

# **GRAND CHIEF BY-ELECTION AND NOMINATION REGULATIONS**

## **Title**

1. Pursuant to section 44 of the *Grand Chief Nomination and Election Law* the Assembly hereby enacts the following regulations which shall be cited as the Grand Chief By-election and Nomination Regulation.

## **Definitions**

2. In these Regulations,

“Assembly” has the same meaning as in the Tł̨ch̨q̨ Constitution.

“Chief’s Executive Council” has the same meaning as in the Tł̨ch̨q̨ Constitution.

“Registrar” means the person designated to serve as Registrar.

“Speaker” has the same meaning as in the Tł̨ch̨q̨ Constitution.

“Tł̨ch̨q̨ Citizen” has the same meaning as in the Tł̨ch̨q̨ Agreement.

“Tł̨ch̨q̨ Government” means the Tł̨ch̨q̨ Government and its institutions as defined in the Tł̨ch̨q̨ Constitution.

## **Term of Office**

3. The person elected in a by-election for Grand Chief shall hold office during the remaining of the term the previous election for Grand Chief called for.

### **Eligible Voters**

4. A person is eligible to vote for Grand Chief if he or she
  - (a) is a Ṭḥcḥo Citizen;
  - (b) has attained the age of 18 years on the day before by-election day; and
  - (c) has been a resident of Ṃọwḥi Gogha Ḍè Ṇg̣ṭṭ'èe for at least two years immediately preceding by-election day, except for absence due to medical, incarceration, education or similar reasons.

### **Eligibility of Candidates**

5. A person is eligible to be nominated and stand as a candidate for Grand Chief if he or she
  - (a) is a Ṭḥcḥo Citizen;
  - (b) has attained the age of 25 on the day before by-election day; and
  - (c) has been a resident in a Ṭḥcḥo Community or on Ṭḥcḥo land for at least two years immediately preceding the vote, except for absence due to medical, incarceration, education or similar reasons.

### **Ineligibility to be a Candidate**

6. (1) A person is not eligible to be nominated as or stand as a candidate in a by-election for Grand Chief if he or she
  - (a) is a judge, territorial judge, youth justice court judge or justice of the peace;

- (b) is a member of the Parliament of Canada or Legislative Assembly of the Northwest Territories;
- (c) is an election officer for that election; or
- (d) is an auditor of the Tłıchǫ government.

(2) A person who is already a Chief of a Tłıchǫ Community Government can be nominated for the position of Grand Chief but cannot hold both offices if elected.

### **Nominations**

7. (1) Tłıchǫ Citizens shall nominate candidates for the position of Grand Chief at a special nomination meeting to be called by the Assembly.

(2) The Registrar shall administer the special nomination meeting and the Speaker of the Assembly may chair the special nomination meeting.

(3) All eligible Tłıchǫ Citizens nominated for Grand Chief must be nominated by a Tłıchǫ Citizen and that nomination must be seconded by 20 other Tłıchǫ Citizens.

(4) Nominations may only be made in person during the special nomination meeting.

(5) A Tłıchǫ Citizen may only nominate or second one nominee. If his or her nominee refuses the nomination or fails to obtain the necessary seconders, those Tłıchǫ Citizens that nominated or seconded that candidate are free to nominate or second another candidate.

8. (1) A nomination must be accepted by a nominee in order for the nominee to become a candidate.

(2) A nominee shall accept or decline a nomination in person at the nomination meeting when asked to do so by the Chair.

(3) Any permanent full-time employee of the Tłı̨chǫ Government, except for a member of the Chief's Executive Council, must take a leave of absence from that position once that employee has accepted the nomination for Grand Chief.

### **Acclamation**

9. (1) In the event that only one person is nominated the Chair may declare that candidate elected by acclamation.

(2) The Registrar shall immediately publish a signed notice of acclamation to Tłı̨chǫ Citizens by setting out the name of the person acclaimed and stating that a vote will not be conducted in respect of the by-election.

(3) The notice of acclamation shall be published by posting on the official Tłı̨chǫ Government website and all Tłı̨chǫ Government offices and any other locations the Registrar deems necessary.

### **Voting**

10. A by-election for Grand Chief shall be held at a time and place determined by the Assembly.

11. (1) The Registrar shall conduct the voting for Grand Chief.

(2) The Registrar shall

- (a) publish a voters list of eligible voters in each Tłı̨chǫ community, in Yellowknife and any other location he or she considers appropriate no later than 45 days prior to the special nomination meeting;
- (b) publish the an amended voters list (if any) one week after the expiration of the appeal period referenced in subsection 12(1);

- (c) establish rules, consistent with these Regulations and the Tłchq Constitution, for the conduct of the vote for Grand Chief, including the establishment of polling stations; these rules may provide for advance voting by means other than voting at polling stations;
- (d) no later than 20 days before the by-election date, send out ballots to registered voters not resident in Mqwhì Gogha Dè Nıtt'èe for reasons specified in subsection 4(c);
- (e) no later than 30 days before the by-election date post a notice of by-election setting out the time, place and date for voting, and
- (f) no later than 5 days before the by-election date, provide for one or more advance polls.

### **Appeals**

- 12.** (1) An appeal, in writing, may be made to the Registrar no later than 10 days after the publication of the voters list
- (a) by a person whose name is not on the preliminary voters list to have his or her name included in the voters list whether or not the person applied before the publication of the preliminary voters list;
  - (b) by a person whose name is on the voters list to prevent the name of another person being included in the voters list on the basis of ineligibility; or
  - (c) by a person whose name is on the voters list to prevent his or her name from being included in the voters list.
- (2) The Registrar shall, in respect of an appeal under subsection (1) hear it in the manner he or she considers appropriate.

(3) The Registrar shall, whether or not an appeal has been made, correct any errors in the voters list where those errors are brought to his or her attention within the period set out in subsection (1)

### **Ballots and Forms**

**13.** (1) If a vote is conducted in part by mail, the mail out of notices, ballots or other communications, is deemed to take place on the day the papers are left with a post office for mail out.

(2) A notice, ballot, or other communication sent by mail to an eligible voter at the address listed on the Tłchq Citizens Register at the time of compilation of the preliminary voters list is deemed to have been received by the addressee in the ordinary course of mail, unless the Citizen has provided the Registrar with a more recent address.

(3) A ballot shall be sent out in a package containing the following information and materials

- (a) a ballot;
- (b) a letter setting out information regarding the vote, including
  - (i) the name and contact information of the Registrar,
  - (ii) instructions for voting, including how to obtain information relating to candidate withdrawals and disqualifications, and
  - (iii) the date by which the ballot must be returned in order to be counted as a ballot cast;
- (c) a blank envelope with the word “ballot” printed on it; and
- (d) an addressed return envelope for return of the ballot containing a voter declaration form requiring the voter’s name and signature.

(4) All mail ballots must be returned before the close of polls on the day of the by-election in order to be counted.

**14.** (1) Polling stations will be set up in each of the four Tlicho communities and any other location(s) within Mᵒwhì Gogha Dè Nᵗt'èe deemed necessary by the Registrar.

(2) The Registrar and Deputy Registrars shall construct or erect polling booths in such a way that the privacy of the voter is maintained.

(3) The Registrar and the Deputy Registrars that are deemed necessary shall be in attendance at the time and place as set out in the notice of poll.

(4) The Registrar or a Deputy Registrar shall immediately before the commencement of the poll open the ballot box(es) and call such persons as may be present to witness that it is empty, he or she shall then lock the box to prevent it from being opened and shall place it in view for reception of the ballots and the box shall not be unlocked during the time appointed for taking the poll.

(5) The Registrar, where necessary and when requested, shall appoint a Tᵗchᵒ Citizen to act as an interpreter or an assistant, for any elector who is unable to read the ballot or otherwise incapacitated.

(6) The Registrar or a Deputy Registrar shall hold the polling booth(s) open from 9:00 a.m. to 8:00p.m. (local time).

### **Casting of Ballots**

**15.** (1) Persons presenting themselves for the purpose of voting shall, upon being confirmed by the Registrar or a Deputy Registrar, as and elector, be given one ballot, upon which to register his or her vote.

(2) All candidates shall be entitled to not more than two agents in a polling place, at any one time, to witness voting operations.

(3) The Registrar or a Deputy Registrar shall initial each ballot upon giving it to the elector.

(4) Each elector receiving a ballot shall proceed directly to the place provided for making ballots and shall mark his/her ballots by placing an "X" opposite the name of the candidate and photograph for whom he or she desires to vote and shall then deposit the ballot in the ballot box supplied.

(5) The Registrar, or a Deputy Registrar, shall note upon the voter's list any irregularity in connection with voting and shall specifically note any ballots marked by the Registrar and a Deputy Registrar at the request of an elector, but shall not note the candidate for whom the ballot was cast.

(6) An elector who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used, shall return it to the Registrar or a Deputy Registrar who shall write the word cancelled upon the spoiled ballot paper and preserve it, and deliver another ballot paper to the elector.

(7) Any elector, whose name does not appear on the voter's list, may present identification to be verified by the Registrar or a Deputy Registrar for eligibility, and by making a declaration, may be allowed to vote at the polling station.

(8) All electors who are in the polling station at the close of the poll will be allowed to vote.

### **Campaigning**

**16.** (1) Active campaigning in the immediate vicinity of a polling station on a day of poll is prohibited.

(2) The Registrar is authorized to temporarily seize documents, equipment or other materials being used or displayed in contravention of subsection (1).



## **Withdrawal**

17. (1) A candidate may withdraw from candidacy at any time before acclamation or the opening of the advanced polls by filing with the Registrar a written withdrawal of the nomination, signed by the candidate personally in the presence of the Registrar or a Deputy Registrar.

(2) Where a candidate withdraws before the printing of ballots has begun, the candidate's name will be removed from the ballots.

(3) Where a candidate withdraws after the printing of ballots has begun, the candidate's name will remain on the ballot, but the votes cast in favour of that candidate will be disregarded for all purposes. Any such withdrawal will be made public at each polling station by the Registrar.

(4) A candidate who dies before the close of polls will be considered to have withdrawn his or her candidacy. A notice of such death shall be made public at each polling station by the Registrar.

(5) The withdrawal in subsection (1) is effective at the time the Registrar or a Deputy Registrar is in receipt of the written document or notice of death.

## **Disqualification**

18. (1) Subject to subsection (2), where a candidate is disqualified at any time before acclamation or close of polls, the candidate's name will be removed from the ballots.

(2) Where a candidate is disqualified after the printing of ballots has begun, the candidate's name will remain on the ballot, but votes cast in favour of that candidate will be disregarded for all purposes. Any such disqualification shall be made public at each polling station by the Registrar.

## **Counting Ballots**

19. Mail ballots received after the date set for return of mail ballots shall be rejected by the Registrar.

### **Mail Return Envelopes**

- 20.** (1) The Registrar shall reject a ballot if, on inspection of the return envelope
- (a) the voter declaration form is incomplete;
  - (b) the name of the voter is not on the registered voters list;  
or
  - (c) the record of ballots issued indicates the voter has already cast a ballot

### **Bringing Together Ballots**

- 21.** (1) As soon as is reasonably possible after the close of polls, the Registrar or Deputy Registrar shall
- (a) retrieve any advance poll ballot boxes from safekeeping and add them to the boxes from the other polling stations;  
and
  - (b) in sight of any candidate or candidate's agent present, but in a manner that ensures the secrecy of the content of the ballot.

### **Opening Ballot Boxes**

- 22.** (1) As soon as is reasonably possible, the Registrar or Deputy Registrar shall, in sight of any candidate or candidate's agent present, open all ballot boxes and
- (a) review all the ballots and reject any ballot that;
    - (i) lacks an authentication mark,
    - (ii) has not been marked by the voter,

- (iii) has been marked by the voter with a mark other than an “X”, except where the voter has, in the opinion of the Registrar, clearly indicated an intention, in which case the Registrar may declare the ballot not rejected,
  - (iv) contains votes for more candidates than are to be elected, or
  - (v) in any way identifies the voter;
- (b) make note of any objection raised by a candidate or candidate’s agent with respect to any ballot and make a determination regarding the objection;
  - (c) number any such objection and place a corresponding number on the back of the ballot, along with the word “allowed” or “disallowed”, as the case may be, and initial that ballot; and
  - (d) prepare a return of poll.

### **Tie Vote**

**23.** If as a result of the by-election there is a tie among two or more candidates with the most votes for the position of Grand Chief, a recount of the votes shall take place within 24 hours. If the recount results in a tie vote then the Registrar shall order another by-election on a date certain but in no case later than 60 days after the original by-election.

### **Return of Poll**

**24.** (1) A return of poll shall indicate the results of the vote including the total number of ballots cast, and the number of votes for each candidate and the number of ballots rejected.

(2) Where a candidate is acclaimed to a position, the return of poll shall specifically so indicate.

(3) A return of poll shall be signed by the Registrar.

## **Results**

**25.** (1) The results of the by-election, as set out in the return of poll, shall be published immediately after the Registrar files copies of the return of poll.

(2) The results of the by-election shall be published in each Tłı̨chǫ community, in Yellowknife and any other location the Registrar considers appropriate.

(3) Where a candidate for Grand Chief receives more votes than any other candidate, that candidate shall be declared elected to the office of Grand Chief by the Registrar.

## **Recount**

**26.** (1) An application for recount shall be made in writing to the Chief's Executive Council.

(2) An application for recount shall be accompanied by \$200 fee.

## **Complaint**

**27.** (1) A complaint alleging a contravention of these Regulations shall be made in writing to the Chief's Executive Council.

(2) A complaint shall

(a) include the name and contact number of the complainant;

(b) set out the facts relating to the alleged contravention, including dates, witnesses and persons involved; and

(c) describe how the facts alleged amount to a contravention of these Regulations.

## **Inquiry**

**28.** (1) If the Chief's Executive Council resolves to hold an inquiry, it shall first publish a statement outlining the alleged facts and how these Regulations may have been contravened.

(2) The Chief's Executive Council shall provide a copy of the statement of inquiry to any individual directly affected by the matter.

(3) For the purposes of this section, a statement of inquiry shall be published in each Tłıchǫ Community, in Yellowknife and any other location the Chief's Executive Council considers appropriate.

## **Conflict of Interest**

**29.** Any member of the Chief's Executive Council who is a candidate in the by-election for Grand Chief shall not participate or play any role whatsoever in the decision making process in relation to a complaint and or an inquiry under sections 27 and 28 respectively.

## **Registrar**

- 30.** (1) Subject to these Regulations, the Registrar shall
- (a) set the dates, time and place or places for taking a vote and ensure that every person eligible to vote has a reasonable opportunity to do so;
  - (b) compile a list of eligible voters;
  - (c) compile a list of candidates;
  - (d) set the form of the ballot;
  - (e) fix the number and location of polling places, each of which must contain private polling booths or private spaces for voting;

- (f) provide for at least one advance poll to be held in each four Tłchq communities and any other location(s) necessary;
- (g) make arrangements for security and order in and around the polling areas;
- (h) keep a record of the persons to whom ballots are issued;
- (i) mark all ballots, including mail ballots, by hand-written initial or otherwise, in manner that will permit reliable authentication of cast ballots;
- (j) safe keep all ballots cast pending the close of poll;
- (k) at the close of poll, but prior to any counting of ballots, refer any double-sealed ballots to the Chief's Executive Council for directions under subsection 30(3);
- (l) ensure that all ballots properly cast are included in the counting of the vote;
- (m) supervise the counting and recounting of ballots,
- (n) immediately upon completion of a count or recount and with the candidates or candidates' agents, if any, present, prepare a return of poll form and sign it;
- (o) immediately upon completion of the return of poll form, file signed copies of the return of poll with the Tłchq Government administration office and the Chief's Executive Council;
- (p) preserve all documents relating to the vote, including all ballots and the original return of poll, until all relevant appeals or appeal periods, including judicial review and appellate court applications, are completed or expired; and

(q) upon completion the expiry of all relevant appeals and appeal periods, file the original return of poll with the administration office and destroy the documents relating to the vote.

(2) The Registrar may appoint Deputy Registrar(s) and may delegate the performance of administrative tasks and functions to the Deputy Registrar(s), poll clerks or returning officers.

(3) The Registrar may refer a question regarding the interpretation or application of these Regulations to the Chief's Executive Council at any time in the course of his or her duties, and the Chief's Executive Council may provide the Registrar with directions.

(4) A direction under subsection (3) does not bar a complaint or application to the Chief's Executive Council regarding the same matter and does not bind the Chief's Executive Council in determining any application or complaint.

## **Chiefs Executive Council**

### **Role**

**31.** (1) The Chief's Executive Council shall oversee the conduct of a by-election and exercise the rights and perform the duties conferred upon it by these Regulations until the completion or expiry of all relevant appeals or appeal periods, including judicial review and appellate court application.

(2) The members of the Chief's Executive Council shall discharge their duties and responsibilities in a fair and neutral manner.

(3) Any candidate for Grand Chief who is member of the Chief's Executive Council Shall be excluded from all aspects under subsection (1).

### **Practice and Procedure**

**32.** (1) Subject to these Regulations, the Chief's Executive Council may determine its own practice and procedure, but shall give affected

persons an opportunity to make submissions in respect of matters before it for determination.

(2) The Chief's Executive Council may make rules governing its practice and procedure.

### **Application for Recount**

**33.** (1) A candidate may apply to the Chief's Executive Council for a recount.

(2) An application for a recount shall be made within 7 days of publication of the by-election results.

(3) It is completely at the discretion of the Chief's Executive Council to conduct a recount.

(4) Only one recount will be conducted.

(5) Following a recount, the Registrar shall complete, sign and file copies of a new return of poll in the same manner as for an original return of poll.

(6) If the candidate bringing an application under subsection (1) is a member of the Chief's Executive Council he or she shall not participate or play any role whatsoever in the decision making process determining whether or not to order a recount.

### **Complaints**

**34.** (1) A complaint alleging a contravention of these Regulations may be made to the Chief's Executive Council at any time during a by-election, but shall be made within 15 days after publication of the by-election results or, where applicable, the publication of recount results.

(2) Chief's Executive Council may provide relief against the time limit for filing a complaint where satisfied it is just and reasonable to do so in the circumstances.



(3) A complaint shall be filed in accordance with section 27.

(4) If a complaint is properly filed, the Chief's Executive Council shall determine whether there has been a contravention of these Regulations, and shall issue a decision in respect of the complaint.

(5) If the candidate or individual bringing a complaint under this section is a member of the Chief's Executive Council, he or she shall not participate or play any role whatsoever in the decision making process in relation to a complaint under subsection (1)

### **Inquiries**

**35.** (1) If satisfied that an inquiry should be conducted into whether a by-election is being or was conducted in accordance with these Regulations, the Chief's Executive Council may conduct an inquiry on its own motion.

(2) Where the Chief's Executive Council conducts an inquiry on its own motion, the Chief's Executive Council shall

(a) issue a statement of inquiry before beginning its inquiry:  
and

(b) shall, upon completion of the inquiry, set out its findings in writing.

(3) If a member of the Chief's Executive Council is a candidate he or she shall play no role in the decision-making or inquiry process.

### **General Powers**

**36.** The Chief's Executive Council has, in respect of an application, complaint, question or inquiry before it, the power to

(a) examine records and make the inquiries it considers necessary;

- (b) examine and consider any evidence placed before it, regardless of whether such evidence would be admissible in a court of law; and
- (c) provide notice of a proceeding before it to persons directly affected.

## **Remedial Powers**

**37.** (1) If satisfied that a by-election was not conducted in a manner consistent with these Regulation, the Chief's Executive Council may declare a contravention.

(2) If satisfied that the contravention materially affected the outcome of the by-election, the Chief's Executive Council may, in addition to a declaration, make such further orders as it considers appropriate.

(3) Without limiting the generality of subsection (2), the Chief's Executive Council may

- (a) give directions to the Registrar and order a recount conducted based on those direction;
- (b) set aside the results of a by-election, in whole or in part;  
or
- (c) order a new by-election and give directions to the Registrar for the conduct of that by-election.

## **Jurisdiction**

**38.** (1) The Chief's Executive Council has exclusive authority to determine whether a by-election was conducted in a manner consistent with these Regulations.

(2) The Chief's Executive Council has and shall exercise exclusive jurisdiction to hear and decide an application or complaint made under these

Regulations and to answer question referred to it by the Registrar in respect of a by-election.

### **Decisions**

**39.** (1) The Chief's Executive Council's decisions shall be in writing.

(2) The Chief's Executive Council shall, on the day that it issues a decision, file a copy with the Tł̓ch̓ Government administration office.

### **Final and Binding**

**40.** A decision of the Chief's Executive Council is final and binding.

The Tł̓ch̓ Assembly enacted this Regulation on December 2, 2010.