



**REPORT TO THE GIBRALTAR  
PARLIAMENT ON THE CONDUCT OF  
THE REFERENDUM HELD ON 24<sup>TH</sup> JUNE  
2021 ON WHETHER THE CRIMES  
(AMENDMENT) ACT 2019, THAT  
DEFINES THE CIRCUMSTANCES WHICH  
WOULD ALLOW ABORTION IN  
GIBRALTAR, COME INTO FORCE**



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The Hon F R Picardo QC MP  
Chief Minister  
No 6 Convent Place  
Gibraltar

28 June 2021

Dear Chief Minister

**RE: REFERENDUM ACT - 2015**

Section 11 of the Referendum Act requires me to draw up a full report on the organisation, conduct and results of any referendum that is held under the Act.

Therefore, in accordance with the requirements of the Act, I am attaching my report on the organisation, conduct and results of the referendum that was held on 24 June 2015 on the question: *"Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?"*.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'P.E. Martinez', with a long horizontal stroke extending to the right.

P.E. Martinez  
Referendum Administrator



## Introduction

Section 11 of the Referendum Act requires the Referendum Administrator, within three weeks of the referendum to draw up a full report on the organisation, conduct and results of the referendum. The report shall include shall include:

- (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.

Such report shall be sent to the Chief Minister who shall lay the report on the table of the Parliament at its next meeting following presentation thereof.

It further directs that the Referendum Administrator attach to his report a true photocopy of the original Order for Referendum. Such a copy is attached as Appendix 1

## Background

On 20 December 2019 the Parliament approved a motion for a referendum to be held on 19 March 2020 that read:

**“This House:**

**TAKES NOTE** of the public discussion in Gibraltar on the question of abortion;

**FURTHER NOTES** the debate on abortion in this Parliament on 12 July 2019 and the subsequent passing of the Crimes (Amendment) Act 2019 (“the 2019 Act”);

**RECALLS** that the 2019 Act contains a proposed new Section 163(A) of the Crimes Act which defines the circumstances under which abortion would be legal in Gibraltar;

**RECALLS** that such circumstances relate to injury to the physical or mental health of the pregnant woman or to whether there is substantial risk of fatal foetal abnormality;

**TAKES INTO ACCOUNT** the announcement made on 12 July 2019 that the question of the commencement of the said Act would be put to the people of Gibraltar in a Referendum;

**AND HEREBY RESOLVES:**

- 1** That a Referendum be held in Gibraltar on Thursday 19 March 2020 under the Referendum Act 2015.
- 2** That the question put to the people of Gibraltar in the said Referendum will be:  
  
“Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?”
- 3** That the answers to the said question should be YES or NO.
- 4** That Mr Paul Martinez, Clerk of the Gibraltar Parliament, be appointed by notice in the Gazette as the Referendum Administrator and that an official YES campaign and an official NO campaign be recognised by the Referendum Administrator in accordance with such recognition criteria established by him and funded on an equal basis in an amount not exceeding £50,000 (“the funding”) and that such funding be disbursed in such manner and in accordance with such procedures as the Referendum Administrator may set for that



purpose. The campaigns recognized shall not spend any sums in excess of £50,000 in the course of campaigning in the referendum campaign, whatever the source of that spending or funding may be.

- 5 That over 50% of the votes cast be required for the result to be treated as qualifying for recognition as a winning lead.
- 6 That the Referendum Administrator should provide a neutral information document (in terms to be approved by motion in this House) to every person eligible to vote in the Referendum setting out in clearly understandable language the relevant provisions of the Act.
- 7 That Mr Simon Galliano be appointed by notice in the Gazette as the Registration Officer with Mr Kevin Balban being additionally appointed as his alternate.
- 8 That Registered Gibraltarians and British Citizens aged 16 years or over on the date of the referendum who have been resident in Gibraltar for 10 years or more and eligible to be so registered under the Referendum Act shall be eligible to vote.

**AND THEREFORE AGREES that an Order for a referendum under Section 3 of the Referendum Act 2015 now be made.”**

On 21 February 2020, the Parliament approved, by motion, the neutral information document for the Referendum to be held on the 19th March 2020 on the amendment to the Crimes Act which has been circulated to all Honourable Members.

As a result of the COVID-19 pandemic, this referendum was revoked by Legal Notice Number 109 of 2020 dated 12 March 2020.

### ***Parliament approves a new referendum***

With the COVID-19 Pandemic abating as a result of the successful vaccination program that resulted in minimal rates of infection of the COVID-19 virus, the Parliament, at its meeting of 22<sup>nd</sup> March 2021, approved a further motion that would commence the process for a new referendum. This motion read:

**“THIS HOUSE:**

1. **NOTES** the motion passed unanimously by this House on Friday, 20th December 2019, to hold a Referendum that the question of the commencement of the Crimes (Amendment) Act 2019 would be put to the people of Gibraltar in a Referendum.
2. **ENDORSES** the text of the said motion.

3. **APPROVES** the neutral information document for the Referendum on the amendment to the Crimes Act that had previously been approved by this House on 20 February 2020 subject to the appropriate change of dates.
4. **RECALLS** the Order for a Referendum on the 19th March 2020 was revoked on the 12th March 2020 as a result of the then developing Public Health emergency arising from the COVID 19 pandemic.

**AND THEREFORE RESOLVES** that an Order for a referendum under Section 3 of the Referendum Act 2015 now be made convening the referendum to be held on Thursday 24th June 2021.”

## Order for Referendum

On 14 May 2021, the Chief Minister signed the order for the referendum that set the question as:

“Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?”

The Order also stated that the referendum shall be declared in favour of the option which attains over 50% of the votes.

Further orders made on 14 May 2021:

- Appointed the Referendum Administrator and Registration Officer;
- appointed 24 June 2021 to be the qualifying date for the purposes of section 7 of the Referendum Act 2015 (Eligibility to Vote);
- set the minimum age for a person to be eligible to vote at 16 years; and
- suspended absentee voting as a result of the COVID-19 pandemic.

In addition, the Crimes (Amendment) Act Referendum Regulations 2021 came into force. These regulations provide for the conduct of the referendum being held on 24 June 2021 pursuant to the Order for a Referendum issued on 14 May 2021 on the question of whether the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, should come into force.

Subject to subregulation 2(3), these Regulations are revoked on the day 12 months after the day on which the referendum is held.

## Neutral Information Document

The Referendum Administrator was directed by Parliament to prepare a neutral information document that had been approved by Parliament for every person eligible to vote in the Referendum setting out in clearly understandable language the relevant provisions of the Act.

This was a statutory obligation imposed on the Referendum Administrator by regulation 5 of the Crimes (Amendment) Act Referendum Regulations 2021 that required the Referendum Administrator to provide to every person eligible to vote in the referendum in accordance with section 7 of the Act, a neutral information document setting out the relevant provisions of the Crimes (Amendment) Act 2019.

These requirements were deemed to be satisfied by sending the neutral information document to every household in Gibraltar.

Accordingly, a neutral information document as appended at appendix 2 was posted to every household in Gibraltar.

## Designation of Permitted Participants

The Crimes (Amendment) Act Referendum Regulations 2021 provides for the Referendum Administrator, in relation to each of the two outcomes of the referendum, to designate a permitted participant that would represent those campaigning for the outcome in question.

The Referendum Administrator designated:

- ✓ Gibraltar for Yes - representing those for the “Yes” outcome
- ✓ Gibraltar Pro Life Movement - representing those for the “No” outcome

Under regulation 13(2), The Referendum Administrator made available to each designated organisation a grant not exceeding:

- (a) in respect of a designated organisation campaigning for the coming into force of the Crimes (Amendment) Act 2019, the Gibraltar Pro Life Movement, a grant not exceeding £19,580;
- (b) in respect of a designated organisation campaigning against the coming into force of the Crimes (Amendment) Act 2019, the Gibraltar for Yes a grant not exceeding £14,090.

## Covid 19 Mitigation Measures

In order to mitigate the effects of COVID – 19 the following measures were put in place to minimise the risk of infection to both voters and staff.

### *Staff, Voting Agents, Counting Agents and Observers*

In order to participate in the referendum the following requirements were put in place, all participants had to show proof that they:

- had received two doses of vaccine, or
- 1st dose +14 days; or
- show evidence that they had been infected with COVID-19 in the last 180 days prior to the day of the referendum.

Those not meeting the above criterion had to be tested on the day of the referendum. They were also be required to wear a mask whilst performing their duties.

### *Voting Stations*

- ✓ Persons encouraged to vote by post;
- ✓ Disposable pencils provided;
- ✓ Voters encouraged to use their own pen/pencil if they felt more comfortable;
- ✓ Surgical face masks provided for those who wanted one;
- ✓ Automated disinfectant gel dispensers provided at the entrance to each voting station;
- ✓ Social distancing encouraged;
- ✓ Enhanced cleaning routine with four teams of cleaners cleaning the voting stations as per the rota as set out below:

STATION	Time					
	0930 to 1000	1015 to 1045	1100 to 1130	1145 to 1215	1230 to 1300	1315 to 1345
1	Team 1					
2						
3						
4						
5	Team 2					
6						
7						
8						
9	Team 3					
10						
11						
12						
13	Team 4					
14						
15						

1400 to 1430	1445 to 1515	1530 to 1600	1615 to 1645	1700 to 1730	1745 to 1815	1830 to 1900

1915 to 1945	2000 to 2030	2045 to 2115	2130 to 2200

### *Counting of Votes*

- ✓ Enhanced cleaning prior to commencement of the count;
- ✓ Restriction on the numbers able to attend as advised by Public Health Gibraltar;
- ✓ Temperature screening of attendees on arrival;
- ✓ Surgical masks available to those who wished to wear them;
- ✓ Social distancing encouraged;
- ✓ Hand sanitiser.



## The Vote

The Referendum Administrator published the Register of Voters on 17 June 2021. There were 23,343 persons on the register when it was published.

For the purposes of the taking of the vote in the referendum, Gibraltar was divided into fifteen voting districts.

Set out below is the location of the voting stations together with the number of voters assigned to each voting district.

Station Number	Address	No. of voters per voting station
1 - North District	Catalan Bay Social Club Catalan Bay Village	1169
2 - North District	Laguna Estate Social Club 34B Laguna Estate	1319
3 - North District	Ex-Bayside School Drama Studio Bayside Road	1683
4 - Upper Town	Plater Youth Club Castle Road	1226
5 - Westside area	Ex-Westside School Gym Queensway	1805
6 - Westside area	Ex-Westside School Gym Queensway	1839
7 - Westside area	GASA Europort Avenue	1813
8 - Westside area	Brownies' Hut Canton House Varyl Begg Estate	1754
9 - Westside area	Mid-Harbour Social Centre, Blue Wave House Mid-Harbour Estate	1768
10 - Town area	Gibraltar Youth Centre Montagu Bastion Line Wall Road	1697
11 - Town area	Senior Citizens Social Club Town Range	1582
12 - Town area	Ince's Hall Complex Main Street	1362
13 - South District	Central Hall North Pavilion Road	1484
14 - South District	Central Hall North Pavilion Road	1263
15 - South District	Dolphin's Youth Club Rosia Road	1579

The table below shows which addresses were assigned to each particular voting station.

PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.
Beachview Terraces	1	Carrera's Passage	10	Queensway (Ordnance Wharf)	11
Catalan Bay	1	Casemates Square	10	Queensway Quay	11
Cemetery Road	1	Castle Street	10	Secretary's Lane	11
Devil's Tower Camp	1	Chilton Court	10	Shakery's Passage	11
Eastern Beach Road	1	City Mill Lane	10	Town Range (less St Jago's Estate)	11
Devil's Tower Road (Nos. 33-61)	1	College Lane	10	Tudury's Steps	11
Lancaster Road	1	Cornwall's Lane	10	Victualling Office Lane	11
Sir Herbert Miles Road	1	Cornwall's Parade	10	Wilson's Ramp	11
Devil's Tower Road (Nos. 5-19)	2	Crutchett's Ramp	10	Alameda Estate	12
Laguna Estate	2	Engineer Lane	10	Boyd Street	12
Bayside Road	3	Fish Market Road	10	Europa Road (Nos. 1-18)	12
Flint Road	3	Fountain Ramp	10	Governor's Lane	12
Glacis Estate	3	Hospital Ramp	10	Hargrave's Parade	12
Glacis Road	3	Hospital Steps	10	Red Sands Road	12
Marina Bay	3	Irish Place	10	Rosia Road (Trafalgar House)	12
Montagu Crescent	3	Irish Town	10	Sandpits	12
Ocean Village	3	Line Wall Road	10	St Jago's Estate	12
Tradewinds	3	Lynch's Lane	10	Witham's Road	12
Abecasis Passage	4	Main Street (Nos. 1-215)	10	Armstrong Steps	13
Ansaldo's Passage	4	Market Lane	10	Bella Vista Close	13
Arengo's Palace Lane	4	New Passage	10	Buena Vista Estate	13
Benoliel's Passage	4	New Street	10	Buena Vista Road	13
Calpe Road	4	Parliament Lane	10	Centre Pavilion Road	13
Castle Ramp	4	Pitman's Alley	10	Cumberland Steps	13
Castle Road	4	Serfaty's Passage	10	Europa Road (Less Nos. 1-18)	13
Castle Steps	4	Smith Dorrien Avenue	10	King George V Ramp	13
Chicardo's Passage	4	Tuckey's Lane	10	Mount Road	13
Danino's Ramp	4	Turnbull's Lane	10	Nettletree Ramp	13
Demaya's Ramp	4	Waterport Road	10	North Pavilion Road	13
Hospital Hill	4	Baca's Passage	11	Rodger's Road	13
Lower Castle Road	4	Bado's Passage	11	Rodger's Steps	13
McPhail's Passage	4	Bado's Steps	11	Scud Hill	13
Palace Gully	4	Baker's Passage	11	Scud Hill Steps	13
Paradise Ramp	4	Bomb House Lane	11	South Barrack Parade	13

PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.
Parody's Passage	4	Booth's Passage	11	South Barrack Ramp	13
Moorish Castle Estate	4	Cathedral Square	11	South Barrack Road	13
Police Barrack Lane	4	Charles V Ramp	11	South Shed's Place	13
Richardson's Passage	4	Convent Place	11	St Joseph's Road	13
Road to the Lines	4	Devil's Gap	11	Witham's Road (Less Jumper's Building & St John's Court)	13
Tank Ramp	4	Devil's Gap Road	11	Cumberland Road	14
Tarik Passage	4	Flat Bastion Road	11	Elliott's Battery	14
Tarik Road	4	Forty Steps	11	Engineer Road	14
Upper Rock	4	Frazer's Ramp	11	Europa	14
Willis's Passage	4	Gardiner's Road	11	Rosia Road (Less Trafalgar House & Nelson's View)	14
Willis's Road	4	Gavino's Court	11	South Pavilion Road	14
Montagu Gardens	5	Gavino's Passage	11	St Bernard's Road	14
Peninsular Heights	5	George's Lane	11	St Joseph's Estate	14
Queensway (Westside Mews)	5	Giro's Passage	11	Windmill Hill Road	14
Westview Park	5	Governor's Parade	11	Brympton	15
Europort Avenue (Charles Bruzon House)	6	Governor's Street	11	Naval Hospital Hill	15
Harbour Views	6	Gowland's Ramp	11	Naval Hospital Road	15
Harbour Views Road	6	Hargrave's Court	11	Rosia Lane	15
Sir William Jackson Grove	7	Hargrave's Ramp	11	Rosia Parade	15
Waterport Terraces	7	Horse Barrack Lane	11	Rosia Ramp	15
Mons Calpe Mews	8	John Mackintosh Square	11	Rosia Road (Nelson's View)	15
Varyl Begg Estate	8	Johnstone's Passage	11	Rosia Steps	15
Bishop Canilla House	9	King Street	11	Transport Lane	15
Edinburgh Estate	9	King's Yard Lane	11	Vineyards	15
Europort Avenue (Atlantic Suites)	9	Library Gardens	11		
Europort Road	9	Library Ramp	11		
Mid Harbour Estate	9	Library Street	11		

PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.	PLACE OF RESIDENCE	VOTING STATION No.
Queensway	9	Lime Kiln Road	11		
Bell Lane	10	Lime Kiln Steps	11		
Benzimra's Alley	10	Lopez's Ramp	11		
Bishop Rapallo Ramp	10	Main Street (Nos. 216-329)	11		
Boschetti's Steps	10	Morello's Ramp	11		
Cannon Lane	10	Prince Edward's Road	11		

Each Voting Station was manned by one Presiding Officer, one Deputy Presiding Officer and three Voting Clerks. Technicians from the Information Technology and Logistics Department were also deployed to each voting station to assist with the implementation of the Voter Identification System.

A Voter Identification System that was developed by the Government's IT & LD Department was tested and proved to be beneficial to the running of a voting station. It will be further developed to enable it to be used in any future plebiscite.

The advantages of using the system are:

- Speeds up the process of issuing voting papers
- Run in parallel with the manual processes of striking the voter off the part register with the benefit of directing the voting clerk to the page on the part register on which the voter appears on the part together with the approximate position on page where the voters appear. This greatly reduces the risk of errors
- Secure encrypted channel, controlled and monitored from Parliament HQ that will enable any issues to be addressed in real time;
- Identity Verification with voter's ID Card photo shown on screen. This reduces the risk of clerical errors where a voter is wrongly struck off as having voted and also guards against impersonation;
- Real time statistics would now be available with the added advantage that at the close of the vote additional gender and age demographics could be published. Examples of the graphs are appended;
- Voter intention preserved and protected
- In this referendum there was the added advantage that the Card Reader was placed at a distance from the desk where the voting clerks were sat thus providing a further layer of COVID - 19 mitigating measures.

The Senior Presiding Officer was responsible for the running of the voting stations.

## The Count

The Count was conducted at the University of Gibraltar.

The Count was supervised by the Senior Counting Officer and 35 Counting staff were employed in carrying out the Count.

It commenced once the Presiding Officers delivered to the Senior Counting Officer the sealed voting boxes from each voting station.

The seals to these voting boxes were broken by the Referendum Administrator and the votes were then verified and counted.

The process for the verification and count is set out at Appendix 3.

The Referendum Administrator declared the outcome of the referendum at 12:51 am.

## Information required by section 11 of the Referendum Act

The number of "Yes" votes		7,656
The number of "No" votes		4,520
The number of voting papers and postal voting papers rejected		
A	No official mark	0
B	Voting for both answers to the question asked	20
C	Writing or mark by which the voter could be identified	5
D	Unmarked or void for uncertainty	142
E	Objected to	0
Total Rejected		167

Voting Station	Voting papers in the voting boxes	The number of unused and spoilt voting papers	The number of tendered voting papers
1	650	550	0
2	574	726	0
3	771	929	0
4	546	654	0
5	1088	712	0
6	980	920	0
7	1006	794	0
8	914	886	0
9	807	993	0
10	761	939	0
11	836	764	0
12	658	742	0
13	842	658	0
14	647	553	0
15	989	611	0

<b>Voting Station</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>
<b>Number of votes marked by the Presiding Officer</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Number of voters assisted by companions</b>	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
<b>Tendered votes</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Number of persons on the absentee list</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Number of persons on the proxy list</b>	13	5	16	10	30	24	16	10	13	34	40	23	31	16	24
<b>Number of persons on the postal voters list</b>	19	12	11	21	28	35	24	15	19	23	19	13	19	42	26
<b>Number of declarations made by the companions of voters</b>	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1

## The Result

### Crimes (Act) Amendment 2019, Referendum 2021

#### Declaration of count totals

I Paul Edward Martinez being the Referendum Administrator appointed for the referendum held on 24 June 2021, under the Referendum Act 2015, hereby declare the following:

The total number of voting papers counted was		12,343
The number of "Yes" votes		7,656
Representing 62.03 % of the votes counted		
The number of "No" votes		4,520
Representing 36.62 % of the votes counted		
The number of voting papers and postal voting papers rejected		
A	No official mark	0
B	Voting for both answers to the question asked	20
C	Writing or mark by which the voter could be identified	5
D	Unmarked or void for uncertainty	142
E	Objected to	0
Total Rejected		167

Therefore, I declare that with 7,656 votes cast that equates to 62% of the total votes cast, the result of the referendum is that the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, should come into force

Signed:

Paul E Martinez  
Referendum Administrator

25 June 2021



# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4853 GIBRALTAR Friday 14th May 2021

LEGAL NOTICE NO. 268 OF 2021.

## ORDER FOR A REFERENDUM

To the Referendum Administrator

On 22<sup>nd</sup> day of March 2021 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:

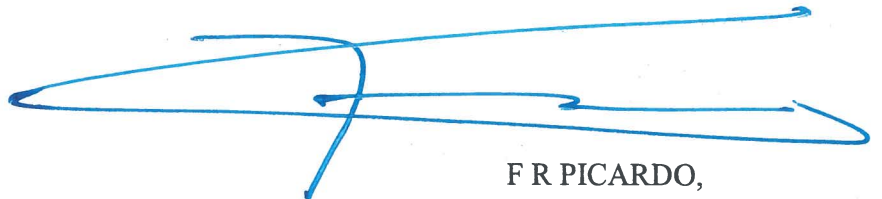
“Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?”

I appoint the following dates:


1. For the close of the Register of Voters: the 17<sup>th</sup> day of June 2021.
2. For taking the votes of the electors: the 24<sup>th</sup> day of June 2021.
3. For the return of the Order for Referendum: the 15<sup>th</sup> day of July 2021.

### 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 over 50% of the votes.



F R PICARDO,  
Chief Minister.

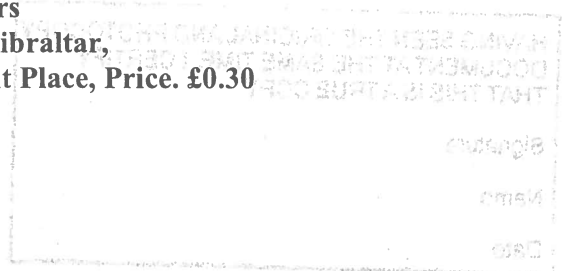
HAVING SEEN THE ORIGINAL AND PHOTOCOPY DOCUMENT AT THE SAME TIME, I CERTIFY THAT THIS IS A TRUE COPY	
Signature	
Name	PAUL C PERALTA
Date	1. 6. 2021

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24TH JUNE 2021

**YOUR VOTE MATTERS**

**INDEPENDENT GUIDE TO THE  
CRIMES (AMENDMENT) ACT 2019  
REFERENDUM 2021**

## **Introduction**

On Thursday 24 June 2021, you will be asked to vote on whether legislation that regulates the termination of pregnancy should be brought into force.

The Gibraltar Parliament passed the Crimes (Amendment) Act 2019 which amends the law in relation to the termination of pregnancy. That law is not in force and in this referendum you are being asked whether that law should be brought into force.

In this guide, we explain the current law, we describe what changes will be made to the current law if the Crimes (Amendment) Act 2019 is brought into force, and we explain the legal effect of a Yes vote and the legal effect of a No vote.

The Gibraltar Parliament passed a resolution approving the contents of this guide, which is being distributed to households throughout Gibraltar.

This guide does not argue for a Yes vote or a No vote, but all Members of Parliament join me in strongly encouraging you to vote.

**Paul E. Martinez**  
**Referendum Administrator**

## **The present legal position**

The current law relating to the prohibition of termination of a pregnancy is contained in Part 10-Offences Against the Person- of the Crimes Act 2011, and more specifically in sections 161 to 163. The effect of these sections are summarised below-

### **Section 161 – Child destruction**

Child destruction is an offence that is committed when a person has the intent to destroy the life of a child capable of being born alive and undertakes an act that causes that child to die before it has an existence independent of its mother.

No offence is committed when the act that causes the death of the child is done in good faith and for the only purpose of preserving the life of the mother.

A person who is convicted of an offence under this section is liable to imprisonment for life.

### **Section 162 – Administering drugs or using instruments**

This section creates the offence of procuring a miscarriage whether through poison or other noxious things or through any other means. The offence is capable of being committed by a woman who intends to procure her own miscarriage and by any person who intends to procure the miscarriage of a woman.

A person who is convicted of an offence under this section is liable to imprisonment for life.

### **Section 163 – Procuring drugs, etc.**

This section creates the offence of providing another person with poison or noxious thing or instrument or thing with the intention that it will be unlawfully used or employed to procure the miscarriage of a woman.

A person who is convicted of an offence under this section is liable to imprisonment up to a maximum of 5 years.

The full text of sections 161 to 163 of the Crimes Act 2011 is reproduced in Annex 1. Annex 1 also includes a link to the Act which is freely available on the Gibraltar laws website.

## **The proposed changes to the current law**

The Crimes (Amendment) Act 2019 proposes changes to the current law by inserting sections 163A to 163E into the Crimes Act 2011. The effect of these new sections are summarised below:

## **Section 163A – Medical termination of pregnancy**

This section permits the termination of a pregnancy where 2 doctors employed by the Gibraltar Health Authority have formed the opinion that one of the following circumstances applies:

Firstly, where the pregnancy has not gone beyond 12 weeks and continuing the pregnancy involves a risk of injury to the physical or mental health of the pregnant woman that is greater than if the pregnancy is terminated.

Secondly, where the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman.

Thirdly, where continuing the pregnancy involves a risk to the life of the pregnant woman that is greater than if the pregnancy is terminated.

Fourthly, where there is a substantial risk that the foetus is suffering from a fatal foetal abnormality.

As regards the second, third and fourth situation, there is no prescribed limitation of time.

In addition to the matters set out above a doctor may terminate a pregnancy when that doctor is of the opinion that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

## **Section 163B – Notification**

This section gives the Minister for Health powers to make regulations to provide for the procedural matters regarding terminations that are conducted pursuant to section 163A. These include the reporting of terminations, the manner of recording the opinions that doctors are required to form and the preservation and disposal of certificates.

## **Section 163C – Conscientious objection to participation in treatment**

This section allows a person to refuse to participate in a termination that is permitted under section 163A, on grounds of conscience.

A person who is under a duty to act, may not refuse to participate in life saving or other critical treatment based on the grounds of conscience.

## **Section 163D – Supplementary provisions**

This section clarifies that anything that is done with the intention that a woman has a miscarriage is only lawful if it is authorised under section 163A and also sets out what is permissible as regards the termination of one or more foetuses in a pregnancy consisting of multiple foetuses.

## **Section 163E – Interpretation**

This section provides the definition of terms that are used in sections 163A to 163E.

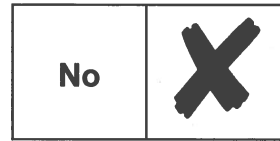
The full text of section 163A to 163E is reproduced in Annex 2. Annex 2 also includes a link to the Crimes (Amendment) Act 2019 that is freely available on the Gibraltar laws website.

## The legal effect of voting YES or NO



### The legal effect of a YES vote

If a majority votes Yes, the Government must, within 28 days, bring into force the Crimes (Amendment) Act 2019. When it comes into force the circumstances under which a pregnancy may be terminated in Gibraltar will be greater and as described in this Guide.



### The legal effect of a NO vote

If a majority votes No, then the Crimes (Amendment) Act 2019 will not come into force and the circumstances under which a pregnancy may be terminated in Gibraltar will remain in place unchanged.



## How to vote

**Voting Stations will be open from 9am to 10pm on Thursday 24 June 2021**

Before Referendum Day, **you should receive a voting card in the post** telling you at which voting station you should cast your vote. If you do not receive a voting card, you are still entitled to vote so long as you are on the Referendum Register. You can check this at [www.parliament.gi/](http://www.parliament.gi/)

You do not need to have your voting card with you when you go to vote. However, **you should bring some valid form of personal identification** such as your Identity Card, passport or driving licence. You may not be asked for proof of identity, but if asked for it you need to show it.

You can see a sample voting paper on the next page.

**You will be voting on should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, to come into force.**

You vote by marking an 'X' in the 'Yes' box or 'No' box, depending on how you want to vote. Mark only one box, or your vote will not count. Do not mark any other part of the voting paper.

**REFERENDUM ACT 2015**

**VOTING PAPER FOR THE REFERENDUM OF  
THURSDAY 24<sup>TH</sup> JUNE 2021  
ON THE CRIMES (AMENDMENT) ACT 2019**

**QUESTION**

Should the Crimes (Amendment) Act 2019, that defines the circumstances which would allow abortion in Gibraltar, come into force?

**Yes**

**No**

# ANNEX 1

## *Excerpts from the current relevant part of the Crimes Act 2011-*

### PART 10 OFFENCES AGAINST THE PERSON

#### *Causing and threatening death*

##### **Child destruction.**

161.(1) Subject to this section, a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, commits the offence of child destruction and is liable on conviction to imprisonment for life.

(2) A person is not to be found guilty of an offence against this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(3) For the purposes of this section, evidence that a woman had at any material time been pregnant for a period of 28 weeks or more is prima facie proof that she was at that time pregnant of a child capable of being born alive.

#### *Attempts to procure abortion*

##### **Administering drugs or using instruments.**

162.(1) A pregnant woman who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any other means with that intent, commits an offence and is liable on conviction to imprisonment for life.

(2) A person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means with that intent, commits an offence and is liable on conviction to imprisonment for life.

##### **Procuring drugs, etc.**

163. A person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing, knowing that it is intended to be unlawfully used or employed with intent to procure the miscarriage of a woman, whether she is or is not with child, commits an offence and is liable-

(a) on summary conviction to imprisonment for 12 months or the statutory maximum fine, or both;

(b) on conviction on indictment to imprisonment for 5 years.

An electronic copy of the Crimes Act 2011 may be accessed free of charge here-

<https://www.gibraltarlaws.gov.gi/legislations/crimes-act-2011-2856>

## ANNEX 2

The following sections are the new sections inserted into the Crimes Act 2011 by the Crimes (Amendment) Act 2019 which will be commenced if the Yes vote wins:

### **Medical termination of pregnancy.**

163A.(1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion and child destruction in sections 161 to 163 hereof when a pregnancy is terminated by a registered medical practitioner employed by the Gibraltar Health Authority if two registered medical practitioners employed by the Gibraltar Health Authority are of the opinion, formed in good faith—

- (a) that the pregnancy has not exceeded its twelfth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman; or
- (b) that the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman; or
- (c) that the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated; or
- (d) that there is a substantial risk that the foetus is suffering from a fatal foetal abnormality.

(2) In determining whether the continuance of a pregnancy would involve such risk of injury to health as is mentioned in paragraph (a) or (b) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(3) Except as provided by subsection (5) of this section, any treatment for the termination of pregnancy must be carried out in a hospital approved for such purposes by the Minister for Health.

(4) The power under subsection (3) of this section to approve a place includes power, in relation to treatment consisting primarily in the use of such medicines as may be specified in the approval and carried out in such manner as may be so specified, to approve a class of places.

(5) Subsection (3) of this section, and so much of subsection (1) as relates to the opinion of two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

### **Notification.**

163B.(1) The Minister of Health shall have power to make regulations to provide-

- (a) for requiring any such opinion as is referred to in section 163A to be certified by the practitioners or practitioner concerned in such form and at such time as may be prescribed by the regulations, and for requiring the preservation and disposal of certificates made for the purposes of the regulations;
- (b) for requiring any registered medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be so prescribed;
- (c) for prohibiting the disclosure, except to such persons or for such purposes as may be so prescribed, of notices given or information furnished pursuant to the regulations.

(2) The information furnished in pursuance of regulations made by virtue of paragraph (b) of subsection (1) of this section shall be notified solely to the Director of Public Health.

(3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of regulations under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Conscientious objection to participation in treatment.**

163C.(1) Subject to subsection (2) of this section, no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by section 163A to which he has a conscientious objection:

Provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

(2) Nothing in subsection (1) of this section shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman.

### **Supplementary provisions.**

163D. For the purposes of the law relating to abortion, anything done with intent to procure a woman's miscarriage (or, in the case of a woman carrying more than one foetus, her miscarriage of any foetus) is unlawfully done unless authorised by section 163A and, in the case of a woman carrying more than one foetus, anything done with intent to procure her miscarriage of any foetus is authorised by that section if-

- (a) the ground for termination of the pregnancy specified in subsection (1)(d) of that section applies in relation to any foetus and the thing is done for the purpose of procuring the miscarriage of that foetus; or
- (b) any of the other grounds for termination of the pregnancy specified in that section applies.

**Interpretation.**

163E. In this Act, the following expressions shall have the meaning hereby assigned to it-

“the law relating to abortion” means sections 161 to 163 of this Act and any rule of law relating to the procurement of abortion;

“Gibraltar Health Authority” means the Gibraltar Health Authority established by section 3 of the Medical (Gibraltar Health Authority) Act, 1987.

An electronic copy of the Crimes (Amendment) Act 2019 may be accessed free of charge here-

<https://www.gibraltarlaws.gov.gi/legislations/crimes-amendment-act-2019-4693>

### Verification & Count Process

#### *Verification*

The Referendum Administrator will break the seals of the voting box, the contents of the voting box are tipped onto the counting table ensuring that no voting paper falls onto the floor. The empty box is to be shown to the agents and observers so that they can be satisfied that they are empty.

Counting staff will then proceed to unfold and bundle the voting papers into lots of 50's placing them face up at all times and securing each bundle with a paper band. The paper band on the final bundle of odd papers should be marked to show the number of papers contained in that bundle. Papers (if any) found in the voting boxes that are not official voting papers should be set aside and not included in the total.

Once the contents of a voting box is counted, the number of voting papers found therein will be recorded. The total number of voting papers in each box is reconciled with the voting paper account.

On completion of verification, the Senior Counting Officer will mix and distribute the bundles amongst the counting teams.

The Count will commence on completion of the verification.

#### *Count*

Each team will have a set of trays labelled, YES, NO & DOUBTFUL.

Clerks will sort the voting papers into bundles of 50 voting papers placing them on the counting table, according to the vote cast. Voting papers are to remain FACE UPWARDS AT ALL TIMES. Voting papers considered doubtful, or blank votes, will be placed in the Doubtful Voting Paper tray.

Clerks will count the number of votes given for each answer bundling them into lots of 50's and placing them in the trays provided. Clerks will also record on the bundle slip the votes counted for each answer and the total number of voting papers contained in the bundle. The slip on the final bundle of odd papers should be marked to show the number of papers contained in that bundle. Doubtful voting papers placed in the Doubtful Voting Paper tray will be removed by the Senior Counting Officer who will refer them to the Referendum Administrator for adjudication.

Counting Officers will check all the bundles in order to ensure that all the votes in the bundle are marked in the same way.



Counting Agents may identify voting papers that could be considered doubtful during the sorting and counting processes. In this event, such papers are to be placed on the tray provided. During the course of the count, the Senior Counting Officer will take these to the Referendum Administrator who will adjudicate on their validity

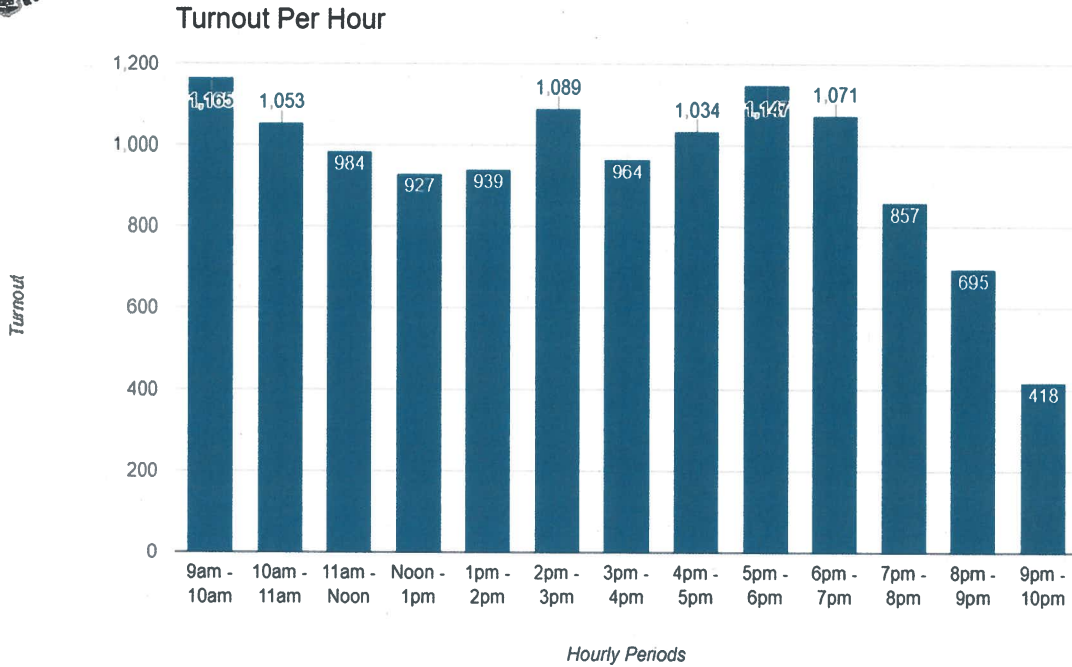
Once the count is complete, the Counting Officers will, record in the reconciliation sheet, the total number of counted voting papers and the total number of doubtful voting papers taken for adjudication. The total should tally with the total number of voting papers given to each team less those removed for adjudication. Should the totals not tally, then voting papers will need to be recounted.

Once the final total is confirmed by the Senior Counting Officer, he shall inform the Referendum Administrator who, if satisfied, will proceed to declare the result.

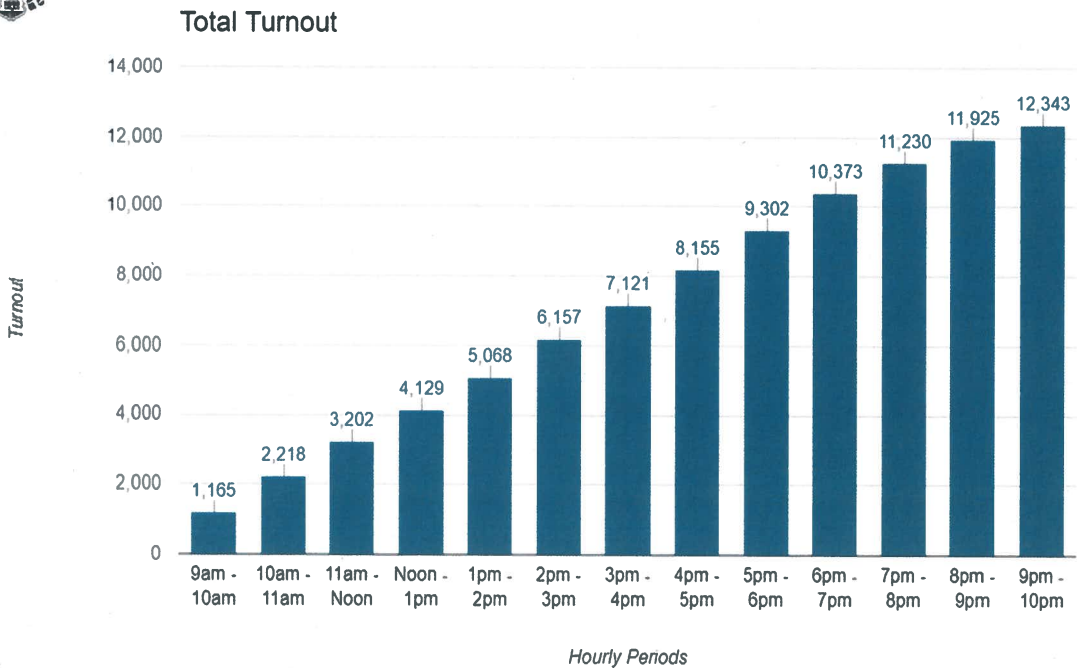
# Statistical Analysis



## Crimes (Amendment) Act 2019 Referendum, Referendum 2021



## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

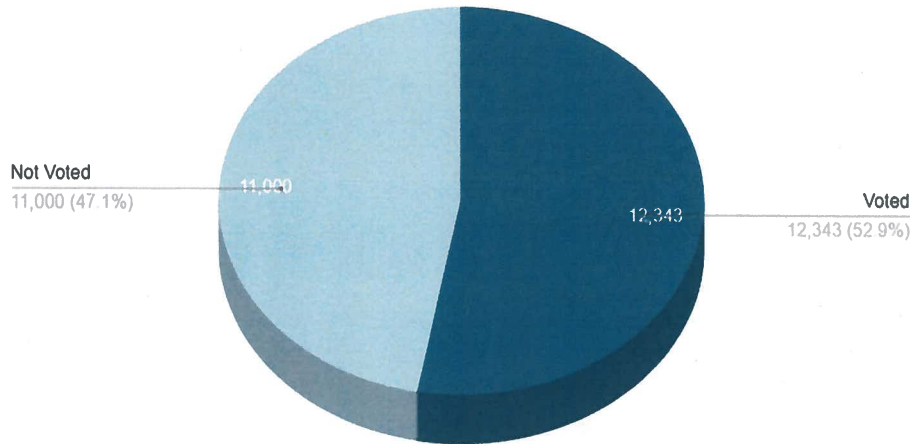




## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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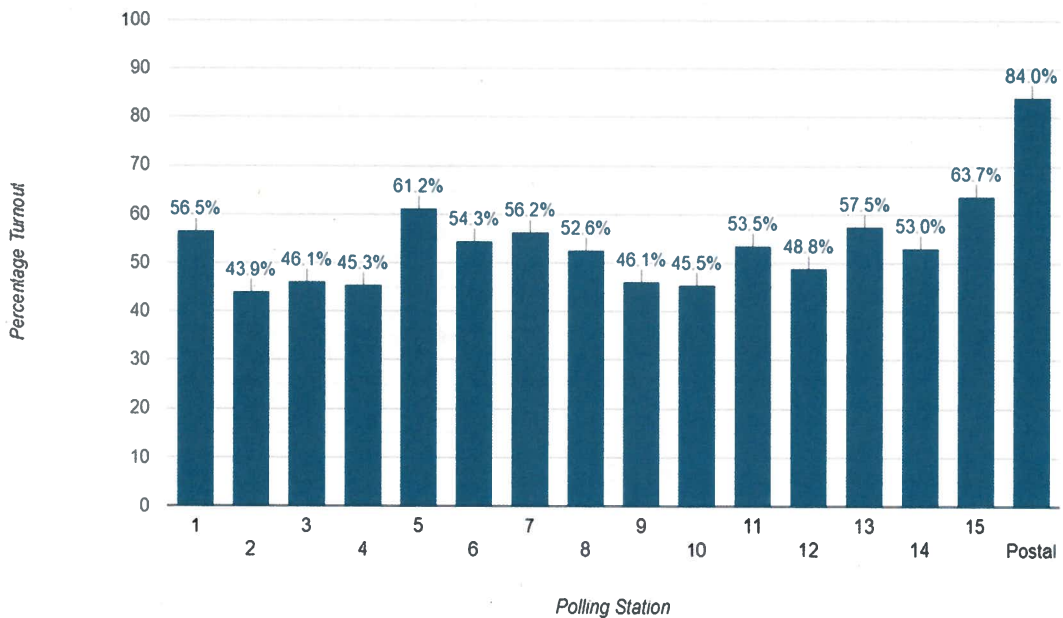
Percentage Turnout



## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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Percentage Turnout Per Polling Station

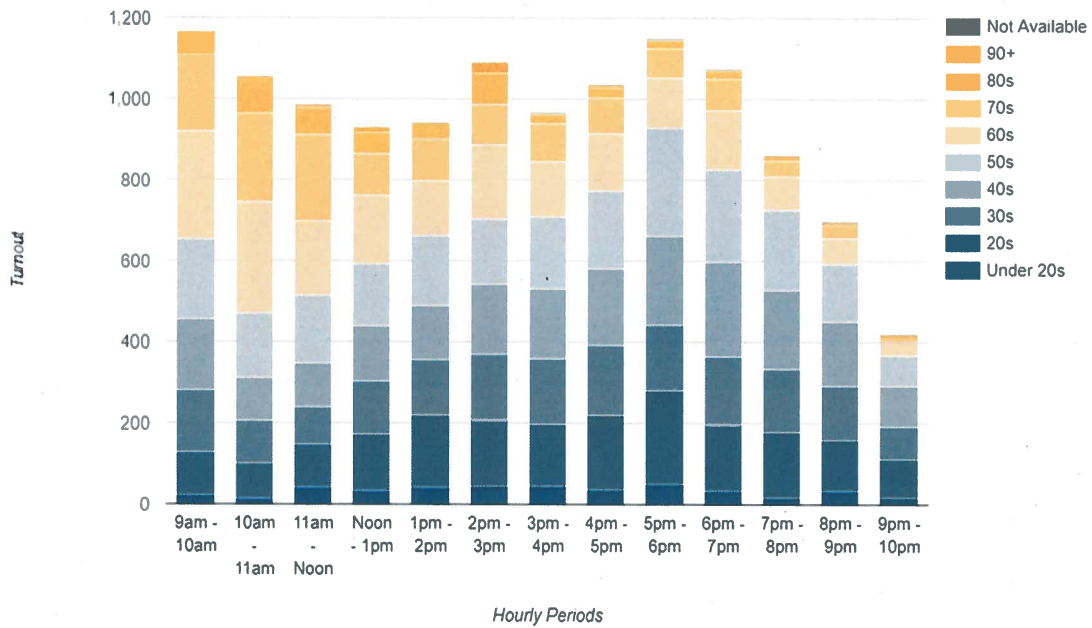




# Crimes (Amendment) Act 2019 Referendum, Referendum 2021



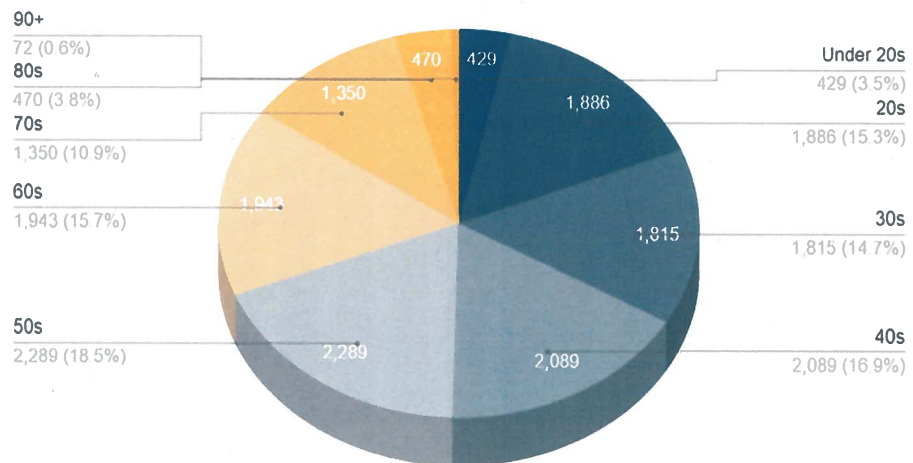
### Turnout Per Hour - Age Groups



# Crimes (Amendment) Act 2019 Referendum, Referendum 2021



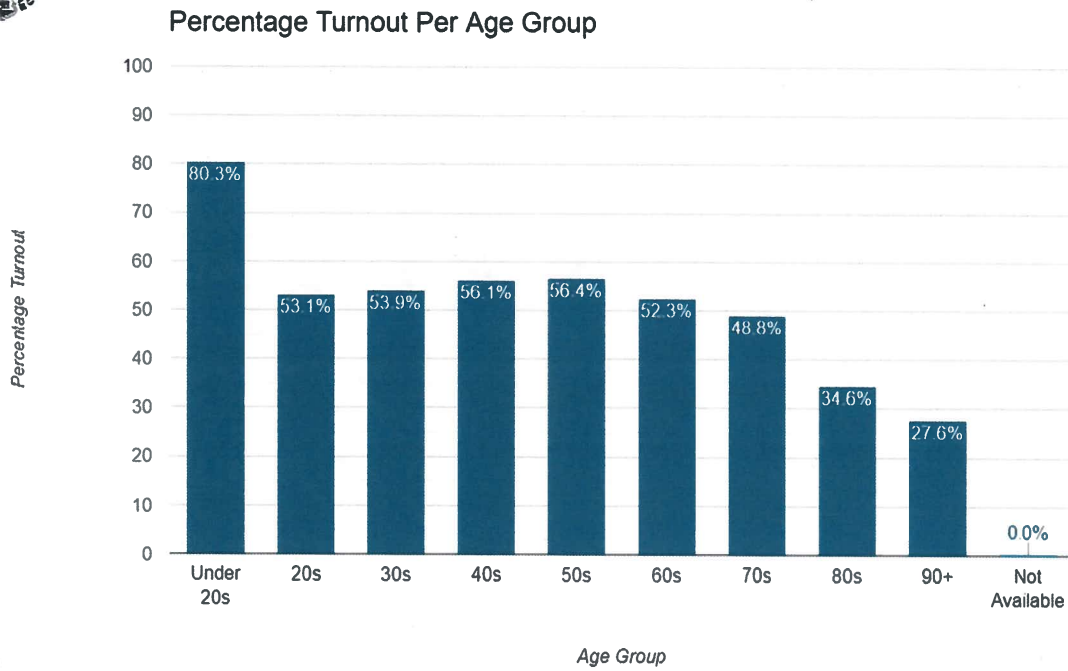
### Total Votes Per Age Group





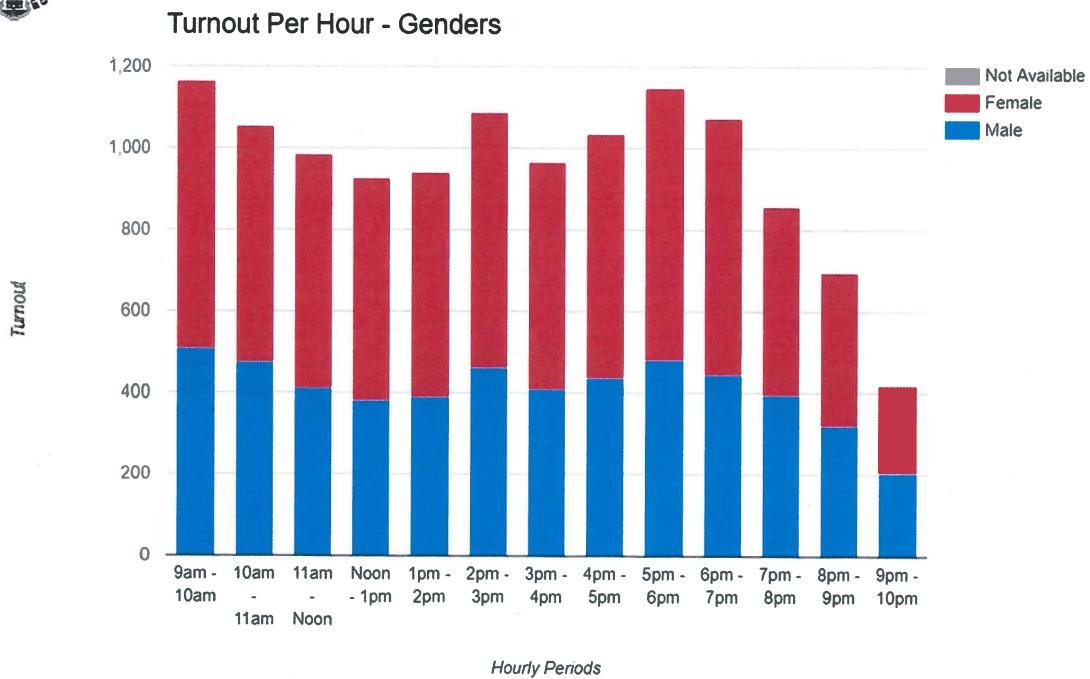
## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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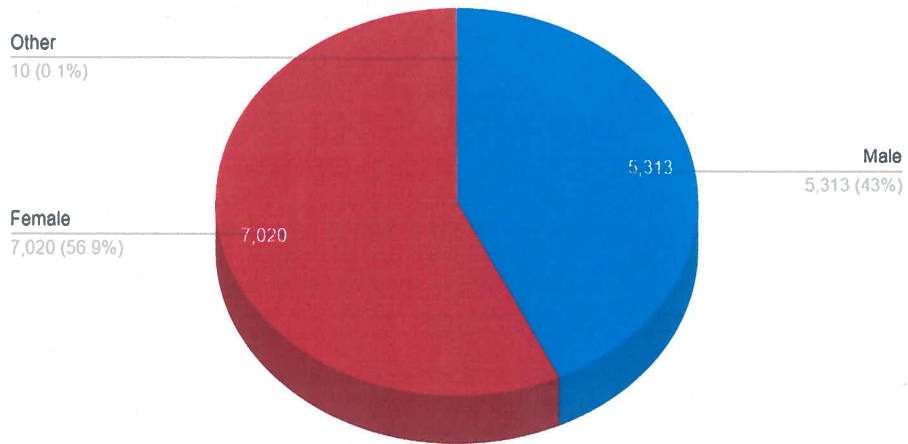




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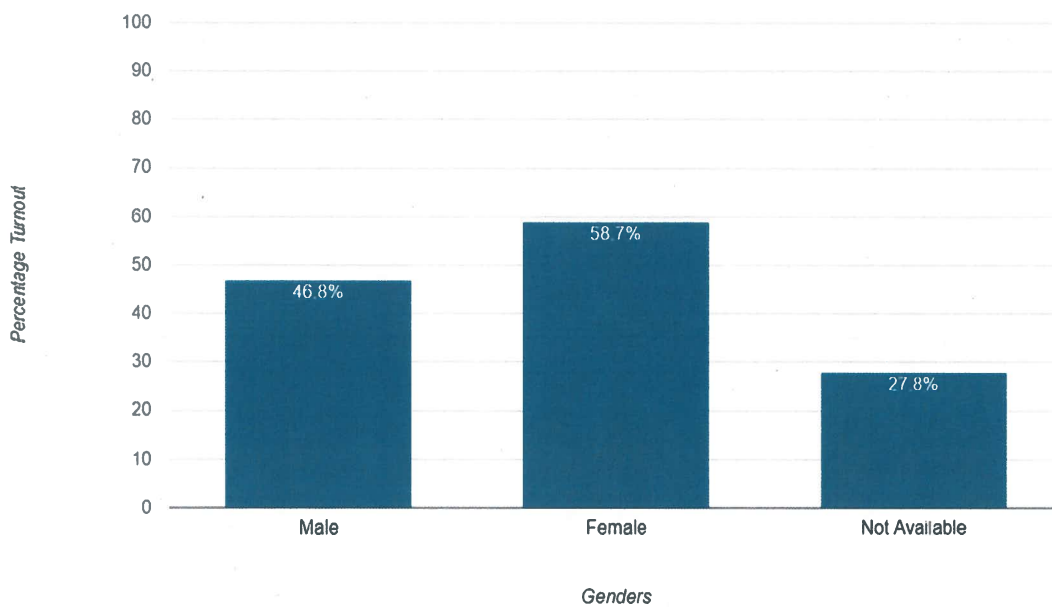
### Total Votes Per Gender



## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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### Percentage Turnout Per Gender

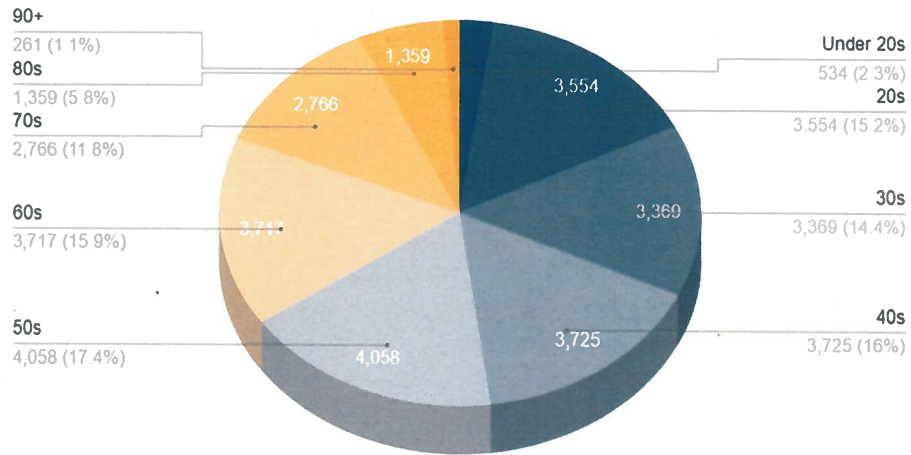




## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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### Age Distribution



## Crimes (Amendment) Act 2019 Referendum, Referendum 2021

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### Gender Distribution

