

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 119, Approved and Ordered FEB 15 2005

  
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Electoral Reform Referendum Regulation is made.

  
Attorney General and Minister Responsible for  
Treaty Negotiations  
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Referendum Act, R.S.B.C. 1996, c. 400, s. 6

Other (specify):-

# ELECTORAL REFORM REFERENDUM REGULATION

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## SCHEDULE – REFERENDUM BALLOT

### Definitions

- 1 (1) In this regulation:
  - “**election ballot**” means a ballot under the *Election Act* for the general election;
  - “**general election**” means the general election required under the *Constitution Act* to be held in May 2005;
  - “**referendum**” means the referendum required under the *Electoral Reform Referendum Act* to be held in conjunction with the general election;
  - “**referendum advertising**” means advertising used during the referendum campaign period to promote or oppose, directly or indirectly, a specific response in voting in the referendum;
  - “**referendum ballot**” means a ballot for the referendum as described in section 7 of this regulation;
  - “**referendum campaign period**” means, in relation to the referendum, the period beginning on March 1, 2005 and ending at the close of general voting for the referendum.
- (2) Subject to this regulation, the definitions in the *Election Act* apply to this regulation.

### **Referendum proceedings**

- 2 (1) The referendum is to be conducted in conjunction with the 2005 general election, in accordance with the *Referendum Act*, the *Electoral Reform Referendum Act* and this regulation.
- (2) Subject to this regulation, the procedures for conducting the referendum voting and counting are to be the same as the procedures for conducting the voting and counting for the general election.
- (3) The chief electoral officer and other election officials responsible for the general election proceedings are also responsible for the equivalent referendum proceedings.

### **Referendum voting to be on an electoral district basis**

- 3 The referendum is to be conducted in all electoral districts in British Columbia, with the voting conducted separately for each electoral district in conjunction with the election being held for the electoral district.

### **Who may vote in the referendum**

- 4 An individual is entitled to vote in the referendum voting for an electoral district if the individual is entitled to vote in the election for the electoral district.

### **Where a person may vote in the referendum**

- 5 An individual may vote in the referendum
  - (a) at any voting opportunity at which the individual is entitled to vote in the general election, or
  - (b) by alternative absentee voting under Division 5 of Part 6 of the *Election Act*, if the individual is entitled to vote this way in the general election.

### **Voter may vote in either or both of the election and the referendum**

- 6 (1) Subject to this section, a voter may vote in either or both of
  - (a) the electoral district election for which the voter is entitled to vote, and
  - (b) the referendum voting for that electoral district.
- (2) A voter who wishes to vote in both the election and the referendum may only obtain the ballots at the same time.
- (3) If a voter chooses to obtain a ballot to vote only in the election or only in the referendum, but not both, the election official responsible must note against the voter's name in the voting book which ballot was declined.

### **Referendum ballots and voting**

- 7 (1) The referendum ballots must be in the form established by the Schedule to this regulation and must be printed in such a manner that they are distinguishable from the election ballots when completed and folded.
- (2) An individual votes in the referendum by making a cross or tick mark in the blank space provided on the referendum ballot opposite the response that the individual wishes to give to the question on the ballot.

- (3) If
  - (a) an individual is voting in both the general election and the referendum, and
  - (b) the voting procedures require the use of a secrecy envelope that is to be placed in a certification envelope,both the election ballot and the referendum ballot must be placed in the same secrecy envelope.
- (4) In addition to the persons permitted to be present under section 93 [*individuals who may be present at voting proceedings*] of the *Election Act*, any member of the Citizens' Assembly on Electoral Reform who wishes to be present may be present at a voting place while voting proceedings for the referendum are being conducted.

#### **Other referendum voting materials**

- 8 (1) The ballot boxes for the general election are to be used for both the general election and the referendum voting, with both election ballots and referendum ballots being deposited in the same ballot boxes.
- (2) The voting books for the general election are to be used for both the general election and the referendum, and for this purpose must include a space for recording that a voter has declined to obtain an election ballot or a referendum ballot.

#### **Report of the Citizens' Assembly on Electoral Reform**

- 9 A copy of the Final Report of the British Columbia Citizens' Assembly on Electoral Reform must be available for voters at each voting opportunity.

#### **Rules for accepting and rejecting referendum ballots**

- 10 (1) This section applies to referendum ballots in place of section 123 of the *Election Act*.
- (2) A ballot must be rejected if any of the following applies:
  - (a) the ballot physically differs from the ballots officially provided for the voting proceedings for which the counting is being conducted;
  - (b) there is no mark referred to in subsection (3) on it;
  - (c) the ballot is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified;
  - (d) the ballot is marked as voting for more than one response to the referendum question;
  - (e) the ballot does not clearly indicate the intention of the voter to vote for a response to the referendum question.
- (3) Unless rejected under subsection (2), any of the following marks on a referendum ballot is to be accepted and counted as a vote for the applicable response to the referendum question:
  - (a) a cross in or partly in the blank space provided on the ballot opposite the response;
  - (b) a tick mark that is placed in the location referred to in paragraph (a);

- (c) a mark other than one referred to in paragraph (a) or (b) that
  - (i) is placed in the location referred to in paragraph (a), and
  - (ii) clearly indicates the intention of the voter to vote for the response.

#### **Initial count proceedings**

- 11** (1) The initial counts of the votes on election ballots and referendum ballots in a ballot box must proceed as follows:
- (a) ballot accounts are to be prepared in accordance with section 120 (1) (a) of the *Election Act*, separately for election ballots and for referendum ballots;
  - (b) the ballot box is to be opened in accordance with section 120 (1) (b) of the *Election Act*;
  - (c) the certification envelopes are to be removed in accordance with section 120 (1) (c) of the *Election Act*;
  - (d) the election ballots are to be separated from the referendum ballots;
  - (e) the election ballots and ballot account are to be dealt with in accordance with section 120 (1) (d) and (e) of the *Election Act*;
  - (f) the election ballots and other election materials are to be packaged in accordance with section 126 (1) and (2) of the *Election Act*;
  - (g) the referendum ballots and ballot account are to be dealt with in accordance with section 120 (1) (d) and (e) of the *Election Act*;
  - (h) the referendum ballots and other referendum materials are to be packaged in accordance with section 126 (1) and (2) of the *Election Act*;
  - (i) the election and referendum ballots and materials are to be dealt with in accordance with section 126 (3) and (4) of the *Election Act*, completing the requirements of section 120 (1) (f) of that Act for both the election ballots and referendum ballots.
- (2) The individuals entitled to be present at an initial count for the referendum are
- (a) the individuals who were entitled to be present at the equivalent initial count for the general election, and
  - (b) any member of the Citizens' Assembly on Electoral Reform who wishes to be present.

#### **Final count proceedings**

- 12** (1) The final counts of the votes on election ballots and referendum ballots for an electoral district must proceed in accordance with section 132 of the *Election Act*, subject to the adaptations established by this section.
- (2) In considering certification envelopes under section 132 (1) (a) of the *Election Act*, section 134 (1) [*envelopes to remain unopened*] of that Act also applies if the individual identified on the envelope as using it to vote appears to be voting more than once in the referendum.
- (3) The ballot accounts for each class of certification envelope under section 132 (1) (b) of the *Election Act* are to be prepared separately for election ballots and for referendum ballots, and separate ballot boxes are to be used for election ballots and for referendum ballots to be considered on the final counts

after having been dealt with under section 132 (1) (c) of the *Election Act* and this section.

- (4) In dealing with certification envelopes under section 132 (1) (c) of the *Election Act*, if a certification envelope contains a secrecy envelope and either an election ballot or referendum ballot outside the secrecy envelope, the election official responsible must open the secrecy envelope to determine whether there is a ballot in that envelope and then proceed as follows:
  - (a) if there is no ballot in the secrecy envelope, the election official must place the ballot that was outside the secrecy envelope in the ballot box to be used for the final count, with care to conceal any marking on the ballot from other individuals present;
  - (b) if there is a single ballot in the secrecy envelope that is of the other type (election or referendum) from the ballot that was outside the secrecy envelope, the election official must place the ballots in the ballot box to be used for the final count, with care to conceal any marking on them from other individuals present;
  - (c) if there is a single ballot in the secrecy envelope that is of the same type as the ballot that was outside the secrecy envelope,
    - (i) the ballot from the secrecy envelope must be returned to the secrecy envelope and that envelope sealed,
    - (ii) the secrecy envelope and the ballot that was outside the secrecy envelope must be resealed in certification envelope,
    - (iii) the certification envelope must be marked as having been dealt with under this provision, and
    - (iv) the certification envelope must remain unopened and the ballots in it must not be considered on the final count;
  - (d) if there is more than one ballot in the secrecy envelope,
    - (i) the ballots from the secrecy envelope must be returned to the secrecy envelope and that envelope sealed,
    - (ii) the secrecy envelope and the ballot that was outside the secrecy envelope must be resealed in certification envelope,
    - (iii) the certification envelope must be marked as having been dealt with under this provision, and
    - (iv) the certification envelope must remain unopened and the ballots in it must not be considered on the final count.
- (5) The individuals entitled to be present at the final count for the referendum are
  - (a) the individuals who were entitled to be present at the equivalent final count for the general election, and
  - (b) any member of the Citizens' Assembly on Electoral Reform who wishes to be present.
- (6) Following completion of the final count, the district electoral officer must immediately inform the chief electoral officer of the referendum results for the electoral district.

- (7) The chief electoral officer may make an application under section 139 [*application for judicial recount*] of the *Election Act* in relation to one or more electoral districts if, after the end of the final count, the chief electoral officer considers that the results in an electoral district or throughout the Province are sufficiently close to the thresholds established by section 3 (2) [*requirements for referendum to be binding*] of the *Electoral Reform Referendum Act* that a judicial recount is appropriate.

#### **Referendum advertising**

- 13** (1) Part 11 [*Election Communications*] of the *Election Act*, other than the provisions referred to in subsection (2), is adopted and applies in relation to the referendum as if it were an election for a candidate in the general election and, without limiting this, that Part is adopted and applies to referendum advertising as if it were election advertising in relation to an election for a candidate in the general election.
- (2) The following provisions of Part 11 of the *Election Act* do not apply in relation to the referendum:
- (a) section 232 [*restriction on rates charged for election advertising*];
  - (b) section 239 (2) [*registration exception for candidates, parties and constituency associations*];
  - (c) section 243 [*reregistration*];
  - (d) section 244 (3) [*report filing exception for candidates, parties and constituency associations*];
  - (e) section 245 (1) (b) [*contributions to be disclosed*].
- (3) Section 234 [*restriction on election campaigning near election offices and voting places*] of the *Election Act* does not apply in relation to copies of the Final Report of the British Columbia Citizens' Assembly on Electoral Reform.
- (4) In place of section 245 (1) (b) [*contributions to be disclosed*] of the *Election Act*, a report under that section in relation to referendum advertising must include the amount of contributions accepted by the sponsor during the referendum campaign period, reported in accordance with subsections (2) to (4) of that section.

#### **Offences in relation to referendum**

- 14** (1) Part 12 [*Offences*] of the *Election Act*, other than the provisions referred to in subsection (2), is adopted and applies in relation to the referendum as if it were an election for a candidate in the general election.
- (2) The following provisions of Part 12 of the *Election Act* do not apply in relation to the referendum:
- (a) section 255 (6) [*donations by candidate*] and (7) (b) and (c) [*penalties related to holding office and voting*];
  - (b) section 259 [*offences in relation to candidates*];
  - (c) section 262 [*offences in relation to the registration of political parties and constituency associations*];

(d) section 263 [offences in relation to election financing].

### Application of the *Election Act* generally

- 15 (1) Subject to any modifications made by this regulation, the following provisions of the *Election Act* are adopted and apply to the referendum as if it were an election for a candidate in the general election:
- (a) section 1 [definitions];
  - (b) section 2 [time];
  - (c) section 34 [updating registration information];
  - (d) section 41 [registration in conjunction with voting];
  - (e) Part 6 [Voting];
  - (f) Part 7 [Counting the Vote], other than the following:
    - (i) section 123 [rules for accepting and rejecting ballots];
    - (ii) section 124 [objections to the acceptance of a vote or the rejection of a ballot];
    - (iii) section 141 (1) (c) and (d) [candidates and candidates' agents may be present at judicial recount];
    - (iv) section 146 [return of the writ of election];
    - (v) section 147 [report of results of election by chief electoral officer];
    - (vi) section 148 [by-election if tie vote];
  - (g) Part 13 [General], other than section 278 [enforcement of election expenses penalties].
- (2) Sections 276 [investigations and audits by chief electoral officer] and 277 [complaints regarding contraventions] of the *Election Act* apply in relation to any matter that may constitute a contravention of the *Referendum Act* or a regulation under that Act.
- (3) For the purpose of applying provisions of the *Election Act* to the referendum in accordance with this regulation, the expressions in that Act referred to in column 1 of the following table are to be read as references to the indicated expressions in column 2 of the table:

Column 1: <i>Election Act</i> expressions	Column 2: to be read as
campaign period	referendum period
candidate	response to the referendum question
election	referendum
election advertising	referendum advertising
regulation	regulation under the <i>Election Act</i> or the <i>Referendum Act</i>
this Act	the <i>Election Act</i> , the <i>Referendum Act</i> or a regulation under the <i>Referendum Act</i>

**REFERENDUM BALLOT**

<p>General Voting Day: <b>May 17, 2005</b></p>	<p>No. _____</p>
<p>COUNTERFOIL</p>	<p>No. _____</p>
<p>Should British Columbia change to the BC-STV electoral system as recommended by the Citizens' Assembly on Electoral Reform?</p>	
<p>Yes</p>	<input type="radio"/>
<p>No</p>	<input type="radio"/>