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REFERENDUM REGULATIONS, 2012

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APPLICATION AND MODIFICATION OF THE PROVISIONS OF THE
PARLIAMENTARY ELECTIONS ACT, CHAPTER 7

4

MINISTRY OF NATIONAL SECURITY

S.I. No. 115 of 2012

REFERENDUM ACT (CHAPTER 1)

REFERENDUM REGULATIONS, 2012

The Minister, in exercise of the powers conferred by section 5(2) of the Referendum Act, Chapter 1, makes the following Regulations —

1. Citation.

These Regulations may be cited as the Referendum Regulations, 2012.

2. Interpretation.

(1) In these Regulations —

“**Order**” means the order provided for by section 3A(1) of the Referendum Act, 2012;

“**question**” means the question to be set out in regulations made pursuant to section 5(2) of the Referendum Act, 2012.

(2) References in the Parliamentary Elections Act (*Ch. 7*) —

(a) to a writ of election; or

(b) in relation to the nomination of candidates, shall have no effect.

(3) Unless the contrary intention appears in the Parliamentary Elections Act (*Ch. 7*) any reference to —

(a) an election, shall be construed as a reference to a referendum;

(b) polling day, shall be construed as the day of the holding of the referendum.

3. Modification of First Schedule to Chapter 7.

(1) The provisions of the Parliamentary Elections Act (*Ch. 7*) specified in column 1 of the *First Schedule*, shall, subject to the modification, if any, specified in relation to those provisions in column 2 of that Schedule, apply in connection with a referendum.

(2) All other provisions in the Parliamentary Elections Act (*Ch. 7*) not specified in the *First Schedule* shall not apply for the purposes of a referendum.

4. Modification of Sub. Leg., Vol. 1, Ch. 7- p. 199.

Regulation 8 of the Parliamentary Elections (Symbols and Time-Off) Regulations, shall apply to a referendum conducted under section 3A of the Referendum Act (*Ch. 1*).

SCHEDULE
(Regulation 3)

**APPLICATION AND MODIFICATION OF THE PROVISIONS OF THE
PARLIAMENTARY ELECTIONS ACT, CHAPTER 7**

Column 1	Column 2
Section 2	The following definitions shall not apply — “candidates” “constituency” “election” “election agent” “election court” “election petition” “general election” “nomination day” “polling day” “regular vote” “Member of Parliament” “Speaker” “writ of election” or “writ”
Section 9	Delete paragraph (b) of subsection (2).
Section 11	Delete subsection (4).
Section 19	Delete subsection (8).
Section 27	Delete subsection (7).
Section 32	Delete the section and substitute— “32. Referendum. The Governor-General shall on the advice of the Minister by Order appoint the day upon which the referendum shall be held and there shall be not less than twenty-one nor more than twenty-six days between the publication of the Order and the return of the results.”.

Section 44

Delete the section and substitute —

“44. Order.

The Order shall state —

- (a) the date for the holding of the referendum;
- (b) the question or questions to be asked in the referendum;
- (c) the manner in which the opinions of voters are to be signified.”.

Section 45

Delete all the words from “the result shall” to the end of the sentence and substitute the following —

“the results shall be ascertained by counting the votes given to the question or questions in the affirmative and the votes given to the question or questions in the negative”.

Section 49, 49A, 49B, 49C

Section 50

Section 51

Delete the section and substitute —

“51. Ballot paper.

- (1) The ballot of every voter shall consist of a ballot paper.
- (2) On the ballot paper shall be printed —
 - (a) the question or questions to be asked in the referendum; and
 - (b) below each of the question or questions and in separate spaces —
 - (i) the word “Yes”; or
 - (ii) the word “No”.
- (3) Every ballot paper shall be in Form K in the Schedule to this Act and shall —
 - (a) be printed without any margin to the left side of the question or questions;
 - (b) be capable of being folded up;
 - (c) have a number printed on the back; and
 - (d) have attached a counter-foil with the same number printed on the face.”.

Section 53

Section 54

- Section 55 Delete paragraphs (b) and (c) of subsection (1) and substitute the following —
- “(b) observers appointed under section 104A;
 - (c) the permitted number of observers shall not exceed three persons at any time;”.
- Section 56
- Section 56A
- Section 58
- Section 59 Delete from subsection (9) the words “place one cross only in the space opposite the name of the candidate for whom he votes” and substitute the words “place one cross only, in the space opposite the word ‘yes’, if he intends to answer the question in the affirmative, or in the space opposite the word ‘no’, if he intends to answer the question in the negative”.
- Section 60
- (i) Delete paragraph (b) of subsection (2) and substitute —
 - “(b) on which votes are given to both answers the question or questions; or”.
 - (ii) Delete from subsection (3) the word “candidates” and substitute the words “answer to the question or questions”.
- Section 63 Delete from subsection (2) the words “the name of the candidate for whom the ballot paper of such incapacitated voter is marked by him” and substitute the words “how he marked the ballot paper for the incapacitated voter”.
- Section 65
- (i) Delete paragraph (a) of subsection (1) and substitute —
 - “(a) shall open the ballot box and ascertain the result of the poll for the polling place by counting the number of votes by reference to the number of voters who have answered the question or questions in the affirmative and the number of voters who have answered the question or questions in the negative, and forthwith declare such result;”.

- (ii) Delete paragraph (c)(i) of subsection (1) and substitute —
 - “(i) the number of votes cast in answer to the question or questions in the affirmative and the number of votes cast in answer to the question or questions in the negative;”.
- (iii) Delete subsection (3).

Section 66

Delete paragraphs (b) and (c) of subsection (2) and substitute —

- “(b) election agents as modified by regulation 2(3) of these Regulations.

Section 67

Section 68

Delete the section and substitute —

“68. Notice of result.

Immediately following the recount made pursuant to the provisions of section 67 of this Act, the returning officer shall —

- (a) inform the Parliamentary Commissioner of the number of votes counted in answer to the question in the affirmative and the number of votes counted in answer to the question in the negative;
- (b) give public notice in Form R in the Second Schedule to this Act of the results of the referendum in that constituency.”.

Section 72

Delete the section and substitute —

“72. Declaration of result.

When the result of the poll has been ascertained, the Parliamentary Commissioner shall —

- (a) publicly declare in Form S in the Schedule to this Act the number of voters who have answered the question or questions —
 - (i) in the affirmative;
 - (ii) in the negative;
- (b) certify whether the total number of votes in the referendum signifying the answer “yes” represents or does not represent the majority of all the voters voting in the referendum.”.

- Section 73 Delete the section and substitute —
“73. Results to Governor-General.
As soon as practicable after the declaration of results in Form S of the Second Schedule to this Act the Parliamentary Commissioner shall deliver the same to the Governor-General.”
- Section 74 Delete from subsection (2) the words “the number of votes cast for each candidate at any election” and substitute the words “the question or questions asked in a referendum and the number of votes cast in a referendum in answer to the question or questions in the affirmative and the number of votes cast in answer to the question or questions in the negative”.
- Section 75
- Section 76
- Section 79 (i) Delete the words “the election of a candidate as Member of Parliament” and substitute the words “A referendum”.
(ii) Delete (b) and substitute the following —
“(b) non compliance with the provisions of this Act relating to elections if, it appears that the election was not conducted in accordance with principles laid down in such provisions, and that such non compliance affected the result of the election.”
(iii) Delete (c) and (d).
- Section 80 (i) References to an “election court” shall be construed as references to “Referendum Tribunal”.
(ii) Delete (2) and substitute —
“A reference to a Referendum Tribunal” shall consist of the Chief Justice who shall be Chairman and a justice of the Supreme Court named by the Chief Justice.”
- Section 92 Delete all the words commencing “and petitions” to the end

of the section and substitute the words "shall be regulated by such rules that apply to election petitions as are made by the Rules Committee under the Supreme Court Act."

Section 94

Section 95

Delete paragraphs (a) and (d) of subsection (1).

Section 96

(i) Delete paragraphs (c), (d) and (h) of subsection (1).

(ii) In subsection (3), substitute "(c)" for "(d)", delete "(d) to (h) inclusive" and substitute "and (g)".

Section 97

In subsection (1), delete the words "in order to be elected or for being elected".

Section 98

Delete subsection (1)(a) and substitute—

"(a) upon any public road or in any place within one hundred yards of any building in which a polling station is situate, seeks to influence any elector to vote or to ascertain how an elector intends to vote or voted;"

Section 99

(i) Delete the words "a general election" and substitute the words "a referendum".

(ii) Delete the proviso.

Section 100

Delete from subsection (5) the words "or to vote or refrain from voting for any candidate".

Section 101

(i) Delete from paragraphs (b) and (c) the words "the candidate for whom" and substitute the words "how".

(ii) Delete from paragraph (e) the words "the name of any candidate for whom" and substitute the word "how".

(iii) Delete paragraph (f).

Section 104

(i) Insert in subsection (1) the words "or an illegal practice" after the words "corrupt practice".

(ii) Delete subsections (2) and (3).

(iii) Insert in subsection (5) the words "or an illegal practice" after the words "corrupt practice".

Section 104A

Delete and substitute —

“104A. Observers at Referendum.

- (1) The Minister may, with a view to ensuring the fairness of the process, appoint three local observers including at least two persons representing the views of those members of the public interested in the “Yes” and the “No” result of the Referendum.
- (2) Any appointment under subsection (1) shall be in writing and signed by the Minister.”.

104B, 104D, 104E

Form K

Delete the Form and substitute —

“FORM K
FORM OF BALLOT PAPER

Counterfoil	Question No.	YES
No.....	(state the question)	NO
	Question No.	YES
	(state the question)	NO

NOTES:

- (1) The ballot paper shall have a number printed on the back in small type to correspond to the number printed on the face of the counterfoil.
- (2) The dividing line between the ballot paper and the counterfoil shall be perforated.
- (3) The horizontal dividing lines on the ballot paper shall not be less than one-eighth of an inch in thickness.”

Form L

Delete paragraphs 1, 3 and 6 and substitute —

- “1. The voter may place a cross, thus, X opposite not more than one space.
- 3. The voter shall go into one of the compartments and with the indelible pencil provided in the compartment, place one

cross, thus X on the right hand side of the ballot paper opposite the space containing the word "Yes" if he desires to answer the question in the affirmative or within the space containing the word "No" if he desires to answer the question in the negative.

6. If the voter places on the ballot paper any mark in both the said spaces, or places any mark on the paper by which he may afterwards be identified, his ballot paper will be void and will not be counted."

Form P Delete the words "the name of the candidate for whom I mark the ballot paper of the incapacitated voter" and substitute the words "how I marked the ballot paper for the incapacitated voter".

Form Q

Form R Delete the Form and substitute —

"FORM R (Section 72 (1))

NOTICE OF RESULT OF REFERENDUM

for the _____ Constituency

DECLARATION OF RESULT OF THE POLL

NOTICE is hereby given that on the taking of the poll for the referendum in the _____ Constituency the following results are given —

Question No:
(state the question)

_____ Negative Answers

_____ Affirmative Answers

Question No:
(state the question)

_____ Negative Answers

_____ Affirmative Answers

Date _____

RETURNING OFFICER".

NOTICE OF RESULT OF REFERENDUM FOR THE
COMMONWEALTH OF THE BAHAMAS

Question No:
(state the question)

NOTICE is hereby given that the question put by the Referendum held on the _____ day of _____, 20____ has been answered in the AFFIRMATIVE by voters and in the NEGATIVE by voters.

AND NOTICE is hereby given that the number of votes cast in the Referendum were as follows —

CONSTITUENCY	AFFIRMATIVE	NEGATIVE
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I HEREBY CERTIFY that the total number of votes in the Referendum in respect of Question No.(state the question) signify the answer “YES” represents/ does not represent the majority of all the voters voting in the Referendum.

Question No.:
(state the question)

NOTICE is hereby given that the question put by the Referendum held on the _____ day of _____, 20____ has been answered in the AFFIRMATIVE by voters and in the NEGATIVE by voters.

AND NOTICE is hereby given that the number of votes cast in the Referendum were as follows —

CONSTITUENCY	AFFIRMATIVE	NEGATIVE
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I HEREBY CERTIFY that the total number of votes in the Referendum in respect of Question No.(state the question): signify the answer "YES" represents/does not represent the majority of all the voters voting in the Referendum.

Date _____

PARLIAMENTARY COMMISSIONER".

Made this 31st day of December, 2012.

Signed
BERNARD J. NOTTAGE
Minister responsible for Parliamentary
Registration and Elections