

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,140 of 15th January, 2015

B. 01/15

REFERENDUM ACT 2015

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**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,140 of 15th January, 2015

B. 01/15

BILL

FOR

AN ACT to govern the organisational, administrative and procedural matters associated with the holding of referenda in Gibraltar.

ENACTED by the Legislature of Gibraltar.

PART 1
Preliminary

Title and commencement.

1. This Act may be cited as the Referendum Act 2015 and comes into operation on the day of publication.

Interpretation.

2. In this Act, unless the context otherwise requires—

“absentee list” means a list under section 40;

“counting agent” means a person appointed as such under section 49;

“counting clerk” means a person appointed as such under section 5(2);

“covering envelope” means a covering envelope in respect of postal voting under Part 7;

“declaration of identity” means a declaration made under section 45(2)(a);

“declaration of secrecy” means a declaration made under section 6;

“hours of voting” means between 9 o’clock in the morning and 10 o’clock at night on Referendum Day;

“list of persons refused voting papers” means a list made under section 24(2);

“list of voters assisted by companions” means a list made under section 29;

“list of votes marked by the Presiding Officer” means a list made under section 28;

“Minister” means the Chief Minister;

“postal voter” means a voter entitled to vote by post in the referendum;

“postal voters list” means a list made under section 43;

“postal voting paper” means a voting paper issued to postal voters under section 44;

“Presiding Officer” means a person appointed as such under section 5(2);

“qualifying period” shall be calculated in accordance with section 7(3);

“receptacle for declaration of identity” means a container which holds declarations of identity which have not been rejected under section 54;

“receptacle for votes rejected” means a container which holds postal voting papers, voting paper envelopes and declarations of identity which have been rejected under section 54;

“receptacle for voting papers” means a container which holds postal voting papers which have not been rejected under section 54;

“receptacle for voting paper envelopes” means a container which holds voting paper envelopes which have not been rejected under section 54;

“referendum” means a vote on a question which is put to voters in accordance with the provisions of this Act, following the making of an order under section 3;

“Referendum Administrator” means the person appointed as such under 5(1);

“Referendum Day” means the day appointed under section 4;

“Referendum Observer” means a person invited by the Government to observe the conduct and organisation of the referendum;

“Referendum Officer” means any person who pursuant to this Act is appointed, either directly or by a person authorised under this Act, to discharge any function or duty in connection with a referendum held pursuant to this Act;

“referendum period” means the period commencing on the day an Order is made pursuant to section 3 and terminating with the declaration of the result of the referendum;

“Registration Officer” means a person appointed as such under section 5(3);

“Register” means the register of voters prepared under section 13;

“Senior Counting Officer” means the person appointed as such under section 5(2);

“Senior Presiding Officer” means the person appointed as such under section 5(2);

“tendered votes list” means a list made under section 33;

“tendered voting paper” means a voting paper under section 33;

“voter” means a person whose name appears on the Register;

“Voting Agent” means a person appointed as such under section 20;

“voting paper accounts” means a statement made under section 38;

“voting paper envelope” means an envelope containing a postal voting paper under Part 7;

“voting station” means a place appointed as such under section 14.

PART 2
Calling a Referendum

Order of referendum

3. The Minister may make an Order for a referendum to be held where–

- (a) after the second reading of a Government Bill, the ensuing stages have been adjourned to allow for a referendum to take place; or
- (b) Parliament has approved a Government Motion for a referendum.

Form of Order.

4.(1) An Order issued under section 3 shall–

- (a) appoint–
 - (i) the day for the close of the Register,
 - (ii) the referendum day;
- (b) contain the question being out to a referendum;
- (c) state the percentage of votes required for the result to be treated as qualifying for recognition as a winning result; and
- (d) be signed by the Minister.

(2) The referendum day may not be less than 40 days and not more than 100 days from the date of the Order.

(3) The Order shall be set out in as provided for in Part 1 or 2 of Form A, which is set out the Schedule, and which may be adapted as circumstances require.

(4) The question shall be a closed question, answerable by marking the symbol 'X' in the appropriate box to indicate a 'Yes' or 'No' vote in accordance with Form G.

Appointment of Referendum Administrator and other officers.

5.(1) The Clerk of the Gibraltar Parliament or any other senior public officer appointed by the Minister by notice in the Gazette shall be the Referendum Administrator who shall be responsible for the organisational, administrative and procedural matters associated with the holding of a referendum.

(2) The Referendum Administrator may constitute such offices as he may consider necessary for the purposes of the conduct and organisation of a referendum and appoint persons to those offices and exercise disciplinary control, at an administrative level, over and dismiss persons appointed to those offices.

(3) The Minister by notice in the Gazette shall appoint a senior public officer to be the Registration Officer for the purposes of the registration of voters and the Registration Officer may constitute such offices as he may consider necessary for the carrying out of his duties.

Declaration of secrecy.

6.(1) Before the opening of voting, a declaration of secrecy as in Form B in the Schedule shall be made by—

- (a) every Presiding Officer, counting clerk and clerk, who is not a public officer, appointed to attend at a voting station or at the counting of votes;
- (b) every Presiding Officer and clerk, who is not a public officer, appointed to receive the vote of every voter on the absentee list;
- (c) every Voting Agent, counting agent and Referendum Observer;
- (d) every person, who is not a public officer, authorised to enter a voting station or to attend at the counting of the votes.

(2) Notwithstanding anything in subsection (1), any person authorised to attend solely at the counting of the votes need not make the declaration

before the opening of the voting but shall make it before he is permitted to attend the count and any person, who is not a public officer, becoming obliged to make a declaration by reason of his appointment after the opening of the voting shall make the declaration before acting under the appointment.

(3) The Referendum Administrator shall make the declaration in the presence of a justice of the peace, the voting agents and police officers attending at a voting station shall make the declaration in the presence of either a justice of the peace, the Referendum Administrator or a presiding officer; and any other person shall make the declaration in the presence of either a justice of the peace or the Referendum Administrator.

Part 3
Eligibility to Vote

Eligibility.

7.(1) The persons entitled to vote as voters at a referendum shall be those persons who—

- (a) have lived in Gibraltar during the whole of the qualifying period; and
- (b) intend to live in Gibraltar either permanently or indefinitely; and
- (c) are, on the qualifying date and on the date of the poll, British citizens, British Overseas Territories citizens, British Overseas citizens, British Nationals (Overseas), British protected persons or British subjects under the British Nationality Act 1981, and are 18 years of age or over and are not subject to any legal incapacity to vote; or
- (d) do not satisfy the condition in paragraph (a) but are registered or are entitled to be registered as Gibraltarians under the provisions of the Gibraltarian Status Act:

Provided that a person shall not be entitled to vote as a voter unless registered in the Register of voters to be used at the referendum, and that no person shall be so entitled to vote or to be registered as an voter if—

- (i) by virtue of his own act he is under any acknowledgement of allegiance, obedience or adherence to a foreign State or Power; or
- (ii) he has been sentenced by any court in Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding 12 months and has not either suffered the punishment to which he was sentenced or such other punishment as may by a competent authority have been substituted therefor, or received a free pardon; or
- (iii) he is certified to be suffering from mental disorder under any law for the time being in force in Gibraltar; or
- (iv) he is disqualified by any enactment relating to offences connected with elections; or
- (v) he is a person serving in Gibraltar in any of Her Majesty's armed forces (other than the Royal Gibraltar Regiment constituted under the Royal Gibraltar Regiment Act), or the spouse of such person:

Provided further that a person who has not attained the age of 18 years on the qualifying date fixed for the Register if he will have attained such age on or before such later date as may be prescribed in an order made by the Minister, be entitled to be included in the register and to vote at any referendum which takes place after he has attained the age of 18 years.

- (2)(a) In determining questions arising under subsection (1)(a) as to whether a person has lived in Gibraltar during the whole of the qualifying period, regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence in or absence from Gibraltar;
- (b) for the purposes of subsection (1)(b) the following presumptions shall apply–
 - (i) where a person has his home in Gibraltar, he shall be presumed to intend to live in Gibraltar permanently or indefinitely;

- (ii) where a person has more than one home, he shall be presumed to live permanently or indefinitely in that place in which he has his principal home;
- (iii) where a person is stationed in Gibraltar for the principal purpose of carrying on a business, profession or occupation, and his spouse and children, if any, have their home outside Gibraltar, he shall be presumed to intend to live permanently or indefinitely in the latter place.

(3) The qualifying period shall be a continuous period of 10 years ending on and including the qualifying date.

(4) The Minister may from time to time by order published in the Gazette appoint a date to be the qualifying date for the purposes of this section.

(5) The expression “qualifying date” means such date in relation to a register as the Minister may, by order published in the Gazette, provide.

(6) For the purpose of ascertaining a person’s eligibility to vote in a referendum the Registration Officer may require the Civil Status and Registration Office to provide him with such information as he may require in order to make such a determination.

Voting age.

8.(1) The Minister may by Notice published in the Gazette, set the minimum age for a person to be eligible to vote.

(2) Where subsection (1) applies, any reference to or any requirement in this Act to a person being or required to be at least 18 years of age shall be deemed to be a reference to the age provided for in that Notice.

(3) A Notice made pursuant to subsection (1) shall only apply to the referendum referred to in that Notice.

Entitlement.

9.(1) A person who is registered to vote shall be entitled to cast a vote in the manner prescribed in Part 5.

(2) No person shall be entitled to vote more than once in the referendum.

Part 4
Registration as a Voter

Voters list.

10. The Registration Officer shall compile a voters list from official records available to him and shall publish such list no later than 21 days before a referendum by making copies thereof available for inspection at specified places to which the public have access and by such other means of publication as he may consider appropriate.

Claims, objections and amendments.

11.(1) Claims for inclusion, objections or amendments to the voters lists may be made by giving notice thereof to the Registration Officer as in Form C, Form D or Form E in the Schedule, respectively.

(2) Any notice under subsection (1) delivered to the Registration Officer after the tenth day before the Referendum Day shall be disregarded.

(3) The Registration Officer shall determine all claims for inclusions, objections and amendments to the voters list.

(4) When the Registration Officer is in any doubt as to whether a person is entitled to be included or excluded from the Register or whether an amendment should be made, he shall refer the matter to the Referendum Administrator who shall consider and decide the question and whose decision thereon shall be final.

(5) Claims and objections shall be made available for inspection in the registration officer's office until completion of the hearing of claims and objections.

Hearing of claims and objections.

12.(1) On the hearing of a claim, the claimant and any person who has duly made an objection and on the hearing of an objection, the objector and the person objected to and, on the hearing of either, any other person who appears to the Registration Officer to be interested shall be entitled to appear and be heard.

(2) The right to be heard includes the right to make written representations.

(3) Any person entitled to appear may do so either in person or by any other person on his behalf.

(4) The Registration Officer may, at the request of any person entitled to appear or, if he thinks fit, without such a request, require that the evidence tendered by any person shall be given on oath and may administer an oath for the purpose.

Register of voters.

13.(1) The Register shall be framed in separate parts for each voting place and the name of each voter shall be entered in only one part of the Register to correlate with the voting place in which the voter resides.

(2) The names of voters shall be arranged in such manner as the Referendum Administrator may think fit.

(3) The voters in the Register shall be assigned a Registration Number.

(4) The Registration Number shall be unique to the voter for the purpose of the referendum.

(5) The Referendum Administrator shall publish the Register not later than 7 days before Referendum Day.

(6) The Register shall only be valid for the referendum for which it was compiled.

Part 5

Voting at Referendum

Appointment of voting stations.

14. The Referendum Administrator shall appoint voting stations for each part of the Register.

Notice of voting.

15. The Referendum Administrator shall not later than 14 days before Referendum Day, and thereafter at such times as the Referendum Administrator deems appropriate, publish by such means of publication as he

shall consider appropriate to bring it to the attention of the voters, a general notice specifying–

- (a) the situation of every voting station;
- (b) the hours of voting; and
- (c) the question upon which a vote can be cast at the referendum.

Officers at voting stations.

16.(1) There shall, in respect of each voting station, be a Presiding Officer and such number of clerks as may be necessary for the purposes of the referendum.

(2) The Presiding Officer shall have full authority and shall do everything to ensure the smooth conduct of voting in accordance with this Part.

(3) A Presiding Officer may, by the clerks appointed to assist him, do any act (including the asking of questions) which he is required or authorised by this Act to do at a voting station except order the arrest, exclusion or removal of any person from the voting station.

Facilities at voting stations.

17.(1) The Referendum Administrator shall–

- (a) ensure that in each voting station there are such number of compartments as may be necessary in which voters can cast their votes screened from observation;
- (b) furnish each Presiding Officer with such number of voting boxes and such voting papers as may be necessary;
- (c) provide each voting station with instruments for making an official mark on the voting paper;
- (d) provide each voting station with copies of the appropriate part of the Register.

(2) A notice as in Form F in the Schedule giving directions for the guidance of the voters in voting shall be printed and exhibited prominently

outside every voting station and in every compartment of every voting station.

Voting boxes.

18. The voting boxes shall be so constructed that a voting paper may be put therein by a voter but may not be withdrawn by him or by any succeeding voter.

Voting papers.

19. Every voting paper shall be as in Form G in the Schedule and shall–

- (a) be capable of being folded up;
- (b) have a number printed on the back; and
- (c) have attached a counterfoil with the same number printed on the face.

Voting Agents.

20.(1) Not later than 10 days before Referendum Day–

- (a) any political party with representation in the Gibraltar Parliament shall be entitled to nominate persons (hereinafter referred to as Voting Agents); and
- (b) any other political party or officially recognised referendum campaign organisation in Gibraltar may apply in writing to the Referendum Administrator to appoint Voting Agents nominated by them,

for the purposes of detecting personation at voting stations.

(2) Notice in writing of the Voting Agents nominated under subsection (1)(a) and approved under subsection (1)(b) stating their names and addresses, together with the voting station to which each has been assigned, shall be given by the Referendum Administrator to the relevant political parties and the officially recognised referendum campaign organisations.

(3) No political party or officially recognised referendum campaign organisation shall have more than one Voting Agent at any voting station at any one time.

Preparation of voting boxes.

21. Immediately before the time fixed for the commencement of the voting each voting box shall be shown to such persons as may lawfully be present in the voting station to be empty before being locked and sealed and placed in the view of the Presiding Officer for the receipt of voting papers.

Issue of voting paper.

22. Every voter who is not registered as an absentee or postal voter shall present himself to a clerk at the voting station, at which he is registered as being entitled to vote and the clerk, if satisfied that such voter is a person whose name appears on the part of the Register allotted to such voting station and that he has not already voted, shall deliver to him a voting paper.

Marking of voting paper, etc.

23. Immediately before the clerk delivers a voting paper to a voter—

- (a) the voting paper shall be marked or punched with an official secret mark;
- (b) the number, name and address of the voter as stated in the part of the Register allotted to the voting station shall be called out; and
- (c) a mark shall be placed against the number of the voter in the part of the Register allotted to the voting station to denote that the voting paper has been received by the voter.

Questions to be put to voters.

24.(1) The Presiding Officer may, and if so requested by a Voting Agent shall, require any person applying for a voting paper at the time of his application, but not afterwards, to produce means of identification and may at the time of such application, but not afterwards, require such person to answer the following questions, or either of them, that is to say—

- (a) Are you the person registered in the Register as follows?..... (reading the entry in the register); and
- (b) Have you already voted at the present referendum at this or any other voting station?

(2) A voting paper shall not be delivered to any person who fails to comply, to the satisfaction of the Presiding Officer, with any requirement of such officer under subsection (1), and the Presiding Officer shall record on the list of persons refused voting papers the names and the Registration Numbers of all such persons.

(3) Save as is by this section authorised, no enquiry shall be permitted as to the right of any person to vote.

Voting procedure.

25. A voter on receiving a voting paper shall go immediately into one of the compartments in the voting station and shall there secretly cast his vote by placing the symbol “X” inside the box indicating the option of his choice, folding the voting paper so as to conceal his vote and shall then show to the Presiding Officer the folded voting paper so as to disclose the official mark and shall then place the voting paper so folded into the voting box in the presence of the Presiding Officer.

Identification marks on voting paper.

26. No voter shall place on the voting paper any writing or mark by which he may be identified.

Accidental destruction of voting paper.

27. A voter who has accidentally dealt with his voting paper in such manner that it cannot be conveniently used as a voting paper may on delivering it to the Presiding Officer and on satisfying the Presiding Officer that it has been spoilt by accident, obtain another in place thereof and the spoilt voting paper shall be immediately cancelled.

Votes marked by a Presiding Officer.

28.(1) A Presiding Officer, on the application of—

- (a) a voter who is unable by blindness or other physical cause to vote in the manner provided by this Part; or
- (b) a voter who declares orally that he is unable to read the voting paper,

shall cause the vote of the voter to be marked on the voting paper in the manner directed by the voter and the voting paper to be placed in the voting box.

(2) The name and Registration Number of every voter whose vote is marked in pursuance of this section and the reason why it is so marked, shall be entered on the list of votes marked by the Presiding Officer.

Blind and other voters assisted by companions.

29.(1) If a voter makes an application to a Presiding Officer to be allowed on the ground of blindness or other physical disability to vote with the assistance of another person by whom he is accompanied, the Presiding Officer shall grant the application if he is satisfied—

- (a) that the voter is unable to vote without assistance;
- (b) that the person accompanying the voter is himself entitled to vote at the referendum; and
- (c) by a written declaration made by the person accompanying the voter that such person has not previously assisted more than one other person to vote at the referendum.

(2) The name and Registration Number of every voter whose vote is cast in accordance with this section and the name and address of the companion shall be entered on the list of voters assisted by companions.

Personal attendance.

30. Save as otherwise provided in this Act, a vote may not be cast by a voter except by his attending in person at the voting station and casting his vote in accordance with this Part.

Appropriate voting station.

31. Save as otherwise provided by this Act, no person shall be permitted to vote except at the voting station appointed for that part of the Register in which his name appears.

Officer on duty to be released to cast vote where registered.

32. A Presiding Officer and a clerk carrying out duties in relation to the referendum shall be permitted to leave the voting station at which he is on duty in order to cast his vote at such time as the Presiding Officer considers to be reasonable and convenient.

Tendered voting papers.

33.(1) If a person representing himself to be a particular voter named in the Register applies for a voting paper after another person has voted as such voter, the applicant shall, on satisfactorily answering the questions set out in section 24, be entitled subject to the following provisions of this section, to mark a tendered voting paper in the same manner as any other voter.

(2) A tendered voting paper shall—

- (a) be of a colour differing from the other voting papers;
- (b) instead of being put into the voting box, be given to the Presiding Officer and endorsed by him with the name of the voter and his Registration Number and shall be set aside in a separate packet; and
- (c) shall not be counted by the Referendum Administrator.

(3) The name of the voter and his Registration Number shall be entered on the tendered votes list.

Exclusion of unauthorised persons and order at voting stations.

34. The Presiding Officer shall regulate the admission of voters to the voting station and exclude all other persons except the Referendum Administrator, Referendum Observers, Voting Agents, the Senior Presiding Officer, clerks, police officers on duty and any other person who has lawful reason to be admitted and such other persons as the Referendum Administrator may

specifically authorise and subject to such conditions as he may impose, and the Presiding Officer shall keep order and ensure compliance with this Act at the voting station.

Removal of persons misconducting themselves.

35.(1) If any person misconducts himself at a voting station or fails to obey any lawful order of the Presiding Officer, he may by request of the Presiding Officer be removed from the voting station by a police officer.

(2) A person so removed shall not without the permission of the Presiding Officer again enter the voting station during Referendum Day.

Interruption of referendum.

36.(1) If the proceedings at any voting station are interrupted or obstructed by riot or open violence, the Presiding Officer shall forthwith inform the Referendum Administrator who may adjourn the proceedings until later in the day or until the following day after taking such precautions as are necessary to safeguard the voting boxes and voting papers and other requisites.

(2) If the voting is adjourned at any voting station to the following day, the hours of voting shall be the same as for the original day and reference in this Part to the closing of the voting shall be construed accordingly.

Closing of voting station.

37. When the prescribed hour for the closing of the voting has been reached the Presiding Officer shall declare that no more persons shall be admitted to the voting station and thereafter only the persons already inside the voting station shall be permitted to vote.

Methods of dealing with voting boxes and voting papers.

38.(1) As soon as practicable after the termination of voting the Presiding Officer shall, in the presence of any Referendum Observer or any Voting Agent in attendance, seal the voting boxes so as to prevent the introduction of additional voting papers and make up into separate packets sealed with his own seal and marked for identification:

- (a) the marked copies of the Register;

- (b) the counterfoils of the used voting papers;
- (c) the tendered voting papers;
- (d) the unused and spoilt voting papers placed together; and
- (e) the lists account which shall be comprised of the list of votes marked by the Presiding Officer; the list of voters assisted by companions; the tendered votes list; the absentee list, the postal voters list and the declaration made by the companions of voters,

and shall deliver the packets and voting boxes to the Referendum Administrator to be taken charge of by him.

(2) The packets shall be accompanied by the voting paper accounts prepared by the Presiding Officer showing the number of voting papers entrusted to him, and accounting for them under the heads of—

- (a) voting papers in the voting boxes;
- (b) the number of unused and spoilt voting papers; and
- (c) the number of tendered voting papers.

(3) After the voting papers account has been made up and before the packet is sealed for delivery to the Referendum Administrator a Voting Agent may verify the voting papers account and a Voting Agent by whom such verification is made shall sign his name on the voting papers account.

Part 6 *Absentee Voting*

Request to be an absentee voter.

39.(1) Notwithstanding any other provision of this Act, where not later than 6 days before Referendum Day, a voter so requests and satisfies the Referendum Administrator—

- (a) by the production of a medical certificate by a duly qualified medical practitioner that by reason of physical infirmity; or

- (b) by the production of a certificate from the Superintendent of Prison that by reason of incarceration;

he will be unable to leave his place of abode to go to a voting station on Referendum Day, that voter may in accordance with this section, during the hours of voting, vote at his place of abode instead of voting at a voting station.

(2) In this section 'place of abode' means any hospital, home, prison, institution, or similar place where a voter for the time being resides as a patient or an inmate.

(3) A request under this section and the relevant certificate in support of that request shall be as in Form H or I in the Schedule as the case may be.

Absentee list.

40. The Referendum Administrator shall publish, not later than 2 days before Referendum Day a list of the name and Registration Number of every voter who is entitled to vote under this Part.

Absentee voting.

41.(1) The Referendum Administrator shall appoint one or more Presiding Officers and such clerks as may be necessary for the purposes of this Part.

(2) The Referendum Administrator shall also appoint 2 persons to accompany every Presiding Officer appointed under subsection (1) in the exercise of his functions under this Part.

(3) On Referendum Day within the hours of voting, each Presiding Officer appointed for the purposes of this Part shall attend at the place of abode of every voter whose name appears on the absentee list or, where more than one Presiding Officer is so appointed, at the place of abode of such of those voters as the Referendum Administrator may allocate to him, in order to receive the vote of that voter or voters.

(4) The Presiding Officer shall not be obliged to remain to receive a vote where, on attending the place of abode of a voter on the absentee list, he is satisfied on reasonable grounds that the voter is not able to vote.

(5) The referendum shall not be invalid by reason of the inability of a Presiding Officer to attend at the place of abode of a voter on the absentee list within the time specified hours of voting.

(6) From the time that each Presiding Officer leaves the office of the Referendum Administrator to attend at the places of abode of voters on the absentee list until the time that he returns to the office of the Referendum Administrator he shall—

- (a) retain in his view and custody the voting box provided to him;
- (b) cause the aperture of the voting box to be kept covered at all times except when the voting paper of any such voter is being introduced; and
- (c) be accompanied by his clerks, a police officer, Voting Agents, and not more than two Referendum Observers who may wish to attend.

(7) No other person may accompany a Presiding Officer appointed for the purposes of this Part when he is attending at the place of abode of a voter on the absentee list or receiving such a vote:

Provided that the companion of a blind voter may be present in accordance with this Act when that voter votes.

(8) It shall be the function of every Referendum Observer and Voting Agent, who accompanies a Presiding Officer under this section to the places of abode of voters on the absentee list to observe that the requirements of this Act are complied with impartially, but no Referendum Observer shall speak to such a voter concerning the exercise of that voter's right to vote.

(9) Section 25 shall not apply to a vote under this Part but every absentee voter shall be allowed to mark his voting paper in secrecy, or with such secrecy as the circumstances reasonably permit, and shall then fold up the voting paper, show to the Presiding Officer the folded voting paper so as to disclose the official mark, and put the voting paper so folded into the voting box in the presence of the Presiding Officer.

Completion of absentee voting.

42.(1) Each Presiding Officer appointed for the purposes of this Part, with his clerks, police officer, and Referendum Observers (if any), shall proceed

as expeditiously as possible in taking votes under this section and shall thereafter return directly to the office of the Referendum Administrator where he shall comply with the requirements of section 38 in the presence of the persons so accompanying him.

(2) Any Voting Agent may be present for the taking of votes under subsection (1) and in the office of the Referendum Administrator when a Presiding Officer appointed for the purposes of this Part is complying with section 38.

(3) No voter whose name appears on the absentee list may vote in the referendum otherwise than at his place of abode and under this Part.

Part 7
Postal Voting

Postal voters list.

43.(1) Notwithstanding any other provision of this Act, a voter who, owing to his temporary absence from Gibraltar, is unable or likely to be unable to go in person to the voting station on Referendum Day, may apply to the Referendum Administrator to be registered in the postal voters list.

(2) Subject to the provisions of this Part, the Referendum Administrator shall prepare and publish a list of postal voters list for the referendum by making a copy thereof available for inspection at his office.

(3) Not later than 28 days before Referendum Day, the Referendum Administrator shall publish a notice in one or more newspapers, and by such other means of publication as he may consider appropriate, inviting applications from voters seeking registration as postal voters.

(4) Every application to be registered as a postal voter shall be made as in Form J in the Schedule.

(5) The Referendum Administrator shall reject every application for registration received by him after 12 o'clock midday 10 days before Referendum Day.

(6) Where the Referendum Administrator rejects an application, he shall inform the applicant in writing of the fact and his reasons for doing so.

(7) Where the Referendum Administrator grants an application, he shall issue a postal voting paper to the applicant by sending the postal voting paper by post addressed to the applicant at the address specified in the application.

Issue of postal voting papers.

44.(1) No person other than—

- (a) the Referendum Administrator and his staff;
- (b) any Referendum Observers; and
- (c) Voting Agents,

shall be present at the issue of postal voting papers unless so permitted by the Referendum Administrator.

- (2)(a) Each postal voting paper issued shall be stamped or punched with an official secret mark (which shall be different to that on the voting paper issued to other voters) and the name and Registration Number of the voter shall be called out and a mark shall be placed in the postal voters list against the Registration Number of the voter to denote that a postal voting paper has been issued to the postal voter but without showing the particular postal voting paper issued;
- (b) the number of the postal voting paper shall be marked on the declaration of identity and the envelope sent with that postal voting paper;
- (c) the declaration of identity shall be as in Form K in the Schedule;
- (d) the Referendum Administrator shall, in addition to the voting paper, declaration of identity and the covering envelopes marked 'B' for their return, send a smaller voting paper envelope marked as such, bearing the number of the postal voting paper and marked 'A';
- (e) envelopes addressed to postal voters shall be counted and forthwith delivered by the Referendum Administrator to the Post Office who shall date and stamp with the post office seal

a form of receipt to be presented to the Referendum Administrator stating the number of envelopes so delivered and shall immediately forward such envelopes by mail for delivery to the persons to whom they are addressed;

- (f) the Referendum Administrator, as soon as practicable after the completion of the issue of the postal voting papers, and in the presence of those Referendum Observers and Voting Agents who wish to be present, shall make up in separate packets—
 - (i) the marked copy of the postal voters list; and
 - (ii) the counterfoils of those postal voting papers which were issued,and shall seal such packets;
- (g) the sealed packet containing the marked copy of the postal voters list may be opened by the Referendum Administrator for the purposes of a subsequent issue, and on completion of that issue the copy shall be again made up and sealed in accordance with the last foregoing subsection.

Action to be taken by postal voter.

45.(1) Each postal voter shall receive—

- (a) one postal voting paper;
- (b) one declaration of identity;
- (c) one voting paper envelope; and
- (d) two covering envelopes.

(2) The postal voter, on receipt of the documents, shall—

- (a) sign the declaration of identity in the presence of a person known to him;
- (b) secretly mark the postal voting paper with the symbol ‘X’ inside the box underneath the option for which he is voting;

- (c) put the postal voting paper in the voting paper envelope and seal it;
- (d) put the voting paper envelope and the declaration of identity in the covering envelope of his choice and seal it; and
- (e) return it in accordance with the procedure in section 45.

(3) Where a postal voter receives by mistake more than one postal voting paper he shall return only one.

Receipt of postal votes.

46.(1) One of the two covering envelopes shall bear the address of the Gibraltar Government London Office and the other the address of the Referendum Administrator in Gibraltar to offer the postal voter a choice for the return of his postal voting paper.

(2) On receipt of a covering envelope it shall be placed unopened in a sealed Postal Voter's Box.

(3) Notwithstanding any other provision of this Act, any covering envelope received at the Gibraltar Government London Office after 12 o'clock midday on the day before Referendum Day shall not be placed in the Postal Voter's Box and the postal voting paper therein shall not be counted.

(4) Arrangements shall forthwith be made to convey the Postal Voter's Box at the Gibraltar Government London Office, by a person appointed by the Referendum Administrator for the purpose, to Gibraltar in time for the counting of votes.

Late envelopes.

47. When any covering envelopes are received by the Gibraltar Government London Office after 12 o'clock midday on the day before Referendum Day, they shall be put unopened into a separate packet, sealed up and forwarded to the Referendum Administrator.

Voting only by post.

48. No postal voter shall be eligible to vote at any voting station or by any means otherwise than by post and pursuant to the provisions of this Part.

PART 8
The Count

Counting agents.

49.(1) Not later than 10 days before Referendum Day,–

- (a) any political party with representation in the Gibraltar Parliament shall be entitled to nominate persons as counting agents; and
- (b) any other political party or officially recognised referendum campaign organisation in Gibraltar may apply in writing to the Referendum Administrator to appoint not more than two counting agents nominated by them;

to attend at the counting of the votes.

(2) Notice in writing of the appointment of counting agents stating their names and addresses shall be given by the Referendum Administrator to the relevant political party or to the officially recognised referendum campaign organisation.

Counting of votes.

50.(1) The Referendum Administrator shall make arrangements for counting the votes at a place to be determined by him in the presence of the Referendum Observers and the counting agents who wish to be present as soon as practicable after the termination of the voting and shall proceed continuously with the counting.

(2) Except with the consent of the Referendum Administrator who shall have sole charge of the counting, no person other than the Referendum Observers, Senior Counting Officer, counting clerks and counting agents shall be present at the counting of the votes.

Counting of voting papers.

51. The Referendum Administrator, shall, in the presence of any Referendum Observers and counting agents who wish to be present, open each voting box one by one; he shall then proceed, assisted by the Senior Counting Officer and by the counting clerks, to count the voting papers in each voting box.

Verification of voting paper accounts.

52.(1) At the conclusion of the counting of the voting papers the Referendum Administrator shall proceed, in the presence of any Referendum Observers and counting agents who wish to be present, to verify each voting paper account given by the Presiding Officers by comparing such accounts with the total number of voting papers recorded by him and the unused and spoilt voting papers delivered to him, and shall draw up a statement as to the result of the verification which any counting agent may copy.

(2) After examination the Referendum Administrator shall re-seal the packets containing the unused and spoilt voting papers.

(3) He shall not open the sealed packets of tendered voting papers or the sealed packets containing the marked copies of the Register or the sealed packets containing the counterfoils of the used voting papers.

Rejected voting papers.

53.(1) Any voting paper—

- (a) which does not bear the official mark;
- (b) on which anything is written or marked by which the voter can be identified;
- (c) which is unmarked; or
- (d) which is marked otherwise than by means of the symbol 'X' in one of the spaces opposite one of the alternative options, or which is otherwise void for uncertainty,

shall, subject to the provisions of this section, be void and shall not be counted.

(2) Notwithstanding any of the provisions of this Act, a voting paper on which—

- (a) a vote is marked elsewhere than in the proper place;
- (b) a vote is marked by more than one mark; or

(c) a vote is marked otherwise than by means of the symbol 'X';

shall not by reason thereof be deemed void (either wholly or as respects any vote) if an intention that the vote shall be for one or other of the alternative options clearly appears and the way the paper is marked does not of itself identify the voter and it is not clear that he can be identified thereby.

(3) The Referendum Administrator shall endorse the word 'Rejected' on any voting paper which under this section is not to be counted and shall add to the endorsement the words 'Rejection objected to' if an objection is made to such decision by a counting agent.

Counting of postal voting papers.

54.(1) The postal voters boxes shall be opened by the Referendum Administrator in the presence of the counting agents at the counting of the votes.

(2) When the postal voters boxes have been opened, the Referendum Administrator shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(3) Where a covering envelope does not contain both a declaration of identity and either a voting paper envelope or, there being no voting paper envelope, a voting paper, the Referendum Administrator shall mark the covering envelope 'Rejected', attach thereto the contents (if any) of the covering envelope and place in the receptacle for votes rejected; and if the covering envelope does not contain the declaration of identity separately, the Referendum Administrator shall open the voting paper envelope to ascertain if the declaration of identity is inside the voting paper envelope.

(4) On opening a covering envelope, other than one to which subsection (3) applies, the Referendum Administrator shall satisfy himself that the declaration of identity has been duly signed and authenticated and, if he is not so satisfied, he shall mark the declaration of identity 'Rejected', attach thereto the voting paper envelope or, if there is no such envelope, the voting paper, and place it in the receptacle for votes rejected:

Provided that before so doing he shall show the declaration of identity to the counting agents and, if any objection is made by any counting agent to his decision, he shall add the words 'Rejection objected to'.

(5) Where the number on the declaration of identity agrees with the number on the voting paper envelope, the Referendum Administrator shall place the declaration of identity in receptacle for declaration of identity and the voting paper envelope in the receptacle for voting paper envelopes.

(6) Where there is no voting paper envelope or the voting paper envelope has been opened under subsection (3) of this section, the Referendum Administrator shall—

- (a) where the number on the declaration of identity agrees with the number on the voting paper, place the declaration of identity in the receptacle for declarations of identity and the voting paper in an envelope which shall then be sealed and placed in the receptacle for voting paper envelopes; and
- (b) where the number on the declaration of identity does not agree with the number on the voting paper, mark the declaration of identity 'Rejected', attach thereto the voting paper and place it in the receptacle for votes rejected.

(7) Where the number on the declaration of identity does not agree with the number on the voting paper envelope or the voting paper envelope has no number on it, he shall open the voting paper envelope and shall—

- (a) where the number on the declaration of identity agrees with the number on the voting paper, place the declaration of identity in the receptacle for declarations of identity and the voting paper in an envelope which shall then be sealed and placed in the receptacle for voting paper envelopes; and
- (b) where the number on the declaration of identity does not agree with the number on the postal voting paper or there is no postal voting paper, mark the declaration of identity 'Rejected', attach thereto the postal voting paper (if any) and place it in the receptacle for votes rejected.

(8) Except for the purposes of ascertaining under subsection (3) of this section whether a voting paper envelope contains a declaration of identity or under subsection (6) of this section whether the number on the declaration of identity agrees with the number on the voting paper, the Referendum Administrator shall not open the voting paper envelope before they are opened under section 55.

(9) On the conclusion of the proceedings, the Referendum Administrator shall put the contents of the receptacle for votes rejected and the contents of the receptacle for declarations of identity into two separate packets and shall seal up such packets.

Counting of postal votes.

55.(1) After sealing up the said packets, the Referendum Administrator shall open separately each voting paper envelope placed in the receptacle for voting paper envelopes.

(2) Where the number on the voting paper envelope agrees with the number on the voting paper contained therein, he shall place the voting paper in the receptacle for voting papers.

(3) Where the number on the voting paper envelope does not agree with the number on the voting paper contained therein he shall mark the voting paper 'Rejected' and attach the voting paper envelope thereto.

(4) He shall put into a separate packet the voting paper envelopes and the voting papers marked 'Rejected' under the provisions of this section and shall seal up such packet.

Spoilt postal voting papers.

56.(1) Where a postal voting paper has been dealt with in such manner that it cannot be used as a voting paper, the spoilt postal voting paper, the declaration of identity and voting paper envelope shall be immediately cancelled.

(2) The Referendum Administrator, as soon as practicable after cancelling the said documents, shall make up the said documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as aforesaid the sealed packet shall be opened and the additional cancelled documents included therein and the packet shall thereupon be again made up and sealed.

The count.

57. The Referendum Administrator at the conclusion of the counting of the votes shall record the total number of votes cast in favour of each option.

Re-count.

58. A counting agent may, if present when the counting or any recounting of the votes is concluded, require the Referendum Administrator to have the votes recounted or again recounted but the Referendum Administrator shall have power to refuse to do so if, in his opinion, the request is unreasonable.

Declaration of result.

59.(1) When the result of the voting has been ascertained, the Referendum Administrator shall—

- (a) forthwith declare at the place of counting the number of votes cast in favour of each option; and
- (b) report the result of the voting to the Government.

(2) The Referendum Administrator shall as soon as possible publish in the Gazette the result of the referendum and the number of votes cast in favour of each option.

Report of referendum.

60.(1) Within 3 weeks of the referendum, the Referendum Administrator shall draw up a full report on the organisation, conduct and results thereof.

(2) The report shall state—

- (a) the number of ‘Yes’ votes;
- (b) the number of ‘No’ votes;
- (c) the number of voting papers and postal voting papers marked ‘Rejected’, which of those were objected to;
- (d) the voting paper accounts; and
- (e) the lists account compiled pursuant to section 38(1)(e).

(3) The Referendum Administrator shall certify the report and attach to the certified report the original Order for Referendum and send it to the Minister

who shall lay such report on the table of the Gibraltar Parliament at its next meeting following presentation thereof.

PART 9
Offences

Referendum Officers and Referendum Observers to observe secrecy.

61.(1) A person who is, or has been, a Referendum Officer or a Referendum Observer shall not, except for the purposes of Part 5, either directly or indirectly, divulge or communicate any information with respect to the vote of a voter at a referendum acquired by the person in the performance of functions or in the exercise of powers under this Act in a manner that is likely to enable the identification of the voter.

(2) A person who contravenes subsection (1) is guilty of an offence.

Officers not to contravene Act etc.

62. A person who, being a Referendum Officer, contravenes—

- (a) a provision of this Act for which no other penalty is provided;
or
- (b) a direction given to him under this Act;

is guilty of an offence.

Officers not to influence vote.

63. A person who, being a Referendum Officer, does any act or thing with the intention of influencing the vote of another person at a referendum, is guilty of an offence.

Influencing votes of hospital patients etc.

64.(1) A person who is the proprietor of, or an employee of the proprietor of, a hospital or nursing home shall not do anything with the intention of influencing the vote of a patient in, or resident at, the hospital or nursing home.

(2) The reference in subsection (1) to the proprietor of a hospital or nursing home includes a reference to a person who is a member or officer of a body corporate that is the proprietor of a hospital or nursing home.

(3) No prison officer shall do anything with the intention of influencing the vote of an inmate in a prison.

Bribery.

65.(1) The following persons shall be deemed guilty of bribery within the meaning of this Act—

- (a) any person who directly or indirectly by himself or by any other person on his behalf gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote for or refrain from voting, or corruptly does any such act on account of such voter having voted or refrained from voting at any referendum;
- (b) any person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at any referendum;
- (c) any person who directly or indirectly by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavour to procure, the vote of any elector at any referendum;
- (d) any person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or engages, promises or endeavours to procure the vote of any voter at any referendum;

- (e) any person who advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any referendum, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any referendum;
- (f) any voter who before or during any referendum, directly or indirectly, by himself, or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any referendum; and
- (g) any person who, after any referendum, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any referendum.

(2) This section does not apply in relation to a declaration of public policy or a promise of public action.

Interference with political liberty.

66.(1) A person shall not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to a referendum under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence.

Printing and publication of advertisements, notices etc.

67.(1) A person shall not print, publish or distribute or cause, permit or authorize to be printed, published or distributed any advertisement, handbill, pamphlet or notice relating to a Referendum and intended or calculated to affect the result of the Referendum unless—

- (a) the name and address of the person who authorized the advertisement, handbill, pamphlet or notice appears at the end thereof; and
- (b) in the case of an advertisement, handbill, pamphlet or notice that is printed otherwise than in a newspaper the name and place of business of the printer appears at the end thereof.

(2) A person must not produce, publish or distribute or cause, permit or authorise to be produced, published or distributed a video recording relating to a Referendum and intended or calculated to affect the result of the referendum unless the name and address of the person who authorised the video recording appears at the end of it.

(3) Subject to subsection (4), a person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an advertisement relating to a referendum and intended or calculated to affect the result of the referendum that takes up the whole or part of each of 2 opposing pages of a newspaper unless, in addition to fulfilling the requirement under subsection (1)(a) that the name and address of the person who authorised the advertisement appear at the end of it, such name and address also appears on the other page, or the part of the other page, taken up by the advertisement.

(4) Subsection (3) does not apply to an advertisement of the kind referred to in that subsection—

- (a) that is contained within—
 - (i) a broken or unbroken border; or
 - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
 - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
- (b) that is printed so that to read one or more lines of the text of the advertisement it is necessary to read across both pages.

(5) A person who contravenes subsection (1), (2) or (3) is guilty of an offence.

(6) Subsection (1) does not apply in relation to–

- (a) a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
- (b) an article included in a class of articles prescribed by the Minister.

(7) Nothing in subsection (6)(a) shall be taken, by implication, to limit the generality of regulations that may be made by virtue of subsection (6)(b).

Publication of advertisements on the internet.

68.(1) A person commits an offence if–

- (a) either–
 - (i) the person publishes an advertisement relating to a referendum on the internet; or
 - (ii) the person causes, permits or authorises an advertisement relating to a referendum to be published on the internet;
- (b) the advertisement is intended to affect voting in the referendum;
- (c) the advertisement is paid for by the person or another person; and
- (d) the name and address of the person who authorised the advertisement does not appear at the end of the advertisement.

(2) Subsection (1) does not apply if the matter published on the internet forms part of a general commentary on a website.

Misleading or deceptive publications etc.

69.(1) A person shall not, during the referendum period in relation to a Referendum, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive a voter in relation to the casting of a vote at the referendum.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) In a prosecution of a person for an offence under this section, it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the matter or thing was likely to mislead a voter in relation to the casting of a vote.

False statements in relation to the Register.

70. A person who, on Referendum Day, makes a statement to a voter, either orally or in writing, with respect to the registration of a voter that, to the knowledge of the first-mentioned person, is false or misleading in a material respect, is guilty of an offence.

Headings to advertisements.

71.(1) Subject to subsection (2), where an advertisement in a journal contains matter intended or calculated to affect the result of a Referendum (whether or not the advertisement was inserted for consideration) the proprietor of the journal must cause the word ‘advertisement’ (in letters not smaller than 10 point) to be printed as a headline to the advertisement—

- (a) if the advertisement takes up one page or part of one page—on that page; or
- (b) if the advertisement takes up the whole or part of each of 2 opposing pages—on each page.

(2) Where an advertisement of the kind referred to in subsection (1) that takes up the whole or part of each of 2 opposing pages of a journal—

- (a) is contained within:
 - (i) a broken or unbroken border;
 - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
 - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
- (b) is printed so that to read one or more lines of the text of the advertisement it is necessary to read both pages,

the proprietor of the journal must cause the word 'advertisement' to be printed as a headline in letters not smaller than 10 point to the advertisement on one of the pages.

(3) A person who contravenes the provisions of this section is guilty of an offence.

Cards in voting stations.

72.(1) Save as otherwise provided by this Act, a person shall not display or leave at a voting station a card or paper that contains a recommendation as to how a voter should vote at a referendum or as to the method of voting at a referendum.

(2) Subsection (1) does not apply to an instruction as to the method of voting at a referendum displayed at a voting station by a person authorised to display such an instruction.

(3) A person who contravenes the provisions of this section is guilty of an offence.

Marks on voting papers.

73.(1) Except as authorized by this Act, a person shall not make any mark on a voting paper that has been issued to another person.

(2) A person who contravenes subsection (1) is guilty of an offence.

Other offences relating to voting papers, etc.

74.(1) A person shall not—

- (a) impersonate another person with the intention of voting in that other person's name;
- (b) impersonate another person with the intention of securing a voting paper to which the first mentioned person is not entitled;
- (c) fraudulently do an act that results in the destruction or defacement of a voting paper or other document relating to a referendum;

- (d) fraudulently put any voting paper or other paper into a voting box;
- (e) fraudulently take any voting paper out of a voting station or a place where the count is being conducted;
- (f) supply voting papers without authority to do so under this Act or the regulations; or
- (g) do an act that results in the unlawful destruction of, taking of, opening of, or interference with, voting boxes or voting papers.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) A person is guilty of an offence if the person votes more than once in the same referendum.

(4) An offence under subsection (3) is an offence of strict liability.

(5) A person is guilty of an offence if the person—

- (a) does an act; and
- (b) the act results in the defacement, mutilation, destruction or removal of any notice, list or other document displayed in any place by, or with the authority of, an officer.

Badges or emblems at voting stations.

75.(1) A Referendum Officer who wears or displays in a voting station on the Referendum Day any badge or emblem in support of or in opposition to the question submitted to a referendum, is guilty of an offence.

(2) Strict liability applies to an offence against subsection (1).

Molestation.

76.(1) The Referendum Administrator may, by means of a red line marked on the ground, cause to be demarcated an area in the vicinity of any voting station, and it shall not be permitted during the hours of poll to solicit voters who are in such an area or to distribute leaflets or other papers to them or to

accost them with a view to such solicitation or distribution or otherwise to molest them.

(2) A person who, during the hours of poll whilst a voter is in an area demarcated in pursuance of subsection (1), solicits the voter or distributes leaflets or other papers to or accosts that voter with a view to such a solicitation or distribution or otherwise molests the voter is guilty of an offence.

Misconduct at public meeting.

77.(1) This section applies to any lawful public meeting held in relation to a referendum during the referendum period.

(2) Any person who, at any public meeting to which this section applies, acts in a disorderly manner with the intention of preventing the transaction of the business for which the meeting is held is guilty of an offence.

(3) The chairperson of a meeting to which this section applies—

- (a) may direct a person who, in the opinion of the chairperson, is preventing the transaction of the business for which the meeting is being held, to leave the place in which the meeting is being held; and
- (b) if the person fails or refuses to leave the place in which the meeting is being held, may direct a constable to remove the person from that place,

and the constable may thereupon take such steps as are necessary to remove the person.

(4) A person who—

- (a) has left a place in which a meeting to which this section applies is being held in accordance with a direction given under subsection (3)(a); or
- (b) has been removed from a place in which a meeting to which this section applies is being held in accordance with a direction given under subsection (3)(b),

shall not, without the permission of the chairperson of the meeting, return to that place while the meeting is still in progress.

Conduct at voting stations and other premises.

78.(1) A person shall not—

- (a) commit misconduct at a premises to which this section applies;
- (b) while in such premises, disobey a lawful direction given by the person in charge of the premises; or
- (c) enter or remain in such premises without the permission of the person in charge of the premises.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) In this section premises shall mean—

- (a) a voting station;
- (b) a place determined by the Referendum Administrator for the counting of votes under section 50; and
- (c) a place of abode under section 39.

(4) Subsection (1)(c) does not apply to—

- (a) a Referendum Officer;
- (b) a Referendum Observer who is entitled to be on the premises;
or
- (c) a voter who enters the voting station for the purpose of voting and remains no longer than is reasonably necessary for that purpose.

(5) The person in charge of premises—

- (a) in respect of a voting station is the Presiding Officer;

(b) in respect of a place determined by the Referendum Administrator for the counting of votes is the Referendum Administrator;

(c) in respect of a place of abode is the Presiding Officer:

(6) A person who contravenes subsection (1) may be removed from the premises by a police officer or by an authorised person.

(7) In this section authorised person means a person acting at the request of the person in charge of premises.

Penalties.

79.(1) Subject to subsection (2), a person who is convicted of an offence under this Act shall be liable, on summary conviction, to imprisonment for 6 months or to a fine not exceeding level 3 on the standard scale, or to both.

(2) Where a body corporate is convicted of an offence under this Act, it shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A corporate body shall be liable for an offence under this Act where that offence is committed for its benefit by a person, acting either individually or as part of an organ of the corporate body, who has a leading position within the corporate body.

(4) For the purposes of subsection (3), a leading position shall be deemed to exist where such a person has—

(a) a power of representation of the corporate body;

(b) an authority to take decisions on behalf of the corporate body;
or

(c) an authority to exercise control within the corporate body.

(5) Where a corporate body is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person referred to in subsection (3), or any person who was purporting to act in any such capacity, that person, as well as the corporate body, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a corporate body are managed by its members, subsection (5) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the corporate body.

(7) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(8) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of a partner he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

PART 10
Miscellaneous

Method of dealing with papers.

80.(1) Immediately after the declaration of the result the Referendum Administrator shall seal up in separate packets the counted and rejected voting papers and shall then arrange for the safe custody by the Registrar of the Supreme Court of all documents relating to the conduct of the referendum.

(2) All such documents shall be destroyed on a date to be notified by the Government which shall not be earlier than 12 months after Referendum Day.

Absence of observers not to invalidate proceedings.

81. Where in this Act any act or thing may be done in the presence of referendum observers, the non-attendance of all or any of such observers at the time and place appointed for the purpose shall not, if such act or thing is otherwise properly done, invalidate such act or thing.

Referendum Administrator's decision final.

82. The decision of the Referendum Administrator as to any matter arising in respect of any organisational, administrative or procedural matter or in respect of any voting paper shall be final.

Regulations.

83.(1) The Minister may by regulations prescribe such matters as appear to him to be reasonably necessary for, or supplementary or incidental to, this Act.

(2) Regulations under subsection (1) may—

- (a) amend any form in any Schedule to this Act;
- (b) make provision for the registration or recognition of campaign organisations;
- (c) regulate the financing of campaigns and matters incidental thereto;
- (d) provide for the participation in referenda by persons who are unable to attend and vote in person, and such regulation may, amend the application of any provision of this Act as it relates to such persons;
- (e) make provision such other provision as the Minister deems appropriate for the implementation or administration of this Act.

SCHEDULE

FORM A

Part 1

Referendum following introduction of Government Bill

ORDER FOR A REFERENDUM

To the Referendum Administrator

Following the adjournment of the [*insert name of the Bill*] and in accordance with section 4 of the Referendum Act 2015 you are ordered to submit the question herein to a referendum, in accordance with the provisions of the Act and this Order.

The Question:

.....[insert text...].....
.....
.....

I appoint the following dates:

1. For the close of the Register of Voters: the day of 20 .
2. For taking the votes of the electors: the day of 20 .
3. For the return of the Order for Referendum: the day of 20 .

Qualifying majority.

In accordance with section 4(1)(c) of the Referendum Act 2015, the referendum shall be declared in favour of the option which attains at least [insert figure] % of the votes.

[insert date]

[signed]
Chief Minister

* *Insert if applicable*

Part 2

Referendum following approval of Government Motion

ORDER FOR A REFERENDUM

To the Referendum Administrator

On [insert date.] the Gibraltar Parliament approved a Government Motion that a referendum be held on the basis of the below cited question. In accordance with section 4 of the Referendum Act 2015 you are ordered to submit the question herein to a referendum, in accordance with the provisions of the Act and this Order.

The Question:

.....[insert text of question approved in motion].....
.....

I appoint the following dates:

1. For the close of the Register of Voters: the day of 20 .
2. For taking the votes of the electors: the day of 20 .
3. For the return of the Order for Referendum: the day of 20 .

Qualifying majority.

In accordance with section 4(1)(c) of the Referendum Act 2015, the referendum shall be declared in favour of the option which attains at least [insert figure] % of the votes.

[insert date]

[signed]
Chief Minister

* Insert if applicable

FORM B

REFERENDUM ACT 2015

FORM OF DECLARATION OF SECRECY

1. I solemnly promise and declare that I will at this referendum:

(a) when attending at a voting station, maintain and aid in maintaining the secrecy of voting and I will not, except for some purpose authorised by law, communicate to any person before the voting has terminated any information as to-

(i) the name or Registration Number on the Register of any voter who has or has not applied for a voting paper or voted at a voting station; or

(ii) the official mark;

(b) when attending at the counting of the votes, maintain and aid in maintaining the secrecy of voting and I will not-

(i) ascertain or attempt to ascertain the number on the back of any voting paper; or

(ii) communicate any information obtained as to the options for which any votes are given on any particular voting paper.

2. I further solemnly promise and declare that I will not at this referendum-

(a) interfere or attempt to interfere with a voter when recording his vote;

(b) obtain or attempt to obtain in a voting station information as to the options for which a voter in that voting station is about to vote or has voted;

(c) communicate at any time to any person any information obtained in a voting station as to the option for which a voter in that voting station is about to vote or has voted, or as to the

number on the back of the voting paper given to a voter at that voting station; or

- (d) directly or indirectly induce a voter to display his voting paper after he has marked it so as to make known to any person the option for which he has or has not voted.

Name of declarant . Signed [*insert signature*]

Date

Declared before me

Signed
Justice of the Peace/ Referendum Administrator/Presiding Officer

FORM C

REFERENDUM ACT 2015

CLAIM FOR INCLUSION IN THE REGISTER OF VOTERS

Form No: _____

Full Name Of Claimant:	<input type="text"/>
Maiden Surname:	<input type="text"/>
Identity card Number:	<input type="text"/>
Date of Birth:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Place of Birth:	<input type="text"/>
Address:	<input type="text"/> <input type="text"/> <input type="text"/>
Contact Telephone:	<input type="text"/>

I declare that the information which appears on this form is correct to the best of my knowledge and belief.

Signed: Date: _____

Name and address
Of person applying
On behalf of the
Claimant

Relationship to the claimant

--

FORM D

REFERENDUM ACT 2015

**FORM OF OBJECTION TO INCLUSION IN
THE REGISTER OF VOTERS**

Form No: _____

Registered as:

Full Name Of Claimant:	<input type="text"/>
Date of Birth:	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Address:	<input type="text"/> <input type="text"/> <input type="text"/>
I hereby give you notice that I object to the entry of:	
<input type="text"/>	
as an voter (in accordance with the claim made in that behalf)	
The grounds of my objections are:	
<input type="text"/>	

I declare that the information which appears on this form is correct to the best of my knowledge and belief.

My contact telephone number is:

Signed:

Date:

Name and address
Of person claiming
exclusion

Relationship to the voter
(if any)

I am entered in the voters
list as follows†

† Here insert extract from electors list.

FORM E

REFERENDUM ACT 2015

AMENDMENTS TO THE REGISTER OF VOTERS

Form No: _____

Registered as:

Full Name Of Claimant:	<input type="text"/>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Date of Birth:	<input type="text"/>
Place of Birth:	<input type="text"/>
Address:	<input type="text"/>

Change of Particulars:

New Name:	<input type="text"/>
New Address:	<input type="text"/>
Other Amendments:	<input type="text"/>

I declare that the information which appears on this form is correct to the best of my knowledge and belief.

My contact telephone number is:

Signed:

Date:

Name and address
Of person applying on behalf of
voter

--

Relationship to the voter
(if any)

--

FORM F

HOW TO VOTE

1. The voter should see that the voting paper is marked with the official mark before it is handed to him.
2. The voter shall go into one of the compartments and, with the pen provided in the compartment, place the symbol 'X' inside the box underneath the alternative of his choice.
3. The voter will then fold up the voting paper so as to show the official mark on the back thereof and, on leaving the compartment, will, without showing the front of the voting paper to any person, show such official mark to the presiding officer and, in presence of the Presiding Officer, will then put the voting paper into the voting box, and will forthwith leave the voting station.
4. If the voter inadvertently spoils a voting paper he can return it to the Presiding Officer who will, if satisfied of such inadvertence, give him another voting paper.
5. If the voter places any mark on the voting paper by which he may afterwards be identified, his voting paper will be void, and it will not be counted.

FORM G

REFERENDUM ACT 2015

**VOTING PAPER FOR THE REFERENDUM OF [DATE] ON [TITLE
OF REFERENDUM]**

QUESTION

[... insert the Question–

- (a) as set out in the Order made pursuant to section 4(1)(b); or
- (b) as set out in the Government Motion...]

YES

NO

FORM H

REFERENDUM ACT 2015

APPLICATION TO VOTE AS AN ABSENTEE VOTER

To: The Referendum Administrator, Gibraltar

I, (full name).....
of (full postal address in Gibraltar).....
.....
Date of birth.....
being a registered voter with Registration
Number..... on the Register of Voters hereby
apply to vote at the referendum on (date).....
at the following
address.....
.....

The ground for my application is that I am unable by reason of physical
infirmity to leave my place of abode to go to a voting station on that day.

Appended hereto is a medical certificate signed by a duly qualified medical
practitioner in support of my application.

Date this..... day of 2.....

Signature.....

Name of Witness.....

Address of Witness.....

I,.....of
..... being a duly qualified
medical practitioner, hereby certify that by reason of physical infirmity, the

above named will be
unable to leave his/her place of abode to go to a voting station on
Referendum Day.

Signed: Date:

FORM I

REFERENDUM ACT 2015

APPLICATION TO VOTE AS AN ABSENTEE VOTER

To: The Referendum Administrator, Gibraltar

I, (full name)..... of
(full postal address in Gibraltar).....Date of
birth..... being a registered
voter with Registration Number..... on the
Register of Voters hereby apply to vote at the referendum on
(date).....At the following address.....
.....
.....

The ground for my application is that I am unable by reason of incarceration to leave my place of abode to go to a voting station on that day.

Appended hereto is a certificate signed by the Superintendent of Prison in support of my application.

Signed: Date:

Name of Witness.....

Address of Witness.....

I,
.....

..... being the Superintendent of Prison, hereby certify
that by reason of incarceration, the above named
..... will be unable to leave
his/her place of abode to go to a voting station on Referendum Day.

Signed: Date:

FORM J

REFERENDUM ACT 2015

APPLICATION TO VOTE AS A POSTAL VOTER

To: The Referendum Administrator, Gibraltar

I, (full name)..... of (full postal address in
Gibraltar).....

Date of birth.....

hereby apply to be treated as a postal voter at the referendum on
(date)..... On the ground that I am unable to
attend the voting station allotted to me on Referendum Day owing to my
temporary absence from Gibraltar.

Address to which voting paper is to be
sent.....

.....
.....
.....
.....
.....

Name and Address of relative resident in Gibraltar who may be contacted if
further details are required.

Name.....

Address.....

Telephone.....

Relationship to Applicant.....

.....

Signed:

Date:

FORM K

REFERENDUM ACT 2015

DECLARATION OF IDENTITY

Voting paper No.....

I (Full Name BLOCK LETTERS).....

Hereby declare that I am the person to whom the voting paper numbered as above was sent.

Voter's signature.....

The voter, who is personally known to me, has signed (or marked) this declaration in my presence.

Witness' Signature.....

INSTRUCTIONS TO THE VOTER

1. You must sign the declaration of identity in the presence of a person known to you.
2. Place the symbol 'X' inside the box underneath the option for which you wish to vote. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you voted.
3. Put the voting paper inside the small envelope marked 'A' and seal it. Then put the envelope marked 'A', together with this declaration of identity, inside one of the larger envelopes marked 'B' with the address of the Office

to where you wish to send your voting paper. Please note that the envelope addressed to the office in London required a postage stamp to be affixed. Please post it without delay.

4. At this referendum you cannot vote in person at a voting station.

EXPLANATORY MEMORANDUM

This Bill makes provision for the holding of referenda in Gibraltar.

A referendum is called by the making of an Order by the Minister either after the second reading of a Government Bill or once Parliament has approved a Government motion.

The Order appoints, inter alia, the date of the referendum, the question to be put and the percentage of votes required for the result to be considered a winning result.

The minimum age for voting at a referendum may be changed to such age as is provided for by a Legal Notice published in the Gazette.

The eligibility criteria for persons who are entitled to vote in a referendum and the ensuing Parts 4 to 8 of the Bill sets out the administrative arrangements for the holding of referenda and are modelled on the arrangements that are applied in general elections, including registration provisions, the appointment of voting stations, ballots and ballot boxes, absentee and postal voting, in addition to arrangements for the count.

Part 9 of the Bill provides for offences whilst Part 10 contains miscellaneous provisions.

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