

Regulations and other Acts

Regulation from the Chief Electoral Officer

Act to facilitate the conduct of the 7 November 2021 municipal general election in the context of the COVID-19 pandemic (2021, chapter 8)

Regulation amending certain municipal provisions to facilitate the conduct of the municipal general election of November 7, 2021, in the context of the COVID-19 pandemic

RESPECTING the conduct of the 7 November 2021 municipal general election in the context of the COVID-19 pandemic and any proceedings recommenced after said election in accordance with section 276 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

WHEREAS the Act to facilitate the conduct of the 7 November 2021 municipal general election in the context of the COVID-19 pandemic (2021, chapter 8) was adopted by the National Assembly on 25 March 2021 and was assented to on the same day;

WHEREAS under section 3 of said Act, the Chief Electoral Officer may, by regulation, to facilitate the conduct of the election, modify a provision of Divisions I, III and V of Chapter V, of Chapters VI, XIII and XIV of Title I and of sections 659.2 and 659.4 of the Act respecting elections and referendums in municipalities, a provision of a regulation made under that Act or any of those provisions that applies to the election for the office of warden of a regional county municipality under section 210.29.2 of and Schedule I of the Act respecting municipal territorial organization (chapter O-9);

WHEREAS pursuant to the same section, the Chief Electoral Officer sent, on 26 March 2021, his draft regulation to the Minister of Municipal Affairs, Regions and Land Occupancy and the Minister of Health and Social Services for observations;

WHEREAS the observations of those ministers were received on 1 and 6 April 2021, respectively;

WHEREAS after taking these observations into consideration, the Chief Electoral Officer published his draft regulation in the *Gazette officielle du Québec* on 9 April 2021;

WHEREAS a period of 10 days was provided for receiving comments from any persons interested in making them;

WHEREAS after receiving these comments and taking them into consideration, certain amendments were made to the draft regulation;

WHEREAS it is expedient to enact the Regulation amending certain municipal provisions to facilitate the conduct of the municipal general election of November 7, 2021, in the context of the COVID-19 pandemic;

IT IS ORDERED, therefore:

THAT the Regulation amending certain municipal provisions to facilitate the conduct of the municipal general election of November 7, 2021, in the context of the COVID-19 pandemic, the text of which appears below, be enacted.

PIERRE REID
Chief Electoral Officer

Regulation amending certain municipal provisions to facilitate the conduct of the municipal general election of November 7, 2021, in the context of the COVID-19 pandemic

Act to facilitate the conduct of the 7 November 2021 municipal general election in the context of the COVID-19 pandemic (2021, chapter 8, s. 3)

1. This Regulation amends certain municipal provisions to facilitate the conduct of the municipal general election of November 7, 2021, including the conduct of accountability and reporting, taking into account the consequences of the COVID-19 pandemic. It also applies to any proceedings recommenced after said election in accordance with section 276 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

2. The Act respecting elections and referendums in municipalities is amended by inserting the following section after section 79:

“**79.1.** Sections 77 to 79 do not apply to the appointment of the deputy returning officer and the poll clerk of the returning officer’s polling station.”

3. Section 81.1 of the Act is amended by replacing “If there are three or fewer polling stations in a place” in the third paragraph by “Notwithstanding the foregoing, if the returning officer so decides”.

4. Section 81.2 of the Act is amended by replacing “for any mobile polling station” in the first paragraph by “for a poll at the returning officer’s office”.

5. Section 96 of the Act is amended by inserting “, unless they are held on the last day before polling day” at the end of the third paragraph.

6. Section 99 of the Act is amended, in the first paragraph,

(1) by replacing “forty-four” by “fifty-one” in the text preceding subparagraph 1;

(2) by inserting “, including the poll at the returning officer’s office, where applicable,” after “advance poll” in subparagraph 4.

7. Section 125 of the Act is amended by adding, in the first paragraph, the following subparagraphs:

“(5) the fact that the electors referred to in section 134.1 may make a written application for entry, striking off or correction by submitting the documents provided for in that section;

(6) the manner for obtaining information on the rules governing applications for entry, striking off or correction for the electors referred to in section 134.1 and the required forms;

(7) the requirements to be met by an elector entitled to vote by mail.”

8. Section 126 of the Act is amended by replacing “subparagraphs 3 and 4” in the first paragraph and wherever it appears by “subparagraphs 3 to 7”.

9. Section 134.1 of the Act is replaced by the following section:

“**134.1.** Notwithstanding section 132, any person domiciled in a private seniors’ residence listed in the register established under the Act respecting health services and

social services (chapter S-4.2) or in a facility referred to in the second paragraph of section 50 or lodged in such a facility who wishes to avail himself or herself of the third paragraph of that section may, not later than the last day fixed for making an application, forward to the returning officer a written application for entry, striking off or correction. Such application shall be accompanied by either the documents provided for in the second paragraph of section 133 or a written statement confirming the identity and place of residence of such person and signed by a person in charge of his or her place of domicile or lodging or by a staff member authorized for that purpose.

The same applies to any person domiciled in the territory of the municipality mentioned in subparagraphs 2 to 4 of the first paragraph or in the third paragraph of section 173.1. However, in respect of such persons, the application must be accompanied by the documents provided for in the second paragraph of section 133.

The returning officer shall transmit all applications and documents received to the competent board of revisors.”

10. Section 146 of the Act is amended by replacing “44” in the second paragraph by “51”.

11. Section 153 of the Act is amended

(1) by replacing “beginning 44 days and ending 30 days” in the first paragraph by “beginning 51 days and ending 37 days”;

(2) by replacing “Thirty” in the second paragraph by “Thirty-seven”.

12. Section 160 of the Act is amended, in the first paragraph,

(1) by striking out “but under 50,000” in subparagraph 3;

(2) by striking out subparagraphs 4 and 5.

13. Section 171 of the Act is amended, in the first paragraph,

(1) by inserting “, including the poll at the returning officer’s office, where applicable” after “advance poll” at the end of subparagraph 5.

(2) by inserting “, including the poll at the returning officer’s office, where applicable,” in subparagraph 7 after “advance poll”.

14. The Act is amended by inserting the following subdivision after section 173:

“§1.1. Voting by mail

“173.1. A person may vote by mail if he or she meets one of the following conditions, namely being entered or entitled to be entered as an elector on the list of electors:

(1) as a person domiciled in a private seniors’ residence listed in the register established under the Act respecting health services and social services (chapter S-4.2) or in a facility referred to in the second paragraph of section 50;

(2) as a domiciled person and being unable to move about for health reasons;

(3) as a domiciled person and acting as a caregiver to a person referred to in subparagraph 2 and being domiciled in the same location as the latter person;

(4) as a domiciled person and having been advised or ordered to isolate by public health authorities due to the COVID-19 pandemic;

(5) other than as a domiciled person, where no resolution of the municipality providing for that voting option has been passed pursuant to the first paragraph of section 659.4, and having been advised or ordered to isolate by public health authorities due to the COVID-19 pandemic.

A person is advised or ordered to isolate by public health authorities due to the COVID-19 pandemic in the following circumstances:

(1) he or she has returned from a trip abroad within the last 14 days;

(2) he or she has been diagnosed with COVID-19 and is still considered a carrier of the disease;

(3) he or she is experiencing symptoms of COVID-19;

(4) he or she has been in contact with a suspected, probable or confirmed case of COVID-19 within the last 14 days;

(5) he or she is waiting for a COVID-19 test result.

Any person who is entered or entitled to be entered as an elector on the list of electors and who is 70 years of age or older on polling day may also vote by mail where a resolution of the municipality providing for that voting option has been passed pursuant to the second paragraph of section 659.4.

“173.2. The Regulation respecting voting by mail (chapter E-2.2, r. 3) applies to postal voting offered to the electors referred to in this subdivision, subject to the specific adaptations provided for in sections 173.3 to 173.6.

“173.3. Any elector referred to in section 173.1 may submit a written or verbal application to the returning officer to vote by mail.

The application takes effect upon receipt and shall remain valid only for the purposes of the municipal general election of November 7, 2021, and, in the case of any elector not referred to in subparagraphs 4 or 5 of the first paragraph of section 173.1, any proceedings recommenced after said election in accordance with section 276.

The application must be received at the office of the returning officer not later than the eleventh day before polling day. However, in the case of an elector referred to in subparagraph 4 or 5 of the first paragraph of section 173.1, an application can be made no earlier than the twenty-first day before polling day.

“173.4. Any elector referred to in subparagraph 1 of the first paragraph of section 173.1 who is unable to mark his or her ballot paper himself or herself may be assisted by a staff member of his or her domicile and such a staff member may provide assistance to more than one elector in the residence or facility where he or she works.

“173.5. Any elector referred to in subparagraph 1 of the first paragraph of section 173.1 may, rather than transmitting a photocopy of one of the documents referred to in section 215 on which his or her signature appears, enclose in the envelope marked “ENV-2” a document providing his or her date of birth and on which his or her signature is affixed. This document shall then be considered an identification document or a photocopy of an identification document for the purposes of the Regulation respecting voting by mail (chapter E-2.2, r. 3).

“173.6. The operator of a private seniors’ residence listed in the register established under the Act respecting health services and social services (chapter S-4.2) or the executive director of an institution referred to in the second paragraph of section 50 shall ensure that the postal voting materials are given to the electors and that ballot papers for voting by mail are returned in a timely manner.”

15. Section 174 of the Act is replaced by the following section:

“174. Whenever a poll is required, an advance poll must be held seven days before polling day.

Furthermore, the returning officer may decide to hold an advance poll on one or more of the eighth, sixth, or last days before polling day.

The returning officer may also decide to hold a poll at the returning officer's office or any other place the returning officer determines for that purpose on one or more of the ninth, sixth, fifth or fourth days before polling day. However, the returning officer may not decide to hold such a poll on the sixth day before polling day if the advance poll is held on that day."

16. Section 175 of the Act is amended by striking out the second and third paragraphs.

17. Section 177 of the Act is amended

(1) by striking out "and determine, where applicable, any such station that is a mobile polling station" in the first paragraph;

(2) by adding the following sentences at the end of the second paragraph: "This attachment will remain the same for all advance polling days, except for the last day before polling day. In that case, the returning officer may attach a polling subdivision to a different station."

18. Section 177.1 of the Act is replaced by the following section:

"**177.1.** If the returning officer decides to hold a poll at the returning officer's office or at any place determined by the returning officer for that purpose, the persons referred to in Division V of Chapter V may not be present at the office."

19. Section 178 of the Act is amended

(1) by inserting ", including the polling station at the returning officer's office or at any place determined by the returning officer for that purpose," after "polling station" in the first paragraph;

(2) by striking out the second and third paragraphs.

20. Section 179 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

"Every advance polling station, including the polling station at the returning officer's office or at any place determined by the returning officer for that purpose, must be open from 9:30 a.m. to 8:00 p.m.;"

(2) by striking out the second paragraph.

21. Section 180 of the Act is repealed.

22. Section 182 of the Act is amended by inserting "on the first day" in the first paragraph after "advance polling station".

23. Section 183 of the Act is amended

(1) by replacing "on the second day" in the first paragraph by "on another day";

(2) by replacing the second paragraph by the following paragraphs:

"After the close of the polling station on that day, the deputy returning officer and the poll clerk shall observe the same formalities as after the close of the polling station on the first day. The ballot papers used or cancelled on that day shall be placed in envelopes separate from those containing the ballot papers used or cancelled on previous days.

This section does not apply where an advance poll is held on the last day before polling day and where the returning officer, in accordance with the second paragraph of section 177, attaches different polling subdivisions to the advance polling stations. In that case, the returning officer shall use different ballot boxes."

24. Section 184 of the Act is replaced by the following section:

"**184.** The poll clerk shall prepare the list of the electors who have voted in advance at the polling station and transmit it, as soon as practicable, to the returning officer or to the person designated by the latter.

The returning officer shall transmit a copy of the list to each authorized party or recognized ticket and to each independent candidate concerned not later than three days before polling day.

The second paragraph does not apply where an advance poll is held on the last day before polling day. On that day, the list of electors mentioned in the first paragraph shall be given to the poll runner in the manner determined by the returning officer."

25. Section 185 of the Act is amended

(1) by inserting the following paragraph after the first paragraph:

"If the returning officer considers it appropriate, he or she may decide to have these votes counted as of 6:00 p.m. on polling day.;"

(2) by inserting “, as well as the specific directives of the chief electoral officer in the case of a count that begins before the close of the poll” at the end of the second paragraph.

26. Section 189 of the Act is amended by adding the following paragraph at the end:

“Notwithstanding the foregoing, the premises of the institutions referred to in the second paragraph of section 50 are not permitted to be used for the establishment of polling stations.”

27. Section 210 of the Act is amended by replacing “10 a.m.” by “9:30 a.m.”

28. Section 221 of the Act is amended by inserting “or authorize the elector to proceed to the polling booth with the latter’s own pencil, provided it is a black or blue pen or a lead pencil” at the end of the second paragraph.

29. Section 222 of the Act is amended by inserting “or the pencil that has been authorized by the latter” at the end of the first sentence of the first paragraph.

30. Section 233 of the Act is amended by inserting “or the pencil that has been authorized by the latter” at the end of subparagraph 7.

31. Section 276 of the Act is amended by replacing “34” in subparagraph 4 by “41”.

32. Section 397 of the Act is amended, in the third paragraph,

(1) by striking out subparagraph 1;

(2) by replacing “to 99,999” in subparagraph 2 by “or more”.

33. Section 446.1 of the Act is replaced with the following:

“**446.1.** Any loan granted by an elector shall be made by cheque or other order of payment signed by the elector and drawn on the elector’s account in a financial institution having an office in Québec, or else by transfer of funds made from such an account to that held by the official representative.”

34. Section 453 of the Act is amended by adding the following subparagraph at the end:

“(10) reasonable expenses related to the purchase of sanitary services or materials unless the official agent has reported them as election expenses in his or her return of election expenses or unless the materials include a partisan element.”

35. Section 471 of the Act is amended

(1) by inserting “or make a transfer of funds to the account held by the treasurer” in the third paragraph after “made to his order”;

(2) by inserting “or the transfer of funds” at the end of the fourth paragraph.

36. Section 492 of the Act is amended by striking out “ or certified copies of those documents,” in the third paragraph.

37. Section 494 of the Act is amended by adding the following sentence at the end of the second paragraph: “Alternatively, a transfer of funds equal to the total amount of the claims may be made to the account held by the treasurer, in compliance with the directives of the chief electoral officer.”

38. Section 512.14 of the Act is amended by replacing the third paragraph by the following paragraph:

“A private intervenor must pay any expense either by cheque or order of payment signed by the private intervenor himself or herself, if he or she is an elector, or by the representative, if the private intervenor is a group of electors, and drawn on the private intervenor’s account in a bank, authorized trust company or financial services cooperative having an office in Québec, or else by transfer of funds made from such an account.”

39. Section 512.17 of the Act is amended by striking out “ or certified copies of those documents,” in the second paragraph.

40. Section 659.4 of the Act is amended

(1) by inserting the following paragraph after the first paragraph:

“The municipality may also provide that a person entered as an elector on the list of electors and who is 70 years of age or older on polling day may, on request, exercise the right to vote by mail in accordance with the applicable rules.”;

(2) by replacing “second” in the third paragraph by “third”.

REGULATION RESPECTING THE TARIFF OF REMUNERATION PAYABLE FOR MUNICIPAL ELECTIONS AND REFERENDUMS

41. Section 2 of the Regulation respecting the tariff of remuneration payable for municipal elections and referendums (chapter E-2.2, r. 2) is replaced by the following section:

“2. Where an advance poll is held, including the poll at the returning officer’s office, a returning officer shall be entitled to receive remuneration of \$384 for the duties he or she carries out to hold the advance poll.

That remuneration shall be:

- a) \$770 where the advance poll is held for 2 days;
- b) \$1,156 where the advance poll is held for 3 days;
- c) \$1,542 where the advance poll is held for 4 days;
- d) \$1,927 where the advance poll is held for 5 days;
- e) \$2,313 where the advance poll is held for 6 days;
- f) \$2,698 where the advance poll is held for 7 days.”

REGULATION RESPECTING VOTING BY MAIL

42. Section 2 of the Regulation respecting voting by mail (chapter E-2.2, r. 3) is amended by replacing “last day fixed for making applications to the board of revisors for entry on, striking off or correction to the list of electors” in the third paragraph by “eleventh day before polling day”.

43. Section 3 of the Regulation is amended, in the first paragraph,

(1) by striking out “in writing”;

(2) by replacing “not later than the deadline set by the returning officer” by “and of the deadline for doing so”.

44. Section 5 of the Regulation is amended by striking out “on the sixth day before polling day” in subparagraph 3.

45. Section 9 of the Regulation is amended by replacing “After the last day fixed for making applications to the board of revisors for entry on, striking off or correction to the list of electors” in the first paragraph by “After the list of electors has been deposited in the office of the municipality”.

46. Section 10 of the Regulation is replaced by the following:

“10. An elector who has applied to vote by mail and not received his or her ballot papers may contact the returning officer to obtain them. If the elector’s name appears on the list of electors registered to vote by mail and the elector has not already voted, the returning officer then sends the elector an envelope containing all the voting materials, if the returning officer considers it reasonable to believe that at the time when the elector makes the request there is sufficient time for the envelopes to be returned. The returning officer so informs the poll clerk of the postal polling station, who enters an indication to that effect in the poll book.”

47. Section 12 of the Regulation is amended by replacing “On the tenth day before polling day” in the first paragraph by “Upon the coming into force of the list of electors”.

48. Section 29 of the Regulation is amended by adding the following sentence at the end of the first paragraph: “However, the counting of votes may begin as of 6:00 p.m. on polling day, in accordance with the conditions and procedures set forth in the second and third paragraphs of section 185 of the Act.”

FINAL PROVISIONS

49. The provisions of this Regulation shall continue to apply until the purposes for which they were enacted have been fulfilled.

50. This Regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec*.

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