

Decision

Election Act
(chapter E-3.3)

Chief Electoral Officer**— Processing of postal voting materials**

Decision of the Chief Electoral Officer under the powers conferred on him by section 90.5 of the Act respecting elections and referendums in municipalities in relation to the processing of postal voting materials

WHEREAS a municipal general election is scheduled to take place on November 7, 2021;

WHEREAS the Act to facilitate the conduct of the 7 November 2021 municipal general election in the context of the COVID-19 pandemic (SQ 2021, c. 8) was adopted by the Assemblée nationale on March 25, 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 (CQLR, c. E-2.2), 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 to the Act respecting municipal territorial organization (CQLR, c. O-9);

WHEREAS 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 (2021, G.O. 2, No. 17B, 1307B) came into force on May 15, 2021;

WHEREAS, under section 173.2 of the Act respecting elections and referendums in municipalities, as established by section 14 of 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 Regulation respecting voting by mail (chapter E-2.2, r. 3) applies to voting by mail in the case of electors eligible under section 173.1 of the Act respecting elections and referendums in municipalities, as established by section 14 of 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;

WHEREAS, pursuant to section 18 of the Regulation respecting voting by mail, electors are to:

—insert their ballot papers into the envelope identified as “ENV-1”, seal it and insert it into the envelope identified as “ENV-2”;

—insert into envelope “ENV-2” a photocopy of an identification document and a declaration made and signed by the elector and, where applicable, by the person providing assistance to the elector;

WHEREAS section 173.5 of the Act respecting elections and referendums in municipalities, as established by section 14 of 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, provides that 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 identified as “ENV-2” a document providing his or her date of birth and on which his or her signature appears, and that 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;

WHEREAS, under section 21 of the Regulation respecting voting by mail, the deputy returning officer of the postal polling station is to place envelope “ENV-1” in the ballot box without opening it after ascertaining that:

—the elector is entered on the list of electors and the elector’s name appears on the list of electors registered to vote by mail;

—a photocopy of the elector’s identification document is included and the elector’s signature appears on it;

—the elector’s declaration is signed and the signature corresponds to the signature appearing on the photocopy of the identification document.

The deputy returning officer is to cancel envelope “ENV-1” if the photocopy of an identification document is not included, if the elector’s declaration is not signed or if the signature does not correspond to the signature appearing on the identification document.

WHEREAS municipalities in which voting by mail is being conducted have indicated that they have received a significant number of “ENV-2” envelopes that do not contain the documents required under section 21 of the Regulation respecting voting by mail and that contain only the “ENV-1” envelope;

WHEREAS there is reason to believe that electors have misunderstood the instructions and included these documents in the “ENV-1” envelope;

WHEREAS, under the provisions of the Regulation respecting voting by mail, the “ENV-1” envelope must not be opened prior to the counting of the votes and the deputy returning officer therefore cannot perform the required verification, resulting in the cancellation of the “ENV-1” envelopes;

WHEREAS this will result in the electors concerned being unable to vote;

WHEREAS section 90.5 of the Act respecting elections and referendums in municipalities allows the Chief Electoral Officer to adapt a provision of the Act if he finds that, subsequent to an error, the provision does not meet the demands of the situation;

WHEREAS the Chief Electoral Officer has provided prior written notice of the decision he intends to make to the Minister of Municipal Affairs, Regions and Land Occupancy;

The Chief Electoral Officer, under the powers conferred on him by section 90.5 of the Act respecting elections and referendums in municipalities, has decided to adapt sections 18 and 21 of the Regulation respecting voting by mail as follows:

1. The preamble forms an integral part of this decision;
2. When processing the envelopes, in cases where envelope “ENV-2” contains only envelope “ENV-1”, which is intended to contain the ballot papers, and envelope “ENV-2” does not contain the elector’s declaration and identification document; AND where there is reason to believe that the missing documents are enclosed in envelope “ENV-1” along with the ballot papers, the procedure set out below must be followed:
 3. In the presence of the poll clerk, the deputy returning officer shall:
 - Ask the representatives and candidates present to withdraw from the processing area to maintain the secrecy of the vote (they must not see the ballot papers);
 - Carefully open envelope “ENV-1”;
 - Empty the contents of envelope “ENV-1”, making sure not to lose anything;
 - While taking care not to look at an elector’s choices, place the ballot papers back in envelope “ENV-1”;

- Close envelope “ENV-1” and affix a seal to it;
 - Initial the seal and ask the poll clerk to do the same;
 - Place the following items in envelope “ENV-2”:
 - envelope “ENV-1”, containing only the ballot papers;
 - any other documents that had originally been enclosed with the ballot papers in envelope “ENV-1”.
 - Repeat the procedure for each envelope concerned.
4. The poll clerk shall add a note to the poll book:
 - On the page titled “Other observations or important notes”, indicate
 - The number of envelopes concerned;
 - The fact that the “ENV-1” envelopes were opened in accordance with the Chief Electoral Officer’s specific instructions.
 5. Once the procedure has been completed for all envelopes concerned, the candidates and representatives may once again take their seats and the processing of the envelopes may continue in the usual manner.

This decision shall take effect from the date of signing.

Québec City, November 4, 2021

PIERRE REID
The Chief Electoral Officer

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