

1998 BILL 48

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Second Session, 24th Legislature, 47 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 48**

**ELECTION AMENDMENT ACT, 1998**

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MR. McFARLAND

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 48  
Mr. McFarland

## BILL 48

1998

### ELECTION AMENDMENT ACT, 1998

(Assented to \_\_\_\_\_, 1998)

WHEREAS Canada is founded on principles that recognize the supremacy of the rule of law and the value of a parliamentary system of government featuring representatives freely chosen by the people in a democratic election and responsible to them and an electorate aware of the importance of participating in the electoral process; and

WHEREAS the Legislative Assembly of Alberta wishes to promote recognition of those principles among Albertans to the fullest extent possible; and

WHEREAS the Legislative Assembly of Alberta believes that, with a few exceptions, denying the right to vote to those whose disrespect for the rule of law has caused them to be imprisoned at the time of an election under the Election Act preserves the integrity of those principles and their recognition among Albertans:

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

Amends RSA  
1980 cE-2

**1 The *Election Act* is amended by this Act.**

**2 Section 1 is amended by adding the following after subsection (2):**

(3) An inmate's ordinary residence is deemed to be the ordinary residence of the inmate prior to being incarcerated.

## Explanatory Notes

**1** Amends chapter E-2 of the Revised Statutes of Alberta 1980.

**2** Section 1(2) presently reads:

*(2) Subject to section 118, for the purposes of this Act, ordinary residence is determined in accordance with the following rules:*

*(a) a person can have only one place of ordinary residence;*

*(b) a person's ordinary residence is the place where he lives and sleeps and to which, when he is absent from it, he intends to return;*

*(c) a student who*

**3 Section 28(2) is amended by striking out** “whose name is included on the list of electors pursuant to this section or section 34”.

**4 Section 40 is repealed and the following is substituted:**

Persons  
eligible to vote

**40** Subject to section 41, a person is eligible to vote at an election if that person is an elector and ordinarily resident on polling day in the polling subdivision in which the person seeks to vote, and

- (a) that person’s name appears on the list of electors for the polling subdivision,
- (b) that person is sworn in under section 91, or
- (c) that person’s name has been entered in the Special Ballot Poll Book and the person has properly completed part 1 of the certificate referred to in section 115(2)(d).

**5 Section 41(d) is repealed and the following is substituted:**

- (d) persons who have been convicted of offences and on polling day are serving their sentences in a correctional institution under the *Corrections Act*, in a penitentiary under the *Corrections and Conditional Release Act* (Canada), in a place of custody under the *Young Offenders Act* or the *Young Offenders Act* (Canada) or in any other similar institution outside Alberta, excluding persons sentenced to terms of imprisonment of 10 days or less or for the non-payment of fines.

- (i) *is in attendance at an educational institution within or outside Alberta,*
- (ii) *temporarily rents accommodation for the purpose of attending an educational institution, and*
- (iii) *has family members who are ordinarily resident in Alberta and with whom he ordinarily resides when not in attendance at an educational institution*  
*is deemed to reside with those family members;*
- (d) *when a person leaves Alberta with the intention of becoming ordinarily resident outside Alberta, his ordinary residence in Alberta ceases.*

**3** Section 28(2) presently reads:

*(2) An elector ordinarily resident in a designated remote area whose name is included on the list of electors pursuant to this section or section 34 is eligible to vote by Special Ballot.*

**4** Section 40 presently reads:

*40 Subject to section 41, a person is eligible to vote at an election if that person*

- (a) *is an elector and ordinarily resident on polling day in the polling subdivision in which he seeks to vote, and*
- (b) *his name appears on the list of electors for the polling subdivision or he is sworn in under section 91.*

**5** Section 41 presently reads:

*41 The following persons are not eligible to vote at an election:*

- (a) *returning officers, except to break a tie at the official count or judicial recount;*
- (c) *persons disqualified from voting under this Act;*
- (d) *persons who have been convicted of an offence and as a result of that conviction are, on polling day,*
  - (i) *inmates of a correctional institution under the Corrections Act or a penitentiary under the*

**6 Section 113 is amended**

**(a) in subsection (1) by striking out** “whose name is included on the list of electors for the polling subdivision in which he ordinarily resides and”;

**(b) in subsection (1) by repealing clause (c) and substituting the following:**

(c) being an inmate, other than an inmate described in section 41(d),

**(c) by repealing subsection (3) and substituting the following:**

(3) On receipt of an application under this section the returning officer or election clerk shall

(a) enter in the Special Ballot Poll Book

(i) the elector’s name and where the elector is ordinarily resident, and

(ii) the name and number of the polling subdivision in which the elector resides,

and

(b) cause the appropriate forms to be provided to the applicant.

*Corrections and Conditional Release Act (Canada) as a result of being sentenced to a term of imprisonment, other than inmates resident in facilities designated as community residential centres under this Act by an order of the Minister of Justice and Attorney General, or*

*(ii) inmates of a correctional institution under the Corrections Act awaiting sentencing for which a term of imprisonment may be imposed.*

**6** Section 113 presently reads:

*113(1) An elector whose name is included on the list of electors for the polling subdivision in which he ordinarily resides and who is unable to vote at an advance poll or at the poll on polling day on account of*

- (a) physical incapacity,*
- (b) absence from the electoral division,*
- (c) being an inmate, other than an inmate referred to in section 41(d), of a correctional institution under the Corrections Act,*
- (d) being a supervisory deputy returning officer, deputy returning officer, poll clerk, interpreter, special constable, candidate, official agent or scrutineer who may be located on polling day at a polling place in a polling subdivision within the electoral division other than that in which he is ordinarily resident,*
- (e) being a resident of a remote area designated under section 28, or*
- (f) any other circumstances prescribed by the Chief Electoral Officer,*

*may apply to vote by Special Ballot.*

*(2) An application for a Special Ballot may be made*

- (a) in writing,*
- (b) by telephone,*
- (c) by telecopier, or*
- (d) in person,*

*by an elector to the returning officer of the elector's electoral division at any time between the issue of the writ and the closing of polls on polling day.*

*(3) On receipt of an application under this section the returning officer or election clerk shall*

**7 Section 115 is amended**

**(a) by repealing subsection (4.1)(a)(ii) and (iii) and substituting the following:**

(ii) if the voter's name appears on the list of electors for the polling subdivision in which the voter is entitled to vote, enter opposite the name of that person on the list of electors the word "Special",

(iii) if the voter's name does not appear on the list of electors for the polling subdivision in which the voter is entitled to vote, enter the voter's name on the list of electors and, opposite the name, the word "Special",

**(b) by repealing subsection (5) and substituting the following:**

(5) At the close of the polling place on polling day, the returning officer shall deliver the Special Ballot ballot box to the deputy returning officer and poll clerk of an advance poll in the electoral division and advise them of the names of the electors for their respective subdivisions who have so voted, and the deputy returning officer and poll clerk shall proceed in accordance with section 110 as if the ballot box were from an advance poll.



- (a) *ensure that the applicant's name is on a list of electors for the electoral division,*
- (b) *enter in the Special Ballot Poll Book*
  - (i) *the elector's name and address, and*
  - (ii) *the name and number of the polling subdivision in which the elector resides*
- and*
- (c) *cause the appropriate forms to be provided to the applicant.*

**7** Section 115(4.1) and (5) presently read:

*(4.1) On determining that the voter is recorded in the Special Ballot Poll Book and that part 1 of the certificate is completed, the returning officer or election clerk, as the case may be, shall,*

- (a) *if he is satisfied as to the voter's eligibility to vote,*
  - (i) *sign part 2 of the certificate,*
  - (ii) *strike the voter's name from the list of electors for the polling subdivision in which he is entitled to vote,*
  - (iii) *enter on the list of electors the word "Special" opposite the name of the voter,*
  - (iv) *record in the Special Ballot Poll Book in the appropriate column the date he received the certificate envelope,*
  - (v) *open the certificate envelope, remove the sealed ballot envelope and place the sealed ballot envelope in a sealed ballot box marked "Special Ballot",*
  - (vi) *enter in the Special Ballot Poll Book, in the appropriate columns, the word "voted" and the reason for using the Special Ballot, that is, physical incapacity, absence, inmate, election officer, candidate, official agent, scrutineer or remote area, and*
  - (vii) *retain the certificate envelope and forward it to the Chief Electoral Officer in accordance with section 140,*
- or*
- (b) *if he is not satisfied as to the voter's eligibility to vote,*
  - (i) *retain the certificate envelope unopened.*



*(ii) treat the ballot in the envelope as a rejected ballot,  
and*

*(iii) mark the certificate envelope accordingly.*

*(5) At the close of the polling place on polling day, the returning officer shall deliver the Special Ballot ballot box to the deputy returning officer and poll clerk of an advance poll in the electoral division, who shall proceed in accordance with section 110 as if the ballot box was from an advance poll.*