

This Act is Current to February 25, 2015

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **ELECTION ACT**

### **[RSBC 1996] CHAPTER 106**

## **Part 2 — Election and Other Officials**

### **Division 1 — Chief Electoral Officer**

#### **Appointment of chief electoral officer**

- 4** (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor must appoint as Chief Electoral Officer an individual who has been unanimously recommended for the appointment by a special Committee of the Legislative Assembly.
- (2) The chief electoral officer is an officer of the Legislature.

#### **Impartiality**

- 5** (1) Before beginning to perform the duties of office, the chief electoral officer must make a solemn declaration before the Clerk of the Legislative Assembly to faithfully and impartially exercise the powers and perform the duties of office.
- (2) The chief electoral officer is not entitled to vote in an election.
- (3) The chief electoral officer must not
- (a) hold another office or engage in other employment,
  - (b) be a member of, hold a position with or make a contribution to a registered political party, a registered constituency association or a political party or constituency association seeking registration, or
  - (c) in relation to the individual's candidacy, hold a position with or make a contribution to an individual who is, intends to be or was a candidate in an election.

#### **Term of office**

- 6** (1) The term of office for the chief electoral officer is from the date of appointment until 12 months after the date set for the return of the last writ for the second general election for which the chief electoral officer is responsible.
- (2) The chief electoral officer may be reappointed to further terms of office.

### **Remuneration and pension**

- 7** (1) The chief electoral officer
- (a) must be paid out of the consolidated revenue fund a salary equal to the salary paid to the chief judge of the Provincial Court of British Columbia, and
  - (b) must be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.
- (2) Subject to subsection (3), the Public Service Pension Plan, continued under the *Public Sector Pension Plans Act*, applies to the chief electoral officer.
- (3) When calculating the amount of a pension under the Public Service Pension Plan, each year of service as chief electoral officer must be counted as 1 1/2 years of pensionable service.
- (4) [Repealed 2003-62-1.]

### **Resignation, removal or suspension**

- 8** (1) The chief electoral officer may resign at any time by notifying the Speaker.
- (2) On the recommendation of the Legislative Assembly based on cause or incapacity, the Lieutenant Governor must, in accordance with the recommendation,
- (a) suspend the chief electoral officer, with or without salary, or
  - (b) remove the chief electoral officer from office.
- (3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the chief electoral officer, with or without salary, for cause or incapacity.
- (4) A suspension under subsection (3) ends not later than 30 sitting days of the Legislative Assembly after the suspension came into effect.

### **Acting chief electoral officer**

- 9** (1) On the recommendation of the Legislative Assembly in any of the following circumstances, the Lieutenant Governor must appoint an acting chief electoral officer:

- (a) the office of chief electoral officer is vacant;
- (b) the chief electoral officer appointed under section 4 is suspended;
- (c) the chief electoral officer appointed under section 4 is temporarily absent because of illness or another reason.

(2) The Lieutenant Governor in Council may appoint an acting chief electoral officer in any of the following circumstances:

- (a) the office of chief electoral officer is or becomes vacant when the Legislative Assembly is not sitting;
- (b) the chief electoral officer appointed under section 4 is suspended when the Legislative Assembly is not sitting;
- (c) the chief electoral officer is removed or suspended or the office of the chief electoral officer becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under subsection (1) or section 4 before the end of the session;
- (d) the chief electoral officer appointed under section 4 is temporarily absent because of illness or another reason.

(3) An acting chief electoral officer holds office until the earliest of the following:

- (a) a new chief electoral officer is appointed under section 4;
- (b) the suspension of the chief electoral officer ends;
- (c) the chief electoral officer returns to office after the temporary absence;
- (d) in the case of an acting chief electoral officer appointed under subsection (2), when an acting chief electoral officer is appointed under subsection (1);
- (e) at the end of 30 sitting days after the start of the next session of the Legislative Assembly.

(4) An individual may be reappointed as acting chief electoral officer in accordance with this section.

### **General staff of the chief electoral officer**

**10** (1) The chief electoral officer may appoint a deputy chief electoral officer and other employees necessary to enable the chief electoral officer to perform the duties of the office.

(2) The *Public Service Act* applies to appointments under subsection (1) and, for the purposes of that Act, the chief electoral officer is deemed to be a deputy minister.

(3) The chief electoral officer may also retain, on a temporary basis, other persons necessary to enable the chief electoral officer to perform the duties of the office in relation to short term administrative matters, including the preparation for and conduct of an election, enumeration or plebiscite.

(4) The *Public Service Act* does not apply to persons retained under subsection (3) and the chief electoral officer may establish their remuneration and the other terms and conditions of their retainers.

### **Expenses of administering Act**

**11** (1) All necessary expenses required for the administration of this Act must be paid out of the general fund of the consolidated revenue fund.

(2) The chief electoral officer must approve all amounts to be paid under the authority of this section, with this approval authority subject to any regulations of the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may make regulations for the purpose of subsection (2).

### **Duties and powers of the chief electoral officer**

**12** (1) The chief electoral officer has the following duties in addition to all others established by this Act:

- (a) to provide guidance and supervision respecting the voter registration process and the conduct of elections and plebiscites;
- (b) to ensure that all other officials appointed under this Act carry out their duties with fairness and impartiality;
- (c) to provide information to the public regarding the voter registration and other electoral processes under this Act.
- (d) to ensure that this Act is enforced.

(2) The chief electoral officer has the following powers in addition to all others given by this Act:

- (a) to make recommendations to the Legislative Assembly respecting amendments to this Act or other enactments affecting election matters;
- (b) to issue to persons appointed or retained under this Act any information and guidelines the chief electoral officer considers necessary to ensure effective implementation of this Act;
- (c) to require election officials and voter registration officials to follow the directions of the chief electoral officer regarding the performance of their duties and the exercise of their powers;

- (d) to assign duties and related powers under this Act to election officials and voter registration officials;
- (e) to delegate in writing to an individual appointed under section 10 (1), 18 (1) or (1.1) or 22 (1) the authority to exercise any power and perform any duty assigned to the chief electoral officer by this Act, other than the power to make regulations, subject to any limits or conditions imposed by the chief electoral officer;
- (f) to prepare directives and guidelines for registered political parties, registered constituency associations, candidates, financial agents and auditors respecting this Act.

(3) The deputy chief electoral officer may perform the duties and exercise the powers of the chief electoral officer, other than the power to make regulations.

## **Reports to the Legislative Assembly**

**13** (1) The chief electoral officer must present the following reports to the Speaker:

- (a) an annual report on the work done under the direction of the chief electoral officer;
- (b) after each election or plebiscite, a report respecting the proceedings, the results and the costs;
- (c) [Repealed 2003-96-14.]
- (d) any recommendation under section 12 (2) (a) respecting amendments to this Act or another enactment affecting election matters;
- (e) any report required under section 217, 221, 222 or 226 respecting a member of the Legislative Assembly who has failed to comply with Part 10.

(2) The chief electoral officer may present a special report to the Speaker if, in the chief electoral officer's opinion, the amounts and establishment for the office of the chief electoral officer permitted under section 11 (2), or the services provided by the BC Public Service Agency, are inadequate for fulfilling the duties of the office.

(3) The Speaker must lay a report of the chief electoral officer before the Legislative Assembly as soon as possible.

## **Division 2 — Election Advisory Committee**

### **Establishment of Election Advisory Committee**

**14** (1) The Election Advisory Committee is established, consisting of the following:

- (a) the chief electoral officer, as chair of the committee;
  - (b) 2 representatives appointed for each registered political party that is represented in the Legislative Assembly;
  - (c) one representative appointed for each registered political party that had candidates in at least 1/2 of all electoral districts at the immediately preceding general election and is not represented under paragraph (b).
- (2) A member of the Legislative Assembly is not eligible to be a member of the committee.
- (3) The appointment of a representative of a registered political party to the committee must be made in writing, signed by 2 principal officers of the political party and delivered to the chief electoral officer.
- (4) An appointment under subsection (3) may be rescinded in the same manner.
- (5) Unless earlier rescinded, an appointment under subsection (3) ends 30 days after the date set under section 26 (2) (c) for the return of the writs for the next general election.
- (6) Representatives appointed under subsection (3) must be reimbursed by the chief electoral officer for their reasonable travelling and out of pocket expenses necessarily incurred while discharging their duties.
- (7) An individual may be reappointed to the election advisory committee.

## **Meetings of committee**

- 15** (1) Meetings of the committee may be called at any time by the chief electoral officer.
- (2) If requested in writing by at least 1/3 of the members of the committee, the chief electoral officer must call a meeting of the committee as soon as reasonably possible.
- (3) The proceedings of the committee must be conducted in accordance with any applicable regulations.
- (4) The chief electoral officer must
- (a) ensure that the minutes of the committee are made public after each meeting of the committee, and
  - (b) include in the annual report under section 13 (1) (a) the minutes of the committee for meetings during the applicable year.

## **Role of committee**

- 16** (1) The role of the committee is to advise the chief electoral officer on the

functioning of this Act, particularly regarding the provisions of this Act that relate to the financing of the political process.

(2) The chief electoral officer must consult with the committee as follows:

- (a) periodically regarding the application of this Act;
- (b) before publishing a notice under section 3 respecting the application of an amendment to this Act;
- (c) before making a recommendation under section 12 (2) (a) respecting an amendment to this Act or another enactment;
- (d) [Repealed 2003-96-15.]
- (e) before making a regulation at any time other than during the election period for a general election.

(3) No recommendation or other decision of the committee is binding on the chief electoral officer.

### **Division 3 — Election Officials**

#### **Individuals prohibited from being appointed as election officials**

**17** The following individuals must not be appointed, accept appointment or act as an election official:

- (a) a member of the Legislative Assembly or of the Executive Council;
- (b) an individual who has served as a member of the Legislative Assembly in the session immediately before the election, or in the session then being held, if the election takes place during a session of the Legislature;
- (c) a member of the House of Commons of Canada, of the Senate of Canada or of Her Majesty's Privy Council of Canada;
- (d) a judge of the Court of Appeal, the Supreme Court or the Provincial Court;
- (e) a master, registrar, district registrar or deputy district registrar of the Supreme Court;
- (f) an individual who has been convicted of an offence under this Act or the *Recall and Initiative Act* within the period of 7 years immediately before the appointment;
- (g) an individual who is a candidate or a candidate representative.

#### **District electoral officers**

**18** (1) For each electoral district, the chief electoral officer must appoint

(a) a district electoral officer, who is to be responsible for the conduct of any election for the electoral district, and

(b) one or more deputy district electoral officers, who are to assist the district electoral officer.

(1.1) If an enactment establishes a new electoral district but the enactment does not come into force until a future time, the chief electoral officer may appoint a district electoral officer and one or more deputy district electoral officers for the future electoral district.

(2) If a district electoral officer is absent or unable to act, or if the office is vacant, the deputy district electoral officer must perform the duties and has the powers of the district electoral officer and, for these purposes, may appoint an individual to act as deputy district electoral officer for the period to which this applies.

(2.1) If more than one deputy district electoral officer is appointed for an electoral district, the chief electoral officer must designate which deputy district electoral officer is to act for the purposes of subsection (2).

(3) The term of appointment for a district electoral officer ends

(a) 6 months after general voting day for the first general election called after the appointment, or

(b) when the electoral district is disestablished,

whichever is earlier.

(4) As an exception to subsection (3), if an election for the electoral district is in progress at the end of the term of appointment for a district electoral officer, the chief electoral officer may extend the term of appointment for a specified period.

(5) The term of appointment for a deputy district electoral officer ends

(a) as specified by the chief electoral officer in the individual's appointment, or

(b) when the electoral district is disestablished,

whichever is earlier.

(6) An individual may be reappointed as a district electoral officer or deputy district electoral officer.

(7) A district electoral officer must not resign on less than 3 months' notice to the chief electoral officer, except with the consent of the chief electoral officer.

(8) A district electoral officer or deputy district electoral officer must not

(a) be a member of, be an employee of, hold a position with or make a contribution to a registered political party, a registered



constituency association or a political party or constituency association seeking registration, or

(b) in relation to the individual's candidacy, be an employee of, hold a position with or make a contribution to an individual who is, intends to be or was a candidate in an election.

(9) The chief electoral officer may rescind the appointment of a district electoral officer or deputy district electoral officer before what would otherwise be the end of the individual's term of appointment on any of the following grounds:

(a) that the official is incapable, by reason of illness or otherwise, of satisfactorily performing the individual's duties under this Act;

(b) that the official has not followed a direction of the chief electoral officer;

(c) that the official has failed to competently discharge a duty of office to the satisfaction of the chief electoral officer;

(d) that, in the opinion of the chief electoral officer, the official has acted in a politically partisan manner during the term of the individual's appointment, whether or not this was done in the course of performing the individual's duties under this Act.

### **Voting officers and other election officials and staff**

**19** (1) If an election is called for an electoral district, the district electoral officer must appoint

(a) sufficient voting officers for the purposes of section 88, and

(b) other election officials required to conduct the election proceedings.

(2) The district electoral officer may retain other persons necessary for the administration of an election in the electoral district.

### **Oath of office**

**20** Before undertaking duties under this Act, an individual appointed as an election official must make a solemn declaration that the individual

(a) will faithfully and impartially fulfill the duties,

(b) has not received and will not accept any inducement to perform the duties otherwise than impartially and in accordance with this Act or to otherwise subvert the election, and

(c) will preserve the secrecy of the ballot in accordance with section 90.

## Terms of appointment

- 21** The *Public Service Act* does not apply to persons appointed or retained under this Division and the chief electoral officer may establish their remuneration and the other terms and conditions of their appointment or retainer.

## Division 4 — Voter Registration Officials

### District registrars of voters

- 22** (1) The chief electoral officer
- (a) must appoint a district registrar of voters for each electoral district, who is to be responsible for the registration of voters within the electoral district, and
  - (b) may appoint one or more deputy district registrars of voters for an electoral district, who are to assist the district registrar of voters for the electoral district.
- (2) The same individual may be appointed district registrar of voters for more than one electoral district.
- (3) [Repealed 2004-51-3.]

### Temporary voter registration officials

- 23** (1) For the purposes of voter registration proceedings in an electoral district, but subject to the direction of the chief electoral officer, the district registrar of voters may retain on a temporary basis individuals necessary for the proceedings and may appoint those individuals as voter registration officials.
- (2) The *Public Service Act* does not apply to individuals retained under subsection (1) and the chief electoral officer may establish their remuneration and the other terms and conditions of their retainers.

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