

NISGA'A ELECTIONS ACT

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

NISGA'A ELECTIONS ACT

**UNOFFICIAL CONSOLIDATION
CURRENTY TO FEBRUARY 22, 2012**

NISGA'A ELECTIONS ACT

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PART 1 – INTERPRETATION**Definitions****1.** In this Act:

“acceptance form” means a document referred to in section 16(4)(b);

“additional voting location” means a voting location prescribed under section 6.1;

“administrative review officer” has the same meaning as in the *Nisga'a Administrative Decisions Review Act*;

“advance voting” means voting at an advance voting opportunity;

“advance voting opportunity” means an opportunity to vote referred to in section 34(2);

“ballot account” means a record of the ballots used in an election or referendum and the votes marked on those ballots;

“by-election” means an election conducted under section 4;

“candidate” means a nominee for an elected office to be filled in an election who

- (a) is decided to be qualified to stand for that elected office in that election under section 18(2)(b) and is not disqualified under section 19(5), or
- (b) is determined to be qualified to stand for the elected office in the election under section 19(5);

“candidate representative” means a person appointed to represent a candidate under section 23;

“close of general voting” means the end of voting hours at a general voting opportunity;

“deputy district Nisga'a Elections Officer” means a person appointed as a deputy district Nisga'a Elections Officer under section 80(1)(b);

“deputy Nisga'a Elections Officer” means a person appointed as the deputy Nisga'a Elections Officer under section 74(1)(a);

“district Nisga'a Elections Officer” means a person appointed as a district Nisga'a Elections Officer under section 80(1)(a);

“elected office” means the office of

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- (a) an Officer of Nisga'a Lisims Government,
- (b) a Chief Councillor or Village Councillor, or
- (c) a Nisga'a Urban Local Representative;

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

“election administration” means the Nisga'a Elections Officer, all other election officials and any other persons who report directly or indirectly to the Nisga'a Elections Officer;

“election for local office” means an election of a Chief Councillor, Village Councillor or Nisga'a Urban Local Representative;

“election for national office” means an election of an Officer of Nisga'a Lisims Government;

“election official” means

- (a) the Nisga'a Elections Officer,
- (b) the deputy Nisga'a Elections Officer,
- (c) a district Nisga'a Elections Officer,
- (d) a deputy district Nisga'a Elections Officer, or
- (e) a person appointed under section 74(1)(b) or 81(1) or (1.1);

“election official responsible” means the election official assigned responsibility for particular proceedings in a voting place, for the purposes of an election or a referendum;

“final count” means the count of votes conducted under Division 2 of Part 6;

“general voting” means voting at a general voting opportunity;

“general voting day” means the day on which an election is conducted under section 3 or 4, or on which a referendum is conducted under section 5;

“general voting opportunity” means an opportunity to vote referred to in section 33(3) or (3);

“inducement” includes money, gift, valuable consideration, refreshment, entertainment, office, placement, employment and any other benefit of any kind but, for certainty, does not include merely transporting a person to or from a voting opportunity;

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“initial count” means the count of votes conducted under Division 1 of Part 6;

“intimidate” means

- (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 to threaten to do anything that is otherwise intimidation of a person;

“list of voters” means a list of voters, comprising all or part of the Nisga’a Voters List, published for an election or referendum under section 9;

“local office” means the office of a Chief Councillor, Village Councillor or Nisga’a Urban Local Representative;

“mail-in ballot” means a ballot for an election or referendum, to be cast by mail to the Nisga’a Elections Officer;

“national office” means the office of an Officer of Nisga’a Lisims Government;

“Nisga’a Elections Officer” means a person appointed as the Nisga’a Elections Officer under section 71 or 72;

“Nisga’a Voters List” means the record referred to in section 8(1);

“nomination deposit” means a monetary deposit prescribed under section 17(1);

“nomination form” means a document referred to in section 16(4)(a);

“nomination meeting” means a meeting referred to in section 16(1);

“nominee” means a person whose nomination for an elected office is decided under section 18(1) or determined under section 19(4) to have been completed in accordance with section 16(9);

“non-resident ballot” means a ballot cast by a non-resident voter at an opportunity to vote referred to in section 33(2)(b) or (3);

“non-resident voter” means a voter who votes at a general voting opportunity in

- (a) a voting area in which the voter does not ordinarily reside, or

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(b) an additional voting location;

“organization” means an incorporated or unincorporated organization;

“prescribed criminal offence” means an offence that

(a) is an offence under the *Criminal Code*, and

(b) is prescribed for the purposes of section 15(2)(i) to (k);

“prescribed debt” means a debt to the Nisga’a Nation, a Nisga’a Village or a Nisga’a Urban Local that is prescribed for the purposes of section 15(2)(h.1);

“referendum” means a referendum of the Nisga’a Nation or a referendum of a Nisga’a Village;

“register of prescribed debts” means a register established by the Director of Finance under section 15.2(1);

“regular election” means an election conducted under section 3;

“resident ballot” means a ballot cast by a resident voter at an opportunity to vote referred to in section 33(2)(a) or 34(2);

“resident voter” means a voter who votes at a voting opportunity in the voting area in which the voter ordinarily resides;

“solemn declaration” means an oath or solemn affirmation;

“voter” means a person who meets the requirements to vote in an election or referendum under this Act;

“voting area” means a voting area established under section 6;

“voting book” means a record of the voters to whom ballots are issued at a voting opportunity;

“voting hours” means the hours established for voting at a voting opportunity under this Act;

“voting officer” means a person appointed as a voting officer under section 81(1)(a) or (1.1)(a) and, when used in relation to proceedings at a voting place, means a person so appointed who is assigned responsibility for those proceedings;

“voting opportunity” means a general voting opportunity or an advance voting opportunity;

“voting place” means a voting place established under section 33(1) for a general voting opportunity or under section 34(1) for an advance voting opportunity;

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“voting station” means a location within a voting place where ballots are given to and received from voters;

“week” means a period of seven consecutive days, beginning on a Sunday and ending on a Saturday.

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Ordinary residence

2. (1) For the purposes of this Act and the regulations, the ordinary residence of a person is determined by the provisions of this section.
- (2) A person is not ordinarily resident in a place unless that person
 - (a) lives and sleeps in that place, and
 - (b) intends to return to the place whenever absent from the place.
- (3) A person can be ordinarily resident in only one place at a time.
- (4) A person does not cease to be ordinarily resident in a place until the person is ordinarily resident in a different place.
- (5) A person does not cease to be ordinarily resident in a place by leaving the place for temporary purposes only.
- (6) Despite subsections (2) to (5) but subject to subsections (7) and (10), if, for the purposes of attending an educational institution, a person establishes a new place of residence away from the person's usual place of residence,
 - (a) the person may choose either their usual place or the new place as the place where the person is ordinarily resident, and
 - (b) a spouse, parent or dependant of the person who has moved from their usual place of residence and resides with the person in the new place may choose either their usual place or the new place as the place where they are ordinarily resident.
- (7) The Nisga'a Elections Officer may require a person claiming the right to choose a place of ordinary residence under subsection (6)(a), and a spouse, parent or dependant of such a person claiming the right to choose a place of ordinary residence under subsection (6)(b), to provide evidence satisfactory to the Nisga'a Elections Officer of that person's registration in a recognized educational program.
- (8) Despite subsections (2) to (5) but subject to subsections (9) and (10), a person who is imprisoned in a penal institution is not by that imprisonment ordinarily resident in the place where the penal institution is located, and may choose as the person's place of ordinary residence
 - (a) the place where the person was ordinarily resident before being imprisoned, or
 - (b) a place where a spouse, parent or dependant of the person is ordinarily resident.

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- (9) The Nisga'a Elections Officer may require a person claiming the right to choose a place of ordinary residence under subsection (8) to provide evidence satisfactory to the Nisga'a Elections Officer of
- (a) their imprisonment in a penal institution, and
 - (b) their place of ordinary residence before their imprisonment or the place of ordinary residence of their spouse, parent or dependant, as the case may be.
- (10) A person's choosing of a place of ordinary residence under subsection (6) or (8)
- (a) determines the person's ordinary residence for the purposes of voting under this Act and the regulations, but
 - (b) does not determine the person's ordinary residence for the purposes of nomination or candidacy for elected office, or for any other purpose, under the *Nisga'a Constitution*, this Act, the regulations or any other Nisga'a law.
- (11) For the purposes of section 42(1) of the *Nisga'a Constitution*, the number of residents of each Nisga'a Village is the number of Nisga'a citizens who are ordinarily resident within that Nisga'a Village.
- (12) The Nisga'a Elections Officer must determine the number of Village Councillors to be elected to a Nisga'a Village Government at a regular election by applying, in respect of each Nisga'a Village, the number of residents determined in accordance with subsection (11) to the table set out in section 42(1) of the *Nisga'a Constitution*.

PART 2 – TIMING AND NOTICE OF ELECTIONS AND REFERENDUMS**Date of regular elections**

3. In any year in which an election is required to be held under section 28 of the *Nisga'a Constitution*, the Nisga'a Elections Officer must conduct an election on the first Wednesday of November to fill the offices of
- (a) each Officer of Nisga'a Lisims Government,
 - (b) the Chief Councillor and Village Councillors of each Nisga'a Village Government, and
 - (c) the Nisga'a Urban Local Representatives from each Nisga'a Urban Local.

Date of by-elections

4. (1) Subject to subsection (2), if a vacancy in an elected office occurs between regular elections,
- (a) the Executive must determine a date for an election to fill the vacancy that is not more than 150 days after the occurrence of the vacancy, and
 - (b) the Nisga'a Elections Officer must conduct an election to fill the vacancy on the date determined by the Executive under paragraph (a).
- (2) If a vacancy in an elected office occurs within eight months before the next following regular election, the Executive must not determine a date for the holding of an election to fill the vacancy and the Nisga'a Elections Officer must not conduct an election to fill the vacancy.

Date of referendums

5. (1) The Executive may determine the date for any referendum of the Nisga'a Nation, unless, in a particular case, Wilp Si'ayuukhl Nisga'a determines the date for the referendum.
- (2) A Nisga'a Village Government may determine the date for any referendum of the Nisga'a Village over which it has jurisdiction.
- (3) The Nisga'a Elections Officer must conduct
- (a) a referendum of the Nisga'a Nation on a date determined under subsection (1), or

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- (b) a referendum of a Nisga'a Village on a date determined under subsection (2).

Voting areas

6. For all purposes of this Act and the regulations, each Nisga'a Village and each Nisga'a Urban Local Area is established as a voting area.

Additional voting locations

- 6.1 The Executive may prescribe one or more additional voting locations that are in addition to the voting areas established under section 6.

Notice of elections and referendums

7. At least 90 days before the general voting day for a regular election, and as soon as practicable after the date for a by-election or referendum is determined, the Nisga'a Elections Officer must publish a notice of the election or referendum in accordance with the regulations.

PART 3 – VOTER QUALIFICATIONS AND REGISTRATION**Nisga'a Voters List**

8. (1) The Nisga'a Elections Officer must maintain and update on a continuing basis a record, to be known as the Nisga'a Voters List, listing every Nisga'a citizen who is at least 18 years of age.
- (2) Within 150 days of the general voting day for an election or referendum, the Nisga'a Elections Officer may add to the Nisga'a Voters List any Nisga'a citizen who will be at least 18 years of age by that general voting day.
- (3) The Nisga'a Elections Officer must maintain the Nisga'a Voters List
- (a) in such a manner that it can be subdivided into eight parts, listing separately
- (i) the voters who ordinarily reside in each of the seven voting areas, and
- (ii) the voters who do not ordinarily reside in any voting area, and
- (b) in accordance with the regulations.
- (4) Despite subsections (1) to (3), during the period between the publication of the preliminary list of voters for an election or referendum under section 9(2) and the publication of the official results of the election or referendum under section 66, the Nisga'a Elections Officer must not amend the Nisga'a Voters List except under section 13.

Publication of lists of voters

9. (1) For each election or referendum, the Nisga'a Elections Officer must prepare and publish, in accordance with the regulations,
- (a) a preliminary and a revised list of voters who ordinarily reside in each voting area in which the election or referendum is to be conducted, and
- (b) if the election is a regular election or a by-election for national office or if the referendum is a referendum of the Nisga'a Nation, a preliminary and a revised list of voters who do not ordinarily reside in any voting area.
- (2) The Nisga'a Elections Officer must publish
- (a) the preliminary list of voters for a regular election at least 90 days before the

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general voting day for the regular election,

- (b) the preliminary list of voters for a by-election or referendum as soon as practicable after the date for the by-election or referendum is determined, and
- (c) the revised list of voters for an election or referendum at least 20 days before the general voting day for the election or referendum.

Access to lists of voters during election

- 10.** (1) The Nisga'a Elections Officer must, on request and without charge, provide
- (a) a candidate in an election for local office with two printed copies and one electronic copy of both the preliminary and revised lists of voters who ordinarily reside in the voting area in which the candidate is seeking election, and
 - (b) a candidate in an election for national office with two printed copies and one electronic copy of both
 - (i) the preliminary and revised lists of voters who ordinarily reside in each voting area, and
 - (ii) the preliminary and revised lists of voters who do not ordinarily reside in any voting area.
- (2) The Nisga'a Elections Officer must, in accordance with the regulations, make available for inspection by Nisga'a citizens copies of the preliminary and revised lists of voters for an election or referendum.

Objections to preliminary list of voters

- 11.** (1) A Nisga'a citizen who will be at least 18 years of age on the general voting day for an election or referendum, who otherwise qualifies to vote in the election or referendum and who is not listed on the preliminary list of voters for the election or referendum may, in accordance with subsection (3), file with the Nisga'a Elections Officer an objection to that omission.
- (2) A Nisga'a citizen who is at least 18 years of age may, in accordance with subsection (3), file with the Nisga'a Elections Officer an objection to the listing of a person on the preliminary list of voters for an election or referendum, only on the basis that the person
- (a) is not a Nisga'a citizen,
 - (b) will not be at least 18 years of age on the general voting day for the election or

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- referendum,
- (c) has died, or
 - (d) in the case of a preliminary list of voters who ordinarily reside in a voting area, does not ordinarily reside in that voting area.
- (3) An objection under subsection (1) or (2) in relation to the preliminary list of voters for an election or referendum must be filed with the Nisga'a Elections Officer
- (a) within 14 days after the Nisga'a Elections Officer publishes that preliminary list of voters, and
 - (b) in accordance with the regulations.
- (4) As soon as practicable after receiving an objection filed under subsection (1), the Nisga'a Elections Officer must, in accordance with the regulations,
- (a) decide to allow or dismiss the objection,
 - (b) give a written notice of the Nisga'a Election Officer's decision under paragraph (a) to the Nisga'a citizen who filed the objection, and
 - (c) if the Nisga'a Elections Officer dismisses the objection, give written reasons for that decision to the Nisga'a citizen along with the notice given under paragraph (b).
- (5) As soon as practicable after receiving an objection filed under subsection (2), the Nisga'a Elections Officer must make reasonable efforts to
- (a) provide notice of the objection to the person whose listing on the preliminary list of voters is objected to, and
 - (b) provide that person with an opportunity to respond to the objection.
- (6) As soon as practicable after satisfying the requirements of subsection (5) in relation to an objection filed under subsection (2), the Nisga'a Elections Officer must, in accordance with the regulations,
- (a) decide to allow or dismiss the objection, and
 - (b) give a written notice of the Nisga'a Election Officer's decision under paragraph (a), along with written reasons for that decision, to
 - (i) the Nisga'a citizen who filed the objection, and

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- (ii) the person whose listing on the preliminary list of voters was objected to, unless the Nisga'a Election Officer, by the date of the decision,
 - (A) has determined that the person has died, or
 - (B) has not been able to ascertain the whereabouts of the person.

Reviews of decisions on objections

- 12.** (1) If the Nisga'a Elections Officer decides to dismiss an objection under section 11(4) or (6), the Nisga'a citizen who filed the objection may, in accordance with subsection (3), request a review of that decision by the Nisga'a Administrative Decisions Review Board.
- (2) If the Nisga'a Elections Officer decides to allow an objection under section 11(6), the person whose listing on the preliminary list of voters was objected to may, in accordance with subsection (3), request a review of that decision by the Nisga'a Administrative Decisions Review Board.
- (3) A request under subsection (1) or (2) for a review of a decision of the Nisga'a Elections Officer must be made by filing a complaint with the administrative review officer in accordance with the regulations within three days after the Nisga'a Elections Officer gives a written notice of the decision to the person making the request.
- (4) After conducting a review of a decision of the Nisga'a Elections Officer to dismiss an objection under section 11(4), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,
- (a) determine whether the Nisga'a citizen who filed the objection is eligible under this Act to be listed on the preliminary list of voters for the election or referendum in question, and
 - (b) make an order
 - (i) upholding the Nisga'a Elections Officer's decision in respect of that objection, or
 - (ii) setting aside the Nisga'a Elections Officer's decision in respect of that objection and substituting the Board's determination for the Nisga'a Elections Officer's decision.
- (5) After conducting a review of a decision of the Nisga'a Elections Officer to allow or dismiss an objection under section 11(6), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,

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- (a) determine whether the Nisga'a citizen whose listing on the preliminary list of voters for an election or referendum was objected to is eligible under this Act to be listed on that list, and
 - (b) make an order
 - (i) upholding the Nisga'a Elections Officer's decision in respect of that objection, or
 - (ii) setting aside the Nisga'a Elections Officer's decision in respect of that objection and substituting the Board's determination for the Nisga'a Elections Officer's decision.

Amendments to Nisga'a Voters List

- 13.** If an objection under section 11(1) or (2) in relation to a preliminary list of voters for an election or referendum is allowed
- (a) by the Nisga'a Elections Officer
 - (i) under section 11(4), or
 - (ii) under section 11(6) and the allowance of that objection is not set aside by the Nisga'a Administrative Decisions Review Board under section 12(5), or
 - (b) by the Nisga'a Administrative Decisions Review Board under section 12(4) or (5),

the Nisga'a Elections Officer must revise the Nisga'a Voters List to reflect the allowance of the objection.

Right to vote

- 14.** (1) Subject to this Act and the regulations, a Nisga'a citizen who is listed on the Nisga'a Voters List may
- (a) vote in a referendum of the Nisga'a Nation,
 - (b) vote in an election of an Officer of Nisga'a Lisims Government,
 - (c) if the Nisga'a citizen ordinarily resides in a Nisga'a Village, vote in

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- (i) an election of the Chief Councillor or a Village Councillor of the Nisga'a Village Government of that Nisga'a Village, and
 - (ii) a referendum of the Nisga'a Village, and
- (d) if the Nisga'a citizen ordinarily resides in a Nisga'a Urban Local Area, vote in an election of a Nisga'a Urban Local Representative from the Nisga'a Urban Local for that Nisga'a Urban Local Area.
- (2) Subject to this Act and the regulations, a Nisga'a citizen who
- (a) is listed on the Nisga'a Voters List, and
 - (b) is entitled under subsection (1) to vote in a particular election or referendum but is not listed on the revised list of voters for that election or referendum
- may vote in the election or referendum on meeting the prescribed requirements.
- (3) Subject to this Act and the regulations, a Nisga'a citizen who
- (a) is not listed on the Nisga'a Voters List, and
 - (b) would be entitled under subsection (1) to vote in a particular election or referendum if they were listed on the Nisga'a Voters List
- may vote in that election or referendum on meeting the prescribed requirements.

PART 4 – NOMINATIONS AND CANDIDATES**Qualifications to stand for office**

15. (1) Subject to the *Nisga'a Constitution*, this Act and the regulations, any Nisga'a citizen who is at least 18 years of age may stand for any elected office to be filled in an election.
- (2) A person is not qualified to stand for an elected office in an election if that person
- (a) is not a Nisga'a citizen who is at least 18 years of age,
 - (b) is a member of the Council of Elders, other than the Chairperson of the Council of Elders,
 - (c) is the Nisga'a Elections Officer,
 - (d) is a member of the Nisga'a Administrative Decisions Review Board,
 - (e) is the Law Clerk,
 - (f) is a candidate for another elected office in the same election or in another election to be conducted on the same day,
 - (g) has been found to be a mentally disordered person,
 - (h) is an undischarged bankrupt,
 - (h.1) owes a prescribed debt that is not in good standing as of the date of their nomination,
 - (i) is subject to a sentence for a prescribed criminal offence,
 - (j) has been subject to a sentence for a prescribed criminal offence within the period of 12 years before the general voting day for the election,
 - (k) has been convicted of a prescribed criminal offence within the period of 12 years before the general voting day for the election,
 - (l) subject to subsection (4), has been removed from an elected office in accordance with the *Nisga'a Constitution* or Nisga'a legislation,
 - (m) in the case of an election to fill the office of the Chief Councillor or a Village Councillor of a Nisga'a Village Government, does not ordinarily reside in the relevant Nisga'a Village on the date of the nomination meeting at which they are

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nominated, or

- (n) in the case of an election to fill the office of a Nisga'a Urban Local Representative from a Nisga'a Urban Local, does not ordinarily reside in the relevant Nisga'a Urban Local Area on the date of the nomination meeting at which they are nominated.
 - (3) For certainty, a person is not disqualified from standing for the office of an Officer of Nisga'a Lisims Government in an election merely because that person does not ordinarily reside within Nisga'a Lands on or after the date of the nomination meeting at which they are nominated.
 - (4) If
 - (a) a person has been removed from an elected office in accordance with the *Nisga'a Constitution* or Nisga'a legislation, and
 - (b) subsequent to that removal, the body that removed the person from office has, by a resolution supported by at least two-thirds of its members, declared that the person should not by reason of the removal continue to be disqualified from candidacy under this Act,
- subsection (2)(l) does not operate to disqualify the person from standing for an elected office in an election on the basis of that removal.
- (5) The Executive may prescribe debts for the purposes of subsection (2)(h.1) and criminal offences for the purposes of subsection (2)(i) to (k).

Decisions respecting prescribed debts

- 15.1** (1) If the Director of Finance believes that a Nisga'a citizen owes a prescribed debt that is not in good standing on the basis of records or other documents in the possession of the Director which the Director considers reliable and sufficient, the Director
- (a) must deliver to the Nisga'a citizen a written notice
 - (i) setting out details of the prescribed debt the Director believes to be owed and not in good standing,
 - (ii) enclosing copies of the records or other documents on which the Director's belief is based, and
 - (iii) stating that a decision will be made under subsection (3) as to whether the prescribed debt is owed by the Nisga'a citizen and is not in good standing,

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- (b) must provide the Nisga'a citizen with a reasonable opportunity to
 - (i) respond to the notice and records or other documents delivered under paragraph (a), and
 - (ii) provide to the Director any additional records or other documents that the Nisga'a citizen considers relevant to the decision to be made under subsection (3),

on such terms and conditions and within such time as the Director specifies in the notice, and

- (c) after the Nisga'a citizen responds under paragraph (b) or after the time for the Nisga'a citizen's response under paragraph (b) elapses, may conduct any further investigation the Director considers advisable in relation to the decision to be made under subsection (3), including, without limitation, by delivering to the Nisga'a citizen a written request that the Nisga'a citizen
 - (i) answer questions, or
 - (ii) provide to the Director any additional records or other documents not provided under paragraph (b)(ii),

on such terms and conditions and within such time as the Director specifies in the written request.

- (2) If after the Director of Finance delivers a notice and records or other documents to a Nisga'a citizen under subsection (1)(a) and before the Director makes a decision under subsection (3) as to whether the Nisga'a citizen owes a prescribed debt that is not in good standing, the Director obtains from any source other than the Nisga'a citizen additional records or other documents that the Director considers relevant to that decision, the Director must

- (a) as soon as practicable, deliver to the Nisga'a citizen copies of those additional records or other documents, and
- (b) provide the Nisga'a citizen with a reasonable opportunity to respond to those additional records or other documents, on such terms and conditions and within such time as the Director specifies.

- (3) As soon as practicable after

- (a) the Director of Finance delivers a notice and records or other documents to a Nisga'a citizen under subsection (1)(a) in respect of a prescribed debt believed to

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be owed by the Nisga'a citizen and not in good standing,

- (b) the Nisga'a citizen responds under subsection (1)(b) or the time specified by the Director under subsection (1)(b) for the Nisga'a citizen's response elapses,
- (c) the Director conducts any further investigation the Director considers advisable under subsection (1)(c) and, if the Director makes a request under subsection (1)(c)(i) or (ii), the Nisga'a citizen responds to that request under subsection (1)(c) or the time specified by the Director under subsection (1)(c) for the Nisga'a citizen's response to that request elapses, and
- (d) if the Director delivers additional records or other documents to the Nisga'a citizen under subsection (2)(a), the Nisga'a citizen responds under subsection (2)(b) or the time specified by the Director under subsection (2)(b) for the Nisga'a citizen's response elapses,

the Director must make a decision as to

- (e) whether the prescribed debt is owed by the Nisga'a citizen and is not in good standing, and
 - (f) if the Director decides under paragraph (e) that the prescribed debt is owed by the Nisga'a citizen and is not in good standing, the amount of the prescribed debt that is owed and not in good standing as of the date of the decision.
- (4) As soon as practicable after making a decision under subsection (3), the Director of Finance must
- (a) deliver a written notice of the decision to the Nisga'a citizen concerned, and
 - (b) if the Director makes a decision that the Nisga'a citizen owes a prescribed debt that is not in good standing and as to the amount of the prescribed debt that is owed and not in good standing as of the date of the decision, include reasons for that decision with the notice referred to in paragraph (a).

Register of prescribed debts

- 15.2** (1) The Director of Finance must establish a register of prescribed debts that are not in good standing.
- (2) As soon as practicable after making a decision under section 15.1(3) that a Nisga'a citizen owes a prescribed debt that is not in good standing and as to the amount of the prescribed debt that is owed and not in good standing, the Director of Finance must enter the date of the decision, the name of the Nisga'a citizen, the nature of the prescribed debt and the

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- amount of the prescribed debt that is not in good standing as of the date of the decision in the register of prescribed debts.
- (3) For the purposes of section 15(2)(h.1),
- (a) if the name of a Nisga'a citizen has been entered in the register of prescribed debts under subsection (2) in relation to a prescribed debt and remains in the register in relation to that prescribed debt as of the date of the Nisga'a citizen's nomination for an elected office, the Nisga'a citizen is deemed to owe a prescribed debt that is not in good standing as of that date, and
 - (b) if the name of a Nisga'a citizen is not entered in the register of prescribed debts in relation to a prescribed debt as of the date of the Nisga'a citizen's nomination for an elected office, the Nisga'a citizen is deemed to not owe a prescribed debt that is not in good standing as of that date.
- (4) A Nisga'a citizen whose name has been entered in the register of prescribed debts under subsection (2) as owing a prescribed debt that is not in good standing may make a written application to the Director of Finance to have their name removed from the register in relation to that prescribed debt on the basis that the prescribed debt has been
- (a) retired, or
 - (b) otherwise brought into good standing.
- (5) A Nisga'a citizen who makes an application to the Director of Finance under subsection (4) must enclose with their application records or other documents supporting the application.
- (6) On receiving the application of a Nisga'a citizen under subsection (4), the Director of Finance
- (a) may conduct any further investigation the Director considers advisable in relation to the decision to be made under subsection (7), including, without limitation, by delivering to the Nisga'a citizen a written request that the Nisga'a citizen
 - (i) answer questions, or
 - (ii) provide to the Director any additional records or other documents not provided under subsection (5),on such terms and conditions and within such time as the Director specifies in the written request, and
 - (b) if, before the Director decides the application under subsection (7), the Director

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obtains from any source other than the Nisga'a citizen additional records or other documents that the Director considers relevant to the application, the Director must

- (i) as soon as practicable, deliver to the Nisga'a citizen copies of the additional records or other documents, and
- (ii) provide the Nisga'a citizen with a reasonable opportunity to respond to the additional records or other documents, on such terms and conditions and within such time as the Director specifies.

(7) As soon as practicable after

(a) the Director of Finance

- (i) receives an application from a Nisga'a citizen under subsection (4), and
- (ii) conducts any further investigation the Director considers advisable under subsection (6)(a),

(b) if the Director makes a request under subsection (6)(a)(i) or (ii), the Nisga'a citizen responds to that request under subsection (6)(a) or the time specified by the Director under subsection (6)(a) for the Nisga'a citizen's response to that request elapses, and

(c) if the Director delivers additional records or other documents to the Nisga'a citizen under subsection (6)(b), the Nisga'a citizen responds under subsection (6)(b)(ii) or the time specified by the Director under subsection (6)(b)(ii) for the Nisga'a citizen's response elapses,

the Director must make a decision as to whether the prescribed debt in question has been

(d) retired, or

(e) otherwise brought into good standing.

(8) As soon as practicable after making a decision under subsection (7), the Director of Finance must

(a) deliver a notice of the decision to the Nisga'a citizen concerned, and

(b) if the Director decides that

- (i) the prescribed debt in question has not been retired or otherwise brought into good standing, provide written reasons for that decision with the

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notice delivered under paragraph (a), or

- (ii) the prescribed debt in question has been retired or otherwise brought into good standing, remove the name of the Nisga'a citizen from the register of prescribed debts in relation to that prescribed debt.

Review of decisions respecting prescribed debts

15.3 If the Director of Finance makes a decision

- (a) under section 15.1(3) that a Nisga'a citizen owes a prescribed debt that is not in good standing and as to the amount of the prescribed debt that is owed and not in good standing, or
- (b) under section 15.2(7) that a prescribed debt that is entered in the register of prescribed debts in the name of a Nisga'a citizen has not been retired or otherwise brought into good standing,

the Nisga'a citizen may request a review of that decision under the *Nisga'a Administrative Decisions Review Act*.

Nominations

- 16.** (1) In each voting area in which an election is to be conducted, the Nisga'a Elections Officer must, for the purposes of the election, hold a meeting at which persons may be nominated for the elected office or offices for which voters who ordinarily reside in that voting area may vote in the election.
- (2) At least 90 days before the general voting day for a regular election, or as soon as practicable after a date is determined for a by-election, the Nisga'a Elections Officer must, in accordance with the regulations, publish a notice setting out
- (a) the date, time and place of a nomination meeting to be held in each voting area in which the election is to be conducted, and
 - (b) the elected office or offices for which nominations may be made at each nomination meeting referred to in paragraph (a).
- (3) The date of a nomination meeting must be
- (a) at least 14 days after the Nisga'a Elections Officer publishes a notice of the meeting under subsection (2), and

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- (b) at least 45 days before the general voting day for the election for the purposes of which the meeting is to be held.
- (4) The Executive may prescribe and, subject to the regulations, the Nisga'a Elections Officer may determine the form and content of
- (a) documents required to be completed, signed and filed with the Nisga'a Elections Officer by Nisga'a citizens who nominate or second the nomination of a person for an elected office at a nomination meeting,
- (b) documents required to be completed, signed and filed with the Nisga'a Elections Officer by persons who are nominated for an elected office at a nomination meeting, and
- (c) any other documents required to be filed with the Nisga'a Elections Officer in connection with the nomination of a person for an elected office at a nomination meeting.
- (5) After publishing a notice of a nomination meeting under subsection (2), the Nisga'a Elections Officer must make available, on request, forms of documents that may be filed with the Nisga'a Elections Officer in connection with a nomination to be made at the nomination meeting.
- (6) Subject to subsection (8), at a nomination meeting held in a voting area for the purposes of an election, a Nisga'a citizen may nominate, or second the nomination of, another person for an elected office for which voters who ordinarily reside in that voting area may vote in the election if, as of the date of that meeting, the Nisga'a citizen is listed on the Nisga'a Voters List as ordinarily residing in that voting area.
- (7) Subject to subsection (8), at a nomination meeting held in a voting area for the purposes of a regular election or a by-election for national office, a Nisga'a citizen may nominate, or second the nomination of, another person for the office of an Officer of Nisga'a Lisims Government to be filled in the election if, as of the date of that meeting, the Nisga'a citizen is listed on the Nisga'a Voters List as not ordinarily residing in any voting area.
- (8) A Nisga'a citizen may not, for the purposes of an election,
- (a) nominate a person for an elected office and second the nomination of that person or any other person for the same elected office, or
- (b) nominate or second the nomination of more than one person for the same elected office.
- (9) A nomination of a person for an elected office to be filled in an election is completed only if

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- (a) at a nomination meeting held for the purposes of the election, the person is nominated for the elected office and the nomination of the person is seconded in accordance with subsection (6) or (7), and
 - (b) at or within seven days after that nomination meeting,
 - (i) the Nisga'a Elections Officer receives a nomination deposit paid in the name of the person nominated, and
 - (ii) the following are filed with the Nisga'a Elections Officer:
 - (A) all required nomination forms signed by the nominator and seconder;
 - (B) all required acceptance forms signed by the person nominated;
 - (C) any other documents required under subsection (4)(c) to be filed with the Nisga'a Elections Officer in connection with the nomination.

Nomination deposits

- 17.** (1) The Executive may prescribe a monetary deposit to be
- (a) paid in the name of a person who is nominated for an elected office at a nomination meeting, and
 - (b) delivered to the Nisga'a Elections Officer.
- (2) A nomination deposit delivered to the Nisga'a Elections Officer in the name of a person who is nominated for an elected office to be filled in an election must be disposed of as follows:
- (a) if the person
 - (i) becomes a candidate for the elected office in the election, and
 - (ii) receives a vote on at least 15% of the ballots cast and accepted for the elected office in the election,
- the nomination deposit must be returned to the person as soon as practicable after the Nisga'a Elections Officer declares the official results of the election;

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- (b) if the person
 - (i) becomes a candidate for the elected office in the election, but
 - (ii) dies before the close of general voting in the election,

the nomination deposit must be paid to the estate of the person as soon as practicable after the person's death;
 - (b.1) if the Nisga'a Elections Officer decides under section 18(1) that the person's nomination has not been completed in accordance with section 16(9) and
 - (i) the person does not request a review of that decision under section 19(1), or,
 - (iii) the person requests a review of that decision under section 19(1) and the Nisga'a Administrative Decisions Review Board makes an order upholding the decision,

the nomination deposit must be returned to the person as soon as practicable after the expiry of the period for requesting a review of the decision or after the making of the order upholding the decision, as the case may be;
 - (c) in any other case, the nomination deposit is forfeited to the Nisga'a Nation.
- (3) For certainty, a nomination deposit delivered to the Nisga'a Elections Officer in the name of a person who becomes a candidate for an elected office in an election but who withdraws from the election under section 21 is forfeited to the Nisga'a Nation.

Decisions on nominations and qualifications

- 18.** (1) If at a nomination meeting a person is nominated for an elected office to be filled in an election and the nomination of the person is seconded in accordance with section 16(6) or (7), the Nisga'a Elections Officer must as soon as practicable decide whether the person's nomination has been completed in accordance with section 16(9).
- (2) If under subsection (1) the Nisga'a Elections Officer decides that
- (a) a person's nomination has not been completed in accordance with section 16(9), the Nisga'a Elections Officer must as soon as practicable give a written notice of and reasons for that decision to that person, or
 - (b) a person's nomination has been completed in accordance with section 16(9), the Nisga'a Elections Officer must

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- (i) review the documents filed with the Nisga'a Elections Officer in connection with the person's nomination, and
 - (ii) decide whether the person is qualified under this Act to stand for the elected office for which the person has been nominated in the election in question.
 - (3) Before deciding a person's qualification to stand for an elected office under subsection (2)(b)(ii), the Nisga'a Elections Officer may, in accordance with the regulations,
 - (a) require the person to provide the Nisga'a Elections Officer with such additional documents or information relating to the person's qualification as the Nisga'a Elections Officer considers necessary, and
 - (b) conduct such additional investigations in respect of the person's qualification as the Nisga'a Elections Officer considers necessary.
 - (4) As soon as practicable after deciding under subsection (2)(b) whether a person is qualified to stand for an elected office in an election, the Nisga'a Elections Officer must
 - (a) give a written notice of that decision to that person, and to every other person who has been nominated and whose nomination has been seconded for the same elected office in that election, and
 - (b) if the Nisga'a Elections Officer decides that the person is not qualified to stand for that elected office in that election, give written reasons for that decision to that person along with the written notice given under paragraph (a).

Review of decisions on nomination and qualification

- 19.** (1) If the Nisga'a Elections Officer decides
- (a) under section 18(1) that a person's nomination has not been completed in accordance with section 16(9), or
 - (b) under section 18(2)(b) that a person is not qualified to stand for an elected office in an election,
- that person may, in accordance with subsection (3), request a review of that decision by the Nisga'a Administrative Decisions Review Board.
- (2) If the Nisga'a Elections Officer decides under section 18(2)(b) that a person is qualified to stand for an elected office in an election, another person who has been nominated and

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- whose nomination has been seconded for the same elected office in the election may, in accordance with subsection (3), request a review of that decision by the Nisga'a Administrative Decisions Review Board.
- (3) A request under subsection (1) or (2) for a review of a decision of the Nisga'a Elections Officer must be made by filing a complaint with the administrative review officer in accordance with the regulations within three days after the Nisga'a Elections Officer gives written notice of the decision to the person making the request.
- (4) After conducting a review of a decision of the Nisga'a Elections Officer pursuant to a request made under subsection (1)(a), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,
- (a) determine whether the nomination of the person requesting the review has been completed in accordance with section 16(9), and
 - (b) make an order
 - (i) upholding the Nisga'a Elections Officer's decision in respect of that nomination, or
 - (ii) setting aside the Nisga'a Elections Officer's decision in respect of that nomination, substituting the Board's determination for the Nisga'a Elections Officer's decision, and referring the nomination back to the Nisga'a Elections Officer for review and decision under section 18(2)(b).
- (5) After conducting a review of a decision of the Nisga'a Elections Officer pursuant to a request made under subsection (1)(b) or (2), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,
- (a) determine whether the person requesting the review or the person in respect of whom the request for a review has been made, as the case may be, is qualified under this Act to stand for the elected office for which the person has been nominated in the election in question, and
 - (b) make an order
 - (i) upholding the Nisga'a Elections Officer's decision in respect of that person's qualification, or
 - (ii) setting aside the Nisga'a Elections Officer's decision in respect of that person's qualification, and substituting the Board's determination for the Nisga'a Elections Officer's decision.

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Notice of candidates and preparation of ballots

20. (1) As soon as practicable after the qualifications of all nominees for an elected office to be filled in an election are decided under section 18(2)(b) or, if applicable, determined under section 19(5), the Nisga'a Elections Officer must, in accordance with the regulations, publish a notice of the candidates for that elected office in that election.
- (2) When preparing a ballot for an elected office to be filled in an election, the Nisga'a Elections Officer must include on the ballot only the names of the candidates for that elected office in that election.

Withdrawal of candidates

21. At any time until 48 hours before the start of general voting in an election, a candidate may withdraw from the election by delivering a signed withdrawal to the Nisga'a Elections Officer in accordance with the regulations.

Acclamations

22. (1) If at any time
- (a) after the qualifications of each nominee for an elected office to be filled in an election have been decided under section 18(2)(b) or, if applicable, determined under section 19(5), and
- (b) before the close of general voting in that election,
- there is only one candidate for that office, the Nisga'a Elections Officer must declare that candidate to be elected to the office by acclamation.
- (2) If in an election there are two or more Village Councillors of a Nisga'a Village Government to be elected, and at any time
- (a) after the qualifications of each nominee for that elected office in that election have been decided under section 18(2)(b) or, if applicable, determined under section 19(5), and
- (b) before the close of general voting in the election,
- the number of candidates for the office is equal to or less than the number of Village Councillors of the Nisga'a Village Government to be elected, the Nisga'a Elections Officer must declare each of those candidates to be elected to the office by acclamation.

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- (3) As soon as practicable after making a declaration under subsection (1) or (2), the Nisga'a Elections Officer must certify to the President the name of each person elected by acclamation.
 - (4) If voting in an election has already begun at the time the Nisga'a Elections Officer declares a candidate for an elected office in that election to be elected by acclamation under subsection (1) or (2), the Nisga'a Elections Officer must
 - (a) stop further voting for that elected office in the election,
 - (b) direct voting officers to set aside all ballots cast in the election for that elected office and return those ballots to the Nisga'a Elections Officer without counting them, and
 - (c) destroy those returned ballots as soon as practicable.

Appointment of candidate representatives

23. (1) Subject to subsection (2), a candidate may, in accordance with the regulations, appoint one or more Nisga'a citizens over the age of 18 years to represent the candidate in the election in which the candidate is standing for elected office.
- (2) A candidate may not under subsection (1) appoint as their candidate representative a person who is standing for elected office in the same election as the candidate or in another election to be conducted on the same day as that election.

Conduct of candidates and candidate representatives

24. Every candidate and candidate representative must comply with any regulations governing the conduct of candidates.

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PART 5 – VOTING**Division 1 – General Voting Rules****Voting by ballot**

- 25.** A voter may vote in an election or referendum only by marking a ballot prepared by the Nisga'a Elections Officer for that election or referendum.

Voting rights

- 26.** (1) A voter must not vote on more than one occasion in the same election or referendum.
- (2) The Nisga'a Elections Officer must take reasonable steps to attempt to
- (a) accommodate voters who have special needs, such as elderly, blind, physically handicapped or illiterate voters, and
 - (b) locate voting places in facilities that are accessible to persons in wheelchairs.
- (3) For the purposes of subsection (2), the Nisga'a Elections Officer may permit voters with special needs to vote in
- (a) their homes,
 - (b) a hospital, or
 - (c) a nursing home or other care facility.
- (4) The Nisga'a Elections Officer
- (a) must, in accordance with the regulations, vote in each election for national office by marking their preference for each candidate for that national office in numerical order on a ballot, and
 - (b) may not otherwise vote in any election or referendum.
- (5) Each district Nisga'a Elections Officer
- (a) must, in accordance with the regulations, vote in each election for local office conducted in the voting area for which they are responsible by marking their preference for each candidate for that local office in numerical order on a ballot,

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and

- (b) may not otherwise vote in any election or referendum.
- (6) Votes cast under subsection (4)(a) or (5)(a) may be counted only to break a tie.

Voting hours

- 27.** (1) The hours for general voting and advance voting are from 8 a.m. to 8 p.m.
- (2) If at the end of voting hours at a voting opportunity there are voters waiting to vote in, or in line outside, a voting place,
- (a) the election official responsible must allow those voters to vote, and
 - (b) all ballot boxes at the voting place must remain unsealed until those voters have voted and left the voting place.
- (3) If before the end of voting hours at a voting opportunity a voter requests under section 30(4) a review of a ruling that would have the effect of denying that voter the right to vote at a voting place, and if after the end of voting hours at that voting opportunity the Nisga'a Administrative Decisions Review Board sets aside that ruling under section 30(6),
- (a) the election official responsible must allow that voter to vote, and
 - (b) all ballot boxes at the voting place must remain unsealed until the voter has voted and left the voting place.
- (4) No voters other than those referred to in subsections (2) and (3) are entitled to vote at a voting opportunity after voting hours.
- (5) A decision of the election official responsible as to who is entitled to vote under subsection (2) is final and may not be the subject of an application under section 67.

Adjournment of proceedings

- 28.** (1) Election or referendum proceedings at a voting place may be adjourned by the election official responsible if that election official considers that
- (a) the health or safety of persons is at risk, or
 - (b) the integrity of the proceedings is at risk.

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- (2) If the election official responsible adjourns proceedings under subsection (1), that election official must
- (a) as soon as possible provide notice of the adjournment to
 - (i) the Nisga'a Elections Officer, if the voting place is located in an additional voting location, or
 - (ii) the responsible district Nisga'a Elections Officer, if the voting place is located in a voting area, and
 - (b) follow any directions given by the Nisga'a Elections Officer or the district Nisga'a Elections Officer, as the case may be, in respect of the adjournment.
- (3) Proceedings may be adjourned under subsection (1)
- (a) to a later time on the same day at the same voting place,
 - (b) to a later time on the same day at another place, or
 - (c) to a day, time and place to be set by the Nisga'a Elections Officer or the responsible district Nisga'a Elections Officer, as the case may be.
- (4) While proceedings are adjourned under subsection (1), the election official responsible must make all reasonable efforts to ensure that
- (a) the ballot boxes, ballots and other election or referendum materials are secured, and
 - (b) the integrity of the election or referendum is not compromised.
- (5) The election official responsible must give notice to persons affected by an adjournment under this section as directed by the Nisga'a Elections Officer or the responsible district Nisga'a Elections Officer, as the case may be, or, in the absence of such direction, in any manner the election official considers appropriate.
- (6) If any proceedings adjourned under this section are recommenced, those proceedings must continue long enough that the total time for the proceedings is no less than it would have been without the adjournment.

Secrecy of ballots

- 29.** Each person present at a voting place, and each person present at the counting of the votes cast at a voting place,

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- (a) must preserve the secrecy of the ballot, and
- (b) must not
 - (i) interfere with a person who is marking a ballot,
 - (ii) attempt to discover how a person voted,
 - (iii) communicate information regarding how a person voted or marked a ballot, or
 - (iv) induce a person, directly or indirectly, to show a ballot in a way that reveals how the person voted.

Rules for voting places

- 30.**
- (1) The Nisga'a Elections Officer must maintain peace and order so far as is reasonably possible at each voting place established for the purposes of an election or referendum.
 - (2) Each district Nisga'a Elections Officer must maintain peace and order so far as is reasonably possible at each voting place established for the purposes of an election or referendum in the voting area for which they are responsible.
 - (2.1) The election official responsible must maintain peace and order so far as is reasonably possible at a voting place established in an additional voting location for the purposes of an election or referendum.
 - (3) To give effect to this Act and the regulations,
 - (a) the Nisga'a Elections Officer may make rulings in respect of the maintenance of peace and order at any voting place established for the purposes of an election or referendum,
 - (b) each district Nisga'a Elections Officer may make rulings in respect of the maintenance of peace and order at any voting place established for the purposes of an election or referendum in the voting area for which they are responsible, and
 - (c) the election official responsible may make rulings in respect of the maintenance of peace and order at a voting place established in an additional voting location for the purposes of an election or referendum.
 - (4) If the effect of a ruling made under subsection (3) on the general voting day for an election or referendum is to prevent a voter otherwise entitled to vote at a voting place

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- from exercising their right to vote in the election or referendum, that voter may, in accordance with subsection (5), request a review of that ruling by the Nisga'a Administrative Decisions Review Board.
- (5) A request under subsection (4) for a review of a ruling by the Nisga'a Elections Officer, a district Nisga'a Elections Officer or an election official responsible must be made by filing a complaint with the administrative review officer in accordance with the regulations no later than the end of voting hours on the general voting day for the election or referendum in question.
- (6) After conducting a review of a ruling of the Nisga'a Elections Officer, a district Nisga'a Elections Officer or an election official responsible pursuant to a request made under subsection (4), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,
- (a) make a summary determination of whether the ruling of the Nisga'a Elections Officer, the district Nisga'a Elections Officer or the election official responsible was
- (i) contrary to this Act or the regulations, or
- (ii) made in a perverse or capricious manner or without regard to the facts before the Nisga'a Elections Officer, the district Nisga'a Elections Officer or the election official responsible, and
- (b) make an order
- (i) upholding the ruling of the Nisga'a Elections Officer, the district Nisga'a Elections Officer or the election official responsible, or
- (ii) setting aside the ruling of the Nisga'a Elections Officer, the district Nisga'a Elections Officer or the election official responsible, if the Board decides under paragraph (a) that the ruling was
- (A) contrary to this Act or the regulations, or
- (B) made in a perverse or capricious manner or without regard to the facts before the Nisga'a Elections Officer, the district Nisga'a Elections Officer or the election official responsible.

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Division 2 – Voting Opportunities**Voting opportunities**

- 31.** (1) A voter who ordinarily resides in a Nisga'a Village may vote
- (a) in a regular election, a by-election for national office or a referendum of the Nisga'a Nation
 - (i) in person as a resident voter in the Nisga'a Village at an opportunity to vote referred to in section 33(2)(a),
 - (ii) in person as a non-resident voter in another voting area at an opportunity to vote referred to in section 33(2)(b) or in an additional voting location at an opportunity to vote referred to in section 33(3), or
 - (iii) in person as a resident voter in the Nisga'a Village at an opportunity to vote referred to in section 34(2), and
 - (b) in a by-election for local office held in the Nisga'a Village or a referendum of the Nisga'a Village
 - (i) in person as a resident voter in the Nisga'a Village at an opportunity to vote referred to in section 33(2)(a), or
 - (ii) in person as a resident voter in the Nisga'a Village at an opportunity to vote referred to in section 34(2).
- (2) A voter who ordinarily resides in a Nisga'a Urban Local Area may vote
- (a) in a regular election, a by-election for national office or a referendum of the Nisga'a Nation
 - (i) in person as a resident voter in the Nisga'a Urban Local Area at an opportunity to vote referred to in section 33(2)(a),
 - (ii) in person as a non-resident voter in another voting area at an opportunity to vote referred to in section 33(2)(b) or in an additional voting location at an opportunity to vote referred to in section 33(3), or
 - (iii) in person as a resident voter in the Nisga'a Urban Local Area at an opportunity to vote referred to in section 34(2), and
 - (b) in a by-election for local office held in the Nisga'a Urban Local Area

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- (i) in person as a resident voter in the Nisga'a Urban Local Area at an opportunity to vote referred to in section 33(2)(a), or
 - (ii) in person as a resident voter in the Nisga'a Urban Local Area at an opportunity to vote referred to in section 34(2).
 - (3) A voter who does not ordinarily reside in a voting area may vote in a regular election, a by-election for national office or a referendum of the Nisga'a Nation
 - (a) in person as a non-resident voter in any voting area at an opportunity to vote referred to in section 33(2)(b) or in an additional voting location at an opportunity to vote referred to in section 33(3), or
 - (b) by mail, under section 35.

Notice of voting opportunities

- 32.** The Nisga'a Elections Officer must, in accordance with the regulations, notify voters of the date, time and place of each voting opportunity available to them.

General voting

- 33.** (1) For the purposes of an election or referendum, the Nisga'a Elections Officer must establish at least one place for general voting
- (a) in each voting area in which the election or referendum is to be conducted, and
 - (b) if the election is a regular election or a by-election for national office or if the referendum is a referendum of the Nisga'a Nation, in each additional voting location.
- (2) During voting hours on the general voting day for an election or referendum, at each voting place established in a voting area for the purposes of the election or referendum under subsection (1)(a), the Nisga'a Elections Officer must provide an opportunity for
- (a) voters who ordinarily reside in that voting area to vote in person as resident voters in the election or referendum, and
 - (b) if the election is a regular election or a by-election for national office or if the referendum is a referendum of the Nisga'a Nation, voters who do not ordinarily reside in the voting area to vote in person as non-resident voters in the election or referendum.

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- (3) During voting hours on the general voting day for a regular election, a by-election for national office or a referendum of the Nisga'a Nation, the Nisga'a Elections Officer must provide an opportunity for voters to vote in person as non-resident voters in the election or referendum at the voting place established in each additional voting location for the purposes of the election or referendum under subsection (1)(b).

Advance voting

32. (1) For the purposes of an election or referendum, the Nisga'a Elections Officer must
- (a) establish at least one place for advance voting in each voting area in which the election or referendum is to be conducted, and
 - (b) designate at least one day in the week preceding the week in which the general voting day for the election or referendum occurs as the advance voting day in that voting area for that election or referendum.
- (2) During voting hours on the advance voting day for an election or referendum, at each voting place established in a voting area for the purposes of the election or referendum under subsection (1), the Nisga'a Elections Officer must provide an opportunity for voters who ordinarily reside in that voting area to vote in person as resident voters in the election or referendum.

Voting by mail

35. (1) For the purposes of an election or referendum, the Nisga'a Elections Officer must establish a system for receiving ballots by mail in accordance with the regulations.
- (2) The Nisga'a Elections Officer
- (a) must, for the purposes of an election for national office or a referendum of the Nisga'a Nation, in accordance with the regulations provide a mail-in ballot to each person listed on the Nisga'a Voters List who does not ordinarily reside in a voting area, and
 - (b) may, for the purposes of any election or referendum, on request, in accordance with the regulations provide a mail-in ballot to any voter who
 - (i) has a physical disability, illness or injury, or whose mobility is significantly impaired, or
 - (ii) for another reason anticipates being unable to attend at a general voting

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opportunity or an advance voting opportunity for the election or referendum.

- (3) A decision of the Nisga'a Elections Officer under subsection (2)(b) to provide or refuse to provide a mail-in ballot to a voter is final and may not be the subject of an application under section 67.

Division 3 – Rules Governing Special Voting Circumstances

Application of Division

36. Unless a contrary intention appears, the provisions of this Division apply to voting in any election or referendum.

Persons needing assistance

37. On request by a voter, or another person accompanying the voter, the election official responsible may assist a voter to mark a ballot.

Persons unable to enter voting place

38. On request by
- (a) a voter who, because of physical disability, illness, injury or significantly impaired mobility, is unable to come to a voting place to vote or is unable to enter a voting place, or
 - (b) a person accompanying a voter referred to in paragraph (a),
- the election official responsible for the voting place
- (c) may allow the voter to vote at the nearest location to that voting place to which the voter has access, and
 - (d) if under paragraph (c) the election official allows a voter to vote at a location other than the voting place, must attend at that location while the voter votes.

Replacement of spoiled ballot

39. (1) If a voter spoils a ballot before it is deposited in a ballot box, the voter may obtain a

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- replacement ballot by giving the spoiled ballot to the election official responsible.
- (2) The election official responsible must
- (a) immediately mark as spoiled a ballot replaced under subsection (1), and
 - (b) retain the spoiled ballot for return to the Nisga'a Elections Officer in accordance with the regulations.

If another person has already voted under voter's name

- 40.** (1) If a voter otherwise meets the requirements to obtain a ballot but a voting book or other record indicates that another person has already voted under the name of the voter, the voter may still request a ballot from the election official responsible.
- (2) In order to obtain a ballot under subsection (1), the person asserting the right to vote as the named voter must
- (a) provide evidence satisfactory to the voting officer that the person is the named voter, or
 - (b) make a solemn declaration that the person is the named voter.
- (3) The election official responsible must
- (a) issue a ballot to a person who satisfies the requirements of subsection (2), and
 - (b) record in the voting book
 - (i) that a second ballot was issued in the name of the voter, and
 - (ii) how the person asserting the right to vote satisfied the requirements of subsection (2).

Challenge of voter

- 41.** (1) At a voting place in an election, an election official, a candidate representative or, if the voting place is located in a voting area, a voter who ordinarily resides in that voting area, may challenge a request by a person to vote in that election at that voting place at any time before that person has been given a ballot.
- (2) At a voting place in a referendum, an election official or, if the voting place is located in a voting area, a voter who ordinarily resides in that voting area, may challenge a request by a person to vote in that referendum at that voting place at any time before that person has

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been given a ballot.

- (3) A challenge under this section to a person's request to vote in an election or referendum may be made only on the basis that the person
 - (a) is not listed on the revised list of voters for the election or referendum and does not meet the requirements of section 14(2) in relation to the election or referendum,
 - (b) is not listed on the Nisga'a Voters List and does not meet the requirements of section 14(3) in relation to the election or referendum, or
 - (c) is proposing to vote falsely under a name that is on the Nisga'a Voters List.

- (4) In order to receive a ballot, a person whose right to vote in an election or referendum has been challenged under this section must provide evidence satisfactory to the election official responsible that the person
 - (a) is listed on the revised list of voters for the election or referendum,
 - (b) is not listed on the revised list of voters for the election or referendum but does meet the requirements of section 14(2) in relation to the election or referendum,
 - (c) is not listed on the Nisga'a Voters List but does meet the requirements of section 14(3) in relation to the election or referendum, or
 - (d) is not proposing to vote falsely under a name that is on the Nisga'a Voters List,as the case may be.

- (5) For the purposes of subsection (4), the election official responsible may require that a person whose right to vote has been challenged under this section make a solemn declaration of any fact.

Division 4 – Voting Officers and Other Participants

Application of Division

- 42.** Unless a contrary intention appears, the provisions of this Division apply to proceedings at a voting place in any election or referendum.

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Assignment of election official responsibilities

43. (1) The election official responsible for a voting place must assign a voting officer to be responsible for each ballot box to be used at the voting place, and must assign another election official to assist the voting officer.
- (2) When a voting officer is absent from proceedings for which the voting officer is responsible, the election official assigned to assist the voting officer under subsection (1) must perform the duties of the voting officer.

Persons who must be present at voting proceedings

44. A voting officer and another election official must be present at all times at each voting station while voting proceedings are being conducted at the voting station.

Persons who may be present at voting proceedings

45. (1) Only the following persons may be present at a voting place while voting is being conducted:
- (a) election officials authorized to be present at the voting place;
 - (b) persons who are
 - (i) present at the voting place to vote,
 - (ii) assisting a person who is present to vote, or
 - (iii) in the care of a person who is present to vote;
 - (c) a person acting as translator under section 85;
 - (d) in the case of an election,
 - (i) one candidate representative for each candidate in the election, and
 - (ii) one additional candidate representative for each candidate in the election, temporarily present at the voting place for the purpose of conveying information to and from the candidate representative referred to in subparagraph (i);
 - (e) any other person permitted to be present at the voting place by the Nisga'a Elections Officer or

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- (i) if the voting place is located in a voting area, the district Nisga'a Elections Officer responsible for the voting area or the election official responsible for the voting place, or
 - (ii) if the voting place is located in an additional voting location, the election official responsible for the voting place.
- (2) Subject to subsection (3), a person present at a voting place while voting is being conducted must, in accordance with the regulations, make a solemn declaration to preserve the secrecy of the ballot.
 - (3) Subsection (2) does not apply to
 - (a) a person referred to in subsection (1)(b), or
 - (b) a peace officer assisting an election official under section 87.

Division 5 – Voting Materials**Style of ballots**

- 46. (1) The ballot for a referendum must state the referendum question in English, and provide a space for voters to answer either “yes” or “no”.
- (2) The ballot for an elected office to be filled in an election must
 - (a) list every candidate for that elected office, in alphabetical order by surname,
 - (b) include a photograph of each candidate opposite the candidate's name, and
 - (c) provide a space opposite each candidate's name in which the voter may enter a mark.
- (3) A ballot to be used in an election or referendum must be designed so that the voter's identity cannot be discovered after the ballot has been used.
- (4) A ballot to be used in an election is not invalid merely because it includes the name of a person who is not a candidate, or uses a form of name different from the full legal name of a candidate.
- (5) Subject to this section and any applicable regulations, the decision of the Nisga'a Elections Officer respecting the form and content of a ballot to be used in an election or referendum is final and may not be the subject of an application under section 67.

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Ballot papers, certification envelopes and other materials

47. The Nisga'a Elections Officer must prepare ballot papers, certification envelopes and other materials necessary for the conduct of voting in an election or referendum, and deliver those materials to each voting place established for that election or referendum.

PART 6 – COUNTING THE VOTE**Division 1 – The Initial Count and the Preparation of Ballot Accounts****Application of Division**

- 48.** Unless a contrary intention appears, the provisions of this Division apply to the counting of votes in any election or referendum.

The initial count for a voting area

- 49.** (1) The initial count for a voting area in an election or referendum is a count of the votes marked on the resident ballots cast in the voting area, other than any resident ballots placed in certification envelopes.
- (1.1) For certainty, the initial count for a voting area in an election or referendum does not include the votes marked on
- (a) any resident ballots cast in the voting area but placed in certification envelopes,
 - (b) any non-resident ballots cast in the voting area, or
 - (c) any mail-in ballots.
- (2) The initial count of the votes marked on the ballots cast in each ballot box used for resident ballots at a voting place in a voting area must be conducted
- (a) by the voting officer responsible for that ballot box, or by another election official assigned by the election official responsible, and
 - (b) in accordance with the regulations.
- (3) The person who under subsection (2) conducts the initial count of the votes marked on the ballots cast in a ballot box must
- (a) prepare in accordance with the regulations a ballot account which includes
 - (i) in the case of an election, the number of votes accepted for each candidate listed on the ballots cast in that ballot box,
 - (ii) in the case of a referendum, the number of votes accepted for the “yes” and “no” answers on the ballots cast in the ballot box, and

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- (iii) the number of ballots rejected, and
 - (b) if that person is not the election official responsible for the voting place in question, deliver to that election official the ballot account prepared under paragraph (a).
- (4) The election official responsible for a voting place in a voting area must
- (a) prepare for that voting place, based on the ballot accounts prepared under subsection (3), an account which includes
 - (i) in the case of an election, for each elected office for which resident voters in that voting area were entitled to vote,
 - (A) the number of votes accepted for each candidate, and
 - (B) the number of ballots rejected, and
 - (ii) in the case of a referendum,
 - (A) the number of votes accepted for the “yes” and “no” answers, and
 - (B) the number of ballots rejected,
 - (b) in the case of a regular election or a by-election for national office, prepare for that voting place an account of the non-resident ballots cast in the voting place, listing separately
 - (i) the number of those ballots cast by non-resident voters who ordinarily reside in each of the other voting areas and the elected offices for which those ballots were cast, and
 - (ii) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area and the elected offices for which those ballots were cast,
 - (c) in the case of a referendum of the Nisga'a Nation, prepare for that voting place an account of the number of non-resident ballots cast in the voting place, listing separately
 - (i) the number of those ballots cast by non-resident voters who ordinarily reside in each of the other voting areas, and
 - (ii) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area, and

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- (d) if that election official responsible is not the district Nisga'a Elections Officer for that voting area, deliver to that district Nisga'a Elections Officer the accounts prepared under paragraphs (a) to (c).
- (5) The district Nisga'a Elections Officer for a voting area must
- (a) prepare for that voting area, based on the accounts prepared under subsection (4)(a), an account which includes
- (i) in the case of an election, for each elected office for which resident voters in that voting area were to entitled to vote,
- (A) the number of votes accepted for each candidate, and
- (B) the number of ballots rejected,
- (ii) in the case of a referendum,
- (A) the number of votes accepted for the "yes" and "no" answers, and
- (B) the number of ballots rejected,
- (b) in the case of a regular election or a by-election for national office,
- (i) prepare for that voting area, based on the accounts prepared under subsection (4)(b), an account of the non-resident ballots cast in the voting area, listing separately
- (A) the number of those ballots cast by non-resident voters who ordinarily reside in each of the other voting areas and the elected offices for which those ballots were cast, and
- (B) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area and the elected offices for which those ballots were cast, and
- (ii) notify the district Nisga'a Elections Officer for each other voting area of
- (A) the number of non-resident ballots cast by non-resident voters who ordinarily reside in the voting area for which that other district Nisga'a Elections Officer is responsible, and
- (B) the elected offices for which those ballots were cast,
- (c) in the case of a referendum of the Nisga'a Nation,

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- (i) prepare for that voting area, based on the accounts prepared under subsection (4)(c), an account of the number of non-resident ballots cast in the voting area, listing separately
 - (A) the number of those ballots cast by non-resident voters who ordinarily reside in each of the other voting areas, and
 - (B) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area, and
 - (ii) notify the district Nisga'a Elections Officer for each other voting area of the number of non-resident ballots cast by non-resident voters who ordinarily reside in the voting area for which that other district Nisga'a Elections Officer is responsible, and
 - (d) deliver the accounts prepared under paragraphs (a) to (c) to the Nisga'a Elections Officer.

Rules for accepting and rejecting ballots

- 50.** Subject to the regulations, the voting officer or other election official conducting an initial count under section 49(2) must accept each ballot considered during that count if it is reasonably possible to determine the voter's intention from the mark or marks made on the ballot by the voter.

Persons present at initial count

- 51.** (1) At an initial count under section 49(2), in addition to the voting officer or other election official conducting the count,
- (a) at least one other election official designated by the election official responsible must be present, and
 - (b) if the count is of the votes marked on the ballots cast for an elected office to be filled in an election, one candidate representative for each candidate standing for that elected office in that election may be present.
- (2) Persons other than those referred to in subsection (1) may be present during an initial count under section 49(2) only if permitted by the election official responsible.

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Objections to acceptance of vote or rejection of ballot

- 52.** (1) A candidate representative may object to the acceptance or the rejection of a ballot during an initial count.
- (2) If a ballot is subject to an objection under subsection (1), the voting officer or other election official conducting the initial count must note and resolve the objection in accordance with the regulations.

Preparation of ballot accounts for an additional voting location

- 52.1** The election official responsible for a voting place in an additional voting location must
- (a) in the case of a regular election or a by-election for national office,
 - (i) prepare for that voting place an account of the non-resident ballots cast in the voting place, listing separately
 - (A) the number of those ballots cast by non-resident voters who ordinarily reside in each voting area and the elected offices for which those ballots were cast, and
 - (B) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area and the elected offices for which those ballots were cast, and
 - (ii) notify the district Nisga'a Elections Officers for each voting area of
 - (A) the number of non-resident ballots cast by non-resident voters who ordinarily reside in the voting area for which the district Nisga'a Elections Officer is responsible, and
 - (B) the elected offices for which those ballots were cast,
 - (b) in the case of a referendum of the Nisga'a Nation,
 - (i) prepare for that voting place an account of the non-resident ballots cast in the voting place, listing separately
 - (A) the number of those ballots cast by non-resident voters who ordinarily reside in each voting area, and
 - (B) the number of those ballots cast by non-resident voters who do not ordinarily reside in any voting area, and

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- (ii) notify the district Nisga'a Elections Officer for each voting area of the number of non-resident ballots cast by non-resident voters who ordinarily reside in the voting area for which that district Nisga'a Elections Officer is responsible, and
- (c) deliver the accounts prepared under paragraphs (a) and (b) to the Nisga'a Elections Officer.

Preliminary election results

- 53.** (1) Before the close of general voting in an election of a Chief Councillor of a Nisga'a Village Government or an election of one or more Village Councillors of a Nisga'a Village Government, the Nisga'a Elections Officer must notify the district Nisga'a Elections Officer for the relevant Nisga'a Village of the number of mail-in ballots received by the Nisga'a Elections Officer that have been cast for that elected office in that election.
- (2) Before the close of general voting in an election of one or more Nisga'a Urban Local Representatives from a Nisga'a Urban Local, the Nisga'a Elections Officer must notify the district Nisga'a Elections Officer for the relevant Nisga'a Urban Local Area of the number of mail-in ballots received by the Nisga'a Elections Officer that have been cast for that elected office in that election.
- (3) The district Nisga'a Elections Officer for a Nisga'a Village may make public
- (a) in the case of an election of a Chief Councillor in that Nisga'a Village, the results of the initial count of the votes accepted for each candidate for that elected office, as set out in the account prepared under section 49(5)(a), if, based on the notice received from the Nisga'a Elections Officer under subsection (1) and, in the case of a regular election, the notices received from the other district Nisga'a Elections Officers under section 49(5)(b)(ii) and the notice received from the election official responsible for the voting place in each additional voting location under section 52.1(a)(ii),
 - (i) there are no non-resident ballots or mail-in ballots that have been cast for that office and that remain to be counted in the election, or
 - (ii) the total number of non-resident ballots and mail-in ballots that have been cast for that office and that remain to be counted in the election is smaller than the margin between the first and second leading candidates for that office, based on the initial count,
 - (b) in the case of a by-election of a single Village Councillor in that Nisga'a Village,

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the results of the initial count of the votes accepted for each candidate for that elected office, as set out in the account prepared under section 49(5)(a), if, based on the notice received from the Nisga'a Elections Officer under subsection (1),

- (i) there are no mail-in ballots that have been cast for that office and that remain to be counted in the by-election, or
 - (ii) the total number of mail-in ballots that have been cast for that office and that remain to be counted in the by-election is smaller than the margin between the first and second leading candidates for that office, based on the initial count, and
- (c) in the case of an election of two or more Village Councillors in that Nisga'a Village, the results of the initial count of the votes accepted for each candidate for that elected office, as set out in the account prepared under section 49(5)(a), if, based on the notice received from the Nisga'a Elections Officer under subsection (1) and, in the case of a regular election, the notices received from the other district Nisga'a Elections Officers under section 49(5)(b)(ii) and the notice received from the election official responsible for the voting place in each additional voting location under section 52.1(a)(ii),
- (i) there are no non-resident ballots or mail-in ballots that have been cast for that office and that remain to be counted in the election, or
 - (ii) the total number of non-resident ballots and mail-in ballots that have been cast for that office and that remain to be counted in the election is smaller than the margin between the lowest placing candidate who would be elected to that office and the highest placing candidate who would not be elected to that office, based on the initial count.
- (4) The district Nisga'a Elections Officer for a Nisga'a Urban Local Area may make public
- (a) in the case of a by-election of a single Nisga'a Urban Local Representative in that Nisga'a Urban Local Area, the results of the initial count of the votes accepted for each candidate for that elected office, as set out in the account prepared under section 49(5)(a), if, based on the notice received from the Nisga'a Elections Officer under subsection (2),
 - (i) there are no mail-in ballots that have been cast for that office and that remain to be counted in the by-election, or
 - (ii) the total number of mail-in ballots that have been cast for that office and that remain to be counted in the by-election is smaller than the margin between the first and second leading candidates for that office, based on the initial count, and

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- (b) in the case of an election of two Nisga'a Urban Local Representatives in that Nisga'a Urban Local Area, the results of the initial count of the votes accepted for each candidate for that elected office, as set out in the account prepared under section 49(5)(a), if, based on the notice received from the Nisga'a Elections Officer under subsection (2) and, in the case of a regular election, the notices received from the other district Nisga'a Elections Officers under section 49(5)(b)(ii) and the notice received from the election official responsible for the voting place in each additional voting location under section 52.1(a)(ii),
 - (i) there are no non-resident ballots or mail-in ballots that have been cast for that office and that remain to be counted in the election, or
 - (ii) the total number of non-resident ballots and mail-in ballots that have been cast for that office and that remain to be counted in the election is smaller than the margin between
 - (A) the first and second leading candidates for that office, based on the initial count, and
 - (B) if there are more than two candidates, the second and third leading candidates for that office, based on the initial count.

Division 2 – The Final Count**The final count**

- 54.** (1) The final results of an election or referendum are based on
- (a) the votes counted in the final count for the election or referendum, and
 - (b) subject to a recount under section 57, the votes counted in the initial count for the election or referendum.
- (2) The final count for an election or referendum
- (a) must be conducted by the Nisga'a Elections Officer,
 - (b) subject to the regulations, must include a count of the votes marked on the ballots cast in that election or referendum that were not considered as part of the initial count for the election or referendum, and
 - (c) in accordance with section 57, may include a recount of votes marked on ballots considered in the initial count for the election or referendum.

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- (3) Subject to the regulations, the Nisga'a Elections Officer must accept each ballot considered during a final count if it is reasonably possible to determine the voter's intention from the mark or marks made on the ballot by the voter.

Notification of final count for election

55. The Nisga'a Elections Officer must notify the candidates in an election of the date, time and place of the final count for the election.

Persons present at final count

56. (1) At the final count for an election,
 - (a) the Nisga'a Elections Officer and one or more other election officials designated by the Nisga'a Elections Officer must be present, and
 - (b) one candidate representative for each candidate standing for elected office in that election may be present.
- (2) At the final count for a referendum, the Nisga'a Elections Officer and one or more other election officials designated by the Nisga'a Elections Officer must be present.
- (3) Persons other than those referred to in subsections (1) and (2) may be present during a final count only if permitted by the Nisga'a Elections Officer.

Recount of ballots considered in initial count

57. (1) As part of the final count for an election or referendum, the Nisga'a Elections Officer may recount the votes marked on some or all of the ballots that were considered as part of an initial count in the election or referendum.
- (2) As part of the final count for an election, on the request of a candidate or a candidate representative in the election, the Nisga'a Elections Officer must recount the votes marked on some or all of the ballots that were considered as part of an initial count in the election.

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Division 3 – Declarations of Results, Recounts and Invalid Election Procedures**Declaration of final results**

58. (1) At the conclusion of the final count in an election or referendum, the Nisga'a Elections Officer must declare the final results of the election or referendum.
- (2) In the case of an election of an Officer of Nisga'a Lisims Government, in the case of an election of a Chief Councillor, or in the case of a by-election of a single Village Councillor or a single Nisga'a Urban Local Representative, the Nisga'a Elections Officer must, based on the final count, declare elected the candidate for that elected office who receives the highest number of votes.
- (3) In the case of an election of two or more Village Councillors of a Nisga'a Village Government, the Nisga'a Elections Officer must, based on the final count, declare elected first the candidate for that elected office who receives the highest number of votes, second the candidate for that office who receives the second highest number of votes, and so on in descending order until all of the offices to be filled have been filled.
- (4) In the case of an election of two Nisga'a Urban Local Representatives from a Nisga'a Urban Local, the Nisga'a Elections Officer must, based on the final count, declare elected first the candidate for that elected office who receives the highest number of votes and second the candidate for that office who receives the second highest number of votes.
- (5) In the case of a referendum, the Nisga'a Elections Officer must, based on the final count,
- (a) declare the referendum question answered in the affirmative, if more than 50% of the ballots accepted in the referendum were marked "yes", or
 - (b) declare the referendum question answered in the negative, if 50% or more of the ballots accepted in the referendum were marked "no".

Tied votes

59. (1) If after all other votes have been counted in the final count for an election of an Officer of Nisga'a Lisims Government, two or more candidates are tied with the highest number of votes for that elected office,
- (a) the ballot for that office marked by the Nisga'a Elections Officer must be opened, and
 - (b) the Nisga'a Elections Officer must declare elected to that office whichever of those tied candidates is ranked highest on the Nisga'a Elections Officer's ballot.

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- (2) If after all other votes have been counted in the final count for an election of a Chief Councillor, or for a by-election of a single Village Councillor or a single Nisga'a Urban Local Representative, two or more candidates are tied with the highest number of votes for that elected office,
 - (a) the ballot for that office marked by the responsible district Nisga'a Elections Officer must be opened, and
 - (b) the Nisga'a Elections Officer must declare elected to that office whichever of those tied candidates is ranked highest on that district Nisga'a Elections Officer's ballot.

- (3) If after all other votes have been counted in the final count for an election of two or more Village Councillors,
 - (a) a number of candidates are tied with the same number of votes for that elected office, and
 - (b) the number of those tied candidates plus the number of candidates, if any, with a higher number of votes for that office than the tied candidates is equal to or less than the number of Village Councillors to be elected,

the Nisga'a Elections Officer must declare elected to that office
 - (c) each candidate, if any, with a higher number of votes than those tied candidates,
 - (d) each of those tied candidates, and
 - (e) if necessary to fill all of those offices that are to be filled, the candidate with the next highest number of votes to those tied candidates and so on in descending order until all of those offices to be filled have been filled.

- (4) If after all other votes have been counted in the final count for an election of two or more Village Councillors,
 - (a) a number of candidates are tied with the same number of votes for that elected office,
 - (b) the number of candidates, if any, with a higher number of votes for that office than the tied candidates is less than the number of Village Councillors to be elected, and
 - (c) the number of those tied candidates plus the number of candidates, if any, with a higher number of votes for that office than the tied candidates is greater than the

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number of Village Councillors to be elected,

- the ballot for that office marked by the responsible district Nisga'a Elections Officer must be opened and the Nisga'a Elections Officer must declare elected to that office
- (d) each candidate, if any, with a higher number of votes than those tied candidates, and
 - (e) whichever of those tied candidates with an equal number of votes was ranked highest on that district Nisga'a Elections Officer's ballot and so on in descending order until all of the offices to be filled have been filled.
- (5) If after all other votes have been counted in the final count for an election of two Nisga'a Urban Local Representatives from a Nisga'a Urban Local,
- (a) two or more candidates are tied with the highest number of votes for that elected office,
 - (i) the ballot for that elected office marked by the responsible district Nisga'a Elections Officer must be opened, and
 - (ii) the Nisga'a Elections Officer must
 - (A) declare elected first to that office whichever of those candidates with an equal number of votes was ranked highest on that district Nisga'a Elections Officer's ballot, and
 - (B) declare elected second to that office whichever of those candidates with an equal number of votes was ranked second highest on that district Nisga'a Elections Officer's ballot, and
 - (b) one candidate has the highest number of votes and two or more candidates are tied with the second highest number of number of votes for that elected office,
 - (i) the Nisga'a Elections Officer must declare elected first to that office the candidate with the highest number of votes,
 - (ii) the ballot for that elected office marked by the responsible district Nisga'a Elections Officer must be opened, and
 - (iii) the Nisga'a Elections Officer must declare elected second to that office whichever of those candidates with an equal number of votes was ranked highest on that district Nisga'a Elections Officer's ballot.

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Publication of final results

60. As soon as practicable after declaring the final results of an election or referendum under section 58 or 59, the Nisga'a Elections Officer must publish those final results in accordance with the regulations.

Conclusiveness of final results

61. The final results of an election or referendum as published under section 60 are final subject only to a recount under section 62(5)(b) or an order under section 67(6)(b).

Application for recount

62. (1) After the final results of an election for an elected office are published under section 60, a candidate for that elected office in that election or a candidate representative of such a candidate may, in accordance with subsection (2), apply to the Nisga'a Administrative Decisions Review Board for a recount of the votes marked on the ballots cast in that election for that office, on one or more of the following grounds:
- (a) that votes for that office were not correctly accepted or ballots were not correctly rejected in accordance with this Act or the regulations;
 - (b) that unopened ballots for that office should be considered in accordance with this Act or the regulations;
 - (c) that a ballot account does not accurately record the number of votes for a candidate for that office;
 - (d) that the final count did not correctly calculate the total number of votes for a candidate for that office.
- (1.1) In addition to the grounds on which an application for a recount may be made under subsection (1), after the final results of an election for an elected office are published under section 60,
- (a) in the case of an election for national office, an election for the office of a Chief Councillor or a by-election for the office of a single Village Councillor or a single Nisga'a Urban Local Representative, if the margin between the candidate declared elected to office and one or more other candidates is two votes or less, any such other candidate or a candidate representative for any such other candidate may, in accordance with subsection (2), apply to the Nisga'a Administrative Decisions Review Board for a recount of the votes marked on the ballots cast in that election for that elected office on the ground of closeness of margin;

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- (b) in the case of an election for the office of two Nisga'a Urban Local Representatives from a Nisga'a Urban Local, if the margin between
- (i) the candidate declared elected to office with the highest number of votes and one or more other candidates is two votes or less, or
 - (ii) the candidate declared elected to office with the second highest number of votes and one or more other candidates is two votes or less,
- any such other candidate or a candidate representative for any such other candidate may, in accordance with subsection (2), apply to the Nisga'a Administrative Decisions Review Board for a recount of the votes marked on the ballots cast in that election for that elected office on the ground of closeness of margin, and
- (c) in the case of an election for the offices of two or more Village Councillors of a Nisga'a Village Government, if the margin between the candidate declared elected to office with the lowest number of votes and one or more other candidates is two votes or less, any such other candidate or a candidate representative for any such other candidate may, in accordance with subsection (2), apply to the Nisga'a Administrative Decisions Review Board for a recount of the votes marked on the ballots cast in that election for that elected office on the ground of closeness of margin.
- (2) An application under subsection (1) or (1.1) for a recount of the votes marked on the ballots cast in an election for an elected office must be made by filing the application with the administrative review officer in accordance with the regulations within two days after the Nisga'a Elections Officer publishes the final results of the election under section 60.
- (3) After the final results of a referendum are published under section 60, a voter eligible to vote in that referendum may, in accordance with subsection (4), apply to the Nisga'a Administrative Decisions Review Board for a recount of the votes marked on the ballots cast in the referendum, on one or more of the following grounds:
- (a) that votes for that referendum were not correctly accepted or ballots were not correctly rejected in accordance with this Act or the regulations;
 - (b) that unopened non-resident ballots or mail-in ballots for that referendum should be considered in accordance with this Act or the regulations;
 - (c) that a ballot account does not accurately record the number of votes for a "yes" answer or a "no" answer in that referendum;
 - (d) that the final count did not correctly calculate the total number of votes for a "yes"

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answer or a “no” answer in that referendum.

- (4) An application under subsection (3) for a recount of the votes marked on the ballots cast in a referendum must be made by filing the application with the administrative review officer in accordance with the regulations within two days after the Nisga'a Elections Officer publishes the final results of the referendum under section 60.
- (5) On the filing of an application for a recount of votes with the administrative review officer in accordance with subsection (2) or (4), the Nisga'a Administrative Decisions Review Board must
 - (a) if the application is made under subsection (1) or (3), make a summary determination of the application in accordance with the regulations and
 - (i) make an order dismissing the application if the Board determines that the recount, if it were to be conducted, would not materially affect the results of that election or referendum, or
 - (ii) conduct a recount of those votes in accordance with the regulations, or
 - (b) if the application is made under subsection (1.1), conduct a recount of those votes in accordance with the regulations.

Persons who may be present at recount

- 63.** The following persons and their respective legal counsel may be present at a recount conducted under section 62(5)(b):
- (a) in the case of a recount of the votes marked on the ballots cast in an election for an elected office,
 - (i) the person who made the application for the recount,
 - (ii) the district Nisga'a Elections Officer for any voting area in which the election was held and one other election official designated by that district Nisga'a Elections Officer,
 - (ii.1) the election official responsible for the voting place in any additional voting location in which the election was held,
 - (iii) the candidates for that office in that election,
 - (iv) for each candidate for that office who is present under subparagraph (iii), one candidate representative, and for each candidate for that office who is

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- not present under subparagraph (iii), two candidate representatives, and
- (v) the Nisga'a Elections Officer and any other election officials designated by the Nisga'a Elections Officer;
- (b) in the case of a recount of the votes marked on the ballots cast in a referendum,
- (i) the person who made the application for the recount,
 - (ii) the district Nisga'a Elections Officer for any voting area in which the referendum was held and one other election official designated by that district Nisga'a Elections Officer,
 - (ii.1) the election official responsible for the voting place in any additional voting location in which the referendum was held,
 - (iii) the Nisga'a Elections Officer and any other election officials designated by the Nisga'a Elections Officer,
 - (iv) if the referendum is a referendum of the Nisga'a Nation, the Chief Executive Officer, and
 - (v) if the referendum is a referendum of a Nisga'a Village, the Chief Administrator of the relevant Nisga'a Village Government.

Certification of results of recount

- 64.** After conducting a recount under section 62(5)(a)(ii) or (b), the Nisga'a Administrative Decisions Review Board must issue to the Nisga'a Elections Officer a certificate of the results of the recount.

Declaration of official results

- 65.** (1) If no application for a recount of the votes marked on the ballots cast in an election or referendum is made within the period of time provided under section 62(2) or (4), as soon as practicable after the end of that period the Nisga'a Elections Officer must declare the final results of the election or referendum as published under section 60 to be the official results of the election or referendum.
- (2) If
- (a) an application for a recount of the votes marked on the ballots cast in an election or referendum is made within the period of time provided under section 62(2) or

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(4), and

- (b) the Nisga'a Administrative Decisions Review Board dismisses that application under section 62(5)(a)(i),

as soon as practicable after the Board dismisses the application the Nisga'a Elections Officer must declare the final results of the election or referendum as published under section 60 to be the official results of the election or referendum.

(3) If

- (a) an application for a recount of the votes marked on the ballots cast in an election or referendum is made within the period of time provided under section 62(2) or (4), and
- (b) the Nisga'a Administrative Decisions Review Board conducts a recount of those votes under section 62(5)(a)(ii) or (b),

as soon as practicable after the Board issues a certificate of the results of that recount under section 64, the Nisga'a Elections Officer must declare the results of the recount as certified by the Board to be the official results of the election or referendum.

Publication of official results

- 66.** As soon as practicable after declaring the official results of an election or referendum under section 65, the Nisga'a Elections Officer must publish those official results in accordance with the regulations.

Application to declare election or referendum invalid

- 67.** (1) After the Nisga'a Elections Officer publishes the official results of an election for an elected office under section 66, a candidate for that elected office in that election or a voter eligible to vote in that election may, in accordance with subsection (2), apply to the Nisga'a Administrative Decisions Review Board for an order declaring that the election is invalid, on the grounds that
- (a) the election was not conducted in accordance with this Act or the regulations, and
- (b) the contravention of the Act or the regulations referred to in paragraph (a) materially affected the results of the election.
- (2) An application under subsection (1) for an order declaring that an election is invalid must be made by filing the application with the administrative review officer in accordance

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- with the regulations within five days after the Nisga'a Elections Officer publishes the official results of the election under section 66.
- (3) After the Nisga'a Elections Officer publishes the official results of a referendum under section 66, a voter eligible to vote in that referendum may, in accordance with subsection (4), apply to the Nisga'a Administrative Decisions Review Board for an order declaring that the referendum is invalid, on the grounds that
- (a) the referendum was not conducted in accordance with this Act or the regulations, and
 - (b) the contravention of the Act or the regulations referred to in paragraph (a) materially affected the results of the referendum.
- (4) An application under subsection (3) for an order declaring that a referendum is invalid must be made by filing the application with the administrative review officer in accordance with the regulations within five days after the Nisga'a Elections Officer publishes the official results of the referendum under section 66.
- (5) After considering an application filed with the administrative review officer in accordance with subsection (2) or (4), the Nisga'a Administrative Decisions Review Board must, in accordance with the regulations,
- (a) determine whether this Act or the regulations were contravened in the conduct of the election or referendum in question as alleged in the application, and
 - (b) if the Board determines under paragraph (a) that the Act or regulations were contravened as alleged in the application, determine whether that contravention materially affected the results of the election or referendum.
- (6) After making its determination under subsection (5) in respect of an application, the Nisga'a Administrative Decisions Review Board must
- (a) make an order dismissing the application, or
 - (b) if the Board has determined under subsection (5) that
 - (i) this Act or the regulations were contravened in the conduct of the election or referendum in question as alleged in the application, and
 - (ii) that contravention materially affected the results of the election or referendum,make an order declaring that the election or referendum is invalid.

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Report to President

68. (1) As soon as practicable after the Nisga'a Administrative Decisions Review Board determines an application under section 67 in relation to an election or a referendum of the Nisga'a Nation, the Nisga'a Elections Officer must present a report respecting that determination of the Board to the President.
- (2) As soon as practicable after the Nisga'a Administrative Decisions Review Board determines an application under section 67 in relation to a referendum of a Nisga'a Village, the Nisga'a Elections Officer must present a report respecting that determination of the Board to the President and the Chief Councillor of the relevant Nisga'a Village Government.

Reconducted elections and referendums

69. (1) Subject to subsection (2), if under section 67(6)(b) the Nisga'a Administrative Decisions Review Board makes an order declaring that an election is invalid,
- (a) the Executive must determine a date that is not more than 60 days after the date of the Board's order, on which that election will be reconducted,
 - (b) the Nisga'a Elections Officer must reconduct the election on the date determined by the Executive under paragraph (a),
 - (c) as soon as practicable after the Executive determines a date for reconducting the election under paragraph (a), the Nisga'a Elections Officer must
 - (i) publish a notice of the reconducted election in accordance with the regulations, and
 - (ii) provide written notice to each candidate who stood for an elected office in the invalidated election that they will be a candidate for the same office in the reconducted election, unless they deliver a signed withdrawal under section 21,
 - (d) within 14 days after providing written notice to candidates under paragraph (c)(ii), the Nisga'a Elections Officer must, in accordance with the regulations, publish a notice of the candidates for the elected offices to be filled in the reconducted election,
 - (e) subject to any withdrawals under section 21, the candidates who stood for an elected office in the invalidated election are deemed to be the candidates for the same office in the reconducted election,

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- (f) the revised list of voters published for the purposes of the invalidated election is deemed to be the revised list of voters for the reconducted election, and
- (g) sections 7, 9 to 13, 15 to 19, and 20(1) do not apply in respect of the reconducted election.
- (2) If under section 67(6)(b) the Nisga'a Administrative Decisions Review Board makes an order declaring that an election is invalid on a date that is within six months before the next following regular election, the Executive must not determine a date for the reconduct of that election and the Nisga'a Elections Officer must not reconduct the election.
- (3) If under section 67(6)(b) the Nisga'a Administrative Decisions Review Board makes an order declaring that a referendum of the Nisga'a Nation is invalid,
- (a) the Executive may determine a date that is not more than 60 days after the date of the Board's order, on which that referendum will be reconducted, and
- (b) if the Executive determines a date for reconducting the referendum under paragraph (a),
- (i) the Nisga'a Elections Officer must reconduct the referendum on that date,
- (ii) as soon as practicable after the Executive determines a date for reconducting the referendum under paragraph (a), the Nisga'a Elections Officer must publish a notice of the referendum in accordance with the regulations,
- (iii) the revised list of voters published for the purposes of the invalidated referendum is deemed to be the revised list of voters for the reconducted referendum, and
- (iv) sections 7 and 9 to 13 do not apply in respect of the reconducted referendum.
- (4) If under section 67(6)(b) the Nisga'a Administrative Decisions Review Board makes an order declaring that a referendum of a Nisga'a Village is invalid,
- (a) the relevant Nisga'a Village Government may determine a date that is not more than 60 days after the date of the Board's order, on which that referendum will be reconducted, and
- (b) if that Nisga'a Village Government determines a date for reconducting the referendum under paragraph (a),
- (i) the Nisga'a Elections Officer must reconduct the referendum on that date,

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- (ii) as soon as practicable after the Nisga'a Village Government determines a date for reconducting the referendum under paragraph (a), the Nisga'a Elections Officer must publish a notice of the referendum in accordance with the regulations,
- (iii) the revised list of voters published for the purposes of the invalidated referendum is deemed to be the revised list of voters for the reconducted referendum, and
- (iv) sections 7 and 9 to 13 do not apply in respect of the reconducted referendum.

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PART 7 – ELECTION ADMINISTRATION**Standards and practices of election administration**

70. In order to ensure that Nisga'a citizens are able to exercise their democratic right to self-government, each member of the election administration is expected to strive to perform their functions according to internationally recognized standards and best practices of election administration, as set out in the Schedule.

Appointment of Nisga'a Elections Officer

71. The Executive must appoint a person as the Nisga'a Elections Officer.

Temporary appointment of Nisga'a Elections Officer

72. If there is a vacancy in the office of the Nisga'a Elections Officer at any time during the period of six months before the general voting day for an election or referendum, the Executive may appoint a person on a temporary basis as the Nisga'a Elections Officer for the purposes of that election or referendum.

Impartiality of Nisga'a Elections Officer

73. (1) On the invitation of the Chairperson, at the first meeting of the Executive after a person is appointed as the Nisga'a Elections Officer under section 71 or 72, that person must make a solemn declaration before the Executive that they
- (a) will faithfully and impartially exercise their powers and perform their duties as Nisga'a Elections Officer in accordance with this Act and the regulations,
 - (b) have not accepted and will not accept any inducement to subvert an election or referendum or to exercise their powers or perform their duties other than faithfully and impartially, and
 - (c) will preserve the secrecy of the ballot in accordance with section 29.
- (2) The Nisga'a Elections Officer must not
- (a) hold office as an Officer of Nisga'a Lisims Government, the Chief Councillor or a Village Councillor of a Nisga'a Village Government, a Nisga'a Urban Local Representative, a director of a Nisga'a Urban Local, a member of the Nisga'a Administrative Decisions Review Board or a member of the Council of Elders, or

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- (b) be employed by, or hold a position or make a contribution in relation to the candidacy of, any person who is, intends to be or was a candidate in an election for which the Nisga'a Elections Officer has responsibility.

General staff of Nisga'a Elections Officer

- 74.** (1) For the purposes of each election or referendum, the Nisga'a Elections Officer
- (a) must appoint a deputy Nisga'a Elections Officer, and
 - (b) may appoint other persons necessary to enable the Nisga'a Elections Officer to perform the duties of their office.
- (2) The Nisga'a Elections Officer may rescind the appointment of a deputy Nisga'a Elections Officer or a person appointed under subsection (1)(b) if the Nisga'a Elections Officer considers that the deputy Nisga'a Elections Officer or other person
- (a) is incapable, by reason of illness or otherwise, of satisfactorily performing the person's duties under this Act or the regulations,
 - (b) has not followed a direction of the Nisga'a Elections Officer,
 - (c) has failed to competently discharge a duty of office to the satisfaction of the Nisga'a Elections Officer,
 - (d) has contravened a provision of this Act or the regulations, or
 - (e) has acted in a politically partial manner during the term of the person's appointment, whether or not in the course of performing the person's duties under this Act or the regulations.
- (3) A deputy Nisga'a Elections Officer or a person appointed under subsection (1)(b) may, after any prescribed notice period, resign by giving written notice to the Nisga'a Elections Officer.

Expenses of administering Act

- 75.** Subject to the *Nisga'a Financial Administration Act*, the Nisga'a Elections Officer must approve all amounts to be paid under the authority of this Act.

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Duties and powers of Nisga'a Elections Officer and deputy Nisga'a Elections Officer

- 76.** (1) The Nisga'a Elections Officer must take reasonable steps to
- (a) ensure that all other election officials appointed under this Act carry out their functions fairly and impartially, and
 - (b) provide information to the public regarding election or referendum proceedings under this Act.
- (2) If the Nisga'a Elections Officer is absent or otherwise unable to act in a matter relating to an election or referendum, or if the Nisga'a Elections Officer is removed from or otherwise vacates their office, the deputy Nisga'a Elections Officer
- (a) has the powers and must perform the duties of the Nisga'a Elections Officer, and
 - (b) may appoint a person to act as deputy Nisga'a Elections Officer during the period of that absence, inability to act or vacancy.

Reports to Wilp Si'ayuukhl Nisga'a

- 77.** (1) On the invitation of the Speaker of Wilp Si'ayuukhl Nisga'a, the Nisga'a Elections Officer must present the following reports to Wilp Si'ayuukhl Nisga'a:
- (a) in each calendar year, a report on the work performed by and under the direction of the Nisga'a Elections Officer since the date on which the Nisga'a Elections Officer previously reported to Wilp Si'ayuukhl Nisga'a under this paragraph;
 - (b) after each election or referendum, a report respecting the proceedings, the results and the costs of the election or referendum.
- (2) The Nisga'a Elections Officer, by report to Wilp Si'ayuukhl Nisga'a, may suggest consideration of amendments to this Act or another Nisga'a enactment affecting elections or referendums.

Resignation of Nisga'a Elections Officer

- 78.** The Nisga'a Elections Officer may, after any prescribed notice period, resign by notifying the President in writing.

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Persons ineligible for appointment as election officials

79. The following persons must not be appointed, accept appointment or act as an election official for the purposes of an election or referendum:
- (a) a member of Wilp Si'ayuukhl Nisga'a;
 - (b) a director of a Nisga'a Urban Local;
 - (c) a person who in the 12 months before the general voting day for the election or referendum was a member of Wilp Si'ayuukhl Nisga'a or a director of a Nisga'a Urban Local;
 - (d) a member of the Nisga'a Administrative Decisions Review Board;
 - (e) a member of the Council of Elders;
 - (f) a person who has been convicted of an offence under this Act;
 - (g) in the case of an election, a person who is a candidate or a candidate representative in the election.

District Nisga'a Elections Officers

80. (1) For the purposes of each election or referendum, the Nisga'a Elections Officer must appoint
- (a) a district Nisga'a Elections Officer to be responsible for the conduct of the election or referendum in each voting area in which the election or referendum is to be conducted, and
 - (b) a deputy district Nisga'a Elections Officer to assist that district Nisga'a Elections Officer.
- (2) If a district Nisga'a Elections Officer is absent or otherwise unable to act in a matter relating to an election or referendum for which they are responsible, or if a district Nisga'a Elections Officer is removed from or otherwise vacates their office, the deputy district Nisga'a Elections Officer appointed under subsection (1)(b) to assist that district Nisga'a Elections Officer
- (a) has the powers, and must perform the duties, of the district Nisga'a Elections Officer, and
 - (b) may appoint a person to act as deputy district Nisga'a Elections Officer during the

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period of that absence, inability to act or vacancy.

- (3) A district Nisga'a Elections Officer or deputy district Nisga'a Elections Officer must not be employed by, or hold a position or make a contribution in relation to the candidacy of, a person who is, intends to be or was a candidate in an election for which that district Nisga'a Elections Officer or deputy district Nisga'a Elections Officer has responsibility.
- (4) The Nisga'a Elections Officer may rescind the appointment of a district Nisga'a Elections Officer or deputy district Nisga'a Elections Officer if the Nisga'a Elections Officer considers that the district Nisga'a Elections Officer or deputy district Nisga'a Elections Officer
 - (a) is incapable, by reason of illness or otherwise, of satisfactorily performing the person's duties under this Act or the regulations,
 - (b) has not followed a direction of the Nisga'a Elections Officer,
 - (c) has failed to competently discharge a duty of office to the satisfaction of the Nisga'a Elections Officer,
 - (d) has contravened a provision of this Act or the regulations, or
 - (e) has acted in a politically partial manner during the term of the person's appointment, whether or not in the course of performing the person's duties under this Act or the regulations.
- (5) A district Nisga'a Elections Officer or deputy district Nisga'a Elections Officer may, after any prescribed notice period, resign by giving written notice to the Nisga'a Elections Officer.

Voting officers and other election officials

- 81.** (1) For the purposes of an election or referendum to be conducted in a voting area, the Nisga'a Elections Officer
 - (a) must appoint sufficient voting officers for the voting area to meet the requirements of section 43, and
 - (b) may appoint other persons as are required to conduct the election proceedings in the voting area.
- (1.1) In addition to satisfying the requirements and exercising the authorities set out in subsection (1), for the purposes of a regular election, a by-election for national office or a referendum of the Nisga'a Nation, the Nisga'a Elections Officer

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- (a) must appoint sufficient voting officers for each additional voting location to meet the requirements of section 43, and
 - (b) may appoint other persons as are required to conduct the election proceedings in any additional voting location.
- (2) The Nisga'a Elections Officer may rescind the appointment of a person appointed under subsection (1) or (1.1) if the Nisga'a Elections Officer considers that the person
- (a) is incapable, by reason of illness or otherwise, of satisfactorily performing the person's duties under this Act or the regulations,
 - (b) has not followed a direction of the Nisga'a Elections Officer or, if the person was appointed as a voting officer for or to conduct the election proceedings in a voting area, a direction of the district Nisga'a Elections Officer responsible for the voting area,
 - (c) has failed to competently discharge a duty of office to the satisfaction of the Nisga'a Elections Officer or, if the person was appointed as a voting officer for or to conduct the election proceedings in a voting area, to the satisfaction of the district Nisga'a Elections Officer responsible for the voting area,
 - (d) has contravened a provision of this Act or the regulations, or
 - (e) has acted in a politically partial manner during the term of the person's appointment, whether or not in the course of performing the person's duties under this Act or the regulations.
- (3) A person appointed under subsection (1) or (1.1) may, after any prescribed notice period, resign by giving written notice to the Nisga'a Elections Officer.

Oath of office

- 82.** Before undertaking duties under this Act, each election official, other than the Nisga'a Elections Officer, must make a solemn declaration that they
- (a) will faithfully and impartially exercise their powers and perform their duties in accordance with this Act and the regulations,
 - (b) have not accepted and will not accept any inducement to subvert an election or referendum or to exercise their powers or perform their duties other than faithfully and impartially, and

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- (c) will preserve the secrecy of the ballot in accordance with section 29.

Retention of election materials

- 83.** (1) The ballots, certification envelopes, ballot accounts, voting books and lists of voters used in conducting an election or referendum must be retained by the Nisga'a Elections Officer for one year after the general voting day for the election or referendum.
- (2) Ballot accounts retained under subsection (1) must, during the retention period referred to in that subsection, be available for inspection by Nisga'a citizens on request and on such terms and conditions as the Nisga'a Elections Officer determines to be appropriate.
- (3) At the end of the retention period referred to in subsection (1), the Nisga'a Elections Officer must
- (a) destroy the ballots and certification envelopes retained under that subsection, unless otherwise ordered by a court, and
- (b) deliver into the custody of the Chief Executive Officer the ballot accounts, voting books and lists of voters retained under that subsection.

PART 8 – OFFENCES, ENFORCEMENT AND PROOF OF FACTS**Declarations required under Act**

- 84.** A solemn declaration required under this Act or the regulations must be made in accordance with the regulations.

Exceptional assistance for signature or translation

- 85.** (1) If a voter is required by this Act to sign a document and is unable to do so by reason of physical disability or difficulty with reading or writing, the election official responsible may
- (a) sign the document on behalf of the voter, or
 - (b) witness the voter making a mark.
- (2) If a voter requires the assistance of a translator in relation to a procedure under this Act, the election official responsible must permit the voter to be assisted by a translator.
- (3) Before acting as a translator under subsection (2), a person must make a solemn declaration that the person
- (c) is able to make the required translation, and
 - (d) will do so to the best of the person's ability.
- (4) A person may act as a translator for more than one person under subsection (2).

Proof that person has voted

- 86.** (1) The signature of a person in a voting book indicating that the person applied for an election or referendum ballot is proof for the purposes of this Act that the person voted in the election or referendum in question.
- (2) The initials of the election official responsible on a mail-in envelope containing an election or referendum ballot is proof for the purposes of this Act that the person to whom the mail-in voting package was provided has voted in the election or referendum in question.

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Keeping peace and order at election or referendum proceedings

87. (1) An election official must maintain peace and order so far as is reasonably possible at the election or referendum proceedings for which the election official is responsible.
- (2) For the purposes of this section, an election official may do one or more of the following:
- (a) restrict or regulate the number of persons admitted at any time to a place where proceedings are being conducted;
 - (b) order a person to leave a place where proceedings are being conducted if, in the opinion of the election official, the person
 - (i) is present at that place when not permitted to be present under this Act or the regulations,
 - (ii) is disturbing the peace and order of the proceedings,
 - (iii) is interfering with the conduct of the proceedings, or
 - (iv) is contravening any provision of this Act or the regulations;
 - (c) require proof of identification from a person who may be ordered under paragraph (b) to leave a place where proceedings are being conducted;
 - (d) order the removal of a person from a place where proceedings are being conducted if the person does not comply with an order made under paragraph (b);
 - (e) request the assistance of a peace officer or of a person present at a place where proceedings are being conducted.
- (3) A person ordered under subsection (2)(b) to leave a place where proceedings are being conducted must leave that place and the immediate vicinity of the place, and must not return while the proceedings are being conducted unless permitted to do so by the election official who made the order.
- (4) The authority conferred under subsection (2) must not be used by any election official other than the Nisga'a Elections Officer, a district Nisga'a Elections Officer or an election official responsible for the voting place in an additional voting location to prevent a voter otherwise entitled to vote at a voting place from exercising their right to vote.

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Investigations by Nisga'a Elections Officer

88. (1) The Nisga'a Elections Officer may conduct an investigation into any matter that might constitute a contravention of this Act or the regulations.
- (2) If the Nisga'a Elections Officer receives a written complaint alleging that this Act or the regulations have been contravened, the Nisga'a Elections Officer must consider whether to investigate the matter.
- (3) The Nisga'a Elections Officer may refuse to investigate a complaint if it appears to be frivolous, vexatious or obviously unfounded.

Penalties under Part in addition to others

89. Any penalty under this Part is in addition to and not in place of any other penalty to which a person may be liable under this Act in respect of the same matter.

Prosecution of organizations and others

90. (1) An act or thing done or omitted by an officer, director, employee or agent of an organization within the scope of the person's authority to act on behalf of the organization is deemed to be an act or thing done or omitted by the organization.
- (2) If an organization commits an offence under this Act, an officer, director, employee or agent of the organization who authorizes, permits or acquiesces in the offence commits the same offence, whether or not the organization is convicted of the offence.
- (3) A prosecution for an offence under this Act may be brought against an unincorporated organization in the name of the organization and, for the purposes of the prosecution, the unincorporated organization is deemed to be a person.

Defence of due diligence

91. An individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence.

Restriction on election campaigning near election offices and voting places

92. (1) An individual or organization must not post, display, or disseminate in or within 100 metres of the office of the Nisga'a Elections Officer

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- (a) election or referendum advertising, or
 - (b) any material that identifies a candidate, unless authorized by the Nisga'a Elections Officer.
- (2) While advance voting or general voting is being conducted at a voting place, an individual or organization must not do any of the following in or within 100 metres of the voting place:
- (a) post, display or disseminate
 - (i) election or referendum advertising, or
 - (ii) any material that identifies a candidate or referendum result, unless authorized by the election official responsible for the voting place;
 - (b) canvass or solicit votes or otherwise attempt to influence how a voter votes;
 - (c) carry, wear or supply a flag, badge or other thing indicating that the person using it is a supporter of a particular candidate or referendum result;
 - (d) post, display, disseminate or leave a representation of a ballot marked for a particular candidate or referendum result.
- (3) If subsection (1) is being contravened by the posting or display of materials, the Nisga'a Elections Officer or another election official authorized by the Nisga'a Elections Officer may enter on the property where the materials are located and remove, cover or otherwise obscure them from view.
- (3.1) If subsection (2) is being contravened by the posting or display of materials
- (a) the Nisga'a Elections Officer,
 - (b) if the voting place is located in a voting area, the district Nisga'a Elections Officer responsible for the voting area, or
 - (c) the election official responsible for the voting place
- may enter on the property where the materials are located and remove, cover or otherwise obscure them from view.
- (4) While advance voting or general voting is being conducted at a voting place, an individual or organization must not conduct election or referendum advertising by means of a public address system or loudspeaker that is within hearing distance of the voting place.

Vote buying

- 93.** (1) An individual or organization must not pay, give, lend or procure an inducement for any of the following purposes:
- (a) to induce a person to vote or refrain from voting in an election or referendum;
 - (b) to induce a person to vote or refrain from voting for or against a particular candidate or referendum result;
 - (c) to reward a person for having voted or refrained from voting as described in paragraph (a) or (b).
- (2) A person must not accept an inducement
- (a) to vote or refrain from voting in an election or referendum,
 - (b) to vote or refrain from voting for or against a particular candidate or referendum result, or
 - (c) as a reward for having voted or refrained from voting as described in paragraph (a) or (b).
- (3) An individual or organization must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided, knowing or with the intent that the inducement is to be used for any of the acts prohibited by this section.
- (4) An individual or organization must not offer, agree or promise to do anything otherwise prohibited by this section.
- (5) An individual or organization prohibited from doing something by this section must not do the prohibited thing directly, indirectly or by another individual or organization on behalf of the individual or organization subject to the prohibition.

Intimidation

- 94.** (1) An individual or organization must not intimidate a person for any of the following purposes:
- (a) to persuade or compel a person to vote or refrain from voting in an election or referendum;
 - (b) to persuade or compel a person to vote or refrain from voting for or against a particular candidate or referendum result;

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- (c) to punish a person for having voted or refrained from voting as described in paragraph (a) or (b).
- (2) An individual or organization must not, by abduction, duress or fraudulent means, do any of the following:
 - (a) impede, prevent or otherwise interfere with a person's right to vote in an election or referendum;
 - (b) compel, persuade or otherwise cause a person to vote or refrain from voting in an election or referendum;
 - (c) compel, persuade or otherwise cause a person to vote or refrain from voting for or against a particular candidate or referendum result.
 - (3) An individual or organization prohibited from doing something by this section must not do the prohibited thing directly, indirectly or by another individual or organization on behalf of the individual or organization subject to the prohibition.

Corrupt voting

95. A person must not

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

Subversion of election by officials

- 96.** (1) An election official must not contravene this Act or a direction of the Nisga'a Elections Officer.
- (2) An individual or organization must not advance, pay or otherwise provide an inducement, or cause an inducement to be provided, knowing or with the intent that the inducement is

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- to be used to procure a contravention of subsection (1).
- (3) An individual or organization must not offer, agree or promise to do anything otherwise prohibited by this section.
 - (4) An individual or organization prohibited from doing something by this section must not do the prohibited thing directly, indirectly or by another individual or organization on behalf of the individual or organization subject to the prohibition.

Offences in relation to candidates

- 97.** An individual or organization must not
- (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 election materials

- 98.** In respect of an election or referendum under this Act, an individual or organization must not, without authority under this Act or the regulations,
- (a) supply a ballot to an individual or organization,
 - (b) print or reproduce a ballot or a paper that is capable of being used as a ballot,
 - (c) take a ballot out of a place where election or referendum proceedings are being conducted,
 - (d) put in a ballot box, or cause to be put in a ballot box, anything other than a ballot that a person is authorized to deposit there, or
 - (e) destroy, take, open or otherwise interfere with a ballot paper, certification envelope, ballot box or voting book.

Offences in relation to voting and counting proceedings

- 99.** An individual or organization must not
- (a) contravene section 29 regarding the secrecy of the ballot,

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- (b) without authority under this Act or the regulations, be present at a place where voting or counting proceedings are being conducted, or
- (c) without authority under this Act or the regulations, take down, cover up, mutilate, deface or alter a notice or other document authorized or required to be posted by or under this Act or the regulations.

Offences in relation to election officials

100. 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 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 by or under this Act or the regulations.

Offences in relation to false or misleading information

101. (1) An individual or organization must not

- (a) provide false or misleading information when required or authorized under this Act or the regulations to provide information, or
- (b) make a false or misleading statement or declaration when required under this Act or the regulations to make a statement or declaration.

- (2) An individual or organization is not guilty of an offence under this section if, at the time information was provided or a statement or declaration was made, the individual or organization did not know that the information, statement or declaration was false or misleading and, even with the exercise of reasonable diligence, could not have known that it was false or misleading.

Offences in general

102. (1) An individual or organization who contravenes any of sections 92 to 101 commits an offence punishable under the *Nisga'a Offence Act*.

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- (2) A prosecution for an offence under this Act may be commenced only
 - (a) with the prior written approval of the Nisga'a Elections Officer, and
 - (b) within one year after the facts set out in the information on which the prosecution is based first came to the knowledge of the Nisga'a Elections Officer.

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PART 9 – GENERAL**Emergencies and other extraordinary circumstances**

- 103.** (1) The Nisga'a Elections Officer must do everything possible to meet the time periods and other requirements for election and referendum proceedings set out in this Act and the regulations.
- (2) Subject to subsection (3) but despite any other provision of this Act, if due to an emergency, mistake or extraordinary circumstance it is not possible for the Nisga'a Elections Officer to meet a time period or other requirement for an election or referendum proceeding set out in this Act or the regulations, the Nisga'a Elections Officer may, with the prior approval of the Executive, make an order extending or abridging a time period, or establishing a new date or location for the proceeding.
- (3) The Nisga'a Elections Officer may not, under subsection (2), make an order changing the date determined for an election or referendum under section 3, 4, 5 or 69.
- (4) As soon as practicable after making an order under subsection (2), the Nisga'a Elections Officer must publish the order in accordance with the regulations.
- (5) If the Nisga'a Elections officer makes an order under subsection (2), the Nisga'a Elections Officer must address the circumstances of the order in the report that the Nisga'a Elections Officer makes to Wilp Si'ayuukhl Nisga'a on the election or referendum in respect of which the order was made.
- (6) Despite any other provision of this Act,
- (a) if there is a vacancy in the office of the Nisga'a Elections Officer and it is not possible to meet a time period or other requirement for an election or referendum proceeding set out in this Act or the regulations, the Executive may make an order extending or abridging a time period, or establishing a new date or location for the proceeding, and
- (b) if due to an emergency, mistake or extraordinary circumstance it is not possible for the Nisga'a Elections Officer
- (i) to conduct an election or a referendum of the Nisga'a Nation on the date determined for that election or referendum under section 3, 4, 5 or 69(1) or (3), the Executive may, on one occasion only, make an order determining another date for the election or referendum that is within 30 days after the first determined date, so as to permit the election or referendum to proceed, or

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- (ii) to conduct a referendum of a Nisga'a Village on the date determined for that referendum under section 5 or 69(4), the relevant Nisga'a Village Government may, on one occasion only, make an order determining another date for the referendum that is within 30 days after the first determined date, so as to permit the referendum to proceed.
- (7) As soon as practicable after making an order under subsection (6), the Executive or the relevant Nisga'a Village Government, as the case may be, must publish the order in accordance with the regulations.

Guidelines

- 104.** The Nisga'a Elections Officer may give any direction consistent with this Act and the regulations that is required to conduct an election or referendum efficiently.

Access to Enrolment Register

- 105.** For the purposes of this Act, the Nisga'a Elections Officer may consult the Enrolment Register and any records in respect of enrolment or Nisga'a citizenship received by the Enrolment Committee under the *Nisga'a Citizenship Act*.

Application of *Nisga'a Administrative Decisions Review Act*

- 106.** The *Nisga'a Administrative Decisions Review Act* does not apply in respect of the processes involving the Nisga'a Administrative Decisions Review Board provided for under this Act, except
- (a) in respect of a review referred to in section 15.3, or
 - (b) in so far as a provision of that Act is incorporated by reference in a regulation made under this Act.

Members' Code of Conduct

- 107.** A Nisga'a citizen who believes that a person elected to an office in an election held under this Act
- (a) was not qualified to be a candidate for that office in that election, or
 - (b) knowingly made a false declaration in a document submitted to the Nisga'a Elections Officer in respect of their nomination for that office in that election

NISGA'A ELECTIONS ACT

may, after that election, submit a complaint about that matter in accordance with section 16 of the Members' Code of Conduct.

Regulations

- 108.** (1) The Executive may make regulations it considers necessary or advisable for the purposes of this Act.
- (2) Without limiting subsection (1), the Executive may make regulations in respect of
- (a) the making of requests for review by and applications to, and the consideration of such requests and applications by, the Nisga'a Administrative Decisions Review Board under this Act,
 - (b) the filing of documents with the Nisga'a Elections Officer or the administrative review officer,
 - (c) the nomination forms, acceptance forms and other documents required to be filed with the Nisga'a Elections Officer in connection with the nomination of a person for an elected office,
 - (d) the requirements for, and terms and conditions of, leaves of absence from employment with the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local to be taken by candidates during the term of their candidacy,
 - (d.1) the use or the prohibition of the use of the flag or any other symbol established to represent or identify the Nisga'a Nation, a Nisga'a Village, a Nisga'a Urban Local or Nisga'a Government in advertising or other material posted, displayed or disseminated by any means for the purposes of an election or referendum,
 - (e) the opportunities to vote in elections and referendums to be afforded voters who are employed by the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local,
 - (f) the ballot papers, ballot boxes, voting books, certification envelopes, secrecy envelopes and ballot accounts to be used in elections and referendums,
 - (g) the rules and procedures to be followed on an initial count or final count, including as to the circumstances in which
 - (i) ballots must be rejected, and
 - (ii) certification envelopes and secrecy envelopes must not be opened,

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- (h) the rules and procedures to be followed in the reconduct of an election or referendum under section 69, and
- (i) the terms and conditions of the appointment, employment, resignation and removal from office of
 - (i) the Nisga'a Elections Officer, including as to any involvement of a committee of Wilp Si'ayuukhl Nisga'a or a committee of the Executive in reviewing the performance of the Nisga'a Elections Officer, and
 - (ii) any other election official.

Repeal and Replacement

109. The *Nisga'a Elections Act*, NLGSR 2000/03, as amended, and the *Nisga'a Elections Officer Temporary Appointment Act*, NLGSR 2006/02, are repealed and replaced by this Act

Commencement

110. This Act comes into force by regulation of the Executive.

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SCHEDULE**Principles of Election Administration**

For the purposes of section 70, it is expected that

- (a) the election administration will at all times strive to demonstrate respect for Nisga'a law, by
 - (i) complying with all applicable Nisga'a enactments,
 - (ii) ensuring that this Act is implemented in an impartial fashion, within the legal framework of Nisga'a Government, and
 - (iii) ensuring that every candidate, voter and other participant in an election or referendum is treated fairly and justly,
- (b) the election administration will strive to function independently and act impartially, performing all their tasks in a politically neutral fashion,
- (c) each member of the election administration will strive to
 - (i) act in an unbiased manner in every matter respecting a candidate or voter,
 - (ii) do nothing that could indicate, or be seen as indicating, support for a candidate, referendum outcome, political actor or political tendency,
 - (iii) at all times behave without reproach, exercise sound judgment, and observe the highest levels of personal discretion and integrity,
 - (iv) disclose any relationship that could lead to a conflict of interest with their duties as an election administrator,
 - (v) reject any improper influence,
 - (vi) accept directions relating to the administration of an election or referendum only from persons properly authorized to function as part of the election administration,
 - (vii) not participate in any unauthorized activity, including any private activity, that could lead to actual or perceived conflict of interest with their duties as an election administrator,

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- (viii) not participate in any unauthorized activity, including any private activity, that could lead to a perception of sympathy for a particular candidate, referendum outcome, political actor or political tendency,
 - (ix) not express a view on any subject that is likely to be an issue in an election or referendum, and
 - (x) not communicate with any voter on a matter of partisan significance,
- (d) the election administration will strive to function transparently, and each member of the election administration, within their area of responsibility, will strive to be prepared to
- (i) in response to reasonable requests, arrange access to relevant documents and information, within the framework of Nisga'a law,
 - (ii) ensure that each candidate can fully and effectively exercise their legal rights,
 - (iii) consult with participants in election or referendum processes in relation to specific decisions, if it is appropriate to do so in the circumstances,
 - (iv) in response to reasonable requests, provide an explanation for a decision they have made as part of an election or referendum process, or a decision made as part of the general operation of the election administration, and
 - (v) if any deficiency in the administration of an election or referendum comes to their attention, disclose that deficiency on their own initiative,
- (e) the election administration will strive to conduct work to high standards of accuracy, and each member of the election administration, within their area of responsibility, will strive to
- (i) ensure that information is collected, compiled and published in a way that is systematic, clear and unambiguous, and
 - (ii) do anything necessary, within the framework of Nisga'a law, to ensure that all the information that they compile, use or publish has a sound factual basis, and
- (f) the election administration will strive to provide service to voters, and each member of the election administration, within their area of responsibility, will strive to
- (i) provide every voter the highest quality service required to enable voters to exercise their rights with the least possible inconvenience,

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- (ii) make it as convenient as possible for voters to participate in election and referendum processes, and
- (iii) ensure that voters adequately understand election and referendum processes.

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LEGISLATIVE HISTORY

Nisga'a Elections Act, NLGSR 2008/07, in force June 16, 2008

Amendments

Section	Amendment	In Force
1	amended [2011/03, s. 1; 2011/04, s. 1]	October 28, 2011
4	amended [2011/03, s. 2]	October 28, 2011
6.1	added [2011/03, s. 3]	October 28, 2011
8	amended [2011/03, s. 4]	October 28, 2011
15	amended [2011/03, s. 5]	October 28, 2011
15.1	added [2011/03, s. 6]	October 28, 2011
15.2	added [2011/03, s. 6]	October 28, 2011
15.3	added [2011/03, s. 6]	October 28, 2011
17	amended [2011/03, s. 7]	October 28, 2011
21	repealed and replaced [2011/04, s. 2]	October 28, 2011
23	repealed and replaced [2011/03, s. 8]	October 28, 2011
26	amended [2011/03, s. 9]	October 28, 2011
28	amended [2011/03, s. 10]	October 28, 2011
30	amended [2011/03, s. 11]	October 28, 2011
31	amended [2011/03, s. 12; 2011/04, s. 3]	October 28, 2011
33	amended [2011/03, s. 13]	October 28, 2011
35	amended [2011/03, s. 14]	October 28, 2011
41	amended [2011/03, s. 15]	October 28, 2011
45	amended [2011/03, s. 16]	October 28, 2011
Part 6, Division 1	amended [2011/03, s. 17]	October 28, 2011
49	amended [2011/03, s. 18]	October 28, 2011
52.1	added [2011/03, s. 19]	October 28, 2011
53	amended [2011/03, s. 20]	October 28, 2011
62	amended [2011/03, s. 21]	October 28, 2011
63	amended [2011/03, s. 22]	October 28, 2011
64	amended [2011/03, s. 23]	October 28, 2011
65	amended [2011/03, s. 24]	October 28, 2011
81	amended [2011/03, s. 25; 2011/04, s. 4]	October 28, 2011
83	amended [2011/03, s. 26]	October 28, 2011
87	amended [2011/03, s. 27]	October 28, 2011
92	amended [2011/03, s. 28]	October 28, 2011
103	amended [2011/03, s. 29]	October 28, 2011
106	repealed and replaced [2011/03, s. 30]	October 28, 2011
108	amended [2011/03, s. 31]	October 28, 2011

NISGA'A ELECTIONS ACT

Amending Acts:

NLGSR 2011/03 *Nisga'a Elections Amendment Act, 2011*
NLGSR 2011/04 *Nisga'a Elections Amendment Act (No. 2), 2011*

Regulations:

NLGSR 2008/08 *Nisga'a Elections Act In Force Regulation*
NLGSR 2008/09 *Nisga'a Elections Regulation*
NLGSR 2008/10 *Nisga'a Elections Dispute Resolution Regulation*
NLGSR 2011/05 *Nisga'a Elections Amendment Act, 2011 In Force Regulation*
NLGSR 2011/06 *Nisga'a Elections Amendment Regulation, 2011*
NLGSR 2011/07 *Nisga'a Elections Dispute Resolution Amendment Regulation, 2011*