

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'
FIRST NATIONS GOVERNMENT**

ELECTIONS ACT

KCFNS 8/2011



This law enacted on April 1, 2011

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ON 04 10 12 2011
Michael J. Smith
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PREAMBLE

Through our inherent right to self-government, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have preserved and protected our territories and culture with the advice and counsel of our Ha'wiih. While embracing our past and relying on the guidance provided by our Ha'wiih, as self-governing treaty first nations, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations also recognize the importance of responsible government and the honour and integrity of our elected representatives.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assume the responsibility of providing transparent and accountable government through impartial, open, fair and free elections. This requires an electoral process that is conducted with honesty and integrity for the common good of all Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens.

Through the establishment of election rules and procedures to realize these goals, Ka:'yu:'k't'h'/Che:k'tles7et'h' elections will be conducted in a manner that promotes public confidence and trust in the integrity of Ka:'yu:'k't'h'/Che:k'tles7et'h' officials and the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Elections Act.

Oversight

1.2 The chairperson of the Legislature is responsible for the oversight of this Act

Application

1.3 This Act applies to the processes by which elected Ka:'yu:'k't'h'/Che:k'tles7et'h' government representatives are chosen.

Definitions

1.4 In this Act,

“advance voting” means voting under section 6.5;

“ballot” means a ballot prepared in accordance with section 6.7;

“by-election” means an election other than a regular election;

“candidate” means a nominee whose nomination has been confirmed in accordance with section 4.6;

“candidate’s representative” means an individual appointed to represent a candidate under section 4.10;

“chief electoral officer” means an individual appointed under section 3.1;

“deputy electoral officer” means an individual appointed under section 3.2;

“elected office” means the office of an elected member of the Legislature;

“election” means a regular election or a by-election;

“election officer” means the chief electoral officer or a deputy electoral officer;

“election official” means the chief electoral officer, any deputy electoral officer and an election worker;

“election worker” means any person appointed by the chief electoral officer to assist in the conduct of an election under section 3.3;

“eligible voter” means an individual whose name is on the most recent voters list;

“general voting” means voting by eligible voters on a general voting day;

“general voting day” means the day on which an election is held under section 2.1(b) or 9.1(b). ;

“Ha’wiih legislators” means those Ha’wiih chosen as members of the Legislature in accordance with section 2.5 of the Constitution;

“intimidate” includes

- (a) to use or threaten to use force, violence or restraint against a person,
- (b) to inflict injury, harm, damage or loss on a person or property or to threaten to do any of the foregoing, or
- (c) to otherwise intimidate a person or threaten to do anything that is otherwise intimidation of a person;

“mail-in ballot” means a ballot to be cast by mail in accordance with section 6.6;

“nomination meeting” means a meeting held in accordance with section 4.2;

“nomination papers” means the documents filed in accordance with section 4.5;

“nominee” means a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is eligible under section 4.1 to become a candidate and has been nominated to stand as a candidate for any elected office to be filled in an election in accordance with this Act;

“notice of election” means a notice given in accordance with section 2.2;

“referendum” means a vote on a question conducted in accordance with the Referendum Act;

“regular elections” means an election held under section 2.1;

“secrecy envelope” means an envelope within which a mail-in ballot may be placed in accordance with section 6.6 and identified only with the words “Secrecy Envelope” and the date of the general voting day for which the mail-in ballot is cast.

“voter declaration form” means a document that sets out

- (a) the name of an eligible voter,

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- (b) the citizenship number of the eligible voter or, if the eligible voter does not have a citizenship number, the date of birth of the eligible voter,
 - (c) a statement that the eligible voter has read and understands the nature of the vote and has voted freely and without compulsion, and
 - (d) the name, address and telephone number of a witness to the signature of the eligible voter;

“voters list” means the list prepared under section 5.2;

“voting hours” means the hours established for voting under section 2.4;

“voting place” means a place established under section 2.3.

PART 2 - TIMING AND NOTICE OF ELECTIONS

Regular elections

- 2.1**
- (a) Regular elections for the Legislature must be held in the year 2011 and in every fourth year after that.
 - (b) Subject to subsection (c), general voting day for a regular election must be on the third Tuesday in April.
 - (c) The general voting day for the regular election held in the year 2011 must be
 - (i) on a day determined by order of the Executive and that Executive order must be made no later than October 1, 2011, and
 - (ii) no earlier than June 1, 2011 and no later than December 31, 2011.

Notice of elections and nomination meetings

- 2.2**
- (a) At least 60 days before the general voting day for a regular election, or as soon as practicable after the date for a by-election is determined, the chief electoral officer must
 - (i) post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, and
 - (ii) publish in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h'lawa notice of the election and the nomination meeting.
 - (b) The notice posted and published in accordance with subsection (a) must include
 - (i) the date of the general voting day, the voting hours and the voting place for general voting and advance voting,
 - (ii) that the eligible voters may vote in person at a voting place or by mail-in ballot,
 - (iii) the date, time and location of the nomination meeting,
 - (iv) the elected offices for which nominations may be made,
 - (v) information about the nomination process, including how an eligible voter may make and second a nomination,
 - (vi) a copy of the voters list in accordance with section 5.3, and
 - (vii) the name of and contact information for the chief electoral officer.

Voting place

- 2.3** (a) The voting place for all elections is the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices .
- (b) The nomination meeting must be held at Houpsitas.

Voting hours

- 2.4** (a) Subject to subsection (b), the voting hours for voting must be from 8:00 am until 8:00 pm.
- (b) The chief electoral officer may extend the hours for voting to 10:00 pm, if in the view of the chief electoral officer, weather conditions warrant it.

PART 3 - ELECTION ADMINISTRATION

Chief electoral officer

- 3.1**
- (a) The Legislature must appoint an individual to act as chief electoral officer
 - (i) at least 90 days before the date of a regular election, or
 - (ii) within 21 days after an elected office becomes vacant.
 - (b) The chief electoral officer must not be a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen.

Deputy electoral officers

- 3.2**
- (a) As soon as practicable after being appointed under section 3.1, the chief electoral officer must appoint a deputy electoral officer.
 - (b) The chief electoral officer may, at any time, appoint one or more additional deputy electoral officers or a replacement deputy electoral officer if a deputy electoral officer resigns or is unable to perform his or her duties.

Election workers

- 3.3**
- (a) The chief electoral officer may appoint one or more election workers to assist in the conduct of an election.
 - (b) An election worker must, as directed by the chief electoral officer, perform the duties required of him or his by this Act or the chief electoral officer.

Individuals ineligible for appointment as election officials

- 3.4** The following individuals must not be appointed, accept an appointment or act as an election official:
- (a) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government representative;
 - (b) a member of the Ha'wiih Advisory Council;
 - (c) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government employee;
 - (d) an individual who is a candidate or a candidate's representative in that election;
 - (e) an individual who has been employed by, or holds a position with or has made a contribution to the candidacy of any individual who is, intends to be or was a candidate in the election; or

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- (f) an individual who has been convicted of an offence under this Act within the past 10 years.

Impartiality of election officers

3.5 Every election officer must make a solemn declaration before the legislative chief that they

- (a) will faithfully and impartially perform their duties and exercise their powers in accordance with this Act,
- (b) have not accepted and will not accept any inducement to subvert an election, and
- (c) will preserve the secrecy of all ballots.

Duties and powers of election officers

- 3.6** (a) Election officers must perform their duties and exercise their powers in accordance with this Act.
- (b) Election officers must use all means reasonably necessary to ensure that elections are conducted fairly and impartially, that peace and order is maintained at a voting place and that eligible voters are provided relevant and necessary information regarding the election.
- (c) In addition to any other duties, the chief electoral officer must ensure that the other election officials perform their duties and exercise their powers fairly and impartially.
- (d) The deputy electoral officer, or the first deputy electoral officer appointed under section 3.2 if there is more than one deputy electoral officer, must perform the duties and exercise the powers of the chief electoral officer in the absence of the chief electoral officer or in circumstances where the chief electoral officer is unable to perform the duties or exercise the powers of that office.

Resignation of election officers

- 3.7** (a) The chief electoral officer may resign by providing the legislative chief written notice at least 30 days prior to the date the resignation is to take effect.
- (b) A deputy electoral officer may resign by providing the chief electoral officer written notice at least seven days prior to the date the resignation is to take effect.

PART 4 - NOMINATIONS AND CANDIDATE QUALIFICATIONS

Qualifications of candidates

- 4.1** (a) Subject to this Act, any Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is at least 18 years of age may be nominated to stand as a candidate for any elected office to be filled in an election.
- (b) A Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen may not be a candidate in an election if that person
- (i) is not, or will not be, at least 18 years of age on the general voting day for that election,
 - (ii) is an election official for that election,
 - (iii) is a nominee for another elected office in that election,
 - (iv) is suffering from a medical condition, including mental illness or dependency on drugs or alcohol, that a medical practitioner in writing concludes would render that person likely to be incapable of performing the duties or exercising the powers of the elected office,
 - (v) has been convicted of a criminal offence within the four year period immediately prior to the general voting day for that election, or
 - (vi) has been convicted of fraud, bribery, an offence under this Act or any similar election statute of another jurisdiction or a sexual offence under the Criminal Code (Canada) unless that person has received a pardon in accordance with Canadian law or Ka:'yu:'k't'h'/Che:k'tles7et'h' law.

Nomination meeting

- 4.2** (a) A nomination meeting must be held at least 45 days before the date of an election or within 30 days before the date of a by-election.
- (b) Notice of the nomination meeting must be provided in accordance with section 2.2.
- (c) The chief electoral officer must
- (i) make the necessary arrangements for holding the nomination meeting,
 - (ii) ensure nomination papers are available to any eligible voter on request, and

- (iii) receive, record and file all nomination papers.

Nomination procedures

- 4.3** (a) An eligible voter may nominate a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who qualifies under section 4.1 to be a candidate
- (i) by hand delivering, mailing or faxing a written nomination and a completed, signed and witnessed voter declaration form to the chief electoral officer so it is received by the chief electoral officer at least 24 hours before the time set for the nomination meeting to begin, or
 - (ii) in person at the nomination meeting.
- (b) In order for a nomination under subsection (a) to stand, the nomination must be seconded by an eligible voter in person at the nomination meeting.
- (c) An eligible voter may not
- (i) nominate and second the nomination of the same nominee,
 - (ii) nominate himself or herself, or
 - (iii) nominate or second the nomination of more than one nominee for the same elected office in an election.
- (d) As soon as practicable following a nomination meeting, the chief electoral officer must notify any nominee who was not present at the nomination meeting of his or her nomination.

Requirements for candidates

- 4.4** A nomination is complete when the nominee has
- (a) been nominated and that nomination has been seconded at a nomination meeting, in accordance with section 4.3,
 - (b) communicated acceptance of the nomination to the chief electoral officer either verbally or in writing, and
 - (c) filed the nomination papers required under this Act.

Nomination papers

- 4.5** (a) Within seven days after the nomination meeting, a nominee who wishes to stand as a candidate for office must file with the chief electoral officer nomination papers in the prescribed form, which must include

- (i) an oath or affirmation by the nominee that he or she satisfies the qualifications set out in section 4.1, and
- (ii) the signature of 10 eligible voters who support the nomination.
- (b) Nomination papers are deemed to be filed with the chief electoral officer when they are received at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices.

Confirmation of nominations

- 4.6**
- (a) The chief electoral officer must, as soon as practicable after the nomination meeting, but in any event no less than 10 days thereafter, determine whether
 - (i) the nomination of a nominee has been completed in accordance with section 4.4, and
 - (ii) the nominee meets the qualifications set out in section 4.1.
 - (b) Before determining whether the nominee meets the qualifications set out in section 4.1, the chief electoral officer may, in accordance with any regulations,
 - (i) require the nominee to provide the chief electoral officer with such additional relevant documents or information relating to those qualifications as the chief electoral officer considers necessary or advisable, and
 - (ii) conduct such additional investigations in respect to those qualifications as the chief electoral officer considers necessary or advisable.
 - (c) As soon as practicable after making a determination under subsection (a), the chief electoral officer must
 - (i) notify in writing each nominee whether or not their nomination is complete and whether or not they meet the qualifications set out in section 4.1, and
 - (ii) if the nomination of a nominee is not complete or that nominee does not meet the qualifications set out in section 4.1, provide the nominee with sufficient details of those deficiencies.

Notice of candidates and preparation of ballots

- 4.7**
- (a) As soon as practicable after making all the determinations required under section 4.6(a), the chief electoral officer must
 - (i) post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, and

(ii) publish in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law

a notice of the names of all the candidates for each elected office to be voted on in that election.

- (b) When preparing a ballot to be used for voting in an election, the chief electoral officer must include on that ballot only the names of the candidates for that elected office to be filled in that election.

Withdrawal of a candidate

- 4.8** (a) A candidate may withdraw from the election by delivering a signed notice of withdrawal to the chief electoral officer in accordance with any regulations.
- (b) If a candidate withdraws from an election under subsection (a) after the ballots for the election have already been prepared and the chief electoral officer determines that it is not practicable to replace those ballots in time for advance voting, the chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law and in every voting place during advance voting and general voting, a notice of the withdrawal of that candidate.

Acclamation

- 4.9** The chief electoral officer must immediately declare a candidate or candidates elected by acclamation if
- (a) there is only one candidate for that elected office that is to be filled in that election,
- (b) as a result of a disqualification or withdrawal of a candidate, there is only one candidate remaining for that elected office that is to be filled in that election, or
- (c) in the case of an election for the Legislature, the number of candidates is equal to or less than the number of members of the Legislature to be elected.

Appointment of candidate's representative

- 4.10** A candidate may appoint a representative to observe the conduct of voting and counting of ballots in the election.

Announcement of Ha'wiih legislators

- 4.11** (a) Prior to the nomination meeting, the Ha'wiih Advisory Council must choose four Ha'wiih as members of the Legislature in accordance with section 2.5 of the Constitution.
- (b) The Ha'wiih legislators chosen in accordance with subsection (a) must be announced in accordance with section 7.7.

PART 5 - VOTER QUALIFICATIONS AND REGISTRATION

Eligible voters

- 5.1 A Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen who is or will be at least 18 years of age on general voting day is entitled to vote in an election.

Voters list

- 5.2 (a) The chief electoral officer must prepare a list of Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens entitled to vote in an election based on information provided by the citizenship and enrolment registrar.
- (b) The voters list must be arranged in alphabetical order by last name and contain the name, date of birth and address of each eligible voter.

Posting the voters list

- 5.3 The chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law the voters list containing only the names of eligible voters.

Access to voters list during election

- 5.4 (a) The chief electoral officer must, on request and without charge, provide a candidate in an election with a printed and an electronic copy of the most recent voters list containing only the names of eligible voters.
- (b) The chief electoral officer must, in accordance with any regulations, make available for inspection by Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens, copies of the most recent voters list containing only the names of eligible voters at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices.

Objections to voters list

- 5.5 An eligible voter whose name

- (a) does not appear on the voters list, or
- (b) is incorrectly set out on the voters list

may, in person or by telephone, courier, mail, fax or email, request the chief electoral officer to revise the voters list.

Correcting the voters list

- 5.6 (a) If the chief electoral officer is satisfied that the voters list should be corrected, the chief electoral officer must make the necessary correction.

- (b) The chief electoral officer must maintain a written record of all requests under section 5.5 along with the chief electoral officer's decision with regard to the request and reasons for the decision.

Corrected voters list

- 5.7** After any disputes over the voters list are resolved, the chief electoral officer must post the corrected voters list in accordance with section 5.3.

PART 6 - VOTING

Voting by ballot

6.1 All voting in an election must be made on ballots in accordance with this Part.

Voting rights

- 6.2**
- (a) An eligible voter who is listed on the voters list may vote for each elected office to be filled in an election or on a question in a referendum.
 - (b) An individual who is not listed on the voters list may vote if, on the general voting day, the individual
 - (i) is at least 18 years of age, and
 - (ii) complies with the requirements of section 6.4(b).
 - (c) The chief electoral officer must do everything reasonably possible to
 - (i) accommodate eligible voters who have special needs, such as elderly, blind, physically handicapped or illiterate voters, and
 - (ii) ensure the voting place is accessible to persons with those special needs.
 - (d) An eligible voter must not vote on more than one occasion in the same election.

Voting methods

6.3 An eligible voter may vote using one of the following procedures

- (a) in person, during general voting,
- (b) in person, during advance voting, or
- (c) by mail-in ballot.

Voting in person

- 6.4**
- (a) When an eligible voter wishes to vote in person at the voting place, an election officer must
 - (i) verify that the eligible voter's name is on the voters list and request photographic identification so that the eligible voter can be reliably identified as an eligible voter and the individual that they claim to be,
 - (ii) verify on the voters list whether or not the eligible voter has already voted,

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- (iii) if the individual is an eligible voter and has not already voted in that election, issue a ballot to the eligible voter in a manner that ensures the secrecy of the ballot and protects secrecy of the eligible voter's vote,
 - (iv) mark the back of the ballot by signing his or her initials on the back of the ballot,
 - (v) provide to the eligible voter, in the prescribed form, the instructions for marking the ballot, and
 - (vi) indicate on the voters list that the eligible voter has voted as soon as the ballot is deposited in the ballot box.
- (b) If an individual wishes to vote in an election but his or her name is not on the voters list, an election officer may add that individual's name to the voters list and issue that individual a ballot in accordance with subsection (a) and allow him or her to vote only if
- (i) the election officer is satisfied that individual is an eligible voter and was omitted from the voters list in error, or
 - (ii) that individual provides the election officer with
 - (A) a statutory declaration stating that the individual is an eligible voter, and
 - (B) any other information the election officer considers necessary to verify that the individual is an eligible voter, and
 - (iii) that individual has his or her right to vote verified by a sworn statement in the prescribed form by another eligible voter or by an election official.

Advance voting

- 6.5** (a) The chief electoral officer must conduct advance voting at least one day during the week immediately preceding the general voting day.
- (b) On the day of advance voting, an eligible voter may vote in person at a voting place in accordance with section 6.4.

Voting by mail

- 6.6** (a) An eligible voter who is unable to vote at the voting place on the general voting day or on advance voting may vote by mailing a completed, signed and witnessed voter declaration form and a mail-in ballot to the chief electoral officer in accordance with this section.

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- (b) The eligible voter referred to in subsection (a) may request a mail-in ballot from the chief electoral officer.
- (c) All mail-in ballots sent to eligible voters by the chief electoral officer require
- (i) the chief electoral officer's initials to be signed on the back of the mail-in ballot prior to being sent out,
 - (ii) a secrecy envelope,
 - (iii) a voter declaration, and
 - (iv) a pre-addressed return envelope addressed to the attention of the chief electoral officer.
- (d) An eligible voter may vote by mail-in ballot received from the chief electoral officer by
- (i) marking the mail-in ballot by placing a cross, check mark or other mark, clearly indicating the eligible voter's choice on the mail-in ballot,
 - (ii) folding the mail-in ballot in a manner that conceals the choices and any marks, but exposes the chief electoral officer's initials on the back of the mail-in ballot,
 - (iii) placing the mail-in ballot in the secrecy envelope and sealing that secrecy envelope,
 - (iv) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age,
 - (v) placing the secrecy envelope and the completed, signed and witnessed voter declaration form in the pre-addressed return envelope, and
 - (vi) delivering or, subject to subsection (k), mailing the pre-addressed return envelope to the chief electoral officer.
- (e) Where an eligible voter is unable to vote in the manner set out in subsection (d) because of a physical disability, the eligible voter may enlist the assistance of another individual to mark the ballot and complete and sign the voter declaration form in accordance with subsection (d).
- (f) A witness referred to in subsection (d)(iv) must attest to
- (i) the fact that the person completing and signing the voter declaration form is the individual whose name is set out in the form, or

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- (ii) where the eligible voter enlisted the assistance of another individual under subsection (e), the fact that the eligible voter is the individual whose name is set out in the voter declaration form and that the mail-in ballot was marked according to the directions of the eligible voter.
- (g) An eligible voter who inadvertently spoils a mail-in ballot may obtain another mail-in ballot by returning the spoiled mail-in ballot to the chief electoral officer.
- (h) An eligible voter who loses a mail-in ballot may obtain another ballot by delivering to the chief electoral officer a sworn or affirmed affidavit stating that the eligible voter has lost the mail-in ballot, signed by the eligible voter in the presence of the chief electoral officer or a prescribed individual.
- (i) Upon receipt of mail-in ballots cast in accordance with this section, the chief electoral officer must, in the presence of a deputy electoral officer, open each pre-addressed return envelope containing a secrecy envelope with a mail-in ballot inside that was received before the end of voting hours on general voting day and
- (i) set aside the unopened secrecy envelope with the mail-in ballot inside if
- (A) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed in accordance with this section,
- (B) the name of the eligible voter set out in the voter declaration form is not on the voters list, or
- (C) the voters list shows that the eligible voter has already voted in that election,
- (ii) if the secrecy envelope is not set aside in accordance with paragraph (i), open the secrecy envelope and, without unfolding the mail-in ballot, examine the mail-in ballot and set aside any mail-in ballot that does not have the initials of the chief electoral officer on the back, and
- (iii) if the mail-in ballot is not set aside in accordance with paragraph (ii), place a mark on the voters list opposite the name of the eligible voter set out in the voter declaration form indicating the eligible voter has voted in that election and deposit the unfolded mail-in ballot in a ballot box sealed in accordance with section 6.20.
- (j) A mail-in ballot set aside by the chief electoral officer under subsection (i) is void and must not be counted as a vote cast.
- (k) A mail-in ballot that is not received by the chief electoral officer before the end of voting hours on general voting day is void and must not be counted as a vote cast.

Style of ballot

- 6.7** (a) A ballot must be in the prescribed form and, in the case of an election, must
- (i) list every candidate in alphabetical order by surname for each elected office being voted on in that election,
 - (ii) include a photograph of the candidate opposite each candidate's name on the ballot, and
 - (iii) provide a space opposite each candidate's name for the eligible voter to enter a mark indicating his or her vote.
- (b) A ballot must be designed so that the eligible voter's identity cannot be ascertained after the ballot has been deposited in a ballot box.

Secrecy of ballot

- 6.8** (a) Voting in an election must be by secret ballot.
- (b) Every individual present at a voting place and each individual present at the counting of ballots
- (i) must maintain the secrecy of every ballot, and
 - (ii) must not
 - (A) interfere or attempt to interfere with an eligible voter who is marking a ballot,
 - (B) attempt to discover how an eligible voter voted,
 - (C) communicate information regarding how an eligible voter voted or marked a ballot, or
 - (D) induce an eligible voter, directly or indirectly, to show a ballot in a way that reveals how that eligible voter voted.
- (c) The chief electoral officer must ensure that the voting place has at least one voting compartment that is arranged in a manner that an eligible voter may mark his or her ballot, screened off from observation by others and without interference or intimidation.

Ballot boxes

- 6.9** Ballot boxes used in an election may be any box or other appropriate receptacle that is constructed so it can be sealed and ballots inserted but not withdrawn or the ballot box opened unless the seal is broken.

Ballots and other materials

- 6.10** Before the beginning of voting during an election, the chief electoral officer must deliver or cause to be delivered to the voting place
- (a) sufficient ballots,
 - (b) as many ballot boxes sealed in accordance with section 6.20 as are required, and
 - (c) sufficient copies of voting instructions, pencils and other materials for the marking of the ballots by eligible voters.

Requirements before eligible voter may be given a ballot

- 6.11** (a) A voter must meet the following requirements in order to obtain a ballot during general voting or advance voting:
- (i) the eligible voter's name must appear on the voters list, or
 - (ii) the eligible voter's name must have been added to the voters list in accordance with section 6.4(b), and
 - (iii) the eligible voter must sign the voters list in the space provided next to his or her name.
- (b) Once the requirements of subsection (a) have been met, an election officer must give the eligible voter a ballot initialled by the election officer on the back of the ballot.

How to vote by ballot

- 6.12** (a) After receiving a ballot, an eligible voter must
- (i) proceed without delay to a voting compartment provided,
 - (ii) while the ballot is screened from observation by others, mark it by placing a mark in the blank space opposite the name of the candidate for whom the eligible voter wishes to vote,
 - (iii) fold the ballot to conceal all marks made on it by the eligible voter but so as to expose the initials of the election officer on the back of the ballot,

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- (iv) leave the voting compartment without delay,
 - (v) deliver the ballot to the election officer from whom he or she received it,
 - (vi) observe the election officer deposit his or her marked ballot into the ballot box, and
 - (vii) leave the voting place without delay.
- (b) After receiving a ballot in accordance with subsection (a), the election officer must, without delay and without unfolding the ballot, verify the initials of the chief electoral officer on the back of the ballot and deposit the ballot in the ballot box in the presence of the eligible voter and at least one other individual.
 - (c) An election officer may, and if requested by an eligible voter must, explain to the eligible voter the proper method for voting by ballot.

One individual to a voting compartment

6.13 While an eligible voter is in a voting compartment to mark a ballot, no other individual may observe or be in a position to observe the ballot being marked except

- (a) an individual assisting the eligible voter under section 6.14, or
- (b) if an election officer permits, an individual who is in the care of the eligible voter.

Individuals needing assistance to mark their ballots

6.14 (a) An eligible voter who is unable to mark a ballot because of physical disability may be assisted in voting by an election officer or by an individual accompanying that eligible voter.

- (b) An individual who assists an eligible voter under subsection (a) must
 - (i) preserve the secrecy of the ballot of the eligible voter being assisted,
 - (ii) mark the ballot in accordance with the wishes of the eligible voter, and
 - (iii) refrain from influencing or attempting in any manner to influence the eligible voter as to how the eligible voter should vote.
- (c) An election officer must indicate on the voters list opposite the name of the eligible voter receiving assistance
 - (i) the fact that

- (A) the eligible voter's ballot was marked by another individual at the request of the eligible voter, or
 - (B) another individual accompanied the eligible voter in the voting compartment, and
- (ii) the name of the individual assisting or accompanying the eligible voter, and
 - (iii) the reason for which the eligible voter requested assistance or another individual to accompany the eligible voter.

Replacement of spoiled ballot

- 6.15** (a) If an eligible voter unintentionally spoils a ballot before it is deposited in a ballot box, the eligible voter may obtain a replacement ballot by giving the spoiled ballot to the election officer.
- (b) If an election officer receives a spoiled ballot under subsection (a) they must immediately
- (i) mark the ballot as spoiled,
 - (ii) provide that eligible voter with a replacement ballot, and
 - (iii) retain the spoiled ballot until it is dealt with under section 7.10.

Rules for voting places

- 6.16** The chief electoral officer may make rulings in relation to the maintenance of peace and order at a voting place.

Individuals who must be present at a voting place

- 6.17** An election officer and another election official must be present at all times at a voting place while voting is being conducted.

Individuals who may be present at a voting place

- 6.18** Only the following individuals may be present at a voting place while voting is being conducted:
- (a) election officials authorized to be present at the voting place;
 - (b) individuals who are
 - (i) present at the voting place to vote,

- (ii) assisting an eligible voter present to vote, or
- (iii) in the care of an eligible voter present to vote;
- (c) an individual acting as a translator;
- (d) one candidate's representative for each candidate in the election; and
- (e) one additional candidate's representative for each candidate in the election temporarily present at the voting place for the purpose of conveying information to and from the candidate's representative referred to in subsection (d).

Suspension of voting

- 6.19** (a) Voting at a voting place may be suspended by the responsible election officer if that election officer considers that
- (i) the health or safety of persons is at risk, or
 - (ii) the integrity of the voting is at risk.
- (b) If the responsible election officer suspends voting under subsection (a), that election officer must
- (i) immediately notify the chief electoral officer of the suspension, and
 - (ii) follow any directions given by the chief electoral officer in relation to the suspension.
- (c) Voting may be suspended under subsection (a)
- (i) to a later time on the same day at the same voting place,
 - (ii) to a later time on the same day at another location not more than 15 kilometres away, or
 - (iii) to a day, time and place to be set by the chief electoral officer.
- (d) While voting is suspended under subsection (a), the responsible election officer must make all reasonable efforts to ensure
- (i) the ballot boxes, ballots and other election materials are secured, and
 - (ii) the integrity of the election is not compromised.
- (e) The responsible election officer must give notice to persons affected by any suspension of voting under this section as directed by the chief electoral officer

or, in the absence of such direction, in any manner the responsible election officer considers appropriate.

Sealing of ballot boxes

- 6.20** (a) Before any marked ballot is deposited in a ballot box, the chief electoral officer must, in the presence of at least one other election official, inspect the ballot box to ensure that it is empty and then seal the ballot box in such a manner that ballots can be deposited but not withdrawn and the ballot box cannot be opened without breaking the seal.
- (b) After one or more marked ballots have been deposited in a ballot box, the chief electoral officer must, in the presence of at least one other election official, seal the deposit slot of the ballot box at the following times in a manner that prevents the deposit of additional ballots:
- (i) when the ballot box appears to be full;
 - (ii) at the close of advance voting;
 - (iii) at the close of general voting;
 - (iv) between each deposit of mail-in ballots, and
 - (v) if voting is suspended under section 6.19.
- (c) Before additional ballots may be deposited in a ballot box sealed under subsection (b), the chief electoral officer must, in the presence of at least one other election official, remove the seal of the ballot box deposit slot.
- (d) Between the close of advance voting and the commencement of general voting, the chief electoral officer must ensure that all the ballot boxes used in the advance voting are maintained in a secure location, free from any interference.

PART 7 - COUNTING THE VOTE AND DISPOSITION OF BALLOTS

When and where counting is to be done

- 7.1 (a) The counting of ballots must not take place until the end of voting hours on general voting day, but the counting of ballots must take place as soon as practicable after that time.
- (b) The counting of ballots must take place at the voting place unless the chief electoral officer directs that the counting is to take place at another location.

Who may be present at counting

- 7.2 (a) While the counting of ballots is being conducted
- (i) at least one election officer must be present, and
 - (ii) one candidate's representative for each candidate is entitled to be present.
- (b) No other individuals, other than those referred to in subsection (a), may be present when the counting of ballots is being conducted, unless permitted by the chief electoral officer.

Who does the counting

- 7.3 (a) The chief electoral officer must conduct the counting of ballots.
- (b) In counting the ballots, the chief electoral officer must accept or reject each ballot in accordance with section 7.5.

Procedures for counting

- 7.4 (a) All ballots deposited in a ballot box must be counted in accordance with this section.
- (b) The chief electoral officer, and no other individual, must open each ballot box one at a time by breaking the seals of that ballot box and removing every ballot in that ballot box one at a time to be counted in accordance with this section and before proceeding to open and count the ballots in another ballot box.
- (c) As each ballot is counted it must be placed in such a manner that individuals present at the counting table are able to see how the ballot is marked.
- (d) Counting must proceed as continuously as is practicable and the votes counted must be recorded by an election officer.

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- (e) Unless rejected under section 7.5, a marked ballot must be accepted and counted as a valid vote.
 - (f) The chief electoral officer must endorse each ballot to indicate whether
 - (i) the ballot was accepted as valid,
 - (ii) the ballot was rejected in accordance with section 7.5,
 - (iii) the rejection of the ballot was objected to in accordance with section 7.6, or
 - (iv) the ballot was accepted but the acceptance was objected to in accordance with section 7.6.

Rules for accepting votes and rejecting ballots

- 7.5**
- (a) Subject to subsection (b), the chief electoral officer must accept each ballot if it is reasonably possible to determine the eligible voter's intention from the marks made on the ballot by the eligible voter.
 - (b) A ballot must be rejected as invalid if
 - (i) the ballot does not have the initials of the chief electoral officer inscribed on the back of the ballot,
 - (ii) the marks on the ballot are not sufficiently clear so as to make it reasonably possible to determine the eligible voter's intention,
 - (iii) there are no marks on the ballot,
 - (iv) there are more marks on the ballot than there are candidates to be elected, or
 - (v) the ballot is marked in such a manner that the eligible voter can reasonably be identified.

Objections to acceptance of vote or rejection of ballot

- 7.6**
- (a) A candidate's representative may object to a decision of the chief electoral officer to accept a ballot or reject a ballot.
 - (b) If an objection is made under subsection (a), that objection must be recorded by the election officer present and the chief electoral officer must endorse the back of the ballot with the details of the objection.
 - (c) An objection must be made at the time the ballot is considered.

Election results

- 7.7** The chief electoral officer must, without delay after completing the counting of ballots,
- (a) declare the results of the election as follows:
 - (i) for the office of legislative chief, the candidate who receives the highest number of valid votes must be declared elected;
 - (ii) for the other elected offices, the four candidates who receive the highest number of valid votes must be declared elected;
 - (iii) for the offices of Ha'wiih members of the Legislature, announce those Ha'wiih chosen in accordance with section 4.11; and
 - (b) prepare and post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, a written report setting out
 - (A) the number of ballots cast in the election,
 - (B) the number of votes accepted for each candidate, and
 - (C) the number of rejected ballots.

Tied votes

- 7.8** In the event of a tied vote for the position of legislative chief or for the final elected member of the Legislature, a by-election must be held within 30 days for that office and, for certainty, the candidates in that by-election are those candidates with the tied vote in the immediately preceding election for that office.

Final count

- 7.9** Subject to section 8.1, the results of an election declared in accordance with section 7.7 are final.

Disposition of ballot papers

- 7.10** (a) The chief electoral officer must maintain all ballots, including spoiled ballots and rejected ballots, voters lists and other materials specific to the election for 90 days after the general voting day.
- (b) The chief electoral officer must, in the presence of at least one witness, destroy the ballots, including spoiled ballots and rejected ballots, at the end of the retention period under subsection (a), unless an application has been made in accordance with sections 8.1 or 8.5.

PART 8 - ELECTION APPEALS

Application for recount

- 8.1** (a) After the results of an election are declared in accordance with section 7.7, a candidate for an elected office in that election may, in accordance with subsection (b), apply to the chief electoral officer for a recount of the votes cast in that election for that office on one or more of the following grounds:
- (i) that ballots for that office were not correctly accepted or rejected in accordance with this Act;
 - (ii) that mail-in ballots for that office that were not counted should have been counted in accordance with this Act; or
 - (iii) that the written report under section 7.7 did not accurately record the number of votes for a candidate for that office.
- (b) An application under subsection (a) must be made by filing an application with the chief electoral officer in the prescribed form within two days after the chief electoral officer posts the written report in accordance with section 7.7.
- (c) On the filing of an application in accordance with subsection (b), the chief electoral officer must make a determination of the application by
- (i) making an order dismissing the application if chief electoral officer determines that the recount, if it were to be conducted, would not materially affect the results of the election, or
 - (ii) conducting a recount of those ballots cast for that office.

Individuals who may be present at recount

- 8.2** (a) The following individuals may be present at a recount conducted in accordance with section 8.1:
- (i) candidates for that office, and
 - (ii) for each candidate under section 8.1(a), one candidate's representative, and for each candidate for that office who is not present under section 8.1(a), two candidate's representatives.
- (b) No other individual, other than those referred to in subsection (a), may be present when the recounting of ballots is being conducted, unless permitted by the chief electoral officer.

Certification of results of recount

8.3 After conducting a recount in accordance with section 8.1, the chief electoral officer must certify the results of the recount by issuing a certificate setting out the results of the recount.

Posting of results

8.4 As soon as practicable after certifying the official results of a recount under section 8.3, the chief electoral officer must post in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, a notice containing the results.

Application to set aside election

- 8.5** (a) Within 14 days after an election, any eligible voter who voted in that election may challenge the validity of the election on the grounds that
- (i) the election was not conducted in accordance with this Act in a way that materially affected the result,
 - (ii) a candidate in the election was ineligible to be a candidate and this fact materially affected the election result, or
 - (iii) there was vote buying, intimidation or other corrupt practice in connection with the election,
- by filing an application in the prescribed form with the chief electoral officer.
- (b) An application in accordance with subsection (a) must
- (i) provide particulars of the basis of the application,
 - (ii) include all supporting documents upon which the applicant relies, and
 - (iii) be sworn or declared before a prescribed individual.
- (c) The chief electoral officer must, without delay, forward a copy of an application received in accordance with subsections (a) and (b) to each candidate in the election.

Candidate response

- 8.6** (a) A candidate may, within seven days of receiving a copy of an application made in accordance with section 8.5, file a written response with the chief electoral officer.
- (b) The response under subsection (a) must

- (i) include all supporting documents upon which the candidate relies, and
- (ii) be sworn or declared before a prescribed individual.

Application hearing

- 8.7**
- (a) The chief electoral officer must, without delay, refer an application made in accordance with section 8.5 and any responses given in accordance with section 8.6 to the Administrative Decisions Review Board.
 - (b) For certainty, an application made in accordance with section 8.5 is deemed to be a review request filed under section 3.1 of the Administrative Decisions Review Act to which section 1.3(a) of that Act applies and
 - (i) that review request does not require a preliminary assessment under section 3.4 of the Administrative Decisions Review Act or a review report from the clerk under section 3.6 of that Act,
 - (ii) the applicant who filed the application in accordance with section 8.5 is deemed to be the applicant under the Administrative Decisions Review Act,
 - (iii) a candidate who delivers a written response in accordance with section 8.6 is deemed to be a party to the review under the Administrative Decisions Review Act, and
 - (iv) the chief electoral officer is deemed to be a party to the review under the Administrative Decisions Review Act and a Ka:'yu:'k't'h'/Che:k'tles7et'h' public employee for purposes of interpreting his or her obligations under the Administrative Decisions Review Act.
 - (c) The Administrative Decisions Review Board
 - (i) may hold a hearing in accordance with the Administrative Decisions Review Act at which the parties to the review have an opportunity to present oral and other evidence,
 - (ii) may conduct further inquiries as the Administrative Decisions Review Board considers necessary,
 - (iii) must, by order and despite section 4.8 of the Administrative Decisions Review Act, either
 - (A) reject the application and confirm the result of the election, or

- (B) allow the application, in whole or in part, and declare the relevant elected office vacant, and
- (iv) must make an order under paragraph (iii) within 30 days of receiving the application and responses from the chief electoral officer.

Costs of review

- 8.8** Despite sections 4.8 and 4.9 of the Administrative Decisions Review Act, if under section 8.7 the Administrative Decisions Review Board
- (a) allows an application made under section 8.5 and declares an elected office vacant, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must pay the cost of the Administrative Decisions Review Board, or
 - (b) rejects an application made under section 8.5 and confirms the result of an election, the applicant who made the application under section 8.5 must pay the cost of the Administrative Decisions Review Board.

PART 9 - BY-ELECTIONS

By-election for elected office

- 9.1**
- (a) Subject to subsection (c), when a vacancy occurs in an elected office, a by-election must be held to fill that vacancy within 60 days after the vacancy occurs.
 - (b) A by-election must be held on a date determined by the Legislature in accordance with this Act.
 - (c) A by-election must be held to fill an elected office that becomes vacant only if more than six months remain until the next regular election.
 - (d) A candidate elected in a by-election is only elected to complete the balance of the term of elected office of the individual he or she is replacing.

PART 10 - OFFENCES

Restriction on election campaigning near election offices and voting places

- 10.1** (a) A person must not post, display or disseminate within 100 metres of the office of the chief electoral officer
- (i) any election advertising, or
 - (ii) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting.
- (b) While advance voting or general voting is being conducted at a voting place, a person must not do any of the following within 100 metres of the voting place:
- (i) post, display or disseminate
 - (A) election advertising, or
 - (B) any material that identifies a candidate or represents a particular choice on a question in a referendum or at a ratification meeting unless authorized by the chief electoral officer;
 - (ii) canvass or solicit votes or otherwise attempt to influence how an eligible voter votes;
 - (iii) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iv) post, display, disseminate or leave a representation of a ballot marked for a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) If subsection (a) or (b) is contravened, the chief electoral officer or other election officer authorized by the chief electoral officer may enter on the property where the materials are located and remove, cover or otherwise obscure them from view.
- (d) While advance voting or general voting is being conducted at a voting place, a person must not conduct election advertising by means of a public address system that is within hearing distance of the voting place.

Vote buying

- 10.2** (a) A person must not pay, give, lend or procure an inducement for any of the following purposes:

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- (i) to induce an individual to vote or refrain from voting in an election;
 - (ii) to induce an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to reward an individual for having voted or refrained from voting as described in paragraph (i) or (ii).
- (b) An individual must not accept an inducement
- (i) to vote or refrain from voting in an election,
 - (ii) to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting, or
 - (iii) as a reward for having voted or refrained from voting as described in paragraph (i) or (ii).
- (c) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided with the intent that the inducement is to be used for any of the acts prohibited by this section.
- (d) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (e) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Intimidation

- 10.3** (a) A person must not intimidate an individual for any of the following purposes:
- (i) to persuade or compel the individual to vote or refrain from voting in an election;
 - (ii) to persuade or compel the individual to vote or refrain from voting for a particular candidate or choice on a question in a referendum or at a ratification meeting; or
 - (iii) to punish the individual for having voted or refrained from voting as described in paragraph (i) or (ii).
- (b) A person must not, by abduction, duress or fraudulent means, do any of the following:

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- (i) impede, prevent or otherwise interfere with an individual's right to vote in an election;
 - (ii) compel, persuade or otherwise cause an individual to vote or refrain from voting in an election; or
 - (iii) compel, persuade or otherwise cause an individual to vote or refrain from voting for or against a particular candidate or choice on a question in a referendum or at a ratification meeting.
- (c) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Corrupt voting

10.4 An individual must not

- (a) vote in an election when not entitled to do so,
- (b) vote on more than one occasion in an election,
- (c) apply for more than one mail-in ballot in an election ,
- (d) fail to mark a ballot in accordance with the directions of the eligible voter being assisted by that individual, or
- (e) obtain a ballot in the name of another individual, whether the name is of a living, dead or fictitious individual.

Election officials

10.5 (a) An election official must not contravene this Act or a direction of the chief electoral officer.

- (b) A person must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided with the intent that the inducement is to be used to procure a contravention of subsection (a).
- (c) A person must not offer, agree or promise to do anything otherwise prohibited by this section.
- (d) A person prohibited from doing something by this section must not do the prohibited thing directly or indirectly.

Offences in relation to candidates

10.6 In the case of an election, a person must not

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- (a) purport to withdraw a candidate from an election without authority to do so, or
 - (b) publish, or cause to be published, a false statement that a candidate has withdrawn from an election.

Offences in relation to ballots and other voting materials

10.7 A person must not, without authority under this Act,

- (a) supply a ballot to any person,
- (b) print or reproduce a ballot or paper that is capable of being used as a ballot,
- (c) remove a ballot from a voting place,
- (d) deposit in a ballot box, or cause to be deposited in a ballot box, anything other than a ballot authorized to be deposited, or
- (e) destroy, remove, open or otherwise interfere with a ballot, secrecy envelope, ballot box, written report or other voting materials.

Offences in relation to voting and counting proceedings

10.8 A person must not

- (a) contravene section 6.8 regarding the secrecy of ballots,
- (b) without authority under this Act, be present at a voting place or where the counting of ballots is being conducted, or
- (c) without authority under this Act, remove, cover up, mutilate, deface or alter a notice or other document authorized or required to be posted under this Act.

Offences in relation to election officials

10.9 A person must not

- (a) represent that the person is an election official if they are not,
- (b) accept appointment or act as an election official when they are not qualified,
- (c) having made a solemn declaration under this Act to exercise their powers and perform their duties faithfully and impartially, act other than faithfully and impartially in exercising those powers or performing those duties, or
- (d) impede or obstruct an election official or other person in performing duties and exercising powers given to the person under this Act.

Offences in relation to false or misleading information

- 10.10** (a) A person must not
- (i) provide false or misleading information when required or authorized under this Act to provide information, or
 - (ii) make a false or misleading statement or declaration when required under this Act to make a statement or declaration.
- (b) A person is not guilty of an offence under this section if, at the time the information was provided or the statement or declaration was made, the person did not know that the information, statement or declaration was false or misleading and could not, even with the exercise of reasonable diligence, have known that it was false or misleading.

Penalties

- 10.11** Every person who contravenes this Part commits an offence and is liable, on summary conviction, to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 30 days.

PART 11 - GENERAL PROVISIONS

Regulations

- 11.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) Without limiting subsection (a), the Executive may make regulations in relation to
- (i) requests for review by and applications to the chief electoral officer and his or her consideration of those requests and applications,
 - (ii) the filing of documents with the chief electoral officer,
 - (iii) nomination papers and other documents required to be filed with the chief electoral officer in connection with the nomination of an individual as a candidate,
 - (iv) the opportunities to vote in elections afforded to eligible voters who are Ka:'yu:'k't'h'/Che:k'tles7et'h' government employees,
 - (v) ballots, secrecy envelopes, ballot boxes, written reports, or other voting materials,
 - (vi) the rules and procedures to be followed in counting or recounting ballots , including as to the circumstances in which
 - (A) ballots must be rejected, or
 - (B) secrecy envelopes must not be opened,
 - (vii) the terms and conditions of the appointment, employment, resignation and removal from office of
 - (A) the chief electoral officer, and
 - (B) any other election officer,
 - (viii) the verification of mail-in ballots,
 - (ix) maintaining the of secrecy of mail-in ballots,
 - (x) how voting by mail is to be conducted,
 - (xi) ensuring that an eligible voter only votes once in each election,

- (xii) any other matter regulating voting by mail and to protect the integrity of the election,
- (xiii) the preparation, printing and security of mail-in ballots, and
- (xiv) the nature and form of mail-in ballots, including distinguishing features for mail-in ballots.

Commencement

11.2 This Act comes into force on the Maa-nulth Treaty effective date.