

NISGA'A ELECTIONS REGULATION

NISGA'A LISIMS GOVERNMENT

NISGA'A LISIMS GOVERNMENT EXECUTIVE

NISGA'A ELECTIONS REGULATION

made under the

NISGA'A ELECTIONS ACT

**UNOFFICIAL CONSOLIDATION
CURRENT TO JULY 26, 2012**

NISGA'A ELECTIONS REGULATION

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PART 1 – DEFINITIONS**Definitions**

1. (1) In this Regulation:

“**Act**” means the *Nisga’a Elections Act*;

“**Nisga’a Commercial Fishers Startup Fund**” means the fund established by the Executive pursuant to Executive Resolution 2001/108 to provide financial assistance to Nisga’a commercial fishers;

“**Nisga’a Stipends and Honoraria Policy**” means the policy adopted by the Executive pursuant to section 27 of the *Nisga’a Government Act*;

“**Nisga’a Urban Housing Grant Policy**” means the policy adopted by the Director of Finance governing the provision of grant funding to eligible Nisga’a citizens residing off of Nisga’a Lands for the purpose of purchasing residential real property;

“**Nisga’a Urban Housing Renovation Grant Policy**” means the policy adopted by the Director of Finance governing the provision of grant funding to eligible Nisga’a citizens residing off of Nisga’a Lands for approved home renovations to residential real property;

“**notice of appointment**” means a notice referred to in section 18;

“**voter number**” means the Nisga’a citizenship number assigned to a person by the Enrolment Department of Nisga’a Lisims Government.

- (2) The words and expressions defined in section 1 of the Act have the same meanings in this Regulation.

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PART 2 – NOTICES**Delivery of documents**

2. (1) If, under the Act or this Regulation, the Nisga'a Elections Officer is required or permitted to give or otherwise provide a notice or other document to a person, the Nisga'a Elections Officer may give or otherwise provide the notice or other document using any of the following methods:
- (a) by delivering it personally to the person;
 - (b) by sending it by mail to, or leaving it with any occupant or depositing it in a mail box or other receptacle at, a street address that
 - (i) the person has provided under the Act or this Regulation for purposes of receipt of communications under the Act or this Regulation, or
 - (ii) the Nisga'a Elections Officer has reason to believe will result in the notice being delivered to the person;
 - (c) by sending it electronically
 - (i) by facsimile transmission to a facsimile number, or
 - (ii) by email to an email address
- that the person has provided under the Act or this Regulation for purposes of receipt of communications under the Act or this Regulation.
- (2) A notice or other document given or otherwise provided by the Nisga'a Elections Officer to a person by any method referred to in subsection (1) is deemed to have been properly given or otherwise provided to the person, and
- (a) if delivered personally in accordance with subsection (1)(a), is deemed to have been received on the day it is delivered,
 - (b) if sent by mail in accordance with subsection (1)(b), is deemed to have been received five days after it is posted at a Canada Post office, unless received earlier by the person,
 - (c) if left with an occupant or deposited in a mail box or other receptacle at a street address in accordance with subsection (1)(b), is deemed to have been received on the date on which it is left or deposited, or

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- (d) if sent electronically in accordance with subsection (1)(c), is deemed to have been received on the date on which it is sent.
- (3) Unless otherwise specified in the Act or this Regulation, if a person is required or permitted under the Act or this Regulation to file a notice or other document with the Nisga'a Elections Officer, or to otherwise provide a notice or other document to the Nisga'a Elections Officer, the person may file or provide the notice or other document using any of the following methods:
- (a) by delivering it personally to the Nisga'a Elections Officer;
- (b) by sending it by mail to, or depositing it at the office of, the Nisga'a Elections Officer;
- (c) with the prior agreement of the Nisga'a Elections Officer,
- (i) by sending it electronically
- (A) by facsimile transmission to a facsimile number specified by the Nisga'a Elections Officer, or
- (B) by email to an email address specified by the Nisga'a Elections Officer, or
- (ii) by another method specified by the Nisga'a Elections Officer.
- (4) The filing with or provision to the Nisga'a Elections Officer of a notice or other document by a method referred to in subsection (3) is not effective until it is received
- (a) by the Nisga'a Elections Officer, if it is delivered personally in accordance with subsection (3)(a),
- (b) at the office of the Nisga'a Elections Officer, if it is sent by mail or deposited in accordance with subsection (3)(b),
- (c) at the facsimile number or email address specified by the Nisga'a Elections Officer, if it is sent electronically in accordance with subsection (3)(c)(i), or
- (d) at the location or otherwise as specified by the Nisga'a Elections Officer, if it is sent by a method specified by the Nisga'a Elections Officer under subsection (3)(c)(ii).
- (5) If a notice or other document is received personally by the Nisga'a Elections Officer in accordance with subsection (4)(a), at the office of the Nisga'a Elections Officer in accordance with subsection (4)(b), at a facsimile number or email address in accordance

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with subsection (4)(c), or at a location or otherwise as specified by the Nisga'a Elections Officer in accordance with subsection (4)(d)

- (a) on a day that is a holiday, it is deemed to have been received on the next following day that is not a holiday, and
- (b) after 5:00 p.m. on any day, it is deemed to have been received on the next following day that is not a holiday.

Notice of election or referendum

3. (1) A notice of an election referred to in section 7 of the Act and a notice of a reconducted election referred to in section 69(1)(c)(i) of the Act must
 - (a) set out each elected office to be filled in the election,
 - (b) specify the general voting day for the election,
 - (c) identify each voting area in which the election will be held, and
 - (d) identify each additional voting location in which the election will be held.
- (2) A notice of a referendum referred to in section 7 of the Act and a notice of a reconducted referendum referred to in section 69(3)(b)(ii) or (4)(b)(ii) of the Act must
 - (a) set out the question to be answered by the referendum,
 - (b) specify the general voting day for the referendum,
 - (c) identify each voting area in which the referendum will be held, and
 - (d) identify each additional voting location in which the referendum will be held.
- (3) A notice of an election or referendum referred to in section 7 of the Act and a notice of a reconducted election or referendum referred to in section 69(1)(c)(i), (3)(b)(ii) or (4)(b)(ii) of the Act must be
 - (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer,
 - (b) posted in the office of the Nisga'a Elections Officer until the end of voting hours on the general voting day for the election or referendum, and
 - (c) if the election is an election for national office or if the referendum is a referendum of the Nisga'a Nation, mailed by the Nisga'a Elections Officer to each

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voter who is listed on the Nisga'a Voters List as not ordinarily residing in any voting area.

Notice of nomination meeting

4. (1) A notice of a nomination meeting referred to in section 16(2) of the Act must be
 - (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer,
 - (b) posted in the office of the Nisga'a Elections Officer until the nomination meeting has taken place, and
 - (c) if the nomination meeting is for the purposes of an election for national office, mailed by the Nisga'a Elections Officer to each voter who is listed on the Nisga'a Voters List as not ordinarily residing in any voting area.
- (2) For certainty, a notice of a nomination meeting is published for the purposes of section 16(3) of the Act on the date on which the Nisga'a Elections Officer publishes the notice in accordance with Nisga'a law.

Notice of candidates

5. A notice of candidates for an elected office to be filled in an election, as referred to in section 20(1) of the Act, and a notice of candidates for an elected office to be filled in a reconducted election, as referred to in section 69(1)(d) of the Act, must be
 - (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer,
 - (b) delivered to each such candidate by the Nisga'a Elections Officer, and
 - (c) if the election is an election for national office, mailed by the Nisga'a Elections Officer to each voter who is listed on the Nisga'a Voters List as not ordinarily residing in any voting area.

Notice of voting opportunities

6. For the purposes of section 32 of the Act, the Nisga'a Elections Officer must, at least 21 days before the general voting day for an election or referendum,
 - (a) publish in accordance with Nisga'a law a notice setting out the date, voting hours and location of each advance and general voting opportunity to be provided for that election or referendum, and

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- (b) if the election is an election for national office or if the referendum is a referendum of the Nisga'a Nation, mail to each voter who is listed on the Nisga'a Voters List as not ordinarily residing in any voting area a notice of each general voting opportunity to be provided for the election or referendum.

PART 3 – NISGA'A VOTERS LIST AND LISTS OF VOTERS**Nisga'a Voters List**

7. (1) The Nisga'a Elections Officer must include the following information on the Nisga'a Voters List:
- (a) the full name of each voter;
 - (b) the place of ordinary residence of each voter;
 - (c) the voter number for each voter;
 - (d) the date of birth of each voter.
- (2) Subject to section 8(4) of the Act, the Nisga'a Elections Officer may at any time amend the Nisga'a Voters List so as to set out current information in respect of voters.
- (3) A voter who is listed on the Nisga'a Voters List may request in writing that the Nisga'a Elections Officer amend the information set out on the Nisga'a Voters List in respect of that voter so as to
- (a) reflect a change in the name, place of ordinary residence or other circumstances of the voter, or
 - (b) correct an error in that information.
- (4) Before amending the Nisga'a Voters List on the request of a voter under subsection (3), the Nisga'a Elections Officer may require the voter to provide evidence satisfactory to the Nisga'a Elections Officer of the change in the voter's circumstances or the error on the Nisga'a Voters List, as the case may be.

Preparation of preliminary and revised lists of voters

8. (1) Each preliminary and revised list of voters for an election or referendum must include the full name, place of ordinary residence, voter number and date of birth of each Nisga'a citizen who, on the basis of the Nisga'a Voters List, is entitled to vote in the election or referendum.
- (2) Subject to section 9 of the Act and subsection (1) of this section, the Nisga'a Elections Officer may determine the form of the preliminary and revised lists of voters for an election or referendum.

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Publication of preliminary and revised lists of voters

9. The preliminary and revised lists of voters for an election or referendum must be
- (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer, and
 - (b) made available for public inspection during regular office hours from the time of their publication under paragraph (a) until the close of general voting, at
 - (i) the office of the Nisga'a Elections Officer,
 - (ii) the principal administrative office of Nisga'a Lisims Government,
 - (iii) the principal administrative office of the Nisga'a Village Government in any Nisga'a Village in which the election or referendum is being conducted, and
 - (iv) the principal administrative office of the Nisga'a Urban Local in any Nisga'a Urban Local Area in which the election is being conducted.

Objections to preliminary list of voters

10. (1) An objection to a preliminary list of voters filed with the Nisga'a Elections Officer by a Nisga'a citizen under section 11(1) of the Act must
- (a) be in writing,
 - (b) set out
 - (i) the full name, place of ordinary residence, Nisga'a citizenship number and date of birth of the Nisga'a citizen, and
 - (ii) any additional facts upon which the Nisga'a citizen relies in support of the objection,
 - (c) be dated and signed by the Nisga'a citizen, and
 - (d) be accompanied by any documentary evidence of the matters referred to in paragraph (b) that the Nisga'a citizen wishes the Nisga'a Elections Officer to consider.
- (2) An objection to a preliminary list of voters filed with the Nisga'a Elections Officer by a Nisga'a citizen under section 11(2) of the Act must

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- (a) be in writing,
 - (b) set out
 - (i) the full name, place of ordinary residence, Nisga'a citizenship number and date of birth of the Nisga'a citizen,
 - (ii) as listed on the preliminary list of voters, the full name, place of ordinary residence, voter number and date of birth of the person whose listing the Nisga'a citizen objects to, and
 - (iii) the paragraph of section 11(2) of the Act upon which the Nisga'a citizen bases the objection and the facts upon which the Nisga'a citizen relies in support of the objection,
 - (c) be dated and signed by the Nisga'a citizen, and
 - (d) be accompanied by any documentary evidence of the matters referred to in paragraph (b)(iii) that the Nisga'a citizen wishes the Nisga'a Elections Officer to consider.

Resolving objections to preliminary list of voters

- 11.** (1) If an objection under section 11(1) of the Act is filed with the Nisga'a Elections Officer in accordance with section 11(3) of the Act and section 10(1) of this Regulation, the Nisga'a Elections Officer must
- (a) review the objection and any documentary evidence filed with the objection,
 - (b) conduct any further investigation and consider any further evidence in respect of the objection that the Nisga'a Elections Officer considers advisable,
 - (c) determine whether the Nisga'a citizen who filed the objection is qualified to vote in the election or referendum for which the preliminary list of voters in question has been prepared, and
 - (d) decide to allow or dismiss the objection accordingly.
- (2) If an objection under section 11(2) of the Act is filed with the Nisga'a Elections Officer in accordance with section 11(3) of the Act and section 10(2) of this Regulation, the Nisga'a Elections Officer must
- (a) review the objection and any documentary evidence filed with the objection,

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- (b) if the person whose listing on the preliminary list of voters in question is objected to provides the Nisga'a Elections Officer with a response to the objection in accordance with an opportunity provided by the Nisga'a Elections Officer under section 11(5) of the Act, consider that response,
 - (c) conduct any further investigation and consider any further evidence in respect of the objection that the Nisga'a Elections Officer considers advisable,
 - (d) determine whether the person whose listing is objected to is qualified to vote in the election or referendum for which the preliminary list of voters has been prepared, and
 - (e) decide to allow or dismiss the objection accordingly.
- (3) For the purposes of an objection under section 11(1) or (2) of the Act, the Nisga'a Elections Officer must determine the ordinary residence of a person as of the date that the objection is received by the Nisga'a Elections Officer.

PART 4 – NOMINATIONS AND CANDIDATES**Prescribed offences**

12. For the purposes of section 15(2)(i) to (k) of the Act, the following are prescribed criminal offences:
- (a) crimes involving sexual exploitation of children;
 - (b) crimes involving abuse of children;
 - (c) crimes in which violence against an individual was used, attempted or threatened, including but not limited to sexual assault;
 - (d) crimes involving trafficking in a controlled substance under the *Controlled Drugs and Substances Act* (Canada);
 - (e) crimes involving fraud;
 - (f) crimes involving theft;
 - (g) crimes involving breach of trust.

Prescribed debt

- 12.1 For the purposes of section 15(2)(h.1) of the Act, the following are prescribed debts:
- (a) monies owed by a Nisga'a citizen to the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local as a result of the misappropriation or other unauthorized taking of monies by the Nisga'a citizen, including without limitation monies owed by a Nisga'a citizen to the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local as a result of payments received by the Nisga'a citizen in contravention of the Nisga'a Stipends and Honoraria Policy;
 - (b) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the contravention by the Nisga'a citizen of a term or condition of
 - (i) a contribution agreement or loan agreement entered into between the Nisga'a citizen and the Nisga'a Nation under the *Nisga'a Business Development Fund Act* or the *Nisga'a Economic Development Fund Act*, NLGSR 2002/16, or
 - (ii) a promissory note or other instrument issued by the Nisga'a citizen to the

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Nisga'a Nation under an agreement or Act referred to in subparagraph (i);

- (c) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the contravention by the Nisga'a citizen of a requirement of the Nisga'a Urban Housing Renovation Grant Policy;
- (d) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the contravention by the Nisga'a citizen of a requirement of the Nisga'a Urban Housing Grant Policy;
- (e) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the contravention by the Nisga'a citizen of a payment term or condition of a loan advanced to the Nisga'a citizen in accordance with the Loan Fund Management Agreement between Tribal Resources Investment Corporation and the Nisga'a Nation;
- (f) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the contravention by the Nisga'a citizen of a term or condition of a loan advanced to the Nisga'a citizen from the Nisga'a Commercial Fishers Startup Fund;
- (g) monies owed by a Nisga'a citizen to the Nisga'a Nation as a result of the Nisga'a citizen's default under an indemnity agreement between the Nisga'a citizen and the Nisga'a Nation in respect of a guarantee given by the Nisga'a Nation to facilitate the acquisition, construction or rehabilitation of residential housing by the Nisga'a citizen on Nisga'a Lands under the *Nisga'a Temporary Housing Security Act*;
- (h) monies that have been determined by a court to be owing by a Nisga'a citizen to the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local.

[Repayment of prescribed debt]**12.2** If a Nisga'a citizen

- (a) who owes to the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local a prescribed debt that is not in good standing in an amount greater than \$500.00,
- (b) executes a repayment agreement with the Nisga'a Nation in respect of the prescribed debt that
 - (i) provides for repayment of the prescribed debt in accordance with any applicable policy adopted by the Executive for the purposes of this section, and

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- (ii) is otherwise satisfactory to the Chief Financial Officer, and
- (c) commences repayment of the prescribed debt in accordance with the executed repayment agreement,

the Chief Financial Officer may determine the prescribed debt to be in good standing for the purposes of the Act.

Nomination deposit

13. For the purposes of section 17(1) of the Act, a deposit of \$100.00 is prescribed.

Nomination and acceptance forms

14. (1) For the purposes of section 16(4)(a) of the Act, Nisga'a citizens who nominate and second the nomination of a person for an elected office at a nomination meeting must complete, sign and file with the Nisga'a Elections Officer a form prepared by the Nisga'a Elections Officer which includes
- (a) the full name and ordinary residential address of the person nominated,
 - (b) the elected office for which that person is nominated,
 - (c) the full name and ordinary residential address of the Nisga'a citizen nominating the person, and a solemn declaration by that Nisga'a citizen that they are qualified to vote for the elected office for which the person is nominated in the election in question, and
 - (d) the full name and ordinary residential address of the Nisga'a citizen seconding the nomination of the person, and a solemn declaration by that Nisga'a citizen that they are qualified to vote for the elected office for which the person is nominated in the election in question.
- (2) For the purposes of section 16(4)(b) and (c) of the Act, a person who is nominated for an elected office at a nomination meeting must
- (a) complete, sign and file with the Nisga'a Elections Officer a form prepared by the Nisga'a Elections Officer which includes
 - (i) the person's full name and ordinary residential address,
 - (ii) the person's usual name, if their usual name is different from their full name and they wish to have their usual name instead of their full name set

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- out on the ballot for the elected office,
- (iii) the person's consent to their nomination for the elected office,
 - (iv) the contact information for the person required by the Nisga'a Elections Officer,
 - (v) the person's solemn declaration that they are qualified under the Act to stand for the elected office and that the information set out on the form is complete and accurate, and
 - (vi) the person's consent to the conduct of any investigation that the Nisga'a Elections Officer considers necessary to verify any information set out on the form or to otherwise confirm the person's qualification for the elected office,
- (a.1) in order to verify that the person does not owe a prescribed debt that is not in good standing and that would disqualify them from standing for the elected office under section 15(2)(h.1) of the Act, file with the Nisga'a Elections Officer a written certification from the Director of Finance that the person's name was not included on the register of prescribed debts as of the date of the person's nomination,
 - (b) in order to verify that the person does not have a criminal record that would disqualify them from standing for the elected office under section 15(2)(i) to (k) of the Act, file with the Nisga'a Elections Officer either
 - (i) a criminal record search report completed within the four months prior to the nomination meeting and satisfactory to the Nisga'a Elections Officer, or
 - (ii) evidence satisfactory to the Nisga'a Elections Officer of having made application for a criminal record search report within the four months prior to the nomination meeting, and a solemn declaration that the person will deliver that criminal record search report to the Nisga'a Elections Officer immediately upon its completion, and
 - (c) in order to identify the person on the ballot for the elected office, file with the Nisga'a Elections Officer either
 - (i) a photograph of the person satisfactory to the Nisga'a Elections Officer and the person's consent to the reproduction of that photograph on the ballot, or
 - (ii) the person's consent to the reproduction on the ballot of a photograph of the person in the possession of the Nisga'a Elections Officer or the

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Enrolment Department of Nisga'a Lisims Government.

Additional documents or information

15. As soon as possible after the Nisga'a Elections Officer gives notice to a person that the Nisga'a Elections Officer requires the person, under section 18(3) of the Act, to provide additional documents or information relating to the person's qualification to stand for an elected office for which they have been nominated, the person must provide the required documents or information to the Nisga'a Elections Officer.

Withdrawal of candidates

16. For the purposes of section 21 of the Act, a candidate's withdrawal from an election must be delivered to the Nisga'a Elections Officer in a form that is
- (a) satisfactory to the Nisga'a Elections Officer,
 - (b) dated and signed by the candidate, and
 - (c) signed by at least one other person who has witnessed the candidate's signature on the form.

Nomination documents available for public inspection

17. Nomination forms and acceptance forms filed with the Nisga'a Elections Officer in respect of nominations for an elected office to be filled in an election must be made available for inspection by Nisga'a citizens at the office of the Nisga'a Elections Officer during regular business hours for one month following the declaration of the official results of the election.

Appointment of candidate representatives

18. For the purposes of section 23 of the Act, a candidate may appoint a Nisga'a citizen to represent the candidate by delivering to the Nisga'a Elections Officer a written notice of appointment that
- (a) is in a form satisfactory to the Nisga'a Elections Officer,
 - (b) is dated and signed by the candidate, and
 - (c) includes
 - (i) the name of the candidate,

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- (ii) the name of the Nisga'a citizen appointed to represent the candidate,
- (iii) a statement that the Nisga'a citizen is appointed under section 23 of the Act, and
- (iv) a declaration that the Nisga'a citizen is over the age of 18 years.

Presence of candidate representatives at election proceedings

- 19.** (1) When requested by an election official, a candidate representative present at an election proceeding must produce their notice of appointment.
- (2) A candidate representative present at a voting place during voting proceedings is entitled to inspect a voting book or list of voters being used at the voting place, to the extent that doing so does not interfere with the proceedings.
- (3) The absence of a candidate representative from a place where election proceedings are being conducted does not invalidate the proceedings.

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**PART 5 – CANDIDATES AND VOTERS EMPLOYED WITHIN
NISGA'A GOVERNMENT****Application**

- 20.** This Part applies to employees of the Nisga'a Nation, the Nisga'a Villages and the Nisga'a Urban Locals.

Candidates who must take leave of absence

- 21.** (1) A person who is employed by the Nisga'a Nation as the Chief Executive Officer or as a Nisga'a Lisims Government Director must be granted by the Nisga'a Nation, and must take, an unpaid leave of absence from their employment during any time that the person is a candidate for any elected office.
- (2) The Nisga'a Nation may require any of its employees other than those referred to in subsection (1) to take an unpaid leave of absence from their employment during the time that any such employee is a candidate for any elected office.
- (3) A person who is employed by a Nisga'a Village as the Chief Administrator of its Nisga'a Village Government must be granted by the Nisga'a Village, and must take, an unpaid leave of absence from their employment during any time that the person is a candidate for
- (a) any national office, or
 - (b) the office of Chief Councillor or Village Councillor of the Nisga'a Village Government.
- (4) A Nisga'a Village may require any of its employees other than the Chief Administrator of its Nisga'a Village Government to take an unpaid leave of absence from their employment during the time that any such employee is a candidate for an elected office referred to in subsection (3).
- (5) A person who is employed by a Nisga'a Urban Local as its senior employee must be granted by the Nisga'a Urban Local, and must take, an unpaid leave of absence from their employment during any time that the person is a candidate for
- (a) any national office, or
 - (b) the office of Nisga'a Urban Local Representative from the Nisga'a Urban Local.
- (6) A Nisga'a Urban Local may require any of its employees other than its senior employee to take an unpaid leave of absence from their employment during the time that any such

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employee is a candidate for an elected office referred to in subsection (5).

Candidates who may request leave of absence

22. If a candidate for an elected office is employed by the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local, but is not required to take a leave of absence from their employment under section 21,
- (a) the candidate may request an unpaid leave of absence in writing, and
 - (b) the candidate's employer may, in its discretion, grant the candidate an unpaid leave of absence upon receiving such a request.

Rules governing leaves of absence

23. (1) A leave of absence from employment referred to in this Part
- (a) must be full-time if it is taken or required under section 21, and
 - (b) in any other case, may be full-time or part-time, as determined by the employer.
- (2) A candidate referred to in section 22 may request a part-time leave of absence from employment under that section, in which case the candidate must in their request specify the days and hours of leave requested.
- (3) An employee on a leave of absence from employment referred to in section 21 or 22
- (a) is not entitled to pay, but
 - (b) is entitled to all other benefits attached to the person's employment, subject to subsection (4).
- (4) If a candidate makes a written request before or at the beginning of a leave of absence from employment referred to in section 21 or 22, the employee may, during that leave of absence, continue to contribute to any pension, medical or other plan beneficial to the employee in which the employee participates, as long as
- (a) the employee pays both the employee's and the employer's contributions to the plan, and
 - (b) the terms of the plan permit the employee to continue to participate in the plan on that basis while on a leave of absence.

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- (5) Subject to subsections (3) and (4), the services of an employee on a leave of absence from employment referred to in section 21 or 22 are to be considered continuous throughout the period of the leave of absence.

Duration of leaves of absence

- 24. (1) Subject to subsection (2), a candidate's leave of absence from employment, as referred to in section 21 or 22, ends
 - (a) if the candidate withdraws from the election in which they were standing for elected office, on the day after their withdrawal, or
 - (b) in any other case, on the day after the official results of the election in which the candidate has stood for elected office are declared by the Nisga'a Elections Officer.
- (2) A candidate who has requested and been granted a leave of absence from employment under section 22 may end the leave of absence by notice to their employer.

25. [Repealed NLGSR 2011/06.]

Employer must not prejudice employee

- 26. (1) An employer must not, because of an employee's candidacy or a leave of absence required or taken in accordance with this Part,
 - (a) dismiss, lay off, suspend, or demote the employee, or
 - (b) diminish any benefit attached to their employment to which the employee is entitled in accordance with section 23(3).
- (2) Upon an employee's return from a leave of absence required or taken in accordance with this Part, the employer must
 - (a) return the employee to their former employment position on the same or substantially the same terms and conditions as when the leave was granted,
 - (b) if, for reasons unrelated to the employee's candidacy or leave of absence, the employee's former employment position is no longer available or vacant,
 - (i) make reasonable efforts to provide the employee with a comparable employment position commensurate with the employee's skills, training and abilities, and

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- (ii) if not able to provide the employee with a comparable employment position after making reasonable efforts, terminate the employee's employment without cause.
- (3) An employee whose employment is terminated in accordance with subsection 2(b)(ii) will be entitled to any rights on termination contained in the employment contract between the employee and their employer.

Time off from work for campaigning

27. The Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local may, in its discretion, allow reasonable time away from work for any of its employees who are candidates for an elected office to be filled in an election, but who are not on a leave of absence from their employment under section 21 or 22, to campaign for their election to the elected office
- (a) without pay, and
 - (b) as best suits the convenience of the employer.

Time off from work for voting

28. (1) An employee of the Nisga'a Nation, a Nisga'a Village or a Nisga'a Urban Local who is entitled to vote in an election or referendum is entitled to have four consecutive hours free from employment during voting hours for general voting during the election or referendum.
- (2) Subject to subsection (3), an employer referred to in subsection (1)
- (a) may arrange required time off for the purpose of allowing its employees to vote in an election or referendum as best suits the convenience of the employer, but
 - (b) must not deduct pay from or otherwise penalize its employees for taking the time off.
- (3) Despite subsection (2), election officials and persons employed or retained by the Nisga'a Elections Officer to work on a voting day for an election or referendum are not entitled to time off under this Regulation.

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PART 6 – VOTING**Office of district Nisga'a Elections Officer**

- 29.** In each voting area in which an election or a referendum is being held, the Nisga'a Elections Officer may designate an elections office for the district Nisga'a Elections Officer.

Additional voting location

- 29.1** For the purposes of section 6.1 of the Act, the City of Prince George is prescribed as an additional voting location.

Voting places

- 30.** (1) The Nisga'a Elections Officer must designate an election official to serve as the election official responsible for each voting place established for the purposes of an election or referendum.
- (2) The Nisga'a Elections Officer must ensure that a copy of the Nisga'a Voters List and of the revised list of voters for an election or referendum are made available for inspection at each voting place established for the purposes of the election or referendum.

Voting stations

- 31.** (1) At each voting place established in a voting area for the purposes of an election or referendum, the district Nisga'a Elections Officer for the voting area must establish sufficient voting stations to accommodate the number of voters anticipated to vote at the voting place in the election or referendum.
- (1.1) At each voting place established in an additional voting location for the purposes of an election or referendum, the election official responsible for the additional voting location must establish sufficient voting stations to accommodate the number of voters anticipated to vote at the voting place in the election or referendum.
- (2) At each voting place established in a voting area for the purposes of an election, the district Nisga'a Elections Officer for the voting area must
- (a) establish separate voting stations for each elected office in respect of which ballots are to be cast in the election, and
- (b) designate voting stations at which particular voters are entitled to vote.

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- (2.1) At each voting place established in an additional voting location for the purposes of an election, the election official responsible for the additional voting location must
- (a) establish separate voting stations for each elected office in respect of which ballots are to be cast in the election, and
 - (b) designate voting stations at which particular voters are entitled to vote.
- (3) The district Nisga'a Elections Officer for a voting area must
- (a) set up a ballot box at each voting station in a voting place established in the voting area, and
 - (b) appoint a voting officer, along with another election official, to be responsible for both the voting station and the ballot box.
- (3.1) The election official responsible for an additional voting location must
- (a) set up a ballot box at each voting station in a voting place established in the additional voting location, and
 - (b) appoint a voting officer, along with another election official, to be responsible for both the voting station and the ballot box.

Voting screens

- 32.** (1) The district Nisga'a Elections Officer for a voting area must ensure that there is a voting screen for each voting station in a voting place established in the voting area.
- (1.1) The election official responsible for an additional voting location must ensure that there is a voting screen for each voting station in a voting place established in the additional voting location.
- (2) The voting officer responsible for a voting station must ensure that the voting screen at the voting station is arranged in such a manner that voters voting at that voting station may mark their ballots without interference, and without being observed by other persons present at the voting place.
- (3) While a voter is voting at a voting station, no other person may observe or be in a position to observe the ballot being marked by the voter, except
- (a) an election official responsible for assisting that voter under section 37 of the Act, or

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- (b) with the approval of the election official responsible, a person who is under the care of the voter.

Instructions for voters

- 33.** The district Nisga'a Elections Officer for a voting area and the election official responsible for an additional voting location must post a notice, in a form determined by the Nisga'a Elections Officer, providing voters with instructions for voting at each voting station.

Ballots cast by Nisga'a Elections Officer and district Nisga'a Elections Officer

- 34.** The ballot of the Nisga'a Elections Officer referred to in section 26(4)(a) of the Act, and the ballot of the district Nisga'a Elections Officer referred to in section 26(5)(a) of the Act, must
- (a) be marked at the beginning of voting hours on the general voting day of the election in question, and
 - (b) be sealed immediately in an envelope which
 - (i) must not be deposited in a ballot box, and
 - (ii) must be set aside to be opened only in accordance with section 59 of the Act.

General voting and advance voting

- 35.** (1) Subject to the Act and this Regulation, a voter entitled to vote in an election or referendum as a resident voter at a general voting opportunity under section 33(2)(a) of the Act or at an advance voting opportunity under section 34(2) of the Act must, in order to obtain a ballot at that voting opportunity
- (a) inform the election official responsible at the voting place of their intention to vote in the election or referendum as a resident voter,
 - (b) verify that their name is included on the revised list of voters,
 - (c) in the case of an election, inform the election official responsible of the elected office for which they intend to vote, and
 - (d) sign the voting book opposite their name, ordinary residential address and voter number.

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- (2) A voter voting as a resident voter in an election or a referendum must
 - (a) mark the ballot provided to them by the election official responsible,
 - (b) fold the marked ballot and return it to the election official responsible with the counterfoil number showing, and
 - (c) after the election official responsible has removed the counterfoil,
 - (i) deposit the ballot in the appropriate ballot box, or
 - (ii) allow the election official responsible to deposit the ballot in the appropriate ballot box.

Voting by non-resident voters

- 36. (1) Subject to the Act and this Regulation, a voter entitled to vote in an election or referendum as a non-resident voter at a general voting opportunity under section 33(2)(b) or 33(3) of the Act must, in order to obtain a ballot at that voting opportunity,
 - (a) inform the election official responsible at the voting place of their intention to vote in the election or referendum as a non-resident voter,
 - (b) verify that their name is included on the revised list of voters,
 - (c) in the case of an election, inform the election official responsible of the elected office for which they intend to vote, and
 - (d) sign the voting book opposite their name, ordinary residential address and voter number.
- (2) A voter voting as a non-resident voter in an election or a referendum must
 - (a) mark the ballot provided to them by the election official responsible,
 - (b) fold the marked ballot and return it to the election official responsible with the counterfoil number showing, and
 - (c) after the election official responsible has
 - (i) removed the counterfoil,
 - (ii) placed the marked ballot in the appropriate secrecy envelope and sealed it,

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- (iii) placed the sealed secrecy envelope in a certification envelope and sealed it, and
 - (iv) completed the information required to be included on the certification envelope,
- sign the declaration printed on the certification envelope in the presence of the election official responsible.
- (3) A declaration required to be signed by a voter under subsection (2)(c) must be in a form determined by the Nisga'a Elections Officer.

Voting by mail

37. (1) A request by a voter for the provision of a mail-in ballot for the purposes of an election or referendum, as referred to in section 35(2)(b) of the Act must be made to the Nisga'a Elections Officer no later than 30 days before the date established for general voting in the election or referendum.
- (2) If a voter is to be provided with a mail-in ballot under section 35(2) of the Act, the Nisga'a Elections Officer must deliver to the voter a mail-in voting package consisting of
- (a) instructions for voting by mail,
 - (b) one mail-in ballot for each elected office or each referendum in respect of which the voter may cast a ballot,
 - (c) one secrecy envelope for each elected office or each referendum in respect of which the voter may cast a ballot, prepared in accordance with section 45(3) of this Regulation,
 - (d) a certification envelope, prepared in accordance with section 45(4) of this Regulation, with the counterfoil number of each mail-in ballot provided to the voter under paragraph (b) recorded on the envelope, and
 - (e) an outer envelope, with the address of the office of the Nisga'a Elections Officer printed on it.
- (3) Before delivering a mail-in voting package to a voter in accordance with subsection (2), the Nisga'a Elections Officer must record the following information in the appropriate voting book:
- (a) the full name of the voter requesting the mail-in voting package, as set out in the Nisga'a Voters List;

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- (b) the ordinary residential address of the voter;
 - (c) the voter number of the voter;
 - (d) the counterfoil number of each mail-in ballot to be provided to the voter;
 - (e) the date of providing the mail-in voting package to the voter;
 - (f) the method of providing the mail-in voting package to the voter.
- (4) In order to vote by mail-in ballot, a voter to whom the Nisga'a Elections Officer delivers a mail-in voting package under subsection (2) must
- (a) mark the mail-in ballot for each elected office or referendum in respect of which the voter wishes to cast a ballot,
 - (b) place each marked mail-in ballot in the appropriate secrecy envelope and seal the secrecy envelope,
 - (c) place each secrecy envelopes containing a marked mail-in ballot in the certification envelope and seal the certification envelope,
 - (d) complete the information required to be included on the certification envelope,
 - (e) in the presence of a witness, sign the declaration printed on the certification envelope,
 - (f) ensure that the witness referred to in paragraph (e) signs the certification envelope,
 - (g) place the certification envelope in the outer envelope and seal the outer envelope, and
 - (h) mail or otherwise deliver the sealed outer envelope, with all of its contents, to the office of the Nisga'a Elections Officer.
- (5) A declaration required to be signed by a voter under subsection (4)(e) must be in a form determined by the Nisga'a Elections Officer.
- (6) In order for a mail-in ballot to be considered in the final count for an election or referendum, an outer envelope, certification envelope and secrecy envelope containing the ballot, as described in subsection (4), must be received at the office of the Nisga'a Elections Officer before the end of voting hours on the general voting day for the election or referendum.

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Reception of mail-in ballots

38. (1) Upon receiving an outer envelope at the office of the Nisga'a Elections Officer in accordance with section 37(6), the Nisga'a Elections Officer must
- (a) open the outer envelope and record the date of receipt on the enclosed certification envelope and in the appropriate voting book,
 - (b) determine whether the counterfoil number of the mail-in ballot recorded on the certification envelope corresponds to the counterfoil number recorded by the Nisga'a Elections Officer in the voting book for the voter in question,
 - (c) if satisfied that the counterfoil number of the mail-in ballot recorded on the certification envelope corresponds to the counterfoil number recorded by the Nisga'a Elections Officer in the voting book, initial the certification envelope and place it in the appropriate ballot box, and
 - (d) if not satisfied that the counterfoil number of the mail-in ballot recorded on the certification envelope corresponds to the counterfoil number recorded by the Nisga'a Elections Officer in the voting book, make a notation of that lack of correspondence on the certification envelope and in the voting book and place the envelope in the ballot box.
- (2) If an outer envelope referred to in section 37(6) is received by the Nisga'a Elections Officer after the close of voting hours on the general voting day for an election or a referendum, the Nisga'a Elections Officer
- (a) must open the outer envelope and record the date and time of its receipt on the enclosed certification envelope and in the appropriate voting book, and
 - (b) must not
 - (i) open the certification envelope, or
 - (ii) consider any mail-in ballots contained in the certification envelope as part of the final count for the election or referendum.

Persons unable to enter voting place

39. The election official responsible for a voting place who allows a voter to vote at a location other than the voting place under section 38 of the Act must ensure that the marked ballot of the voter is placed in the appropriate ballot box, while still preserving the secrecy of the ballot in

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accordance with section 29 of the Act.

Spoiled ballots

40. If a ballot is marked as spoiled under section 39 of the Act, the election official responsible must
- (a) in a form determined by the Nisga'a Elections Officer, record the number of the spoiled ballot and the reason the ballot was spoiled, and
 - (b) set aside the spoiled ballot for disposition in accordance with section 54.

Right to vote

41. (1) A Nisga'a citizen who, as described in section 14(2) of the Act,

- (a) is listed on the Nisga'a Voters List, and
- (b) is entitled under section 14(1) of the Act 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 that election or referendum if on the general voting day for the election or referendum, at a voting place established for the purposes of the election or referendum, they provide evidence satisfactory to the election official responsible of their entitlement to vote in the election or referendum, including

- (c) a valid Nisga'a citizenship card issued to them by the Enrolment Department of Nisga'a Lisims Government, or other evidence confirming that they are a Nisga'a citizen,
- (d) evidence confirming that they are at least 18 years old, and
- (e) evidence confirming their place of ordinary residence.

- (2) A Nisga'a citizen who, as described in section 14(3) of the Act,

- (a) is not listed on the Nisga'a Voters List, and
- (b) would be entitled under section 14(1) of the Act 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 if on the general voting day for the election or referendum, at a voting place established for the purposes of the election or referendum,

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- they provide evidence satisfactory to the election official responsible of their entitlement to vote in the election or referendum, including
- (c) a valid Nisga'a citizenship card issued to them by the Enrolment Department of Nisga'a Lisims Government, or other evidence confirming that they are a Nisga'a citizen,
 - (d) evidence confirming that they are at least 18 years old, and
 - (e) evidence confirming their place of ordinary residence.
- (3) The election official responsible must issue a ballot to a Nisga'a citizen who meets the requirements of subsection (1) or (2) and must record in the voting book
- (a) the name and ordinary residential address of the Nisga'a citizen to whom the ballot was issued,
 - (b) that the Nisga'a citizen was not listed on the revised list of voters or the Nisga'a Voters List, as the case may be, and
 - (c) the evidence provided by the Nisga'a citizen confirming their entitlement to vote.
- (4) A Nisga'a citizen who is issued a ballot for voting in an election or a referendum in accordance with this section must
- (a) mark the ballot provided to them by the election official responsible,
 - (b) fold the marked ballot and return it to the election official responsible with the counterfoil number showing,
 - (c) after the election official responsible has
 - (i) placed the marked ballot in the appropriate secrecy envelope and sealed it,
 - (ii) placed the sealed secrecy envelope in a certification envelope and sealed it, and
 - (iii) completed the information required to be included on the certification envelope,sign the declaration printed on the certification envelope in the presence of the election official responsible,
 - (d) complete the information required to be included on the certification envelope, and

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- (e) provide the sealed certification envelope to the election official responsible.
- (5) A declaration required to be signed by a Nisga'a citizen under subsection (4)(c) must be in a form determined by the Nisga'a Elections Officer.
- (6) A ballot cast by a Nisga'a citizen in accordance with this section may not be opened and counted as part of the initial count for an election or referendum, and may not be opened and counted in the final count for the election or a referendum unless the Nisga'a Elections Officer has confirmed that the Nisga'a citizen did not vote more than once in the election or referendum.

Challenge of a voter

- 42.** (1) In respect of a challenge to a request by a person to vote in an election or a referendum, made in accordance with section 41 of the Act, the election official responsible must
- (a) record in the voting book
 - (i) the name and ordinary residential address of the person whose request to vote in the election or referendum was challenged,
 - (ii) the name of the person who made the challenge,
 - (iii) the basis on which the challenge was made, in accordance with section 41(3) of the Act, and
 - (iv) the evidence provided under section 41(4) of the Act by the person whose request to vote in the election or referendum was challenged,
 - (b) determine whether the person whose request to vote in the election or referendum was challenged meets the requirements for voting and record that determination in the voting book, and
 - (c) if the challenged person is determined to meet the requirements for voting, issue a ballot to that person.
- (2) A Nisga'a citizen who is issued a ballot for voting in an election or a referendum in accordance with this section must
- (a) mark the ballot provided to them by the election official responsible,
 - (b) fold the marked ballot and return it to the election official responsible with the counterfoil number showing,

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- (c) after the election official responsible has
 - (i) placed the marked ballot in the appropriate secrecy envelope and sealed it,
 - (ii) placed the sealed secrecy envelope in a certification envelope and sealed it, and
 - (iii) completed the information required to be included on the certification envelope,sign the declaration printed on the certification envelope in the presence of the election official responsible,
 - (d) complete the information required to be included on the certification envelope, and
 - (e) provide the sealed certification to the election official responsible.
- (3) A solemn declaration required to be made by a voter under section 41(5) of the Act or a declaration required to be signed by a voter under subsection (2)(c) of this section must be in a form determined by the Nisga'a Elections Officer.
- (4) A ballot cast by a Nisga'a citizen in accordance with this section may not be opened and counted as part of the initial count for an election or referendum, and may not be opened and counted in the final count for the election or a referendum unless the Nisga'a Elections Officer has confirmed that the person did not vote more than once in the election or referendum.

Voting books

- 43.** (1) At each voting place established in a voting area for the purposes of an election or a referendum, a separate voting book must be used to record the following groups of voters to whom ballots are issued at a voting opportunity for the election or referendum:
- (a) voters whose names are included on the revised list of voters for the voting area;
 - (b) non-resident voters who have voted in accordance with section 36;
 - (c) voters whose names are not included on the revised list of voters for the voting area or the Nisga'a Voters List and who have voted in accordance with section 41(4);
 - (d) voters whose request to vote in an election or a referendum has been challenged

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under section 41 of the Act and who have voted in accordance with section 42(2) of this Regulation.

- (2) At each voting place established in an additional voting location for the purposes of an election or a referendum, a separate voting book must be used to record the following groups of voters to whom ballots are issued at a voting opportunity for the election or referendum:
 - (a) non-resident voters who have voted in accordance with section 36;
 - (b) voters whose names are not included on the revised list of voters or the Nisga'a Voters List and who have voted in accordance with section 41(4);
 - (c) voters whose request to vote in an election or a referendum has been challenged under section 41 of the Act and who have voted in accordance with section 42(2) of this Regulation.
- (3) The following information must be recorded in each voting book used for the purposes of an election or a referendum in accordance with subsection (1) or (2):
 - (a) the full name of the voter, as it appears on the Nisga'a Voters List or the revised list of voters for the election or referendum, if applicable;
 - (b) the ordinary residential address of the voter;
 - (c) the voter number of the voter;
 - (d) the date on which the voter voted.

Style of ballot

44. (1) If two or more candidates for an elected office to be filled in an election have the same surname, their names must be arranged on the ballot for the elected office alphabetically in order of their given names or usual names included on the acceptance forms provided to the Nisga'a Elections Officer.
- (2) A ballot for an elected office to be filled in an election must not include any of the following:
 - (a) an indication that a candidate holds, or has held, an elected office;
 - (b) a candidate's occupation;
 - (c) an indication of a title, honour, degree or other decoration received or held by a

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candidate.

- (3) If an election for an elected office is still required after a candidate withdraws from the election, and if ballots for the elected office in the election have been prepared before the withdrawal of the candidate, the Nisga'a Elections Officer must notify each election official as soon as possible of the withdrawal of the candidate and
- (a) if the withdrawal of the candidate takes place before the start of advance voting in the election and in the opinion of the Nisga'a Elections Officer
- (i) it is practicable to replace those ballots in time for the start of advance voting, the Nisga'a Elections Officer must prepare new ballots without the name of the candidate who has withdrawn for use in advance voting and general voting,
- (ii) it is not practicable to replace those ballots in time for the start of advance voting but it is practicable to replace those ballots in time for the start of general voting, the Nisga'a Elections Officer must
- (A) post at each voting place at which the ballots are to be used for advance voting a notice of the withdrawal of the candidate,
- (B) if time permits, indicate on the ballots to be used for advance voting that the candidate has withdrawn, and
- (C) prepare new ballots without the name of the candidate who has withdrawn for use in general voting, or
- (iii) it is not practicable to replace those ballots in time for the start of advance or general voting, the Nisga'a Elections Officer must
- (A) post at each voting place at which the ballots are to be used for advance voting or general voting a notice of the withdrawal of the candidate, and
- (B) if time permits, indicate on the ballots to be used for advance voting and general voting that the candidate has withdrawn, or
- (b) if the withdrawal of the candidate take places after the start of advance voting in the election and in the opinion of the Nisga'a Elections Officer
- (i) it is practicable to replace those ballots for the start of general voting, the Nisga'a Elections Officer must prepare new ballots without the name of the candidate who has withdrawn for use in general voting, or

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- (ii) it is not practicable to replace those ballots for the start of general voting, the Nisga'a Elections Officer must
 - (A) post at each voting place at which the ballots are to be used for general voting a notice of the withdrawal of the candidate, and
 - (B) if time permits, indicate on the ballots to be used for general voting that the candidate has withdrawn.

Ballot papers, certification envelopes and other materials

- 45.** (1) For the purposes of an election or a referendum, a ballot paper must be prepared in such a manner that it can be divided into
- (a) a ballot to be marked by a voter for the purpose of voting in the election or referendum,
 - (b) a numbered counterfoil to identify the ballot before the ballot is deposited in a ballot box, and
 - (c) a numbered stub to provide a record of the ballot issued to a voter for the purpose of voting in the election or referendum.
- (2) For the purposes of an election or a referendum, ballot papers must be prepared in books containing a fixed number of ballot papers, as determined by the Nisga'a Elections Officer.
- (3) For the purposes of an election, a secrecy envelope must indicate on its face the elected office for which it contains a ballot.
- (4) For the purposes of an election or referendum, a certification envelope
- (a) must include a written declaration in a form determined by the Nisga'a Elections Officer, to be signed by the voter voting in the election or referendum,
 - (b) must provide space to include
 - (i) the full name of the voter, as it appears on the revised list of voters or the Nisga'a Voters List, if applicable,
 - (ii) the ordinary residential address of the voter,
 - (iii) the counterfoil number of the ballot issued to the voter,

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- (iv) the signature of the voter, and
 - (v) the full name and signature of the person witnessing the signature of the voter, and
- (c) may include any other information that the Nisga'a Elections Officer determines to be necessary.

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PART 7 – COUNTING THE VOTE**Division 1 – The Initial Count****When initial count is to take place**

- 46.** (1) Subject to subsections (2) and (3), the initial count of resident ballots used for voting in a voting area in an election or a referendum must not take place until the close of general voting for the election or referendum, but must take place as soon as possible after that time.
- (2) If the close of general voting for a particular voting area is extended in accordance with section 27 of the Act, the initial count for the voting areas other than the one for which general voting was extended may take place as soon as possible after the close of general voting for those voting areas.
- (3) If the close of general voting for a particular voting area is extended by an adjournment in accordance with section 28 of the Act, the initial count for all voting areas must not begin until the close of general voting for that voting area.

Where initial count is to take place

- 47.** (1) The initial count of resident ballots used for general voting in a voting area in an election or a referendum must be conducted at the voting place where the general voting was conducted, unless the Nisga'a Elections Officer or the district Nisga'a Elections Officer directs that the initial count is to be conducted at another location.
- (2) [Repealed NLGSR 2011/06.]
- (3) The Nisga'a Elections Officer or the district Nisga'a Elections Officer must notify the candidates in an election of the date, time and place of the initial count for the election.

Who conducts initial count

- 48.** (1) In this Division, “**voting officer**” includes another election official assigned by the election official responsible under section 49(2)(a) of the Act.
- (2) Subject to subsection (3), the voting officer responsible for a ballot box used for resident ballots at a voting place in a voting area may be assisted by another election official in conducting an initial count of the votes marked on the ballots cast in the ballot box.

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- (3) A voting officer referred to in subsection (2) must personally make all decisions regarding the acceptance of a vote or the rejection of a ballot.

Proceedings on initial count

- 49. The initial count of the votes marked on the ballots cast in a ballot box used for resident ballots at a voting place in a voting area must proceed as follows:
 - (a) the ballot box is to be opened by the responsible voting officer;
 - (b) any certification envelopes included in the ballot box are to be removed by the voting officer and kept separate and unopened for inclusion with the other election materials required to be delivered to the district Nisga'a Elections Officer in accordance with section 54;
 - (c) the remaining ballots in the ballot box are to be considered in accordance with sections 51 to 53;
 - (d) the ballot account for the ballot box is to be prepared in accordance with section 50;
 - (e) the ballots and other election materials are to be packaged in accordance with section 54 for delivery to the district Nisga'a Elections Officer.

Ballot account for initial count

- 50. (1) The voting officer conducting an initial count of the votes marked on the ballots cast in a ballot box for resident ballots at a voting place in a voting area must prepare a ballot account for that ballot box in accordance with section 49(3) of the Act and this section.
- (2) A ballot account prepared under subsection (1)
 - (a) must be
 - (i) in a form determined by the Nisga'a Elections Officer,
 - (ii) in duplicate, and
 - (iii) signed by the person who prepared the ballot account, and
 - (b) may be signed by any other election official present at the initial count.
- (3) Once completed, one of the duplicate ballot accounts must be placed in the ballot box

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and, if the person conducting the initial count is not the election official responsible for the voting place in question, the other duplicate ballot account must be delivered to the election official responsible.

- (4) The voting officer must provide a signed copy of the ballot account to each candidate representative present at the initial count who requests it.

Consideration of ballots

51. (1) Each ballot to be considered on the initial count must be dealt with as follows:
 - (a) the voting officer must unfold the ballot;
 - (b) if the counterfoil of the ballot is attached, the voting officer must remove and discard the counterfoil, without examining the number on it and with care to conceal the number from other persons present;
 - (c) the voting officer must determine, in accordance with section 50 of the Act and section 52 of this Regulation, whether the ballot is to be accepted as a vote for a candidate or referendum result or whether it is to be rejected;
 - (d) after making the determination under paragraph (c), the voting officer must call out, as applicable,
 - (i) the name of the candidate for whom or referendum result for which the vote is recorded, if the ballot is accepted as a vote, or
 - (ii) that the ballot is rejected;
 - (e) the voting officer must place the ballot in such a manner that any candidate representatives present are able to see how the ballot is marked.
- (2) The voting officer, or another election official present at the initial count, must record the votes accepted for each candidate or referendum result as they are counted.
- (3) Once started, the initial count must proceed as continuously as is practical.

Rules for accepting and rejecting ballots

52. A ballot must be rejected if any of the following applies:
 - (a) the ballot physically differs from the ballots officially provided for the voting proceedings for which the count is being conducted;

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- (b) there is no mark on the ballot;
- (c) the ballot is uniquely marked in such a manner that the voter could reasonably be identified;
- (d) in the case of an election, the ballot
 - (i) is marked with votes for more candidates than the number of elected offices to be filled in the election, or
 - (ii) does not clearly indicate the intention of the voter to vote for a candidate;
- (e) in the case of a referendum, the ballot does not clearly indicate the intention of the voter to vote for a particular referendum result.

Objections to acceptance of vote or rejection of ballot on initial count

- 53.** (1) An objection to the acceptance of a vote or rejection of a ballot by a candidate representative in accordance with section 52(1) of the Act may be made only at the time the ballot is considered by the voting officer during the initial count.
- (2) The decision of the voting officer regarding the acceptance of a vote or the rejection of a ballot in an initial count
- (a) may not be challenged except as provided in section 52 of the Act and this section, and
 - (b) may only be changed by the Nisga'a Elections Officer on a recount conducted as part of the final count under section 57 of the Act, or by the Nisga'a Administrative Decisions Review Board on a recount conducted under section 62(5)(a)(ii) or (b) of the Act.
- (3) If a ballot is subject to an objection under section 52 of the Act, the voting officer must
- (a) record the objection on a form determined by the Nisga'a Elections Officer, numbering each objection with a sequential number, and
 - (b) mark the number assigned to the objection under paragraph (a) on the back of the ballot and initial that number.

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Packaging and delivery of election materials to Nisga'a Elections Officer

- 54.** (1) After the ballot account for a ballot box is complete, the voting officer must separately package each of the following:
- (a) ballots accepted as votes
 - (i) in the case of an election, separated by votes for each candidate, and
 - (ii) in the case of a referendum, separated by votes for “yes” and “no” answers;
 - (b) rejected ballots;
 - (c) ballots that were marked as spoiled and replaced under section 39 of the Act;
 - (d) unused ballots and the stubs of used ballots;
 - (e) unopened certification envelopes separated by class of certification envelope in accordance with section 57(2).
- (2) Each package prepared under subsection (1) must be
- (a) sealed by the voting officer,
 - (b) marked to indicate its contents, and
 - (c) placed in the ballot box together with
 - (i) a completed ballot account, and
 - (ii) any other materials specified by the Nisga'a Elections Officer.
- (3) The voting officer must seal the ballot box with the contents referred to in subsection (2) inside and deliver the ballot box to the district Nisga'a Elections Officer in the manner directed by the district Nisga'a Elections Officer.
- (4) The district Nisga'a Elections Officer must, as soon as possible after the completion of the initial count, deliver to the Nisga'a Elections Officer
- (a) the ballot boxes received by the district Nisga'a Elections Officer under subsection (3), and
 - (b) any other materials specified by the Nisga'a Elections Officer.

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Division 2 – The Final Count**When and where final count is to take place**

- 55.** (1) The final count for an election or referendum must take place as soon as possible after the general voting day for the election or referendum.
- (2) The final count for an election or referendum must be conducted at the office of the Nisga'a Elections Officer, unless the Nisga'a Elections Officer directs that the final count is to take place at another location.

Who conducts final count

- 56.** (1) Subject to subsection (2), in conducting the final count for an election or a referendum, the Nisga'a Elections Officer may be assisted by other election officials and, for that purpose, may delegate authority under this Division to those election officials.
- (2) During the final count, only the Nisga'a Elections Officer may deal with any ballots that are the subject of an objection under section 52 of the Act or section 53 of this Regulation.

Preparations for final count

- 57.** (1) Ballot boxes delivered to the Nisga'a Elections Officer for the final count for an election or a referendum must be dealt with as follows:
- (a) each ballot box must be opened by the Nisga'a Elections Officer;
 - (b) the election materials, other than the packages containing ballots that were considered in the initial count, must be removed from the ballot box;
 - (c) the ballot box must be resealed by the Nisga'a Elections Officer.
- (2) Any package containing certification envelopes must be opened and the certification envelopes must be sorted by the following classes:
- (a) certification envelopes used by non-resident voters voting in accordance with section 36;
 - (b) certification envelopes used by voters voting by mail in accordance with section 37;

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- (c) certification envelopes used by voters voting in accordance with section 41;
- (d) certification envelopes used by voters voting in accordance with section 42.

Proceedings on final count

- 58.** (1) The final count for an election or a referendum must proceed as follows:
- (a) each class of certification envelopes referred to in section 57(2) must be considered in accordance with section 60;
 - (b) after a class of certification envelopes is considered in accordance with section 60, a ballot account for the class must be prepared in accordance with section 59(1);
 - (c) for each class of certification envelopes, the certification envelopes to be opened on the final count are to be dealt with in accordance with section 62;
 - (d) after each class of certification envelopes is dealt with in accordance with section 62, the ballot account for the class is to be completed in accordance with section 59(2);
 - (e) any recount of the ballots considered in an initial count under section 57 of the Act must be conducted in accordance with section 623 of this Regulation;
 - (f) the Nisga'a Elections Officer must prepare a summary of
 - (i) the ballot accounts prepared on the initial count in accordance with section 49(3) of the Act and section 50 of this Regulation,
 - (ii) the accounts prepared by the district Nisga'a Elections Officer for each voting area in accordance with section 49(5) of the Act,
 - (ii.1) the accounts prepared by the election official responsible for each additional voting location in accordance with section 52.1 of the Act, and
 - (iii) the ballot accounts prepared on the final count in accordance with section 59;
 - (g) the final results of the election or referendum are to be determined in accordance with section 54(1) of the Act.
- (2) Despite any other provision of this Division, if it appears from a ballot account that there are so few certification envelopes of a class that the secrecy of the ballots may be at risk,

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the Nisga'a Elections Officer may authorize the certification envelopes in a class to be combined with those of another class.

- (3) If certification envelopes are combined under subsection (2),
 - (a) the ballot account prepared for the class that has the smaller number of certification envelopes must be attached to the ballot account for the other class, and
 - (b) the ballot account for the class that has the larger number of certification envelopes must be completed for all combined envelopes.

Ballot account for certification envelopes

- 59.** (1) For each class of certification envelopes, the Nisga'a Elections Officer must prepare in duplicate a ballot account including the following information:
- (a) the election or referendum for which the ballot account is prepared;
 - (b) the class of certification envelopes for which the ballot account is prepared;
 - (c) the number of certification envelopes considered within the class of certification envelopes;
 - (d) the number of certification envelopes that the Nisga'a Elections Officer has determined must remain unopened under section 60.
- (2) After the ballots in a class of certification envelopes have been dealt with in accordance with section 62, the Nisga'a Elections Officer must complete the ballot accounts referred to in subsection (1) with the following information:
- (a) in the case of an election, the number of votes accepted for each candidate listed on the ballots included in the certification envelopes within the class of certification envelopes;
 - (b) in the case of a referendum, the number of votes accepted for the "yes" and "no" answers on the ballots included in the certification envelopes within the class of certification envelopes;
 - (c) the number of ballots rejected;
 - (d) the number of secrecy envelopes contained within the certification envelopes included in the class of certification envelopes that remain unopened under section 60.

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- (3) The ballot accounts prepared in accordance with subsections (1) and (2) must be signed by the Nisga'a Elections Officer and may be signed by any other election official present at the final count.
- (4) The Nisga'a Elections Officer must provide a signed copy of a ballot account prepared in accordance with this section for the purposes of an election to
 - (a) each candidate representative present at the final count for the election who requests a copy, and
 - (b) any candidate in the election who requests a copy within seven days after the date of the final count.

Consideration of certification envelopes

- 60.** (1) A certification envelope must remain unopened and any ballot included in it must not be considered on the final count in an election or a referendum if the Nisga'a Elections Officer determines that one or more of the following applies:
 - (a) the envelope has not been completed in accordance with this Regulation;
 - (b) the person identified on the envelope as having used the envelope to vote in the election or referendum is not the person to whom the certification envelope was issued;
 - (c) the person identified on the envelope as having used the envelope to vote in the election or referendum is not entitled to vote in the election or referendum;
 - (d) the person identified on the envelope as having used the envelope to vote in the election or referendum appears to have voted more than once in the election or referendum;
 - (e) the counterfoil number of the mail-in ballot recorded on the certification envelope does not correspond to the counterfoil number recorded by the Nisga'a Elections Officer in the appropriate voting book for the voter in question.
- (2) If the Nisga'a Elections Officer determines that a certification envelope is to remain unopened in accordance with subsection (1) and not considered on the final count in an election or a referendum, the Nisga'a Elections Officer must make a notation on the envelope indicating
 - (a) that the envelope is to remain unopened, and

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- (b) the reason that the envelope is to remain unopened.

Objections respecting certification envelopes

- 61.** (1) A candidate representative may object to a determination by the Nisga'a Elections Officer under section 60(1) regarding whether or not a certification envelope is to remain unopened during the final count.
- (2) An objection under subsection (1) must be made at the time the certification envelope is considered by the Nisga'a Elections Officer.
 - (3) The determination of the Nisga'a Elections Officer regarding whether or not a certification envelope must remain unopened
 - (a) may not be challenged except as provided in this section, and
 - (b) may only be changed by the Nisga'a Administrative Decisions Review Board on a recount conducted under section 62(5)(b) of the Act.

Consideration of ballots from certification envelopes

- 62.** (1) After the ballot account for a class of certification envelopes is prepared in accordance with section 59, the remaining certification envelopes must be opened one at a time and dealt with as follows:
- (a) if a certification envelope contains only one ballot but no secrecy envelope, the election official responsible must place the ballot in the appropriate ballot box, with care to conceal any marking on the ballot from other persons present at the final count;
 - (b) if a secrecy envelope is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, the election official responsible must open the envelope, and if it contains only one ballot, remove the ballot and place it in the appropriate ballot box, with care to conceal any marking on the envelope and ballot from other persons present at the final count;
 - (c) if not otherwise dealt with under this subsection, a secrecy envelope contained within the certification envelope must be removed from the certification envelope for opening in accordance with subsection (2).
- (2) The secrecy envelopes referred to in subsection (1)(c) are to be opened one at a time and dealt with as follows:

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- (a) if a secrecy envelope contains more than one ballot for an elected office or referendum question,
 - (i) the ballots must be resealed in the secrecy envelope,
 - (ii) the secrecy envelope must be marked as having been dealt with under this paragraph, and
 - (iii) the secrecy envelope must not be reopened and the ballots in it must not be considered on the final count;
 - (b) if a secrecy envelope contains only one ballot, the ballot must be placed in the appropriate ballot box;
 - (c) after all ballots to be considered under this subsection have been placed in the appropriate ballot boxes, the contents of each ballot box must be mixed to ensure secrecy of the ballot.
- (3) After the ballot boxes have been prepared in accordance with subsections (1) and (2), the final count of the ballots in each ballot box must be completed by the Nisga'a Elections Officer, who must follow the procedures prescribed under section 51 for a voting officer considering ballots on an initial count.

Recount of ballots considered in initial count

- 63.** (1) Any recount of ballots under section 57 of the Act must be completed by the Nisga'a Elections Officer, who must follow the procedures prescribed under section 51 of this Regulation for a voting officer considering ballots on an initial count.
- (2) At the conclusion of a recount under section 57 of the Act, the Nisga'a Elections Officer must prepare a ballot account for the recount, in a form determined by the Nisga'a Elections Officer, and attach it to the ballot account from the initial count for the ballot box in respect of which the recount was conducted.

Objections to acceptance of vote or rejection of ballot on final count

- 63.1** (1) During the final count for an election or referendum, an objection to the acceptance of a vote or rejection of a ballot by a candidate representative may be made only at the time the ballot is considered by the Nisga'a Elections Officer.
- (2) The decision of the Nisga'a Elections Officer regarding the acceptance of a vote or the rejection of a ballot in the final count

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- (a) may not be challenged except as provided in this section, and
 - (b) may only be changed by the Nisga'a Administrative Decisions Review Board on a recount conducted under section 62(5)(a)(ii) or (b) of the Act.
- (3) If a ballot is subject to an objection under this section, the Nisga'a Elections Officer must
- (a) record the objection on a form determined by the Nisga'a Elections Officer, numbering each objection with a sequential number, and
 - (b) mark the number assigned to the objection under paragraph (a) on the back of the ballot and initial that number.

Division 3 – Declaration of Results and Invalid Election Procedures**Publication of final results**

- 64.** (1) The final results of an election or a referendum referred to in section 60 of the Act must be
- (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer, and
 - (b) in the case of an election, delivered to each candidate in the election.
- (2) For certainty, the final results of an election or referendum are published for the purposes of section 62 of the Act on the date on which the Nisga'a Elections Officer publishes those results in accordance with Nisga'a law.

Publication of official results

- 65.** (1) The official results of an election or a referendum referred to in section 66 of the Act must be
- (a) published in accordance with Nisga'a law by the Nisga'a Elections Officer, and
 - (b) in the case of an election, delivered to each candidate in the election.
- (2) For certainty, the official results of an election or referendum are published for the purposes of section 67 of the Act on the date on which the Nisga'a Elections Officer publishes those results in accordance with Nisga'a law.

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Rules governing reconducted elections and referendums

- 66.** For certainty, except as otherwise provided in section 69 of the Act, an election or referendum required to be reconducted under that section must be conducted in accordance with the provisions of the Act and this Regulation that applied to the preceding election or referendum that was declared invalid.

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PART 8 – ELECTION ADMINISTRATION**Appointment of Nisga'a Elections Officer**

67. (1) The terms and conditions of an appointment of the Nisga'a Elections Officer made by the Executive under section 71 or 72 of the Act must be set out in the contract of employment provided to the Nisga'a Elections Officer by the Chief Executive Officer.
- (2) At any time after the appointment of the Nisga'a Elections Officer, the Chief Executive Officer may request the Executive to strike a special committee of the Executive to assist the Chief Executive Officer in reviewing the performance of the Nisga'a Elections Officer.

Administrative support for Nisga'a Elections Officer

68. The Nisga'a Elections Officer may request the Chief Executive Officer to provide administrative support to the office of the Nisga'a Elections Officer to enable the Nisga'a Elections Officer to exercise the powers and perform the duties assigned to that office under Nisga'a law.

Additional duties of Nisga'a Elections Officer

69. In addition to any other duty imposed by the Act or this Regulation, the Nisga'a Elections Officer is responsible for
- (a) enforcing the applicable laws governing an election or a referendum,
 - (b) promoting public awareness of election and referendum matters among Nisga'a citizens, and
 - (c) providing Nisga'a Lisims Government, the Nisga'a Village Governments and the Nisga'a Urban Locals with information about election and referendum matters.

Additional powers of the Nisga'a Elections Officer

70. In addition to any other power given by the Act or this Regulation, the Nisga'a Elections Officer may
- (a) issue to persons appointed by the Nisga'a Elections Officer under the Act any information and guidelines the Nisga'a Elections Officer considers necessary to ensure effective implementation of the Act and this Regulation,

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- (b) require election officials appointed under the Act to follow the directions of the Nisga'a Elections Officer regarding the performance of their duties and the exercise of their powers,
- (c) assign duties and related powers under the Act to election officials,
- (d) subject to the Act and this Regulation and any limits or conditions imposed by the Nisga'a Elections Officer, delegate in writing to an election official appointed under the Act the authority to exercise any power and perform any duty assigned to the Nisga'a Elections Officer by the Act or this Regulation, and
- (e) prepare directives and guidelines for candidates and prospective candidates in relation to elections.

Appointment of election officials by Nisga'a Elections Officer

- 71.** (1) Subject to subsection (2), the Nisga'a Elections Officer must determine the terms and conditions of appointment of all persons appointed by the Nisga'a Elections Officer under the Act.
- (2) The Chief Executive Officer may, in consultation with the Nisga'a Elections Officer, determine the policies to be applied to the terms and conditions of appointment of election officials appointed by the Nisga'a Elections Officer under the Act.

Resignation of Nisga'a Elections Officer

- 72.** For the purposes of section 78 of the Act, unless otherwise provided in the contract of employment for the appointment of the Nisga'a Elections Officer referred to in section 67(1) of this Regulation, a notice period of at least four weeks is prescribed for the resignation of the Nisga'a Elections Officer.

Resignation of other election officials

- 73.** (1) For the purposes of section 74(3) of the Act, unless otherwise provided in the terms and conditions of appointment of the deputy Nisga'a Elections Officer, a notice period of at least four weeks is prescribed for the resignation of the deputy Nisga'a Elections Officer.
- (2) For the purposes of section 80(5) of the Act, unless otherwise provided in the terms and conditions of appointment of a district Nisga'a Elections Officer or a deputy district Nisga'a Elections Officer, a notice period of at least four weeks is prescribed for the resignation of a district Nisga'a Elections Officer or a deputy district Nisga'a Elections Officer.

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- (3) For the purposes of sections 74(3) and 81(3) of the Act, unless otherwise provided in the terms and conditions of appointment of a person appointed under section 74(1)(b) or 81(1) or (1.1) of the Act, a notice period of at least two weeks is prescribed for the resignation of a person appointed under those sections.

Report to Secretary-Treasurer

- 74.** The Nisga'a Elections Officer may present a special report to the Secretary-Treasurer regarding the budget and staffing requirements of the office of the Nisga'a Elections Officer.

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PART 9 – GENERAL**Solemn declarations**

75. (1) Subject to subsection (2), a solemn declaration required under the Act must be in the form determined by the Nisga'a Elections Officer.
- (2) A solemn declaration required to be made the Nisga'a Elections Officer in accordance with section 82 of the Act must be in the form determined by the Executive.

Orders under section 103 of the Act

76. (1) An order made by the Nisga'a Elections Officer under section 103(2) of the Act must be published in accordance with Nisga'a law by the Nisga'a Elections Officer.
- (2) An order made by the Executive under section 103(6)(a) or (b)(i) of the Act must be published in accordance with Nisga'a law by the Executive.
- (3) An order made by a Nisga'a Village Government under section 103(6)(b)(ii) of the Act must be published in accordance with Nisga'a law by the Nisga'a Village Government.

Repeal and replacement

77. The *Nisga'a Election Regulations, 2004*, NLGSR 2004/12, as amended, are repealed and replaced by this Regulation.

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LEGISLATIVE HISTORY

Nisga'a Elections Regulation, NLGSR 2008/09, in force June 16, 2008

Amendments

Section	Amendment	In Force
1	amended [2011/06, s. 1]	October 28, 2011
2	amended [2011/06, s. 2]	October 28, 2011
3	amended [2011/06, s. 3]	October 28, 2011
7	amended [2011/06, s. 4]	October 28, 2011
8	amended [2011/06, s. 5]	October 28, 2011
12	repealed and replaced [2011/06, s. 6]	October 28, 2011
12.1	added [2011/06, s. 7] (b) repealed and replaced [2012/●, s. 1]	October 28, 2011 June ●, 2012
14	amended [2011/06, s. 8]	October 28, 2011
23	amended [2011/06, s. 9]	October 28, 2011
24	amended [2011/06, s. 10]	October 28, 2011
25	repealed [2011/06, s. 11]	October 28, 2011
26	repealed and replaced [2011/06, s. 12]	October 28, 2011
29.1	added [2011/06, s. 13]	October 28, 2011
31	amended [2011/06, s. 14]	October 28, 2011
32	amended [2011/06, s. 15]	October 28, 2011
33	repealed and replaced [2011/06, s. 16]	October 28, 2011
35	repealed and replaced [2011/06, s. 17]	October 28, 2011
36	amended [2011/06, s. 18]	October 28, 2011
37	repealed and replaced [2011/06, s. 19]	October 28, 2011
38	repealed and replaced [2011/06, s. 20]	October 28, 2011
41	amended [2011/06, s. 21]	October 28, 2011
42	amended [2011/06, s. 22]	October 28, 2011
43	repealed and replaced [2011/06, s. 23]	October 28, 2011
44	amended [2011/06, s. 24]	October 28, 2011
45	amended [2011/06, s. 25]	October 28, 2011
47	amended [2011/06, s. 26]	October 28, 2011
50	amended [2011/06, s. 27]	October 28, 2011
51	amended [2011/06, s. 28]	October 28, 2011
53	amended [2011/06, s. 29]	October 28, 2011
54	amended [2011/06, s. 30]	October 28, 2011
57	amended [2011/06, s. 31]	October 28, 2011
58	amended [2011/06, s. 32]	October 28, 2011
59	amended [2011/06, s. 33]	October 28, 2011
60	amended [2011/06, s. 34]	October 28, 2011

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62	amended [2011/06, s. 35]	October 28, 2011
63	repealed and replaced [2011/06, s. 36]	October 28, 2011
63.1	added [2011/06, s. 37]	October 28, 2011
65	amended [2011/06, s. 38]	October 28, 2011
73	amended [2011/06, s. 39]	October 28, 2011
75	amended [2011/06, s. 40]	October 28, 2011

Amending Acts:

NLGSR 2011/06	<i>Nisga'a Elections Amendment Regulation, 2011</i>
NLGSR 2012/●	<i>Nisga'a Elections Amendment Regulation, 2012</i>
NLGSR 2012/●	<i>Nisga'a Elections Amendment Regulation (No. 2), 2012</i>