


TŁICHQ GOVERNMENT

GRAND CHIEF NOMINATION AND ELECTION LAW AMENDMENT 2013

Pursuant to section 66 of the Tłıchq Assembly Rules of Order, the Tłıchq Assembly enacted this law on February 12, 2013 by unanimous consent.

Eddie Erasmus, Grand Chief of the Tłıchq Government, signed this law on February 12, 2013.

Signature:  Date: Feb 12/13
Certified as a True Copy by Bertha Rabesca Zoe as of February 12, 2013.
Laws Guardian, Tłıchq Government

DISPOSITION

DATE OF INTRODUCTION	CONSIDERATION	CONSENSUS	EFFECTIVE DATE
February 11, 2013	February 12, 2013	February 12, 2013	February 13, 2013

GRAND CHIEF NOMINATION AND ELECTION LAW AMENDMENT 2013

Title

1. This law shall be cited as the *Grand Chief Nomination and Election Law Amendment 2013*.

Definitions

2. In this Law,

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

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

“Election advertising” means the transmission to the public by any means during an election period of an advertising message that promotes or opposes the election of a candidate, including one that takes a position on an issue with which a candidate is associated. For greater certainty, it does not include;

- (a) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news;
- (b) the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be; or
- (c) the transmission by an individual, on a non-commercial basis on what is commonly known as the Internet, of his or her personal political views.

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

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

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

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

Role and Duties

3. (1) The powers and duties of the Grand Chief shall be exercised and performed in a manner consistent with the Tłchq Constitution.
- (2) The Grand Chief shall
 - (a) be the principal spokesperson of the Tłchq Nation;
 - (b) encourage the resolution of internal disputes and conflicts within the Tłchq; and
 - (c) promote the fundamental principles of the Tłchq Constitution and the Tłchq Government.

Term of Office

4. The Grand Chief shall hold office for 4 years.

Eligible Voters

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

Eligibility of Candidates

6. A person is eligible to be nominated and stand as a candidate for Grand Chief if he or she

- (a) is a Tłchq Citizen;
- (b) has attained the age of 25 on the day before election day; and
- (c) has been a resident in a Tłchq community or on Tłchq 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

7. (1) A person is not eligible to be nominated as or stand as a candidate 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 Tłchq government

(2) A person who is already a Chief or a Tłchq Community Government can be nominated for a position of Grand Chief but if elected to the office of Grand Chief in a Tłchq Community, that person may not simultaneously hold the office of a Chief in a Tłchq Community.

Vacancy

8. (1) If the Grand Chief becomes a person referred to in subsection 7(1), he or she shall vacate the office of the Grand Chief.

(2) If the Grand Chief referred to in subsection (1) does not vacate his or her office immediately, or cannot continue in office, or misses two consecutive meetings of the Chief's Executive Council or the Tłchq Assembly without reasonable excuse, the Tłchq Assembly shall declare that office vacant.

(3) In the event of a declaration of vacancy under subsection (2), at least nine members of the Tłchq Assembly may appoint an Acting Grand Chief at a duly called meeting.

(4) The Acting Grand Chief shall be selected from among the members of the Tłchq Assembly, other than a Chief and shall fulfill the position of Grand Chief at the pleasure of the Tłchq Assembly, until the Grand Chief is able to resume office, or until a new Grand Chief has been elected.

Nominations

9. (1) Tłchq Citizens shall nominate candidates for the position of Grand Chief at the Annual Gathering in the year of the election for Grand Chief.

(2) The Registrar shall administer the nomination meeting at the Annual Gathering and the chair of the Annual Gathering may chair the nomination meeting.

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

(4) Nominations may only be made in person during the Annual Gathering on the day set aside for nominations.

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

10. (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 Tłchq 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

11. (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 Tłchq Citizens by setting out the name of the person acclaimed and stating that a vote will not be conducted in respect of the election.

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

Voting

12. A general election for Grand Chief shall be held in the month of September every four years.

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

(2) The Registrar shall

- (a) publish a preliminary voters list of eligible voters in each Tłchq community, in Yellowknife and any other location he or she considers appropriate no later than 90 days prior to the Annual Gathering;
- (b) publish the final voters list two weeks after the expiration of the appeal period referenced in subsection 14(1);

- (c) establish rules, consistent with this Law 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) mail out ballots to registered voters not resident in Mqwhì Gogha Dè Nıtt'èe for reasons specified in subsection 5(c);
- (e) no later than 30 days before the election date post a notice of election setting out the time, place and date for voting, and
- (f) no later than 10 days before the election date, provide for one or more advance polls.

Appeals

14. (1) An appeal, in writing, may be made to the Registrar no later than 30 days after the publication of the preliminary 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 preliminary 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 preliminary 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)
- (a) hear it in the manner he or she considers appropriate;
 - (b) in the case of an appeal under subsection (1)(b), give the person alleged to be ineligible an opportunity to be heard;
 - (c) make his or her decision on the evidence available, which may include unsworn written statements and hearsay evidence; and

- (d) prior to publishing the final voters list, give his or her decision in writing to the appellant and, in the case of an appeal under subsection (1)(b), to the person alleged to be ineligible.
- (3) The Registrar shall grant an appeal made under subsection (1)(c).
- (4) The Registrar shall, whether or not an appeal has been made, correct any errors in the preliminary voters list where those errors are brought to his or her attention within the period set out in subsection (1).

Ballots and Forms

15. (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 election in order to be counted.

16. (1) Polling stations will be set up in each of the four Tł̥ch̥ communities and any other location(s) within M̥wh̥ Gogha Dè N̥t̥'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 Tł̥ch̥ 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 8:00 p.m. (local time).

Casting of Ballots

17. (1) Persons presenting themselves for the purpose of voting shall, upon being confirmed by the Registrar or a Deputy Registrar, as an 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 marking 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 and Advertising

18. (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).

(3) No person shall knowingly transmit election advertising to public on polling day.

(4) The transmission to the public of a notice of event that the candidate intends to attend or an invitation to meet or hear the candidate is not an election advertising for the purpose of subsection (3).

Withdrawal

19. (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

20. (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

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

Mail Return Envelopes

- 22.** (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

- 23.** (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

- 24.** (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

- 25.** If as a result of the election there is a tie among two or more candidates with the most votes for the position of Grand Chief, a by-election among those tied candidates shall be held within 90 days to fill the position.

Return of Poll

26. (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

27. (1) The results of the 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 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.

Complaint

28. (1) A complaint alleging a contravention of this law 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 this law.

Inquiry

29. (1) If the Chief's Executive Council resolves to hold an inquiry, it shall first publish a statement outlining the alleged facts and how the law 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 Tłchq community, in Yellowknife and any other location the Chief's Executive Council considers appropriate.

Conflict of Interest

30. Any member of the Chief's Executive Council who is a candidate in the 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 29 and 30 respectively.

Registrar

31. (1) Subject to this Law, the Registrar shall

- (a) set the date, 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) safekeep 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 32(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 Tłı̨ch̓ 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) or such other persons as the Registrar deems necessary.

(3) The Registrar may refer a question regarding the interpretation or application of this law 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.

Chief's Executive Council

Role

32. (1) The Chief's Executive Council shall oversee the conduct of an election and exercise the rights and perform the duties conferred upon it by this law until the completion or expiry of all relevant appeals or appeal periods, including judicial review and appellate court applications.

(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 & Procedure

33. (1) Subject to this law, 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

34. (1) A candidate may apply in writing 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 election results and shall be accompanied by a \$200 fee.

(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

36. (1) A complaint alleging a contravention of this law may be made to the Chief's Executive Council at any time during an election, but shall be made within 15 days after publication of the election results or, where applicable, the publication of recount results.

(2) The 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 29.

(4) If a complaint is properly filed, the Chief's Executive Council shall determine whether there has been a contravention of this law, 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

36. (1) If satisfied that an inquiry should be conducted into whether an election is being or was conducted in accordance with this law, 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

37. 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

38. (1) If satisfied that an election was not conducted in a manner consistent with this law, the Chief's Executive Council may declare a contravention.

(2) If satisfied that the contravention materially affected the outcome of the 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 directions;
- (b) set aside the results of an election, in whole or in part; or
- (c) order a new election and give directions to the Registrar for the conduct of that election.

Jurisdiction

39. (1) The Chief's Executive Council has exclusive authority to determine whether an election was conducted in a manner consistent with this law.

(2) The Chief's Executive Council has and shall exercise exclusive jurisdiction to hear and decide an application or complaint made under this law and to answer questions referred to it by the Registrar in respect of an election.

Decisions

40. (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 Tłchq Government administration office.

Final and Binding

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

Regulations

42. The Assembly may enact regulations for the carrying out of the purposes and provisions of this Law.

Coming into Force

43. This law shall come into force on February 13, 2013.