

2005

CHAPTER 12

An Act to amend *The Election Act, 1996* and to make related amendments to other Acts

(Assented to May 27, 2005)

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

Short title

1 This Act may be cited as *The Election Amendment Act, 2005*.

S.S. 1996, c.E-6.01 amended

2 *The Election Act, 1996* is amended in the manner set forth in this Act.

Section 2 amended

3(1) **Clause 2(1)(d) is amended by striking out** “cablecaster as defined in *The Community Cablecasters Act*” **and substituting** “distribution undertaking as defined in the *Broadcasting Act* (Canada)”.

(2) **Clause 2(1)(k) is repealed and the following substituted:**

“(k) ‘**constituency**’ means a constituency established pursuant to *The Representation Act, 2002*”.

(3) **Subclause 2(1)(v)(i) is repealed and the following substituted:**

“(i) serves persons who are patients pursuant to that Act”.

Section 9 amended

4(1) **Subsection 9(1) is amended by striking out** “Lieutenant Governor in Council” **and substituting** “Chief Electoral Officer”.

(2) **Subsection 9(2) is amended by striking out** “Lieutenant Governor in Council” **and substituting** “Chief Electoral Officer”.

(3) **Subsection 9(6) is amended by striking out** “Lieutenant Governor in Council” **and substituting** “Chief Electoral Officer”.

Section 12 amended

5 **Subsection 12(9) is amended by striking out** “Lieutenant Governor in Council” **and substituting** “Chief Electoral Officer”.

Section 16 amended

6 **Subsection 16(5) is amended by adding** “in a general election,” **before** “a candidate”.

Section 17 amended**7 Section 17 is amended:**

- (a) in clause (a) by striking out “or any previous *Election Act*”;**
- (b) by repealing clauses (b) and (c); and**
- (c) by repealing clause (d) and substituting the following:**
 - “(d) the Chief Electoral Officer and the Assistant Chief Electoral Officer”.

Section 18 amended**8 The following subsection is added after subsection 18(13):**

- “(14) If an individual is in a correctional facility, jail or prison because of being convicted of an offence against an Act or an Act of the Parliament of Canada, the individual must choose one of the following polling divisions and, on that choice, is deemed to be ordinarily resident in that polling division:
- (a) the polling division, if any, in which the individual was ordinarily resident before being in the correctional facility, jail or prison;
 - (b) the polling division, if any, in which a spouse, parent or dependant of the individual is ordinarily resident”.

Section 22 amended**9 The following subsection is added after subsection 22(5):**

- “(6) If the returning officer considers it to be necessary to do so, the returning officer may:
- (a) engage any person to provide security for an enumerator who is conducting an enumeration; or
 - (b) request the assistance of a peace officer to provide security for an enumerator who is conducting an enumeration”.

Section 24 amended**10 The following subsection is added after subsection 24(11):**

- “(12) The Chief Electoral Officer shall take all reasonable steps to protect against any use of a voters’ list prepared pursuant to this section other than a use authorized by this Act”.

Section 25 amended**11 Subsection 25(1) is amended:**

- (a) in subclause (a)(ii) by striking out “four” and substituting “three”; and**
- (b) by repealing clause (b) and substituting the following:**
 - “(b) promptly post one copy of the voters’ list for each polling division in his or her office and:
 - (i) in the head office of each municipality in the constituency; or
 - (ii) if there is no head office for a municipality in the constituency, in an office of Canada Post located in the municipality”.

Section 26 amended

12 Subsection 26(2) is amended by striking out “following” and substituting “preceding”.

Section 28 amended

13 Subsection 28(2) is amended by striking out “a copy” and substituting “two copies”.

Section 30 amended

14(1) Subsection 30(1) is amended by striking out “by an enumeration conducted other than during an election” and substituting “by an enumeration conducted in a manner other than in accordance with those sections”.

(2) The following clause is added after clause 30(2)(c):

“(d) respecting any other matter or thing that concerns enumerations or that is considered necessary or expedient for the purposes of conducting enumerations pursuant to this section”.

Section 44 amended

15(1) Subsection 44(3) is amended by striking out “A” and substituting “Subject to subsection (8), a”.

(2) The following subsection is added after subsection 44(5):

“(5.1) The candidate shall indicate his or her consent to serve by signing the nomination paper in the presence of a witness who shall:

- (a) sign his or her name as witness; and
- (b) take the affidavit of attestation forming part of the nomination paper”.

(3) Subsection 44(6) is amended by adding “must contain the candidate’s written consent to serve and” before “must state”.

(4) The following subsection is added after subsection 44(7):

“(8) The returning officer may, in the case of an emergency, accept a nomination paper by facsimile, if the originals and the deposit required by subsection 46(1) are subsequently provided to the returning officer within 48 hours after the end of the period mentioned in subsection (1)”.

Section 45 amended

16 The following subsection is added after subsection 45(1):

“(1.1) A written document mentioned in subsection (1) must be filed with the returning officer or the Chief Electoral Officer”.

Section 46 amended

17 Subsection 46(2) is repealed and the following substituted:

“(2) The deposit mentioned in subsection (1):

- (a) must be in Canadian currency;
- (b) must be made payable to the Minister of Finance; and
- (c) may be either a postal money order or in the form of a certified cheque drawn on a valid account in a bank, trust company or credit union”.

Section 54 amended

18(1) Subsection 54(1) is amended by striking out “residing in the constituency for which the candidate was nominated” **and substituting** “, or Saskatchewan residents, who are Canadian citizens and who are 14 years of age or older”.

(2) Subsection 54(3) is amended by striking out “who is ineligible to vote or”.

(3) The following subsection is added after subsection 54(4):

“(5) If a returning officer has established a central polling place pursuant to subsection 36(3) and a candidate’s representative pursuant to section 14 takes an oath of secrecy or makes a declaration of secrecy for a polling place that has been combined into the central polling place, the candidate’s representative is deemed to have taken that oath or made that declaration for all polling places that have been combined into the central polling place”.

Section 67 amended

19 Subsection 67(1) is amended by striking out “subsection 69(1)” **and substituting** “section 69”.

Section 71 amended

20 Subsection 71(1) is repealed and the following substituted:

“(1) If a voter is required to make a voter’s declaration, the poll clerk shall:

(a) do all of the following:

(i) confirm that the voter has satisfactory proof of the voter’s identity and place of ordinary residence;

(ii) complete the prescribed voter’s declaration form with information supplied by the voter;

(iii) record the name of the voter in the poll book and fill in the appropriate spaces opposite the voter’s name; or

(b) do all of the following:

(i) confirm the voter’s identity and place of ordinary residence by having another voter whose name is on the voter’s list vouch for the identity and residence of the voter by completing the prescribed forms;

(ii) complete the prescribed voter’s declaration form with information supplied by the voter;

(iii) record the name of the voter in the poll book and fill in the appropriate spaces opposite the voter’s name”.

Section 86 amended

21 Subsection 86(2) is repealed and the following substituted:

“(2) A voter who presents evidence satisfactory to the returning officer of the constituency in which the voter is eligible to vote, or to the Chief Electoral Officer, that the voter will be unable to vote at an advance poll or on polling day in the constituency is an absentee voter”.

New section 87

22 Section 87 is repealed and the following substituted:**“Application – absentee voters**

87(1) A voter who wishes to be considered an absentee voter shall apply to the returning officer or the Chief Electoral Officer by submitting:

(a) proof satisfactory to the returning officer or the Chief Electoral Officer, as the case may be, of the voter’s identity and place of ordinary residence; and

(b) a prescribed voter’s declaration form that is fully completed.

(2) An application pursuant to this section must be received by the returning officer or the Chief Electoral Officer at least eight days before polling day.

(3) An application pursuant to this section:

(a) may be made by facsimile or other means of electronic transmission; and

(b) if made in the manner set out in clause (a), must include the applicant voter’s signature in a graphical representation.

(4) If the Chief Electoral Officer has received an application pursuant to subsection (1), the Chief Electoral Officer shall forward that application to the appropriate returning officer as soon as is practicable after it was received”.

Section 88 amended

23(1) Subsection 88(1) is amended:**(a) by repealing clause (a) and substituting the following:**

“(a) a ballot paper that:

(i) is in the prescribed form;

(ii) is initialled by the returning officer or election clerk; and

(iii) is to be similar to the ballot described in section 35, except that:

(A) there is to be only one space of at least five centimetres in depth for the insertion by the voter of the name or political affiliation of the candidate for whom the voter intends to vote; and

(B) the counterfoil is to be detached”; and

(b) by repealing clause (c) and substituting the following:

“(c) a certificate envelope with a certificate of identification and instructions, both in the prescribed form, printed on it”.

(2) Subsections 88(2) to (4) are repealed and the following substituted:

“(2) The materials mentioned in subsection (1) must be delivered:

(a) not less than three days before polling day in the case of personal delivery;

(b) not less than four days before polling day in the case of delivery by registered mail.

“(3) Immediately on delivering the materials mentioned in subsection (1) to all absentee voters, the returning officer shall inform, in writing, the deputy returning officer for the polling division where each absentee voter is eligible to vote that the voter:

- (a) is an absentee voter; and
- (b) may not vote otherwise than as an absentee voter”.

(3) Subsection 88(5) is amended by striking out “and of the fact that the absentee voter’s name is to be struck off the voters’ list”.

(4) Subsection 88(6) is repealed and the following substituted:

“(6) An absentee voter shall mark the ballot paper by inserting the name or political affiliation of the candidate for whom the absentee voter intends to vote”.

(5) Subsection 88(7) is amended:

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

“(a) fold the ballot paper so that the name or political affiliation of the candidate for whom the voter voted is concealed, but the initials of the returning officer or election clerk are exposed”;

(b) in clause (e) by striking out “first”; and

(c) by repealing clause (f).

(6) The following subsection is added after subsection 88(7):

“(8) For the purposes of this section, the Chief Electoral Officer shall send the returning officer at least one ballot paper for each absentee voter in the returning officer’s constituency”.

Section 96 amended

24 Subsections 96(2) to (4) are repealed and the following substituted:

“(2) If a constituency has a poll, the Chief Electoral Officer shall send to the returning officer:

- (a) at least one ballot paper for each voter in the poll; and
- (b) a sufficient supply of ballot envelopes containing a voter’s declaration”.

Section 104 amended

25 Subsections 104(2) to (4) are repealed and the following substituted:

“(2) If a constituency has a hospital poll, the Chief Electoral Officer shall send to the returning officer:

- (a) at least one ballot paper for each voter in the poll; and
- (b) a sufficient supply of ballot envelopes containing a voter’s declaration”.

Section 112 amended**26 Subsections 112(2) to (4) are repealed and the following substituted:**

“(2) If a constituency has a remand poll, the Chief Electoral Officer shall send to the returning officer:

- (a) at least one ballot paper for each voter in the poll; and
- (b) a sufficient supply of ballot envelopes containing a voter’s declaration”.

Section 135 amended**27(1) Subsection 135(6) is amended:**

- (a) by striking out “and” after clause (d); and
- (b) by adding the following clauses after clause (e):

“(f) make an entry in the poll book of the spoiled and declined ballots in the following manner on the line immediately below the last name recorded:

‘The number of spoiled and declined ballots at this polling place is _____’; and

- “(g) sign his or her name after that entry”.

(2) Subsection 135(15) is amended by adding “a” after “is deemed to be”.**Section 144 amended****28 Subsection 144(1) is amended by adding “or Saskatchewan residents who are Canadian citizens and who are 14 years of age or older” after “voters”.****Section 146 amended****29(1) Clause 146(1)(b) is amended by striking out “ballot envelopes” and substituting “certificate envelopes”.****(2) Subsection 146(4) is amended:**

- (a) in clause (a) by striking out “containing ballot envelopes” and substituting “containing certificate envelopes”; and
- (b) in clause (b) by adding “or the certificate envelopes” after “ballot envelopes”.

(3) The following subsection is added after subsection 146(5):

“(5.1) Without opening any certificate envelope, the returning officer shall:

- (a) examine the certificate envelope; and
- (b) permit any candidate or candidate’s representative to examine the certificate envelope”.

(4) The following subsection is added after subsection 146(6):

“(6.1) The returning officer shall:

- (a) open each certificate envelope examined pursuant to subsection (5.1) if the returning officer is satisfied that the voter who mailed or delivered the certificate envelope was entitled to vote for a candidate in the constituency; and
- (b) open each ballot envelope that is contained within each certificate envelope that is opened pursuant to clause (a)”.

(5) Subsection 146(8) is amended by adding “or on each unopened certificate envelope” after “unopened ballot envelope”.

(6) Clauses 146(9)(a) and (b) are repealed and the following substituted:

- “(a) place all unopened ballot envelopes and all unopened certificate envelopes in a special envelope supplied for the purpose;
- “(b) note on the special envelope the number of unopened ballot envelopes and the number of unopened certificate envelopes contained in it”.

(7) Subsection 146(16) is repealed and the following substituted:

“(16) The returning officer shall:

- (a) place in a special envelope supplied for the purpose all ballot envelopes, and all certificate envelopes, that have been opened and from which ballots have been removed;
- (b) indicate on the special envelope the number of opened ballot envelopes and opened certificate envelopes contained in it; and
- (c) seal the special envelope”.

New section 148

30 Section 148 is repealed and the following substituted:

“Tie result

148(1) If, on the final count, the returning officer finds that two or more candidates, each having the largest number of votes, have the same number of votes, the returning officer shall declare the result to be a tie vote.

(2) In the event that the returning office declares a result to be a tie vote, each of the candidates having the same number of votes, or the business managers of those candidates, is entitled to request a recount or an addition pursuant to section 155”.

Section 155 amended**31 The following subsection is added after subsection 155(1):**

“(1.1) If the returning officer declares a result to be a tie vote pursuant to section 148, any of the candidates having the same number of votes or the business manager of any of those candidates is entitled to request a recount or an addition”.

Section 160 amended**32(1) Clause 160(1)(b) is amended:**

- (a) by striking out “and” after subclause (v);
- (b) by adding “and” after subclause (vi); and
- (c) by adding the following subclause after subclause (vi):
 - “(vii) the unopened certificate envelopes”.

(2) Subsection 160(2) is amended by adding “or certificate envelope” after “ballot envelope”.

(3) Subsection 160(3) is amended by adding “or certificate envelope” after “ballot envelope”.

(4) Subsection 160(4) is repealed and the following substituted:

“(4) The judge shall deal with the ballot envelope and the ballot contained in it, or with the certificate envelope and the ballot envelope and ballot contained within it, in the same manner as the returning officer is directed to deal with ballot envelopes or certificate envelopes and ballot envelopes and ballots contained in them pursuant to section 146, and that section applies, with any necessary modification, to this subsection”.

Section 164 amended**33 Subsection 164(4) is repealed and the following substituted:**

“(4) If, on a recount or addition pursuant to this section, the judge finds that two or more candidates, each having the largest number of votes, have the same number of votes, the judge shall declare:

- (a) the result to be a tie vote;
- (b) that the election is void; and
- (c) that the seat to represent the constituency for which the election was conducted is vacant”.

Section 171 amended**34 Subsection 171(1) is repealed and the following substituted:**

“(1) The returning officer shall make a return to the writ in the prescribed form:

- (a) 23 days after the polling day or, if that day is a Sunday or a holiday, the first following day that is not a Sunday or a holiday; or
- (b) if there has been a recount or an addition, immediately after the receipt of the certificate of the judge”.

Section 215 amended

35 Subsection 215(2) is repealed and the following substituted:

“(2) No person shall distribute or cause to be distributed any advertisement that promotes the candidacy of a particular person unless there is included in, or unless there appears on the face of, the advertisement:

(a) the statement that the advertisement is ‘authorized by the business manager for [name of the candidate to which the advertisement relates]’; or

(b) if the name of the candidate is clearly indicated on the advertisement, the statement that the advertisement is ‘authorized by the business manager for the candidate’.

“(3) Subject to subsection (4), no person shall distribute or cause to be distributed an advertisement that refers to an election unless there is included in, or unless there appears on the face of, the advertisement the statement that the advertisement is ‘authorized by the chief official agent for [name of registered political party to which the advertisement relates]’.

“(4) Subsection (3) does not apply if the person establishes that the advertising was distributed:

(a) to gain support for views held by the person on an issue of public policy, or to advance the aims of any organization or association, other than a political party or an organization or association of a partisan political character, of which the person is a member and on whose behalf the expenses were incurred; and

(b) in good faith and not to evade any provisions of this Act”.

Section 220 amended

36 Section 220 is amended:

(a) by adding the following subclause after subclause (f)(vii):

“(viii) the cost related to the conduct of election surveys or other surveys or research conducted during an election”;

(b) by repealing subclause (h)(viii); and

(c) by repealing clause (i).

Section 223 amended

37 Section 223 is amended:

(a) by renumbering it as subsection 223(1); and

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

“(2) Notwithstanding clause (1)(b), an unregistered political party or person acting on behalf of an unregistered political party may incur or pay any reasonable expenses for the purpose of complying with section 224”.

Section 224 amended**38(1) Subsection 224(1) is amended:**

(a) in the portion preceding clause (a) by adding “in the prescribed form” after “an application”; and

(b) by repealing clause (f) and substituting the following:

“(f) the names and addresses of the auditor and chief official agent of the political party along with:

(i) the written consent of the auditor to act as auditor; and

(ii) the written consent of the chief official agent to act as chief official agent”.

(2) The following subsection is added after subsection 224(1):

“(1.1) A political party that wishes to be registered may apply to the Chief Electoral Officer to reserve, for a period of six months from the date the application is received by the Chief Electoral Officer, a preferred name for that political party.

“(1.2) On receipt of an application pursuant to subsection (1.1), the Chief Electoral Officer shall reserve the name mentioned in the application for the six-month period mentioned in that subsection”.

Section 227 amended

39 Clause 227(1)(b) is amended by striking out “10” and substituting “two”.

New section 234

40 Section 234 is repealed and the following substituted:

“Chief official agent for party

234(1) A registered political party may appoint an individual or a corporation incorporated or registered in Saskatchewan as chief official agent for that party.

(2) No election officer or candidate shall act as chief official agent for any registered political party.

(3) If the chief official agent for a registered political party is a corporation, the chief official agent may designate an individual to act on behalf of the chief official agent for the purposes of this Act”.

Section 243 amended

41 Clause 243(1)(a) is amended by striking out “\$651,355” and substituting “\$673,783”.

New section 249

42 Section 249 is repealed and the following substituted:

“Chief official agent to obtain

249 Unless the payment for an expense is \$25 or less, every chief official agent of every registered political party shall, when incurring or paying any expenses, promptly obtain and retain the bills, charges or claims, supplier documents and receipts or cancelled cheques mentioned in subsection 248(2)”.

Section 250 amended

43 The following clause is added after clause 250(2)(c):

“(c.1) all other income and receipts from any source”.

Section 257 amended

44 Section 257 is amended by striking out “of being received by the candidate or business manager” and substituting “after polling day”.

Section 261 amended

45 Subsection 261(1) is amended by striking out “the candidate returned has been declared elected” and substituting “polling day”.

Section 264 amended

46 Subsection 264(6) is repealed and the following substituted:

“(6) The maximum amount of reimbursement for which a registered political party is eligible pursuant to this section is an amount equal to one-half of the election expenses lawfully incurred by the registered political party, other than the amount of disputed claims or the amount of bills, charges or claims the payment of which is refused by the registered political party”.

Section 265 amended

47 Subsection 265(6) is amended by striking out “one-half” and substituting “60%”.

Section 266 amended

48 Subsection 266(1) is amended:

- (a) in clause (a) by striking out “\$25” and substituting “\$200”; and**
- (b) in clause (c) by striking out “paid to use” and substituting “claimed for the use of”.**

Section 267 amended

49 Subsection 267(1) is amended by striking out “three” and substituting “six”.

Section 269 amended

50(1) Subsection 269(2) is repealed and the following substituted:

“(2) If the value of all contributions and any reimbursement paid to the business manager of a candidate pursuant to subsection (4) or section 270 exceeds the candidate’s election expenses, the candidate’s business manager shall pay the excess amount:

- (a) if the candidate was endorsed by a registered political party, to the party’s chief official agent or the candidate’s constituency association, as directed by the candidate;**
- (b) if the candidate was not endorsed by a registered political party, to the Minister of Finance”.**

(2) Clause 269(4)(a) is amended by striking out “constituency association” and substituting “business manager”.

Section 270 amended

51 Subclause 270(a)(i) is amended by striking out “constituency association” and substituting “business manager”.

Section 285 amended

52 Subsection 285(1) is amended:

(a) by striking out the portion preceding clause (a) and substituting the following:

“Any election materials or statements, returns, reports or other documents that are required or permitted to be delivered or served by this Act may be delivered or served.”;

(b) by striking out “or” after clause (a);

(c) by adding “or” after clause (b); and

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

“(c) in the case of statements, election materials, returns, reports or other documents that are to be served on the Chief Electoral Officer, by registered mail addressed to the main office of the Chief Electoral Officer”.

RELATED AMENDMENTS

S.S. 1993, c.C-26.1, new sections 36.1 and 36.11

53 The following sections are added after section 36 of *The Condominium Property Act, 1993*:

“Right of unit owner to display election advertising

36.1(1) No corporation or any of its agents, officers or employees shall prohibit the owner of a unit from displaying election advertising posters in or on the owner’s unit during a campaign to elect a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire.

(2) A corporation or any of its agents, officers or employees may:

(a) set reasonable conditions respecting the type and size of election advertising posters that may be displayed on a unit; and

(b) prohibit the display of election advertising posters on the common property.

(3) All election advertising posters that are displayed pursuant to subsection (1) must be removed within seven days after the date of the election to which the posters relate.

“Candidate’s right to enter

36.11(1) In this section, ‘**candidate**’ means a candidate for election as a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire.

(2) During a campaign to elect a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire, no corporation or any of its agents, officers or employees shall restrict access at reasonable times by a candidate, or an authorized agent or representative of a candidate, to a unit or the common property for the purpose of canvassing or distributing election materials.

(3) Before entering a unit or any common property for which an owner exercises exclusive use, a candidate shall give his or her name and address to the corporation or to a person authorized for the purpose by the corporation.

(4) Before entering a unit or any common property for which an owner exercises exclusive use, an authorized agent or representative of a candidate shall:

(a) give his or her name and address to the corporation or to a person authorized for the purpose by the corporation; and

(b) if requested to do so by the corporation or person mentioned in clause (a), produce the candidate's written authorization that appoints him or her as an authorized agent or representative".

R.S.S. 1978, c.R-22, section 20 amended

54 The following statutory condition is added after statutory condition 16 of section 20 of *The Residential Tenancies Act*:

"Right of tenant to display election advertising

16.1(1) No landlord shall prohibit a tenant from displaying election advertising posters in or on the residential premises occupied by the tenant during a campaign to elect a member to the House of Commons or the Legislative Assembly or to an elected office in a municipality, school board or conseil scolaire.

(2) A landlord may:

(a) set reasonable conditions respecting the type and size of election advertising posters that may be displayed on residential premises; and

(b) prohibit the display of election advertising posters on any part of the building in which the residential premises are situated and of which the landlord retains possession and that is intended for the common use and enjoyment of the tenants of the landlord.

(3) All election advertising posters that are displayed pursuant to subsection (1) must be removed within seven days after the date of the election to which the posters relate".

COMING INTO FORCE

Coming into force

55 This Act comes into force on proclamation.