

**CAYMAN ISLANDS**



# **REFERENDUM (PEOPLE-INITIATED REFERENDUM REGARDING THE PORT) BILL, 2019**

**Supplement No. 1 published with Legislation Gazette No. 36 dated 3rd October, 2019.**

**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**

## PUBLISHING DETAILS

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## Memorandum of OBJECTS AND REASONS

This Bill provides for the holding of a referendum under section 70 of the Constitution of the Cayman Islands on the proposal to continue to move forward with the building of the cruise berthing and enhancement of the cargo facility.

Clause 1 provides the short title of the legislation.

Clause 2 provides for the interpretation of certain expressions used in the legislation, including definitions for “observer”, and “voter”. This clause also provides that, for the purposes of this legislation, the expressions “Deputy Supervisor”, “election”, “elector”, “electoral district”, “returning officer” and “Supervisor” have the same meanings, respectively, as in the Elections Law (2017 Revision).

Clause 3 empowers Cabinet, by notice published in the Gazette, in at least one newspaper circulating in the Islands and on Government websites, to appoint a date for the holding of the referendum no earlier than the thirtieth day after the date on which the notice of the referendum is published.

Clause 4 specifies the matter of national importance that does not contravene any part of the Bill of Rights or any other part of the Constitution and sets out the referendum question. This clause also confirms that the outcome of the referendum shall be binding on the Government and the Legislature if more than fifty per cent of eligible persons vote in favour of the question specified in the referendum.

Clause 5 specifies that the persons entitled to vote in the referendum are those persons who, on the day of the holding of the referendum, would be constitutionally entitled and lawfully qualified to vote as electors at an election in an electoral district.

Clause 6 provides for the functions of the Supervisor of Elections, the Deputy Supervisor and various other officials in respect of the conduct and oversight of the referendum.

Clause 7 provides for the appointment of persons to observe the conduct of the referendum, the verification of the ballot paper accounts and the counting of the votes.

Clause 8 sets out the procedure for challenging the number of ballot papers or votes cast in the referendum. A person who voted in the referendum may present a claim under this section by way of petition.

Clause 9 provides for the presentation of the petition as well as for security for costs.

Clause 10 provides that every petition made under clause 8 shall be tried in the same manner as an action in the Grand Court by a Judge sitting alone.

Clause 11 sets out the power of a Judge in a trial of a claim.

Clause 12 enables the referendum proceedings to be conducted as if the referendum was an election of members of the Legislative Assembly and the Elections Law (2017

Revision) and any rules made under the Elections Law (2017 Revision) shall apply for those purposes and be construed with the necessary modifications.

Clause 13 provides that expenses properly incurred by, and remuneration and travelling allowances payable to, election officers performing functions in relation to the conduct of the referendum are to be defrayed out of the general revenue of the Islands.

Clause 14 empowers the Cabinet to make regulations for the conduct of the referendum and to provide for any other matter as may appear to be necessary or expedient for the purpose of giving effect to the legislation.

Schedule 1 provides the form of the ballot paper to be used in the referendum.

Schedule 2 provides for the application and modification of provisions of the Elections Law (2017 Revision) and the Elections Rules (2017 Revision).



**CAYMAN ISLANDS**



**REFERENDUM (PEOPLE-INITIATED  
REFERENDUM REGARDING THE PORT) BILL,  
2019**

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## CAYMAN ISLANDS



# REFERENDUM (PEOPLE-INITIATED REFERENDUM REGARDING THE PORT) BILL, 2019

**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**

ENACTED by the Legislature of the Cayman Islands.

WHEREAS section 70(1) of the Constitution of the Cayman Islands provides for people-initiated referendums and that a law enacted by the Legislature shall make provision to hold a referendum amongst persons registered as electors in accordance with section 90 of the Constitution on a matter or matters of national importance that do not contravene any part of the Bill of Rights or any other part of the Constitution;

AND WHEREAS, in accordance with section 70(2)(a) of the Constitution of the Cayman Islands, there was presented to the Cabinet a petition signed by not less than twenty-five per cent of persons registered as electors in accordance with section 90 of the Constitution of the Cayman Islands;

AND WHEREAS, in accordance with section 70(2)(b) and (c) of the Constitution of the Cayman Islands, the Cabinet has settled the wording of the referendum question and has

made a determination on the date for the holding of the referendum in a manner prescribed by this Law:

NOW, THEREFORE, it is DECLARED that the matter specified in section 4(1) of this Law is a matter of national importance that does not contravene any part of the Bill of Rights or any other part of the Constitution.

### Short title

1. This Law may be cited as the Referendum (People-initiated Referendum Regarding the Port) Law, 2019.

### Interpretation

2. (1) In this Law —

“**Constitution**” means the Constitution set out in Schedule 2 to the *Cayman Islands Constitution Orders 2009 to 2016*;

“**counting station**” means any room secured by a returning officer for the counting of the votes in respect of a referendum on the day appointed for the holding of the referendum;

“**Governor**” means the person for the time being holding the office of Governor of the Islands, and includes any person for the time being lawfully performing the functions of that office under the Constitution;

“**lead organisation**” means the lead organisation responsible for the presentation of the referendum petition;

“**observer**” means a person appointed under section 7 to observe —

- (a) the conduct of the referendum;
- (b) the verification of the ballot paper accounts; and
- (c) the counting of votes;

“**polling station**” means a place appointed by notice for the holding of the referendum in an electoral district;

“**presiding officer**” means an election officer appointed under section 36 of the *Elections Law (2017 Revision)* to attend at each polling station to receive the votes; and

“**voter**” means a person who votes or is entitled to vote at the referendum having been so duly qualified as a registered elector pursuant to the *Elections Law (2017 Revision)*.

- (2) For the purposes of this Law, the expressions “**Deputy Supervisor**”, “**election**”, “**elector**”, “**electoral district**”, “**returning officer**” and “**Supervisor**” have the same meanings, respectively, as in the *Elections Law (2017 Revision)*.





### **Holding of referendum**

3. (1) A referendum shall be held on the matter specified in section 4(1) with each elector being entitled to cast one vote.
- (2) The Cabinet shall by notice, published in the Gazette, in at least one newspaper circulating in the Islands and on Government websites, appoint a day for the holding of the referendum, being a day not earlier than the thirtieth day after the date of the publication of the notice.

### **Matter of national importance and referendum question**

4. (1) The matter of national importance is whether the Islands should continue to move forward with the building of the cruise berthing and enhanced cargo port facility.
- (2) For the purpose of determining the matter of national importance under subsection (1), the following question shall be asked in the referendum —  
**“Should the Cayman Islands continue to move forward with building the cruise berthing and enhanced cargo port facility?”**
- (3) The ballot paper to be used for the purpose of the referendum shall be in the form set out in Schedule 1.
- (4) The outcome of the referendum shall be binding on the Government and the Legislature if more than fifty per cent of persons registered as electors pursuant to the *Elections Law (2017 Revision)*, vote in the referendum in favour of, or against, the question specified in subsection (2).

### **Entitlement to vote**

5. The persons entitled to vote in the referendum are those persons who, on the day of the holding of the referendum —
  - (a) are registered as electors in accordance with section 90 of the Constitution; and
  - (b) would be entitled to vote as electors at an election in an electoral district in accordance with the *Elections Law (2017 Revision)*.

### **Conduct of referendum**

6. (1) The functions which, in relation to an election, are conferred on the Supervisor or a Deputy Supervisor by the *Elections Law (2017 Revision)* shall, in relation to the referendum, be discharged by those officers respectively.
- (2) The Supervisor shall, in addition to the functions conferred on the Supervisor by subsection (1), be responsible, together with the returning officers, for conducting the count of votes cast in the referendum and for certifying the total of the ballot papers and the respective answers relating to the referendum.

- (3) The Governor shall, by instrument in writing, appoint such persons as may be necessary —
  - (a) as returning officers for the purpose of conducting the referendum in an electoral district; and
  - (b) to assist the Supervisor in conducting the count of votes cast in the referendum.
- (4) Subject to subsection (2), the functions which in relation to an election are conferred respectively on returning officers, presiding officers, poll clerks, field officers and logistics officers by the *Elections Law (2017 Revision)* shall, in relation to the referendum, be discharged by those officers respectively.

### Observers

7. (1) The Governor may, by instrument in writing, appoint persons to observe the conduct of the referendum, the verification of the ballot paper accounts and the counting of the votes.
  - (2) The Premier and the Leader of the Opposition may each, by instrument in writing, appoint in respect of each polling station and each counting station, two persons to be observers to observe the conduct of the referendum, the verification of the ballot paper accounts and the counting of the votes.
  - (3) The lead organisation may, by instrument in writing, appoint in respect of each polling station and each counting station, two persons to be observers to observe the conduct of the referendum, the verification of the ballot paper accounts and the counting of the votes.

### Legal challenge

8. (1) A court shall not entertain any proceedings for questioning the number of ballot papers or votes cast in the referendum as certified by the Supervisor based on returns as certified by the returning officers, unless the proceedings are brought in accordance with this section.
  - (2) The proceedings shall be brought by a claim made by way of petition, filed in the Grand Court before the end of the permitted period.
  - (3) A petition may only be presented to the Grand Court by a person who voted in the referendum.
  - (4) In subsection (2), the “**permitted period**” means the period of twenty-one days starting with —
    - (a) the date on which a certificate as to the matters mentioned in subsection (1) is given by the Supervisor; or
    - (b) if there is more than one such certificate, the date on which the last such certificate is given.



### **Presentation of petition under section 8 and security for costs**

9. The following provisions apply with respect to the presentation of a petition under section 8 —
- (a) the petition shall be presented within twenty-one days after the return made by the Supervisor unless the petition questions the return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by or on account of an elected member of the Legislative Assembly, the lead organisation or any other organisation involved in campaigning for the referendum, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment;
  - (b) at the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner —
    - (i) to any person summoned as a witness on the petitioner’s behalf; or
    - (ii) to any other person named as a respondent in the petition,shall be given on behalf of the petitioner; and
  - (c) the security shall be in an amount of three thousand dollars and shall be given by deposit of money in the Grand Court.

### **Trial of petition under section 8**

10. (1) Every petition made under section 8 shall be tried in the same manner as an action in the Grand Court by a Judge sitting alone.
- (2) At the conclusion of the trial the Judge shall determine whether or not the outcome of the referendum was void or not and shall certify such determination to the Governor.
- (3) Upon the Judge’s certificate being given, the determination shall be final; and the return shall be confirmed or altered, or a writ for a referendum issued, as the case may require, in accordance with such determination.

### **Power of the Judge**

11. At the trial of a petition under section 8, a Judge shall, subject to this Law, have the same powers, jurisdiction and authority, and witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as in the trial of a civil action in the Grand Court, and such witnesses shall be subject to the same penalties for perjury.

### **Application of Elections Law (2017 Revision)**

12. (1) For the purposes of the referendum, votes shall be cast, and the proceedings shall be conducted, so far as may be, as if the referendum was an election of members to the Legislative Assembly and the *Elections Law (2017 Revision)* and any rules in force under that Law shall, for those purposes, be construed accordingly, but any reference to a candidate, nomination, agent, election agent, polling agent or counting agent shall, unless the context otherwise requires, be disregarded.
- (2) Without prejudice to subsection (1), the provisions of the *Elections Law (2017 Revision)* and the *Elections Rules (2017 Revision)* specified in column 1 of Schedule 2 shall apply in connection with the referendum, subject to the modifications or exceptions specified in relation to those provisions in column 2 of that Schedule.
- (3) Unless the contrary intention appears in this Law and in the provisions of the *Elections Law (2017 Revision)* applied by this Law —
- (a) a reference to an election or poll shall be construed as a reference to the referendum;
  - (b) a reference to an electoral district shall be construed as a reference to the area for which the relevant returning officer acts;
  - (c) a reference to polling day shall be construed as a reference to the day appointed for holding the referendum; and
  - (d) a reference to a ballot paper shall be construed as a reference to the ballot paper to be used for the purpose of the referendum.
- (4) The Cabinet may by Order amend Schedule 2.

### **Expenses of referendum**

13. Expenses properly incurred by, and remuneration and travelling allowances payable to, election officers carrying out functions under this Law shall be defrayed out of the general revenue of the Islands.

### **Regulations**

14. The Cabinet may make regulations —
- (a) to provide for the conduct of the referendum as may appear to be necessary or expedient; and
  - (b) to provide for any other matter, as may appear to be necessary or expedient for the purpose of giving effect to this Law.



**SCHEDULE 1**

*(section 4(3))*

**FORM OF BALLOT PAPER**

NO. \_\_\_\_\_

REFERENDUM \_\_\_\_\_

Consecutive number given voter in poll book \_\_\_\_\_

(Counterfoil)

**BALLOT PAPER**

Polling day \_\_\_\_\_

No. \_\_\_\_\_ Initial of presiding officer \_\_\_\_\_

The Referendum Question is:

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

<b>YES</b>
<b>NO</b>



**SCHEDULE 2***(section 12(2))***Part 1****Application and Modification of Provisions of the Elections Law (2017  
Revision)**

<b>Provision applied and subject matter</b>	<b>Modification</b>
section 2 (Definitions and interpretation)	In subsection (1), insert the following definitions in the appropriate alphabetical sequence—  <p>“<b>observer</b>” means a person appointed by instrument by the Governor, the Premier, the Leader of the Opposition and a lead organisation to observe —</p> <p>(a) the conduct of the referendum;</p> <p>(b) the verification of the ballot paper accounts; and</p> <p>(c) the counting of votes; and</p> <p>“<b>voter</b>” means a person who votes or is entitled to vote at the referendum having been so duly qualified as a registered elector pursuant to the <i>Elections Law (2017 Revision)</i>.”.</p>
section 20 (Electors registration cards)	Omit.
PART III (Registration of Political Parties)	Omit.
section 28 (Issue of writs for holding elections)	Omit and substitute - <p>“28. (1) On the issue of the notice of the appointed day for the holding of the referendum under section 3(2) of the Referendum (People-initiated Referendum Regarding the Port) Law, 2019, the Supervisor shall by notice published in the Gazette appoint the polling stations for the holding of the referendum in an electoral district.</p> <p>(2) The places appointed for the holding of a referendum in an electoral district shall each be a convenient building</p>



<b>Provision applied and subject matter</b>	<b>Modification</b>
	<p>or part of a building so determined by the Supervisor within, or in the opinion of the Supervisor conveniently near, the boundary of the electoral district concerned, not being a building licensed for the sale of intoxicating liquor.”.</p>
<p>section 29 (Nominations)</p>	<p>Omit and substitute -</p> <p>“29. (1) The Supervisor shall —</p> <ul style="list-style-type: none"> <li>(a) establish counting stations for counting the votes cast in the referendum; and</li> <li>(b) give notice of the holding of the referendum, specifying in the notice — <ul style="list-style-type: none"> <li>(i) the date and time for the holding of the referendum;</li> <li>(ii) the locations of the polling stations in an electoral district;</li> <li>(iii) the location of the counting station; and</li> <li>(iv) the date and time when the number of votes cast in the referendum shall be counted.</li> </ul> </li> </ul> <p>(2) A notice under subsection (1)(b) shall be published in the Gazette and in at least one newspaper circulating in the Islands.”.</p>
<p>section 30 (Offences in respect of nomination papers)</p>	<p>Omit.</p>
<p>section 31 (Withdrawal or death of candidate)</p>	<p>Omit.</p>
<p>section 32 (Deposits)</p>	<p>Omit.</p>
<p>section 33 (When deposit forfeited or returned)</p>	<p>Omit.</p>
<p>section 34</p>	<p>Omit.</p>

<b>Provision applied and subject matter</b>	<b>Modification</b>
(Contested elections, publication of date and place, etc.)	
section 35 (Polling stations)	In subsection (1) omit the words “section 34(2) for the taking of the poll” and substitute the words “section 29(1)(b)(i) for the holding of the referendum”.
section 36 (Presiding officers)	In subsection (1) omit the words “, but he shall not so appoint any person who has been employed by or on behalf of a candidate in or about the election”.
section 40 (Polling and counting agent)	Omit and substitute - “40. An observer, on being admitted to a polling station, shall take an oath in Form 25A to keep secret the manner in which any of the voters has marked the voter’s ballot paper in the observer’s presence.”.
section 41 (Taking of poll and the ballot)	Omit subsection (2) and substitute - “(2) The ballot of each voter shall be a printed paper in the form set out in Schedule 1 of the Referendum (People-initiated Referendum Regarding the Port) Law, 2019 and each ballot paper shall have a serial number printed on the back and shall have attached to it a counterfoil with the same serial number printed on the face and there shall be a line of perforations between the ballot paper and the counterfoil.”.
section 44 (Restriction on voting)	Omit.
section 45 (Proceedings at poll)	In subsection (1) omit the words “candidates, their agents,” and substitute the word “observers”. In subsection (4) omit the words “agent of a candidate” and substitute the word “observer”.
section 46 (Who are	In subsection (2) omit the words “agents aforesaid” and substitute





<b>Provision applied and subject matter</b>	<b>Modification</b>
to be admitted within polling stations)	the word “observers”.
section 47 (General mode of taking ballot)	In subsection (3) omit the words “within the space to the right of the name of the candidate or each candidate for whom” and substitute the words “in the space to the right of the answer for which”.
section 48 (Questions which may be put to elector)	In subsection (1) omit the words “a candidate or his agent” and substitute the words “an observer”.
section 49 (Mode of taking ballot in special cases)	Omit subsection (2)(c) and substitute - “(c) any objections made by an observer.”.
section 55 (Who may vote)	In subsection (2) omit the words “, one of the candidates or an agent of a candidate” and substitute the words “or an observer”.
section 56 (Who may be present)	Omit and substitute - “56. The following persons shall be permitted to remain in the polling station during the time the poll remains open — <ul style="list-style-type: none"> <li>(a) the presiding officer;</li> <li>(b) the poll clerk;</li> <li>(c) the Supervisor;</li> <li>(d) the Deputy Supervisors;</li> <li>(e) the returning officer of the electoral district;</li> <li>(f) the observers;</li> <li>(g) the constables in uniform on duty; and</li> <li>(h) such field officers, logistics officers, emergency personnel and other persons as may be authorised in writing by the Supervisor.”.</li> </ul>
section 57 (Proceedings at the close of the poll)	In subsection (2) omit the words “candidate or agent” and substitute the word “observers”. Omit subsection (3).

<b>Provision applied and subject matter</b>	<b>Modification</b>
<p>section 58 (The count)</p>	<p>Omit subsections (1) and (2) and substitute -</p> <p>“ (1) Immediately after the close of the poll, the presiding officer shall —</p> <ul style="list-style-type: none"> <li>(a) seal the ballot box so as to prevent the introduction of additional ballot papers and shall turn over the box in its sealed condition to the returning officer; and</li> <li>(b) seal up in separate packets all —               <ul style="list-style-type: none"> <li>(i) spoilt ballot papers in the possession of the returning officer; and</li> <li>(ii) unused ballot papers in the possession of the presiding officer,</li> </ul> </li> </ul> <p>and shall endorse on each packet a description of its contents and the name of the electoral district and deliver all the packets so endorsed to the returning officer.</p> <p>(1A) Upon receipt of a sealed ballot box from a returning officer under subsection (1), the Supervisor shall break the seal thereon in the presence of observers and of any other persons who are lawfully in the counting station at that time and place all the ballot papers therein contained in the appropriate ballot box which shall be provided, and in such box all the ballot papers removed from the ballot boxes for the electoral districts in the referendum shall be placed and mixed together for the purpose of being counted.</p> <p>(2) When all the ballot boxes from all the polling stations have been received by the Supervisor and dealt with in accordance with subsection (1A), and not before, the Supervisor shall, in the presence of such of the observers as are present, or, if no observers are present, two electors —</p> <ul style="list-style-type: none"> <li>(a) record and count the number of votes (allowing the observers or, in the absence of the observers, the two electors present, full opportunity to see such votes but not the official number on the back of the ballot paper) and a poll clerk and not less than two witnesses shall be supplied with tally sheets upon</li> </ul>



Provision applied and subject matter	Modification
	<p>which they may keep their own scores as each vote is called out by the returning officer; and</p> <p>(b) reject all ballot papers —</p> <p>(i) which have not been marked; or</p> <p>(ii) upon which there is any writing or mark by which the elector could be identified, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer.”.</p> <p>Omit subsections (7) to (13) and substitute -</p> <p>“(7) Where, in the course of counting the votes, the returning officer discovers that the presiding officer has omitted to affix the presiding officer’s initials to any ballot paper as provided by section 47(1), the returning officer shall, in the presence of the poll clerk and such of the observers as are present, affix the returning officer’s initials to such ballot paper and shall count such ballot paper as if it had been initialled by the presiding officer in the first place, provided that the returning officer is satisfied that the ballot paper is one that has been supplied by the presiding officer, and also that every ballot paper supplied to such presiding officer has been accounted for as provided under section 57(1)(f).</p> <p>(8) Where a vote is marked —</p> <p>(a) otherwise than in the proper place;</p> <p>(b) otherwise than with an X; or</p> <p>(c) by more than one mark,</p> <p>the vote is valid if it clearly appears that it was intended for a particular answer, and that answer shall be awarded the vote accordingly.</p> <p>(9) The returning officer shall keep a record, on the special form printed in the poll book, of every objection made by an observer or a voter present, to any ballot paper found in a ballot box, and shall decide every question arising out of the objection.</p> <p>(10) Every objection under subsection (9) shall be numbered and a corresponding number shall be placed on the back</p>

<b>Provision applied and subject matter</b>	<b>Modification</b>
	<p>of the ballot paper and initialled by the returning officer.</p> <p>(11) The decision of the returning officer under subsection (9) shall be final, subject to reversal on petition under section 85 questioning the return.</p> <p>(12) Every ballot paper not rejected by the returning officer shall be counted and a list shall be kept of—</p> <p>(a) the number of votes for the respective answers relating to the referendum; and</p> <p>(b) the number of rejected ballot papers.</p> <p>(13) The returning officer shall put into one packet the rejected ballot papers and put into another packet the remaining used ballot papers, and both packets shall be sealed by the returning officer and may be signed by such observers or witnesses present who desire to sign the packets.</p> <p>(14) Where an observer is not satisfied with the accuracy of the count of any segment of the count, the observer may, on completion of the count of that segment, immediately demand a recount which shall be carried out in the same manner as the original count, but no observer may demand such a recount more than once in respect of any segment of the count.”.</p>
<p>section 60 (Influencing electors to vote for any candidate)</p>	<p>In subsection (1) omit the words “any elector to vote for any candidate or to ascertain for what candidate any elector” and substitute the words “how any voter will vote or to ascertain the manner in which any voter”.</p>
<p>section 61 (Election return)</p>	<p>Omit and substitute -</p> <p>“61. (1) The Supervisor shall keep in safe custody —</p> <p>(a) the notice appointing a day for the holding of the referendum, with the return showing the answer declared to be mandated in accordance with section 58;</p> <p>(b) a report of the Supervisor’s proceedings showing the number of votes cast for the respective answers relating to the referendum, and making such</p>



<b>Provision applied and subject matter</b>	<b>Modification</b>
	<p>observation as the Supervisor may think proper as to the state of the referendum papers as received from the presiding officer;</p> <p>(c) information relating to the number of persons to whom, it appears from the counterfoils, ballot papers have been supplied in the electoral district;</p> <p>(d) the reserve supply of undistributed blank ballot papers;</p> <p>(e) the poll book used at each polling station, a packet containing the counterfoils and unused ballot papers, a packet containing the used ballot papers (other than the rejected ballot papers), a packet containing the spoiled ballot papers, a packet containing the rejected ballot papers and a packet containing the official list of voters used at the polling stations, and the written appointments of the observers; and</p> <p>(f) any other documents used for the referendum.</p> <p>(2) Where the result of the poll has been ascertained, the Supervisor shall forthwith publicly declare that result and shall subsequently by notice published in the Gazette, publish the result.”.</p>
<p>section 62 (Custody of election documents)</p>	<p>In subsections (1)(a), (3) and (5) omit the word “election” wherever it appears and substitute the word “referendum”.</p> <p>Omit subsection (2) and substitute -</p> <p>“(2) Where proceedings have been brought questioning the number of ballot papers or votes cast in a referendum, the Supervisor shall, on the order of the court, deliver to the court the documents relating to the referendum.”.</p> <p>Omit subsection (4) and substitute -</p> <p>“(4) The referendum documents in the custody of the Supervisor shall not be inspected or produced except on the order of a Judge of the Grand Court.</p> <p>(4A) An order under subsection (4) may be made by the Judge where the Judge is satisfied by evidence on oath that the inspection or production of such referendum</p>

<b>Provision applied and subject matter</b>	<b>Modification</b>
	documents is required for the purpose of instituting or maintaining a prosecution for an offence in relation to a referendum or for the purpose of proceedings which have been brought questioning the number of ballot papers or votes cast in the referendum.”.
PART V (Election Expenses)	Omit.
section 74 (Regulation of political broadcasts)	Omit subsection (2) and substitute - “(2) The provisions of this Part shall, with the necessary changes being made, apply in respect of a referendum as they apply to an election.”.
section 81(2) (Regulation of Statistical Information)	Omit subsection (2) and substitute - “(2) The provisions of this Part shall, with the necessary changes being made, apply in respect of a referendum as they apply to an election.”.
PART VIII (Election Petitions)	Omit.
section 91 (Intoxicating liquor not to be sold or given)	Omit
section 94 (Loudspeakers, ensigns, banners, advertisements, etc., prohibited on polling day)	In subsection (2) omit the words “candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate” and substitute the words “specific result at the referendum”. In subsection (3)(a) omit the words “particular candidate or group of candidates” and substitute the words “specific result at the referendum”. In subsection (3)(b) omit the words “candidate or group of candidates” and substitute the words “person, group or political party”. Omit subsection (4).
section 95	In subsection (1)(c) and (d) omit the words “the return of any



<b>Provision applied and subject matter</b>	<b>Modification</b>
(Definition of bribery)	<p>person as an elected member of the Assembly, or the vote of any elector at any election” and substitute the words “a specific result at the referendum”.</p> <p>Omit subsection (3)(a) and (c).</p>
section 102 (Illegal practices and penalties)	<p>Omit subsection (1)(b).</p> <p>In subsection (1)(c) omit the words “called for the purpose of promoting the election of a candidate as a member to serve in the Assembly” and substitute “called in relation to the referendum”.</p> <p>Omit subsection (1)(d) and substitute -</p> <p>“(d) acting in a personal capacity or in the capacity of a director of any corporate body or association, before or during the referendum for the purpose of affecting the results of the referendum, makes or publishes any false statement of fact in relation to the referendum,”.</p>
Form 1 in Schedule 2 (Poll Book)	<p>Omit the words “Objections, if any, made on behalf of any candidate” and substitute the words “Objections, if any, made by an observer”.</p>
Form 21 in Schedule 2 (Oath of presiding officer)	<p>Omit and substitute -</p> <p style="text-align: center;"><b>“FORM 21</b></p> <p style="text-align: center;"><i>(section 36(2))</i></p> <p style="text-align: center;"><b>OATH OF PRESIDING OFFICER</b></p> <p>I, _____ the undersigned, appointed presiding officer for the polling station at _____ in the _____ electoral district swear that I will act faithfully in my capacity as presiding officer, according to law, without partiality, fear, favour or affection, and that I will keep secret the manner in which any of the voters in the above-mentioned polling station marks that voter’s ballot in my presence at this referendum.</p> <p>SO HELP ME GOD.</p> <p style="text-align: right;">_____</p>

Provision applied and subject matter	Modification
	<p style="text-align: right;">Presiding Officer</p> <p>Sworn before me at _____ this ____ day of _____, 20__.”.</p>
<p>Form 23 in Schedule 2 (Oath of poll clerk)</p>	<p>Omit and substitute -</p> <p style="text-align: center;"><b>“FORM 23</b> <i>(section 37(2))</i></p> <p style="text-align: center;"><b>OATH OF POLL CLERK</b></p> <p>I, _____ the undersigned, appointed poll clerk for the polling station at _____ in the _____ electoral district swear that I will act faithfully in my capacity as poll clerk and also in my capacity as presiding officer if required to act as such, according to law, without partiality, fear, favour or affection and that I will keep secret the manner in which any of the voters in the above-mentioned polling station marks that voter’s ballot in my presence at this referendum.</p> <p>SO HELP ME GOD.</p> <p style="text-align: right;">_____ Poll Clerk</p> <p>Sworn before me at _____ this ____ day of _____, 20__.”.</p>
<p>Form 24 in Schedule 2 (Direction for the guidance of electors)</p>	<p>Omit and substitute -</p> <p style="text-align: center;"><b>“FORM 24</b> <i>(section 39(2)(e))</i></p> <p style="text-align: center;"><b>DIRECTION FOR THE GUIDANCE OF VOTERS</b></p> <ol style="list-style-type: none"> <li>1. A voter must not vote at more than one polling station.</li> <li>2. A voter may vote for 1 answer only. If the voter votes for more than 1 answer the ballot paper is void and none of the</li> </ol>





Provision applied and subject matter	Modification		
	<p>votes will be counted.</p> <p>3. A voter votes for an answer by placing an <b>X</b> to the right of the answer</p> <table border="1" data-bbox="485 337 1209 404"> <tr> <td><b>YES</b></td> </tr> <tr> <td><b>NO</b></td> </tr> </table> <p>4. If a voter marks the ballot paper in any way that will identify the voter the ballot paper will be rejected.</p> <p>5. After voting, a voter must fold the ballot paper along the line shown on the ballot paper and hand the folded ballot paper to the presiding officer.</p> <p>6. The presiding officer will, in the full view of those present including the voter, remove the counterfoil from the ballot paper and return the ballot paper to the voter who will deposit the ballot paper in the ballot box; except that where the voter is unable from physical or other disability to deposit the ballot paper in the ballot box, the presiding officer will, on the voter's behalf, deposit the ballot paper in the ballot box.</p> <p>7. If a voter inadvertently spoils a ballot paper the voter can obtain another one by returning the spoilt one to the presiding officer.</p> <p>8. A person given a ballot paper must not leave the polling station with the ballot paper.</p> <p>9. After voting, a voter must leave the polling station.”.</p>	<b>YES</b>	<b>NO</b>
<b>YES</b>			
<b>NO</b>			
<p>Form 25A in Schedule 2 (Oath of agent of a candidate)</p>	<p>Omit and substitute -</p> <p style="text-align: center;"><b>“FORM 25A</b> <i>(section 40(4))</i></p> <p style="text-align: center;"><b>OATH OF OBSERVER</b></p> <p>I _____ the undersigned, observer in the referendum held on this day in the _____ electoral district do swear that I will keep secret the manner in which any voter at this polling station marks that voter’s ballot paper in my presence at this referendum.</p>		

<b>Provision applied and subject matter</b>	<b>Modification</b>
	<p>SO HELP ME GOD.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature</p> <p>Sworn before me at _____ this ____ day of _____, 20__.”</p>
<p>Form 30 in Schedule 2 (Oath that the elector is the person intended to be referred to in the official list of electors)</p>	<p>Omit and substitute -</p> <p style="text-align: center;"><b>“FORM 30</b> <i>(section 55(1))</i></p> <p style="text-align: center;"><b>OATH THAT THE VOTER IS THE PERSON INTENDED TO BE REFERRED TO IN THE OFFICIAL LIST OF VOTERS</b></p> <p>You swear that you are qualified to vote at this referendum and you are not disqualified from voting at the referendum and that you verily believe that you are the person intended to be referred to by the entry in the official List of Voters used at the polling station, of the name _____ whose occupation is given as _____ and whose street address is given as _____</p> <p>SO HELP YOU GOD”.</p>



**Part 2**

**Application and Modification of Provisions of the Elections Rules (2017 Revision)**

<b>Rule applied and subject matter</b>	<b>Modification</b>
rule 3 (Application to be treated as absent elector)	In the proviso to paragraph (1) omit the words “, not being a candidate for election or the agent of such a candidate”.  Omit paragraph (6).
rule 8 (Form of declaration of identity)	Omit paragraphs (2) and (3).
rule 9 (Persons entitled to be present at the issue and receipt of postal ballot papers)	Omit and substitute - “9. No person other than — (a) the Supervisor; (b) the Deputy Supervisors; (c) a returning officer; (d) a deputy returning officer; (e) a returning officer’s clerk; and (f) the observers, may be present at the proceedings on the issue or receipt of postal ballot papers.”.
rule 11 (Notice of issue of postal ballot papers)	Omit.
rule 15 (Delivery of postal ballot paper to post office)	In paragraph (1) insert after the words “Service” the following words -  “or such other mail delivery or trackable courier service as may be determined by the Supervisor”.

<b>Rule applied and subject matter</b>	<b>Modification</b>
rule 25 (Ballot paper for by-election)	Omit.

**Passed by the Legislative Assembly the      day of      , 2019.**

*Speaker*

*Clerk of the Legislative Assembly*

