



**Recommendations
for Legislative Change**

Report of the
Chief Electoral Officer



**ELECTIONS
NOVA SCOTIA**

37th Provincial General Election
June 13, 2006

Published by the Chief Electoral Officer
October 2006

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October 23, 2006

The Honourable Cecil Clarke
Speaker of the Legislative Assembly
Province of Nova Scotia
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P.O. Box 1617, Halifax, N.S. B3J 2Y3

Honourable Speaker,

I have the honour to present the Report of the Chief Electoral Officer, Recommendations for Legislative Change, October 2006, following the 37th Provincial General Election held on June 13, 2006.

This report addresses issues which arose during the conduct of the 2006 general election and includes my recommendations for amendments to the *Elections Act*. These proposed amendments, contained in part 2 of the report, are endorsed in principle by the Election Commission. Part 3 of the report contains significant issues deserving of future consideration by the public and their political representatives.

To assist the House of Assembly, I have requested the Legislative Counsel to prepare a draft bill addressing the recommended changes to the *Elections Act* which I encourage the House to consider during this fall session. I would like to thank Mr. Gordon Johnson, Q.C. and Mr. Gordon Hebb, Q.C. for their work on this bill and their ongoing assistance to my office.

This report is submitted to the House of Assembly pursuant to section 172 of the *Elections Act*.

Yours truly,

A handwritten signature in black ink, appearing to read 'Christine McCulloch', written over a horizontal line.

Christine McCulloch, Q.C.
Chief Electoral Officer

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1 INTRODUCTION

Electoral law, as a keystone in our democratic system must adapt and change to keep pace with the changing needs of the society it serves. Significant change is never a simple matter but when done wisely balances the perspectives of all concerned: electors, political parties, candidates and those involved in election administration.

From time to time the Chief Electoral Officer reports to the Speaker of the House on matters of relevance that have occurred in connection with the Office of the Chief Electoral Officer and does so regularly following a general election. During the last 2 years, 2004 and 2005, the House of Assembly has been particularly responsive to legislative recommendations from the Chief Electoral Officer proposed with the endorsement of the Election Commission. As a result, we have experienced great strides forward in streamlining the electoral process and shifting emphasis to improving all levels of participation in that process.

The Election Commission is an advisory body to the Chief Electoral Officer on matters of the administrative conduct of elections. It is comprised of two representatives from each recognized political party with representation in the House of Assembly. This Commission has played a valuable role in reviewing proposed legislative changes, bringing a political perspective to an issue when appropriate, and obtaining the input of the parties as the Commission works toward identifying, by consensus where possible, the most reasonable proposals. The members of this body have been important sources of political party perspective and have helped develop common ground in electoral law reform which recognizes the political aspects of electoral law, but also respects that there is little room for partisanship in a great deal of electoral law reform. The principles reflected in the recommendations for changes to the *Elections Act* contained in this report have the endorsement of the Election Commission. The Commission is also fully supportive of identifying more controversial topics for future consideration such as fixed election dates and appointment and removal of senior election officers.

A full review, reform and rewriting of our *Elections Act* would be a task extending over several years not only because the policy underpinnings of the legislation must be re-evaluated, rewritten and put through a consultation process, but also because implementation of the new legislation will be a time consuming and operationally complex undertaking. A new *Elections Act* would undoubtedly have significant impact on the administration processes by which an election is delivered. A typical general election employs about 160 election officials in returning offices and between 6,000 and 7,000 as poll officials not to mention the candidates, official agents and political party workers who are a critical element of the workforce during an election. Every handbook, manual, form, directive, brochure and all training materials must be rewritten as part of a reform initiative.

Implementation of a new legislative regime is a complex undertaking potentially taking several years to complete. But this does not mean that limited, piecemeal legislative changes should not be made in the meantime. The recommended amendments to the *Elections Act* contained in part 2 of this report will address some shortcomings in our *Elections Act* that can be remedied now.

Part 3 of this report also contains an overview of other, more controversial election related issues deserving of public and political consideration. Change in these areas, if made, will have notable implementation impact. For example, a new regime to improve the access of hospitalized or shut in electors to voting opportunities challenges a basic premise in our current *Elections Act* that electors vote where they live. Changing that concept requires major operational change, new electronic systems, new manuals and new training for election officials. Changes such as this cannot be made lightly without the appropriate due diligence even though the actual changes in the *Elections Act* may in the end be fairly minor.

This report identifies some of these key issues requiring public and political discussion and perhaps the development of policy papers before electoral reform is advanced. The purpose in identifying these key issues is to commence the process of discussion.

2 RECOMMENDATIONS FOR AMENDMENTS TO THE *ELECTIONS ACT*

Nova Scotia's *Elections Act* is outdated. It should be reviewed carefully to identify its strengths and weaknesses and replaced as soon as possible. Ideally a new, modern *Act* and a stand alone *Election Finances Act*, the latter dealing exclusively with election financing and expenses, would be enacted.

In the interim, there are a number of changes to the *Elections Act* that can be enacted which will improve election administration in Nova Scotia. I urge you to adopt the recommendations below. These recommendations will expand voting opportunities for Nova Scotians, enhance the integrity of Nova Scotia's electoral system and correct errors and ambiguities in the current legislation. These changes can be implemented immediately.

Expand Voting Opportunities

Recommendation 1: Expand the use of write-in ballots, special polls and advance polls

It is recommended that any elector be permitted to vote by write-in ballot or at the special or advance polls without providing a reason.

Current Situation

Write-in ballot: Currently, only electors who are unable to vote at the special, advance or ordinary polls may apply for a write-in ballot. Subsection 100(1) of the *Elections Act* states that an elector "who cannot vote at the special poll, at the advance poll or on ordinary polling day" may apply to vote by write-in ballot.

Special poll: Only electors who are unable to vote at the advance or ordinary polls may vote at a special poll. Subsection 147(2) of the *Elections Act* states that the purpose of a special poll is to permit electors "who will be unable to vote on the days fixed for the advance poll or on ordinary polling day to vote".

Advance poll: Only electors who expect to be absent on ordinary polling day may vote at an advance poll. Clause 140(1)(b) of the *Elections Act* states that a person may vote at an advance poll if they "expect to be absent on ordinary polling day" from their polling division.

These restrictions limit early voting opportunities. Other Canadian jurisdictions are making early voting opportunities available to all electors to encourage voting.

Proposed Amendments

Delete the words "who cannot vote in person at the special poll, at the advance poll or on ordinary polling day" from subsection 100(1).

Repeal subsection 147(2) and clause 140(1)(b).

Recommendation 2: Allow Nova Scotians who move during the election period to vote where they live

It is recommended that Nova Scotia residents who move within Nova Scotia during the election period be permitted to vote where they live.

Current Situation

Under subsection 28(1), a person may be registered on the list of electors for a polling division if they are (i) a Canadian citizen and at least 18 on or before election day and (ii) are ordinarily resident in Nova Scotia for the 6 months immediately preceding the date of the writ and **in the polling division on the date of the writ**. This means that where an elector is to vote is determined when an election is called not on the basis of where the elector actually has established their residence when the elector votes.

Proposed Amendment

Delete the requirement that a person be ordinarily resident on the date of the writ in the polling division where they are to vote, and insert a new provision requiring that a person be ordinarily resident in the electoral district on the day upon which they actually vote. This would allow a person to vote by write-in ballot, or at the special, advance or ordinary poll in their new electoral district. This amendment will allow electors to vote where they live not where they lived when the election was called. Clearly, operational rules for proving change of address between electoral districts will have to be made by the Chief Electoral Officer to support this amendment.

Provide Independent Candidates with the List of Electors

Recommendation 3: Provide the annual consolidated list of electors to independent candidates

It is recommended that section 31C be amended to permit independent candidates access to the annual consolidated list of electors for the candidate's electoral district. Availability of the list to such candidates will only occur in circumstances where an independent candidate has declared their intention to stand for an upcoming election.

Current Situation

Access to the annual consolidated list of electors is currently restricted to recognized parties only.

Proposed Amendments

It is recommended that the annual consolidated list of electors be provided by the Chief Electoral Officer to an independent candidate, for that candidate's electoral district only and in the same fashion and subject to the same restrictions as to use as apply to recognized parties. Inserting references to independent candidates into section 31C will accomplish that end.

Errors and Ambiguities in the Current Legislation

Recommendation 4: Address the errors and ambiguities in the current legislation

The following amendments to address errors and ambiguities in the current legislation are recommended:

(a) 31B(10) includes the gender and date of birth of electors as information which may be included in the preliminary list of electors provided annually in the consolidated list of electors to recognized parties. This is sensitive personal information and is not required by recognized parties for electoral purposes.

Proposed Amendment: Amend section 31C to remove access to this personal information from the consolidated annual list of electors provided to recognized parties.

(b) There is some ambiguity around whether the same nomination paper could be used for two elections, for example, a by-election and a general election that supersedes the by-election. To resolve this ambiguity it is recommended that the law be clarified to say a nomination paper is valid for only one election. Where a general election supersedes a by-election the deposit paid by any nominated candidate should be refunded.

Proposed Amendment: Insert a new subsection 66(5) providing that the nomination paper is only valid for one election period, and is considered to be superseded and withdrawn if the by-election is superseded and withdrawn by a general election. Amend section 72 to require the Minister of Finance to return a candidate's deposit if the by-election in which the candidate was nominated is superseded by a general election.

(c) Subsection 92(e) appears to prohibit an agent at large and the official agent of a candidate from being in the same polling station; this is likely an error and appears to conflict with subsection 94(1) which allows both an agent at large and the official agent to represent the candidate at all polling stations.

Proposed Amendment: divide subsection 92(e) into two subsections to make it clear that both the agent at large and the official agent may be in the same polling station at the same time.

(d) The wording of section 144(2) requires that the ballots from an advance poll be counted “where the advance poll was held”. In rural electoral districts or rural areas of urban electoral districts, advance polls are often held at different locations than the ordinary polls and it is impractical for election officials and observers to return to the location of the advance poll to conduct the count. Therefore, it would be preferable if the advance polls could be counted by the returning officer at the returning office if that is more convenient.

Proposed Amendment: Insert the words “or at the returning office for the electoral district” after the phrase “at the place where the advance poll was held” in subsection 142(2).

(e) Section 176, which requires that election advertising contain the name and address of the printer and of the person on whose behalf the advertisement was printed or placed, is outdated and the language is ambiguous. This makes it difficult for candidates, recognized parties and their official agents to understand their obligations. Further, all advertising media, including ever changing electronic media, should be subject to political advertising rules.

Proposed Amendment: repeal section 176 and replace it with a provision such as the following:

176 (1) Every advertisement relating to an election printed, broadcast, published or distributed, either electronically or in hard copy, or in any other manner determined by the Chief Electoral Officer, which promotes or opposes any candidate or recognized party shall bear the words “authorized by the official agent for [name of candidate or recognized party] and shall indicate on whose behalf the advertisement was printed, broadcast, published or distributed.

(2) No person shall print, broadcast, publish or distribute an advertisement referred to in subsection (1) that does not comply with subsection (1).

(f) Subsection 191(3) unduly restricts auditors appointed by candidates and recognized parties to those licensed under the *Public Accountants Act*. This effectively prohibits chartered accountants from acting as auditors.

Proposed Amendment: insert the words “or a chartered accountant” at the end of subsection 191(3).

(g) Subsection 202(d) refers to voting “in person or by proxy.” This language is outdated. Proxy voting is no longer available in Nova Scotia. It was replaced by the write-in ballot.

Proposed Amendment: delete the words “in person or by proxy” in subsection 202(d).

Conclusion

The above recommendations, if adopted by the Legislative Assembly, will improve election administration in Nova Scotia.

I recommend that any amendments made in 2006 be subject to proclamation to allow my office to make the necessary changes to administrative processes. As well, the impact of subsection 219(2), which automatically delays application of any amendment made within 6 months of the issuance of a writ of election, must also be addressed in the bill.

3 OTHER ISSUES ARISING FROM THE JUNE 13, 2006 PROVINCIAL GENERAL ELECTION

Reimbursement of Candidates

Currently the *Elections Act* provides that each candidate who has been declared elected or who has received not less than 15% of the valid votes cast in an election is entitled to receive reimbursement. The amount of this reimbursement is calculated according to an indexed formula in the *Elections Act*. For the 2006 general election candidate reimbursement was \$1.32 for each elector whose name was on the list of electors or who registered to vote and was added to the list on election day.

Following the June 13, 2006 general election it was determined that 7 of the 210 candidates who stood for election received between 13 and 15% of the valid votes cast as shown in Table 1 below. Three of these candidates received over 14.50% of the valid votes cast but, because of the way in which the *Elections Act* is written, none of these candidates is entitled to receive any reimbursement even though the difference between the valid votes cast for each of these candidates and 15% of the total valid votes cast in each electoral district amounted to between 5 and 26 actual votes. The *Elections Act* also cannot be read in such a fashion to allow rounding up for those receiving 14.50% or over of the valid votes cast to the required 15%.



TABLE 1
CANDIDATES RECEIVING BETWEEN 13 AND 15% OF THE VALID VOTES CAST
JUNE 13, 2006 NOVA SCOTIA PROVINCIAL GENERAL ELECTION

Electoral District	Name	Party	Votes Received	Votes Needed	Percent	Candidates Reimbursement
Cole Harbour-Eastern Passage (15)	Brian Churchill	LIB	903	49	14.23%	\$ 16,023.48
Cumberland North (16)	Kim Cail	NDP	1085	26	14.65%	\$ 17,904.48
Halifax Fairview (29)	Cecil MacDougall	LIB	1055	15	14.80%	\$ 18,231.84
Lunenburg (38)	Rick Welsford	LIB	1200	5	14.94%	\$ 17,346.12
Pictou Centre (40)	Troy MacCulloch	LIB	1057	57	14.24%	\$ 16,569.96
Hants East (32)	Malcolm MacKay	LIB	1237	93	13.95%	\$ 21,467.16
Yarmouth (52)	Dolores Atwood	LIB	1051	155	13.07%	\$ 16,960.68

\$1.32 / elector

Where the difference between receiving and not receiving reimbursement is a matter of a few votes a candidate would understandably seek any redress available including a judicial recount. Under the *Elections Act* a recount is not restricted solely to those wishing to challenge the outcome of an election in a particular electoral district, but is also open to those wishing a recount to confirm whether a candidate received 15% of the valid votes cast.

There is precedent in electoral law across the country that judicial recounts should not be available to determine a candidate's entitlement to reimbursement. That issue should be addressed by amendment to the *Elections Act* at the earliest possible date. Any recount delays the swearing in as a member of the House of Assembly of the successful candidate regardless of the purpose of the recount.

Assuming the *Elections Act* is amended to remove the right of candidates to use a judicial recount establishing their entitlement to reimbursement, the next issue is whether any legislative recourse should be available to any candidate who, after the official count of the votes, receives slightly less than 15% of the valid votes cast. A review of the votes cast could be done by the Chief Electoral Officer following regulations developed for that purpose. Currently no regulation making power of that nature exists in the *Elections Act*.

Another issue is the need to determine what level or system of reimbursement is appropriate. Should Nova Scotia have a graduated or sliding scale of reimbursement so that recovery of election expenses is not an all or nothing proposition? Should the percentage of valid votes cast entitling a candidate to reimbursement be lowered? If so, to what? Encouraging participation by candidates in the electoral process is critical to a healthy democracy just as encouraging citizens to vote is critical. A graduated system of reimbursement would encourage and support this participation. It would not eliminate candidates wishing to challenge the outcome of a vote count for purposes of receiving reimbursement but it would reduce the financial impact if no recourse were available.

The issue of whether or not a candidate is entitled to receive reimbursement is a serious financial matter for candidates and recognized parties and when the outcome of the election gives a candidate close to the required 15%, as the 2006 general election did, understandably a candidate might seek to take advantage of it. It was never intended that the expensive, resource-heavy, complex and time consuming process involved in a judicial recount be available to challenge whether a candidate did or did not receive 15% of the valid votes cast. This 'loophole' was not discovered until this past election. The significance of the issue was exacerbated by the House of Assembly going into session right on the heels of the election necessitating the swearing in of the newly elected members. The risk of having a court award costs against an unsuccessful candidate, on top of the financial burden of not receiving any reimbursement whatsoever, would and actually did deter at least one candidate from pursuing their legal right to judicial recount to review whether their portion of the valid votes cast met the 15% threshold.

This 'loophole' in the *Elections Act*, combined with the House of Assembly going into session so soon after the June 13, 2006 election and the possibility of court awarded costs being levied against a candidate already facing the financial impact of receiving no reimbursement, suggests that as a matter of fairness, consideration should be given to extending the benefit of any changes made in the *Elections Act* to address these issues to candidates in the 2006 general election.

Accessibility to the Democratic Process by Disabled Electors

An issue identified during the 2006 election related to the deaf or hearing impaired elector having inconsistent access to political information, party platforms and candidate positions on issues during the election. This issue is most obvious in the case of television advertising and debates. Any advertising on television done by Elections Nova Scotia is closed captioned for the hearing impaired and it is suggested that consideration be given to requiring all political advertising on television during elections to be closed captioned. Arguably, closed captioned access by the deaf and hard of hearing to political information should be required both during and between elections on television and similar visual and auditory media.

On-line (electronic) Registration of Electors

The ease with which people can vote is believed to have a direct impact on voter turnout. In Nova Scotia, as in other Canadian jurisdictions, a person must provide proof of qualifications (identification containing name, current civic address and signature) to be registered to vote before they can actually cast their ballot. Elections Nova Scotia registers electors outside an election and during an election. The authority to register electors outside an election stems directly from amendments to the *Elections Act* in 2005 enabling the Chief Electoral Officer to update the list of electors on an ongoing basis. What is now required to support the ongoing registration of electors who choose to use the internet (which would be

equally applicable to 'in person' registration outside an election) is specific authority in the *Elections Act* to specify a different kind of evidence to prove qualifications.

The *Elections Act* should specify what an application for registration must include (full name, civic address of residence, mailing address if different than the civic address, date of birth and confirmation that the applicant meets the qualifications to vote); what the application may request (applicant's gender, driver's license master number, the last six digits of the applicant's social insurance number and a contact telephone number); and what an on-line registration must include (applicant's driver's license master number and the last six digits of the applicant's social insurance number).

With the additional information of driver's license master number and the last six digits of the applicant's social insurance number, a system can be developed using the Elections Nova Scotia website which will enable electors to register and update their current voter records without the requirement for a signature on the provincial elector registration application forms.

Once enabling amendments are introduced into the *Elections Act*, the way will be paved for development of the on-line voter registration system. Such a system currently exists in British Columbia.

Recruitment, Appointment and Removal of Returning Officers

Emphasis on openness, transparency and accountability is a consistent theme in the administration of elections as it is in the administration of government departments and agencies. Administration of elections is becoming more and more complex and it is critical that key election officials, particularly returning officers, be appointed on the basis of merit to ensure the best qualified individuals are administering elections in Nova Scotia.

The major difficulty with returning officers being appointed and removed by Order in Council is that appointment and removal is distant from the Chief Electoral Officer who ultimately is responsible for the effective and efficient administration of elections. Returning officers are answerable to and subject to the direction of the Chief Electoral Officer but that official has no ability to ensure that appointees are qualified for the positions when hired, continue to meet identified performance expectations, have predictable performance reviews, and can be removed or otherwise disciplined if such action is with cause.

Subsection 29(2) of the *Elections Act* states that returning officers "are not entitled to be registered to vote as an elector." If appointment of returning officers were made by the Chief Electoral Officer the rationale for disenfranchising returning officers provincially also disappears. The existing law and amendments to the *Elections Act* along the lines below prohibit returning officers from engaging in political partisan activities. Together these are sufficient safeguards. The Chief Electoral Officer is not currently permitted to vote and this prohibition should be continued as it is in other Canadian jurisdictions.

The *Federal Accountability Act* transfers responsibility for recruiting, appointing and dismissing returning officers to the federal Chief Electoral Officer. Manitoba, in its current Bill-22, which includes a new *Elections Act* for Manitoba, also provides the Chief Electoral Officer with this authority and requires that appointments be made on the basis of merit. Manitoba's Bill-22 also requires that returning officers be non-partisan. As an example of possible legislative provisions, the relevant provisions of the Manitoba's Bill-22 are below:

Appointing returning officers

34(1) For each electoral division, the chief electoral officer must appoint a returning officer to be responsible for the conduct of any election in that division.

Appointment based on merit

(2) The appointment of a returning officer is to be based on merit.

38 Once appointed, a returning officer or assistant returning officer must not

- (a) be a member or employee of a registered political party, a political party or a constituency association, or hold a position with or contribute to any of them;
- (b) be an employee of a candidate or a person seeking to be a candidate, or hold a position with or contribute to either of them; or
- (c) engage in partisan political activities of any other kind.

Replacing a returning officer or assistant returning officer

39 The chief electoral officer may rescind the appointment of a returning officer or an assistant returning officer and appoint a replacement if the chief electoral officer is satisfied that the officer

- (a) is unable to perform his or her duties for any reason;
- (b) has failed to perform his or her duties satisfactorily;
- (c) has not followed an instruction of the chief electoral officer; or
- (d) after being appointed, engaged in partisan political activities, whether or not in the course of performing duties under this *Act*.

Provide the Legislative Assembly a role in appointment and removal of Chief Electoral Officer

It is recommended that the Legislative Assembly be given a role in the appointment and removal of the Chief Electoral Officer. As noted above, other Canadian jurisdictions are shifting primary responsibility for election administration from the executive branch of government to the legislative branch. A recent example is found in Manitoba's Bill-22 set out below:

Appointment process

22(1) The President of the Executive Council must convene a meeting of the Standing Committee on Legislative Affairs if

- (a) the office of the chief electoral officer is vacant; or
- (b) the chief electoral officer has resigned and the resignation takes effect within 12 months.

Recommendations of committee

(2) The Standing Committee on Legislative Affairs must consider candidates for the position and make recommendations to the President of the Executive Council.

Appointing chief electoral officer

23 On the recommendation of the Standing Committee of the Assembly on Legislative Affairs, the Lieutenant Governor in Council must appoint a chief electoral officer as an officer of the Assembly.

Salary

24(1) The chief electoral officer must be paid a salary within the range of salaries paid to senior deputy ministers in the civil service, and is entitled to the same privileges of office as a senior deputy minister.

No reduction in salary

(2) The salary of the chief electoral officer must not be reduced except by a resolution of the Assembly carried by a vote of 2/3 of the members voting.

Pension

(3) The chief electoral officer is an employee within the meaning of *The Civil Service Superannuation Act*.

Impartiality

25 The chief electoral officer must not vote in an election, and must not engage in partisan political activities.

Removal or suspension

26(1) The Lieutenant Governor in Council may suspend or remove the chief electoral officer from office on a resolution of the Assembly carried by a vote of 2/3 of the members voting.

Suspension if Assembly not sitting

(2) When the Assembly is not sitting, the Lieutenant Governor in Council may suspend the chief electoral officer for cause, if advised to do so in writing by a majority of a committee consisting of the President of the Executive Council and the recognized leaders of the members belonging to the political parties in opposition.

Length of suspension

(3) A suspension under subsection (2) ends no later than 30 sitting days of the Assembly after the suspension came into effect.

Voting Opportunities for Electors Unable to Come to the Polls

Currently Nova Scotian electors have extensive voting opportunities from a few days after the writs of election are issued up until 2 days before election day and on election day. Electors can vote by write-in ballot by attending at the returning office up until the special poll opens 12 days before election day; at the special poll from 12 days before election day until 6 days before election day; by mail or agent if the applications are picked up 10 days and 3 days respectively before election day and ballots are returned by the close of the polls on election day; at the advance poll the Friday and Saturday before election day; and, of course, on election day. Most long-term care facilities have their own polling stations or are serviced using mobile polls.

One major sector of the population which does not have the voting services delivered directly to it is those in hospital or confined to their homes due to illness or disability. Another sector is electors in long-term care facilities with less than 10 electors.

The issues confronting us are whether and how these sectors of the population are provided with personal voting opportunities. In some provinces and federally, special balloting processes have been introduced which involve taking the ballot box to these electors personally. Whether Nova Scotia wishes to proceed in that direction is an issue worthy of debate and analysis. This subject will be discussed under two headings, (i) The Vote in Long-Term Care Facilities and (ii) Hospitalized Electors.

(i) The Vote in Long Term Care Facilities

Under the *Elections Act* each long-term care facility with 10 or more residents constitutes a separate polling division. The Chief Electoral Officer defines what constitutes a long-term care facility but typically they are nursing homes, homes for the aged and residential care facilities for seniors and similar facilities. Long-term care facilities with less than 10 residents are not entitled to receive any special voting services under the current *Elections Act*. Mobile polling stations are technically only available to collect the ballots from long-term care facilities with 10 or more residents. Facilities (individual beds or part of a ward) in hospitals such as seniors residences, veterans beds or wings or mental health care patient beds are not entitled to be serviced by mobile polling stations.

Electors who temporarily reside in hospitals awaiting an opening in a nursing home or other long-term care facility to which they will eventually move, are qualified to vote if they have resided in Nova Scotia for 6 months and since they have no other place to live in which they can receive the care they require, the address of the hospital is considered their place of ordinary residence. However, because there are no mobile polling stations held at acute or residential care hospitals on election day, currently the only way these electors are able to vote is by applying for, receiving and returning a write-in ballot from the electoral district in which the hospital is located. This requires someone associated with each patient to be proactive in obtaining and returning a ballot. Contact with each hospital across the province will inform Elections Nova Scotia as to how many of these residential care facilities exist and how many patient beds

each hospital has set aside for residential care to determine what must be done to make it easier for these electors to cast their ballots.

The same problem exists with respect to special wings of hospitals set aside for veterans, such as Camp Hill Hospital or Soldiers Memorial Hospital. The patients are admitted because they require special, long-term residential nursing care and in most cases remain in hospital for the remainder of their lives. They are ordinarily resident in the hospital. If 10 or more beds are set aside, the Chief Electoral Officer has the authority to deem a location as a separate polling division where necessary and these facilities have been considered separate polling divisions to enable the setting up of a mobile poll on election day.

Mental health care facilities such as the Nova Scotia Hospital present a unique problem for election administration. While this institution is a psychiatric care facility and most of the patients have lived there for several months or perhaps years undergoing treatment, many of them do have homes to return to when they are discharged from the facility and are not ordinarily resident at the address of the facility. These facilities do not meet the requirements to be a separate polling division. The write-in ballot process is considered unworkable for this type of facility. The determination of which patients are actually resident is an impossible task for the hospital personnel and election officials to determine.

(ii) Hospitalized electors

Electors who have become hospitalized sometime during the course of the election and have not already taken advantage of an early opportunity to vote by write-in ballot or at the special or advance polls still have the opportunity to vote by applying for, receiving and returning a write-in ballot from the electoral district in which they reside by appointing an agent. In many cases, this is not overly onerous in local hospitals across the province where the patient lives in the same electoral district as the hospital to which they have been admitted. However, the logistics of receiving and returning a write-in ballot for a patient admitted to a regional hospital such as the Queen Elizabeth II become more challenging because the patient or agent appointed requires sufficient time to apply for a ballot from the returning office in the electoral district in which the patient resides and return it to that same returning officer by election day. The closer election day is, the more difficult it becomes to meet the deadlines to apply for the ballot and return it in time to be counted on election night.

The same opportunity to vote by write-in ballot exists for those who have been hospitalized for a long period of time and who remain in hospital throughout the election period. These electors usually have more time to obtain a write-in ballot and return it to the returning office in the electoral district in which they are ordinarily resident in a timely way. However, they still must follow the same procedure to obtain the write-in ballot from the returning officer in the electoral district in which they live and return the ballot to that same returning officer on time.

While electors who are in a hospital during the entire election period have the opportunity to obtain a write-in ballot (even though the procedure is logistically difficult) and thus are still able to vote, electors who have become ill or require medical treatment for which they are hospitalized the day before or on election day currently have no opportunity to vote, unless they have already voted at an earlier voting opportunity. By the day before election day the time has lapsed to apply for a write-in ballot through an agent and no other voting opportunity currently exists.

Fixed Election Dates

Instituting fixed election dates has implications on several fronts, including for recognized parties and candidates, electors, returning officers, Elections Nova Scotia and, as other jurisdictions have found, on election financing.

From the perspective of election administration, knowledge of a predictable date upon which an election will occur removes the wasted time, effort and resources to gear up for an election which now occurs in

advance of each potential event. Fixed election dates would enable early and timely planning for an election including:

- Development and updating of election manuals and supplies
- Better timed training of key returning office staff
- More efficient purchasing of computer equipment and supplies
- Scheduled equipment deployment, telephone and internet hook-ups
- Hiring of the best qualified staff earlier in the process based on merit
- Early production and booking of advertising
- A stable workforce due to predictable start dates for employment of head office and returning office staff
- Better opportunity to budget in advance

Other potential impacts of fixed election dates include:

- Earlier public and candidate enquiries possibly requiring increased staff levels at head office
- Potential for additional advance voting opportunities
- Earlier nomination of candidates
- Opportunity for planned official agent training
- Increased spending by parties and candidates
 - Earlier office opening
 - Pre-writ advertising
 - Pre-writ polling
- Pre-writ political advertising by government and opposition parties
- Increased public expectations of service

It is difficult to predict with any accuracy whether fixed election dates overall would lead to cost savings but there is little doubt that predictable election dates will increase the efficiency and effectiveness of election administration, increase public expectations of those administering elections and possibly those participating in them as candidates and recognized parties, and notably reduce the stress of the process.



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