

1977 BILL 49

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 49

THE ELECTION AMENDMENT ACT, 1977

MR. PURDY

First Reading

Second Reading

Third Reading

Bill 49
Mr. Purdy

BILL 49

1977

THE ELECTION AMENDMENT ACT, 1977

(Assented to , 1977)

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

1. The Election Act is hereby amended.

2. Section 2 is amended

(a) by adding after clause 10 the following clause:

10.1 “enumeration year” means a calendar year in which a general enumeration takes place;

and

(b) by adding after clause 12 the following clause:

12.1 “general enumeration” means an enumeration of voters in all electoral divisions made in accordance with section 15, subsection (1);

3. The following sections are added after section 2:

2.1. (1) There shall be appointed pursuant to this Act a Chief Electoral Officer who shall be an officer of the Legislature.

(2) Subject to section 2.2, when a vacancy exists in the office of Chief Electoral Officer, the Assembly shall appoint a Special Committee of nine members which shall appoint a Chief Electoral Officer within such time as the Assembly may specify.

(3) The appointment of the Chief Electoral Officer takes effect upon the date that the report of the Special Committee is laid before the Assembly or, if the Legislature is not sitting, upon the date that the report is filed with the Speaker of the Assembly or, if there is no Speaker or if the Speaker is absent from Alberta, to the Clerk of the Assembly.

Explanatory Notes

1. This Bill will amend chapter 117 of the Revised Statutes of Alberta 1970.

2. Definitions.

3. This amendment will create the office of Chief Electoral Officer.

(4) Where a report of the Special Committee is filed with the Speaker pursuant to subsection (3), the Speaker shall lay the report before the Assembly within 15 days of the commencement of the next ensuing sitting of the Assembly.

(5) The appointment of the Chief Electoral Officer expires 12 months after polling day for a general election unless he is reappointed prior to that date by a Special Committee of the Assembly.

(6) Upon an address of the Assembly, the Lieutenant Governor shall suspend or remove the Chief Electoral Officer from his office for disability, neglect of duty, misconduct or bankruptcy.

(7) At any time the Legislature is not sitting, the Lieutenant Governor in Council may suspend the Chief Electoral Officer from his office for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing sitting of the Legislature.

(8) The Chief Electoral Officer may at any time resign his office by writing addressed to the Speaker of the Assembly or, if there is no Speaker or if the Speaker is absent from Alberta, to the Clerk of the Assembly.

2.2. (1) If the Chief Electoral Officer dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

(2) If a vacancy occurs while the Legislature is sitting, but no appointment is made by a Special Committee of the Assembly before the close of that sitting, subsection (3) applies as if the vacancy had occurred while the Legislature was not sitting.

(3) If a vacancy occurs while the Legislature is not sitting, the Lieutenant Governor in Council may appoint a Chief Electoral Officer to fill the vacancy and unless his office sooner becomes vacant, the person so appointed holds office until his appointment is confirmed by a Special Committee of the Assembly.

(4) If an appointment under subsection (3) is not confirmed within 30 days after the commencement of the next ensuing regular sitting, the appointment lapses and there shall be deemed to be another vacancy in the office of the Chief Electoral Officer.

2.3. In accordance with *The Public Service Act* there may be appointed such officers and employees as may be necessary to assist the Chief Electoral Officer in the administration of his duties.

4. *Section 3 is amended*

(a) *by striking out subsection (2) and by substituting therefor the following subsection:*

(2) Where the Legislature re-enacts or amends the Schedule of electoral divisions in *The Legislative Assembly Act* but the re-enactment or amendment is not in force on March 1 of an enumeration year, the re-enactment or amendment shall be deemed to be in force for the purpose of appointing returning officers for a general enumeration and for conducting the general enumeration.

and

(b) *by striking out subsection (4) and by substituting therefor the following subsections:*

(4) The appointment of a returning officer for a general enumeration terminates four months after polling day of the next subsequent general election.

(4.1) Notwithstanding subsection (4), where a returning officer is appointed for the purpose only of a by-election or plebiscite, his appointment commences on the date specified in his appointment and expires four months after the next polling day for the election or plebiscite within the electoral division for which he is appointed.

5. *Section 10 is struck out.*

4. Section 3(4) presently reads:

(4) The appointment of a returning officer under subsection (1) expires one year from the date it becomes effective unless during that time a writ is directed to him in connection with an election in which case his appointment expires 120 days after the election directed by the writ is held.

5. Section 10 presently reads:

10. (1) The Clerk of the Legislative Assembly shall procure a supply of enumerators' badges in sufficient quantity to provide one badge for each enumerator.

(2) The badges

(a) shall be of such material and design as the Clerk may prescribe,

(b) shall be numbered serially, and

(c) shall bear on them the words "Province of Alberta Enumerator" and the serial number thereof.

(3) As soon as possible after the issue of the writ of election for an electoral division, the Clerk shall furnish the returning officer for the constituency with a sufficient supply of badges.

(4) Whenever the returning officer appoints an enumerator for any polling subdivision, he shall furnish the enumerator with one badge and shall keep an accurate record of every badge so furnished.

(5) Every enumerator shall immediately upon the termination of his duties return the badge to the returning officer.

6. *Section 15 is amended*

(a) *as to subsection (1) by striking out clauses (a) and (b) and by substituting therefor the following clause:*

(b) on the 15th day of August in the second calendar year following the year in which the last general election was held, and on the 15th day of August in each succeeding year if no general election is held in the interim, each returning officer shall subdivide the electoral subdivision for which he was appointed into as many polling subdivisions as he considers necessary for the convenience of the voters, ensuring that each part of the electoral division is included in a polling subdivision;

and

(b) *by adding after subsection (1) the following subsections:*

(1.1) A list of electors for an electoral division prepared other than as part of a general enumeration in an enumeration year shall be made and revised at the time and in the manner hereinafter provided:

(a) for the purpose of making and revising lists of electors hereunder the electoral divisions for which lists are to be made or revised shall be the electoral divisions set out in the Schedule of *The Legislative Assembly Act*;

(b) upon receipt by the returning officer of an electoral division of the advice of the Chief Electoral Officer that a vacancy has been created in the representation of the electoral division for which that returning officer was appointed, the returning officer shall subdivide the electoral division into as many polling subdivisions as he considers necessary for the convenience of the voters, ensuring that each part of the electoral division is included in a polling subdivision;

(c) the provisions of subsection (1), clauses (c) to (e) apply.

(6) The returning officer shall as soon as possible after polling day return to the clerk all the badges that have been returned to the returning officer together with all the other badges furnished to him by the Clerk, and where any such badge is not returned, the returning officer shall notify the Clerk and forward such information concerning the badge as the Clerk may require.

The section is inappropriate for the new enumeration periods proposed by this Bill.

6. The result of this amendment will be to cause enumerations of voters to be made every second year following a general election and, if there is no intervening general election, again in each subsequent year. Section 15(1) presently reads:

15. (1) A list of electors of the several electoral divisions of Alberta for use in a general election shall be made and revised at the time and in the manner hereinafter provided:

(a) for the purpose of making and revising lists of electors hereunder the electoral divisions for which lists are to be made or revised shall be the electoral divisions set out in the Schedule of The Legislative Assembly Act;

(b) upon receipt by the returning officer of an electoral division of the Province of the writ for the election he shall subdivide the electoral division into as many polling subdivisions as he deems necessary for the convenience of the voters, taking care to include every part of the electoral division in some polling subdivision;

(c) upon making the subdivision the returning officer shall appoint in writing in Form 7 two resident electors of the electoral division as enumerators for each polling subdivision except that in a city constituency, if a resident elector of the electoral division is not available, an elector of another city constituency in the same city may be appointed;

(d) every enumerator shall, before acting as such, take the oath of office in Form 8 which may be sworn before the returning officer, an election clerk, a justice of the peace, a commissioner for oaths or a notary public, who shall administer the oath free of charge;

(e) each enumerator immediately upon his having taken the oath of office shall compile a list of the persons qualified as electors for the polling subdivision at the election then pending, and the list shall

(i) contain the names of the electors

(A) geographically arranged by streets, roads and avenues and by apartment or unit numbers as in Form 9.1 where the polling subdivision is in a city constituency, or

(B) alphabetically arranged according to the first letter of the surname as in Form 9 in all other cases,

and

(ii) give both the mailing address and residence of each elector, including the number of his suite or room where appropriate,

7. *The following section is added after section 15:*

15.1. (1) The Chief Electoral Officer shall procure a supply of enumerators' badges in sufficient quantity to provide one badge for each enumerator.

(2) The badges

(a) shall be of such material and design as the Chief Electoral Officer may prescribe,

(b) shall be numbered serially, and

(c) shall bear on them the words "Province of Alberta Enumerator" and the serial number thereof.

(3) Prior to the 15th day of August in the second calendar year following the year in which the last general election was held, and prior to the 15th day of August in each succeeding year if no general election is held in the interim, the Chief Electoral Officer shall ensure that each returning officer has a sufficient supply of badges for each enumerator within the electoral division for which he was appointed.

(4) Whenever the returning officer appoints an enumerator for any polling subdivision, he shall furnish the enumerator with one badge and shall keep an accurate record of every badge so furnished.

(5) Every enumerator shall immediately upon the termination of his duties return the badge to the returning officer.

(6) The returning officer shall as soon as possible after polling day return to the clerk all the badges that have been returned to the returning officer together with all the other badges furnished to him by the Chief Electoral Officer and, where any such badge is not returned, the returning officer shall notify the Chief Electoral Officer and forward such information concerning the badge as the Chief Electoral Officer may require.

8. *Section 17 is amended by striking out subsection (4) and by substituting therefor the following subsection:*

(4) Notwithstanding anything in this Act, an elector who between

(a) the day he was enumerated, and

(b) the time fixed for the closing of the revision of the list of electors,

changes his ordinary place of residence from one polling subdivision to another in the same or another electoral division may apply to the returning officer, during the sittings for revision, to

7. Enumerators' badges. This section is based on the present section 10 of the Act.

8. Section 17(4) presently reads:

(4) Notwithstanding any thing in this Act, at the time of a general election only, any elector who between

(a) the day on which the writ was issued, and

(b) the time fixed for the closing of the revision of the list of electors,

changes his ordinary place of residence from one polling subdivision to another in the same or another electoral division may apply to the returning officer, during the sittings for revision, to have his name included in the list of electors for the polling subdivision in which he is ordinarily resident at the time of application, and upon his name being included in that list he is entitled to vote in that polling subdivision of that electoral district.

have his name included in the list of electors for the polling subdivision in which he is ordinarily resident at the time of the application, and upon his name being included in that list he is entitled to vote in that polling subdivision of that electoral district.

9. *The following section is added after section 20:*

20.1. (1) The Chief Electoral Officer shall, not later than November 30 in each enumeration year, provide to each returning officer a list containing the names and addresses of each registered party under *The Election Finances and Contributions Disclosure Act* of record on November 1 of that year and the name and address of each member of the Legislative Assembly who is not a member of a registered party.

(2) Not later than February 1 of the year following a general enumeration, each returning officer shall furnish free of charge 10 copies of the list certified by him pursuant to section 23.1 to each registered party under *The Election Finances and Contributions Disclosure Act* and one copy to each member of the Legislative Assembly who is not a member of a registered party in accordance with the list provided to him by the Chief Electoral Officer.

10. *The following section is added after section 23:*

23.1. (1) On each weekday during the month of October in an enumeration year the returning officer for each electoral division shall attend at the place designated in the notice attached to the list of voters posted by the enumerators for their respective electoral subdivisions for the purpose of hearing and disposing of applications for revision of the list.

(2) At 4:00 p.m. on the last weekday in October or so soon after that hour as all applications of persons present at that hour have been disposed of and the copy of the list supplied to him has been revised and corrected, the returning officer shall subscribe to and attach at the foot of the list close to the last name thereon a certificate in Form 13, and thereafter, subject to section 24, he shall make no change in the list except to note the granting of certificates of qualification.

11. *Section 24 is amended*

(a) *by striking out subsection (1) and by substituting therefor the following subsections:*

24. (1) Immediately upon receipt of a writ of election by him the returning officer shall cause a copy of the last list of voters revised pursuant to section 23.1 to be posted in each polling subdivision to which it relates,

9. Copies of general enumeration lists.

10. This amendment will provide for a month-long revision period every enumeration year.

11. This amendment will vary the present five day revision period at an election. Section 24 presently reads:

24. (1) The returning officer shall, on the first four of the days designated in the notice attached to the list posted up by the enumerator and at the time and place designated in the said notice, attend for the purpose of hearing and disposing of applications for the revision of the list.

together with a notice attached to the list designating a time and place for hearing and disposing of applications for a further revision of the list.

(1.1) The period for further revision of the list pursuant to subsection (1) shall commence four clear days after the issue of the writ of election and continue each day except Sunday concluding three clear days prior to the first day upon which voting may commence at advance polling places.

- (b) *as to subsection (2) by striking out the word “fourth” and by substituting therefor the word “second-last”, and*
- (c) *as to subsection (3) by striking out the word “fifth” and by substituting therefor the word “last”.*

12. *Section 63 is amended*

- (a) *as to subsection (9) by striking out the words “, third, fourth and fifth” and by substituting therefor the words “and third”, and*
- (b) *as to subsection (10) by striking out the word “fifth” and by substituting therefor the word “third”.*

13. *The following heading and section are added after section 65:*

Incapacitated Voter Polls

65.1. (1) An elector who is unable because of physical incapacity to go in person to the polling place at which he is entitled to vote at an election or to an advance poll may vote in accordance with the Voting Rules for Incapacitated Voters set out in the Seventh Schedule.

(2) The returning officer shall, the day following nomination day, provide to each candidate or his agent a list of the persons who have successfully applied to vote pursuant to the Seventh Schedule.

(2) At four o'clock in the afternoon of the fourth day so designated or so soon after that hour as all applications of persons present at such hour have been disposed of and the copy of the list supplied to him has been revised and corrected, the returning officer shall subscribe to and attach at the foot thereof close to the last name thereon a certificate in Form 13, and thereafter he shall make no change in the list except to note the granting of certificates as hereinafter provided.

(3) On the fifth of the days and at the time and place designated in the notice attached to the list posted up, the returning officer shall attend for the purpose of answering inquiries, granting certificates and having the list accessible to all persons who may apply to see it or take extracts therefrom.

12. This amendment will bring the subsections into conformity with subsection (3) which was amended in 1975 to reduce the length of the advance poll from five days to three days. Section 63(9) and (10) presently read:

(9) No seals placed on the ballot box shall be removed between the opening of the advance polling and the time fixed for the closing of the polls on election day, except only at the opening of the advance poll on the second, third, fourth and fifth days' voting, and then only those seals shall be removed as may be necessary to permit the insertion of ballot papers in the ballot box.

(10) At the close of the advance poll on the fifth day

(a) the deputy returning officer and the poll clerk shall and the candidate or agent of a candidate present who desires to may seal the ballot box in such a manner that it cannot be opened nor ballot papers deposited in it without breaking the seals, and

(b) the deputy returning officer shall take charge of and safely keep the ballot box until the close of poll on election day when he and the poll clerk shall proceed as directed by section 96.

13. This amendment will permit electors who, because of physical handicap, are unable to attend a polling place or advance poll to vote by mail in accordance with new rules being promulgated in section 17 of this Bill.

14. Section 83, subsection (1) is amended by striking out the word “The” and by substituting therefor the words “Except in the case of persons voting pursuant to the provisions of the Seventh Schedule, the”.

15. Section 84 is amended

(a) by striking out the word “hospital” wherever it appears in subsections (1), (2) and (3) and by substituting therefor the words “treatment centre”, and

(b) by striking out subsection (4) and by substituting therefor the following subsection:

*(4) In this section and the Sixth Schedule “treatment centre” includes a hospital, a sanatorium, a home or unit under *The Senior Citizens Housing Act* and a facility under *The Mental Health Act, 1972*.*

16. Section 158 is amended by striking out subsection (1).

17. Section 161 is amended by striking out subsection (1) and by substituting therefor the following subsection:

161. (1) A detailed statement of all election expenses incurred by or on behalf of a candidate including personal expenses under section 158 shall, within six months after polling day, be made out in Form 48, signed by the chief financial officer of the candidate or by the official agent of any candidate other than a registered candidate under *The Election Finances and Contributions Disclosure Act* and delivered to the returning officer together with the bills and vouchers relating thereto.

14. Section 83(1) presently reads:

83. (1) The deputy returning officer on the application of any voter who is unable to read or who is incapacitated from any physical cause other than blindness from voting in the manner prescribed by this Act

(a) shall require the voter making such application to take before him the oath in Form 33,

(b) shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the poll clerk and of the agents of the candidates in the polling place and of no other person, and

(c) shall place the ballot paper so marked in the ballot box.

15. This amendment will correct an anomaly with the Sixth Schedule.

16. Section 158(1) presently reads:

158. (1) No payment other than those relating to the personal expenses of a candidate and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election on account of the election otherwise than through his official agent.

These matters are now included in The Election Finances and Contributions Disclosure Act.

17. This amendment will provide a similar time limit to that required in Bill 24. Section 161(1) presently reads:

161. (1) A detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall

(a) within two months after the polling day, or

(b) where by reason of the death of the creditor no claim has been sent in within such period of two months, then within one month after the claim has been sent in,

be made out in Form 48 and signed by the official agent who has made the payment, or by the candidate in case of payments made by him, and delivered to the returning officer together with the bills and vouchers relating thereto.

18. *The First Schedule is amended*

(a) *as to Form 1*

(i) *by striking out the words* “Whereas, by advice of Our Executive Council of Our Province of Alberta, We have ordered a Legislature to be holden at Our City of Edmonton on the day of next (*omit this preamble in case of a by-election*):”

(ii) *by striking out the words*

“In testimony whereof We have caused these Our letters to be made patent and the Great Seal of Our Province of Alberta to be hereunto affixed.

Witness Our trusty and well beloved counsellor, Lieutenant Governor of Our Province of Alberta at Our City of Edmonton, this day of in the year of Our reign and the year of Our Lord 19

and by substituting therefor the words

“Dated at the City of Edmonton in the Province of Alberta this day of, 19

(b) *by striking out Form 2 and by substituting therefor the following form:*

18. Consequential amendments to forms.

FORM 2
(Section 9)

LIST OF FORMS AND MATERIAL TO BE SENT TO THE RETURNING
OFFICER AFTER THE ISSUE OF A WRIT OF ELECTION

Number or Quantity	No. of Form	Section of Act	Description
1	2	9	List of Forms and Election Material sent to R.O. immediately after issue of Writ.
1	3	11	Oath of R.O.
1	4	13	Form of Proclamation.
1	5	14	Commission of Election Clerk.
1	6	14	Oath of Election Clerk.
Sufficient supply	9	15	List of Electors.
Sufficient supply	14	64	Advance Poll Certificate — only Electoral Divisions where advance polls.
3	16	34	Nomination Paper.
1	17	39	Returning Officer's Return, where acclamation.
1 for each poll	18	42	Form Election Notice.
1 for each poll	19	45	Commission of Deputy Returning Officer.
1 for each poll	20	45	Deputy Returning Officer's Oath of Office.
1	28	59	Affidavit of Printer.
Sufficient supply	29.1	Seventh Schedule	Application to vote by mail.
Sufficient supply	33	83	Form of Oath of Inability to read.
Sufficient supply	34	83	Form of Oath of Friend of Blind voter.
2	42	101 & 103	General Statement of Returning Officer.
1 for each candidate	43	101	Returning Officer's Certificate of the result of the Poll.
2	44	103	Statement by Returning Officer of the Result of the Poll.
2	45	103	Returning Officer's return after a poll has been taken.
1	46	103	Oath of Returning Officer after transmitting his return.
Sufficient supply	47	68 & 121	Oath of Secrecy.

Number or Quantity	No. of Form	Section of Act	Description
2 for each poll	DPC 19B	. .	Expense Vouchers.
Sufficient supply	48.1	Seventh Schedule	Mail ballots.
Sufficient supply	48.2	Seventh Schedule	Mail ballot envelopes.
Sufficient supply	48.3	Seventh Schedule	Certificate envelopes.
Sufficient supply	48.5	Seventh Schedule	Directions for guidance of incapacitated voters.
2		. .	Bibles for Administering Oaths.
Sufficient supply	49	Fifth Schedule	Directions for guidance of absentee student voters.
Sufficient supply	50	Fifth Schedule	Absentee student voter ballots.
Sufficient supply	51	Fifth Schedule	Declaration of absentee student voter.
Sufficient supply	52	Fifth Schedule	Declaration of wife of absentee student voter.

(c) as to Form 4 by striking out the words "Tuesday, Wednesday,"

(d) as to Form 7 by striking out the words "at the election to be held on the day of, 19,",

(e) as to Form 10 by striking out the words "for use in the election of a member of the Legislative Assembly of Alberta for the said electoral division now pending",

(f) as to Form 12 by striking out the words "the last five consecutive week days next before polling day" and by substituting therefor the words "each weekday in October (or as the case may be)",

(g) by adding after Form 29 the following form:

FORM 29.1
(Seventh Schedule)

APPLICATION TO VOTE UNDER SECTION 65.1

PART I

To the Returning Officer
Electoral Division of

.....
(address)

I,, the undersigned person
(name of applicant)
being a qualified voter under *The Election Act* and entitled to vote in polling Subdivision No. in the above-mentioned electoral division, hereby apply to you to vote at the election now pending as provided in section 65.1 of the Act. I claim to be entitled to vote under section 65.1 because I am unable to attend in person at the polling place in the polling subdivision or at an advance poll, by reason of my physical incapacity.

Dated this day of, 19.....

.....
(Signature of applicant)

.....
(Address of applicant)

PART II

I, the undersigned person
(name of second person)
residing in polling subdivision No. in the above-mentioned electoral division, do hereby certify that the person named in Part I is personally known to me, that he resides in the said polling subdivision, and that he is unable to attend at the polling place in the polling subdivision or at an advance poll by reason of physical incapacity.

Dated this day of, 19.....

.....
(Signature of second person)

(h) as to Form 48 by striking out the words "(Official Agent or Candidate)" and by substituting therefor the words "(Chief Financial Officer or Official Agent)", and

(i) by adding after Form 48 the following forms:

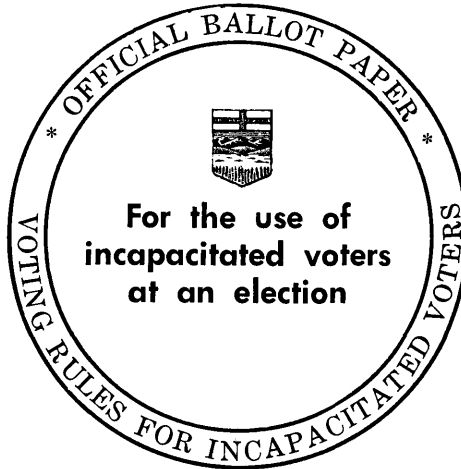
FORM 48.1
(Seventh Schedule)
FORM OF BALLOT PAPER
(Front)

THE ELECTOR WILL WRITE HEREUNDER
THE NAME AND SURNAME OR POLITICAL
AFFILIATION OF THE CANDIDATE FOR
WHOM HE WISHES TO VOTE

I VOTE FOR
*(Write as above directed—
Surname last)*

(Back)

No.
No.
No. of Vote in Poll Book
D.R.O. Initials



**SUPPLIED BY THE CHIEF
ELECTORAL OFFICER**

FORM 48.2
(Seventh Schedule)

VOTING BY INCAPACITATED VOTER
FORM OF BALLOT ENVELOPE
BALLOT ENVELOPE FOR BALLOT CAST BY
INCAPACITATED VOTER

Electoral Division of

The voter shall mark the ballot paper by writing in the space provided the name or the political affiliation of the candidate for whom he intends to vote. He shall then insert the marked ballot in this envelope and fill in the name of the electoral division in the proper place.

FORM 48.3
(Seventh Schedule)

FORM OF CERTIFICATE ENVELOPE

Certificate Envelope

Electoral Division of

Polling Subdivision No.

Insert the ballot envelope (Form 48.2) in this envelope and seal this envelope. The voter shall then complete the following certificate:

FIRST CERTIFICATE

I, of
(name of voter) *(address of voter)*

do hereby certify that I applied to vote under section 65.1 of *The Election Act*, because I am unable to go in person to the polling place or to an advance poll by reason of my physical incapacity and that enclosed in this envelope is a ballot envelope which contains the ballot received by me and marked by me.

Dated this day of, 19.....

.....
(Signature of voter)

The voter shall then have another person, who resides in the same polling subdivision and is entitled to vote thereat, complete the following certificate.

SECOND CERTIFICATE

I, , the undersigned person,
(name of person)
residing in polling subdivision No. in the above
mentioned constituency, do hereby certify that I am a
duly qualified voter under The Election Act, entitled to
vote at the above-mentioned polling subdivision, and I fur-
ther certify that to the best of my knowledge and belief
the person named in the First Certificate is a duly quali-
fied voter under the Act but is unable to go to the polling
place or to the advance poll in person by reason of his
physical incapacity.

Dated this day of, 19.....
(Signature of second person)

FORM 48.4
(Seventh Schedule)

FORM OF OUTER ENVELOPE

To the Returning Officer

Electoral Division of
(Name of electoral division)
(Address of returning officer)

FORM 48.5
(Seventh Schedule)

DIRECTIONS FOR THE GUIDANCE OF
INCAPACITATED VOTERS

- 1. With a pen or pencil of any colour, mark the ballot
paper by writing in the space provided the name or
political affiliation of the candidate for whom you
intend to vote.
2. After marking the ballot paper, fold the ballot paper
across twice right to left without overlapping the coun-
terfoil by
(a) folding inwards, from right to left, one-third of the
ballot paper, and
(b) folding the folded edge, from right to left, to the
edge of the counterfoil,
so that the name of the candidate or the political affili-
ation of the candidate for whom you have voted is
concealed.

3. After folding the ballot paper in the prescribed manner
 - (a) place the marked ballot in the ballot envelope,
 - (b) seal the ballot envelope,
 - (c) place the ballot envelope in the certificate envelope, and
 - (d) seal the certificate envelope.
4. Complete and sign the First Certificate in Form 48.3 and obtain the signature to the Second Certificate thereof of another person who resides in and is entitled to vote in your same polling subdivision.
5. Enclose the certificate envelope in an outer envelope and seal the outer envelope.
6. Mail the outer envelope containing the ballot and other envelopes or have it delivered to the returning officer not later than the close of the polls on the day on which polling takes place at the election.

FORM 48.6
(Seventh Schedule)

STATEMENT OF BALLOTS MAILED OR DELIVERED
TO THE RETURNING OFFICER ELECTORAL DIVISION OF

(name of electoral division)

To be completed by the Returning Officer following the count of ballots cast by physically incapacitated voters.

.....
.....

I. Total number of incapacitated voters who submitted an application to vote by mail

II. Total number of incapacitated voters to whom a ballot paper was forwarded

.....
.....

III. Number of incapacitated voters appearing in Poll Book as having voted

.....
.....

IV. Number of ballots cast for each candidate:

	<i>Name of candidate</i>	<i>No. of votes</i>
1)		
2)		
3)		
4)		

Total

V. Number of spoiled ballots

Total number of ballots received by returning officer

Note: This total must agree with item III.

I hereby certify that the above statement is correct.

Dated at this
day of, 19.....

.....
(Returning Officer)

19. *The Third Schedule is amended*

- (a) *as to Rule 7 by striking out the words "before nomination day" and by substituting therefor the words "in September", and*
- (b) *as to Rule 8 by striking out the words "the last five consecutive week days next before the polling day" and by substituting therefor the words "each weekday in October".*

19. Consequential amendments. Rules 7 and 8 presently read:

Rule 7. On the last weekday before nomination day, each pair of enumerators

- (a) shall prepare a complete list of the names in alphabetical order, residences and mailing addresses of the persons who are qualified as electors in the polling subdivision for which they have been appointed,*
- (b) shall sign and date such list,*
- (c) shall deliver or transmit to the returning officer who appointed them at least two plainly written or typewritten copies of the preliminary list of electors for the polling subdivision for which they were appointed, each severally certified to by both enumerators in Form 10 in the First Schedule, together with their record books containing the carbon copies of the notices in Form 11 in the First Schedule, and*
- (d) shall post up or cause to be posted up one copy of the list in a conspicuous place within their polling subdivision to which the public has access.*

Rule 8. The enumerators shall attach to the copy posted up by them a notice in Form 12 in the First Schedule, signed by them, designating the place where electors may find the returning officer, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon during the last five consecutive week days next before the polling day.

20. *The following Schedule is added after the Sixth Schedule:*

SEVENTH SCHEDULE

VOTING RULES FOR INCAPACITATED VOTERS

1. In these Rules,

- (a) “applicant” means a person who applies under this section to vote by mail at an election;
- (b) “voter” means an applicant who has satisfied the returning officer or election clerk that he is entitled to vote by mail pursuant to this section.

2. (1) Any person who is a qualified elector and who is unable because of physical incapacity to go in person to the polling place at which he is entitled to vote at an election or to an advance poll may make an application to vote in the manner prescribed by this section.

(2) An application under subsection (1) shall be in Form 29.1.

(3) The applicant shall complete and sign Part I of Form 29.1 and shall obtain the signature to Part II thereof, of another person who resides in and is entitled to vote at the election in the same polling subdivision as the applicant.

(4) Form 29.1, completed in accordance with subsection (3), shall be mailed or delivered not less than 12 clear days before polling day, to the returning officer of the electoral division in which the applicant is entitled to vote.

3. Where the returning officer or election clerk in the electoral division is satisfied that the applicant is entitled to vote at the election and is unable by reason of his physical incapacity to attend in person at the polling place or at an advance poll, the returning officer or election clerk shall, by ordinary mail or personal delivery, send or deliver or cause to be sent or delivered to the voter

- (a) a ballot in Form 48.1 initialled by the returning officer or election clerk,
- (b) a ballot envelope with instructions printed thereon in Form 48.2,
- (c) a certificate envelope with certificates of identification and instructions printed thereon in Form 48.3,

20. This amendment will establish rules whereby incapacitated persons may vote by mail.

- (d) an outer envelope with the address of the returning officer printed thereon in Form 48.4, and
- (e) instructions on voting by mail in Form 48.5,

and those items shall be mailed or delivered to the residence of the voter not later than seven clear days before polling day and the name of the voter shall be struck from the list of electors for the polling division at which the voter was entitled to vote.

4. (1) A voter who receives the items listed in Rule 3 shall, with a pen or pencil of any colour, mark the ballot paper by writing in the space provided the name or the political affiliation of the candidate for whom he intends to vote.

(2) The voter shall, after marking the ballot paper, fold the ballot paper across twice right to left without overlapping the counterfoil by

- (a) folding inwards, from right to left, one-third of the ballot paper, and
- (b) folding the folded edge, from right to left, to the edge of the counterfoil,

so that the name of the candidate or the political affiliation of the candidate for whom he has voted is concealed.

(3) The voter shall

- (a) place the marked ballot in the ballot envelope,
- (b) seal the ballot envelope,
- (c) place the ballot envelope in the certificate envelope, and
- (d) seal the certificate envelope.

(4) The voter shall complete and sign the First Certificate in Form 48.3 and shall obtain the signature to the Second Certificate thereof of another person who resides in and is entitled to vote in the same polling subdivision as the voter.

(5) The certificate envelope shall then be enclosed in an outer envelope and the outer envelope shall be sealed, and the outer envelope containing the ballot and other envelopes shall be mailed or delivered to the returning officer not later than the close of the polls on the day on which polling takes place at the election.

5. The returning officer or election clerk for a constituency shall keep a record in a separate poll book of the name of each voter entitled to vote under section 65.1, the polling subdivision in which the voter resides and of the receipt of the outer envelope with the contents described in Rule 4.

6. When the returning officer or the election clerk receives the outer envelope containing the certificate envelope, the ballot envelope and the ballot, he shall remove the certificate envelope from the outer envelope and

- (a) if he is satisfied from an examination of the voter's application and the certificates on the certificate envelope as to the identity of the voter whose ballot is enclosed, he shall
 - (i) open the certificate envelope and remove the ballot envelope and place the ballot envelope unopened in a ballot box maintained by the returning officer for the purpose, and
 - (ii) retain the certificate envelope and send it to the Chief Electoral Officer along with election documents as provided in section 103, or
- (b) if he is not satisfied with the identification of the voter after the examination of the documents mentioned in clause (a), he shall retain the certificate envelope unopened and treat the ballot in that envelope as a rejected ballot.

7. (1) At the close of voting on polling day the returning officer shall

- (a) keep in his possession the ballot box in which ballot envelopes have been placed pursuant to Rule 6, clause (a) and shall take every precaution for the safe-keeping of the ballot box and for preventing any person other than himself and the election clerk from having access to it, and
- (b) subject to Rule 6, place in the ballot box any ballot envelope received by him by mail during the period commencing with the close of voting on polling day and ending at 12:00 noon on the fifth day following polling day if the outer envelope in which the ballot envelope was contained has clearly and legibly stamped thereon the postmaster's stamp showing the outer envelope to

have been mailed prior to the close of voting on polling day.

(2) At 12:00 noon on the fifth day following polling day the returning officer, in the presence of any candidate in the constituency or his representative that is present, shall break the seal of the ballot box containing the ballot envelopes placed in the box pursuant to Rules 6 and 7, open the ballot envelopes and count the ballots cast for each candidate.

8. After completing the count of ballots cast by mail under this section the returning officer shall make the appropriate entries in the returning officer's statement.

21. (1) The words "Clerk of the Legislative Assembly" are struck out wherever they appear in the following provisions and the words "Chief Electoral Officer" are substituted therefor:

section 2, clause 21;
section 3, subsection (3), clause (d);
section 4, subsection (2);
section 9, subsections (1) and (2);
section 13, subsection (6);
section 14, subsection (3);
section 29, subsections (1), (2) and (5);
section 30, subsections (2) and (3);
section 35, subsection (4);
section 39, clauses (b) and (c);
section 43, subsection (4);
section 44, subsection (3);
section 55, subsection (2);
section 58, subsection (1);
section 59, subsection (8);
section 61, subsections (1) and (2);
section 103, subsections (1), (2), (3), (5) and (6);
section 105, subsection (6);
section 109;
section 110, subsections (1) and (2);
section 111, subsections (1) and (2);
section 161, subsection (3);
section 162, subsections (3) and (4);
First Schedule, Forms 1 and 46;
Sixth Schedule, Rule 1.

(2) The word "Clerk" is struck out wherever it appears in the following provisions and the words "Chief Electoral Officer" are substituted therefor:

section 9, subsection (1);
Fifth Schedule, Rule 4, subrules (1) and (2),
Rule 5, subrules (1) and (2),
Rule 6, subrules (1) and (2) and
Rule 20, subrule (2), clause (a);
Sixth Schedule, Rule 1.

21. Consequential amendments.

(3) Section 3, subsection (5) is amended by striking out the words "Clerk of the Assembly" and by substituting therefor the words "Chief Electoral Officer".

(4) The First Schedule is amended as to Form 1 by striking out the words "Clerk of the Legislative Assembly" and by substituting therefor the words "Chief Electoral Officer".

(5) The First Schedule is amended as to Forms 46 and 50 by striking out the words "CLERK OF THE LEGISLATIVE ASSEMBLY" and by substituting therefor the words "CHIEF ELECTORAL OFFICER".

(6) The Fifth Schedule is amended as to Rule 2 by striking out clause (b).

22. The Controverted Elections Act is amended by striking out the words "Clerk of the Legislative Assembly" wherever they appear in the following provisions and by substituting therefor the words "Chief Electoral Officer":

section 21, subsections (2), (3) and (4);
section 24, subsection (2);
section 30, subsection (1).

23. The Electoral Boundaries Commission Act is amended as to section 3 by striking out clause (e) and by substituting therefor the following clause:

(e) the Chief Electoral Officer,

24. The Public Service Act is amended as to section 3, subsection (2) by adding after the words "Provincial Auditor" the words "Chief Electoral Officer".

22. Consequential amendments.

23. Consequential amendment. Section 3 presently reads:

3. The Lieutenant Governor in Council shall, from time to time as required by this Act, appoint an Electoral Boundary Commission consisting of

- (a) a judge or retired judge of the Supreme Court or a district court, to be chosen by the Lieutenant Governor in Council,*
- (b) one person (not a member of the Assembly or an employee of the Government) nominated by the Speaker of the Assembly after consultation with the President of the Executive Council and the Leader of Her Majesty's loyal opposition,*
- (c) two members of the Assembly nominated by the Leader of Her Majesty's loyal opposition, to be chosen one from the Leader of the opposition's party and, where possible, one from the next largest opposition party in the Assembly,*
- (d) two members of the Assembly chosen from the Government party by the Lieutenant Governor in Council, and*
- (e) the Clerk of the Legislative Assembly,*

one of whom shall be appointed chairman.

24. Section 3(2) presently reads:

- (2) The Provincial Auditor and the Ombudsman*

25. Notwithstanding anything contained in this Act, the first general enumeration under The Election Act made after the commencement of this section shall be held in 1978.

26. This Act comes into force on a day or days to be fixed by Proclamation.

- (a) shall be considered as employees for the purposes of this Act except for their appointment, salary and tenure or any other conditions prescribed by the Act under which they are appointed, and*
- (b) have the powers and authority of a department head and a deputy head for the purposes of this Act in respect of the employees under their supervision.*

25. Transitional provision.