

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4849 GIBRALTAR Thursday 6th May 2021

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B. 09/21

## BILL

FOR

**AN ACT** to amend the provisions of the Referendum Act 2015 to provide for the making of regulations for voting at referendums and the procedure to be followed in connection therewith.

**ENACTED** by the Legislature of Gibraltar.

### **Title.**

1. This Act may be cited as the Referendum (Amendment) Act 2021.

### **Commencement.**

2. This Act comes into operation on the day of publication.

### **Amendment of the Act.**

3.(1) The Referendum Act 2015 is amended in accordance with the provisions of this section.

(2) Section 2 is deleted in its entirety and the following new section shall be inserted in substitution therefor:-

“2. In this Act, unless the context otherwise requires:-

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

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

“Minister” means the Chief Minister;

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

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

“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 section 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 for the purposes of the referendum;

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

“voting station” means a place appointed by the Referendum Administrator for each part of the Register.”.

(3) Section 8(2) is amended by the insertion of the words “or under any regulations made under section 83 of this Act” immediately after the words “in this Act”.

(4) Section 9(1) is amended by the deletion of the words “in Part 5” that appear therein and the insertion of the words “by the Referendum (Voting) Regulations 2021” in substitution therefor.

(5) Parts 4, 5, 6, 6A, 7 and 8 containing sections 10 to 60 inclusive are deleted in their entirety.

(6) The following new section shall be inserted immediately after section 9:-

“10.(1) In the event of an emergency as defined by section 10 of the Civil Contingencies Act 2007 being declared the Minister may by Notice in the Gazette suspend all or any of the provisions in any regulations made pursuant to section 83 of this Act.

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

(7) The following new Part and section shall be inserted immediately after section 10:-

**“PART 4**

*Report*

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

(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” and which of those were objected to;
- (d) the number of voting papers entrusted to the Presiding Officer which number shall be divided into the heads of:-
  - (i) voting papers in the voting boxes;
  - (ii) the number of unused and spoilt voting papers; and
  - (iii) the number of tendered voting papers; and
- (e) the list showing:-
  - (i) the number of votes marked by the Presiding Officer;
  - (ii) the number of voters assisted by companions;
  - (iii) the tendered votes;
  - (iv) the number of persons on the absentee list;
  - (v) the number of persons on the proxy list;
  - (vi) the number of persons on the postal voters list;  
and
  - (vii) the number of declarations made by the companions of voters.

(3) The Referendum Administrator shall certify the report and attach to the certified report a true photocopy of the original Order for Referendum and send it to the Minister who shall lay such report on the table of the Parliament at its next meeting following presentation thereof.”

(8) Section 61(1) shall be amended by:-

- (a) the deletion of the words “for the purposes of Part 5” that appear therein and the insertion of the words “as permitted by this Act or any subsidiary legislation made under section 83 of this Act” in substitution thereof; and
- (b) the insertion of the words “or any subsidiary legislation made under section 83 of this Act” immediately after the words “under this Act”.

(9) Section 62 is amended in paragraph (a) by the insertion of the words “or of any subsidiary legislation made under section 83 of this Act” immediately after the words “of this Act”.

(10) Section 65 is amended by the insertion of the words “or of any subsidiary legislation made under section 83 of this Act” immediately after the words “of this Act”.

(11) Section 66(1) is amended by the deletion of the words “under this Act”.

(12) The following new section is inserted immediately after section 70:-

“70A.(1) If a person:-

- (a) in any declaration or form used for any of the purposes of this Act or any subsidiary legislation made pursuant to section 83 of this Act, makes a statement knowing it to be false; or
- (b) provides false information in connection with an application made for the purposes of this Act or any subsidiary legislation made pursuant to section 83 of this Act;

that person commits an offence.

(2) In relation to a signature, “false information” for the purposes of subsection (1), means a signature which:-

- (a) is not the usual signature of; or
- (b) was written by a person other than;

the person whose signature it purports to be.”.

(13) Section 72(1) is amended by the insertion of the words “or by any subsidiary legislation made under section 83 of this Act” immediately after the words “by this Act”.

(14) Section 73(1) is amended by the insertion of the words “or by any subsidiary legislation made under section 83 of this Act” immediately after the words “by this Act”.

(15) Section 77(2) is amended by the deletion of the words “to which this section applies”.

(16) Section 78 is amended in the following manner:-

- (a) paragraph (b) of sub-section (3) is amended by the deletion of the words “under section 50”; and
- (b) paragraph (c) of sub-section (3) is amended by the deletion of the words “under section 39” and the insertion of the words “being a hospital, home, prison, institution or similar place recognised by the Referendum Administrator as being the place where a voter for the time being resides as a patient or an inmate” in substitution thereof.

(17) Section 79 is amended in the following manner:-

- (a) sub-section (1) is amended by the insertion of the words “or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty” immediately after the words “under this Act”;
- (b) sub-section (2) is amended by the insertion of the words “or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty” immediately after the words “under this Act”;
- (c) sub-section (3) is amended by the insertion of the words “or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty” immediately after the words “under this Act”;
- (d) sub-section (5) is amended by the insertion of the words “or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty” immediately after the words “under this Act”; and
- (e) sub-section (8) is amended by the insertion of the words “or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty” immediately after the words “under this Act”.

(18) Section 81 is amended by the insertion of the words “or any subsidiary legislation made in accordance with section 83 of this Act” immediately after the words “Where in this Act”.

(19) Section 83(2) is amended by the deletion of paragraphs (d) and (e) and the insertion of the following paragraphs immediately after paragraph (c):-

- “(d) enable voters entitled to vote at a referendum to vote by post or by proxy and prescribing the procedure and forms to enable them to do so;
- (e) enable voters entitled to vote at a referendum who, after the date for registration as a proxy voter closes, are for specific prescribed reasons unable to vote at a voting station on Referendum Day;
- (f) regulate the procedure for the registration of voters and the conduct of the referendum;

- (g) prescribe the forms to be used for the purposes of a referendum;
- (h) prescribe the fees to be paid or charged in respect of any matter or thing to be done in connection with a referendum;
- (i) prescribe the period during which every employer shall permit his employees to be absent from work for the purposes of enabling them to vote; and
- (j) generally for carrying into effect the provisions of this Act.”.

(20) Section 83 is further amended by inserting immediately after subsection (2) the following new subsections:-

- “(3) Regulations and rules made by the exercise of powers contained in this section shall be laid upon the table of Parliament.
- (4) Section 23(b) of the Interpretation and General Clauses Act shall not apply to any penalty imposed in any regulations made under sub-section (1).”

(21) The Schedule is amended by the deletion of Form C, Form D, Form E, Form F, Form H, Form I, Form J, Form K, Form L, Form M and Form N.

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### **EXPLANATORY MEMORANDUM**

The purpose of this Bill is firstly to remove from the Act all provisions regulating the procedure for the registration of voters, enabling voters to vote in person or by post or by proxy, establishing the various forms to be used by persons and generally for all practical matters relating to the organisation, administration and conduct of referendums, secondly giving the Chief Minister the power to make regulations governing all such matters and thirdly providing for extended postal and proxy voting.

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