

The Nomination Process in Nova Scotia Provincial Elections & By-elections

Nova Scotia Campaign School for Women October 24 – 26, 2008

Overview

- this process is the final, formal step to becoming a candidate; very precise process and much to do in advance of filing nomination paper but not difficult
- nomination period runs from shortly after writ is issued until 2:00PM on the 14th day before election day
- an electoral district is a geographical area (metes and bounds descriptions are in the *House of Assembly Act*) from which one person is elected to sit as a Member of the House of Assembly and represent their district; there are 52 electoral districts in Nova Scotia
- responsibility of the Chief Electoral Officer (CEO) is the overall administration and direction of the conduct of elections; administration at the electoral district level is by 52 returning officers (ROs) who report to the CEO
- nomination of candidates for each electoral district is made to the RO for each electoral district at the RO headquarters; general oversight is by the CEO and challenges to nomination are resolved by the CEO
- a candidate can run as an independent candidate or with proper authorization run as a candidate for one of the 4 recognized parties (the Green Party of Nova Scotia, the Nova Scotia Liberal Party, the Nova Scotia New Democratic Party, or the Progressive Conservative Association of Nova Scotia)
- a nomination paper is only valid for one election period and is superseded if a by-election is superseded by a general election

1. Nomination Process

- *Elections Act*, sections 65-75 cover the nomination process (see Schedule A)
- nomination paper is a form prescribed by the CEO that must be used (see Schedule B-1 blank form and Schedule B-2 sample form with instructions)
- generic election calendar (see Schedule C). The election period is a minimum of 30 days in length and election day is always on a Tuesday and nomination day is always on the Tuesday which is the 14th day before election day
- nomination is a process in which documentation is submitted to the RO who evaluates whether the proposed candidate is qualified and whether the requirements of nomination have been met

Qualifications

- Canadian citizen

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- at least 18 years of age (at the time of nomination)
- not disqualified or ineligible (found in the *House of Assembly Act*); it is the candidate's responsibility to ensure they are qualified to be a candidate
- no residency requirement*

2. **Disqualifications or Ineligibility – *House of Assembly Act* (Part III):**

- a member of the Senate
- a candidate for election to or a sitting member of the House of Commons
- holds any office in the service of the government of Canada, or the government of Nova Scotia to which any salary or wage is attached
- has a contract with the province or minister or department for which public money is paid for service or work
- disqualified by a court from being elected or sitting in the House of Commons for breach of electoral legislation for the period of the disqualification
- convicted of an indictable offense punishable by imprisonment for a maximum of more than 5 years for the period of the sentence
- convicted of a corrupt practice under the *Controverted Elections Act* – 5 year disqualification
- others

3. **Nomination – Section 66**

- **any 5 or more people who are qualified to vote in the electoral district** where the election is being held may nominate a candidate for that electoral district for that election by filing with the RO:
 - (1) properly completed nomination paper between proclamation (a few days after the writ is issued) and 2:00PM on nomination day. On nomination day nomination papers are accepted between noon and 2PM only. Late nomination papers cannot be accepted. Do not leave filing of nomination paper until the last moment. If you want to combine your nomination with a “photo op” discuss this with the RO well in advance. The RO is non-partisan and cannot be involved in publicity over any candidate nomination
 - (2) nomination paper requires original signatures of electors nominating candidate, attesting witnesses, person taking oath and candidate

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- (3) sum of \$100 in the form of certified cheque or money order payable to the Minister of Finance (don't bring cash)
- (4) statement of candidate naming which party the candidate represents or stating that the candidate is an independent candidate
- (5) if candidate represents a recognized party, a letter from the leader (or designate) declaring candidate is the official candidate of that party
- (6) appointment of official agent
- (7) appointment of auditor

- Failure to provide all of the above will result in a nomination paper being rejected

4. **Acceptance of Nomination Paper – Section 69**

- if the requirements of nomination (s.66) are met, the RO can accept the nomination paper up to 2:00PM on nomination day and must sign the receipt for the deposit on the nomination paper
- the *Elections Act* ss.5(2) specifically prohibits extending the hour for the close of nominations
- **signing by the RO of the nomination paper indicating receipt of the deposit is evidence the candidate has been officially nominated**
- there is a process to be nominated through your official agent if the candidate is absent from the province (s.67)

5. **Change of Particulars – Section 70**

- before 3:00PM on nomination day a candidate or the candidate's official agent may direct the RO in writing to change the particulars of the name of the candidate that appears on the nomination paper
- changing the particulars of the candidate's name is acceptable as long as the RO is satisfied that the change corresponds to the name the candidate is commonly known as in the electoral district. The written direction must be attached to the nomination paper by the RO who then amends the nomination paper

6. **Return of Deposit – Section 72**

- the candidate's deposit is returned if the candidate is elected or receives 10% of the total number of valid votes cast in the election or dies before the close of the poll

7. **Withdrawal of Candidate – Section 73**

- a person officially nominated may withdraw by filing a declaration in prescribed form with the RO before 1:00PM on nomination day (see Schedule D)

8. **Death of a Candidate – Section 75**

- if an officially nominated candidate dies before the close of nominations, the candidate is deemed not to have been officially nominated

The Elections Nova Scotia website is found at <http://www.electionsnovascotia.ns.ca/>. Election resources are all available at that site or by contacting Elections Nova Scotia at:

7037 Mumford Road, Suite 6
P. O. Box 2246
Halifax, NS B3J 3C8
ph: 902-424-8584
toll free: 1-800-565-1504
fax: 902-424-6622
email: elections@gov.ns.ca

Legislation is available on the Legislative Counsel website at <http://www.gov.ns.ca/legislature/legc/>.
Regulations are available on the Department of Justice Registry of Regulations site at <http://www.gov.ns.ca/just/regulations/regxact.htm>.

Schedule A
Excerpts from the Nova Scotia
***Elections Act* relating to Nomination**

NOMINATION OF CANDIDATES

Qualifications of candidate

65 A person may be nominated as a candidate at an election who

- (a) is a Canadian citizen;
- (b) is eighteen years of age; and
- (c) is not disqualified or ineligible under this Act, the *House of Assembly Act*, or any other Act, to be a candidate or a member of the House of Assembly. R.S., c. 140, s. 65; 2001, c. 43, s. 36; 2002, c. 32.

Nomination

66 (1) Any five or more persons, qualified under Section 28 to have their names registered on the list of electors for a polling division of an electoral district for which a writ has been issued, may nominate a candidate at the election for the electoral district by

- (a) filing a nomination paper in prescribed form, duly completed, with the returning officer at any time between the date of the proclamation and the hour of two o'clock in the afternoon on nomination day; and
- (b) depositing with the returning officer the sum of one hundred dollars in legal tender or a certified cheque or money order for that amount made payable to the Minister of Finance.

- (2) The nomination paper shall include or be accompanied by a statement of the candidate naming the party that the candidate represents or stating that the candidate is an independent candidate.
- (3) Where a nomination paper contains or is accompanied by a statement of the candidate naming the recognized party that the candidate represents there shall be filed with it a letter or statement signed by the leader of the recognized party or by a person designated in writing by the leader declaring that the candidate is the official candidate of that party.
- (4) The nomination paper shall contain or be accompanied by an appointment by the candidate of his official agent.
- (5) A nomination paper is only valid for one election period and, for greater certainty, a nomination paper is superseded and withdrawn if a by-election is superseded and withdrawn by a general election. R.S., c. 140, s. 66, 2006, c. 28, s. 3.

Nomination of absent candidate

67 (1) For the purposes of Section 66, a candidate who is absent from the Province may, by telegram, cable or other form of written communication, name an official agent and authorize him to complete the nomination paper on his behalf.

- (2) The official agent shall cause the authorization to be filed with the returning officer before the nomination paper is filed. R.S., c. 140, s. 67.

Validity of nomination paper

68 A nomination paper is not invalid by reason only that

- (a) a person, who signed it, has signed the nomination paper of another candidate;
- (b) a person, who signed it, is not qualified under Section 66 to do so, provided five persons qualified have signed it; or
- (c) the name and address of a person, as it appears on the nomination paper, differs from that appearing on the list of electors, if any, when the returning officer is satisfied with his identity. R.S., c. 140, s. 68.

Nomination day

- 69 (1) On nomination day, which shall be Tuesday, the fourteenth day before ordinary polling day, a returning officer shall attend at his headquarters, between the hours of twelve o'clock noon and two o'clock in the afternoon, to receive the nomination of a person who has not been already officially nominated.
- (2) If the provisions of Section 66 have been complied with, the returning officer shall
- (a) accept a nomination paper at any time between the date of the proclamation and the hour of two o'clock in the afternoon on nomination day; and
 - (b) sign the receipt of the deposit on the nomination paper and transmit the deposit to the Chief Electoral Officer who shall, upon satisfying himself that the deposit is one within the meaning of Section 66, forward it to the Minister of Finance.
- (3) The signing of the receipt of the deposit on the nomination paper by the returning officer shall be evidence that the candidate has been officially nominated. R.S., c. 140, s. 69.

Change of particulars

- 70 (1) Before three o'clock in the afternoon of nomination day a candidate, or his official agent, may direct the returning officer in writing to change the particulars of the name of the candidate that appears in the nomination paper, and if the returning officer is satisfied that the particulars, as changed, correspond to those by which the candidate is known in the electoral district, the returning officer shall attach the direction to the nomination paper and amend it accordingly.
- (2) Where two members are to be elected for an electoral district, the candidates may, in writing, within one hour after the close of nominations agree to their names being arranged on the ballot paper otherwise than alphabetically, and the returning officer shall have the names arranged accordingly. R.S., c. 140, s. 70; 2001, c. 43, s. 37.

Delivery of copy of nomination paper

- 71 After the time provided for changes in particulars of the candidate appearing in the nomination paper and agreements among candidates respecting arrangement of their names on the ballot paper, the returning officer shall immediately forward a copy of the nomination paper and complete information regarding subsequent changes in particulars or agreements to the Chief Electoral Officer. R.S., c. 140, s. 71.

Return of deposit of candidate

- 72 The Minister of Finance shall dispose of the deposit of a candidate as follows:
- (a) if the candidate
 - (i) is elected,
 - (ii) receives a number of votes equal to ten per cent of the total number of valid votes polled in the election in the electoral district in which he was a candidate and his official agent has been granted an interim certificate by the Chief Electoral Officer after filing a report of his expenses, or
 - (iii) dies before the close of the poll, the Minister of Finance shall return it to the candidate, his official agent or personal representative;
 - (aa) if a nomination paper is superseded and withdrawn pursuant to subsection (5) of Section 66, the Minister of Finance shall return the deposit to the candidate, the candidate's official agent or personal representative;
- or
- (b) in all other cases, the Minister of Finance shall pay it into the Consolidated Fund of the Province. R.S., c. 140, s. 72; 2006, c. 28, s. 4; 2008, c. 13, s. 3.

WITHDRAWAL OF CANDIDATE

Withdrawal of candidate

73 Before one o'clock in the afternoon on nomination day, a person officially nominated as a candidate may appear in person or by his official agent before the returning officer and file with the returning officer a declaration in prescribed form signed by either of them that the person withdraws as a candidate, whereupon the person shall be deemed not to have been officially nominated and his deposit shall be forfeited. R.S., c. 140, s. 73.

Offence

74 A person, who, before or during an election, for the purpose of procuring the election of a candidate, knowingly publishes a false statement of the withdrawal of another candidate at the election is guilty of an offence. R.S., c. 140, s. 74.

DEATH OF A CANDIDATE

Death of nominee before close of nominations

- 75 (1) If a candidate, officially nominated, dies before the close of nominations on nomination day, the candidate shall be deemed not to have been officially nominated.
- (2) If a candidate, officially nominated, dies between the close of nominations and of the poll, the returning officer, after consulting with the Chief Electoral Officer, shall
- (a) revoke the grant of the poll by transmitting a declaration in prescribed form to the Chief Electoral Officer; and
 - (b) fix the date of a new ordinary polling day, which shall be a Tuesday not more than forty-five days and not less than thirty days from the date of the death of the candidate, and the writ shall be deemed to have been amended accordingly.
- (3) After revoking the grant of the poll, the returning officer shall issue a proclamation as provided in Section 23, and commence afresh all the other proceedings for the election as if the amended writ had been received immediately following the revocation of the grant of the poll, but
- (a) a person, other than the candidate who died, nominated before the revocation of the grant of the poll, or nominated in accordance with Sections 66 and 69 between the date of the new proclamation and two o'clock on the new nomination day, shall be deemed to have been duly nominated; and
 - (b) the list of electors, prepared after the issue of the writ, shall be used at the postponed election as the list of electors, or if revised, as the official list of electors.
- (4) The returning officer shall make a full report to the Chief Electoral Officer of any action taken under this Section with the return of the writ. R.S., c. 140, s. 75; 2001, c. 43, s. 38.

THE CHIEF ELECTORAL OFFICER AND STAFF

Duties of Chief Electoral Officer

- 5 (2) The Chief Electoral Officer may
- (a) extend the time for doing anything under this Act;
 - (b) increase the number of election officers;
 - (c) increase the number of polling stations;
 - (ca) enter into agreements with municipalities and school boards and the Chief Electoral Officer of Canada providing for the sharing of lists of electors;
 - (cb) receive complaints of violations of this Act, carry out preliminary investigations of the complaints and request the appropriate police authorities to investigate the complaints;
 - (cc) set general guidelines for the staffing, design and equipping of returning offices, with power to vary guidelines to suit existing circumstances;
 - (cd) recommend to the Governor in Council, for each position of returning officer, lists of persons for appointment to the position;
 - (ce) obtain information for the purpose of Section 31B;
 - (d) prescribe forms for the purpose of this Act;

- (e) vary any of the forms to suit the existing circumstances;
 - (f) modify a provision of this Act to permit its use at a by-election;
 - (g) generally adapt the provisions of this Act to existing circumstances;
 - (h) exercise such other powers as are prescribed by or under this Act,
- but the Chief Electoral Officer may not extend the hour for the opening or closing of an ordinary or advance polling station, or for accepting a nomination paper on nomination day.

MISTAKES OF FORM

Mistake or non-compliance with Act

- 218** No election shall be declared invalid by reason of a non-compliance with the provisions of this Act as to the taking of the poll, or the counting of the votes, or by reason of any want of qualification in the persons signing a nomination paper received by the returning officer, under the provisions of this Act, or of any mistake in the use of the forms, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake did not affect the result of the election. R.S., c. 140, s. 218.