

## 12 ELIZABETH II.

### CHAP. 40

An Act respecting the office of Representation Commissioner and to effect certain consequential amendments to the Canada Elections Act.

[Assented to 21st December, 1963.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

#### SHORT TITLE.

**1.** This Act may be cited as the *Representation Commissioner Act*. Short title.

#### INTERPRETATION.

- 2.** (1) In this Act,
- (a) "Commissioner" means the Representation Commissioner;
  - (b) "electoral boundaries commission" means a commission established under the *Electoral Boundaries Readjustment Act*; and
  - (c) "Minister" means the Secretary of State of Canada.
- (2) Unless otherwise provided in this Act all words and expressions used in this Act have the same meaning as in the *Canada Elections Act*.
- Definitions.  
"Commissioner."  
  
"Electoral boundaries commission."  
  
"Minister."  
  
Application of *Canada Elections Act*.

#### REPRESENTATION COMMISSIONER.

**3.** There shall be a Representation Commissioner who shall be appointed by resolution of the House of Commons. Representation Commissioner.

Tenure of  
office.

**4.** (1) Subject to subsection (2) the Commissioner holds office during good behaviour but is removable by the Governor General on address of the Senate and House of Commons.

Termination  
of  
office.

(2) The Commissioner ceases to hold office upon attaining the age of sixty-five years.

Rank and  
powers.

**5.** (1) The Commissioner shall rank as and have all the powers of a deputy head of a department and shall communicate with the Governor in Council through the Minister.

Salary.

(2) The Commissioner shall be paid a salary of twenty-five thousand dollars per annum.

Travelling  
and living  
expenses.

(3) The Commissioner shall be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the course of his duties.

Appointment  
of substitute.

**6.** (1) In the event of the death of the Commissioner while Parliament is not sitting, or in the event of his inability or neglect to perform the duties of his office, a substitute Commissioner shall, upon the application of the Minister, be appointed by the Chief Justice of Canada, or in his absence by the senior judge of the Supreme Court of Canada then present in Ottawa.

Tenure of  
office of  
substitute.

(2) Upon his appointment a substitute Commissioner shall exercise the powers and perform the duties of the Commissioner in his place and stead until fifteen days after the commencement of the next following session of Parliament unless the Chief Justice of Canada, or the judge by whom the order appointing him was made, sooner directs that such order be rescinded.

Absence of  
Chief  
Justice.

(3) In the absence of both the Chief Justice of Canada and of the judge of the Supreme Court of Canada by whom a substitute Commissioner has been appointed the order appointing such substitute Commissioner may be rescinded by any other judge of the said Court.

Remuneration  
of  
substitute.

(4) The substitute Commissioner shall be paid such salary as is fixed by the Governor in Council and shall be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the course of his duties.

#### DUTIES OF COMMISSIONER.

Functions  
and duties.

**7.** The Commissioner shall carry out such functions and duties as are assigned to him by this Act or by any other Act of the Parliament of Canada, and may carry out such other assignments and engage in such other activities as may be authorized by the Governor in Council.

8. (1) As soon as possible after the completion of any decennial census, or in the case of the census taken in the year 1961 as soon as possible after the coming into force of this Act, the Commissioner shall prepare maps showing the distribution of population in each province and setting out alternative proposals respecting the boundaries of electoral districts in each province, and shall thereupon supply such maps to the appropriate electoral boundaries commission.

Preparation  
of maps.

(2) The Dominion Statistician and the Director of the Surveys and Mapping Branch of the Department of Mines and Technical Surveys shall make available their services and the facilities of their respective offices, and render all such other assistance to the Commissioner as may be necessary in order to enable the Commissioner to discharge his duties under this section.

Duty to  
assist.

9. (1) The Commissioner shall
- (a) review and study methods of registration of electors used in provincial and national elections in provinces and countries where continuous electoral rolls are maintained;
  - (b) review and study methods of absentee voting used in provincial and national elections in provinces and countries where provision is made for absentee voting by electors who, by reason of absence, illness or other cause, are unable to vote at such elections in the polling districts or divisions in which they ordinarily reside; and
  - (c) prepare a report setting forth his recommendations as to whether or the extent to which the methods of registration and methods of absentee voting referred to in paragraphs (a) and (b) might be applied to, or adapted for use in, federal elections in Canada, with a view to reducing the time required for the holding of such elections and providing improved facilities for voting by electors at such elections.

Report on  
methods of  
registration  
of electors  
and absentee  
voting.

(2) The Commissioner shall complete the report referred to in paragraph (c) of subsection (1) not later than two years after the day on which the first representation order made pursuant to the *Electoral Boundaries Readjustment Act* after the decennial census taken in the year 1961 is declared to be in force, and shall include such report in the next following report made by him to the Speaker of the House of Commons pursuant to subsection (3) of section 58 of the *Canada Elections Act*.

When report  
to be made.

## STAFF OF COMMISSIONER.

Appoint-  
ment of  
staff of  
Commis-  
sioner.

- 10.** (1) The Commissioner may
- (a) appoint such officers and employees as are necessary for the proper conduct of the work of the Office of the Commissioner; and
  - (b) prescribe the duties of such officers and employees and, subject to the approval of the Treasury Board, prescribe the conditions of their employment.

Salaries and  
expenses of  
staff.

(2) The officers and employees of the Commissioner appointed as provided in subsection (1) shall be paid such salaries and expenses as are fixed by the Commissioner with the approval of the Treasury Board.

Technical  
and special  
advisers.

**11.** The Commissioner may engage on a temporary basis the services of persons having technical or specialized knowledge of any matter relating to the work of the Commissioner, to advise and assist the Commissioner in the performance of the duties of his office and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of such persons.

Application  
of *Public  
Service Super-  
annuation  
Act*.

**12.** The Commissioner and the officers and employees of the staff of the Commissioner appointed as provided in subsection (1) of section 10 shall be deemed to be persons employed in the Public Service for the purposes of the *Public Service Superannuation Act*.

## FINANCIAL.

Payment  
out of C.R.F.

**13.** All amounts required for the payment of salaries and other expenses under this Act and under the *Electoral Boundaries Readjustment Act*, including expenses of administration, shall be paid out of the Consolidated Revenue Fund under the authority of this section.

## CONSEQUENTIAL AMENDMENTS.

1960, c. 39.

**14.** (1) Section 2 of the *Canada Elections Act* is amended by adding thereto, immediately after paragraph (3) thereof, the following paragraph:

"Commis-  
sioner."

"(3a) "Commissioner" means the Representation Commissioner appointed under the *Representation Commissioner Act*;"

(2) Paragraph (7) of section 2 of the said Act is repealed and the following substituted therefor:

“(7) “election officer” includes the Commissioner, the Chief Electoral Officer, the Assistant Chief Electoral Officer and every returning officer, election clerk, deputy returning officer, poll clerk, enumerator, revising officer, revising agent or other person having any duty to perform pursuant to this Act, to the faithful performance of which duty he may be sworn;”

“Election officer.”

**15.** (1) Subsection (1) of section 4 of the said Act is repealed and the following substituted therefor:

“4. (1) The Chief Electoral Officer shall rank as and have all the powers of a deputy head of a department, communicate with the Governor in Council through the Secretary of State of Canada, devote himself exclusively to the performance of the duties of his office and be paid a salary of twenty-one thousand dollars per annum; he is eligible as a contributor under and entitled to all the benefits of the *Public Service Superannuation Act* but until he attains the age of sixty-five years when he shall cease to hold office he shall be removable only for cause by the Governor General on address of the Senate and House of Commons.”

Rank, powers, salary and tenure of office of Chief Electoral Officer.

(2) This section shall be deemed to have come into force on the 1st day of December, 1963.

**16.** Subsection (2) of section 5 of the said Act is repealed and the following substituted therefor:

“(2) The Chief Electoral Officer shall, in the exercise of his powers and the performance of his duties referred to in subsection (1), be responsible to and act under the direction and supervision of the Commissioner.

Chief Electoral Officer responsible to Commissioner.

(3) If during the course of any election it transpires that insufficient time has been allowed or insufficient election officers or polling stations have been provided for the execution of any of the purposes of this Act, by reason of the operation of any provision of this Act or of any mistake or miscalculation or of any unforeseen emergency, the Commissioner may, notwithstanding anything in this Act, extend the time for doing any act or acts, increase the number of election officers who have been appointed for the performance of any duty, or increase the number of polling stations, and, generally, the Commissioner may adapt the provisions of this Act to the execution of its

Special power of Commissioner.

intent; but this discretion may not be exercised by the Commissioner in such a manner that a nomination paper may be received by a returning officer after two o'clock in the afternoon on nomination day or a vote may be cast before or after the hours fixed in this Act for the opening and closing of the poll on ordinary polling day or on the days on which the advance poll is held."

**17.** Section 21 of the said Act is amended by adding thereto, immediately after subsection (3) thereof, the following subsections:

Amendment  
of Schedule  
by Com-  
missioner.

"(3a) Subject to subsection (3b), the Commissioner may at any time amend the list of electoral districts specified in Schedule III in which nomination day is the twenty-eighth day before polling day,

- (a) by adding to such list the name of any electoral district named and described in a representation order declared pursuant to the *Electoral Boundaries Readjustment Act* to be in force, where that district coincides with or includes the whole or any part of any electoral district that was specified in Schedule III on the coming into force of this Act and the Commissioner is of the opinion that more than fourteen days between nomination day and polling day are necessary for the effective conduct of an election in that district; or
- (b) by deleting from such list the name of any electoral district that was specified in Schedule III on the coming into force of this Act or that has been added to such list pursuant to this subsection, where that district is not an electoral district named and described in a representation order declared pursuant to the *Electoral Boundaries Readjustment Act* to be in force.

Limitation.

(3b) No amendment of the list of electoral districts specified in Schedule III may be made by the Commissioner pursuant to subsection (3a) during the period commencing on the seventh day after the representation order referred to in that subsection becomes effective and ending on polling day, and no such amendment shall become effective until notice thereof has been published in the *Canada Gazette*."

**18.** The heading preceding section 58 and section 58 of the said Act are repealed and the following substituted therefor:

"REPORT OF COMMISSIONER.

**58.** (1) The Chief Electoral Officer shall within five days after the commencement of any session of Parliament make a report to the Commissioner setting out

Report of  
Chief  
Electoral  
Officer.

- (a) any matter or event which has arisen or occurred in connection with the administration of his office in the interval since the date of his next preceding report and that he considers should be brought to the attention of the House of Commons; and
- (b) any amendments that, in his opinion, are desirable for the more convenient administration of the law.

(2) Every candidate at an election and every official agent of any candidate has the right to send to the Commissioner in writing any complaint he may have to make with respect to the conduct of the election or of any election officer, and to suggest such changes or improvements in the law as he may consider desirable.

Complaints  
to Com-  
missioner.

(3) The Commissioner shall, within ten days after the commencement of any session of Parliament, make a report to the Speaker of the House of Commons setting out therein

Report of  
Commis-  
sioner.

- (a) any matter or event which has arisen or occurred in connection with the administration of his office in the interval since the date of his next preceding report and that he considers should be brought to the attention of the House of Commons;
- (b) any actions which have been taken by him under subsection (3) of section 5, section 70 and subparagraph (3) of paragraph 3 of the *Canadian Forces Voting Rules* and that he considers should be brought to the attention of the House of Commons; and
- (c) every complaint or statement referred to in subsection (2) respecting the conduct of the election that has been submitted to the Commissioner,

and shall attach to the said report the report of the Chief Electoral Officer described in subsection (1).

(4) Any report received by the Speaker from the Commissioner pursuant to this section shall be forthwith submitted by him to the House of Commons."

Submission  
to House of  
Commons.

**19.** Subsection (1) of section 60 of the said Act is repealed and the following substituted therefor:

Tariff of  
fees and  
expenses.

“60. (1) Upon the recommendation of the Commissioner, the Governor in Council may make a tariff of fees, costs, allowances and expenses to be paid and allowed to returning officers and other persons employed at or with respect to elections under this Act, and may, from time to time, revise and amend such tariff.”

20. Subsections (3) to (5) of section 70 of the said Act are repealed and the following substituted therefor:

Inquiry into  
offences and  
power to  
take pro-  
ceedings.

“(3) When it is made to appear to the Commissioner that any election officer has been guilty of any offence against this Act, it is his duty to make such inquiry as appears to be called for in the circumstances, and if it appears to him that proceedings for the punishment of the offence have been properly taken or should be taken and that his intervention would be in the public interest, to assist in carrying on such proceedings or to cause them to be taken and carried on and to incur such expense as it may be necessary to incur for such purposes.

Further  
powers.

(4) The Commissioner has the like powers in the case of any offence that it is made to appear to him to have been committed by any person under section 17, section 22, section 29, subsections (2) and (6) of section 49, subsection (12) of section 50, subsection (7) of section 52 or section 72.

Powers under  
*Inquiries Act*.

(5) For the purpose of any inquiry held under the provisions of this section, the Commissioner or any person nominated by him for the purpose of conducting any such inquiry, has the powers of a commissioner under Part II of the *Inquiries Act*, and any expense required to be incurred for the purpose of any inquiry under this section and of any proceedings assisted or caused to be taken by the Commissioner by virtue thereof shall be payable by the Comptroller of the Treasury, on the certificate of the Commissioner, out of the Consolidated Revenue Fund.”

21. Subparagraph (2) of paragraph 3 of the *Canadian Forces Voting Rules* set out in Schedule II to the said Act is repealed and the following substituted therefor:

Powers of  
Chief  
Electoral  
Officer.

“(2) For the purpose of carrying into effect the provisions of these Rules, the Chief Electoral Officer may issue such instructions not inconsistent therewith as may be deemed necessary to the execution of their intent.



(3) The Commissioner may, for the purpose of supplying any deficiency in these Rules, issue such instructions not inconsistent therewith as may be deemed necessary to the execution of their intent.”

Powers of  
Commis-  
sioner.

**22.** The Prime Minister shall, at the earliest convenient opportunity after the commencement of the first session of Parliament after 1968, propose to the House of Commons that an order be made and referred to the appropriate committee of the House of Commons for the review by such committee of the provisions of this Act and for the recommendations of such committee with respect to any amendments, alterations or modifications thereto that appear to the committee then to be necessary or desirable, and upon such order being referred to it the committee shall consider the matter of the order and report to the House its recommendations with respect thereto.

Provision for  
review of  
Act.

**23.** Notwithstanding section 3 of this Act, the person who upon the coming into force of this Act held the office of Chief Electoral Officer of Canada shall be deemed to have been appointed at that time pursuant to this Act to hold the office of Representation Commissioner, and until the appointment of a person pursuant to the *Canada Elections Act* to fill the vacancy thereby resulting in the office of Chief Electoral Officer of Canada, the Representation Commissioner has and may exercise and perform all the powers, duties and functions of the Chief Electoral Officer under any law of Canada, and with respect to any period before the appointment of such a person, a reference in any such law to the Chief Electoral Officer shall be construed as a reference to the Representation Commissioner.

Appointment  
of first  
Representa-  
tion Com-  
missioner.

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1963

