


YUULU?IL?ATH GOVERNMENT  
VOTING PROCEDURES AMENDMENT  
ACT

YFNS 79/2023



This law enacted on January 23, 2023

Signed

  
Charles McCarthy, President of the  
Yuulu?il?ath First Nation

DEPOSITED IN THE  
REGISTRY OF LAWS AND  
OFFICIAL RECORDS

ON 24 / JAN / 2023

  
Signature of Law Clerk

YUULU?IL?ATH GOVERNMENT  
VOTING PROCEDURES AMENDMENT ACT YFNS 79/2023

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## **PART 1 - INTRODUCTORY PROVISIONS**

### **Short title**

**1.1** This Act may be cited as the Voting Procedures Amendment Act, YFNS 79/2023.

### **Executive oversight**

**1.2** The President is responsible for the executive oversight of this Act.

### **Application**

**1.3** This Act amends

- (a) the Elections Act, YFNS 42/2015,
- (b) the Referendum Act, YFNS 9/2011, and
- (c) the Interpretation Act, YFNS 17/2011.

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## PART 2 - ELECTIONS ACT AMENDMENTS

### Elections Act amendments

2.1 The Elections Act, YFNS 42/2015 is amended as follows:

- (a) the Preamble is amended by striking out every occurrence of the words “the Yuulu?il?ath First Nation” and substituting “Yuulu?il?ath”;
- (b) section 1.1 is amended by adding “, YFNS 42/2015” after the words “Elections Act”;
- (c) section 1.4 is amended by:
  - (i) striking out the definition of “ballot” and substituting the following:

““ballot” means a paper ballot, a mail-in ballot, an electronic ballot or a canvassed ballot;”;
  - (ii) adding the following definition immediately following the definition of “candidate”:

““canvassed ballot” means a ballot prepared in accordance with Part 9.1;

“canvassed ballot certification form” means a form prescribed for the purposes of section 9.1.3;”
  - (iii) in the definition of “electronic ballot”, striking out the words “an image of” and “on a computer screen”;
  - (iv) in the definition of “electronic voting”, adding the words “or telephone” after the word “internet”;
  - (v) striking out the definition of “electronic voting days” and substituting the following:

““electronic voting days” means the dates for electronic voting under section 2.3 and “electronic voting day” means any one of those days;”;
  - (vi) adding the following definition immediately following the definition of “referendum”:

““Referendum Act” means the Referendum Act, YFNS 9/2011;”
- (d) by repealing section 2.3 and replacing it with the following:

“2.3 If the Legislature determines under section 5.1(a) that electronic voting is available for an election, the chief electoral officer must conduct

electronic voting on each of the nine days before the general voting day and on the general voting day.”;

- (e) section 2.4 is amended by striking out “60” and substituting “61”;
- (f) section 2.4(f) is amended by striking out the word “places” and substituting “place”;
- (g) by repealing section 2.5 and replacing it with the following:
  - “2.5 At least 30 days before the general voting day, the chief electoral officer must deliver in accordance with Yuulu?il?ath law to every eligible voter an information package regarding the election, including
    - (a) instructions for general voting and advance voting,
    - (b) if applicable, a mail-in ballot with instructions on how to vote by mail-in ballot,
    - (c) if applicable, a PIN and instructions on how to vote by electronic voting, and
    - (d) any other information that the chief electoral officer considers necessary or advisable for the better administration of the election.”
- (h) by repealing section 2.6;
- (i) section 2.7 is amended by striking out subsection (b) and substituting the following:
  - “(b) The voting place for advance voting must be Government House.”
- (j) section 2.8 is amended by striking out subsection (c);
- (k) by adding the following immediately following section 2.8:
  - “**Electronic voting hours**
  - 2.9 (a) Subject to subsection (b), the chief electoral officer may set the voting hours for electronic voting, which at minimum must be from 8:30 am until 8:00 pm on each electronic voting day.
  - (b) The voting hours for electronic voting on the general voting day must end at 8:00 pm.”



- (l) section 3.1 is amended by striking out the words “date of” and substituting “general voting day for”;
- (m) section 4.1 is amended by striking out the words “who is at least 16 years of age”;
- (n) section 4.2(a) is amended as follows:
  - (i) by striking out the words “mailing or” and substituting “mailing, faxing or emailing”;
  - (ii) by striking out “30” and substituting “47”; and
  - (iii) by striking out the words “date of an election” and substituting “general voting day”;
- (o) section 4.2(b) is amended by adding the words “at least” before the words “three of whom”;
- (p) section 4.2(c) is amended as follows:
  - (i) by striking out “(a)” and substituting “(b)”;
  - (ii) by striking out the words “mailing or” and substituting “mailing, faxing or emailing”;
  - (iii) by striking out “30” and substituting “47”; and
  - (iv) by striking out the words “date of an election” and substituting “general voting day”;
- (q) by repealing section 4.3 and replacing it with the following:

“4.3 A nomination is complete when

  - (a) the nominee has
    - (i) been nominated and that nomination has been sponsored in accordance with section 4.2,
    - (ii) communicated acceptance of the nomination to the chief electoral officer either verbally or in writing, and
    - (iii) filed the nomination papers required under this Act, and
  - (b) the chief electoral officer has received the required nomination fee on behalf of the nominee.”

- (r) section 4.4(a) is amended by striking out the words “At least 21 days before the date for advance voting in a regular election or the date of a by election” and substituting “At least 37 days before the general voting day”;
- (s) section 4.6(a) is amended by striking out “15” and substituting “35” and by striking out the words “date of an election” and substituting “general voting day”;
- (t) section 4.7(a) is amended by striking out the words “date of an election” and substituting “general voting day”;
- (u) by repealing section 4.12 and replacing it with the following:

**“A person who holds office**

- 4.12 A person who holds an elected or appointed office in the Yuulu?il?ath government must not use his or her office to acquire or access information that is in the custody or under the control of the Yuulu?il?ath First Nation or the Yuulu?il?ath government that is not generally available to all candidates in that election to promote a particular candidate or for purposes of campaigning in that election.”;
- (v) section 5.1 is amended by striking out subsection (a) and substituting the following:
  - “(a) The Legislature must, by resolution, at least 90 days before the general voting day for a regular election or, in the case of a by-election, as soon as practicable after the date for the by-election has been determined, determine which of the following voting methods will be available in the election, provided that at least two of the following voting methods must be available in an election:
    - (i) in person, on general voting day, in accordance with Part 7;
    - (ii) in person, on the advance voting day, in accordance with Part 7;
    - (iii) by mail-in ballot, in accordance with Part 8;
    - (iv) by electronic voting, on electronic voting days, in accordance with Part 9; or
    - (v) by canvassed ballot, on one or more days as may be determined by the chief electoral officer, in accordance with Part 9.1.”;

- (w) section 5.1(b) is amended by striking out the word “approved” and substituting “determined”;
- (x) section 5.3 is amended by striking out paragraph (c)(i) and substituting the following:
  - “(i) accommodate an eligible voter who has special needs, such as an elderly or illiterate voter or a voter with a disability, and”;
- (y) section 5.4(b)(i) is amended by striking out the words “date of” and substituting “general voting day for”;
- (z) section 5.4(d) is amended by striking out the words “section 3.4” and substituting “section 3.2”;
- (aa) section 6.2 is amended by striking out subsection (b) and substituting the following:
  - “(b) Every individual present
    - (i) at a voting place,
    - (ii) when a vote is being cast by mail-in ballot, electronic voting or canvassed ballot, or
    - (iii) at the counting of ballotsmust maintain the secrecy of every ballot and must not
    - (iv) interfere or attempt to interfere with an eligible voter who is casting a vote,
    - (v) without authority under this Act, attempt to discover how an eligible voter voted,
    - (vi) without authority under this Act, communicate information regarding how an eligible voter voted, or
    - (vii) induce an eligible voter, directly or indirectly, to show a ballot in a way that reveals how that eligible voter voted.”;
- (bb) by repealing section 6.6 and replacing it with the following:

- “6.6 (a) An electronic ballot must be in the form approved by the chief electoral officer and list every candidate in alphabetical order by surname for each elected office to be filled in that election.
- (b) An electronic ballot to be marked using an electronic device other than a telephone must
- (i) include a photograph of the candidate opposite each candidate’s name on the ballot, and
- (ii) provide a space opposite each candidate’s name for the eligible voter to enter a mark indicating his or her vote.
- (c) An electronic ballot must be designed so that the eligible voter’s identity cannot be ascertained after the electronic ballot has been recorded in the electronic ballot box.”
- (cc) section 9.4 is amended by striking out the word “physical”;
- (dd) section 9.7 is amended by
- (i) striking out the words “A printed and” and substituting “At the close of electronic voting, a printed or”, and
- (ii) striking out the words “within 24 hours of the close of electronic voting”;
- (ee) by inserting the following between Part 9 and Part 10:

**“PART 9.1 – VOTING BY CANVASSED BALLOT**

**Application of this Part**

9.1.1 This Part applies to voting by canvassed ballot in an election.

**Contacting eligible voters**

9.1.2 If an eligible voter has not yet voted in an election, an election official may contact and invite that eligible voter to vote by canvassed ballot.

**Eligible voter verification**

9.1.3 (a) To verify the identity of an eligible voter stating they wish to vote by canvassed ballot, an election official must ask the eligible voter the following questions:

- (i) the eligible voter's full legal name, address and date of birth;
  - (ii) at least one other piece of information unique to the eligible voter so that the eligible voter can be reliably identified as an eligible voter and the individual that they claim to be; and
  - (iii) any other prescribed question.
- (b) An election official must record on a canvassed ballot certification form the answers given by an eligible voter to the questions asked under subsection (a).
  - (c) An election official must not proceed to mark a canvassed ballot for an eligible voter unless that election official is reasonably confident of the identity of the eligible voter based on the answers given by that eligible voter to the questions asked under subsection (a) and has indicated the verification of that eligible voter's identity by completing and signing a canvassed ballot certification form.

### **Voting by canvassed ballot**

- 9.1.4 If an eligible voter contacted by an election official has accepted the invitation to vote by canvassed ballot under section 9.1.2 and has been verified in accordance with section 9.1.3(a), the election official must read the applicable information and options on a canvassed ballot to that voter and record the choice of that voter on a canvassed ballot by
- (a) marking the canvassed ballot by placing a cross, check mark or other mark clearly indicating the voter's choice,
  - (b) folding the canvassed ballot in a manner that conceals the choices and any marks, but exposes the chief electoral officer's initials on the back of the canvassed ballot,
  - (c) placing the canvassed ballot in the secrecy envelope and sealing that secrecy envelope,
  - (d) placing the secrecy envelope and the completed canvassed ballot certification form in the pre-addressed return envelope, and
  - (e) delivering the pre-addressed return envelope to the chief electoral officer before the end of voting hours on the general voting day.

### **Counting of canvassed ballots**

9.1.8 Canvassed ballots completed in accordance with section 9.1.4 must be processed in accordance with section 10.4.”;

(ff) section 10.1 is amended by adding the words “and a canvassed ballot” after the words “mail-in ballot”;

(gg) by repealing section 10.4 and substituting the following:

**“Procedures for depositing mail-in ballots and canvassed ballots**

10.4 (a) Upon receipt of a pre-addressed return envelope under section 8.3(f) or section 9.1.4(e), the chief electoral officer must ensure the envelope and its contents are secure at all times, free from any tampering, until the envelope is opened in accordance with subsection (b).

(b) Subject to subsection (e), the chief electoral officer must, in the presence of a deputy electoral officer, open each pre-addressed return envelope received under section 8.3(f) or section 9.1.4(e) provided the envelope was received before the end of voting hours on general voting day and

(i) set aside the unopened secrecy envelope if

(A) it was not accompanied by a voter declaration form or canvassed ballot certification form,

(B) the voter declaration form is not signed or witnessed in accordance with Part 8 or the canvassed ballot certification form is not signed in accordance with section 9.1.3(c),

(C) the name of the individual set out in the voter declaration form or canvassed ballot certification form is not on the voters list, or

(D) the voters list shows that the eligible voter has already voted in that election,

(ii) if the secrecy envelope is not set aside in accordance with paragraph (i), open the secrecy envelope and, without unfolding the mail-in ballot or canvassed ballot, examine the ballot and set aside any ballot that does not have the initials of the chief electoral officer on the back, and

- (iii) if the mail-in ballot or canvassed ballot is not set aside in accordance with paragraph (i), place a mark on the voters list opposite the name of the eligible voter set out in the voter declaration form or canvassed ballot certification form indicating the eligible voter has voted in that election and deposit the unfolded ballot in a paper ballot box sealed in accordance with section 10.2.
- (c) A vote cast on a mail-in ballot or canvassed ballot set aside by the chief electoral officer under subsection (b) is void and must not be counted as a vote cast.
- (d) A vote cast on a mail-in ballot or canvassed ballot that is not received by the chief electoral officer before the end of voting hours on general voting day is void and must not be counted as a vote cast.
- (e) The chief electoral officer must not deposit a mail-in ballot or canvassed ballot into a paper ballot box in accordance with this section until the voters list has been updated in accordance with section 9.7(b) after the close of electronic voting.”;
- (hh) section 10.5(a) is amended by adding the words “and after all mail-in ballots and canvassed ballots have been processed in accordance with section 10.4” after the words “general voting day”;
- (ii) section 14.1(b)(ii) is amended by adding the words “, other than if the person is acting in accordance with Part 9.1,” between the words “votes” and “or”;
- (jj) section 14.5(d) is amended by adding the words “or being canvassed by that individual in accordance with Part 9.1” after the words “that individual”;
- (kk) section 15.1(b) is amended by
  - (i) striking out subsection (viii) and substituting the following:
    - “(viii) the verification of mail-in ballots, electronic ballots and canvassed ballots,”
  - (ii) striking out subsection (ix) and substituting the following:
    - “(ix) maintaining the secrecy of mail-in ballots, electronic ballots and canvassed ballots,”
  - (iii) striking out subsection (x) and substituting the following:

- “(x) how voting by mail-in ballot, electronic voting and canvassed ballot is to be conducted, including
    - (A) how eligible voters are to be contacted on matters relating to electronic voting and voting by canvassed ballot, and
    - (B) how electronic voting materials, including electronic ballots, are to be destroyed,”
  - (iv) striking out subsection (xii) and substituting the following:
    - “(xii) any other matter regulating voting by mail-in ballot, electronic voting and voting by canvassed ballot and to protect the integrity of the election, and”, and
  - (v) in subsection (xiii), adding the words “, canvassed ballots” after “mail-in ballots”; and
- (II) section 15.2 is amended by adding “,” after the word “Act”.



## PART 3 - REFERENDUM ACT AMENDMENTS

### Referendum Act amendments

3.1 The Referendum Act, YFNS 9/2011 is amended as follows:

- (a) The Preamble is amended by striking out every occurrence of the words “the Yuulu?il?ath First Nation” and substituting “Yuulu?il?ath”;
- (b) section 1.1 is amended by adding “, YFNS 9/2011” immediately following the words “Referendum Act”;
- (c) by adding the following immediately following section 1.4:

#### “Definitions

1.5 In this Act,

- (a) “Elections Act” means Elections Act, YFNS 42/2015.”;
- (d) section 2.3 is amended by striking out the words “Hittatsoo Assembly” and substituting “hitaçu assembly”;
- (e) by adding the following immediately following section 3.1:

#### “System electoral officer

- 3.1.1 (a) If the Legislature makes an Order under section 2.1, 2.2 or 2.3 requiring that a referendum be held, the Executive must, as soon as reasonably practicable, appoint a person to act as system electoral officer.
- (b) The Executive may, at any time, appoint a replacement system electoral officer if a system electoral officer resigns or is unable to perform its duties.”
- (f) by repealing section 3.2 and replacing it with the following:

#### “Notice

3.2 At least 30 days before the day on which an information meeting or a special hitaçu assembly for a referendum or ratification meeting is to be held, and at least 60 days before the day of the referendum or ratification meeting, the chief electoral officer must

- (a) post and publish a notice of the referendum or ratification meeting in

accordance with Yuulu?il?ath law,

- (b) post the voters list in accordance with section 5.5 of the Elections Act, and
- (c) deliver in accordance with Yuulu?il?ath law to every eligible voter for whom an address has been provided to the chief electoral officer,
  - (i) a copy of the notice posted under subsection (a),
  - (ii) in the case of a referendum,
    - (A) instructions for general voting and advance voting,
    - (B) if applicable, a mail-in ballot with instructions on how to vote by mail-in ballot,
    - (C) if applicable, a PIN and instructions on how to vote by electronic voting, and
    - (D) any other information that the chief electoral officer considers necessary or advisable for the better administration of the referendum, and
  - (iii) an information package regarding the question in the referendum or ratification meeting.”
- (g) by repealing section 3.3 and replacing it with the following:

**“Content of notice**

3.3 A notice under section 3.2(a) must include the following:

- (a) a copy of the Order of the Legislature under section 3.2(a) relating to that ratification meeting or referendum;
- (b) the time, date and place of the information meeting, special hita?u assembly or ratification meeting, as applicable;
- (c) the question to be submitted to eligible voters; and
- (d) the place where and the times and dates when information concerning the matter to be determined by a vote at the ratification meeting or referendum may be inspected in advance of the information meeting or ratification meeting.”

- (h) by repealing section 3.4 and replacing it with the following:

**“Individuals entitled to vote**

3.4 For certainty, only eligible voters are entitled to vote in a referendum or at a ratification meeting.”;

- (i) by repealing section 5.1 and replacing it with the following:

**“Referendum voting**

5.1 An eligible voter may vote in a referendum in accordance with section 5.1 of the Elections Act.”;

- (j) by repealing section 5.2 and replacing it with the following:

**“Voting at ratification meeting**

5.2 An eligible voter may vote at a ratification meeting in accordance with Part 6.”;

- (k) by inserting the following between Part 5 and Part 6:

**“PART 5.1 - SPECIAL HITACU ASSEMBLY**

**General**

5.1.1 This Part applies to a referendum held for the purpose of a Constitutional amendment.

**Special hitacu assembly**

5.1.2 (a) Prior to conducting a referendum on a proposed Constitutional amendment, the Legislature must:

- (i) conduct a special hitacu assembly in order to seek the views of Yuulu?il?ath citizens on the proposed amendment, in accordance with the procedures set out in the Government Act, YFNS 2/2011;
- (ii) seek the advice of the Ha’wiih Advisory Council on the proposed amendment; and
- (iii) make any changes to the wording of the proposed amendment that the Legislature deems appropriate in light of the advice

received from the hitaçu assembly and the Ha'wiih Advisory Council.

- (b) The Legislature must conduct a referendum on the proposed Constitutional amendment within 30 days of a special hitaçu assembly.”;
- (l) section 6.1 is amended by adding the following between subsection (a) and subsection (b):
  - “(a.1) For certainty, this Part does not apply to a special hitaçu assembly held for the purpose of a Constitutional amendment.”;
- (m) section 6.2(a) is amended by adding the words “for a purpose other than a Constitutional amendment” between the words “under this Act” and “or a Yuulu?il?ath enactment”;
- (n) section 6.3(d) is amended by
  - (i) striking out the words “the information” and substituting “any information”, and
  - (ii) striking out the words “, if any, provided”;
- (o) section 6.3(e) is amended by adding “, YFNS 3/2011” after the words “Legislature Rules of Order and Procedure Act”;
- (p) section 6.4(b) is amended by striking out “6.5” and substituting “3.2”;
- (q) by repealing section 6.5;
- (r) section 7.1(a) is amended by striking out “7” and substituting “10”;
- (s) section 7.1(b) is amended by striking out “7.2(b)” and substituting “10.6(b)”;
- (t) section 7.2 is amended by striking out the words “that the chief electoral officer considers will inform the electorate of that result”;
- (u) section 9.1(a) is amended by striking out “8.5” and substituting “12.6”;
- (v) section 9.1(b) is amended by striking out “8” and substituting “12”; and
- (w) section 10.2 is amended by striking out “10” and substituting “14”.



## PART 4 - INTERPRETATION ACT AMENDMENTS

### Interpretation Act amendments

4.1 The Interpretation Act, YFNS 17/2011 is amended as follows:

- (a) in section 3.3, by
  - (i) striking out the words ““Hittatsoo Assembly” means the Hittatsoo Assembly, as referred to in the Constitution” and substituting ““hita’cu assembly” means the hita’cu assembly, as referred to in the Constitution;”,
  - (ii) in the definition of ““Legislature”, striking out the words “Yu?lu?il?ath Council” and substituting “Legislature”; and
  - (iii) in the definition of “President”, striking out the words “Chief Councillor” and substituting “President”.

## PART 5 - GENERAL PROVISIONS

### Commencement

5.1 This Act comes into effect on the date it is enacted.