,
  - (b) initial the stub and counterfoil of a constituency ballot and a party ballot paper,
  - (c) remove the stub from the ballots and their counterfoils,
  - (d) fold the ballots,
  - (e) hand to the individual the folded ballots with their counterfoils still attached, and
  - (f) if the ballots are write-in ballots, provide the individual, as appropriate, with a copy of
    - (i) the list of constituency candidates, indicating the names of the candidates for the electoral district for which the individual is a voter and, as applicable, the status of the candidates as representatives of specific registered political parties or as independent candidates, and
    - (ii) the list of registered political parties appearing on the party ballot.
- (5) In order to vote after receiving the ballots, unless other procedures have been established under section 77, an individual must proceed in accordance with section 96 (4) except that, if the individual is voting in an election for another electoral district than the one for which the voting opportunity is being held, the ballots must be dealt with in accordance with section 99 (4).

**24. Section 99 is repealed and the following substituted:**

**Absentee voting on general voting day in a different voting area**

**99**

- (1) For absentee voting in accordance with this section, an individual must attend to vote at a general voting opportunity for another voting area in the same electoral district as the voting area in which the individual is resident.
- (2) In order to vote, the following requirements must be met:
- (a) the individual voting must sign the declaration printed on a certification envelope prepared for this purpose;
  - (b) the name and residential address of the individual must be recorded in the voting book and the individual must sign the voting book opposite this information;
  - (c) if applicable, the additional requirements referred to in section 96 (2) (d) to (f) must be met.
- (3) Once the requirements of subsection (2) have been met, the election official responsible must
- (a) announce the name of the individual,
  - (b) initial the stub and counterfoil of the constituency ballot and party ballot papers,
  - (c) remove the stub from the ballots and their counterfoils,
  - (d) fold the ballots,

- (e) hand to the individual the folded ballots with their counterfoils still attached, and
- (4) In order to vote after receiving the ballots, an individual must proceed in accordance with section 96 except that, after removing the counterfoils and before the ballots are placed in a ballot box, the election official responsible must
  - (a) place the ballots in a secrecy envelope,
  - (b) place the secrecy envelope in the certification envelope under subsection (2) (a), and
  - (c) mark the certification envelope as having been used to vote under this section.

**25. Section 100 is repealed and the following substituted:**

**Absentee voting at general voting for a different electoral district**

**100**

- (1) For absentee voting in accordance with this section, an individual must attend to vote at a general voting opportunity for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting.
- (2) Unless the time for voting is extended under section 114 or the voting opportunity is adjourned under section 272, an individual may not vote under this section after the time set by section 75 (3) for the close of general voting for the election in which the individual is voting.
- (3) Section 99 (2) to (4) applies to voting under this section, except that
  - (a) the constituency ballot to be provided is a write-in ballot, and
  - (b) the election official responsible must also provide the individual with a copy of the list of constituency candidates, indicating the names of the constituency candidates for the electoral district for which the individual is a voter and, as applicable, the status of the candidates as representatives of specific registered political parties or as independent candidates.

**26. Section 101 is repealed and the following substituted:**

**Absentee voting at an advance voting opportunity for a different electoral district**

**101**

- (1) For absentee voting in accordance with this section, an individual must attend to vote at an advance voting opportunity for another electoral district for which an election is being conducted at the same time as the election in which the individual is voting.
- (2) Unless the time for voting is extended under section 114 or the voting opportunity is adjourned under section 272, an individual may not vote under this section after the time set by section 75 (3) for the close of general voting for the election in which the individual is voting.
- (3) Section 99 (2) to (4) applies to voting under this section, except that
  - (a) the constituency ballot to be provided is a write-in ballot, and
  - (b) the election official responsible must also provide the individual with a copy of the list of constituency candidates, indicating the names of the constituency candidates for the electoral district for which the individual is a voter and, as applicable, the status of the candidates as representatives of specific registered political parties or as independent candidates.

**27. Section 105 is repealed and the following substituted:**

**Obtaining an alternative absentee voting package**

**105**

- (1) To vote under this Division other than at the office of the district electoral officer under section 104, an individual must apply in accordance with this section to the district electoral officer of the electoral district for which the individual is a voter or of another electoral district for which an election is being conducted at the same time.
- (2) An application under subsection (1) may be made at any time up until 4 hours before the time set by section 75 (3) for the close of general voting for the election in which the individual is voting.

- (3) An individual must not apply for more than one alternative absentee voting package for an election.
- (4) An application under subsection (1) must include the following:
  - (a) the name and residential address of the individual;
  - (b) a statement of the circumstances under section 102 that qualify the individual to vote under this Division;
  - (c) an address at which the individual can be reached and to which the alternative absentee voting package is to be sent, if this is different from the residential address of the individual;
  - (d) if the application is made in the 10 days before general voting day and this is available, a telephone number at which the individual can be contacted.
- (5) The election official responsible must mail or otherwise provide an alternative absentee voting package prepared under section 87 (6) to an applicant if satisfied that the applicant
  - (a) is a voter for the electoral district for which the individual is applying to vote or is entitled to register as such, and
  - (b) comes within at least one of the circumstances referred to in section 102.
- (6) If an application under this section is made in the last 10 days before general voting day for the election in which the individual is voting, the individual requesting the package is responsible for arranging its delivery to the individual under subsection (5) unless the district electoral officer agrees otherwise.
- (7) Before sending out an alternative absentee voting package, the election official responsible must
  - (a) remove the stubs and counterfoils from the ballot papers and retain the counterfoils until the envelope is returned,
  - (b) record on the certification envelope
    - (i) the name of the applicant, and
    - (ii) the counterfoil numbers, and
  - (c) record in the voting book
    - (i) the information referred to in paragraph (b),
    - (ii) the residential address of the applicant, and
    - (iii) if this is different from the residential address, the delivery address for the applicant.
- (8) The election official responsible may include and, if requested by the individual to whom the alternative absentee voting package is being provided, must include with an alternative absentee voting package an application for registration as a voter or for updating voter registration information and instructions on how to complete the application.

**28. Section 106 is repealed and the following substituted:**

**Voting using an alternative absentee voting package**

**106**

- (1) In order to vote using an alternative absentee voting package, an individual must do the following:
  - (a) mark the ballots in accordance with section 91;
  - (b) place the ballots in the secrecy envelope provided and seal this secrecy envelope;
  - (c) place the secrecy envelope in the certification envelope and seal this envelope;
  - (d) complete the certification envelope with the required information and, in the presence of a witness, sign the declaration printed on it for this purpose;
  - (e) have the certification envelope signed by the witness to the signing of the declaration under paragraph (d);
  - (f) place the certification envelope in the outer envelope provided;
  - (g) if the individual is registering as a voter in conjunction with voting or updating voter registration information, enclose in the outer envelope the application form and documents required by section 41 (2) and (3) or copies permitted by subsection (2) of this section;
  - (h) seal the outer envelope;

- (i) forward the sealed outer envelope containing the materials referred to in the previous paragraphs to the election official address printed on it, so that it is received before the time set by section 75 (3) for the close of general voting for the election.
- (2) For the purposes of satisfying the requirements referred to in subsection (1) (g), an individual may enclose copies rather than originals of documents with the application for registration or for updating voter registration information.

**29. Section 107 is repealed and the following substituted:**

**Receipt of alternative absentee voting packages**

**107**

- (1) An envelope that is received as required by section 106 (1) (i) before the time set by section 75 (3) for the close of general voting must be dealt with by the election official responsible as follows:
  - (a) immediately on receipt, the election official must open the outer envelope and record the date of receipt on the certification envelope and in the voting book opposite the information recorded under section 105 (7) (c);
  - (b) if, on the basis of an included application for registration, the election official is satisfied that the individual is entitled to be registered as a voter, the election official must accept the application for registration and proceed in accordance with the following paragraphs;
  - (c) if satisfied that the counterfoil numbers recorded on the certification envelope correspond to the numbers recorded for that individual in the voting book, the election official must discard the counterfoils, initial the certification envelope and place it in the ballot box;
  - (d) if the election official is not satisfied as referred to in paragraph (b) or (c), the election official must note this on the certification envelope and in the voting book and must place the envelope in the ballot box.
- (2) An envelope that is received under section 106 (1) (i) after the time set by section 75 (3) for the close of general voting must be dealt with by the election official responsible as follows:
  - (a) on receipt, the election official must open the outer envelope and record the date and time of receipt on the certification envelope and in the voting book opposite the information recorded under section 105 (7) (c);
  - (b) the election official must forward any enclosed application for registration as a voter or updating voter registration information to the applicable district registrar of voters to be dealt with as if it were received as part of general registration;
  - (c) the certification envelope must remain unopened and must not be considered in the initial count, the final count or any judicial recount for the election.

**30. Section 109 is repealed and the following substituted:**

**Individuals needing assistance to mark their ballots**

**109**

- (1) This section applies to voters who are unable to mark ballots because of physical disability or difficulties with reading or writing.
- (2) A voter referred to in subsection (1) may be assisted in voting by an election official or by an individual accompanying the voter.
- (3) An individual other than an election official must not act under this section to assist more than one voter in an election to mark ballots under this section.
- (4) As an exception to subsection (3), a voting officer may permit an individual to assist more than one member of the individual's family.
- (5) In order to receive ballots to be marked under this section, the following requirements must be met:
  - (a) if the individual assisting is not an election official, the individual must make a solemn declaration that he or she



- (i) will preserve the secrecy of the ballots in accordance with section 90,
- (ii) will mark the ballots in accordance with the wishes of the voter,
- (iii) will refrain from attempting in any manner to influence the voter as to how the voter should vote, and
- (iv) has not, except as permitted under subsection (4), assisted another individual under this section in the election;
- (b) if assistance is needed because the voter needs a translator to be able to read the ballots and the instructions for voting, the individual assisting must make a solemn declaration in accordance with section 269 (4).
- (6) The individual assisting must accompany the voter to the voting screen or other place to be used for voting and mark the ballots in accordance with the directions of the voter.
- (7) Candidates, candidate representatives and party representatives must not assist in marking ballots.
- (8) An individual does not vote by assisting under this section.

**31. Section 110 is repealed and the following substituted:**

**Individuals unable to enter a voting place**

**110**

- (1) This section applies to voters who come to a voting place to vote but who are unable to enter the voting place because of physical disability or impaired mobility.
- (2) A voter referred to in subsection (1) may request to vote at the nearest location to the voting place to which the voter has access.
- (3) If a request is made, the election official responsible must attend the voter at the nearest location to the voting place for the purpose of allowing the voter to meet the applicable requirements to obtain ballots.
- (4) The election official responsible must ensure that the voter's marked ballots are placed in the appropriate ballot box, taking whatever steps the official considers necessary to maintain the secrecy of the ballots.
- (5) The election official responsible may temporarily suspend voting proceedings in order to allow a voter to vote under this section.
- (6) Separate ballot boxes may be used for the purposes of this section.

**32. Section 111 is repealed and the following substituted:**

**Challenge of a voter**

**111**

- (1) An individual's right to vote at a voting opportunity or by alternative absentee voting under section 104 may be challenged in accordance with this section at any time during the procedures to obtain a ballot up until the time the individual receives the ballot.
- (2) A challenge may be made
  - (c) only by an election official, a candidate representative, a party representative or a voter for the electoral district, and
  - (d) only on the basis that the individual proposing to vote is not entitled to vote.
- (3) In order to receive a ballot, an individual whose right to vote has been challenged must either
  - (a) provide evidence satisfactory to the election official responsible that the individual is entitled to vote, or
  - (b) make a solemn declaration before the election official responsible as to the individual's entitlement to vote.
- (4) The solemn declaration required by subsection (3) (b) must state that the individual
  - (a) meets all the qualifications to be registered as a voter and is either registered as a voter of that electoral district or is applying to register in conjunction with voting,

- (b) is entitled to vote in the election,
  - (c) is in fact the individual under whose name the individual is registered or registering as a voter,
  - (d) has not contravened section 255, and
  - (e) has not voted before in the same election and will not vote again in the same election.
- (5) In relation to a challenge under this section, the election official responsible must record in the voting book
- (a) that the individual was challenged,
  - (b) the name of the individual who made the challenge, and
  - (c) whether and how the individual challenged satisfied the requirement of subsection (3).

**33. Section 119 is repealed and the following substituted:**

**Who must and may be present at the initial count**

**119**

- (1) At the initial count, for each ballot box for which the count is being separately conducted,
  - (a) the voting officer responsible and at least one other election official must be present,
  - (b) candidates in the election are entitled to be present,
  - (c) each candidate is entitled to have one candidate representative present, and
  - (d) each political party that has endorsed party candidates is entitled to have one party representative present.
- (2) Individuals other than those permitted by subsection (1) and other than election officials taking part in the counting may not be present during the initial count unless permitted by the district electoral officer or an election official authorized by the district electoral officer.

**34. Section 121 is repealed and the following substituted:**

**Ballot account for initial count**

**121**

- (1) For each ballot box, the voting officer must prepare in duplicate a ballot account with the following information:
  - (a) the election for which it is prepared;
  - (b) the voting opportunity for which the ballot box was used;
  - (c) the number of ordinary constituency ballots, the number of ordinary party ballots, the number of write-in constituency ballots and the number of write-in party ballots provided to the voting officer for that voting opportunity;
  - (d) the number of ordinary constituency ballots, the number of ordinary party ballots, the number of write-in constituency ballots and the number of write-in party ballots that remain unused;
  - (e) the number of ordinary constituency ballots, the number of ordinary party ballots, the number of write-in constituency ballots and the number of write-in party ballots that were marked as spoiled and replaced under section 113;
  - (f) the number of ordinary constituency ballots, the number of ordinary party ballots, the number of write-in constituency ballots and the number of write-in party ballots that were used in certification envelopes according to the records for the voting opportunity.
- (2) After the counting under section 120 (1) (d) is complete, the voting officer must record on each duplicate ballot account
  - (a) the number of votes accepted for each constituency candidate,
  - (b) the number of votes accepted for each registered political party
  - (c) the number of constituency ballots rejected, and
  - (d) the number of party ballots rejected.
- (3) After the information is recorded under subsection (2), the duplicate ballot accounts must be signed by the voting officer and may be signed by any other individual present at the initial count who wishes to do so.

- (4) One completed ballot account must be placed in the ballot box in accordance with section 126 and the other duplicate must be separately packaged and personally delivered to the district electoral officer or sent to the district electoral officer in the manner directed by the district electoral officer.
- (5) The voting officer must provide a signed copy of the ballot account to each candidate, candidate representative or party representative present who requests it.

**35. Section 122 is repealed and the following substituted:**

**Consideration of ballots**

**122**

- (1) Each ballot to be considered on the initial count must be dealt with as follows:
  - (a) the voting officer must unfold the ballot
  - (b) if the counterfoil of the ballot is attached, the voting officer must remove and discard the counterfoil, without examining the number on it and with care to conceal the number from other individuals present;
  - (c) if the ballot is a constituency ballot, the officer must consider in accordance with section 123 whether the constituency ballot is to be accepted as a vote or whether it is to be rejected and after making the consideration, the voting officer must call out in a distinct voice, as applicable,
    - (i) the name of the candidate for whom the candidate vote is recorded, if the constituency ballot is accepted as a vote, or
    - (ii) that the constituency ballot is rejected.
  - (d) the voting officer must consider in accordance with section 123 whether the party ballot is to be accepted as a vote or whether it is to be rejected and after making the consideration, the voting officer must call out in a distinct voice, as applicable,
    - (i) the name of the party for whom the party vote is recorded, if the party ballot is accepted as a vote, or
    - (ii) that the party ballot is rejected
  - (e) The voting officer must place the ballot in such a manner that any candidates, candidate representatives, and party representatives present are able to see how the ballot is marked.
- (2) The voting officer must record or have another election official record the vote for each candidate and each party as they are counted.
- (3) Once started, the counting must proceed as continuously as practical.

**36. Section 123 is repealed and the following substituted:**

**Rules for accepting and rejecting ballots**

**123**

- (1) A ballot must be rejected if any of the following applies:
  - (a) the ballot physically differs from the ballots officially provided for the voting proceedings for which the counting is being conducted;
  - (b) there is no mark referred to in subsection (2) or (3) on it;
  - (c) the ballot is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, other than is necessary for the purposes of voting by write-in ballot;
  - (d) the constituency ballot is marked as voting for more than one candidate or the party ballot is marked as voting for more than one party;
  - (e) the constituency ballot does not clearly indicate the intention of the voter to vote for a candidate or the party ballot does not clearly indicate the intent of the voter to vote for a party;
  - (f) the constituency ballot is a write-in ballot marked for a registered political party that is not represented by a candidate in that electoral district in the election, or the party ballot is a write-

- in ballot marked for a registered political party that is not represented by a party candidate in the election;
- (g) the constituency ballot is a write-in ballot marked for both a candidate and a registered political party, but the candidate is not a representative of that political party.
  - (h) the party ballot is a write-in ballot and not marked with the name of a political party that has endorsed party candidates.
- (2) Unless rejected under subsection (1), any of the following marks on an ordinary ballot is to be accepted and counted as a vote for the applicable candidate:
- (a) a cross in or partly in the blank space provided on the ballot opposite the name of the candidate or party;
  - (b) a tick mark that is placed in the location referred to in paragraph (a);
  - (c) a mark other than one referred to in paragraph (a) or (b) that
    - (i) is placed in the location referred to in paragraph (a), and
    - (ii) clearly indicates the intention of the voter to vote for the candidate or party.
- (3) Unless rejected under subsection (1), any of the following marks on a write-in ballot is to be accepted and counted as a vote for the applicable candidate or party:
- (a) the name of the candidate marked on the constituency ballot in accordance with section 91 (2);
  - (b) the name of the registered political party represented by the candidate marked on the constituency ballot in accordance with section 91 (2);
  - (c) the name of the registered political party marked on the party ballot in accordance with section 91 (2);
  - (d) an indication of either the name of the candidate or the registered political party represented by the candidate that, although misspelled or abbreviated, clearly indicates the intention of the voter.

**37. Section 124 is repealed and the following substituted:**

**Objections to the acceptance of a vote or the rejection of a ballot**

**124**

- (1) A candidate, candidate representative, or a party representative may object to the acceptance of a vote or the rejection of a ballot
- (2) An objection must be made at the time the ballot is considered by the voting officer under section 122.
- (3) The decision of the voting officer regarding the acceptance of a vote or the rejection of a ballot may not be challenged except as provided in this section and the decision may only be changed by the district electoral officer under section 136 on the final count or on a judicial recount under Division 3 of this Part.
- (4) If a ballot is subject to an objection, the voting officer must
  - (a) record the objection on the form established by the chief electoral officer, numbering each objection with a sequential number, and
  - (b) mark the assigned number on the back of the ballot and initial this number.

**38. Section 125 is repealed and the following substituted:**

**Preliminary election results**

**125**

- (1) After the ballot account is completed under section 121 (3), the voting officer must report to the district electoral officer,
  - (a) the number of votes accepted for each candidate and the number of rejected constituency ballots, and
  - (b) the number of votes accepted for each party and the number of rejected party ballots.
- (2) On the basis of the reports received under subsection (1), the district electoral officer may make public preliminary results for the election.

**39. Section 126 is repealed and the following substituted:**

**Packaging and delivery of election materials to district electoral officer**

**126**

- (1) After the ballot account is completed, the voting officer must separately package each of the following:
  - (a) constituency ballots
    - (i) accepted as votes separated for each candidate,
    - (ii) rejected ballots; and
    - (iii) ballots that were marked as spoiled and replaced under section 113;
  - (b) party ballots
    - (i) accepted as votes separated for each party,
    - (ii) rejected ballots; and
    - (iii) ballots that were marked as spoiled and replaced under section 113;
  - (c) unused ballots and the stubs of used ballots;
  - (d) the unopened certification envelopes separated under section 120;
  - (e) any applications for registration as a voter or updating voter registration information.
- (2) Each package under subsection (1) must be sealed by the voting officer and marked to indicate its contents.
- (3) The voting officer must place the marked packages in the ballot box together with the following:
  - (a) a completed ballot account;
  - (b) the voting book used at the voting opportunity;
  - (c) any marked list of voters used at the voting opportunity;
  - (d) if applicable, the advance voting certificates used to obtain a ballot; and
  - (e) any other materials directed by the chief electoral officer to be included.
- (4) The ballot box must then be sealed in accordance with section 95 and delivered to the district electoral officer in the manner directed by the district electoral officer.

**40. Section 130 is repealed and the following substituted:**

**Who must and may be present at the final count and preparations**

**130**

- (1) At the final count and preparations under section 131,
  - (a) the district electoral officer and at least one other election official must be present,
  - (b) candidates are entitled to be present,
  - (c) each candidate is entitled to have one candidate representative present,
  - (d) each party that has endorsed party candidates is entitled to have one party representative present, and
  - (e) if ballots have been divided for the purpose of having different election officials counting them at the same time during the final count, each candidate is entitled to have one additional candidate representative present for each set of ballots that is being counted.
- (2) Individuals other than election officials and those permitted to be present under subsection (1) may not be present during the final count or the preparations unless permitted by the district electoral officer.

**41. Section 133 is repealed and the following substituted:**

**Ballot account for final count**

**133**

- (1) For each class of certification envelopes, the district electoral officer must prepare in duplicate a ballot account with the following information:
  - (a) the election for which it is prepared;

- (b) the class of certification envelopes for which it is prepared;
  - (c) the number of certification envelopes considered;
  - (d) the number of certification envelopes to remain unopened under section 134.
- (2) After the ballots in a class of certification envelopes have been dealt with under section 135, the district electoral officer must complete the ballot account with the following information:
    - (a) the number of votes accepted for each candidate;
    - (b) the number of constituency ballots rejected
    - (c) the number of votes accepted for each party
    - (d) the number of party ballots rejected
    - (e) the number of secrecy envelopes that remain unopened or were resealed under section 135.
  - (3) After the information is recorded under subsection (2), the duplicate ballot accounts must be signed by the district electoral officer and may be signed by any other individual present at the final count who wishes to do so.
  - (4) The district electoral officer must provide a signed copy of a ballot account or ballot accounts summary to each candidate, candidate representative or party representative present who requests it.

**42. Section 135 is repealed and the following substituted:**

**Consideration of ballots from certification envelopes**

**135**

- (1) After the ballot account for a class of certification envelopes is prepared, the certification envelopes other than those referred to in section 134 must be opened one at a time and dealt with as follows:
  - (a) if a certification envelope contains more than one secrecy envelope,
    - (i) the secrecy envelopes must be marked as being required to remain unopened under this provision and must be resealed in the certification envelope,
    - (ii) the certification envelope must be marked as having been dealt with under this provision, and
    - (iii) the certification envelope must not be reopened and the secrecy envelopes must remain unopened and any ballots in them must not be considered on the final count;
  - (b) if a certification envelope contains a constituency ballot and a party ballot but no secrecy envelope, the election official responsible must place the ballots in the ballot box to be used for the final count, with care to conceal any marking on the ballot from other individuals present;
  - (c) if a secrecy envelope is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, the election official responsible must open the envelope, remove the ballots and place them in the ballot box to be used for the final count, with care to conceal any marking on the envelope and ballots from other individuals present;
  - (d) if not otherwise dealt with under this subsection, a secrecy envelope is to be removed from its certification envelope for opening under subsection (2).
- (2) The remaining secrecy envelopes referred to in subsection (1) (d) are to be opened one at a time and dealt with as follows:
  - (a) if a secrecy envelope contains more than one constituency ballot and one party ballot,
    - (i) the ballots must be resealed in the secrecy envelope,
    - (ii) the secrecy envelope must be marked as having been dealt with under this provision, and
    - (iii) the secrecy envelope must not be reopened and the ballots in it must not be considered on the final count;
  - (b) if a secrecy envelope contains no more than one constituency ballot and one party ballot, the ballots must be placed in the ballot box to be used for the final count;
  - (c) after all ballots to be considered have been placed in the ballot box, the contents of the ballot box must be mixed to ensure secrecy of the ballot.

- (3) After the ballot box has been prepared in accordance with subsections (1) and (2), the final count of the ballots in it is to be completed by
  - (a) considering the ballots one at a time in accordance with sections 122 to 124, and
  - (b) completing the ballot account in accordance with section 133 (2).

**43. Section 137 is repealed and the following substituted:**

**Regulations for allocating party seats**

**137A**

- (1) The total number of seats in the Legislative Assembly will be twice the number of electoral districts, with half of the seats going to constituency candidates and half of the seats going to party candidates (“party seats”).
- (2) In order to be eligible for party seats, a party must receive at least five percent of the total valid votes on party ballots in a general election or elect at least one constituency representative.
- (3) The Chief Electoral Officer will use the following procedure to ensure that the proportion of members of the entire Legislative Assembly affiliated with a particular political party resembles as closely as possible the proportion of total valid votes cast for that party on party ballots:
  - (a) Determine the “Eligible Support” for each party by calculating the number of votes cast for the party in the party ballot, and dividing by the total number of votes cast for parties eligible for party seats.
  - (b) Determine the “Optimum Number of Seats” for each party by multiplying the Eligible Support of the party by the total number of seats in the Legislative Assembly.
  - (c) Determine the “Eligible Parties” by excluding from the list of parties on the party ballot any party that is not eligible for party seats, and any party that has elected a number of constituency candidates greater than or equal to the Optimum Number of Seats for that party.
  - (d) Allocate the party seats among the Eligible Parties in a manner that ensures that the ratio of [total final seats divided by Optimum Number of Seats] for each Eligible Party is the same or such that the difference between the highest ratio and lowest ratio is minimized.
- (4) Once the number of party seats to be allocated to each party has been determined under subsection (3), the Chief Electoral Officer will offer those seats to the party candidates on the party list of each Eligible Party, after that party list is adjusted to reflect the removal of:
  - (a) party candidates elected as constituency candidates in the election, and
  - (b) party candidates who are no longer eligible to be members in the Legislative Assembly,such that the first seat will be offered to the party candidate named first in priority on the party list, and subsequent seats shall be offered to party candidates as they appear in descending priority on the party list.
- (5) The Chief Electoral Officer must make regulations setting out the rules and thresholds governing recounts of party ballots, including judicial recounts under Division 3.

**Declaration of Final Results**

**137B**

- (1) At the conclusion of the final count, the district electoral officer must declare the official constituency ballot and official party ballot election results as follows:
  - (a) the results of the final count of constituency ballots, as determined under section 132;
  - (b) the election of the candidate who received the most votes;
  - (c) if no candidate can be declared elected because there is an equality of votes for 2 or more candidates, or if the difference between the votes received by the candidate declared elected and the candidate with the next highest number of votes is less than 1/500 of the total ballots considered, that the results of the election are subject to a required judicial recount under section 139 (5).
  - (d) the results of the final count of party ballots, as determined under section 132, and forward these results to the chief electoral officer

- (2) After receiving the results of the party ballots from the district electoral officers, the chief electoral officer shall declare which party candidates have been elected to the Legislative Assembly.
- (3) The results and election as declared under subsections (1) and (2) are final subject only to a judicial recount under Division 3 of this Part or a declaration under Part 8.

**44. Sections 183, 186, 193, 198, 199, and 204 are repealed and the following substituted:**

**Election expenses**

**183**

- (1) Subject to this Division, an election expense is the value of property or services used during a campaign period by or on behalf of a candidate, registered constituency association or registered political party
  - (a) to promote or oppose, directly or indirectly, the election of a candidate, or
  - (b) to promote or oppose, directly or indirectly, a registered political party.
- (2) For certainty, an election expense includes such an expense incurred by an individual who becomes a candidate before that individual in fact became a candidate under Part 5.
- (3) A deficit incurred in holding a fundraising function during a campaign period is an election expense.
- (4) The following election expenses incurred by a candidate, if they are reasonable, are personal election expenses of the candidate:
  - (a) payments for care of a child or other family member for whom the candidate is normally directly responsible;
  - (b) the cost of travelling to or within the electoral district;
  - (c) the cost of lodging, meals and incidental charges while travelling to or within the electoral district;
  - (d) the cost of renting a temporary residence if it is necessary for the election;
  - (e) election expenses incurred as a result of any disability of the candidate, including the cost of any individual required to assist the candidate in performing the functions necessary for seeking election;
  - (f) any other election expenses specified by regulation.
- (5) If, during a campaign period, a
  - (a) constituency candidate for a registered political party incurs nomination contestant expenses that in total exceed 10% of the constituency candidate's election expenses limit under section 198, the excess is deemed to be election expenses of the constituency candidate.
  - (b) party candidate for a registered political party incurs personal election expenses or nomination contestant expenses that in total exceed 10% of the average expense limit for constituency candidates under section 198, the excess is deemed to be election expenses of the political party.
- (6) For the purposes of subsection (5), the personal contestant expenses of the candidate are not to be included as contestant expenses.
- (7) Election expenses incurred by the leader of a registered political party, other than those election expenses directly related to that individual as a candidate in an electoral district, are election expenses of the registered political party.
- (8) The value of the following is not an election expense:
  - (a) services and property referred to in section 180 (5);
  - (b) services provided by a candidate in relation to that individual's candidacy and goods produced by a candidate in relation to that individual's candidacy from the property of the candidate;
  - (c) goods produced by an individual as a volunteer from the property of the individual.

**Restrictions on making political contributions**

**186**



- (1) An individual or organization must not do any of the following:
  - (a) make a political contribution to an organization or individual required to have a financial agent except by making it to the financial agent or an individual authorized in writing by the financial agent;
  - (b) make a political contribution without disclosing to the individual required to record the contribution under section 190 the information that the individual is required to record;
  - (c) make a political contribution of money in an amount greater than \$100, or a higher amount established by regulation, except by means of
    - (i) a cheque with the name of the contributor legibly shown on it and drawn on an account in the contributor's name maintained in a savings institution,
    - (ii) a money order with the name of the contributor legibly shown on it and signed by the contributor, or
    - (iii) a credit card in the name of the contributor, evidenced by an authorization for the payment with the name of the contributor legibly shown on it and signed by the contributor;
  - (d) make a political contribution with the money, other property or services of another;
  - (e) make a political contribution indirectly by giving money, other property or services to an individual or organization
    - (i) for that individual or organization to make as a political contribution, or
    - (ii) as consideration for that individual or organization making a political contribution;
  - (f) make an anonymous political contribution unless the contribution
    - (i) is provided in response to a general solicitation for funds at a function held on behalf of or in relation to the affairs of the organization or individual to whom the contribution is provided, and
    - (ii) has a value of less than \$50 or a higher amount established by regulation.
- (2) As exceptions to subsection (1) (d) and (e),
  - (a) an individual or organization may make a political contribution indirectly by providing compensation to an individual who provides services that are a political contribution, in which case the individual or organization providing the compensation is the contributor for the purposes of this Act, and
  - (b) an individual may make a political contribution with the money of another individual, but must disclose to the individual required to record the contribution under section 190 the full name and address of the individual whose money is being used.
- (3) An unregistered political party or unregistered constituency association must not make a political contribution.
- (4) All contributions made to support the election of a party candidate must be made to the financial agent of the political party that endorsed that candidate, and must be reported by the political party as a contribution.

### **Restrictions on who may incur election and contestant expenses**

#### **193**

- (1) An organization or individual who is not authorized by this section must not incur an election expense or a leadership contestant expense.
- (2) A registered political party or registered constituency association must not incur an election expense except through its financial agent or an individual authorized in writing by the financial agent.
- (3) A constituency candidate must not incur an election expense, and a leadership contestant must not incur a contestant expense, except through his or her financial agent or an individual authorized in writing by the financial agent.
- (4) A party candidate must not incur an election expense unless it is a personal election expense as defined in section 183.
- (5) An individual must not pay an election expense or a leadership contestant expense unless
  - (a) the payment is made out of the property of the organization or individual for whom it is incurred, and

- (b) the individual paying the expense is the financial agent or an individual authorized in writing by the financial agent.
- (6) As an exception, subsections (3) and (5)(b) do not apply to personal election expenses and personal contestant expenses.

### **Expense Limits**

#### **198**

- (1) The Chief Electoral Officer must make spending regulations setting out limits to the total value of election expenses incurred during a campaign period by constituency candidates in each electoral district.
  - (a) The spending regulations for constituency candidates must be based upon a standard formula in which spending limits increase with the number of registered voters and area of the electoral district.
  - (b) The sum of the spending limits for all the electoral districts calculated using the formula in subsection (1)(a), before adjustment, must not exceed the total sum of the spending limits for all the electoral districts during the 2001 provincial general election.
- (2) The Chief Electoral Officer must make spending regulations setting out limits to the total value of election expenses incurred during a campaign period by a registered political party.
  - (a) The spending regulations for registered political parties must be based upon a standard formula in which spending limits increase with the number of constituency candidates and the number of party candidates that are eligible to be elected on behalf of the party.
  - (b) The maximum spending limit for a registered political party under the formula in subsection (2)(a), before adjustment, must not exceed the maximum spending limit for a registered political party during the 2001 provincial general election.
- (3) The limits determined in accordance with subsections (1)(b) and (2)(b) must be adjusted to reflect changes in the consumer price index and the number of registered voters of British Columbia since the 2001 provincial general election.
- (4) If a campaign period is extended under section 65 (2) as a result of the death of a constituency candidate, the election expenses limit set out in the spending regulations
  - (a) apply to a constituency candidate who is nominated after the date the new election proceedings are started, and
  - (b) is increased to 150% of that limit for a constituency candidate who was nominated before the new election proceedings were started.

#### **45. Section 201 is repealed and the following substituted:**

### **Political party expenses on behalf of constituency candidate**

#### **201**

- (1) If a registered political party incurs an election expense for the primary purpose of promoting the election of a particular constituency candidate, regardless of whether the constituency candidate is also a party candidate the election expense is deemed to be an election expense incurred on behalf of the constituency candidate.
- (2) Subsection (1) does not apply to an election expense incurred for the primary purpose of promoting the election of the leader of a registered political party or a party candidate that is not also a constituency candidate.
- (3) Within 60 days after general voting day, the financial agent of a registered political party that incurs an election expense to which subsection (1) applies must deliver to the financial agent of the candidate a report of that election expense.
- (4) An election expense to which subsection (1) applies must be included in the election expenses of the candidate on whose behalf it is deemed to have been incurred.

**Political party expenses on behalf of party candidate**

**201A**

All election expenses incurred during a campaign period by a registered political party for the primary purpose of promoting a particular party candidate who is not also a constituency candidate must

- (a) be accounted for as an election expense of the political party
- (b) be specifically identified in all party election financing reports submitted under Part 10, and
- (c) not exceed, in total, the average expense limit for a constituency candidate as determined by the chief electoral officer.

**46. Section 208 is repealed and the following substituted:**

**Personal expenses reports by candidates and leadership contestants**

**208**

- (1) A constituency candidate who is not acting as his or her own financial agent must, within 60 days after general voting day, provide to the financial agent a report of the candidate's personal election expenses and, if applicable, personal contestant expenses.
- (2) A leadership contestant who is not acting as his or her own financial agent, must, within 60 days after a leader is selected for the political party, provide to the financial agent a report of his or her personal contestant expenses.
- (3) A party candidate must, within 60 days after general voting day, provide to the financial agent of their party a report of the party candidate's personal election expenses and, if applicable, personal contestant expenses.
- (4) A report under this section must set out the details of the personal election expenses or personal contestant expenses incurred by the individual for whom it is prepared and must be in the form prescribed by regulation.
- (5) If an individual required to provide a report under this section dies before the report is provided, the financial agent must make every reasonable effort to prepare the required financing report on behalf of the individual.

**47. Section 210 is repealed and the following substituted:**

**Election financing reports by registered political parties and constituency associations**

**210**

- (1) Within 90 days after general voting day for an election, the financial agent of
  - (a) a registered political party that was represented by a candidate in the election,
  - (b) a registered constituency association that is the local organization for the electoral district of a registered political party referred to in paragraph (a), or
  - (c) a registered constituency association for an independent candidate in the electionmust file with the chief electoral officer, on behalf of the organization, an election financing report in accordance with this section.
- (2) The election financing report must be in the form prescribed by regulation and must include the following information:
  - (a) in the case of a report for a registered political party, the election expenses of the political party, showing separately those election expenses that are not included for the purposes of determining whether the political party exceeded the applicable election expenses limit;
  - (b) the political contributions accepted by the organization between December 31 of the previous year and the end of the campaign period;
  - (c) the total amount of all tax receipts issued for contributions received between December 31 of the previous year and the end of the campaign period;
  - (d) any transfers of money, as referred to in section 180 (6), made or received by the organization between December 31 of the previous year and the end of the campaign period;

- (e) any loans or guarantees received by the organization for election expenses and any conditions attached to them, including for loans referred to in section 181 (2) the information recorded under section 190 (4) other than the address of an individual;
  - (f) for fundraising functions held by or on behalf of the organization between December 31 of the previous year and the end of the campaign period, the information recorded under section 190 (5);
  - (g) any political contributions received by the organization between December 31 of the previous year and the end of the campaign period, but returned or otherwise dealt with in accordance with section 189;
  - (h) any election expenses incurred by the party for the primary purpose of promoting a party candidate who is not also a constituency candidate; and
  - (i) any other information required by regulation.
- (3) If applicable, election expenses must be reported by class as prescribed by regulation.
- (4) If a by-election is cancelled because a general election is called, a report under this section respecting the cancelled election must be filed but, as an exception to subsection (1) in the case of a political party or constituency association that is required to file reports for both elections, those reports are not required to be filed until the time for filing the report in relation to the general election.

**48. Section 218 is repealed and the following substituted:**

**Political party that incurs election expenses over limit  
218**

- (1) Unless relief is granted by a court under section 219, a registered political party whose election expenses exceed the applicable election expenses limit is subject to the following penalties:
  - (a) the chief electoral officer must suspend the registration of the political party for a period of 6 months from the date of the suspension as recorded under section 169;
  - (b) the registered political party must pay to the chief electoral officer a penalty of double the amount by which the election expenses exceed the limit.
- (2) The chief electoral officer must give the registered political party notice of the period of a suspension under subsection (1) (a).
- (3) If the election expenses in relation to a specific party candidate exceed the applicable election expenses limit, in the case of a party candidate who is declared elected as a party member of the Legislative Assembly, at the applicable time under subsection (4) the member ceases to hold office and the seat of the member becomes vacant.
- (4) A member referred to in subsection (3) ceases to hold office and the seat of the member becomes vacant as follows:
  - (a) if no application under section 219 is made in respect of the member, at the end of the period for making such an application;
  - (b) if, on the final determination of an application under section 219, the court refuses to grant relief, at the time of that determination.

**49. Section 255 is repealed and the following substituted:**

**Vote buying  
255**

- (1) An individual or organization must not pay, give, lend or procure inducement for any of the following purposes:
  - (a) to induce an individual to vote or refrain from voting;
  - (b) to induce an individual to vote or refrain from voting for or against a particular candidate, a candidate for a particular political party, or a particular political party;

- (c) to reward an individual for having voted or refrained from voting as described in paragraph (a) or (b).
- (2) An individual must not accept inducement
  - (a) to vote or refrain from voting,
  - (b) to vote or refrain from voting for or against a particular candidate, a candidate for a particular political party, or a particular political party, or
  - (c) as a reward for having voted or refrained from voting as described in paragraph (a) or (b).
- (3) An individual or organization must not advance, pay or otherwise provide inducement, or cause inducement to be provided, knowing or with the intent that it is to be used for any of the acts prohibited by this section.
- (4) An individual or organization must not offer, agree or promise to do anything otherwise prohibited by this section.
- (5) An individual or organization prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.
- (6) During a campaign period, a candidate must not make a special contribution or special donation for any purpose, other than a political contribution, and an individual or organization must not solicit such a contribution or donation from a constituency candidate or party candidate.
- (7) An individual or organization who contravenes this section commits an offence and is liable to one or more of the following penalties:
  - (a) a fine of not more than \$10 000;
  - (b) imprisonment for a term not longer than 2 years;
  - (c) a prohibition for a period of not longer than 7 years from holding office as a member of the Legislative Assembly;
  - (d) a prohibition for a period of not longer than 7 years from voting in an election for a member of the Legislative Assembly.

***50. Section 256 is repealed and the following substituted:***

**Intimidation**

**256**

- (1) An individual or organization must not intimidate an individual for any of the following purposes:
  - (a) to persuade or compel an individual to vote or refrain from voting;
  - (b) to persuade or compel an individual to vote or refrain from voting for or against a particular candidate, a candidate for a particular political party, or a particular political party;
  - (c) to punish an individual for having voted or refrained from voting as described in paragraph (a) or (b).
- (2) An individual or organization must not, by abduction, duress or fraudulent means, do any of the following:
  - (a) impede, prevent or otherwise interfere with an individual's right to vote;
  - (b) compel, persuade or otherwise cause an individual to vote or refrain from voting;
  - (c) compel, persuade or otherwise cause an individual to vote or refrain from voting for a particular candidate, for a candidate of a particular political party, or for a particular political party.
- (3) An individual or organization prohibited from doing something by this section must not do the prohibited act directly, indirectly or by another individual or organization on behalf of the individual or organization who is subject to the prohibition.
- (4) An individual or organization who contravenes this section commits an offence and is liable to one or more of the penalties referred to in section 255 (7).

51. Form 2 of Schedule 1 is repealed and the following substituted:

**Form 2A**

**ORDINARY CONSTITUENCY BALLOT**

General Voting Day _____	No. _____
Electoral District _____	
Voter Number _____	
<hr/>	
COUNTERFOIL	No. _____
<hr/>	

Indicate ONE (only) constituency candidate of your choice with a cross or a tick.

<b>Chan</b> Bill Chan Apple Party	<input type="radio"/>
<b>Johal</b> William Styles Johal Carrot Party	<input type="radio"/>
<b>Stiles</b> George William Stiles Grape Party	<input type="radio"/>
<b>Stiles</b> Mary Stiles Potato Party	<input type="radio"/>

Form 2B

ORDINARY PARTY BALLOT

General Voting Day \_\_\_\_\_  
Electoral District \_\_\_\_\_  
Voter Number \_\_\_\_\_

No. \_\_\_\_\_

COUNTERFOIL

No. \_\_\_\_\_

Indicate ONE (only) Party of your choice  
with a cross or a tick.

<b>APPLE Party</b>	<input type="radio"/>
<b>CARROT Party</b>	<input type="radio"/>
<b>GRAPE Party</b>	<input type="radio"/>
<b>POTATO Party</b>	<input type="radio"/>
<b>TURNIP Party</b>	<input type="radio"/>
<b>ZUCCHINI Party</b>	<input type="radio"/>

52. Form 3 of Schedule 1 is repealed and the following substituted:

Form 3A

WRITE-IN BALLOT FOR CONSTITUENCY CANDIDATE

**WRITE-IN BALLOT  
for  
CONSTITUENCY CANDIDATE**

Electoral District \_\_\_\_\_  
Election Official's Initials \_\_\_\_\_

No. \_\_\_\_\_

---

COUNTERFOIL

Election Official's Initials \_\_\_\_\_

No. \_\_\_\_\_

Fold Here

Fold Here

I vote for:

Name of constituency candidate or name of party



Form 3B

WRITE-IN PARTY BALLOT

**WRITE-IN BALLOT  
for  
POLITICAL PARTY**

Electoral District \_\_\_\_\_  
Election Official's Initials \_\_\_\_\_

No. \_\_\_\_\_

COUNTERFOIL

Election Official's Initials \_\_\_\_\_

No. \_\_\_\_\_

Fold Here

Fold Here

I vote for this party:

Name of party

