



BILL NO. 100

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

**An Act to Amend Chapter 300
of the Revised Statutes, 1989,
the Municipal Elections Act,
and Chapter 18 of the Acts of 1998,
the Municipal Government Act**

CHAPTER 68
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable John M^{ac}Donell
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
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**An Act to Amend Chapter 300
of the Revised Statutes, 1989,
the Municipal Elections Act,
and Chapter 18 of the Acts of 1998,
the Municipal Government Act**

Be it enacted by the Governor and Assembly as follows:

MUNICIPAL ELECTIONS ACT

1 Subsection 2(1) of Chapter 300 of the Revised Statutes, 1989, the *Municipal Elections Act*, as amended by Chapter 38 of the Acts of 1990, Chapter 26 of the Acts of 1994, Chapter 18 of the Acts of 1998, Chapter 9 of the Acts of 2003 and Chapter 46 of the Acts of 2007, is further amended by

(a) adding immediately after clause (b) the following clause:

(ba) “chief administrative officer” means the chief administrative officer of a municipality;

(b) striking out clause (g);

(c) striking out “provincial court or of the Supreme Court of Nova Scotia” in the second and third lines of clause (p) and substituting “Provincial Court or of the Supreme Court”;

(d) striking out “of Nova Scotia” in the fourth and fifth lines of clause (p); and

(e) adding immediately after clause (ag) the following clause:

(aga) “Supreme Court” means the Supreme Court of Nova Scotia;

2 (1) Subsection 4(1A) of Chapter 300, as enacted by Chapter 26 of the Acts of 1994 and amended by Chapter 9 of the Acts of 2003, is further amended by striking out “The Council may appoint an assistant returning officer” in the first and second lines and substituting “The council may appoint one or more assistant returning officers”.

(2) Section 4 of Chapter 300, as amended by Chapter 26 of the Acts of 1994 and Chapter 9 of the Acts of 2003, is further amended by adding immediately after subsection (1B) the following subsection:

(1C) The council may delegate its powers of appointment pursuant to this Section to the clerk or chief administrative officer.

3 (1) Subsection 5(1) of Chapter 300 is amended by

(a) adding “returning officers of the” immediately before “municipalities” in the third line; and

(b) striking out “their returning officers” in the fourth and fifth lines and substituting “themselves”.

(2) Subsection 5(2) of Chapter 300 is amended by

(a) striking out “municipalities” in the first line and substituting “returning officers”;

(b) striking out “Minister” in the second line and substituting “Municipal Elections Officer”; and

(c) striking out “their” in the third line and substituting “the”.

4 Section 16 of Chapter 300 is repealed and the following Section substituted:

16 (1) A person is ordinarily resident in the place where the person lives and to which, whenever absent, the person intends to return.

(2) A person may be ordinarily resident in only one place at a time.

(3) A person does not cease to be ordinarily resident in a place by leaving the place for a temporary purpose only.

(4) Where a person usually sleeps in one place and has meals or is employed in another place, the person is ordinarily resident in the place where the person sleeps.

(5) Where a person has temporary residential quarters, those quarters are considered to be the place in which the person is ordinarily resident only if the person has no other place the person considers as that person’s ordinary place of residence.

(6) Where a person is being provided with food, lodging or other social services by a shelter, hostel or similar institution, the person is ordinarily resident in the shelter, hostel or institution.

(7) Where the rules set out in subsections (1) to (6) are not sufficient to determine the place where a person is ordinarily resident, the place where the person is ordinarily resident must be determined by the appropriate election officer with reference to all the facts of the case.

(8) A person who, on the ordinary polling day,

(a) is a student;

(b) is ordinarily resident in a polling district or polling division other than that of the person’s family home; and

(c) is qualified as an elector,

may elect to be included on the list of electors in one or the other of the polling divisions, but not both, and is deemed to be ordinarily resident in that polling division.

(9) A person is not ordinarily resident in a residence that is generally occupied by the person only between the beginning of May and the end of October but that is generally unoccupied between the beginning of November and the end of April unless the person does not have another residence in the Province where the person resides between the beginning of November and the end of April.

5 Clause 17(1)(c) of Chapter 300, as enacted by Chapter 9 of the Acts of 2003 and amended by Chapter 5 of the Acts of 2003 (2nd Session), is further amended by adding “or all instalments or interim payments that are due as of nomination day have been paid” immediately after “paid” in the last line.

6 (1) Subsection 18(1) of Chapter 300, as amended by Chapter 26 of the Acts of 1994, Chapter 13 of the Acts of 1999 (2nd Session) and Chapter 9 of the Acts of 2000, is further amended by

(a) adding immediately after clause (b) the following clause:

(ba) is a village commissioner;

and

(b) striking out “of Nova Scotia” in the second and third lines of clause (ca).

(2) Subsection 18(4) of Chapter 300, as amended by Chapter 26 of the Acts of 1994, is further amended by striking out “provincial court” in the fifth line and substituting “Provincial Court”.

7 Subsection 41A(2) of Chapter 300, as enacted by Chapter 9 of the Acts of 2003, is amended by striking out “under oath” in the second line.

8 Section 70 of Chapter 300, as enacted by Chapter 18 of the Acts of 1998 and amended by Chapter 46 of the Acts of 2007, is amended by adding immediately after subsection (1) the following subsection:

(1A) An appointment of official agent filed pursuant to this Section must be accompanied by an oath of office in the prescribed form sworn by the official agent.

9 Subsection 73(1) of Chapter 300, as amended by Chapter 26 of the Acts of 1994, is further amended by

(a) striking out “affidavit” in the fourth line and substituting “declaration”;

and

(b) striking out “affidavit” in the fourth line of clause (b) and substituting “declaration”.

10 Clause 83(1)(a) of Chapter 300 is amended by striking out “molested” in the last line and substituting “otherwise interfered with”.

11 Clause 85(1)(a) of Chapter 300 is amended by striking out “an “X”, a cross or a check mark, or a facimile thereof,” in the second, third and fourth lines and substituting “a cross, an “X”, a check mark or a line,”.

12 Section 108 of Chapter 300, as amended by Chapter 26 of the Acts of 1994 and Chapter 46 of the Acts of 2007, is further amended by striking out “the “X”, the cross or the check mark, or facsimile” in the last line and substituting “the cross, the “X”, the check mark or the line”.

13 Section 114 of Chapter 300, as amended by Chapter 26 of the Acts of 1994, Chapter 9 of the Acts of 2003, Chapter 5 of the Acts of 2003 (2nd Session) and Chapter 46 of the Acts of 2007, is further amended by adding immediately after subsection (4) the following subsection:

(4A) Council may delegate its authority to fix a day pursuant to clause (4)(b) to the returning officer.

14 Subsection 130(1) of Chapter 300 is amended by striking out “county court or of the provincial court” in the seventh and eighth lines and in the tenth line and substituting in each case “Supreme Court or of the Provincial Court”.

15 Subsection 131(1) of Chapter 300, as amended by Chapter 24 of the Acts of 2008, is further amended by striking out “of Nova Scotia or of the provincial court” in the third and fourth lines and substituting “or of the Provincial Court”.

16 Chapter 300 is further amended by adding immediately after Section 131 the following Section:

131A (1) A judge may refuse to conduct a recount and order that the application be dismissed if the judge determines that

- (a) the application is frivolous or vexatious; or
- (b) it would not be in the interest of justice to conduct the recount.

(2) Upon ordering that the application be dismissed, the judge may order costs against the applicant.

(3) The deposit of two hundred dollars shall not be paid out by the clerk of the court without an order of the judge.

17 Subsection 132(3) of Chapter 300 is amended by striking out “provincial court or the county court” in the fourth line and substituting “Provincial Court or the Supreme Court”.

18 Subsection 133(2) of Chapter 300 is amended by striking out “county” in the second line.

19 Subsection 135(2) of Chapter 300, as amended by Chapter 26 of the Acts of 1994, is further amended by

(a) repealing clause (d) and substituting the following clause:

(d) that has not been marked with a cross, an “X”, a check mark or a line made with a pencil or pen;

and

(b) striking out “the “X”, the cross or the check mark, or facsimile” in the last line and substituting “the cross, the “X”, the check mark or the line”.

20 Section 139 of Chapter 300 is amended by adding immediately after subsection (1) the following subsection:

(1A) The council may delegate its authority to make, revise and amend the tariff of fees and expenses and provide for a method of rendering and verifying accounts for payment pursuant to subsection (1) to the clerk or chief administrative officer.

21 Section 141 of Chapter 300 is amended by

(a) striking out “and” in the second line and substituting a comma; and

(b) adding “and such other materials and documents as may be prescribed by regulation” immediately after “sheets” in the third line.

22 Section 143 of Chapter 300, as enacted by Chapter 46 of the Acts of 2007, is amended by adding immediately after subsection (1) the following subsection:

(1A) For greater certainty, where a candidate, the candidate’s official agent or any other person acting on behalf of the candidate causes an advertisement having reference to an election to be printed, published, broadcast or distributed, either electronically or in hard copy, the advertisement must indicate that it is printed, published, broadcast or distributed, as the case may be, on behalf of the candidate.

23 (1) Clause 146A(3)(ca) of Chapter 300, as enacted by Chapter 24 of the Acts of 2008, is amended by striking out “internet” in the first line and substituting “Internet”.

(2) Subsection 146A(6) of Chapter 300, as enacted by Chapter 46 of the Acts of 2007, is amended by

(a) striking out “electronic means” in the second line and substituting “via the Internet through the unsupervised use of a personal computing device”; and

(b) striking out “permit voting by non-electronic means at a polling station, including an advance poll” in the third and fourth lines and substituting “also permit voting by some other means on each advance polling day and on ordinary polling day”.

24 (1) Subsection 158(1) of Chapter 300 is amended by striking out “a court” in the fourth line and substituting “the Supreme Court”.

(2) Subsection 158(6) of Chapter 300 is amended by

(a) striking out “a court” in the second line and substituting “the Supreme Court”; and

(b) striking out “court” in the first line of clause (b) and substituting “Court”.

(3) Subsection 158(7) of Chapter 300 is amended by striking out “clerk of the court” in the third line and substituting “prothonotary”.

25 (1) Subsection 159(1) of Chapter 300 is amended by striking out “court” in the second line and substituting “Supreme Court”.

(2) Subsection 159(2) of Chapter 300 is amended by striking out “court” in the second line and substituting “Court”.

26 Subsection 160(3) of Chapter 300 is amended by striking out “court” in the second line and substituting “Supreme Court”.

27 (1) Subsection 162(1) of Chapter 300, as amended by Chapter 46 of the Acts of 2007, is further amended by striking out “court” in the first line and substituting “Supreme Court”.

(2) Subsection 162(2) of Chapter 300 is amended by striking out “court” in the third line and substituting “Supreme Court”.

28 Subsection 167(1) of Chapter 300, as enacted by Chapter 9 of the Acts of 2003 and amended by Chapter 46 of the Acts of 2007, is further amended by adding immediately after clause (a) the following clause:

(aa) prescribing materials and documents to be retained by a clerk pursuant to Section 141;

MUNICIPAL GOVERNMENT ACT

29 Section 407 of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is amended by adding immediately after subsection (1) the following subsection:

(1A) An elector who is a council member is not qualified to serve as a village commissioner.

30 For greater certainty, where, immediately before the coming into force of this Act, a person is a village commissioner and member of a municipal council, that person, upon this Act coming into force, ceases to be a village commissioner.
