



THE NEWFOUNDLAND AND LABRADOR GAZETTE

EXTRAORDINARY

Part II

PUBLISHED BY AUTHORITY

ST. JOHN'S, WEDNESDAY, SEPTEMBER 9, 2015

**NEWFOUNDLAND AND LABRADOR
REGULATIONS**

**NLR 69/15
NLR 70/15**



**NEWFOUNDLAND AND LABRADOR
REGULATION 69/15**

*Plebiscite Respecting the Preferred Municipal Plan
for the Town of Witless Bay Order, 2015*
under the
Municipal Affairs Act

(Filed September 9, 2015)

Under the authority of section 7 of the *Municipal Affairs Act*, I
make the following Order.

Dated at St. John's, September 9, 2015.

Keith Hutchings
Minister of Municipal and Intergovernmental Affairs

ORDER

Analysis

- | | |
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| 1. Short title | 4. Timing and location of vote |
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Short title **1.** This Order may be cited as the *Plebiscite Respecting the Preferred Municipal Plan for the Town of Witless Bay Order, 2015*.

Definition **2.** In this Order, "Town of Witless Bay" means the town as described in the "*Town of Witless Bay Order*" under the *Municipalities Act, 1999*.

Administration **3.** The following people are appointed for the purpose of administering the holding of the plebiscite referred to in this Order:

*Plebiscite Respecting the Preferred Municipal Plan
for the Town of Witless Bay Order, 2015*

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- (a) Dan Noseworthy, Returning Officer;
- (b) Lori Evoy, Deputy Returning Officer;
- (c) Matthew Byrne, Poll Clerk; and
- (d) Trina Keough-Hackett, Poll Clerk.

Timing and location
of vote

4. The vote shall take place from 8:00 a.m. to 8:00 p.m. on Thursday, September 17, 2015 at the Southern Shore Arena.

Ballot

5. The ballot on which the plebiscite shall be conducted shall be in the following form and shall be marked "Ballot":

Ballot

Do you select Version A or Version B as your preferred municipal plan for the Town of Witless Bay?	Version A	_____
	Dated May, 2013	_____
	Version B	_____
	Dated December, 2014	_____

Repeal

6. **The Plebiscite Respecting the Preferred Municipal Plan for the Town of Witless Bay Order, Newfoundland and Labrador Regulation 67/15 is repealed.**

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**NEWFOUNDLAND AND LABRADOR
REGULATION 70/15**

Plebiscite Regulations
under the
Municipal Affairs Act

(Filed September 9, 2015)

Under the authority of section 9 of the *Municipal Affairs Act*, I make the following regulations.

Dated at St. John's, September 9, 2015.

Keith Hutchings
Minister of Municipal and Intergovernmental Affairs

REGULATIONS

Analysis

- | | |
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| 3. Conduct of plebiscite under Act | 16. Removal of ballots |
| 4. Notice of plebiscite | 17. Spoiled ballots |
| 5. Availability of documents | 18. Counting of ballots |
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| 8. Ballots and other materials | 21. Statement of poll |
| 9. Advance poll | 22. Disposition of materials and delivery of ballot box |
| 10. Voting by proxy | 23. Declaration of result |
| 11. Oath or affirmation of voters | 24. Tie vote |
| 12. Opening and close of poll | 25. Recount |
| 13. Ballot box exhibited | 26. Retention of ballot boxes |

Short title

1. These regulations may be cited as the *Plebiscite Regulations*.

Definitions

2. In these regulations

- (a) "Act" means the *Municipal Affairs Act*;
- (b) "impeditive voter" means a voter who
 - (i) is an officer, or
 - (ii) has reason to believe that he or she will be unable to vote on election day;
- (c) "officer" means a returning officer, a deputy returning officer, poll clerk, scrutineer or other official appointed or employed by the returning officer to assist in the conduct of a vote in a plebiscite under these regulations; and
- (d) "order" means an order directing that a plebiscite be held made by the minister under section 7 of the Act.

Conduct of plebiscite under Act

3. (1) Where the minister orders that a plebiscite be held under the authority of section 7 of the Act, that plebiscite shall be conducted in accordance with these regulations.

(2) In accordance with subsection 7(2) of the Act, the results of a plebiscite conducted in accordance with these regulations are not binding on the minister.

Notice of plebiscite

4. (1) Notice of a plebiscite shall be given in accordance with this section at least one week before a vote is to be taken.

(2) The notice shall contain the following information:

- (a) the question to be considered;
- (b) where documents containing information respecting the matter to be voted upon may be obtained; and
- (c) the date, time and place of the vote.

(3) Notice of a plebiscite shall be given in the following manner:

(a) the notice shall be posted in a conspicuous place in the area in which the plebiscite is to be held; and

(b) the notice shall be sent by mail to all residents of the area in which the plebiscite is to be held.

(4) In addition to subsection (3), notice of a plebiscite may be

(a) published in a newspaper of general circulation in the area in which the plebiscite is to be held, if there is one;

(b) provided electronically to residents of the area by posting to a website of the area in which the plebiscite is to be held or by the department or in another manner so that residents may have access to it.

Availability of documents

5. (1) Any documents which relate to the question to be determined in a plebiscite ordered by the minister under section 7 of the Act shall be kept on file with the minister.

(2) Documents referred to in subsection (1) shall be accessible by the public at all reasonable times and may be kept electronically.

Influencing voters

6. On voting day, a person shall not be present for the purpose of influencing voters or distribute or cause to have distributed materials for that purpose in an area that is less than 30 metres from the entrance to a polling station.

Remuneration of officers

7. (1) A public servant appointed as an officer under the authority of these regulations shall not receive remuneration in excess of that received as a public servant.

(2) An officer appointed under the authority of these regulations who is not a public servant shall receive remuneration in accordance with the rates set by the chief electoral office.

Ballots and other materials

8. Ballots and other materials to be used in the holding of a plebiscite shall be clear on their face and shall

(a) be of a size and shape determined by the minister;

(b) contain the information required by voters to express the voter's choice of options in the plebiscite.

Advance poll

9. Where required by the minister, an advance poll may be conducted in the manner the minister may determine.

Voting by proxy

10. (1) An impeditive voter may, by an application to an officer in the required form, authorize another person who is a qualified voter in the same area defined in an order to vote on his or her behalf in a specified plebiscite in that area.

(2) An application under subsection (1) shall contain declarations in the required form verifying

(a) that the applicant is an impeditive voter and qualified to vote in a polling division of the area defined in the order in the plebiscite in respect of which the application is made; and

(b) that the proxy designated in the application is a voter qualified to vote in the same area defined in the order and same plebiscite as the applicant.

(3) An application required under subsection (1) shall only be provided by an officer to the impeditive voter or the person designated by the impeditive voter as his or her proxy.

(4) An application under subsection (1) shall be given to the officer by the impeditive voter or his or her designated proxy not later than 4:00 p.m. on the day immediately before the day of the vote in respect of which it is made.

(5) Where satisfied that the requirements of this section have been complied with, the officer shall issue a proxy certificate entitling the designated person to vote at the polling division and area defined in the order on behalf of the impeditive voter for whom the proxy is designated.

(6) No more than one proxy certificate may be issued for any one impeditive voter in respect of a plebiscite, except where the proxy dies or becomes unable to cast a vote because of illness or incapacity.

(7) A person may not be proxy for more than one impeditive voter at any one plebiscite.

(8) Applications, declarations, proxy certificates and other documents required under this section shall be in the required form.

(9) Where a person produces to an officer a proxy certificate issued under this section, the person may vote for the impeditive voter with respect to whom the certificate is issued.

Oath or affirmation
of voters

11. (1) Where required by an officer, a voter shall, before voting, take an oath or affirmation in the form required by the minister, which shall be administered by the returning officer or deputy returning officer.

(2) A voter shall, where his or her name is not on the voting list and when required by an officer, produce a government issued identification card and a letter or other corroborating proof of the person's place of residence in the area defined in the order.

(3) A voter who refuses to take an oath or affirmation under subsection (1) or who refuses to produce proof of residence referred to in subsection (2) shall not be permitted to vote.

Opening and close
of poll

12. (1) A returning officer or deputy returning officer shall, on voting day, open the polling booth assigned to him or her at 8:00 a.m. and shall keep that booth open until 8:00 p.m. and during that time shall receive the votes of all voters qualified to vote at the polling booth.

(2) Where the start of voting in accordance with subsection (1) is delayed, the returning officer shall extend the time for the close of the voting but the extension shall not permit voting for a longer length of time than would have been permitted had voting not been delayed.

(3) Where at the time set for the close of voting under subsection (1), there are voters waiting or in line outside the polling station in order to vote, those voters are entitled to vote and the polling booth shall remain open until their votes have been received.

(4) Voters other than those referred to in subsection (3) are not entitled to vote after the time set for the close of voting.

(5) The decision of the returning officer or deputy returning officer in charge of the polling booth as to who is or is not entitled to vote under subsection (3) is final and may not be appealed.

(6) A presiding officer shall notify the returning officer as soon as possible of a requirement for an extension of voting under this section.

Ballot box exhibited

13. At the hour fixed for opening the poll the returning officer or a deputy returning officer shall

- (a) show the ballot box to the officers present within the polling station, so that they may see that the ballot box is empty; and
- (b) then immediately seal the ballot box, place it in view for the reception of ballots and keep it sealed until voting is concluded.

Confirmation of name

14. (1) When a voter presents himself or herself at the polling station for the purpose of voting, he or she shall state his or her name and civic address.

(2) The returning officer or deputy returning officer shall ascertain if the name of the

- (a) voter is entered upon the list of voters for the polling station in which he or she is presiding; or
- (b) person is not upon the list, that the person is entitled to take the required oath or affirmation in the required form.

(3) The poll clerk shall enter in the poll book the name of the voter, but shall not enter in the poll book or elsewhere anything to indicate the choice of options for which the voter votes.

Voting

15. (1) Upon receiving a ballot, a voter shall

- (a) immediately proceed to the assigned polling booth and shall then mark his or her ballot by marking an X on the part of the ballot within the division containing the option for which he or she intends to vote;
- (b) then fold the ballot so as to conceal the option and the marks upon the ballot; and
- (c) without delay and without showing or displaying the ballot so as to make known the option for which he or she voted, deposit the ballot in the ballot box.

(2) A voter shall immediately leave the polling station after he or she has voted.

(3) While a voter is in the process of marking his or her ballot, no person shall be in a position from which he or she can see how that voter marks his or her ballot.

Removal of ballots

16. (1) A person who has received a ballot shall not remove the ballot from the polling station.

(2) A person who has received a ballot and leaves the polling station without depositing it in the assigned ballot box forfeits his or her right to vote at the plebiscite.

(3) The poll clerk shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling station, returned the ballot or declined to vote.

(4) Where a person has declined to vote, the poll clerk shall immediately write the word "declined" upon the ballot and shall return it to the returning officer or the deputy returning officer.

Spoiled ballots

17. (1) A voter who has inadvertently spoiled his or her ballot is, upon returning it to the returning officer or deputy returning officer, entitled to receive another ballot.

(2) The returning officer or deputy returning officer shall write the word "cancelled" upon the ballot returned to him or her and shall retain it.

Counting of ballots

18. (1) Immediately after the close of the poll, the returning officer or deputy returning officer shall

- (a) place all the cancelled, declined and unused ballots in an envelope and seal it; and
- (b) count the number of voters whose names appear in the poll book and sign the following certificate, which shall be entered in the poll book on the line immediately below the name of the voter who voted last:

"I certify that the number of voters who voted in the plebiscite in this polling booth is (stating the number in words) and that A.B. was the last person who voted at this polling booth."

(2) Immediately after the certificate required by subsection (1) has been signed by him or her, the returning officer, or deputy returning officer, in the presence and in full view of the poll clerk, shall open the ballot box and count the total number of ballots cast and the number of votes for each option, giving full opportunity to those present to examine each ballot.

Rejected ballots

19. (1) When counting the votes, the returning officer, or deputy returning officer, shall reject all ballots

- (a) that have given votes for more options than there are to be chosen; or
- (b) upon which there is writing, a mark or that have been torn, defaced or otherwise dealt with by the voter in a manner, that would permit that voter to be identified.

(2) A ballot shall not be rejected under subsection (1) by reason only that it has been marked with a writing instrument other than a black lead pencil or it has a mark other than an X, as long as the mark does not identify the voter.

(3) A ballot shall not be rejected in its entirety only because one or more of the votes on the ballot is rejected and in that case the votes not rejected shall be counted.

Account of ballots

20. (1) All ballots except those rejected shall be counted and an account shall be kept of the number of votes for each option.

(2) All the ballots shall be put into separate envelopes as follows:

- (a) all the used ballots that have not been objected to and have been counted;
- (b) all the used ballots that have been objected to in whole or in part and have been counted, in whole or in part, all rejected ballots and all ballots that are used but unmarked; and
- (c) all the cancelled, declined and unused ballots.

(3) Each envelope shall be endorsed so as to indicate its contents and the polling station to which it relates and shall be sealed by the returning officer or a deputy returning officer.

Statement of poll

21. (1) The returning officer or deputy returning officer shall make out a statement in duplicate as to the number of

- (a) ballots received;
- (b) ballots cast;
- (c) ballots that have been objected to in whole or in part and have been counted in whole or in part;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been rejected in whole or in part and have not been counted;
- (f) cancelled ballots, ballots used but not marked, declined ballots, ballots taken from the polling booth and unused ballots; and
- (g) votes for each option.

(2) The statement shall be signed by the returning officer, or the deputy returning officer, and the poll clerk.

(3) One statement shall be attached to the poll book and the other, in the case of a deputy returning officer, shall be delivered by him or her to the place designated by the returning officer.

Disposition of materials and delivery of ballot box

22. (1) The poll book, the list of voters, the envelopes containing the ballots, and all other materials related to the plebiscite, except for the returning officer statement referred to in subsection 21(3) shall then be placed in the ballot box.

(2) The returning officer or deputy returning officer shall, after the requirements of subsection (1) have been carried out, immediately seal the ballot box and in the case of a deputy returning officer shall immediately deliver it and the statements referred to in subsection 21(3) to the place designated by the returning officer.

(3) Where a deputy returning officer is unable to deliver the ballot box, another officer designated by the deputy returning officer shall immediately deliver the ballot box and the statement to the place designated by the returning officer.

(4) The returning officer shall remain available on the evening of voting day until all the ballot boxes and the statements referred to in subsection 21(3) have been returned.

Declaration of result

23. (1) After he or she has received the ballot boxes and statements of the number of votes cast at each polling booth, the returning officer shall

- (a) without opening the ballot boxes, add up from the statements he or she has received the number of votes received for each option;
- (b) not later than noon on the day following the vote, publicly declare the results of the vote; and
- (c) not later than noon on the day following the vote put up in some conspicuous place a statement signed by him or her showing the number of votes received for each option.

(2) The returning officer may, after he or she has received statements from polling booths and before publicly declaring the result of the vote, indicate to the public the number of votes received for each option.

Tie vote

24. Where, immediately upon the counting of the votes, all options have an equal number of votes, the returning officer shall immediately

- (a) write the options on separate, identical pieces of paper;
- (b) fold the sheets of paper in an identical manner so that the options are concealed;
- (c) deposit the sheets into a receptacle and withdraw one sheet; and
- (d) declare that the option that appears on the sheet so withdrawn to be the option preferred by most voters.

Recount

25. The minister may, in his or her discretion, order that a recount of votes be made.

Retention of ballot
boxes

26. (1) Unless it is otherwise ordered by a court or by the minister, the ballot boxes shall remain sealed as received by the returning officer and shall be retained by him or her for a period of 30 days after the plebiscite.

(2) When the time has elapsed under subsection (1), the ballot boxes shall be unsealed and the ballots and other associated material shall be destroyed as authorized by the returning officer.

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Extraordinary Gazette Index

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