

DÉLĪNEĢ GOT'ĪNEĢ GOVERNMENT

AMENDED ELECTIONS ACT

MARCH 27, 2018

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The Délı̄nę Got'ı̄nę Government enacts as follows:

## PART 1 – GENERAL PROVISIONS

### Citation

1. This *Act* may be cited as the *Amended 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 *Amended DGG Government Organization Act*;

“**Chief Electoral Officer**” means the person appointed under section 24(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'ehdə 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 Chief Electoral Officer under section 23(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*;

**“DGG Law”** means laws of the DGG made pursuant to the Jurisdictions of the DGG set out in the DFSGA and regulations made pursuant to those laws;

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

**“Immediate family”** means a person’s close relatives by birth or marriage, including parents, parents-in-law, step-parents, grandparents, spouses, siblings, siblings-in-law, children, children-in-law, step-children or adopted children;

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

**“Residents”** means residents of the Délı̄nę 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 DÉLı̄NĘ K’AOWĒDÓ 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 Délı̄nę District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons.

**Eligibility of Candidates for the ʔekw'ahtǵdé**

7. A person is eligible to be nominated and stand as a candidate for ʔekw'ahtǵdé 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 Délǵne District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons;
  - e) has not been convicted of an indictable offence during the 10 years immediately preceding election day; and
  - f) has not declared bankruptcy during the 10 years immediately preceding election day.

**Eligibility to Vote for the Délǵne K'aowǵdó Kǵ**

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 Délǵne District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons.

**Eligibility of Candidates for Délǵne K'aowǵdó Kǵ**

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 Délǵne District for at least 2 years immediately preceding election day, except for absence due to medical, education or similar reasons;
  - d) has not been convicted of an indictable offence during the 10 years immediately preceding election day; and
  - e) has not declared bankruptcy during the 10 years immediately preceding election day.

## PART 3 – NOMINATIONS

### Nominations

10. (1) Candidates for the positions of ʔekw'ahtǵdé and Councillor must be nominated at the Délǵnǵ Lénats'ehdǵ Dzené in the year of the election.
  - a) ʔǵhda of Délǵnǵ will be given the opportunity to speak at the Délǵnǵ Lénats'ehdǵ Dzené regarding the candidates for ʔekw'ahtǵdé.
  - b) All candidates must make a speech at the nomination meeting describing why they want to run and their plans should they be elected.
- (2) The Chief Electoral Officer shall administer the nomination meeting at the Délǵnǵ Lénats'ehdǵ Dzené and the chair of the Délǵnǵ Lénats'ehdǵ Dzené may chair the nomination meeting.
- (3) All eligible DFN Citizens nominated for ʔekw'ahtǵdé 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) Nominees cannot be nominated by themselves or members of their immediate family.
- (6) Nominations cannot be seconded by nominees or members of their immediate family.
- (7) Nominations and seconding may only be made in person during the Délǵnǵ Lénats'ehdǵ Dzené on the day set aside for nominations. Nominating or seconding a candidate by proxy is not permitted.
- (8) A person may only nominate or second one nominee for ʔekw'ahtǵdé, 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

11. (1) A nomination must be accepted by a nominee in order for the nominee to become a candidate.
  - a) By accepting the nomination, the nominee agrees to adhere to all DGG policies and procedures, including any drug and alcohol policies, during their term.
  - b) By nominating the nominee, the nominator believes the nominee to be of good character.

- (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.

## **PART 4 – VOTING AND APPEALS**

### **Acclamation**

12. (1) In the event that only one person is nominated for ?ekw'ahtǵdé, the Chief Electoral Officer may declare that candidate elected by acclamation after consulting with the Délǵnǵ ?ǵhda K'áowǵ Kǵ.
- (2) In the event that only six people are nominated for Councillor, the Chief Electoral Officer may declare those candidates elected by acclamation.
- (3) 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.
- (4) The Chief Electoral Officer shall immediately publish a signed notice of acclamation to DFN Citizens and residents by setting out the name of the persons acclaimed as Councillors and stating that a vote will not be conducted in respect of the election for Councillors.
- (5) The notice(s) 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**

13. A general election for ?ekw'ahtǵdé and Councillors shall be held in the month of July every 4 years.
- a) The elected ?ekw'ahtǵdé and the DKK shall take office on September 1 of the elections year.
- b) The newly elected ?ekw'ahtǵdé and the DKK may meet with the existing ?ekw'ahtǵdé and the DKK to ensure knowledge transfer.

### **Voting**

14. (1) The Chief Electoral Officer shall conduct the voting for ?ekw'ahtǵdé and the Councillors.
- (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 60 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 15(1);
- c) establish rules, consistent with this *Act* and the *Déljñę Got'jñę ʔezadó*, for the conduct of the vote for *ʔekw'ahtjé* and the Councillors, including the establishment of polling stations. These rules may provide for advance or proxy voting by means other than voting at polling stations;
- d) ensure that a person acting as proxy may only do so on behalf of one other person;
- e) post a notice of election setting out the time, place and date for voting, no later than 30 days before the election date; and
- f) provide for one or more advance polls, no later than 10 days before the election date.

### **Appealing Preliminary Voters List**

15. (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 any further appeal.

### **Ballots and Forms**

16. Voting shall be conducted by secret ballot.

### **Withdrawal**

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

(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 is in receipt of the written document or notice of death.

### **Disqualification**

18. (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.

### **Recount**

19. 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**

20. If as a result of the election there is a tie among:

- a) two or more candidates with the most votes for the position of ?ekw'ahtı́dé, or
- b) two or more candidates for the sixth Councillor position,

the Chief Electoral Officer will publicly draw one ballot from a container containing ballots marked for each of the tied candidates in order to break the tie.

### **Return of Poll**

- 21. (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**

- 22. (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 Déłı́ne, Yellowknife and any other location the Chief Electoral Officer considers appropriate.

### **Chief Electoral Officer**

- 23. (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.

### **Délne K'aowádó Kə**

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

### **Practice and Procedure**

25. 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**

26. (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.

### **General Powers**

27. (1) The DKDK has, in respect of an application, complaint, or question 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.

### **Authority**

28. (1) The DKDK has exclusive authority to determine whether an election was conducted in a manner consistent with this *Act*.
- (2) Subject to subsection 15(5), the DKDK has and shall exercise exclusive authority 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**

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

**By-Elections**

30. 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.

**PART 5 – GENERAL**

**Amendment**

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

**Commencement**

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

**Conflict**

33. In the event that the provisions of this *Act* conflict with the provisions of the DFSGA, the provisions of the DFSGA prevail.
34. In the event that the provisions of this *Act* conflict with the provisions of the Délíneḡ Got'íneḡ ḡeḡadó, the provisions of the Délíneḡ Got'íneḡ ḡeḡadó prevail.
35. In the event that the provisions of the DFSGA conflict with the provisions of the Délíneḡ Got'íneḡ ḡeḡadó, the provisions of the DFSGA prevail.
36. In the event that the provisions of the DFSGA conflict with the provisions of the SDMCLCA, the provisions of the SDMCLCA prevail.