

DÉLĪNEĢ GOT'ĪNEĢ GOVERNMENT

ELECTIONS ACT

SEPTEMBER 1, 2016

TABLE OF CONTENTS

PART 1 – GENERAL PROVISIONS	3
CITATION	3
APPLICATION	3
DEFINITIONS	3
TERM OF OFFICE	4
PART 2 – ELECTION OF ʔEKW’AHTIᑕÉ AND DÉLIᑎᑎᑕ’AOWᑕDÓ Kᑕ	4
FIRST ELECTIONS	4
ELIGIBILITY TO VOTE FOR THE ʔEKW’AHTIᑕÉ	4
ELIGIBILITY OF CANDIDATES FOR THE ʔEKW’AHTIᑕÉ	4
ELIGIBILITY TO VOTE FOR THE DÉLIᑎᑎᑕ’AOWᑕDÓ Kᑕ	5
ELIGIBILITY OF CANDIDATES FOR DÉLIᑎᑎᑕ’AOWᑕDÓ Kᑕ	5
VACANCY	5
PART 3 – NOMINATIONS, VOTING AND APPEALS	6
NOMINATIONS	6
ACCEPTANCE OF NOMINATION	7
ACCLAMATION	7
TIMING OF GENERAL ELECTION	7
VOTING	7
APPEALING PRELIMINARY VOTERS LIST	8
BALLOTS AND FORMS	8
POLLING STATIONS	8
CASTING OF BALLOTS	9
CAMPAIGNING	10
WITHDRAWAL	10
DISQUALIFICATION	10
BRINGING TOGETHER BALLOTS	10
OPENING BALLOT BOXES	11
RECOUNT	11
TIE VOTE	11
RETURN OF POLL	11
RESULTS	12
CHIEF ELECTORAL OFFICER	12
DÉLIᑎᑎᑕ’AOWᑕDÓ Kᑕ	13
PRACTICE AND PROCEDURE	13
COMPLAINTS	13
INQUIRIES	14
GENERAL POWERS	14
JURISDICTION	14
FINAL AND BINDING	15
BY-ELECTIONS	15
COMMENCEMENT	15
CONFLICT	15

The Délı̄nę Got'ı̄nę Government enacts as follows:

PART 1 – GENERAL PROVISIONS

Citation

1. This *Act* may be cited as the *DGG Elections Act*.

Application

2. This *Act* shall apply to the election of the ʔekw'ahtı̄dé and the elected members of the DKK.

Definitions

3. In this *Act*:

“**ʔekw'ahtı̄dé**” means the leader of the DGG elected under applicable election laws, or the person appointed as Acting ʔekw'ahtı̄dé under the *DGG Government Organization Act*;

“**Chief Electoral Officer**” means the person appointed under section 30(2) of this *Act*;

“**Councillor**” means a person elected to the DKK in accordance with applicable election laws;

“**Délı̄nę District**” means the area described in Schedule “A” of the DFSGA;

“**Délı̄nę Final Self-Government Agreement**” (“DFSGA”) means the Délı̄nę Final Self-Government Agreement negotiated between the DFN Band and the Délı̄nę Land Corporation, the Government of the Northwest Territories and the Government of Canada;

“**Délı̄nę First Nation Band**” (“DFN Band”) means the band recognized by Canada pursuant to the *Indian Act* (Canada) and bearing number 754;

“**Délı̄nę Got'ı̄nę ʔeʔadó**” means the Constitution of the Délı̄nę First Nation, as amended from time to time;

“**Délı̄nę Got'ı̄nę Government**” (“DGG”) means the Délı̄nę Got'ı̄nę Government described in the DFSGA and Part 1 of the *DGG Government Organization Act*;

“**Délı̄nę K'aowədó Kə**” means the body described in section 3.4.1(b) of the DFSGA and established by Part 1, Division 2 of the *DGG Government Organization Act*;

“**Délı̄nę Lénats'ehdā Dzené**” means a meeting of the DFN Citizens and Residents of the Délı̄nę District referred to in section 3.9.1 of the DFSGA and Part 3 of the *DGG Government Organization Act*;

“**Dene K'ə Dats'eredı Kə**” (“DKDK”) means the body described in Chapter 17 of the DFSGA and Part 1, Division 4 of the *DGG Government Organization Act*;

“**Deputy Electoral Officer**” means the person(s) appointed by the Electoral Officer under section 29(2) of this *Act*;

“**DFN Citizen**” means a person who is a citizen pursuant to Chapter 5 of the DFSGA or pursuant to the *DGG Citizenship Act*;

“**Effective Date**” means the date on which the DFSGA comes into force, which is September 1, 2016;

“**Institutions**” means institutions created by the DGG pursuant to section 3.6.1(b) of the DFSGA;

“**Residents**” means residents of the Délı̄ne District; and

“**SDMCLCA**” means the Sahtu Dene and Metis Comprehensive Land Claim Agreement.

Term of Office

4. Subject to section 5, the ʔekw’ahtı̄dé and seven members of the DKK shall hold office for a term of 4 years.

PART 2 – ELECTION OF ʔEKW’AHTı̄DÉ AND DÉLı̄NE K’AOWEDÓ KĒ

First Elections

5. The first election of the ʔekw’ahtı̄dé and Councillors shall be conducted pursuant to the DFSGA prior to the Effective Date to hold office for a term of 2 years.

Eligibility to Vote for the ʔekw’ahtı̄dé

6. A person is eligible to vote for the ʔekw’ahtı̄dé if he or she:
 - a) is a DFN Citizen;
 - b) is a Canadian citizen;
 - c) has attained the age of 18 years on the day before election day; and
 - d) has been a resident of Délı̄ne District for at least 2 years immediately preceding election day, except for absence due to medical, incarceration, education or similar reasons.

Eligibility of Candidates for the ʔekw’ahtı̄dé

7. A person is eligible to be nominated and stand as a candidate for ʔekw’ahtı̄dé if he or she:
 - a) is a DFN Citizen;
 - b) is a Canadian citizen;

- c) has attained the age of 35 on the day before election day;
- d) has been a resident of the Délįnę District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons; and
- e) has not been convicted of an indictable offence during the past 5 years.

Eligibility to Vote for the Délįnę K'aowədó Kə

8. A person is eligible to vote for Councillors if he or she:
- a) is a Canadian citizen;
 - b) has attained the age of 18 years on the day before election day; and
 - c) has been a resident of Délįnę District for at least 2 years immediately preceding election day, except for absence due to medical, incarceration, education or similar reasons.

Eligibility of Candidates for Délįnę K'aowədó Kə

9. A person is eligible to be nominated and stand as a candidate for Councillor if he or she:
- a) is a Canadian citizen;
 - b) has attained the age of 18 years on the day before election day;
 - c) has been a resident of the Délįnę District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons; and
 - d) has not been convicted of an indictable offence during the past 5 years.

Vacancy

10. (1) The ʔekw'ahtı́dé or a Councillor shall become ineligible to hold his or her office after being elected if he or she:
- a) ceases to comply with section 7 a) and b) or 9 a), as applicable;
 - b) does not reside in the Délįnę District;
 - c) is convicted of an indictable offence while in office; or
 - d) becomes incapable of attending meetings for reasons of ill health.
- (2) If the ʔekw'ahtı́dé or a Councillor becomes ineligible to hold office under subsection (1), he or she shall vacate his or her office.

(3) If the ?ekw'ahtı́dé or a Councillor does not vacate his or her office under subsection (2), or misses 3 consecutive meetings of the DKK without reasonable excuse, the DKK shall declare that office vacant.

(4) In the event of a vacancy of the office of ?ekw'ahtı́dé under subsection (2) or (3):

a) for one year or less, the DKK may appoint an Acting ?ekw'ahtı́dé at a duly called meeting,

b) for over one year, a by-election must be called.

(5) In the event of a vacancy of the office of a Councillor under subsection (2) or (3):

a) for one year or less, the DKK may appoint an Acting Councillor at a duly called meeting,

b) for over one year, a by-election must be called.

PART 3 – NOMINATIONS, VOTING AND APPEALS

Nominations

11. (1) Candidates for the positions of ?ekw'ahtı́dé and Councillor must be nominated at the Déłı́nē Łénats'ehdā Dzené in the year of the election.

(2) The Chief Electoral Officer shall administer the nomination meeting at the Déłı́nē Łénats'ehdā Dzené and the chair of the Déłı́nē Łénats'ehdā Dzené may chair the nomination meeting.

(3) All eligible DFN Citizens nominated for ?ekw'ahtı́dé must be nominated by a person in accordance with this *Act* and that nomination must be seconded by at least 10 other persons who meet the criteria in section 6.

(4) All eligible candidates nominated for a Councillor position must be nominated by a person in accordance with this *Act* and that nomination must be seconded by at least 2 other persons who meet the criteria in section 8.

(5) Candidates cannot nominate themselves.

(6) Nominations may only be made in person during the Déłı́nē Łénats'ehdā Dzené on the day set aside for nominations.

(7) A person may only nominate or second one nominee for ?ekw'ahtı́dé, and one nominee for the DKK. If his or her nominee refuses the nomination or fails to obtain the necessary seconders, those persons that nominated or seconded that candidate are free to nominate or second another candidate.

Acceptance of Nomination

12. (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 Chief Electoral Officer.

Acclamation

13. (1) In the event that only one person is nominated for ?ekw'ahtǵdé, the Chief Electoral Officer may declare that candidate elected by acclamation.
- (2) The Chief Electoral Officer shall immediately publish a signed notice of acclamation to DFN Citizens by setting out the name of the person acclaimed as ?ekw'ahtǵdé and stating that a vote will not be conducted in respect of the election for ?ekw'ahtǵdé.
- (3) The notice of acclamation shall be published by posting on the official DGG website and all DGG offices and any other locations the Chief Electoral Officer deems necessary.

Timing of General Election

14. A general election for ?ekw'ahtǵdé and the DKK shall be held in the month of September every 4 years.

Voting

15. (1) The Chief Electoral Officer shall conduct the voting for ?ekw'ahtǵdé and the DKK.
- (2) The Chief Electoral Officer shall:
 - a) publish a preliminary voters list of eligible voters in Délǵnǵ, Yellowknife and any other location he or she considers appropriate no later than 90 days prior to the Délǵnǵ Lénats'ehdǵ Dzené;
 - b) publish the final voters list two weeks after the expiration of the appeal period referenced in subsection 16(1);
 - c) establish rules, consistent with this *Act* and the Délǵnǵ Got'ǵnǵ ?e2adó, for the conduct of the vote for ?ekw'ahtǵdé and the DKK, including the establishment of polling stations. These rules may provide for advance voting by means other than voting at polling stations;
 - d) post a notice of election setting out the time, place and date for voting, no later than 30 days before the election date; and

- e) provide for one or more advance polls, no later than 10 days before the election date.

Appealing Preliminary Voters List

16. (1) An appeal, in writing, may be made to the Chief Electoral Officer 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 Chief Electoral Officer 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 Chief Electoral Officer shall grant an appeal made under subsection (1)(c).
- (4) The Chief Electoral Officer 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).
- (5) The decision of the Chief Electoral Officer on this appeal shall be final and not subject to further appeal.

Ballots and Forms

17. Voting shall be conducted by secret ballot.

Polling Stations

18. (1) Polling stations will be set up in the community of Délîņę and any other location(s) deemed necessary by the Chief Electoral Officer.

- (2) The Chief Electoral Officer and/or Deputy Electoral Officers shall construct or erect polling booths in such a way that the privacy of the voter is maintained.
- (3) The Chief Electoral Officer and/or Deputy Electoral Officers that are deemed necessary shall be in attendance at the time and place as set out in the notice of poll.
- (4) The Chief Electoral Officer and/or Deputy Electoral Officers as necessary 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 or otherwise secure 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 or opened during the time appointed for taking the poll.
- (5) The Chief Electoral Officer and/or Deputy Electoral Officers, where necessary and when requested, shall appoint a DFN Citizen to act as an interpreter or an assistant, for any elector who is unable to read the ballot or is otherwise incapacitated.
- (6) The Chief Electoral Officer shall hold the polling booth(s) open from 9:00 a.m. to 8:00 p.m. (local time).
- (7) All electors who are in the polling station at the close of the poll will be allowed to vote.

Casting of Ballots

19. (1) Persons presenting themselves for the purpose of voting shall, upon being confirmed by the Chief Electoral Officer or a Deputy Electoral Officer 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 Chief Electoral Officer or a Deputy Electoral Officer 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 or her ballots as prescribed in the voting instructions and shall then deposit the ballot in the ballot box supplied.
- (5) The Chief Electoral Officer or a Deputy Electoral Officer shall note upon the voter's list any irregularity in connection with voting and shall specifically note any ballots marked by the Chief Electoral Officer and a Deputy Electoral Officer 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 Chief Electoral Officer or a Deputy Electoral Officer 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 Chief Electoral Officer or a Deputy Electoral Officer for eligibility, and by making a declaration, may be allowed to vote at the polling station.

Campaigning

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

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

Withdrawal

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

(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 Chief Electoral Officer.

(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 Chief Electoral Officer.

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

Disqualification

22. (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 in 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 Chief Electoral Officer.

Bringing Together Ballots

23. (1) As soon as is reasonably possible after the close of polls, the Chief Electoral Officer or Deputy Electoral Officer shall, in sight of any candidate or candidate's agent present, but in a manner that ensures the secrecy of the content of the ballot, retrieve any

advance poll ballot boxes from safekeeping and add them to the boxes from the other polling stations.

Opening Ballot Boxes

24. (1) As soon as is reasonably possible, the Chief Electoral Officer or Deputy Electoral Officer 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 Chief Electoral Officer, clearly indicated an intention, in which case the Chief Electoral Officer 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.

Recount

25. The Chief Electoral Officer shall have the discretion to conduct a recount unless the difference of votes between top candidates is five or fewer, in which case a recount will be required.

Tie Vote

26. If as a result of the election there is a tie among two or more candidates with the most votes for the position of ʔekw'ahtǫ́dǫ́, the Chief Electoral Officer will draw one ballot from a container containing ballots marked for each of the tied candidates in order to break the tie.

Return of Poll

27. (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 Chief Electoral Officer.

Results

28. (1) The results of the election, as set out in the return of poll, shall be published immediately after the Chief Electoral Officer files copies of the return of poll.

(2) The results of the election shall be published in Déliņę, Yellowknife and any other location the Chief Electoral Officer considers appropriate.

Chief Electoral Officer

29. (1) Subject to this *Act*, the Chief Electoral Officer 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) make arrangements for security and order in and around the polling areas;

g) keep a record of the persons to whom ballots are issued;

h) mark all ballots by handwritten initial or otherwise, in a manner that will permit reliable authentication of cast ballots;

i) safe keep all ballots cast pending the close of poll;

j) ensure that all ballots properly cast are included in the counting of the vote;

k) supervise the counting and recounting of ballots;

l) immediately upon completion of a count or recount and with the candidates or candidate's agents, if any, present, prepare a return of poll form and sign it;

m) immediately upon completion of the return of poll form, file signed copies of the return of poll with the DGG head office and the DKK;

- n) 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
 - o) upon completion of 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 Chief Electoral Officer may appoint Deputy Electoral Officers and may delegate the performance of administrative tasks and functions to the Deputy Electoral Officers.
- (3) The Chief Electoral Officer may refer a question regarding the interpretation or application of this *Act* to the DKDK at any time in the course of his or her duties, and the DKDK may provide the Chief Electoral Officer with directions.
- (4) A direction under subsection (3) does not bar a complaint or application to the DKDK regarding the same matter and does not bind the DKDK in determining any application or complaint.
- (5) The Chief Electoral Officer may modify any procedure to execute any of his or her duties if it is deemed necessary to ensure the secrecy of the ballot or the integrity of the voting process.

Déljɛ K'aowədó Kə

30. (1) The DKK shall perform the duties conferred upon it by this *Act*.
- (2) The DKK shall appoint an independent Chief Electoral Officer in the year of an election.
- (3) The members of the DKK shall discharge their duties and responsibilities under this *Act* in a fair and neutral manner.
- (4) A candidate who is a member of the DKK shall not participate in any decision under these sections.

Practice and Procedure

31. Subject to this *Act*, the DKDK 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.

Complaints

32. (1) A complaint alleging a contravention of this *Act* may be made to the DKDK at any time during an election, but shall be made within 10 days after publication of the election results or, where applicable, the publication of the recount results.
- (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 *Act*.
- (3) The DKDK will determine such complaint within 30 days and may, if necessary:
- (a) give directions to the Chief Electoral Officer and order a recount based on those directions;
 - (b) set aside the results of the election, in whole or in part;
 - (c) order a new election and give directions to the Chief Electoral Officer for the conduct of that election; or
 - (d) such other remedy it deems just.

Inquiries

33. (1) If satisfied that an inquiry should be conducted into whether an election is being or was conducted in accordance with this *Act*, the DKDK may conduct an inquiry.
- (2) Where the DKDK conducts an inquiry, the DKDK shall
- a) issue a statement of inquiry before beginning its inquiry outlining alleged facts and how the *Act* may have been contravened, and
 - b) shall, upon completion of the inquiry, set out findings in writing.

General Powers

34. (1) The DKDK has, in respect of an application, complaint, question or inquiry before it, the power to
- a) examine records and make inquiries it considers necessary,
 - b) examine and consider any evidence placed before it, regardless of whether such evidence would be inadmissible in a court of law, and
 - c) provide notice of a proceeding before it to persons directly affected.

Jurisdiction

35. (1) The DKDK has exclusive authority to determine whether an election was conducted in a manner consistent with this *Act*.
- (2) The DKDK has and shall exercise exclusive jurisdiction to hear and decide an application or complaint made under this *Act* and to answer questions referred to it by the Chief Electoral Officer in respect of an election.

Final and Binding

36. A decision of the DKDK is final and binding.

By-Elections

37. By-elections shall be organized and run in the same manner as general elections and any reference to general elections in this *Act* apply to by-elections with the necessary changes.

Amendment

38. This *Act* may be amended in accordance with DGG Law.

Commencement

39. This *Act* comes into effect on the date of this enactment.

Conflict

40. In the event that the provisions of this *Act* conflict with the provisions of the DFSGA, the provisions of the DFSGA prevail.

41. In the event that the provisions of this *Act* conflict with the provisions of the Déληη Got'ηηη ζεζαδό, the provisions of the Déληηη Got'ηηη ζεζαδό prevail.

42. In the event that the provisions of the DFSGA conflict with the provisions of the Déληηη Got'ηηη ζεζαδό, the provisions of the DFSGA prevail.

43. In the event that the provisions of the DFSGA conflict with the provisions of the SDMCLCA, the provisions of the SDMCLCA prevail.