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c 28 Municipal Elections Statute Law Amendment Act, 1990

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CHAPTER 28

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

Assented to December 20th, 1990

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

1.—(1) Section 1 of the Municipal Elections Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the Election Finances Act, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.
2. Part I of the Act is amended by adding the following section:

\[\text{Concept of residence}\]

1a.—(1) In this Act, "residence" and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person's family resides is that person's residence unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

\[\text{Idem}\]

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.
3.—(1) Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Subclause 2 (a) (iv) of the Act is amended by adding at the beginning “trustee, commissioner or other”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the Education Act shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If 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 local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.
8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out "Monday in October that precedes polling day by twenty-eight" in the amendment of 1988 and substituting "Friday in October that precedes polling day by thirty-one".

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out "Monday in October that precedes polling day by twenty-eight" in the amendment of 1988 and substituting "Friday in October that precedes polling day by thirty-one".

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 500 electors or extend beyond the boundaries of one ward.

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after "list" in the second line "under subsection (1) or an extract of the enumeration list under subsection (3)".

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.
(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

(a) who is a registered candidate, as defined in section 121 or 138; and

(b) who is registered to run in an election for the office of a member of a school board.

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

13. The Act is amended by adding the following section:

22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.
(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

(a) a notice in the form prescribed by the Minister of Revenue under the Assessment Act, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

(b) an application for revision of the list in the form prescribed.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:
(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.

(3) Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out "may" in the fifth line and substituting "shall".

(4) Subsection 27 (5) of the Act is amended by striking out "shall" in the seventh line and substituting "may".
18.—(1) Subsection 28 (5) of the Act is amended by striking out "shall" in the second line and substituting "may".

(2) Subsection 28 (7) of the Act is amended by striking out "registered" in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

(a) is qualified to hold that office under an Act constituting the office; and
(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day.

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

23.—(1) Subsection 36 (1) of the Act is amended by inserting after "person" in the first line "who is qualified under section 34".

(2) Clause 36 (1) (c) of the Act is amended by striking out "or a separate school elector, as the fact is" at the end and substituting "a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be".

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:
(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

(a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and

(b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

Definition

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if”.

(4) Subsection 37 (5) of the Act is amended by striking out “day following nomination day” in the first and second lines and substituting “first day following nomination day that is not a Saturday or a holiday”.

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

List of candidates

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address 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.

Completion of list

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk 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 p.m. on the Thursday following nomination day.
25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(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 immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

(3) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.
27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

USE OF VOTING DEVICES

42a.—(1) 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, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

(2) A by-law passed under subsection (1) 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.

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

(a) the form of the ballot;

(b) directions for the marking of a ballot by an elector;

(c) directions for the voting procedures to be used including the procedures for,

(i) the taking of the votes,

(ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,

(iii) the counting, by machine or otherwise, of the votes, and

(iv) the recounting, by machine or otherwise, of the votes.
(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1).

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act.

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act.

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3).

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election.

(2) Subsection 43 (3) of the Act is amended by inserting after "arranged" in the third line "and, if the candidates have identical surnames, in order of their given names alphabetically arranged".

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:
(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 and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor.

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

(ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

(a) a landlord of a building containing 100 or more dwelling units;

(b) a municipality, including a regional municipality;

(c) a school board; or

(d) a provincially funded institution.

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end “or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors”.

31. Subsection 47 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

(a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;

(b) an institution which has twenty or more beds occupied by persons who are disabled;

(c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or

(d) a retirement home which has fifty or more beds occupied.

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

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

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

(a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

(b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;

(c) 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

(d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:
7a. 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 that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision 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.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

Identification
Advance poll
List of persons voting
41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

Limitation

(3) A voting proxy may only act as a voting proxy for,

(a) one person who is not a relative; or

(b) one or more persons who are relatives.

Definition

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

(2) Subsection 67 (5) of the Act is repealed and the following substituted:

Application for proxy certificate

(5) A person who has been appointed a voting proxy shall complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy, and shall appear before the clerk in person for this purpose at the clerk’s office,

(a) during normal office hours; or

(b) during the period from 12 noon to 5 p.m. on the Saturday of the advance poll held under section 66.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

Certificate of proxy

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

Idem

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.
(3) Subsection 71 (5) of the Act is repealed and the following substituted:

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning “Despite section 90”.

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

(4) No person shall be appointed as a recount officer who,

(a) is a candidate or the spouse of a candidate;

(b) is less than eighteen years of age; or

(c) has participated in the actual counting of the ballots for a polling subdivision in the election.

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.
46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount,

(a) if a candidate who was not declared elected requests it in writing; and

(b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3).

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".
(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by inserting after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substituting "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

(a) announce the result, including the number of disputed ballots, to the persons present at the recount;

(b) calculate the result excluding the disputed ballots in the envelope described in clause (d);

(c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
(d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

Certification (4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

Tied vote (5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

After certification (6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

Service (2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

Procedures (3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

Documents to be provided by recount officer (4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

(a) a certified copy of the result of the recount conducted by the recount officer;
(b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;

(c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and

(d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

(a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;

(b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and

(c) calculate the result of the election excluding the ballots disputed under subsection (6).

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (5) and shall,

(a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;

(b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;

(c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
(d) give the envelope referred to in clause (b) to the recount officer; and

(e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,
(a) a certified copy of the order of the judge under section 88c;

(b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and

(c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

(a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and

(b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

(a) announce the result of the recount to the persons present at the recount;

(b) seal the disputed ballots in their original envelope; and

(c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).
(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”. 
(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under 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 sixty days of the day on which,

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;
(d) an order to hold a new election is given by the Minister under section 48 of the Municipal Act;

(e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

(f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as reenacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after “mail” in the second line “or personal service”.

(4) Paragraph 2 of subsection 92 (4) of the Act, as reenacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the Assessment Act to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

(d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board’s order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than $5,000.
62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

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

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

65.—(1) The definition of “campaign expense” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “the closing of the poll”.

(2) The definitions of “campaign period”, “contribution” and “municipality” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing the day on which,
(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the Municipal Act, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the Income Tax Act (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:
(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

(a) the name of the office for which the candidate has been or proposes to be nominated;

(b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;

(c) the full name and address of the registered candidate;

(d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;

(e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;

(f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;

(g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and

(h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding
"or" at the end of clause (d) and by adding the following clause:

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Register

(5) The clerk shall keep a register of all notices of registration filed under this section.

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

Change of office

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Onus

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration.

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;
(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(4) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “(5)” in the second line “or (5a)”.
Limitation on contributions

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds $750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds $5,000 in value.

(6) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(7) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Receipts

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Group contributions

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Record of contributions

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.
70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A fund-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

71. The Act is further amended by adding the following section:

.126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money,
goods or services, if the total value of all contributions received from that contributor was more than $100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or" in the second line and substituting "and".

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If the contributions received by or on behalf of a registered candidate do not exceed $2,000 and expenses incurred by or on behalf of such registered candidate do not exceed $2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

(5) In any election, a surplus is the amount by which the total of,
(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

(a) notifies the clerk in writing that the candidate does not intend to seek nomination;

(b) fails to be nominated;

(c) is ineligible to be nominated; or

(d) fails to become registered.

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the gen-
eral funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

133.—(1) If a registered candidate,

(a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or

(b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) A notice served by registered mail under subsection (2) shall be deemed to be received on the fifth day after the day of mailing.

(4) The penalties and disabilities under subsections (1) and (2) take effect,

(a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or

(b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.
(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

(a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or

(b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the penalties and disabilities under subsection (1).

133b.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.
(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the Public Accountancy Act to conduct a compliance audit of the election campaign finances of the registered candidate.

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal
to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the Public Accountancy Act to conduct a compliance audit of the election campaign finances of the registered candidate.

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

(a) the financial statement, report or statutory declaration filed under section 132;

(b) the contribution receipts issued under subsection 125 (5);

(c) the campaign expenses records under subsection 129 (3);

(d) the records related to the campaign account registered with the clerk under section 122; and

(e) any other books, papers, documents or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

(a) the Commission;

(b) the registered candidate;

(c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and

(d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the auditor,
(a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and

(b) has the powers of a commission under Part II of the Public Inquiries Act which Part applies to the compliance audit as if it were an inquiry under that Act.

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the registered candidate who was the subject of the compliance audit was registered to run for office.

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered
candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

134d.—(1) Except as otherwise provided in this Part, the provisions of the Election Finances Act, 1986 relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of "campaign expense" in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "closing of the poll".

(2) The definitions of "campaign period", "Commission", "contribution" and "municipality" in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing on the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the Municipal Act, or

R.S.O. 1980, c. 302
(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

(b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in excess of what the individual would normally receive during the period the service was performed;

“municipality” means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the Income Tax Act (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or metropolitan” in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:
(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election an application for registration in the form prescribed by the Commission.

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;

(d) an order to hold a new election is given by the Minister under the Municipal Act; or

R.S.O. 1980, c. 302

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by prepaid registered mail to the Commission immediately upon their receipt.

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.
(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

(a) the name of the office for which the candidate has been or proposes to be nominated;

(b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;

(c) the full name and address of the registered candidate;

(d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;

(e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;

(f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;

(g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and

(h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or notice under subsection (8) was filed with the clerk, as the case may be.

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

(a) where the nomination is withdrawn, on the day of the withdrawal; and
(b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 143 (4)” in the first and second lines and substituting “section 143”.

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “Commission” in the second and third lines and substituting “clerk”.

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the Commission under section
143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds $750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local
board, as the case may be, which in total exceeds $5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.
91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:
(iii) all contributions in the form of goods or services and the values of them received by or on behalf of the registered candidate during the campaign period, and

(iv) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than $100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(3a) In any election, a surplus is the amount by which the total of,

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

(b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

(c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and

(d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a)(d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a)(c) and (d) exceed the total of the amount described in clauses (3a)(a) and (b).

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.
97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Ineligibility

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.
99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

(a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and

(b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the Municipal Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

(a) ceases to be a Canadian citizen;
(b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or

(c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

Definitions
R.S.O. 1980, c. 308

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the Municipal Elections Act.

R.S.O. 1980, c. 121

102. Paragraph 1 of Form 2 of the District Municipality of Muskoka Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 314

103. Forms 1 and 2 of the Municipality of Metropolitan Toronto Act are repealed.

R.S.O. 1980, c. 365

104. Paragraph 1 of Form 2 of the County of Oxford Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 434

105. Paragraph 1 of Form 2 of the Regional Municipality of Durham Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 435

106. Paragraph 1 of Form 2 of the Regional Municipality of Haldimand-Norfolk Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 436

107. Paragraph 1 of Form 2 of the Regional Municipality of Halton Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 437

108. Paragraph 1 of Form 2 of the Regional Municipality of Hamilton-Wentworth Act is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980, c. 438

109. Paragraph 1 of Form 2 of the Regional Municipality of Niagara Act is repealed and the following substituted:
1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991.
