

ELECTIONS SASKATCHEWAN

Report of the Chief Electoral Officer

pursuant to subsection 7(6) of *The Election Act, 1996*

regarding actions taken during the constituency of

Saskatoon Meewasin by-election

November 2022





## Table of Contents

Letter of Transmittal	
Introduction	1
2020 General Election: Use of Section 7	1
Saskatoon Meewasin By-Election: Use of Section 7	2
Notice to Required Stakeholders – Registered Political Parties and Candidates	3
Appendix A – CEO Order	5
Appendix B – Stakeholder Communications	11





November 23, 2022

The Honourable Randy Weekes  
Speaker of the Legislative Assembly  
Room 129, Legislative Building  
2405 Legislative Drive  
Regina, SK S4S 0B3

Mr. Speaker:

Pursuant to subsection 7(6) of *The Election Act, 1996*, (the Act), I submit to you, within 60 days of Polling Day, a written report respecting my actions pursuant to Section 7 of the Act taken during the September 26, 2022, constituency of Saskatoon Meewasin by-election.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Michael D. Boda'.

Michael Boda, D.Phil., Ph.D.  
Chief Electoral Officer  
Province of Saskatchewan

**ELECTIONS SASKATCHEWAN**

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#301 – 3303 Hillside Street  
Regina, Saskatchewan  
Canada S4S 6W9

**Telephone:** 306.787.4000  
**Toll Free:** 1.877.958.8683  
**Fax:** 306.787.4052

**Email:** [info@elections.sk.ca](mailto:info@elections.sk.ca)  
**Web:** [elections.sk.ca](http://elections.sk.ca)





## Introduction

This report is written as per subsection 7(6) of *The Election Act, 1996*, requiring submission to the Speaker, within 60 days of polling day, a written report with respect to actions taken pursuant to subsection 7(1) of *The Election Act, 1996* (the Act). It focuses on actions taken pursuant to Section 7 during the constituency of Saskatoon Meewasin by-election.

Key dates for this by-election include:

- August 29, 2022 – Writ of Election issued
- September 10, 2022 – Nomination deadline
- September 15, 2022 – Deadline to apply to Vote by Mail
- September 20 – September 24, 2022 – Advance Voting
- September 26, 2022 – Election Day & First Preliminary Count
- September 28, 2022 – Second Preliminary Count
- October 8, 2022 – Final Count
- October 19, 2022 – Return to the Writ

## 2020 General Election: Use of Section 7

In early-May 2020, with COVID-19 present in Saskatchewan and a general election scheduled for October, the Chief Electoral Officer (CEO) provided a paper to the Premier of Saskatchewan describing how a general election could be safely administered. That document outlined several recommendations for the Government of Saskatchewan and the Legislative Assembly.

Key to this plan was a recommendation that the Act be amended to provide the CEO with explicit authority to adapt election processes under circumstances where a serious disease such as COVID-19 is present.<sup>1</sup> This recommendation would have provided certainty that the CEO had the ability to use the emergency authority contained in section 7 of the Act to account for the exceptional circumstances brought about by the COVID-19 pandemic.

The Government of Saskatchewan opted to pursue changes to *The Election Act Regulations* in lieu of amendments to the Act. These regulatory changes clarified interpretations of the following phrases found in section 7 of the Act:

- “adapt any other provision of this Act”;
- “emergency order”; and
- “an emergency exists.”

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<sup>1</sup> Dr. Michael Boda. *Conduct of Saskatchewan’s 29th General Election in the Context of Novel Coronavirus Disease: Recommendations*. Elections Saskatchewan, May 19, 2020.

These expanded and clarified definitions provided the CEO with clear authority to adapt legislative provisions found in the Act to best ensure the health and safety of voters, election workers and political stakeholders. In a news release published May 13, 2020, CEO Dr. Michael Boda said of the changes, “From an operational standpoint, it is my view that Elections Saskatchewan can now proceed with planning for a safe general election on October 26, 2020.”<sup>2</sup>

In the end, the CEO made a number of changes and modifications to the Act to allow voting to move forward for Saskatchewan’s October 26, 2020, general election. There were two primary types of adaptations made: changes required to protect against and prevent the spread of COVID-19, and second, changes required to ensure the efficiency and stability of the election system as a result of the pandemic.

These changes were made through CEO Orders, which documented the adaptations and modifications from legislation, and which were shared with stakeholders and posted online.<sup>3</sup> By all accounts, the result was a safe experience for voters, election officials, and political stakeholders. While COVID-19 affected the delivery of the election in many ways, such as by greatly increasing the number of voters who cast their ballot through the mail, it did not impact Elections Saskatchewan’s ability to deliver an accessible election with all necessary integrity and security protections in place.

## **Saskatoon Meewasin By-Election: Use of Section 7**

COVID-19 was still present in Saskatchewan in mid-2022 when the constituency of Saskatoon Meewasin by-election was called. While the overall danger may have been different due to the widespread availability of vaccines and greater public experience in dealing with the virus, there were still risks and individuals continued to become sick and be affected by COVID-19.

The Saskatoon Meewasin by-election was also different in that Elections Saskatchewan pursued a number of pilot projects under section 5.1 of the Act. A modified Vote by Mail opportunity, which had been authorized under section 7 in both the 2020 General Election and the February 2022 Athabasca by-election was instead implemented using the authority to “test alternate procedures, equipment or technology during a by-election” found within the Act.<sup>4</sup> The results of this pilot project as well as two others will be reported on by the Chief Electoral Officer within six months of the day of the by-election, in accordance with subsection 5.1(6).

The changing nature of the situation with COVID-19 as well as the use of pilot projects meant that only one CEO Order adapting legislation via the authority found in section 7

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<sup>2</sup> *Regulatory changes provide clarification on Chief Electoral Officer Authority*. May 13, 2020. Elections Saskatchewan News Release.

<sup>3</sup> All CEO Orders can be found online at <https://www.elections.sk.ca/candidates-political-parties/bulletins-circulars/>.

<sup>4</sup> Section 5.1 of *The Election Act, 1996* provides the CEO with the authority to undertake pilot projects during by-elections. Section 5.2 describes the process for undertaking pilot projects during general elections.



was used in the Saskatoon Meewasin by-election. This is compared to 10 CEO Orders that were issued during the Athabasca by-election, held earlier in 2022.

This Order, as well as its effect on the administration of voting, is briefly described below. A copy of the CEO Order is included as Appendix A.

**CEO Order 2022-011 Extraordinary Voting – Voters Impacted by COVID-19:** This CEO Order allows Elections Saskatchewan to offer a voting opportunity to those forced to self-isolate due to having COVID-19 or who cannot, as a last resort, attend a physical voting location for another reason. Eligibility will be determined by the Chief Electoral Officer on a case-by-case basis. The Order creates a modified form of homebound voting that is available from the close of Vote by Mail (Sept. 16) through to 3 p.m. on by-election day, Sept. 26.

Ultimately, seven individuals applied to vote using the Extraordinary Voting process during the by-election. The CEO reviewed each application and all seven were approved to vote using this process. Voting was administered on by-election day by the same team of election officials that had previously administered homebound voting.

Moving forward, the CEO will consider what form Extraordinary Voting could take in future elections. In Volume IV of *A Report on the Twenty-Ninth General Election*, Chief Electoral Officer’s Recommendations for Legislative Reform, the CEO recommended that Extraordinary Voting be brought forward by legislators as a “blanket legislative framework” to bridge the gap for voters who are unable to vote in person but the deadline to vote by mail has passed. In that report, Extraordinary Voting is not presented as a specific form of voting but rather a suite of voting options that the CEO could deploy to serve the public and help to ensure that all eligible voters have access to the ballot.<sup>5</sup> The form of Extraordinary Voting used in Saskatoon Meewasin, based on the homebound voting process, could be an example of one type of voting offered in a future election.

## **Notice to Required Stakeholders – Registered Political Parties and Candidates**

Section 7(3) of the Act requires the CEO to give notice of actions taken pursuant to section 7 as well as the reasons for taking this action to every registered political party and to every candidate in a constituency affected by the actions.

For this by-election, the CEO gave notice to the registered political parties of each CEO Order through a “communique” – the principal tool used by the CEO to communicate with the Chief Official Agents of the province’s six registered political parties. A signed copy of each Order was attached to the communique and a copy was placed on the

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<sup>5</sup> Extraordinary Voting is discussed on page 35 of Volume IV, Chief Electoral Officer’s Recommendations for Legislative Reform.

Elections Saskatchewan website: <https://www.elections.sk.ca/candidates-political-parties/bulletins-circulars/#ceo-orders>. In turn, Chief Official Agents were instructed to share this information with all candidates and candidate business managers. A copy of the relevant communique is included as Appendix B.

All communiques are posted to the Elections Saskatchewan website shortly after being distributed to the registered political parties and independent candidates. They can be found here: <https://www.elections.sk.ca/candidates-political-parties/communiques/>.

# Appendix A

## CEO Orders





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<b>ORDER No.</b>	CEO ORDER 2022-011
<b>Date</b>	September 20, 2022
<b>Date Revised</b>	n/app.
<b>Subject</b>	Introducing Extraordinary Voting Measures for Voters in Saskatoon Meewasin By-election
<b>Reference</b>	Sections 89.1 – 89.3 of <i>The Election Act, 1996</i>
<b>Intent</b>	To allow voters who have missed the deadline to apply for Vote by Mail to vote using a modified form of Homebound voting at the discretion of the Chief Electoral Officer

The Chief Electoral Officer has the authority, under section 7 of *The Election Act, 1996* (the *Act*) and section 2 of *The Election Act Regulations* (the *Regulations*) to declare that an emergency exists and that the *Act* does not provide adequate provision to respond to the emergency. These declarations are made through CEO Orders.

There remains a concerning level of COVID-19 infection that requires many individuals to self-isolate in order to prevent further transmission of the disease. The Chief Electoral Officer is therefore of the opinion that an emergency exists and hereby declares that pursuant to section 7 of the *Act* and section 2(2)(c) of the *Regulations*, an emergency exists for which no adequate provision is made by the *Act*. In the opinion of the Chief Electoral Officer, it is necessary and advisable to do the things mentioned in section 7 of the *Act* to safely prepare for and conduct an election.

The Chief Electoral Officer further declares that pursuant to section 7(1)(c) of the *Act* and section 2(2)(a) of the *Regulations*, the current necessity for self-isolation in some circumstances will result in individuals who are in self-isolation after the deadline for applying to vote by mail being unable to attend an advance or election day voting location. This is a circumstance for which no adequate provision is made by the *Act* because the *Act* does not contemplate how individuals may vote when they become unable to attend at a voting location after the September 15, 2022, deadline to apply to vote by mail. The Chief Electoral Officer invokes the emergency powers pursuant to section 7 of the *Act* to respond to the circumstance.

The Chief Electoral Officer hereby orders that sections 89.1 – 89.3 of the *Act*:

- For greater clarity, the definition of “homebound voter” in subsection 89.1(2) will include voters who have missed the September 15, 2022, deadline to apply to vote-by-mail and present evidence satisfactory to the Chief Electoral Officer that they are unable to attend an advance or election day voting location.

- For the purposes of section 89.2 of the *Act*, a person who wishes to be considered a homebound voter for the purpose of Extraordinary Voting shall apply to the Chief Electoral Officer by contacting any Extraordinary Voting Team member at the head office of Elections Saskatchewan.
- The Extraordinary Voting Team member will complete an “Extraordinary Voter Application” form and submit it to the Chief Electoral Officer for approval.
- Before an Extraordinary Voter Application may be approved, it must be confirmed by the Extraordinary Voting Team that the individual is entitled to vote, that the individual is aware they are required to be registered before they will be issued a ballot, the individual has not yet voted, and that the individual will be unable to attend an advance or election day voting location.
- The Extraordinary Voter Application must be made no earlier than 9:00 a.m. on September 16, 2022, and no later than 3:00 p.m. on September 26, 2022.
- Where an Extraordinary Voter Application is approved, the Homebound Voting Team from the Saskatoon Meewasin Returning Office shall schedule an appointment with the voter to deliver and return a homebound voting kit on September 26, 2022, between the hours of 8:00am – 6:00pm. The 6:00pm cut off time has been established so the necessary Poll Book entries (E-160HB) can be completed and used to balance the Ballot Account and Poll Statement (E-168HB) prior to opening the ballot box. Extraordinary votes must not be placed into the same ballot box as the existing Homebound votes.
- The Extraordinary Voting Team shall comply with the voting procedures in section 89.3 of the *Act*, except that voting will occur only on election day, September 26, 2022, and subsections 88.3(2), (3), (5) and (5.1) shall not apply. In addition, ballots marked in accordance with this CEO Order will not be counted with other homebound votes, as stated in section 89.3(10.1) but shall instead be adjudicated and counted on Day+2 in accordance with CEO Order-Piloting Directive 2022-001 Vote by Mail
- The Homebound Voting Team will wear protective face masks when in attendance at a homebound voter’s home and maintain recommended physical distancing. All voting materials, including the voter’s identification will be transmitted to and from the voter using a mailbox or some other mechanism to ensure materials are not passed directly from the voter to the team members.



# CEO Order

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This order is in effect for the Saskatchewan Meewasin by-election, scheduled to be held on September 26, 2022.

A handwritten signature in black ink that reads 'Michael D. Boda'.

DR. MICHAEL BODA  
CHIEF ELECTORAL OFFICER  
PROVINCE OF SASKATCHEWAN  
SEPTEMBER 21, 2022





# Appendix B

## Stakeholder Communications





# ELECTIONS SASKATCHEWAN



## **Saskatoon Meewasin By-Election Communique for Chief Official Agents Issue 9: September 21, 2022**

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Advance Voting Update, Extraordinary Voting & More

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### **Advance Voting Update**

Yesterday was the first day of advance voting. I, along with several members of my team, were in Saskatoon to observe and were very pleased with how everything went. There were a few minor issues, but nothing more than what is to be expected when rolling out a suite of new processes. I am pleased to say that 712 people voted at advance locations yesterday, which is not far from the 751 who voted on the first day of advance voting in the 2020 general election. As by-elections often have considerably lower turnout than general elections, I consider this a success.

There is one small change from the procedures I outlined for you earlier this week. We will now be uploading strike-off data every 5 minutes as opposed to every 15 minutes. I hope that you find this change helpful.

### **Advance Vote Counting**

One item to share with you on the counting of advance ballots. Advance votes from the Rusty MacDonald Branch Library will be counted in the same room as the by-election day votes from the Lawson Civic Centre.

The library and the civic centre are located at the same address (225 Primrose Drive) so this is simply a change in rooms within the same larger building. Please ensure your candidates and their representatives are aware.

### **Extraordinary Voting – CEO Order**

You will recall that during our 2020 general election, we implemented a modified form of Vote by Mail called Extraordinary Voting. This was an option made available using couriers and/or personal delivery, to extend the time period to get a ballot kit to eligible voters forced to quarantine

due to the COVID-19 virus. While this did not solve all the issues involved and there were still people affected by COVID after the application period for Extraordinary Voting had ended, the process offered lesson on how we could better serve voters affected by unforeseen or unexpected circumstances.

During the Athabasca by-election, Extraordinary Voting was offered in the form of Assisted Telephone Voting. Recently, I spoke with Saskatchewan's Chief Medical Health Officer, Dr. Saqib Shahab, about our by-election plans which reinforced that COVID-19 is still present in our community. Following that conversation and after discussion with our team, we established a form of Extraordinary Voting for the Meewasin by-election that relies on the structure of homebound voting to serve what I expect to be a very small number of possible voters.

As was the case during the general election, certain adaptations to *The Election Act, 1996* (the Act) are required to administer a by-election given the presence of COVID-19. These adaptations are made using the authority found in section 7 of the Act.

Section 7(3)(a) of the Act requires that the Chief Electoral Officer give notice to every registered political party when the authority contained in section 7 is used. Please accept the attached CEO Order along with this Communique as that notice. I would also ask that you communicate this information, and the attached CEO Order, to your candidates, staff, and other party officials. The new CEO Order is:

**CEO Order 2022-011 Extraordinary Voting – Voters Impacted by COVID-19:**

This CEO Order allows Elections Saskatchewan to offer a voting opportunity to those forced to self-isolate due to having COVID-19 or who cannot, as a last resort, attend a physical voting location for another reason. Eligibility will be determined by the Chief Electoral Officer on a case-by-case basis. The Order creates a modified form of homebound voting that is available from the close of Vote by Mail (Sept. 16) through to 3 p.m. on by-election day, Sept. 26.

## **Right of Access to Multi-Residential Buildings**

*The Election Act, 1996* requires that Elections Saskatchewan provide third parties with confirmation that candidates have a right to access condominiums and multi-residential apartment buildings if required. However, the actual right to access is outlined in *The Condominium Property Act* and *The Residential Tenancies Act* which fall under the responsibility of the Ministry of Justice.

We have heard from a number of candidates that they are experiencing difficulties in accessing these types of buildings. During the past general election, we worked with the Ministry of Justice to develop some materials including an information sheet that candidates and canvassers can print off and take with them when they go campaigning. This form is called the *E-420 Right to Access* and I have attached a copy and it can also be found on our website here: <https://cdn.elections.sk.ca/upload/WEB-E-420.pdf>.

## **Vote Counting - Infographic**

Finally, we have produced an infographic detailing when various types of votes will be counted. This document will be made available to media as well and I hope that it is useful in understanding when and where different types of votes will be counted. Please note that the Second Preliminary Count will take place at our head office in Regina as will a portion of the Final Count dealing with Vote by Mail ballots. The returning officer will still conduct part of the Final Count in the returning

office as well. If you have any question about this, please be in touch with me. We will offer more information on how you can observe the counting of votes in a future communique.



Dr. Michael Boda  
Chief Electoral Officer  
Province of Saskatchewan

**All information related to the Meewasin By-Election can be found online at [www.elections.sk.ca/saskatoonmeewasin2022](http://www.elections.sk.ca/saskatoonmeewasin2022).**