

# Referendum Act 2015

## Principal Act

<b>Act. No. 2015-08</b>	<i>Commencement</i>	2.4.2015
	<i>Assent</i>	2.4.2015

Amending enactments	Relevant current provisions	Commencement date
Act.2020-02	ss. 2, 7(1), (6), 8(1), 17(1)(c), 22-23, 24(1), (a)-(d), 25-27, 28(a)-(b), 33(1), 34, 38(1), 42A-42(E), 65(1)(f), 70, 72(1), 74(3), 76(1)-(2), 78(4)(c), Sch.	30.1.2020
2021/11	ss. 2, 8(2), 9(1), 10-60, 61(1), 62(a), 65, 66(1), 70A, 72(1), 73(1), 77(2), 78(3)(b)-(c), 79(1)-(3), (5), (8), 81, 83(2)(d)-(i), 83(3)-(4), Sch.	11.5.2021

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AN ACT TO GOVERN THE ORGANISATIONAL, ADMINISTRATIVE AND PROCEDURAL MATTERS ASSOCIATED WITH THE HOLDING OF REFERENDA IN 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:-

“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.

**PART 2**

*Calling a Referendum*

**Order of referendum.**

3. The Minister may make an Order for a referendum to be held where 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 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 eighteen years and/or not complied with the qualifying period requirements shall, if he will have attained such age and/or qualifying period requirements on or before the date fixed for a referendum, be entitled to be included in the register and to vote at the referendum which takes place after he has attained the age of eighteen and after he has complied with the qualifying period requirements.

- (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 the Registrar of Births and Deaths and any other department of the Government of Gibraltar or agency and the Commissioner of Police 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 and/or for a person capable of being appointed as a proxy.
- (2) Where subsection (1) applies, any reference to or any requirement in this Act or under any regulations made under section 83 of 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 by the Referendum (Voting) Regulations 2021.

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

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

**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.

12. *Deleted.*

13. *Deleted.*

**Part 5**

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14. to 38. *Deleted.*

**Part 6**

*Deleted*

39. to 42. *Deleted.*

**Part 7**

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43. to 48. *Deleted.*

**PART 8**

*Deleted*

49. to 60. *Deleted.*

**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 as permitted by this Act or any subsidiary legislation made under section 83 of this

Act, 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 or any subsidiary legislation made under section 83 of 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 or of any subsidiary legislation made under section 83 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 or of any subsidiary legislation made under section 83 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 or proxy 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.

(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 or proxy 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.

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.

**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 or by any subsidiary legislation made under section 83 of 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 or proxy 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 or by any subsidiary legislation made under section 83 of 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) Other than when a proxy voter is exercising the proxy vote 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 or proxy 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 or proxy voter is in an area demarcated in pursuance of subsection (1), solicits the voter or proxy voter or distributes leaflets or other papers to or accosts that voter or proxy voter with a view to such a solicitation or distribution or otherwise molests the voter or proxy 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, 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; and
  - (c) a place of abode 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.
- (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 or proxy 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 or under any subsidiary legislation made under section 83 of this Act which does not already

provide for a penalty 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 or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty, 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 or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty 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 or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty 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 or under any subsidiary legislation made under section 83 of this Act which does not already provide for a penalty 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 or any subsidiary legislation made in accordance with section 83 of 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) 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.
- (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).

#### **PART 11**

#### *Referendum result to stand*

#### **Referendum result to stand.**

84. Where a result has been declared in a referendum conducted in accordance with this Act, that result shall be recognized and, as the circumstances may require, be given effect to, until the result of a subsequent referendum requires otherwise.

SCHEDULE

FORM A

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 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**