

1980

# c 308 Municipal Elections Act

Ontario

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## CHAPTER 308

## Municipal Elections Act

## 1. In this Act,

Interpre-  
tation

1. "advance poll" means a poll held under section 66;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under the *Assessment Act* for the assessment region in which the municipality is situate;  
R.S.O. 1980,  
c. 31
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;  
R.S.C. 1970,  
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act;

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
14. "enumerated" means enumerated under the *Assessment Act*;
15. "holiday" means a holiday as defined in the *Interpretation Act*;
16. "local board" means a local board as defined in the *Municipal Affairs Act*;
17. "locality" means territory without municipal organization that is deemed a district municipality under the *Education Act*;
18. "Minister" means the Minister of Intergovernmental Affairs;
19. "municipality" means a city, town, village or township;
20. "new election" means an election other than a regular election;
21. "nomination day" means the last day for filing nominations;
22. "oath" includes an affirmation;
23. "office" means an office, the election to which is governed by this Act;
24. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under the *Assessment Act*;
25. "polling day" means the day on which the poll is to be taken under this Act;
26. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

R.S.O. 1980,  
c. 31

R.S.O. 1980,  
c. 219

R.S.O. 1980,  
c. 303

R.S.O. 1980,  
c. 129

27. "polling place" means the area designated by the clerk in which the facilities for the conduct of the poll are situate;
28. "polling subdivision" means a polling subdivision established by the clerk under this Act;
29. "preliminary list" means a preliminary list of electors;
30. "prescribed" means prescribed by the Minister;
31. "public school elector" means an elector who is not a separate school elector;
32. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
33. "regular election" means an election required to be held under section 10 of this Act;
34. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
  - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
  - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
35. "scrutineer" means any person appointed as a scrutineer by a candidate or by a council under section 6;
36. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the spouse of such supporter and any person entitled to be a separate school elector under the *Education Act*. 1977, c. 62, s. 1; 1980, c. 30, s. 1.

## APPLICATION OF ACT

Application  
of Act

**2.** Notwithstanding any other general or special Act, this Act applies to and governs all elections,

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election. 1977, c. 62, s. 2.

## ELECTION OFFICIALS

Returning  
and  
revising  
officer

**3.—**(1) Subject to subsections (2) and (3), the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning  
officer in  
police  
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

(b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause (a) who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 59 (25) and (30) and subsection 113 (21) of the *Education Act* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. 1977, c. 62, s. 3.

Clerks,  
duties in  
relation to  
school  
boards  
R.S.O. 1980,  
c. 129

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside but no candidate is eligible to be appointed as a deputy returning officer or poll clerk.

D.R.O. and  
poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place.

Where  
unable  
to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place.

Non-  
attendance  
of D.R.O.,  
poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place.

Poll clerk  
to act for  
D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose, but no candidate is eligible for any such appointment.

Assistants

(6) The clerk may, in writing, delegate to the assistant returning officers and assistant revising officers appointed under subsection (5), such of his statutory rights and duties in relation to the preparation for and conduct of the election as he considers necessary.

Delegation  
by clerk

Duties of  
poll clerk

(7) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Oath

(8) Every returning officer, deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form.

Oath of  
D.R.O.

(9) The appointment and oath of the deputy returning officer under subsection (8) shall be endorsed upon or attached to the polling list maintained by the poll clerk for the polling place for which he is appointed. 1977, c. 62, s. 4.

Who may  
administer  
oaths

5.—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in Ontario. 1977, c. 62, s. 5 (1).

Idem

(2) The clerk may administer any oath required by this Act, and deputy returning officers, assistant returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. 1980, c. 30, s. 2.

No charge

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. 1977, c. 62, s. 5 (3).

Scrutineers  
appointed by  
candidate

6.—(1) Each candidate may appoint in writing such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act.

Limit on  
number  
present

(2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection (1) at any time.

Scrutineers  
appointed  
by council

(3) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. 1977, c. 62, s. 6.

Production  
of  
appointment

7. A person appointed as a scrutineer under section 6, before being admitted to a polling place shall, if so requested,

produce and show his appointment to the deputy returning officer for the polling place. 1977, c. 62, s. 7.

#### COSTS OF ELECTION

8.—(1) Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held. Cost of election

(2) The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto. Expenses of officers

(3) Where the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the board shall forthwith reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list. 1977, c. 62, s. 8. Expenses of by-election of local board

#### TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of December in an election year. 1977, c. 62, s. 9 (1). Two-year term

(2) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized. 1978, c. 12, s. 1. Until new council organized

#### BIENNIAL ELECTIONS

10.—(1) An election shall be held in accordance with this Act in each municipality in the year 1978 and in every second year thereafter for the purpose of electing persons to offices. Election year



Vote on  
question,  
etc.

(2) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board or in the case of a question submitted under the *Liquor Licence Act*, unless the Liquor Licence Board approves the taking of the vote on some other day. 1977, c. 62, s. 10.

R.S.O. 1980,  
c. 244

#### POLLING DAY

Polling  
day

**11.**—(1) Polling day in a regular election shall be the second Monday in November in each election year.

Idem

(2) Where polling day as specified in subsection (1) falls on a holiday, polling day shall be the next succeeding day that is not a holiday, but the day for the undertaking of any other proceeding pertaining to the election shall not be affected thereby. 1977, c. 62, s. 11.

#### QUALIFICATION OF ELECTORS

Electors,  
resident

**12.** A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, he,

- (a) is a resident in such municipality;
  - (b) is a Canadian citizen or other British subject; and
  - (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years.
- 1977, c. 62, s. 12; 1980, c. 30, s. 3.

Electors,  
non-resident

**13.** A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Wednesday in October that precedes polling day by nineteen days, but at any time during such period, he,

- (a) is the owner or tenant of land in the municipality or the spouse of such an owner or tenant;
- (b) is a Canadian citizen or other British subject; and

- (c) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years. 1977, c. 62, s. 13; 1980, c. 30, s. 4.

**14.—(1)** No judge of any court is qualified to vote in any election. 1977, c. 62, s. 14. Judges not qualified to vote

(2) A person who on polling day is an inmate in a penal or correctional institution or a patient in a psychiatric facility in respect of whom a certificate of incompetence has been issued under the *Mental Health Act* or a declaration under the *Mental Incompetency Act* that he is a mentally incompetent person is in effect is disqualified from voting at any election. 1980, c. 30, s. 5. Disqualification of inmates in penal institutions, etc.  
R.S.O. 1980, cc. 262, 264

**15.** For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to. 1977, c. 62, s. 15. Evidence of citizenship

#### QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

**16.** Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. 1977, c. 62, s. 16. Who may vote on money by-laws

#### POLLING SUBDIVISIONS

**17.** Subject to section 18, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of April in an election year inform the assessment commissioner of the boundaries of each subdivision. 1977, c. 62, s. 17. Polling subdivisions

**18.** A polling subdivision shall not, so far as is practicable, Size

(a) contain more than 350 electors; or

(b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly. 1977, c. 62, s. 18.

#### PREPARATION OF PRELIMINARY LIST OF ELECTORS

**19.** An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the 30th day of September in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who meets the requirements for Preliminary list of electors

an elector under section 12 or 13 and such list shall signify opposite the name of an elector,

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- (d) who is enumerated as a separate school elector in accordance with the *Education Act*, that he is a separate school elector;
- (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant. 1977, c. 62, s. 19.

R.S.O. 1980,  
c. 129

For polling  
subdivision  
where no  
wards

**20.—(1)** In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one  
polling  
subdivision  
only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision. 1977, c. 62, s. 20.

For polling  
subdivision  
where wards

**21.—(1)** In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides; or
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

For one  
polling  
subdivision

(2) The name of an elector shall not be entered under this section in the preliminary list for more than one polling subdivision. 1977, c. 62, s. 21.

**22.** The assessment commissioner shall deliver the list of electors prepared by him under sections 19, 20 and 21 to the clerk and, in respect of a locality, to the secretary of the school board on or before the thirty-first day after the commencement date of the enumeration period in an election year. 1977, c. 62, s. 22. List delivered to clerk

**23.** Where it is apparent to the clerk or the secretary of the school board that the list or part thereof delivered to him under section 22 is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk or the secretary, as the case may be, prior to the printing or reproduction of the list required under section 24, correct the list or part thereof and shall forthwith notify the assessment commissioner of such corrections. 1977, c. 62, s. 23. Correction of list if manifest errors in it

#### PRELIMINARY LIST OF ELECTORS

**24.** Immediately after receipt of the list of electors delivered by the assessment commissioner under section 22, the clerk or secretary of the school board referred to in the said section 22, after making corrections, if any, under section 23, shall, Printing of list

- (a) cause the list to be printed or reproduced and such list shall be the preliminary list of electors;
- (b) fix the places at which and the times when revision of the list will be undertaken;
- (c) post notice of the date of the posting of the list, the last day for filing applications for revision of the list for the purpose of including names of electors who have not been included or of making additions or corrections to or deletions from the list, and the places and times at which the revision of the list will be undertaken in at least two conspicuous places in the municipality, and where there is a newspaper having general circulation in the municipality, publish the notice in such newspaper. 1977, c. 62, s. 24; 1980, c. 30, s. 6.

#### REVISION OF PRELIMINARY LIST OF ELECTORS

**25.—(1)** Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall post one copy of the list in a conspicuous place in his office and in at Revision of list

least two other conspicuous public places in the municipality. 1977, c. 62, s. 25 (1).

Time for  
posting, etc.

(2) The day of posting copies of the preliminary list under subsection (1), of giving notice under section 24 and of commencing revision of the list shall be at least seven days before the last day for filing applications for revision. 1980, c. 30, s. 7 (1).

Last day  
for filing  
applications  
for revision of  
preliminary  
list

(3) The last day for the filing of applications for revision of the preliminary list shall be the nineteenth day immediately preceding polling day and such applications may be filed with the clerk during his normal office hours. 1980, c. 30, s. 7 (2).

Notice  
affixed  
to list

(4) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election or is a preliminary list of all electors for the polling subdivision, as the case may be, prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing applications concerning such inclusions, additions, corrections or deletions. 1977, c. 62, s. 25 (4).

Copies  
of list

(5) At the time of posting a notice under subsection (1), the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality, every trustee of a police village all or part of which is in the municipality and every member of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;

(e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;

(f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate. 1977, c. 62, s. 25 (5), 1980, c. 30, s. 7 (3).

(6) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. 1977, c. 62, s. 25 (6). Candidates entitled to copies

**26.—**(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all applications filed on or before the last day for filing applications for revision of the list have been disposed of. Revision of list

(2) Notwithstanding that the time for filing applications for revision of the preliminary list under section 25 has not expired, the clerk may proceed to consider such applications as from time to time may be received and may determine and dispose of them. 1977, c. 62, s. 26. When applications may be considered

**27.—**(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may apply to the clerk or assistant revising officer of the municipality on or before the last day for filing applications for revision of the list to have his name included on the list or to have such information corrected, including having his name deleted from any list where it is incorrectly included, or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. 1980, c. 30, s. 8. Application to enter name in or delete name from list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request and shall declare that he understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request before the clerk or assistant revising officer enters his name on the list or corrects the preliminary list, as the case may be. Application and declaration

Application  
filed person-  
ally or by  
agent

(3) An application made under this section and duly signed by the applicant may be filed by the applicant or by his agent on his behalf.

Interpreter

(4) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

Decision  
to amend  
list

(5) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application.

Refusal to  
amend list

(6) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1977, c. 62, s. 27 (2-6).

Application  
for deletion  
of name

**28.—**(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing applications for revision thereof, any person may file with the clerk an application, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon.

Notice to  
person  
where name  
objected to

(2) The clerk, upon receipt of an application under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the application is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the application, a notice of hearing requiring such person to appear in person or by his representative on a day and at a time to be fixed in the notice.

Copy of  
application  
to be served

(3) A copy of the application shall accompany a notice served or sent under subsection (2).

Notice to  
applicant

(4) The clerk shall notify the applicant of the time and place of the hearing.

Decision of  
clerk, etc.

(5) On the day for the hearing fixed in a notice given under this section, the person filing the application shall

attend before the clerk or assistant revising officer to establish the validity of such application and the clerk or assistant revising officer, after reviewing an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the application was made or by his representative, may delete the name from the preliminary list if the clerk is satisfied of the validity of the application.

(6) Where a person concerning whom an application has been made under this section or his representative does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of application has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list. 1977, c. 62, s. 28 (1-6).

Where person  
objected to  
does not  
appear

(7) Where, under this section, for any reason the name of a person is deleted from a preliminary list of electors, the clerk shall forthwith cause to be served personally on or sent by registered mail to that person at the address given in the preliminary list a notice indicating the reasons for which the person's name was deleted from the preliminary list and advising of the voting procedures under sections 33 and 56, but if the clerk is satisfied that the person cannot be found at the address in the preliminary list, or that the notice cannot be delivered to the person, no notice need be given. 1980, c. 30, s. 9.

Where  
name deleted  
from pre-  
liminary list

**29.** Subject to section 33 or 56, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. 1977, c. 62, s. 29.

Decision  
final

**30.** Upon the determination of all applications for revision of the preliminary list of electors for a municipality filed on or before the last day for filing applications for revision thereof, the clerk shall compile a statement of inclusions in, additions and changes to and deletions from the list, bearing the full name and address of each person who is the subject of the inclusion, addition, change or deletion, and shall send a certified copy of such statement to each person specified in subsection 25 (5) and shall furnish two certified copies of such statement to every candidate for any office. 1980, c. 30, s. 10.

Statement  
of change



## POLLING LIST

Polling list

**31.** After compilation of the statement of additions, changes and deletions required under section 30, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. 1977, c. 62, s. 31.

Only  
persons  
in list  
entitled  
to vote

**32.** Except as provided in sections 33, 51 and 56 no person is entitled to vote at an election unless his name appears in the polling list certified under section 31 for the polling subdivision in which he tenders his vote. 1977, c. 62, s. 32.

Entry of name  
on list by  
D.R.O.

**33.—(1)** If a person whose name is omitted from a polling list certified under section 31, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was entitled to be an elector under section 12 or 13 and to have his name entered on the preliminary list for the municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for the proper polling subdivision to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

**(2)** Where the name of a person is omitted from the polling list as finally revised and such person satisfies the clerk of the municipality on oath that he was under section 12 or 13 otherwise entitled to be an elector and to be entered on the preliminary list except that he was not a Canadian citizen or other British subject, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject, the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

Certificate  
to be  
produced

**(3)** A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection (1) or (2). 1977, c. 62, s. 33 (1-3).

Entry on  
polling  
list

**(4)** The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name

and address of the person voting under the authority of a certificate issued under this section. 1980, c. 30, s. 11 (2).

(5) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1977, c. 62, s. 33 (6). Certificates to be kept in separate envelope

#### NOMINATIONS

**34.** Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office. 1977, c. 62, s. 34. Who may be nominated

**35.—**(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day. 1977, c. 62, s. 35 (1). Nomination day

(2) Persons may be nominated as candidates in an election between 9 o'clock in the forenoon and 5 o'clock in the afternoon of nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during his normal office hours during the four days immediately preceding nomination day. 1980, c. 30, s. 12. Period for nomination

(3) The clerk shall, at least seven days prior to nomination day, post in at least two conspicuous places in the municipality notice of the date and times for filing nominations and of the offices for which persons may be nominated as candidates in the election, and, where there is a newspaper having general circulation in the municipality, publish at least seven days prior to nomination day the notice in such newspaper. 1977, c. 62, s. 35 (3). Notice of time for filing nominations

**36.—**(1) A person may be nominated as a candidate for an office by filing, either personally or through his agent, in the office of the clerk, on the days and during the hours specified in subsection 35 (2), a nomination paper in prescribed form which, How nominated

(a) shall be signed by at least ten electors whose names are entered on the preliminary list of electors or who have made application to have their names included on the list and who are entitled to vote in the election to such office;

(b) shall state the name and address of the person nominated in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the person is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is. 1977, c. 62, s. 36 (1); 1980, c. 30, s. 13 (1, 2).

Consent and  
declaration  
to be filed

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated.

Public  
school  
nominators

(3) A nomination paper nominating a person for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only.

Separate  
school  
nominators

(4) A nomination paper nominating a person for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only.

Separate  
nomination  
papers

(5) Each person to be nominated for election to an office shall be nominated by a separate nomination paper, but an elector may sign more than one nomination paper for the same person and the nomination papers of more than one person. 1977, c. 62, s. 36 (2-5).

Possession of  
nomination  
paper by  
clerk

(6) After a nomination paper is certified by the clerk, it shall remain in the possession of the clerk but shall be open to inspection by any person during the normal office hours of the clerk. 1980, c. 30, s. 13 (3).

Onus on  
person  
nominated

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. 1977, c. 62, s. 36 (7).

Endorsation  
by clerk

**37.—**(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing.

Certificate  
of clerk

(2) Where a nomination paper is filed in the office of a clerk prior to nomination day, the paper shall be examined by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing.

(3) When the nomination papers have been certified by the clerk he shall cause the name and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. <sup>Posting</sup>

(4) Where a nomination paper is filed in the office of a clerk on nomination day, <sup>Where filed on nomination day</sup>

- (a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection (3);
- (b) if, on examination of the nomination paper prior to 4 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing. 1977, c. 62, s. 37 (1-4).

(5) Where, at 5 o'clock in the afternoon of the day following nomination day, the number of candidates who have been nominated for an office and have not withdrawn under subsection 39 (1) is not sufficient to fill the number of vacancies to which candidates may be elected, subsection 40 (1) respecting acclamation applies to those candidates, but additional nominations for the remaining vacancies in the office in respect of which there was an insufficient number of candidates may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection (4) of this section and subsection 39 (1) apply, with necessary modifications. 1980, c. 30, s. 14. <sup>Where number of candidates nominated insufficient</sup>

(6) Certification by the clerk in accordance with subsection (2) or (4) with respect to a nomination paper shall be conclusive evidence of the facts certified and shall not be open to challenge thereafter. <sup>Certification by clerk</sup>

(7) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations and the list shall be completed no later than 4 o'clock in the afternoon of the day following nomination day provided that where the clerk <sup>List of candidates</sup>

has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later than 4 o'clock in the afternoon of the Thursday following nomination day. 1977, c. 62, s. 37 (6, 7).

#### DEATH OF A CANDIDATE

Election on  
death of  
candidate

**38.**—(1) If as a result of a candidate nominated for election to an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated. 1977, c. 62, s. 38.

Death of  
candidate  
for head of  
council

(2) Notwithstanding subsection (1), if a candidate nominated for election to the office of the head of the council of a municipality dies before the close of the poll for the election and,

- (a) prior to 5 o'clock on the afternoon of nomination day, additional nominations for the office may be filed in the office of the clerk on the Wednesday following nomination day between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon and the provisions of subsection 37 (4) apply, with necessary modifications, as though the additional nomination papers had been filed on nomination day; or
- (b) after 5 o'clock on the afternoon of nomination day, the election to such office is void and a new election shall be held to fill such office. 1980, c. 30, s. 15.

#### WITHDRAWAL OF NOMINATIONS

Withdrawal  
of nomination

**39.**—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day.

Where  
nominated  
in more  
than one  
office

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with

the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. 1977, c. 62, s. 39.

#### ACCLAMATIONS

**40.—**(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall forthwith after 5 o'clock in the afternoon of the day following nomination day declare that candidate or those candidates duly elected. <sup>Acclamation</sup>

(2) In the case where additional nominations have been filed under subsection 37 (5) and the additional number of candidates nominated is not more than the remaining number of vacancies for which the additional candidates were nominated, the clerk shall forthwith after 5 o'clock in the afternoon of the Thursday following nomination day, declare that candidate or those candidates duly elected. 1978, c. 12, s. 4. <sup>Idem</sup>

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. 1977, c. 62, s. 40 (2). <sup>Idem</sup>

(4) If the number of candidates declared to be elected to an office under subsection (1), (2) or (3) is less than the number to be elected to such office so there is a vacancy, a new election shall be held to fill the vacancy, except that where the number of candidates declared to be elected is sufficient to form a quorum, the vacancy may be filled in accordance with section 45 of the *Municipal Act*. 1980, c. 30, s. 16. <sup>Vacancy</sup>

R.S.O. 1980,  
c. 302

(5) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection (4) is held and the number of members of the council or local board equals or exceeds the quorum. 1977, c. 62, s. 40 (4). <sup>Where quorum not elected</sup>

## NOTICE OF POLL

Poll  
required

**41.**—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office.

Notice  
of poll

(2) Notice of the time for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper. 1977, c. 62, s. 41.

## VOTING BY BALLOT

Voting  
by ballot

**42.**—(1) Where a poll is held in an election, the votes shall be given by ballot.

Voting  
machines,  
etc.

(2) In place of using ballot papers under this Act, the council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders or other voting devices, and a copy of any such by-law shall be forwarded by the clerk of the municipality to the Minister forthwith after it is passed.

Repealing  
by-law

(3) A by-law passed under subsection (2) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Minister's  
order

(4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order. 1977, c. 62, s. 42.

## PREPARATION AND FORM OF BALLOT

Ballots

**43.**—(1) A clerk who is required to hold a poll under section 41 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 37.

Nomination  
of candidate  
must be  
certified

(3) Subject to subsection (5), the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type.

Order of  
names

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

Where  
addresses  
to be shown

(5) Except as provided in subsection (4), no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

Nicknames  
and titles

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot.

Space for  
indicating  
vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible, and the names, and the addresses if given, of the candidates, the circle or circular space, the instructions referred to in subsection (8), and any lines on the ballot shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices.

Ballots  
for same  
office to  
be alike

(8) A ballot shall contain instructions as to the number of candidates for which an elector may vote and the name of the office for which the election is being held. 1977, c. 62, s. 43 (1-8).

Number of  
candidates  
and name  
of office

(9) In a metropolitan, regional or district municipality, and in the County of Oxford, a ballot shall contain information showing the name of the office for which the election is being held and the name of any office on any other council which will be held as a result of the election to such office. 1980, c. 30, s. 17.

Information  
on ballot  
in regional,  
etc., muni-  
cipalities

(10) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. 1977, c. 62, s. 43 (9).

Ballots re  
questions



Wards in  
municipality

44.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward.

General  
vote in  
city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor.

Borough in  
Metro.  
Toronto

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman.

Village or  
township

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

By-law  
providing  
for separate  
sets

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets.

When to be  
passed

(6) A by-law for the purposes mentioned in subsection (5) shall be passed not later in the election year than the 1st day of October and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly.

Separate sets  
for  
controller,  
local board,  
by-laws, etc.

(7) There shall also be separate sets of ballots,

- (a) containing the names of the candidates for the office of,
  - (i) controller,

(ii) member of a local board,

(iii) trustee of a police village,

(iv) member of the council of a regional municipality, or

(v) member of the council of both an area municipality and a regional municipality;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. 1977, c. 62, s. 44. More than one by-law, etc.

**45.—**(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed prior to the first day of October in an election year, authorize the use at a municipal election of composite ballots in such form, subject to subsections 43 (1) to (8), as the by-law prescribes. Composite ballots

(2) A composite ballot may contain, Contents

(a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and

(b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote. Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed. 1977, c. 62, s. 45. By-law in force until repealed

#### POLLING PLACES

**46.—**(1) Subject to section 47, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient Polling place

for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision.

Idem

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality.

Compartments

(3) Every polling place shall be furnished with compartments in which electors may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place.

United subdivisions

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Additional places

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its electors from the polling place and number of electors that may conveniently vote at one polling place.

Designation of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly. 1977, c. 62, s. 46 (1-6).

Notice of location of polling place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the location of the polling place in which that elector is to vote,

(a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the location of such polling place; and

(b) in the case of a non-resident elector, by mailing to the elector a notice of the location of such polling place. 1978, c. 57, s. 2.

(8) Notwithstanding clause (7) (a), the council of a municipality <sup>idem</sup> having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address. 1980, c. 30, s. 18.

**47.—**(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital or a home for the aged, a polling place shall be provided in such institution or upon the premises, and may be provided in a nursing home or other institution of twenty beds or more in which chronically ill or infirm persons reside, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered in the polling list is entitled to vote at such polling place only. <sup>Polling places in institutions</sup>

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 63. 1977, c. 62, s. 47. <sup>Attendance upon patients to take vote</sup>

#### SUPPLIES AND EQUIPMENT FOR POLLING PLACES

**48.—**(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality, <sup>Supplies for polling place</sup>

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors in the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of electors for the purposes of the polling place;
- (d) two copies of the polling list for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed.

Ballot box

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box.

Clerk to  
certify  
number of  
ballots

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 78.

Directions  
to be  
placarded

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 1977, c. 62, s. 48.

#### WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number  
of votes  
that  
may be  
given by  
an elector

**49.—**(1) An elector whose name appears in the polling list for a polling subdivision or who presents a certificate to vote there under section 33, 50 or 56, is entitled to vote in an election in such subdivision in accordance with the following rules:

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.
3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
  - i. if resident in the municipality, in the polling subdivision in which he resides; or
  - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,

for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.

5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question.

(2) Where, by reason of the hours of his employment, an employee who is a qualified elector will not have three consecutive hours to vote while the polls are open on a polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

Employees to have three consecutive hours for voting

(3) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. 1977, c. 62, s. 49.

Deduction from pay prohibited

**50.—**(1) Subject to subsection (2), at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer, poll clerk, election assistant or constable at another polling place, the clerk of the municipality shall give him a certificate in the prescribed form that he is entitled to vote at the polling place at which he is stationed during the polling day. 1980, c. 30, s. 19 (1).

Voting of D.R.O., poll clerk, etc., where employed

Where  
municipality  
divided into  
wards

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate. 1977, c. 62, s. 50 (2).

When  
certificate  
may be  
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 33 that the applicant is entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at the polling place at which, by the polling list or certificate under section 33, he had been entitled to vote. 1980, c. 30, s. 19 (2).

Certificate

(4) The certificate shall designate the polling place at which the person is to be permitted to vote. 1977, c. 62, s. 50 (4).

Certificate  
entitles  
person to  
vote

**51.**—(1) A person who produces a certificate given to him under section 50 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk, election assistant or constable during polling day. 1977, c. 62, s. 51 (1).

Entry on  
polling  
list

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the person voting under the authority of a certificate issued under section 50. 1980, c. 30, s. 20.

Certificate,  
to be given  
to D.R.O.

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

to be kept  
in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. 1977, c. 62, s. 51 (3, 4).

#### PROCEDURE AT POLL

Hours poll  
to be  
open

**52.** Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day. 1977, c. 62, s. 52.

When  
D.R.O. to  
attend poll

**53.**—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Inspection of  
ballots before  
opening of  
poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a

polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll. 1977, c. 62, s. 53.

**54.** A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 71. 1977, c. 62, s. 54.

Inspection,  
sealing of  
ballot box

**55.—(1)** Where a person enters the polling place and requests a ballot paper, the deputy returning officer shall proceed as follows:

Duties of  
D.R.O. on  
tender of  
vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered in the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 33 or 50 and the poll clerk shall, on a separate polling list, delete the name of the said person on such polling list.
2. The poll clerk shall indicate on his polling list opposite the person's name the numerical order in which the person was given his ballot paper.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered on the polling list maintained by the poll clerk, by writing opposite the name of such person the words "*Objected to by* . . . . . (name of candidate on whose behalf the objection was made)" and the deputy returning officer shall require the person in respect of whom the objection was made to take the prescribed oath.



5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no candidate or scrutineer has objected, he may require such person to take the prescribed oath.
6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person on the polling list maintained by the poll clerk the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name on the polling list maintained by the poll clerk, the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of the ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting. 1977, c. 62, s. 55 (1); 1978, c. 12, s. 5; 1980, c. 30, s. 21 (1).

Elector in  
polling  
place at  
closing

(2) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote. 1977, c. 62, s. 55 (3).

Entry of  
name on  
polling list  
by D.R.O.

**56.**—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear on the polling list or in a certificate issued under section 33 or 50 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer. 1977, c. 62, s. 56 (1).

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of the elector. 1980, c. 30, s. 22 (1).

**57.** Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper. 1977, c. 62, s. 57.

Where it appears person voted in place of elector, etc.

**58.** No inquiry shall be made of an elector who is required to take the oath under section 55 or 57 except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated in the polling list. 1977, c. 62, s. 58.

Inquiry

**59.** Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

Duty of D.R.O. on receipt of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer. 1977, c. 62, s. 59.

**60.—(1)** Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the

Duty of D.R.O. on receipt of ballot

presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Person  
deemed  
to have  
voted

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. 1977, c. 62, s. 60.

Person not  
to take  
ballot  
from polling  
place

**61.**—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry on the polling list maintained by the poll clerk "*Forfeited Vote*" opposite the person's name, and in the case where a person returns his ballot declining to vote, the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk.

Ballot  
accidentally  
spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk. 1977, c. 62, s. 61.

No other  
person in  
compartment  
while elector  
marking  
ballot

**62.** Subject to section 63, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper. 1977, c. 62, s. 62.

Elector  
blind or  
handicapped

**63.**—(1) On the application of any elector who is unable to read or is blind or is handicapped by other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his inability to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box.

Handicapped  
elector's  
ballot  
marked by  
friend

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of any such elector who has taken the prescribed oath and is accompanied by a friend, shall

permit the friend to accompany the elector into the voting compartment and mark the elector's ballot for him.

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take the prescribed oath that he will keep secret the manner in which the elector voted. Oath of friend

(4) No person shall be allowed to act as the friend of more than one elector at any polling place other than a polling place established under section 47. 1977, c. 62, s. 63. May act as friend only once

**64.** Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. 1977, c. 62, s. 64. Elector who cannot understand English

**65.—(1)** The returning officer, the assistant returning officer, the deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. Who may remain in polling place

(2) No campaign material or literature of any nature whatsoever of any candidate in the election shall be displayed within the polling place. 1977, c. 62, s. 65. No campaign literature in polling place

#### ADVANCE POLLS

**66.—(1)** The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56. Advance poll

(2) The council of a municipality may by by-law passed before nomination day provide for the holding by the clerk Additional advance poll

of additional advance polls for the same purpose as provided in subsection (1).

When poll  
to be  
open

(3) The advance poll shall be open from 9 o'clock in the forenoon until 8 o'clock in the afternoon on each day it is held and polling shall be held so far as possible in the same manner as polling at a regular election.

Polling  
places

(4) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place.

List of  
persons  
voting

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of  
clerk on  
receiving  
list

(6) Upon receiving the list mentioned in subsection (5), the clerk shall,

(a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears in such list and whose vote has been received at an advance poll, showing that such elector has voted; or

(b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed in the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted.

Sealing  
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any

ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it, along with all other election documents used at the poll, personally to the clerk for safe keeping. 1977, c. 62, s. 66 (1-7).

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election or their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. 1980, c. 30, s. 23.

Opening of  
ballot boxes  
for advance  
poll

#### PROXY VOTING

**67.—(1)** Any person whose name is entered in the polling list for a polling subdivision or who has obtained a certificate under section 33 entitling him to vote and who is,

Who may  
vote by  
proxy

- (a) a person other than one described in section 47 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;
- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered in the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy under subsection (1) may appoint in writing in the prescribed form as his voting proxy any other person who is eligible as an elector in the municipality.

Who may be  
proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the

May be  
proxy once  
only

person voting by proxy is the parent, grandparent, child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy.

Term of  
appointment

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day.

Application  
for certificate  
to vote by  
proxy

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote.

When  
certificate  
to be given

(6) The clerk may take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualification of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is authorized to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect.

Not more  
than one  
proxy

(7) Not more than one voting proxy may be appointed on behalf of any person at any election.

Oath on  
voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection (6) and takes the prescribed oath.

Record of  
voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose.

Proxy may  
vote in  
own right

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy. 1977, c. 62, s. 67.

#### KEEPING OF PEACE: EMERGENCY SITUATIONS

Assistance of  
constables

**68.** A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in main-

taining peace and order at the election and may swear in as many constables as he considers necessary. 1977, c. 62, s. 68.

**69.**—(1) If any circumstances arise in the municipality, that, in the opinion of the clerk are of such a nature as to prevent or delay the opening of any polling place or cause the discontinuance of polling at any polling place, the clerk may declare an emergency situation to be in effect and such emergency situation shall continue until the clerk otherwise declares. Declaration of emergency by clerk

(2) Where an emergency situation is declared under subsection (1), the clerk shall make such arrangements as he considers advisable for the conduct of the poll, the safe-keeping of the ballot boxes and all election documents and the counting of the votes. Arrangements by clerk

(3) The arrangements made by the clerk under subsection (2), in good faith, shall not be open to question, or be quashed, set aside or declared invalid on account of their unreasonableness or supposed unreasonableness. 1977, c. 62, s. 69. Not open to question

#### COUNTING THE VOTES

**70.** Immediately after the close of the poll, the deputy returning officer at each polling place shall, Duties of D.R.O. after close of poll

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear on the polling list maintained by the poll clerk to have voted and make an entry at the end thereof:—  
“The number of electors who voted at this election in this polling place is (stating the number)” and sign his name thereto. 1977, c. 62, s. 70.

**71.**—(1) After compliance with section 70, the deputy returning officer shall, in the presence and in full view of the persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot. Counting of votes



Rejection of  
ballots

(2) In counting the votes, the deputy returning officer shall reject all ballots,

- (a) that have not been supplied by him ;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office ;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question ; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

Idem

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection (2), the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

Composite  
ballots

(4) Where in a composite ballot,

- (a) votes are cast for more candidates for any office than are to be elected to such office ; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection (2), the

votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

(5) Where part of the votes cast in any ballot are rejected under subsection (3) or (4), the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot. 1977, c. 62, s. 71. Where part of votes rejected

**72.—**(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 71 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election. Objection by candidate, etc.

(2) The deputy returning officer shall list all objections under subsection (1) to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number. 1977, c. 62, s. 72. Objections to be listed

**73.** The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question. 1977, c. 62, s. 73. How votes counted

**74.** Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets, Ballots to be placed in separate packets

- (a) all used ballots that have not been objected to and have been counted in whole or in part;
- (b) all used ballots that have been objected to but which have been counted in whole or in part;
- (c) all rejected ballots;
- (d) all ballots used but unmarked. 1977, c. 62, s. 74.

**75.** The deputy returning officer shall endorse every packet of ballots made up by him under clause 70 (a) or section 74 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet. 1977, c. 62, s. 75. D.R.O. to endorse packets

Oath of  
poll clerk

**76.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. 1977, c. 62, s. 76.

STATEMENT AND MATERIALS RETURNED TO CLERK

Statement  
of D.R.O.

**77.**—(1) The deputy returning officer shall make out a statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) electors whose ballots have been marked by the deputy returning officer under sections 47 and 63.

Statement  
attached to  
polling list

(2) The duplicate statement shall be attached to the polling list maintained by the poll clerk and the original statement enclosed in a special packet shall be delivered to the clerk as provided herein.

Statement  
signed by  
D.R.O., etc.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it.

Certificate  
re ballots  
counted and  
rejected

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. 1977, c. 62, s. 77.

What to be  
placed in  
ballot box

**78.**—(1) The deputy returning officer shall place in the ballot box, the polling lists, the packets containing the ballots and all other documents or packets that served at the election, except,

- (a) the original statement;
- (b) the oath of the poll clerk;

(c) the oath of the person, if any, chosen to deliver the ballot box to the clerk; and

(d) the copies of the declaration required to be furnished to the clerk under subsection 56 (3).

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk. Box to be locked, etc.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk. Oath of D.R.O.

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection (1) owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath. Delivery of ballot box, etc., to clerk

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk under this section. 1977, c. 62, s. 78 (1-5). Right of candidate, etc., to be present

(6) Subject to section 69, a deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to any place except the office of the clerk, or to such other place as the clerk has in writing directed. 1980, c. 30, s. 24. Where D.R.O. to take ballot box

**79.—**(1) The clerk, after he has received the ballot boxes and other documents referred to in section 78, shall, without opening any of the ballot boxes, cast up from the original statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. Clerk to add up votes

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no Declaration of result

town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

Delay in  
adding up  
votes

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. 1977, c. 62, s. 79.

Safekeeping  
of box and  
documents

**80.**—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 78, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 1977, c. 62, s. 80 (1).

Opening  
box when  
documents  
omitted from  
or placed in  
box in  
error

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk. 1980, c. 30, s. 25.

Where D.R.O.  
fails to  
deliver  
statement

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 78, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes. 1977, c. 62, s. 80 (3).

Where ballot  
box lost,  
etc.

**81.** If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or

question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question. 1977, c. 62, s. 81.

**82.**—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question. Equality of votes

(2) In such proceedings, sections 83 to 90 apply with necessary modifications. 1977, c. 62, s. 82. Application of ss. 83-90

#### RECOUNT

**83.**—(1) In this section and in sections 84 to 86, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate. 1977, c. 62, s. 83 (1). Interpretation

(2) If, within fourteen days after the declaration by a clerk of a result of an election, upon an application of an elector it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of votes cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has served a copy of the application, including his affidavit, upon each candidate involved in the election which is the subject of the application, and upon the clerk, and has given security for the costs in connection with the recount or final addition of any candidate declared elected in the sum of \$100 or if at any time within four weeks after such declaration the council of the municipality or a school board has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a date and time and place to recount or make a final addition of the votes cast at the election, and shall notify in writing the clerk who made the declaration at least ten days prior to the date set for the recount or final addition. 1980, c. 30, s. 26 (1). Where recount desirable

Notice of  
recount

(3) At least six days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election.

Who may be  
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount.

What ballots  
involved in  
recount

(5) Where a recount relates to the election of a candidate, the recount shall be of the votes cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the votes cast for him to be recounted or the votes cast for him to be finally added.

Judge may  
order recount,  
etc., of votes  
cast for other  
candidates

(6) Notwithstanding subsection (5), the judge conducting the recount may order the recount of the votes cast for any other candidate whose election or right to any other office may be affected in any way by the recount conducted under subsection (5).

Procedure  
by judge

(7) At the date, time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots.

Rules to  
govern  
proceedings

(8) Subject to subsection (9), the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

(9) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office.

Judge may hear any evidence necessary for proper recount

(10) Upon the completion of a recount, or final addition, the judge shall forthwith notify in writing the result of the recount or final addition to the clerk and announce the results to persons present at the recount, and, immediately after the expiry of the appeal period specified in section 88, all the ballots and statements shall be sealed in separate packets in the manner prescribed by the judge.

Judge to notify clerk of result of recount or final addition

(11) The judge may require the clerk of the county or district court to be present at the time and place appointed. 1977, c. 62, s. 83 (3-11).

Clerk of court

(12) Any candidate declared elected is entitled to sit on the council or board notwithstanding that an application for a recount or final addition has been brought under this section, but where the recount or final addition determines that some other person was elected, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of.

Right to sit pending recount or final addition

(13) The decisions of a council or local board reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. 1980, c. 30, s. 26 (2).

Decisions not affected

**84.** If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question. 1977, c. 62, s. 84.

If no appeal, clerk to declare result

**85.—(1)** In the case of an equality of votes for candidates for any office for which one person only is to be elected, or for which the holding of any other office is to be determined as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk.

Equality of votes



Method of  
conducting  
lot

(2) For the purposes of this section, "lot" means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk. 1977, c. 62, s. 85.

Costs of  
recount

**86.**—(1) The costs of a recount under section 83 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid.

Awarding  
of costs

(2) The judge may in his discretion award costs of a recount or final addition to or against any person who is a party to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

Where no  
provision as  
to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality except where the recount or final addition has been held at the instance of a school board, in which case the disbursements made by the clerk shall be paid by the board.

Payment of  
deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 83 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement  
of payment  
of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them.

Expenses of  
judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition except where the recount or final addition has been held at the instance of a school board, in which case the expenses shall be paid by the board. 1977, c. 62, s. 86.

Where no  
appeal,  
packets to  
be returned  
to clerk

**87.**—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause packets, sealed in accordance with subsection 83 (10), to be returned to the custody of the clerk.

Documents  
not required  
on appeal

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the

packets of ballots and such of the original statements as are not required for the purpose of the appeal to be returned to the custody of the clerk. 1977, c. 62, s. 87.

#### APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

**88.**—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots. Appeal from decision of judge

(2) The notice may be served upon the other parties personally, or as a judge of the Divisional Court may direct. Service of notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall forward the sealed packets of the ballots or statements that are the subject of appeal, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 83 to the clerk. Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(5) At the time appointed, the Divisional Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify the decision of the court to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk. Procedure on appeal

(6) The Divisional Court may direct by and to whom the costs of the appeal shall be paid. Costs of appeal

(7) Where the Divisional Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk shall be paid by the municipality. 1977, c. 62, s. 88, *revised*. Idem

## DISPOSITION OF ELECTION RECORDS

Disposition  
of ballots

**89.**—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition  
of other  
documents

(2) Subject to subsection (1), the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. 1977, c. 62, s. 89.

Inspection  
of ballots

**90.**—(1) No person shall be allowed to inspect the contents of a ballot box in the custody of the clerk except under the order of a judge.

Order of  
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. 1977, c. 62, s. 90.

Production  
of documents  
by clerk

**91.** Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. 1977, c. 62, s. 91.

## NEW ELECTIONS

New  
election

**92.**—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which,

- (a) a directive is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law; or

- (c) the clerk receives from the secretary of a school board notice,

that such an election is required.

(2) The procedure including the period for filing nominations <sup>Procedure</sup> at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.

(3) The polling required to fill a vacancy in an office by this <sup>Polling</sup> section shall so far as possible be held in the same manner and by the same officers and take place at the same places, in so far as practicable, at which the polling took place at the last regular election.

(4) Unless a new preliminary list of electors has been <sup>List of electors</sup> furnished by the assessment commissioner under subsection (5), the preliminary list to be used for preparation of the polling list for a new election shall be the polling list prepared for the last regular election, which shall be subject to revision as if it were a preliminary list of electors and sections 24 to 30 apply with necessary modifications to the printing or reproduction of the list and to the revision of the list, subject to the following rules:

1. Where a new election is required under clause 38 (a) or subsection 40 (3), the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the Thursday following the polling day for the last regular election.
2. Where a new election is required under section 111, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the receipt by the clerk of the municipality of the copy of the judgment under subsection 111 (6).
3. Where a vacancy otherwise occurs and the council of the municipality or a school board for which the clerk is required to hold elections requires an election to be held to fill the vacancy, the period during which a person may qualify as an elector for the office to be elected shall be the period of qualification specified under section 12 or 13 and the

period following such qualification period terminating on the date of the directive, by-law or notice specified in clause (1) (a), (b) or (c).

4. Where a by-law or question is to be submitted to the electors, the period during which a person may qualify as an elector entitled to vote on the by-law or question, as the case may be, shall be the period of qualification specified under section 12 or 13 and the period following such qualification period terminating on the date of the order of the Ontario Municipal Board given under section 132 of the *Municipal Act*. 1977, c. 62, s. 92 (1-4).

R.S.O. 1980,  
c. 302

Idem

R.S.O. 1980,  
c. 31

(5) Where in the year following an election year the annual enumeration under the *Assessment Act* has, not less than sixty days prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election and the revision shall be subject to the rule set out in paragraph 2, 3 or 4 of subsection (4), as the case requires, except that in the application of the relevant rule the qualification period expressed therein as "the period of qualification specified under section 12 or 13" shall be deemed instead to be the period in the year following the election year during which the enumeration was taken under section 14 of the *Assessment Act*. 1978, c. 12, s. 6.

Certification  
of list

(6) The preliminary list for a new election, when revised, shall be subject to certification by the clerk under section 31 and to entry of names in the list under sections 33 and 56.

Eligibility  
of member  
to be  
candidate  
for other  
office

(7) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the nomination day for the new election, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds.

Vacancy  
after  
March 31st  
of election  
year

(8) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year.

(9) If election to the office for which a new election is required is to be by ward or other form of division of the municipality it is necessary to revise only that portion of the preliminary list applicable to such ward or other part of the municipality. 1977, c. 62, s. 92 (6-9). Revision of partial list

**93.** Notwithstanding that a new election becomes necessary, meetings of the council may be held if a quorum of the council is present. 1977, c. 62, s. 93. Council may meet notwithstanding vacancy

#### EFFECT OF IRREGULARITIES

**94.** No election shall be declared invalid, Irregularities not to offset result

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. 1977, c. 62, s. 94.

#### SECRECY OF PROCEEDINGS

**95.—(1)** Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. Secrecy of proceedings

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted. Interference with elector

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted. Communication as to voting

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it so as to make known to any person how he has voted. Inducing person to show ballot

Voter not  
to show  
ballot

(5) Subject to section 63, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

No one com-  
pellable to  
disclose  
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 1977, c. 62, s. 95.

#### OFFENCES, PENALTIES AND ENFORCEMENT

Voting when  
not qualified,  
etc.

**96.** Every person who, at an election,

- (a) not being qualified to vote, votes;
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 96.

Improper  
voting by  
proxy

**97.** Every person who,

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 97.

Wilful  
miscount  
of ballots

**98.** Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 98.

Neglect of  
duties

**99.** Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1977, c. 62, s. 99.

**100.** Every person who,Offences  
relating to  
ballot  
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 100.

**101.** Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 101.

False  
information  
to authorized  
persons**102.** Every person who,Offences of  
inducing un-  
qualified  
person to vote  
or publishes  
false state-  
ment of with-  
drawal of  
candidate

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1977, c. 62, s. 102.

**103.—(1)** Every person who,

Bribery:

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or

bribing  
elector or  
procuring  
bribery by  
money



offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

by gift or  
offer or  
promise of  
employment

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or

to induce  
anyone to  
procure  
return of  
candidate  
or endeavour  
to procure

- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or

receiving  
bribe to  
procure  
return of  
candidate

- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or

advancing  
money to  
be spent  
in corrupt  
practices

- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying  
for money  
or employ-  
ment in  
considera-  
tion of  
voting

- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the

gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

(g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving money, office, etc., for having voted

(h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

receiving money corruptly after election

(i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

giving or promising office to candidate to stand or withdraw

is guilty of bribery, and on conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act.

Personal expenses of candidate

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place. 1977, c. 62, s. 103.

Posting of provisions as to corrupt practices

**104.** Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1977, c. 62, s. 104.

General offence

Disqualifi-  
cation of  
persons  
guilty of  
corrupt  
practice

**105.**—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

Limitation

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1). 1977, c. 62, s. 105.

#### CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

Validity of  
election,  
etc.,  
determined  
by action

**106.**—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated.

Penalties  
for corrupt  
practice

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 96 to 102.

Who may  
commence  
action

(3) Any elector entitled to vote at an election referred to in subsection (1) may commence an action under this section in relation to such election.

Time for  
commencing  
action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection (1). 1977, c. 62, s. 106.

Mode of  
trial

**107.**—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 106 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means.

Idem

(2) Subject to subsection (1) and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 106.

Judge  
without  
jury

(3) The action shall be tried by a judge without a jury. 1977, c. 62, s. 107.

**108.**—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

(2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1977, c. 62, s. 108. Idem

**109.**—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs. Abatement of action

(2) The abatement of an action does not affect any liability for costs previously incurred. Liability for costs

(3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff. 1977, c. 62, s. 109. Substitution of plaintiff

**110.** Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if, within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1977, c. 62, s. 110. Substitution for unqualified person

**111.**—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant. Successful candidate guilty of corrupt practice

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held. Unseating and seating of another elected candidate

(3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held. Where commission of corrupt practice affected result of election

Where act of  
election  
official  
affected  
result of  
election

(4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Compensation  
of candidates  
where  
election void

(5) Where a new election is to be held, the court may make such order as it considers just against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act for the compensation of candidates at the void election not exceeding \$2,000 per candidate.

Judgment  
to clerk

(6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. 1977, c. 62, s. 111.

Where  
election set  
aside and  
appeal  
entered

**112.**—(1) If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board.

Decisions  
of council  
not affected  
by reason  
of subsequent  
disqualifi-  
cation

(2) The decisions of a council reached with the participation of a member or members who is or are subsequently declared to be not entitled to sit on council shall not in any way be affected on the grounds of the participation of such member or members. 1977, c. 62, s. 112.

New election  
not to be  
held pending  
appeal

**113.** A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. 1977, c. 62, s. 113.

Appeal to  
Divisional  
Court

**114.**—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Judgment  
or new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. 1977, c. 62, s. 114.

Appeal from  
decision on  
new trial

**115.** Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

Disclaimer  
before  
complaint

"I, A.B., hereby disclaim all right to the office of  
.....for the.....of  
.....in the.....of  
.....and all defence of any right I may  
have to the same. Dated.....day of  
....., 19.... A.B."

1977, c. 62, s. 115.

**116.** A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

Disclaimer  
after  
complaint

"I, A.B., upon whom a writ, authorized by the  
*Municipal Elections Act*, has been served for  
the purpose of contesting my right to the office  
of....., in the county (or district)  
of....., hereby disclaim the office, and  
all defence of any right I may have to the same.  
Dated.....day of....., 19....  
A.B."

1977, c. 62, s. 116.

**117.—(1)** A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council or to the secretary of the local board, as the case requires.

Duplicate.  
of disclaimer  
to clerk

Operates as  
resignation

(2) A disclaimer in accordance with section 115 or 116 operates as a resignation. 1977, c. 62, s. 117 (1, 2).

Relief from  
costs

(3) A disclaimer in accordance with section 116 relieves the person making it from all liability for costs in an action under section 106. 1977, c. 62, s. 117 (3); 1978, c. 12, s. 7.

Procedure  
substituted  
for *quo*  
*warranto*  
proceedings

**118.** Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council or as trustee of a police village or as member of a local board, as the case may be, determined shall be had and taken only under the provisions of this Act. 1977, c. 62, s. 118.

Forms

**119.**—(1) The Minister may by order prescribe the forms required for the purposes of this Act, which forms may be in both the English and French languages.

Notices in  
French  
language

(2) Any notices required to be posted, published or mailed under this Act may, in addition to being printed in the English language, be printed in the French language.

Determina-  
tion  
by council  
of French-  
language  
forms, etc.

(3) The use in a municipality of forms prescribed in the French language under subsection (1) or the printing of notices in the French language under subsection (2) shall be determined by by-law of the council of the municipality. 1977, c. 62, s. 119.

Holidays

**120.**—(1) Subject to subsection 11 (2), where any day specified in this Act for the undertaking of any proceeding pertaining to an election falls on a holiday, the day specified shall be deemed to be the immediately preceding day which is not a Sunday or a holiday. 1977, c. 62, s. 120.

References  
to time

(2) For the purpose of any proceedings under this Act, so long as the time commonly observed in the municipality or locality where the proceedings take place is one hour in advance of standard time, the time mentioned in this Act shall be reckoned in accordance with the time so commonly observed and not standard time. 1978, c. 57, s. 3.

Limitation  
on election  
expenditures

**121.** The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services. 1977, c. 62, s. 121.