1982

c 37 Municipal Elections Amendment Act, 1982 (No. 2)

Ontario
CHAPTER 37

An Act to amend the Municipal Elections Act

Assented to July 7th, 1982

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of the Municipal Elections Act, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

18. “Minister” means the Minister of Municipal Affairs and Housing.

2.—(1) Subsection 4 (4) of the said Act is repealed and the following substituted therefor:

(4) If a deputy returning officer or a poll clerk 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.

(2) Section 4 of the said Act is amended by adding thereto the following subsection:

(10) No person shall be appointed under this section who has not attained the age of eighteen years.

3. Subsection 8 (1) of the said Act is amended by adding at the end thereof “and all costs shall be paid on certification of the clerk”.

4. Section 16 of the said Act is repealed and the following substituted therefor:

16. Every person entitled to be an elector in a municipality is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality.

5. Section 36 of the said Act is amended by adding thereto the following subsections:
(1a) The address referred to in clauses (1) (b) and (c) shall be
the address within the municipality of the person nominated or
the elector signing the nomination paper, as the case may be.

(8) For the purposes of this section, the determination as to
whether an elector is a public school elector or a separate school
elector shall be in accordance with the support indicated on the
list of electors delivered to the clerk under section 22, as revised
up to the time the nomination paper is filed.

6. Subsection 41 (2) of the said Act is repealed and the following
substituted therefor:

(2) Notice of the time, and the date 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 munici-
pality, by publishing the notice in such newspaper.

7. Subsection 42 (4) of the said Act is amended by striking out "the
municipality shall comply with the provisions of the order" in the
fifth and sixth lines and inserting in lieu thereof "the provisions of
the order shall be complied with".

8. Subsection 43 (4) of the said Act is repealed and the following
substituted therefor:

(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,
being the qualifying address within the municipality, of all can-
didates 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.

9. Subsections 46 (7) and (8) of the said Act are repealed and the
following substituted therefor:

(7) In municipalities having more than 5,000 electors, the
clerk shall advise each elector of the date and time of polling
including advance polls and the location of the polling place in
which the 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 date and time
of polling and 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 date and time of polling and of the location of such polling place.

(8) Notwithstanding clause (7) (a), the council of a municipality, by-law having more than 5,000 electors may, by by-law passed not later than the 1st day of September in an election year, provide that the clerk shall advise each resident elector of the date and time of polling, including advance polls, and 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 date and time of polling and of the location of such polling place, which notice shall be directed to all the electors at that address.

(9) In municipalities having not more than 5,000 electors, the clerk shall post a notice in two conspicuous places within the municipality and, where there is a newspaper having general circulation in the municipality, publish a notice once in the newspaper, advising the date and time of polling including advance polls and the location of the polling places.

(10) A by-law passed under subsection (8) shall remain in effect until repealed but shall not be repealed in an election year later than the 1st day of September.

(11) Where, by reason of a disruption in mail delivery service, it is not possible to comply with subsection (7) or (8), the clerk shall publish a notice at least once in a newspaper having general circulation in the municipality advising the date and time of polling, including advance polls, and the location of the polling place in which each elector is to vote.

10. Section 49 of the said Act is amended by adding thereto the following subsection:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list certified under section 31.

11. Section 57 of the said Act is amended by adding at the end thereof “and 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 such elector”.

12.—(1) Clause 78 (1) (d) of the said Act is repealed.

(2) Subsection 78 (2) of the said Act is repealed and the following substituted therefor:
(2) The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.

(3) Subsection 78 (4) of the said Act is amended by inserting after “shall” in the eleventh line “except where otherwise directed by the clerk”.

13. Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, or where the clerk considers it necessary to ascertain the meaning of a statement, 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.

14. Section 83 of the said Act is amended by adding thereto the following subsection:

(2a) Where an application is made under subsection (2), the judge may determine which ballot boxes shall be opened for the purpose of the recount.

15. Section 96 of the said Act is amended by striking out “$1,000” in the eighth line and inserting in lieu thereof “$2,000”.

16. Section 97 of the said Act is amended by striking out “$1,000” in the thirteenth line and inserting in lieu thereof “$2,000”.

17. Section 98 of the said Act is amended by striking out “$1,000” in the fourth line and inserting in lieu thereof “$2,000”.

18. Section 99 of the said Act is amended by striking out “$1,000” in the fourth line and inserting in lieu thereof “$2,000”.

19. Section 100 of the said Act is amended by striking out “$1,000” in the twentieth line and inserting in lieu thereof “$2,000”.

20. Section 101 of the said Act is amended by striking out “$1,000” in the fourth line and inserting in lieu thereof “$2,000”.

21. Section 102 of the said Act is amended by striking out “$1,000” in the seventh line and inserting in lieu thereof “$2,000”.

22. Subsection 103 (1) of the said Act is amended by striking out all that part of the subsection immediately following clause (i) and inserting in lieu thereof "is guilty of bribery, and on conviction is liable to a fine of $2,000, 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".

23. Section 104 of the said Act is repealed and the following substituted therefor:

104. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided, or who contravenes an order of the Minister made under section 42, is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

24.—(1) Subsection 106 (2) of the said Act is amended by adding at the end thereof "and section 121".

(2) Section 106 of the said Act is amended by adding thereto the following subsection:

(5) Notwithstanding subsection (4), an action may be commenced as to whether or not any person is guilty of a corrupt practice in respect of the contravention of a by-law passed under section 121, not later than the expiration of 180 days following the date of the election referred to in subsection (1).

25. Section 121 of the said Act is repealed and the following substituted therefor:

121.—(1) In this section,

(a) "candidate" does not include a candidate nominated for election to office as a member of a local board or as a trustee of a police village;

(b) "contributions" do not include any goods produced by voluntary unpaid labour or any services performed by an individual voluntarily for a candidate without compensation from any source;

(c) "municipality", in addition to the meaning set out in section 1, includes The Regional Municipality of Niagara;

(d) "person" includes a trade union, a corporation and an association;

(e) "spouse" means either of a man and woman who,
(i) are married to each other, or

(ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or

(iv) not being married to each other have cohabited,

(A) continuously for a period of not less than five years, or

(B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.

(2) The council of a municipality may pass a by-law regulating election contributions and requiring the reporting of expenses and contributions and, where a by-law is passed under this section, the by-law shall,

(a) prohibit any person from making contributions in excess of $500 in the form of money, goods or services to any candidate in any calendar year;

(b) prohibit any candidate from accepting contributions in the form of money, goods or services in excess of $500 from any person in any calendar year;

(c) require a candidate or his representative to issue a receipt for all money contributions received by him;

(d) require a candidate to keep a record of all expenses incurred by him in respect of his candidacy;

(e) require a candidate to keep a record of all contributions received by him in respect of his candidacy, whether in the form of money, goods or services;

(f) require candidates to file with the clerk of the municipality within ninety days of the date of the election a report which shall contain,
(i) a statement of the total amount of money contributions received by the candidate in respect of his candidacy up to the date of such report,

(ii) a list of contributions in the form of goods or services and the value thereof received by the candidate in respect of his candidacy up to the date of such report,

(iii) the name, address and contribution of each person who, up to the date of such report, made a contribution whether in the form of money, goods or services of more than $100, and

(iv) an itemized list of all expenses incurred by the candidate in respect of his candidacy up to the date of such report;

(g) direct the clerk to submit to the council the information received by him pursuant to a by-law passed under this section; and

(h) empower the clerk to prescribe forms for the purposes of a by-law passed under this section.

(3) Any moneys to be used for an election campaign by a candidate out of his own funds or out of the funds of the spouse of the candidate shall be deemed not to be a contribution for the purposes of a by-law passed under this section.

(4) A contribution made to a representative of a candidate shall be deemed to be a contribution to the candidate.

(5) Every person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and is liable to a fine of not more than $2,000.

26. This Act comes into force on the day it receives Royal Assent.

27. The short title of this Act is the Municipal Elections Amendment Act, 1982.