

COTE FIRST NATION CUSTOM ELECTION ACT

PROPOSED AMENDMENTS

Cote First Nation
Box 1659
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COTE FIRST NATION CUSTOM ELECTION ACT

DEFINITIONS

- a. "Act" means this Cote First Nation Custom Election Act.
- b. "Primary Residence" is that place which has been adopted by the person as his home and specifically, where a person usually sleeps.
- c. "Secondary Residence" shall be the place which has been established by the person and which serves as his residence during the work week.
- d. "Council" means the Band Council of the Cote First Nation and shall consist of those persons elected to the position of Chief, On-Reserve Headmen and Urban Headman pursuant to the provisions of this Act;
- e. "Chief" means any Candidate elected to the position of Chief of the Cote First Nation according to the provisions of this Act
- g. "Headman" means any Candidate elected to the position of Headman of the Cote First Nation pursuant to the provisions of this Act and includes:
 - (i) On-Reserve Headman — means any Candidate elected to the position of On-Reserve Headman, who has a primary or secondary residence on Cote First Nation at the time of the election or who will establish a primary or secondary residence on Cote First Nation within 60 days of being elected to that position.
 - (ii) Urban Headman — means any Candidate elected to the position of Urban Headmen who has established a primary residence in Saskatoon, Yorkton or Regina.
- h. "Candidate" means a Cote First Nation member who has been nominated to be a candidate to any of the positions of Chief, On-Reserve Headman or Urban Headman pursuant to the provisions of this Act;
- i. "Electoral Officer" means the person appointed by resolution of the Council, pursuant to Section 2, to manage the electoral process according to this Act;
- j. "Deputy Electoral Officer" means a person or persons appointed by the Electoral Officer to assist him in the electoral process
- k. "Elector" means a person who:
 - (i) is a member of the Cote First Nation, and,
 - (ii) is the full age of eighteen (18) years on the day which the Election is held.
- l. "Kihci-anisnapek" (Older Person) means a Cote First Nation member who is sixty (60) years of age or older.
- m. "Polling Station" means building, hall or room, which is selected to be the site for voting to take place.
- n. For the purpose of this Act, words that describe any gender shall include all genders.

SECTION 1

COMPOSITION OF COTE FIRST NATION COUNCIL

1. The Council of the Cote First Nation shall consist of the following:
 - (i) one (1) Chief;
 - (ii) seven (7) On-Reserve Headmen, and
 - (iii) one (1) Urban Headman.
2. The Chief and On-Reserve Headmen must occupy a primary or secondary residence on the Cote First Nation or within fifty (50) kilometers of the Cote First Nation within 60 days after the election date.
3. The Urban Headman must have a primary residence in Saskatoon, Regina or Yorkton.
4. In the event that no nominations are received for the position of Urban Headman in any Election or By-Election, then for that Election or By-Election only, the position shall be substituted with an On-Reserve Headman, so that there will be eight (8) On-Reserve Headmen.

SECTION 2

PRE-NOMINATION PROCEDURE

1. At least 60 working days prior to the election date, the Council shall set the dates and location of the nomination meeting, the date of the election and the location and dates of all polls.
2. At that time, the Council shall issue a request for proposals (RFP) to anyone who may wish to serve as Electoral Officer for the Cote First Nation election. The RFP will have forms that indicate budget and personnel requirements.
3. At that same time, the Council shall issue a RFP to anyone from outside the Cote First Nation membership who may wish to serve on a three-member Election Appeal Tribunal for the Cote First Nation Election.
4. The Electoral Officer and the Tribunal shall be selected in accordance with the following procedure:
 - (i) At least forty-five (45) working days prior to the day of the election, the Council shall draw up a list of at least two names of potential Electoral Officers and at least three (3) names of potential Tribunal members, who have answered the RFP.
 - (ii) At least forty (40) working days prior to the election date, the Council shall bring the names and resumes of the potential Electoral Officer and Tribunal members forward to a meeting of the Kihci-anihsinapek of Cote First Nation at a meeting duly convened for the sole purpose of selecting an Electoral Officer and an Election Appeal Tribunal.
 - (iii) The Kihci-anihsinapek shall be asked, by a show of hands, to select an Electoral Officer and rank order the other names by choice.
 - (iv) The selected Electoral Officer shall respond within 3 days to the offer of the position. If it is not accepted, the position will be offered to the next applicant as rank-ordered by the Kihci-

anihsinapek. If necessary, the process will be repeated until an Electoral Officer is in place.

- (v) Upon acceptance of the appointment, the Electoral Officer shall swear to the Oath of Office before a Commissioner of Oaths, as set out in Appendix A, and return the document to the Director of Operations of the Cote First Nation.
 - (vi) The Kihci-anihsinapek shall be asked, by a show of hands, to select three (3) individuals to make up the Election Appeal Tribunal.
 - (vii) Within five (5) days following their selection, the Tribunal Members shall swear to the Oath of Office before a Commissioner of Oaths, as set out in Schedule B, and return the document to the Director Of Operations of the Cote First Nation.
 - (VIII) The Council shall appoint a Tribunal Administrator, who will usually be the senior staff member of the Cote First Nation, who shall provide administrative and logistical support to the Tribunal.
5. The Electoral Officer shall establish an Election Record to contain copies of all documentation associated with the election. This Record shall remain open until all matters incidental to the election have been concluded. The Record shall then be closed by the Electoral Officer and kept at the Band Office. A copy of the Record is to be kept at the office of the lawyer(s) for Cote First Nation.
 6. The Electoral Officer shall appoint a Deputy Electoral Officer(s), Security Officers and any other support staff as set out in his proposal. The Oath of Office shall be administered to each of these appointments, which shall be documented in the Election Record.
 7. The Electoral Officer shall prepare a Voters List containing the names of all the electors in alphabetical order. The Voters List shall be posted at the Band Office and on the Cote First Nation website
 8. The Electoral Officer shall, at least fourteen (14) days before the date set out for the Nomination Meeting, draft and post a Notice of Nomination Meeting at the Band Office and any other public places as he deems necessary, including urban centers
 9. The Notice of Nomination Meeting shall contain:
 - (i) the time, date and place of the nomination meeting;
 - (ii) the position or positions open for election;
 - (iii) criteria for eligibility for nomination

SECTION 3

NOMINATION MEETING

1. At the time and place advertised, the Electoral Officer shall declare the Nomination Meeting open for the purpose of receiving the nominations for the position of one (1) Chief, seven (7) On-Reserve Headmen and one (1) Urban Headman.
2. The Electoral Officer shall keep the Nomination Meeting open for a period of two (2) hours.
3. The Electoral Officer shall maintain order at all times during the Nomination Meeting and may cause

to be removed any persons who, in his opinion, is disrupting or otherwise interfering with the meeting.

4. Only electors may nominate or second the nomination of any qualified person to serve as Chief or Headman.
5. Only nominees who meet the requirements of a "Candidate" as set out in this Act may be nominated:
 - (i) the nominee must be an elector listed on the Voters List
 - (ii) the nominee must have a valid driver's license
 - (iii) the nominee must not have any convictions of an indictable offense within five years preceding the Nomination Meeting, as evidenced by a Declaration of Criminal Record which is available from the local RCMP Detachment or municipal police service. The Declaration must have been processed within 30 days prior to the Nomination Meeting.
 - (iv) the nominee must not be in debt to the Cote First Nation government, its programs or institutions, including arrears on housing rent.
6. An elector can nominate only once or second only once for each of the positions of Chief, On-Reserve Headman and Urban Headman, meaning that the elector's name can appear a maximum of 3 times during the Nomination Meeting.
7. An individual may be nominated for one position only.
8. All nominees must be present at the Nomination Meeting and must accept or decline their nomination immediately after being nominated. Upon acceptance, the nominee will be required to deliver an acceptance speech to the meeting, outlining their reasons for running for office.
9. A deposit of five hundred dollars (\$500.00) must be posted by all nominees for the position of Chief and must be delivered to the Electoral Officer at the time of nomination
10. A deposit of three hundred dollars (\$300.00) must be posted by all nominees for the position of Headman and must be delivered to the Electoral Officer at the time of nomination.
11. The deposit shall be by cash, money order or certified cheque made payable to the Cote First Nation and a receipt for the deposit shall be given to the candidate by the Electoral Officer.
12. The funds shall then be deposited into the Cote General Account, to be used to offset election expenses.
13. The Electoral Officer will give each nominee a Nomination Acceptance Form, will instruct him to complete the form and then have the form signed by a Commissioner of Oaths who shall be at the Nomination Meeting for that purpose.
14. When all Nomination Acceptance Forms, Nomination Fees and Declaration of Criminal Record are returned to the Electoral Officer, and the two-hour time period is passed, the Electoral Officer shall close the Nomination Meeting and announce the Candidates for the various positions.
15. Each Candidate shall be given a copy of the Election Act and a copy of the Voters List.

16. The Electoral Officer shall declare a Candidate elected by acclamation if he is the only Candidate for the position of Chief or Urban Headman or if the number of Candidates for On-Reserve Headman is equal to or less than seven (7).
17. If any of the positions are not filled by acclamation, the Electoral Officer will announce the date and place of the election. The date of the election shall be fourteen (14) days from the nomination meeting.
18. A Candidate may withdraw his name from the ballot within forty-eight (48) hours of the close of nomination by filing with the Electoral Officer a written withdrawal of his nomination, signed by him in the presence of the Electoral Officer or a Commissioner of Oaths.
19. Any candidate who withdraws shall forfeit his or her deposit.
20. Any Candidate who wishes to withdraw his candidacy after the forty-eight (48) hour period may do so, but his name will remain on the ballot. The names of any such candidates who have withdrawn will be posted at the polling stations.

SECTION 4

PRE-ELECTION PROCEDURE

1. There will be:
 - (i) one (1) polling station in Saskatoon to be open four (4) days prior to the election day,
 - (ii) one (1) polling station in Regina to be open two (2) days prior to the election day
 - (iii) one (1) polling station polling station in Yorkton to be open one (1) day prior to the election, and
 - (iv) one (1) polling station on the day of the election at the Cote First Nation Band Office or at such other location on the Cote First Nation that the Electoral Officer deems appropriate.
2. The Electoral Officer shall, not less than 14 days prior to the date scheduled for the election, post a notice setting out the time, place and date for voting.
3. Such notice shall be posted in the Band office and other conspicuous public places as deemed necessary by the Electoral Officer.
4. Within five (5) days after the Nomination Meeting, the Electoral Officer shall have ballots prepared with the full name and complete names (nicknames used by the Candidate may be used as requested by Candidates), listed in alphabetical order, and color coded for the different positions.
5. The Electoral Officer shall obtain sufficient ballot boxes, a sufficient number of ballots for the purpose of the election, instruments for marking, a sufficient number of directions-for-voting sheets as may be required and all other equipment as necessary to establish and equip the polling stations.
6. On voting day, the Electoral Officer shall construct or erect polling booths at the location set out in the notices, and the polling booths shall be such that the privacy of the voter is maintained.

SECTION 5

ELECTION POLL

Manual and Electronic Voting

1. The Electoral Officer, Deputy Electoral Officer(s) and Security Officers shall be in attendance at the times and places as is set out in the notice of polling stations.
2. All candidates shall be entitled to one Scrutineer, who shall be an elector of Cote First Nation, in a polling place. The forms that identify the Scrutineer shall be presented to the Electoral Officer prior to the opening of the polls. The Candidates can have different Scrutineers for each of the polling stations.
3. The Electoral Officer shall hold the polling booths open from 10:00 am to 6:00 pm at all polling stations.
4. The Electoral Officer shall, immediately before the commencement of the poll, open the ballot boxes and call such persons as may be present to witness that they are empty.
5. The Electoral Officer shall then lock the boxes and shall place it in view for the reception of the ballots and the boxes shall not be unlocked until the vote count.
6. The Electoral Officer and his/her deputies shall maintain order at all times in the polling station and may cause to be removed any person(s) who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.
7. Eligible voters, if requested, must produce a valid government-issued piece of photo identification,.
8. Those people who claim to be electors of Cote First Nation but are not on the Voters List, must produce two valid pieces of identification, one of which must be an Indian Status Card indicating that they are members of the Cote First Nation, before being added to the Voters List.
9. Persons presenting themselves for the voting shall, upon being confirmed by the Electoral Officer or Deputy Electoral Officer as an elector, shall be given three (3) ballots, each of a different color, one for the election of the Chief, one for seven (7) On-Reserve Headmen, and for the election of one (1) Urban Headman.
10. The Electoral Officer, or a Deputy, shall initial each ballot
11. Each elector shall proceed to voting booth and shall place an "X" opposite the name of the candidate.
12. While any elector is in the voting booth, no other person shall be allowed in the same compartment or be in any position from where they can see how the elector is voting.
13. In the event that an elector requires assistance, due to physical challenges or illiteracy, to mark his ballot only the Electoral Officer or Deputy Electoral Officer shall accompany the elector in the voting booth.
11. Each Elector shall then deposit the ballots in the boxes supplied.
12. The Electoral Officer, or Deputy Electoral Officer, shall note upon the voter list any irregularity in connection with voting and shall specifically note on the voters list any ballots marked by the Electoral Officer or the Deputy Electoral Officer as being spoiled or unused, but shall not note the candidate for whom the ballot was cast.
13. A voter who has inadvertently dealt with his ballot(s) in such a manner that it cannot be conveniently used, shall return it to the Electoral Officer or a Deputy Electoral Officer, who shall write the word "Canceled" upon the ballot(s) and preserve it and shall re-issue ballots to the voter.
14. Any person who has received ballots and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving the ballots, refuses to vote, shall

forfeit his right to vote at the election.

15. In such cases, the Electoral Officer or a Deputy Electoral Officer shall make an entry in the voters list in column for remarks opposite the name of such person to show that such person received the ballots and declined to vote;
16. If the Electoral Officer or the Deputy Electoral Officer is able to recover such ballot(s), he shall mark upon the face of the ballots the word "Declined" and all ballots so marked shall be preserved.
17. Every elector who is inside the polling station at 6:00 P.M. shall be entitled to vote before the poll is closed.
18. The ballot boxes at the advance polls in Saskatoon, Regina and Yorkton shall remain locked and under secure conditions until they are opened at the close of the poll on Cote First Nation.
19. The use of electronic recording devices, including cell phones, will not be allowed in the polling stations.

SECTION 6

ELECTION TABULATION **Manual and Electronic Vote Count**

1. Immediately following the close of the poll on the Cote First Nation, the Electoral Officer shall, in the presence of Candidates or their Scrutineers and any electors as may be present, open the ballot boxes from Saskatoon, Regina, Yorkton and Cote First Nation.
2. The Electoral Officer shall count the ballots and, while examining the ballots, reject any that are not initialed by the Electoral Officer or a Deputy Electoral Officer.
3. The Electoral Officer shall reject any ballots that, in his opinion, do not give a clear indication of the voter's Preference.
4. The Electoral Officer shall reject any of the ballots that have more votes than there are vacancies for that position on the ballot.
5. The Electoral Officer shall reject any ballots upon which anything appears by which the voter can be identified.
6. The Electoral Officer shall take a note of any objections made by any Scrutineer to any of the ballots and decide any questions arising from the objection.
7. The Electoral Officer shall number such objections and place a corresponding number on the back of the ballot, with the word allowed or disallowed as the case may be, with his initials.
8. The Electoral Officer shall keep a count of the votes given for each Candidate from the ballots not rejected and make written statement of the number of votes given to each Candidate and of the number of ballots rejected and not counted by him, which statement shall be then signed by him;
9. In the event a tie vote occurs between a greater number of Candidates than there are positions to be filled, the Electoral Officer shall immediately order a recount of all ballots cast for and in respect of any position which cannot be declared for a single Candidate because of the tie vote,

10. In the event a tie vote continues to result following the conducting of a recount undertaken, then the Electoral Officer shall break the tie. The names of those Candidates who are tied shall be placed in an empty ballot box and the Electoral Officer shall draw a name to decide the successful Candidate for that office.
11. Any Candidate can ask for an immediate recount if the difference in vote count is 5 or less.
12. The Electoral Officer shall announce the names of the Candidates that received the highest number of votes and publicly declare these Candidates elected.
13. On the day after the election, the Electoral Officer shall post a signed statement at the Band Office, showing the number of votes cast for each candidate and a list of those elected to office
14. Following the election announcement, the Electoral Officer shall complete and sign an election report, in triplicate, which shall contain:
 - (i) a list of all candidates;
 - (ii) the number of ballots cast;
 - (iii) the number of votes for each candidate;
 - (iv) the number of assisted or interpreted voters; and,
 - (v) the number of spoiled ballots;
 - (vi) the number of rejected ballots
15. The Electoral Officer shall forward:
 - (i) One (1) copy to the Regional Director, Crown Indigenous Relations
 - (ii) One (1) copy to the Cote First Nation's Director of Operations
 - (iii) One (1) copy to be retained by the Electoral Officer

SECTION 7

ELECTION APPEAL PROCEDURE

1. The members of the Election Appeal Tribunal shall select from amongst themselves a person to act as Chair of the Election Appeal Tribunal.
2. Any Candidate may appeal an Election or By-Election within fourteen (14) days following the date of the Election or By-Election.
3. Appeals shall be restricted to the following grounds:
 - (i) election practices which contravene this Act;
 - (ii) illegal, fraudulent or criminal activity which may have affected the outcome of the Election

or By-Election appealed from

4. In order to launch the appeal, the Appellant must deliver the following to the Tribunal Administrator:
 - (i) a notice of appeal outlining the appellant's name, address, phone number and setting forth the grounds of appeal including all material facts and evidentiary documents, including affidavits.
 - (ii) a petition of support for the appeal, signed by fifty (50) or more Electors; and
 - (iii) a non-refundable appeal fee in the amount of one thousand (\$1,000.00) dollars in the form of cash, money order or certified cheque made payable to the Cote First Nation;
5. The Tribunal Administrator shall confirm receipt of the appeal with the Appellant and shall provide a copy of the appeal documents to the Tribunal;
6. Once the Tribunal accepts jurisdiction to hear the appeal, a date for a hearing shall be set within 14 days of the filing of the appeal, providing there is time for the exchange of documents between the parties. All documents must be disclosed to the parties.
7. During the appeal process, the Election Appeal Tribunal shall have access to technical, translation, administrative assistance and advisory services, including advice of legal counsel. The costs for such services shall be borne by the Cote First Nation.
8. The Election Appeal Tribunal shall determine its own procedure, which shall be transparent to all participants and the general public through letters and announcements.
9. All questions relating to the conduct of the appeal, and all issues in question shall be settled by a majority decision of the Election Appeal Tribunal. (m)
10. At the appeal hearing, the Appellant(s) and the Candidate(s) whose election to the Council has been called into question shall be given the opportunity to present evidence and argument in support of their respective positions. This shall include the Electoral Officer, if the appeal relates to process issues.
11. Upon conclusion of the appeal hearing, the Election Appeal Tribunal shall reach a decision within 5 days and in its decision shall:
 - (i) determine whether the appellant(s) have proven the grounds for appeal set out in the notice of appeal;
 - (ii) determine whether the evidence as presented may reasonably have affected the outcome of the Election or By-Election under appeal;

12. Where the Election Appeal Tribunal is satisfied that the grounds for appeal have been proven and such grounds may reasonably have affected the outcome of the Election or By-Election under appeal, the Tribunal shall either order a new election or declare that the candidate with the next highest number of votes shall be elected to that position.
13. Where the Election Tribunal is satisfied that the grounds of appeal have not been proven or, if proven, could not reasonably have affected the outcome of the Election or By-Election under appeal, the election shall be upheld.
14. Upon being notified of the decision, the Council shall enforce the decision and put the terms thereof into effect.
15. Any Candidate(s) whose election is the subject of the appeal shall assume their position on the Council in the normal and ordinary course.
16. In the event a By-Election is ordered, then only from that point onwards shall the affected position on the Council be deemed vacant.
17. All decisions of the Election Appeal Tribunal shall be final and binding.

PROPOSED AMENDMENTS

SECTION 8

CHIEF OR HEADMEN'S POSITION BECOMING VACANT

1. A Chief or Headmen's position on the Band Council shall be deemed vacant if:
 - (i) The Chief or Headman in question is convicted of an indictable offence;
 - (ii) The Chief or Headman in question does not adhere to the residency rules;
 - (iii) The Chief or Headman in question resigns or is employed in any position for the Cote First Nation;
 - (iv) The Chief or Headman is incapacitated by injury or illness that impairs his ability to carry out the duties of his office for a significant period of time.
 - (v) The Chief or Headman in question fails to adhere to the Oath of Office, Conflict of Interest Policy, Code of Conduct or other applicable rules of good governance within the Cote First Nation.
2. The procedure for the removal from office of any of the elected officials shall be contained in the policy and procedures of the Council.
2. Any elected person holding the position of Chief or Headmen who is charged with an indictable offence while holding office, shall be automatically suspended, without pay, until the matter has been dealt with by the court.
3. If acquitted, the suspension shall be lifted immediately and the elected person entitled to any lost salary that may have resulted from the suspension.

SECTION 9

TERM OF OFFICE

1. The term of office for a Band Council shall be three (3) years.
2. The next general election for the position of Chief and all Headmen shall be held before March 31, 2020 and thereafter every three (3) years on a date fixed by the Chief and Band Council.
3. If a vacancy occurs on Council, a By-election will be conducted under the election of the previously elected Electoral Officer in accordance with the provisions of this Act. No By-election will be held if a vacancy occurs within 12 months (12) months of any upcoming general election.

SECTION 10

SPECIAL PROVISIONS

1. An Oath of Office shall be administered by an Elder to each newly elected by Chief and Headmen, before a Justice of the Peace, Notary Public or Commissioner of Oaths at a time and place to be determined by the Band Council in the presence of any Cote First Nation member who wishes to attend.

2. The newly elected Band Council shall swear or affirm an Oath of Office in the following form:

1, _____, of the Cote First Nation, in the Province of Saskatchewan,
HEREBY SOLEMNLY MAKE OATH AND SAY AS FOLLOWS:

- A) That I declare myself to be a member of the Cote First Nation;
- B) That In my capacity as elected Chief or Headman, I agree to perform my duties to the best of my abilities and in furtherance of the interest of the people of Cote First Nation, whom I shall treat with respect and dignity
- C) That, except for the remuneration which I will receive for performing my duties as Chief or Headman, I shall not seek gain or benefits from any person or corporation that have dealings with Cote First Nation except those benefits which shall accrue equally to all members of Cote First Nation;
- D) That I shall be liable to be removed as Chief or Headman in the event that I am found to be in conflict with my duties or If I am found to be incompetent or incapable of performing my duties;
- E) That I acknowledge that I am responsible to all Cote First Nation members for all actions and decisions which I may make in my capacity as Chief or Headman.
- F) I shall have an annual Declaration of Criminal Record submitted to the Director of Operations on or before April 4th of each year that I hold my elected position as Chief or Headman.
- G) Within 2 weeks of being elected to office, I shall submit to an on-site drug test prior to the swearing-in ceremony and shall submit to random drug tests throughout the year.

SECTION 11

AMENDMENTS

- 1. The Chief and Headman may call general Band Assemblies for the purpose of amending this Act. The first General Assembly shall be for the purpose of reviewing this Act, and introducing any proposed amendments. The second General Assembly shall be for the purpose of discussing any proposed amendments, at which time further amendments may be proposed and discussed. The third General Assembly shall be for the purpose of voting on the proposed amendments.
- 2. Notice of each general assembly must be posted in the Band Office and at other prominent places on and off the Cote First Nation at least ten (10) days prior to each general assembly.
- 3. Such notice shall state the date on which the general assembly is to be held, the time, and place where the general assembly is to be held, and the purpose of the general assembly.

4. Voting at the last general assembly shall be by show of hands and a simple majority of Cote First Nation members present is required to pass any motion with respect to amendments.
5. Any amendments made to this Act from time to time do not affect the tenure of office of the Band Council in place at the time of such amendments.

PROPOSED AMENDMENTS

APPENDIX

STATUS OF LEGISLATION	
COTE FIRST NATION CUSTOM ELECTION ACT	
STATUS OF LEGISLATION	First Reading: Second Reading: Third Reading :
AMENDMENTS TO LEGISLATION	
Date: June 22, 2004 General Band Assembly Sections Amended::	
Date: May/June 2018 Sections Amended:	
Date: Sections Amended:	
Date: Sections Amended:	

Timeline

Election: September 2019 or March 2020

3rd Reading: March 2019

2nd Reading: December 2018

1st Reading: August 2018

Council Approval: July 2018

Nomination Acceptance Form: include position, electoral code of ethics: address;

Oath of Office

Forms for Electoral Officer Tribunal

PROPOSED AMENDMENTS