

## **Liquor Plebiscite Regulations**

made under Section 15 and subsection 43(10) of the  
Liquor Control Act  
R.S.N.S. 1989, c. 260

O.I.C. 2007-12 (January 9, 2007), N.S. Reg. 9/2007

### **Citation**

1 These regulations may be cited as the Liquor Plebiscite Regulations.

### **Definitions**

2 In these regulations,

(a) “Act” means the Liquor Control Act;

(b) “elector” means a person entitled to vote in a plebiscite;

(c) “official list of electors” means the most current list of electors for a polling division prepared and certified by the returning officer following revision and including those electors and their particulars added or changed during revision;

(d) “ordinarily resident” means ordinarily resident as defined in Section 31 of the Elections Act; [Note: the Elections Act, R.S.N.S. 1989, c. 140, is repealed effective January 1, 2012, by the Elections Act, S.N.S. 2011, c. 5. The reference in this clause is to the former Act.]

(e) “ordinary polling day” means the day fixed by the Chief Electoral Officer for holding the poll for a plebiscite;

(f) “plebiscite area” means one of the following:

(i) a voting area designated by the Nova Scotia Liquor Corporation or the Chief Electoral Officer,

(ii) a licensing area designated by the Alcohol and Gaming Division of the Department of Service Nova Scotia and Municipal Relations; [Note: the reference to the Department has been updated in accordance with Order in Council 2011-15 under the Public Service Act, R.S.N.S. 1989, c. 376, effective January 11, 2011.]

(g) “plebiscite officer” means any one of the of the following appointed under these regulations:

(i) a returning officer,

(ii) an enumerator,

(iii) a deputy returning officer,

(iv) a poll clerk,

(v) a revising agent;

(h) “polling division” means either the plebiscite area or a subdivision of the plebiscite area fixed by the returning officer;

- (i) “polling station” means a place for voting established in accordance with these regulations;
- (j) “question” means the question at issue in a plebiscite;
- (k) “voter” means a person who has voted in a plebiscite.

#### General supervision of plebiscite

3 (1) The Chief Electoral Officer has general supervision of a plebiscite.

(2) The Assistant Chief Electoral Officer must perform the duties of the Chief Electoral Officer under these regulations if any of the following occurs:

- (a) the Chief Electoral Officer is absent or ill;
- (b) the Chief Electoral Officer fails to perform the duties assigned to the Chief Electoral Officer under these regulations;
- (c) the office of Chief Electoral Officer is vacant.

#### Power and duties of Chief Electoral Officer

4 (1) The Chief Electoral Officer must do all of the following:

- (a) exercise general direction and supervision over the conduct of plebiscites;
- (b) ensure that all plebiscite officers act with fairness and impartiality and in compliance with these regulations;
- (c) give plebiscite officers any instructions that the Chief Electoral Officer considers necessary to ensure that a plebiscite is conducted in accordance with these regulations;
- (d) prescribe forms for conducting a plebiscite;
- (e) perform such other duties as are prescribed by these regulations.

(2) The Chief Electoral Officer may do any of the following:

- (a) extend the time for doing anything under these regulations except the hour set for the opening or closing of a polling station;
- (b) increase the number of plebiscite officers;
- (c) change the number of polling stations;
- (d) adapt these regulations to existing circumstances.

#### Letter instituting plebiscite

5 (1) Before instituting a plebiscite, the Chief Electoral officer must do both of the following:

- (a) fix a date as the ordinary polling day for the plebiscite, which is a Tuesday at least 30 days after the date of the letter issued under subsection (2);
- (b) appoint a returning officer for the plebiscite.

(2) The Chief Electoral Officer must institute a plebiscite by issuing a letter that

- (a) states the date of the ordinary polling day fixed by the Chief Electoral Officer; and
- (b) states the name of the person appointed as the returning officer for the plebiscite.

#### Plebiscite withdrawn

6 If the Chief Electoral Officer considers it impossible to hold a plebiscite on the day fixed as the ordinary polling day for a plebiscite, the Chief Electoral Officer may order that the letter instituting the plebiscite be withdrawn and issue a new letter in accordance with Section 5.

#### General duties of returning officer

7 A returning officer is responsible for the administrative conduct of a plebiscite under the supervision of the Chief Electoral Officer, except that the Chief Electoral Officer must arrange for all required newspaper advertising.

#### Removing returning officer from office

8 The Chief Electoral Officer may remove a returning officer from office if the Chief Electoral Officer is satisfied that the returning officer has done any of the following:

- (a) refused, neglected or was unable to perform the duties of their office;
- (b) failed to satisfactorily perform the duties of their office;
- (c) engaged in partisan political activities about the question.

#### Replacement returning officer

9 (1) If a returning officer resigns or is removed, the Chief Electoral Officer may appoint another person to act as returning officer.

(2) A replacement returning officer may act under the letter issued under Section 5 as if the letter had been addressed to them.

#### Returning officer's oath of office

10 A returning officer must complete an oath of office in the prescribed form and send it to the Chief Electoral Officer before beginning their duties.

#### Plebiscite supplies

11 The Chief Electoral Officer must arrange for a returning officer to receive appropriate forms, materials, supplies and equipment to enable the returning officer to conduct a plebiscite.

#### First public notice

12 After the returning officer is appointed, the Chief Electoral Officer must publish a notice about the plebiscite that includes all of the following information:

- (a) a description of the plebiscite area;
- (b) the date of the plebiscite;
- (c) how members of the public may contact the returning officer.

#### Polling divisions

13 With the approval of the Chief Electoral Officer, a returning officer may divide the plebiscite area into more than one polling division to more conveniently conduct the plebiscite.

#### Who may vote

14 A person may be included on the list of electors for a polling division if the person meets all of the following criteria:

- (a) the person is 19 years of age, or will be 19 years of age by ordinary polling day;
- (b) the person is a Canadian citizen;

(c) the person has been ordinarily resident in the plebiscite area for the 6 months immediately before the date of the letter instituting the plebiscite.

#### Place of voting

15 Except as otherwise provided in these Regulations, an elector who votes in a plebiscite must vote in the polling division of the plebiscite area where the elector ordinarily resides on the day the elector votes.

#### Preparing list of electors

16 The Chief Electoral Officer must determine how the list of electors for each polling division is to be prepared and may choose any of the following methods:

(a) preparing the list of electors using enumeration or confirmation, or both;

(b) preparing the list of electors using the list of electors used in the most recent Provincial or municipal election including the name of each elector who registered to vote on polling day;

(c) preparing the list of electors using any source, or combination of sources, that the Chief Electoral Officer considers advisable.

#### Appointing enumerators

17 (1) If electors are to be enumerated, a returning officer must appoint 2 enumerators for each polling division in the plebiscite area no later than the date set by the Chief Electoral Officer for enumeration to begin.

(2) A group or organization that is for or against the question may nominate persons to be enumerators.

#### Replacement of enumerator

18 (1) A returning officer may, for cause, dismiss an enumerator.

(2) A returning officer may appoint a replacement enumerator in the place of one who dies, resigns or is dismissed.

(3) An enumerator who resigns or is dismissed must immediately return their enumeration materials as directed by the returning officer.

#### Enumerators act jointly and disagreements settled by returning officer

19 (1) The 2 enumerators appointed for a polling division must act jointly and not individually in enumerating and confirming electors' qualifications and completing the index sheets.

(2) Enumerators must report the details of any disagreement between them about the enumeration to the returning officer.

(3) The returning officer must settle any disagreement reported to them and communicate the decision to the enumerators.

(4) The enumerators are bound by the decision of the returning officer.

#### Enumeration and confirmation procedure

20 (1) Beginning and ending on the dates set by the Chief Electoral Officer, the 2 enumerators appointed for a polling division must together obtain the name, particulars and address of every person qualified to be included on the list of electors for the polling division, or confirm or correct the information.

(2) Except when it is not practical to do so because of distance, or the enumerators are satisfied that there are no electors ordinarily resident there that are not included on the list of electors, the enumerators perform their duties under subsection (1) by visiting each dwelling place at least twice as follows:

(a) once between 9 a.m. and 6 p.m.; and

(b) once between 7 p.m. and 10 p.m.

(3) If the enumerators are unable to obtain the names, particulars and addresses by visiting the dwelling places, they may obtain the information from any other reliable sources that the returning officer considers satisfactory.

(4) If the enumerators are not able to communicate with a person at the dwelling place and obtain the names, particulars and addresses of the electors ordinarily residing at the dwelling place, the enumerators must leave a notification card in the form prescribed by the Chief Electoral Officer.

(5) In areas where it is not practical to visit each dwelling place because of distances, the enumerators may obtain or confirm the names, particulars and addresses from any reliable sources of information that the returning officer considers satisfactory.

#### Preparing index sheets

21 The enumerators must record, correct or confirm the names, particulars and addresses of the electors in the polling division for which they are appointed on index sheets prescribed by the Chief Electoral Officer in the manner prescribed by the Chief Electoral Officer.

#### Correcting index sheets

22 A returning officer may do any of the following to correct the index sheets:

(a) personally correct any mistakes that have been made;

(b) direct enumerators to repeat any of the enumerating work that is necessary.

#### List of electors

23 (1) A returning officer must arrange for a list of electors to be produced in hard copy and, if possible, in electronic format, for each polling division in a plebiscite area.

(2) A returning officer must send each elector on the list of electors a notification card in the form prescribed by the Chief Electoral Officer that indicates the date, location and times of the advance and ordinary polls, and of the revision of the list.

(3) A returning officer may provide a representative of any group that has identified itself as campaigning for or against the question with 1 or more copies of the list of electors, in hard copy or electronic format, if the representative first signs a declaration in the form prescribed by the Chief Electoral Officer confirming that the representative will comply with the requirements set out in subsection (4).

(4) A person who receives a copy of the list of electors under subsection (3) must use it only for the purpose of the plebiscite and must return it and all copies made of it to the returning officer before 5 p.m. on the day immediately after ordinary polling day.

(5) A person who receives a copy of the list of electors under subsection (3) must not provide it, or any copy made of it, to another person unless that person first completes a declaration in the form prescribed by

the Chief Electoral Officer confirming that the person will comply with the requirements set out in subsection (4).

#### Revising agents

24 (1) If a returning officer becomes aware that a substantial number of electors are omitted from or incorrectly described on a list of electors for a polling division after the lists of electors have been produced in hard copy, the returning officer may appoint 1 or more pairs of revising agents to revise the list to include any electors omitted from or incorrectly described.

(2) Revising agents must report the changes made to a list of electors to the returning officer as directed by the returning officer.

#### Time and place for revising list of electors

25 (1) A returning officer must revise the list of electors on the dates and during the times fixed by the Chief Electoral Officer.

(2) The Chief Electoral Officer must advertise when and where in the plebiscite area the list of electors will be revised.

#### Procedure for changing list of electors

26 (1) A returning officer must use the prescribed forms for adding, changing or deleting names from a list of electors.

(2) A returning officer must not delete a name from the list of electors unless the returning officer is satisfied that the person is not qualified as an elector.

#### Statement of changes and additions

27 When the revision is complete, a returning officer must do all of the following:

- (a) prepare a statement of changes and additions for each polling station;
- (b) make a copy of each statement available for public inspection at all reasonable times.

#### Official list of electors

28 A returning officer must certify the revised list of electors for each polling division following the revision as the official list of electors for the polling division.

#### Hours for ordinary poll

29 On ordinary polling day, the polling stations must be open for voting from 8 a.m. until 7 p.m.

#### Deputy returning officer and poll clerk appointed for each polling station

30 No later than Monday, the 8th day before ordinary polling day, the returning officer must appoint a deputy returning officer and a poll clerk for each polling station in the plebiscite area.

#### Replacement of deputy returning officer or poll clerk

31 (1) A returning officer may, for cause, dismiss and replace a deputy returning officer or poll clerk.

(2) A returning officer may appoint a deputy returning officer or poll clerk in the place of one who dies, resigns or is dismissed.

(3) A deputy returning officer or poll clerk who resigns or is dismissed must return their election materials to the person designated in writing by the returning officer.

#### Poll clerk must act as deputy returning officer

32 A poll clerk must act as the deputy returning officer if a deputy returning officer dies, resigns, is dismissed or fails to act and another person has not been appointed as a replacement.

#### Names of officials public

33 A returning officer must make a list of the names of all the deputy returning officers and poll clerks they have appointed available for public inspection at all reasonable times.

#### Ballot boxes and papers

34 (1) The Chief Electoral Officer must provide suitable ballot boxes to a returning officer to conduct a plebiscite.

- (2) A returning officer must arrange for the all ballot papers to be printed.
- (3) All ballot papers must meet the following criteria:
  - (a) they must be in the form prescribed by the Chief Electoral Officer;
  - (b) they must be of the same description and as nearly alike as possible;
  - (c) they must have the date of ordinary polling day printed on the back.

#### Materials supplied to deputy returning officer

35 (1) No later than noon on Monday, the day before ordinary polling day, a returning officer must supply the deputy returning officer at each polling station with all of the following:

- (a) enough ballot papers for the polling station;
- (b) a statement showing the serial numbers of the ballot papers that are supplied;
- (c) a copy of the instructions for deputy returning officers prescribed by the Chief Electoral Officer;
- (d) all of the following, in consolidated form, if possible:
  - (i) the official list of electors for the polling station,
  - (ii) the statement of changes and additions to the list of electors for that polling station,
  - (ii) the list of electors whose names are included on the list of electors for that polling station who voted at the advance poll;
- (e) copies of transfer certificates or proxy papers that have been issued for the polling station;
- (f) a ballot box and all necessary seals;
- (g) a poll book;
- (h) any materials or supplies authorized or supplied by the Chief Electoral Officer.

(2) The deputy returning officer is responsible for the safe custody of all materials supplied to them under this Section while the materials are in their possession.

#### Polling station locations

36 (1) No later than Wednesday, the 27th day before ordinary polling day, a returning officer must designate and secure suitable premises for each polling station in the plebiscite area.

(2) If a returning officer considers it impractical to hold a poll in the place first designated, the polling station must be relocated to another place located as close as possible to the original polling station, and the

returning officer must post a notice at or near the original polling station that states the new location of the polling station.

#### Central polls with more than one poll

37 Each polling station that is located in the same premises as another must be uniquely identified so that electors will know which polling station to go to.

#### Agents for interested groups

38 (1) A group of persons who are for or against the question may nominate persons to act as agents for the group and may have 1 agent at each polling station in the plebiscite area.

(2) Subject to subsection (3), a returning officer must appoint each person nominated as an agent and must specify at which polling station the agent may act.

(3) If 2 or more groups of persons nominate agents to represent 1 side of the question, a returning officer may decide which of the groups' nominees to appoint as agents.

(4) An agent may leave and return to a polling station while the polling station is open for voting, but only 1 agent for each side of the question may remain in the polling station while the polling station is open for voting.

(5) Before an agent is permitted to remain at a polling station, the agent must show the statement of their appointment and take the applicable oath set out in the poll book.

#### Persons present at polling station

39 Only the following persons are permitted to be in the polling station while the poll is open for voting:

- (a) the returning officer;
- (b) the deputy returning officer;
- (c) the poll clerk;
- (d) an elector intending to vote there;
- (e) 2 agents appointed by the returning officer, 1 to represent each side of the question;
- (f) the Chief Electoral Officer;

(g) any person who is present at the request of the deputy returning officer to maintain order in the polling station or to comply with the requirements of the Act or these regulations.

#### Access to polling station by disabled person

40 A returning officer must make every reasonable effort to ensure that polling stations are located in premises that disabled persons can conveniently access.

#### Transfer certificates

41 (1) A returning officer must, on request, issue a transfer certificate in the form prescribed by the Chief Electoral Officer to a disabled elector whose polling station is not accessible, to enable the elector to vote at a polling station that is accessible to disabled persons.

(2) A returning officer must, on request, issue a transfer certificate to a deputy returning officer or poll clerk who is appointed to act at a polling station other than the one where their name is on the list of electors.

(3) A transfer certificate may not be issued after 5 p.m. on the Saturday before ordinary polling day.

#### Procedure to issue transfer certificate

42 When issuing a transfer certificate, a returning officer must do all of the following:

- (a) complete the certificate in triplicate;
- (b) consecutively number each certificate in the order they are issued;
- (c) give the original certificate to the elector;
- (d) send a copy of the certificate to the deputy returning officer of the polling station where the name of the person to whom the certificate has been issued is on the list of electors; and
- (e) keep a copy of the certificate available for public inspection at all reasonable times.

#### Persons who may vote by proxy and how to apply

43 (1) An elector may vote through a proxy voter in accordance with this Section if the elector is on the list of electors and is unable to vote at a polling station because they are ill, physically disabled or will be absent from the plebiscite area during the plebiscite.

(2) A proxy paper may be issued only between the 15th day before ordinary polling day and 5 p.m. on the Saturday before ordinary polling day.

(3) A returning officer must issue a proxy paper in the prescribed form if the person requesting the proxy paper completes an application in the prescribed form and delivers it to the returning officer, and the returning officer is satisfied that all of the following requirements are met:

- (a) the applicant is an elector;
- (b) one of the following is true:
  - (i) the applicant and proxy voter are both on the same list of electors for the polling sion where the applicant is ordinarily resident, or
  - (ii) the proxy voter is of voting age and is a child, grandchild, brother, sister, parent, grandparent, or spouse of the applicant;
- (c) no other person has been issued a proxy paper to act as proxy voter for the applicant;
- (d) the proxy voter is not appointed as a proxy voter for another elector in the plebiscite, other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the proxy voter.

#### Procedure for issuing proxy paper

44 When issuing a proxy paper, a returning officer must do all of the following:

- (a) complete the proxy paper in triplicate;
- (b) give the original proxy paper to the applicant or person who brings the application on behalf of the applicant;
- (c) send a copy of the proxy paper to the deputy returning officer of the polling station where the name of the applicant isn [is on] the list of electors;
- (d) keep a copy of the proxy paper and application for the proxy vote available for public inspection at all reasonable times.

Similar name

45 If a name and address on a list of electors corresponds so closely to the name and address of an elector appointing a proxy voter or the name and address of a proxy voter that a returning officer is satisfied that the entry is intended to refer to the elector or proxy voter, any proxy paper issued for the applicant must conform to the entries on the list of electors.

#### Replacement proxy voter

46 If a proxy paper is returned to a returning officer for cancellation, the elector for whom it was issued may apply to have another person act as proxy voter in accordance with Sections 43 and 44.

#### No proxy voting for deceased elector

47 A person must not vote as proxy voter for another person knowing that the person is dead.

#### Opening polling station

48 (1) During the 15 minutes immediately before a polling station opens, the deputy returning officer must do all of the following in full view of the poll clerk and any agent who is there:

- (a) post all signs or instructions supplied to the deputy returning officer for posting;
- (b) count the ballot papers and permit any agent who is present to inspect and count the ballot papers;
- (c) prepare the ballot box by doing all of the following:
  - (i) opening it,
  - (ii) verifying that it is empty,
  - (iii) sealing or locking it in the required manner,
  - (iv) placing it on the table in full view of all present.

(2) During the 15 minutes immediately before a polling station opens or as soon thereafter as is practicable, and in the presence of the poll clerk and any agents who are there, the deputy returning officer must initial the back of each ballot paper either entirely in ink that is of one color or with a black lead pencil in the space provided for their initials without removing the ballot papers from the bound or stitched book.

(3) A deputy returning officer must use the same pen or black lead pencil to initial all ballot papers in a book.

#### Ballot box to remain sealed or locked

49 A deputy returning officer must ensure that the ballot box for their polling station remains sealed or locked until the poll closes.

#### Who may vote at polling station

50 Subject to Section 51, a person may vote at a polling station on ordinary polling day if any of the following applies to the person:

- (a) the person is included on the official list of electors for the polling station;
- (b) the person is not included on the official list of electors for the polling station but the person complies with Section 49;
- (c) the person delivers an original transfer certificate authorizing them to vote at that polling station to the deputy returning officer of the polling station;

(d) the person delivers an original transfer certificate to the deputy returning officer of the polling station where the person is included on the official list of electors.

#### Who cannot vote at polling station

51 A person may not vote at a polling station on ordinary polling day if any of the following applies to the person:

- (a) the person refuses to take the oath of qualification when legally required to;
- (b) the deputy returning officer is advised in the prescribed form by the returning officer that the elector voted at the advance poll or by proxy vote;
- (c) the deputy returning officer is advised that the elector was issued a transfer certificate to vote at another polling station and the person does not have the original transfer certificate as required by clause 50(d);
- (d) the person is disqualified from voting.

#### Elector omitted from official list of electors

52 A person who is not included on the official list of electors may vote at the polling station where the person would otherwise be qualified to vote on ordinary polling day if the person appears before the deputy returning officer at that polling station and swears to or affirms the oath or affirmation of a person omitted from the list of electors as set out in the poll book.

#### Duties of deputy returning officer in voting procedure

53 (1) While a polling station is open for voting, a deputy returning officer must do all of the following:

- (a) admit into the polling station each elector who has not already voted in person or by proxy and ensure the elector is not impeded;
- (b) have an elector declare their name and address;
- (c) if an elector or a person presenting themselves to vote is qualified to vote at that polling station, have the poll clerk do one of the following:
  - (i) enter the name and address of the elector in the poll book,
  - (ii) cross out the name and address of the elector on a hard copy of the official list of electors provided by the returning officer if directed by the returning officer;
- (d) fold the ballot paper so that, when folded, the deputy returning officer's initials on the back can be seen without unfolding it;
- (e) direct the elector to return the ballot paper folded after voting, as instructed, with the counterfoil attached;
- (f) give the ballot paper to the elector.

#### Oath of qualification

54 (1) If required by a deputy returning officer, a poll clerk or any agent who is present at a polling station, an elector must take the oath of qualification as set out in the poll book, in front of the deputy returning officer, before the elector receives a ballot paper.

(2) If an elector refuses to take the oath of qualification when required, the poll clerk must draw an erasing line through the elector's name on the official list and in the poll book, and must mark the poll book to indicate that the elector refused to swear or affirm.

- (3) An elector who refuses to take the oath of qualification when required must not
  - (a) be given a ballot paper;
  - (b) be permitted to vote later; or
  - (c) be permitted to enter the polling station again.

#### Procedure for voting

55 (1) On receiving a ballot paper from a deputy returning officer, an elector must

- (a) go into the voting compartment and mark a cross, an “X”, a check mark or a line with a pencil or pen in the appropriate space on the ballot paper;
- (b) fold the ballot paper so that the deputy returning officer’s initials and the serial number on the back can be seen without unfolding it;
- (c) give the folded ballot paper back to the deputy returning officer.

(2) When an elector returns a folded ballot paper to a deputy returning officer, the deputy returning officer must do all of the following:

- (a) verify that the initials and serial number show that it is the same ballot paper given to the elector;
- (b) if it is the same ballot paper given to the elector, remove and destroy the counterfoil and deposit the ballot in the ballot box in the full view of the elector and all others present.

(3) After the ballot is deposited in the ballot box, the elector must leave the polling station.

#### Voting with assistance

56 (1) If an elector is unable to vote in the manner set out in Section 55 because the elector is unable to read, is disabled or is blind, a deputy returning officer must,

- (a) if the elector has a friend who meets the criteria in subsection (2) to assist the elector,
  - (i) require the elector and the friend to take the applicable oaths set out in the poll book, and
  - (ii) permit the friend to accompany the elector into the voting compartment and to mark the elector’s ballot paper as directed by the elector; or
- (b) if the elector requests assistance,
  - (i) require the elector to take the applicable oath set out in the poll book, and
  - (ii) accompany the elector, with any agent who is present and who wishes to watch, into the voting compartment and assist the elector by marking the ballot paper as directed by the elector.

(2) A person may assist an elector with voting as a friend if they meet all of the following criteria:

- (a) the person is not the child, grandchild, brother, sister, parent, grandparent, husband or wife of the elector;

(b) the person has not already assisted another elector in the plebiscite who is not the child, grandchild, brother, sister, parent, grandparent, husband or wife of the friend.

#### Secrecy of vote

57 Except as provided in Section 56, a deputy returning officer who assists an elector with voting or an agent who watches must not inquire into or otherwise attempt to determine how an elector intends to vote or has voted.

#### Entering assisted vote in poll book

58 A poll clerk must enter all of the following on the record of poll in the poll book opposite the name of an elector who receives assistance to vote:

- (a) why the ballot paper was marked with assistance;
- (b) the name of the person who marked the ballot paper;
- (c) that the oaths were taken by the elector and any friend assisting the elector, in accordance with clause 64(e).

#### Replacement ballot paper

59 (1) An elector who has inadvertently dealt with a ballot paper so that it cannot be counted, must give it back to the deputy returning officer.

(2) A deputy returning officer must not look at a ballot paper that is returned to them to see how it is marked or show it to any other person.

(3) A deputy returning officer must

(a) write the word “cancelled” on the back of a ballot paper that is returned to them and place it in the envelope for cancelled ballot papers; and

(b) give the elector another ballot.

#### Obvious error on list

60 (1) If an elector applies for a ballot paper in a name and address that corresponds so closely to a name and address on the list of electors so that a deputy returning officer is satisfied that the entry in the list was intended to refer to that elector, the deputy returning officer must give the elector a ballot paper to vote if

(a) the elector takes the applicable oath set out in the poll book; and

(b) the elector takes the oath of qualification set out in the poll book in accordance with Section 54.

(2) A poll clerk must enter all the following on the record of poll in the poll book opposite the name of an elector who is permitted to vote under subsection (1):

(a) the correct name and address of the elector;

(b) that the elector took the oaths, in accordance with clause 64(e).

#### Impersonated elector

61 (1) An elector who shows up to vote after another person has voted in the elector’s name may receive a ballot paper and vote if the elector takes the following oaths:

(a) the oath of an impersonated elector set out in the poll book;

(b) the oath of qualification set out in the poll book, in accordance with Section 54.

(2) A poll clerk must enter all of the following in the poll book opposite the name of an impersonated elector:

(a) that the elector voted on a 2nd ballot paper issued under the same name;

(b) that the elector took the oath of an impersonated elector, in accordance with clause 64(e);

(c) that the elector took the oath of qualification, if required, in accordance with clause 64(e).

#### Electors who decline to vote

62 (1) An elector who is given a ballot paper but declines to vote must return the ballot paper to the deputy returning officer.

(2) A deputy returning officer must not look at a ballot paper that is returned to them to see if it is marked or show it to any other person.

(3) A deputy returning officer must

(a) mark “cancelled” on the back of a ballot paper that is returned to them and place it in the envelope for cancelled ballot papers; and

(b) not give the elector another ballot paper.

#### Interpreters

63 (1) A deputy returning officer who does not understand the language spoken by an elector must obtain an interpreter, if possible.

(2) An interpreter must take the oath for an interpreter set out in the poll book.

(3) An interpreter must communicate between the deputy returning officer and the elector to enable the elector to vote.

#### Poll book entries

64 A poll clerk must enter all of the following on the record of poll in the poll book for each voter:

(a) the name and address of the elector;

(b) the number assigned to the elector on the official list of electors unless the person is listed only in the statement of changes and additions;

(c) a consecutive number to show the number of persons who voted at the polling station;

(d) a check mark under the word “voted” opposite the name of the voter, as soon as the ballot is deposited in the ballot box;

(e) for an elector who takes an oath, a check mark under the words “sworn or affirmed” opposite their name with a note indicating the nature of the oath;

(f) for an elector who refuses to take an oath when legally required to, a check mark under the words “refused to swear or affirm” opposite their name;

(g) for an elector who votes under a transfer certificate, a check mark under the word “transfer” opposite their name together with the certificate number;

(h) for an elector who votes by proxy, a check mark under the word “proxy” opposite their name together with the proxy paper number;

(i) any entries that the deputy returning officer directs.

Only persons present when time to close poll may still vote

65 (1) When it is time for a polling station to close, a deputy returning officer must make a list of the names of all electors, who are in the polling station or are actually present at and awaiting admission to the polling station.

(2) A deputy returning officer must keep the polling station open long enough to permit the electors on the list made under subsection (1) to vote.

(3) An elector whose name is not listed under subsection (1) is not permitted to vote after the time set for the polling station to close.

Procedure for voting by proxy on ordinary polling day

66 An elector who has not already voted may vote by proxy on ordinary polling day if the elector’s proxy voter follows the following procedure:

(a) they appear before the deputy returning officer of the polling station where the name of the elector is on the official list of electors;

(b) they give the deputy returning officer the proxy paper as issued by the returning officer;

(c) they take the oath of a proxy voter as set out in the poll book.

Open vote prohibited

67 Other than a person who is complying with the requirements for assisting an elector to vote or acting as an interpreter, a person must not do either of the following at a polling station:

(a) openly declare the manner in which they intend to vote or voted;

(b) show their ballot paper in a manner that could disclose how they voted.

Maintaining secrecy during count

68 All persons at a polling station or present for the counting of the votes must maintain and help maintain the secrecy of voting.

Procedure when poll closes

69 A deputy returning officer must do all of the following when the poll is closed, in the presence of the poll clerk and at least 2 electors, or agents:

(a) write “The number of electors who voted at this plebiscite in this polling station is” and state the number at the end of the list of voters in the poll book, and sign the entry;

(b) open the envelope containing the cancelled ballot papers and do all of the following:

(i) count the ballot papers,

(ii) mark the number of ballot papers on the front of the envelope,

(iii) place the ballot papers back in the envelope,

(iv) seal the envelope with a gummed paper seal,

- (v) initial the seal;
- (c) locate the envelope for the unused ballot papers and do all of the following:
  - (i) count the unused ballot papers,
  - (ii) mark the number of unused ballot papers on the front of the envelope,
  - (iii) place the unused ballot papers and the stubs of all used ballot papers in the envelope,
  - (iv) seal the envelope with a gummed paper seal,
  - (v) initial the seal;
- (d) open the ballot box and place its contents on the table;
- (e) count the votes and arrange for the poll clerk and others present to record the count on tally sheets;
- (f) after each person present is given full opportunity to examine each ballot, decide whether the ballot should be counted or rejected;
- (g) if a ballot is to be counted, call out the vote and ensure that it is entered on the tally sheet;
- (h) if a ballot is to be rejected, deal with the ballot in accordance with Section 70.

#### Ballots that must be rejected

70 (1) When counting the votes, a deputy returning officer must reject any of the following ballots:

- (a) a ballot that was not supplied to an elector by the deputy returning officer;
- (b) a ballot that is not marked for or against the question;
- (c) a ballot that is marked for and against the question;
- (d) a ballot that is not marked with a cross, an “X”, a check mark or line made with a pencil or pen in the space provided for marking the ballot;
- (e) a ballot that is marked in a way that makes it unclear as to how the voter has voted;
- (f) a ballot that is marked in any way that can identify the elector.

(2) A ballot must not be rejected because of any writing, number or mark placed on it by a deputy returning officer in accordance with these regulations.

(3) A deputy returning officer must place all rejected ballots in the envelope supplied for rejected ballots.

#### Objections to ballot

71 (1) If an agent or elector who is present at a polling station while the votes are being counted objects to a ballot being counted, the deputy returning officer must decide every question arising out of the objection and, whether to count or reject the ballot.

(2) The decision of a deputy returning officer about a ballot that is objected to is binding on the objector and may only be reversed on a recount or on a court application questioning the plebiscite.

Ballot with counterfoil or without initials of deputy returning officer

72 A deputy returning officer must do one of the following, in the presence of any person at the polling station, to any ballot that is found with the counterfoil attached or without the initials of the deputy returning officer marked on the back:

- (a) after carefully concealing the number on the counterfoil, and without examining it, remove and destroy the counterfoil and count the vote on the ballot;
- (b) if the deputy returning officer is satisfied that the ballot is one that was properly supplied, mark their initials on the ballot and count the vote on the ballot;
- (c) if the deputy returning officer is satisfied that the ballot is not one that was properly supplied, reject the ballot.

Procedure after count

73 After counting the votes, a deputy returning officer must do all of the following:

- (a) complete the statement of poll in the poll book in the presence of any person at the polling station;
- (b) place the counted ballots for and against the question in separate envelopes supplied by the returning officer;
- (c) place all rejected ballots in the envelope for rejected ballots;
- (d) write a list of the contents of the envelope on each envelope and seal each envelope with a gummed paper seal;
- (e) sign the gummed paper seals and ensure that the poll clerk and any other person present who wishes to, signs the paper seals;
- (f) complete and sign enough copies of the statement of poll to have 1 for each person present who wishes to have a copy, to leave 1 in the poll book and to place 1 in a separate envelope outside the ballot box for delivery to the returning officer;
- (g) enclose all documents used at the poll in the ballot box or other container supplied by the Chief Electoral Officer, including all of the following:
  - (i) the poll book,
  - (ii) the various envelopes and their contents,
  - (iii) the official list of electors;
- (h) seal and lock the ballot box or other container supplied by the Chief Electoral Officer in the manner directed and return it to the returning officer as directed by the returning officer.

Advance poll in plebiscite area

74 (1) A returning officer must establish 1 advance polling station location in a convenient place in the plebiscite area.

(2) The advance poll for a plebiscite must be open for voting on the Friday and Saturday before ordinary polling day between noon and 8 p.m. on both days.

(3) A returning officer must appoint a deputy returning officer and a poll clerk for the advance poll.

(4) A deputy returning officer and poll clerk for an advance poll must not act as deputy returning officer and poll clerk for an ordinary poll.

#### Notice of advance poll

75 The Chief Electoral Officer must arrange for a newspaper advertisement to advise electors in the plebiscite area of the time and place of an advance poll.

#### Advance poll to follow procedures for ordinary poll

76 The provisions of these regulations relating to a polling station on ordinary polling day apply to an advance polling station with the necessary changes.

#### Who may vote at advance poll

77 Subject to Section 51, a person may vote at an advance polling station if their name is on the official list of electors of a polling division in the plebiscite area.

#### Additional poll book entry

78 A poll clerk at an advance poll must enter the number of the polling division where the elector is included on the official list of electors under the word "Remarks" opposite the name of an elector who votes at the advance poll.

#### Procedure when advance poll closes

79 On each day of an advance poll, when the polling station closes, the deputy returning officer for the advance poll must do all of the following:

(a) sign the gummed paper seals and ensure that the poll clerk and any agent present who wishes to, signs the gummed paper seals and place the seals on both of the following:

(i) the ballot box, in such a manner that the box cannot be opened or anything deposited in or removed from it without breaking the seals,

(ii) the envelope in which the deputy returning officer has placed the unused ballot papers and stubs;

(b) place the unused ballot papers and stubs in the envelope supplied and mark both of the following on the envelope:

(i) a record of its contents,

(ii) the serial number on the seal used for sealing the ballot box, if there is a serial number.

#### Advance poll ballot box

80 (1) A ballot box used at an advance polling station must not be opened from the time the poll opens on Friday until the close of the polls on ordinary polling day, and during that time must remain in the custody of the deputy returning officer or a person designated by the returning officer.

(2) None of the seals on a ballot box from an advance poll may be broken or removed before the votes are counted at the close of the polls on ordinary polling day except as follows:

(a) the seal on the slot on the top of the ballot box may be cut to permit ballots to be placed in the ballot box on Saturday during the advance poll;

(b) the seal on the envelope containing the unused ballot papers for use on Saturday during the advance poll may be broken.

#### Deputy returning officer to deliver list after close of advance poll

81 (1) When an advance poll closes on Saturday, the deputy returning officer must complete the list of voters at the advance polling station and immediately deliver the list to the returning officer.

(2) After the polls close on ordinary polling day, the deputy returning officer for the advance poll must, at the place determined by the returning officer and in the full view of the poll clerk and any agents or electors who are present, follow the procedure for when the poll closes and counting the votes set out in Sections 68 to 72.

Names of voters made public

82 (1) A returning officer must make the list of names of voters at the advance poll available to the public so that it may be inspected at any reasonable time.

(2) A returning officer must send a list of the voters who voted at the advance poll to the deputy returning officer responsible for the polling station where the electors would be entitled to vote if they had not voted in the advance poll.

Care of ballot boxes after ordinary polling day

83 On receiving a ballot box from a deputy returning officer after the polls are closed on ordinary polling day, a returning officer must do all of the following:

(a) if a seal or lock is not in good order, affix another seal or lock without removing the existing one, and record the original seal's condition; and

(b) take every precaution to safeguard the ballot box and to prevent any person from having unlawful access to it.

Official addition of votes by returning officer

84 (1) The official addition of the votes must be held by the returning officer beginning at 10 a.m. on Thursday, the 2nd day after ordinary polling day.

(2) When adding the votes, a returning officer must, in the presence of any agents and other persons who are attending, ascertain the number of votes cast for and against the question in each polling station in the plebiscite area by obtaining the information from one of the following:

(a) if no person objects in writing, the statement of poll for the polling station signed by the deputy returning officer and delivered to the returning officer in a separate envelope outside the ballot box;

(b) if a person objects in writing to using the statement of poll signed by the deputy returning officer, or the statement of poll has not been delivered as required, the statement of poll for the polling station in the poll book in the ballot box;

(c) if the statement of poll in the poll book is not available, the statement of poll for the polling station in the possession of the deputy returning officer or an agent, and the deputy returning officer or agent must verify the correctness of the statement by oath;

(d) if a statement of poll cannot be obtained for a polling station,

(i) the endorsements on envelopes in the ballot box that contains the ballots cast,

(ii) the deputy returning officer, poll clerk or any other person,

(iii) such evidence as is available to the deputy returning officer.

(3) When adding the votes, a returning officer may

(a) summon any person to appear at the official addition and require them to bring all necessary papers and other documents;

(b) examine, on oath, any person respecting the matter in question.

#### Re-sealing ballot box after official addition

85 If a ballot box is opened during the official addition to ascertain the number of votes cast, the returning officer must return all documents to the ballot box and seal or lock the box.

#### Duties of returning officer after official addition

86 (1) When the official addition of the votes is completed, a returning officer must

(a) complete the recapitulation sheet in the prescribed form; and

(b) send the recapitulation sheet to the Chief Electoral Officer.

(2) As soon as conveniently possible after ordinary polling day, a returning officer must send the Chief Electoral Officer all of the following:

(a) the deputy returning officers' accounts;

(b) the poll clerks' accounts;

(c) the accounts for owners of polling stations;

(d) the returning officer's account.

#### Equality of votes

87 (1) If there is an equality of votes for and against the question, a returning officer must advise the Chief Electoral Officer and the Chief Electoral Officer must apply for a recount.

(2) An application for a recount by the Chief Electoral Officer must be in accordance with Sections 88 to 89, with any necessary changes the circumstances require.

#### Application for recount

88 (1) No later than 4 days after the day that a returning officer completes an official addition, any elector may apply to a judge of the Supreme Court for a recount by the court of all of the ballots cast in the plebiscite area by filing an application with the clerk of the Supreme Court together with a deposit of \$100 as security for costs of the recount.

(2) As soon as conveniently possible after the filing of the application, a judge of the Supreme Court must appoint a time and place for the recount.

#### Notice of recount

89 (1) An applicant for a recount must give a returning officer at least 5 days written notice of the time and place appointed for the recount.

(2) A judge hearing an application may direct the applicant to notify other persons of the time and place of the recount.

(3) A judge hearing an application may direct that the service of any notice of the recount must be made by mail, by posting or any other manner.

#### Duties of returning officer at recount

90 A returning officer must attend the recount at the time and place appointed to deliver the ballot boxes and assist the judge as the judge directs.

#### Persons allowed to be present at recount

91 (1) The following persons may be present at a recount:

- (a) the judge;
- (b) the applicant;
- (c) the returning officer;
- (d) the Chief Electoral Officer;
- (e) any person the judge authorizes.

(2) In so far as is practicable, a recount must proceed continuously as directed by the judge.

#### Procedure followed at recount

92 At the recount, the judge must do all of the following:

(a) inspect the poll books and the official list of electors and oversee the opening of the sealed envelopes that contain the following:

- (i) the ballots that were counted,
- (ii) the rejected ballots,
- (iii) the cancelled ballot papers,
- (iv) the unused ballot papers;
- (b) oversee a recount of the ballots;
- (c) decide whether to accept or reject a ballot;
- (d) verify or correct the statement of the poll for each polling station;
- (e) ensure that the ballots and other documents are secured during any recess or adjournment.

#### Provisions for count apply to recount

93 All the provisions of these regulations respecting the procedure for counting the votes at the close of the poll apply to a recount of the votes with the necessary changes.

#### Duties of judge after recount

94 When a recount of the votes is completed, the judge must do all of the following in the presence of anyone attending:

- (a) ensure that the ballots are sealed in envelopes and that the envelopes and other documents are sealed or locked in their respective ballot boxes;
- (b) add the number of votes cast for or against the question as ascertained at the recount;
- (c) certify the result of the recount on the recapitulation sheet;
- (d) send the recapitulation sheet to the returning officer.

#### Recount costs

95 When a recount of the votes is completed, the judge may make such order as the judge sees fit respecting costs, including the disposition of money deposited as security for costs.

#### Majority of votes for or against after recount

96 If the recapitulation sheet received from the judge after a recount shows a majority of votes were cast either for or against the question, the returning officer must submit the recapitulation sheet to the Chief Electoral Officer, which is the return on the plebiscite.

#### Equality of votes after recount

97 (1) If the recapitulation sheet received from the judge after a recount shows that an equality of votes exists, the returning officer must, when the recount is completed or as soon as possible after the recount is completed,

- (a) determine the result by lot in the presence of at least two electors; and
- (b) advise the Chief Electoral Officer of the outcome of the lot.

(2) In this Section, “lot” means the method of determining the outcome of the plebiscite by placing the word “yes”, representing a return for the question, and the word “no”, representing a return against the question, on separate pieces of paper of equal size in a box and drawing one of those pieces of paper without looking at it.

#### Duties of returning officer after plebiscite return

98 A returning officer must send the Chief Electoral Officer all of the following after the plebiscite return:

- (a) 2 copies of the lists of electors;
- (b) 2 copies of the statement of changes and additions made by the returning officer.

#### Care of ballot boxes after plebiscite return

99 (1) A returning officer must preserve the ballot boxes or other containers in a sealed and secure condition until whichever of the following is later:

- (a) 5 weeks after ordinary polling day;
- (b) 3 weeks after the completion of any recount.

(2) If there is no application to court to have the plebiscite set aside, as soon as conveniently possible after the required time period determined under subsection (1), the returning officer must open the ballot boxes or other containers and return all contents, including the poll books, to the Chief Electoral Officer.

#### Persons qualified to administer oath

100 (1) An oath authorized or required to be made under these regulations may be taken before any of the following:

- (a) a person who these regulations expressly require to administer it;
- (b) a returning officer or a deputy returning officer;
- (c) a person authorized by law to take oaths or affidavits.

(2) An oath must be administered without fee or reward.

Non-compliance with regulations may not invalidate plebiscite

101 A plebiscite cannot be declared invalid for any of the following reasons, if it appears to the tribunal being asked to decide, that the plebiscite was conducted in accordance with the principles laid down in these regulations, and the non-compliance or mistake does not affect the result of the plebiscite:

- (a) because of a non-compliance with the provisions of these regulations
  - (i) about taking the vote, or
  - (ii) about counting the votes;
- (b) because of any mistake in the use of the forms.