



FOR IMMEDIATE RELEASE

Referendum Bill Gazetted

GRAND CAYMAN, Cayman Islands – Government has today gazetted a bill entitled “A Bill For A Law To Provide For The Holding Of A People-Initiated Referendum On The Issue Of Whether the Islands Should Continue To Move forward With The Building Of The Cruise Berthing And Enhanced Cargo Port Facility; And For Incidental and Connected Purposes”.

The Bill provides for the holding of a referendum under Section 70 of the Constitution of the Cayman Islands. Cabinet has determined that the referendum will be held on Thursday, December 19th 2019. Whilst referendum day will be a public holiday, licensed bars and similar establishments will be permitted to remain open to minimise disruption during the holiday season.

As required by the Constitution, the Cabinet has settled the referendum question, which will be:

“Should the Cayman Islands continue to move forward with building the cruise berthing and enhanced cargo port facility?”

The response to the question will be a simple ‘Yes’ or ‘No’.

Settling the question

In respect of the question to be asked in any people-initiated referendum, Section 70 (2) (b) of the Cayman Islands Constitutional Order, 2009, provides that “the Cabinet shall settle the wording of a referendum question or questions within a reasonable time period as prescribed by law”.

No guidance is given in the Constitution on how Cabinet should go about settling the wording and there is no direct Cayman Islands precedent. However, there are some common sense and natural justice principles that can be drawn upon. These suggest that Cabinet should construct a question that, as far as possible, is:

- clear and simple, easy to understand and written in plain language;
- to the point, that is directed at the core issue in contention;
- definitive and not ambiguous or open to a variety of interpretations; and
- neutral, which means the wording should not create any encouragement for voters to consider one response more favourably than another and should not mislead voters.

Cabinet has followed the above criteria in settling the question, and has also had regard to the Council of Europe's Commission for Democracy Through Law (the Venice Commission) in its Code of Good Practice on Referendums.

In addition, Cabinet sought to ensure that the referendum question reflected the intention of the petitioners, specifically Cruise Port Referendum Cayman (CPR). The wording of the CPR referendum petition did not readily assist in helping determine a question that met the criteria above as it is not written in plain language, nor does it set out any definitive proposition. Rather it simply asks that "the proposed cruise berthing facility.....be decided solely by referendum".

However, CPR's initial referendum website (<https://cprcayman9.wixsite.com/website>) offers two similar rationales for the petition that people were being asked to sign. First, it states: "*The purpose of the Petition is....to bring about a people-initiated referendum in which registered voters can vote through ballot 'Yes' or 'No' on whether the country should proceed with the proposed Cruise Berthing Facility.*" (emphasis added)

Secondly, it states *“The aim of this petition is...to start a people-initiated referendum...on whether the country should move forward with the proposed Cruise Berthing Facility.”* (emphasis added)

These statements make clear the underpinning rationale for the CPR petition and can be relied upon to represent what it was people were signing up for when they put their names to the petition. Taken together, therefore, they provided a starting point for the Cabinet in drafting an appropriate question, including the question requiring a clear yes or no response.

Whilst the petitioners have focused solely on cruise berthing, an enhanced cargo port has always been an intrinsic part of the Government’s plans to provide for a long-needed, modern port facility that includes cruise berthing and an enhanced cargo port.

In 2015 Premier Hon. Alden McLaughlin confirmed to the country, at a Chamber of Commerce luncheon, that *“Government has considered the matter carefully and has agreed on the merits of building a cruise port and an enhanced cargo port and to allow the project to proceed to the next stage.”* This public statement made it clear that there was one project that includes both cruise berthing and an enhanced cargo port. In fact references to both were included in many public statements including statements made in the Legislative Assembly. And of course both an enhanced cargo port and cruise ship berthing were included in the request for proposal during the project procurement stage.

Therefore any referendum question on moving forward with cruise berthing must include an enhanced cargo port as well.

The Attorney General was consulted in the development of the question and external legal advice was also sought. It was determined that the four principles and the approach taken in settling the question were correct and met appropriate tests.

The referendum date

The choice of the referendum date is based in large part on the various processes required by law to get to a point where the Issuing of Writs can be made to the Supervisor of Elections so as to confer on him the authority to conduct a referendum. These include:

- Cabinet to settle the referendum question
- Drafting of the Referendum Bill
- Gazettal of the Referendum Bill for 21 days
- Debate and passage of the Referendum Bill in the Legislative Assembly
- Assent and gazettal of the Referendum Law and the Issuing of Writs to the Supervisor of Elections.

In addition to the above processes, sufficient time is needed to allow the Elections Office to plan for and carry out their duties – including providing for postal and mobile voting.

The Supervisor of Elections has confirmed that given the staff training and other preparations that the Elections Office has already undertaken, he is confident that the Elections Office will be operationally and logistically ready to meet the timeline of 19th December for the holding of the referendum.

With the Gazettal of the Referendum Bill and the setting of the date for the referendum the Government looks forward to settling this issue and determining whether the Country supports continuing to move forward with building the cruise berthing and enhanced cargo port facility.