

CHAPTER 1

CONSTITUTIONAL REFERENDUM

*21 of 2002
S.I. 24/2002*

**CONSTITUTIONAL REFERENDUM
REGULATIONS, 2002**

(SECTION 5)

[Commencement 1st February, 2002]

1. These Regulations may be cited as the Constitutional Referendum Regulations, 2002. Citation.
2. (1) In these Regulations — Interpretation.
 - “political party” means a party or group having a member in the House of Assembly;
 - “proclamation” means the proclamation provided for by section 2(2) of the Constitutional Referendum Act; Ch. 1.
 - “question” means the question to be set out in the Bill which seeks to amend the Constitution or The Bahamas Independence Act, 1973.
- (2) References in the Parliamentary Elections Act, 1992 — 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, 1992 any reference to — Ch. 7.
 - (a) an election shall be construed as a reference to a referendum;
 - (b) candidates or election agents shall be construed as a reference to a representative of a political party;
 - (c) an election petition shall be construed as a reference to a referendum petition;
 - (d) an Election Court shall be construed as a reference to a Referendum Tribunal;

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

Modification of Schedule.
Ch. 7.

3. (1) The provisions of the Parliamentary Elections Act, 1992 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.

Ch. 7.

(2) All other provisions in the Parliamentary Elections Act, 1992 not specified in the First Schedule shall not apply for the purposes for a referendum.

Modification of Parliamentary Elections (Symbols and Time-off) Regulations, 2002.

4. The provisions of the Parliamentary Elections (Symbols and Time-off) Regulations, 2002 specified in column 1 of the Second Schedule shall, subject to the modifications, if any, specified in relation to those provisions in column 2 of that Schedule, apply in connection with a referendum.

S.I. 34/2002.

FIRST 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”
 “election”
 “election agent”
 “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	<p>Delete the section and substitute —</p> <p>“Referendum. 32. (1) The Governor-General shall by proclamation appoint the day upon which the referendum shall be held and such day shall be specified in the writ of referendum in Form A in the Second Schedule to this Act.</p> <p>(2) The day for the holding of the referendum shall be a day not earlier than twenty-one days after the date of the proclamation.</p> <p>(3) The proclamation shall state the date for the holding of the referendum.”</p>
Section 35	<p>Delete the section and substitute —</p> <p>“Public notice of referendum. 35. The returning officer shall not later than the tenth day after the day on which he receives a writ of referendum give public notice of the referendum in Form B in the Second Schedule to this Act.”</p>
Section 44	<p>Delete the section and substitute —</p> <p>“Proclamation. 44. The proclamation shall state —</p> <ul style="list-style-type: none"> (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	<p>Delete all the words from “the result shall” to the end of the sentence and substitute the following —</p> <p>“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”.</p>

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- Section 46 Delete the section and substitute —
- “Party
representatives. **46.** The Chairman of a political party may appoint a person to be representative of that party for each polling division in a constituency to perform for the purposes of a referendum functions corresponding to those of a candidate or of an agent of a candidate at a general election and shall notify the Returning Officer in that constituency in writing of that appointment.”
- Section 47 (i) Delete the words “commissioner in a Family Island” and substitute the words “Family Island Administrator”.
(ii) Delete the words “candidate seeking election as a Member of Parliament and substitute the words “political party”.
- Section 51 Delete the section and substitute —
- “Ballot paper. **51.** (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”; and
(ii) the word “No”; and
(c) opposite the word “Yes” and the word “No” such respective symbol as may be prescribed.
(3) The Bill which seeks to amend the Constitution or The Bahamas Independence Act, 1973 as the case may be shall be published in at least one daily newspaper in circulation in The Bahamas and posted at every polling place.
(4) Every ballot paper shall be in Form K in the Second 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.
(5) Ballot papers printed and provided under the provisions of this section shall be printed on white paper for the purposes of regular votes and upon coloured paper for the purposes of protest votes.”
- Form K in
Second Schedule
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- Section 55 Delete paragraphs (b) and (c) and substitute the following —
“(b) a representative of a political party;”
- 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 to 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 the regular and protest 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 regular and protest 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; and”.
(iii) Delete from subsection (3) the words “candidate, being the candidate himself or his election agent” and substitute the words “political party”.
- Section 66 Delete paragraphs (b) and (c) of subsection (2) and substitute —
“(b) a representative of a political party”.
- Section 68 Delete the section and substitute —
“Notice of result. **68.** Immediately following the recount made pursuant to the provisions of section 67 of this Act, the returning officer shall —

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- (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.”
- Form R in Second Schedule.
- Section 72 Delete the section and substitute —
- “Declaration of results. **72.** When the result of the poll has been ascertained the Parliamentary Commissioner shall —
- Form S in Second Schedule. (a) publicly declare in Form S in the Second Schedule to this Act the number of regular voters who have answered the question or questions —
- (i) in the affirmative;
- (ii) in the negative;
- (b) certify whether the total number of regular 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 —
- “Results to Governor-General. **73.** 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.”
- Form S in Second Schedule
- 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 79 (i) Delete the words “The election of a candidate as Member of Parliament” and substitute the words “A referendum in any constituency”.

- (ii) Delete from paragraph (a) the words “electing the candidates whom they preferred” and substitute the words “answering the question or questions the way they preferred”.
 - (iii) Delete paragraph (c) and substitute —
 “(c) that a corrupt or illegal practice was committed in connection with the referendum by a representative of a political party.”
 - (iv) Delete paragraph (d).
- Section 80 Delete subsection (2) and substitute —
 “(2) A Referendum Tribunal shall consist of —
 (a) the Chief Justice who shall be chairman; and
 (b) a Justice of the Supreme Court.”
- Section 81 Delete paragraphs (b) and (c) and substitute —
 “(b) the Attorney-General.”
- Section 82 Delete the section and substitute —
 “Relief which may be claimed. **82.** A petitioner may claim that the result of the referendum in any constituency is void.”.
- Section 84 Delete the section and substitute —
 “Time for presentation of referendum petition. **84.** Every referendum petition shall be presented within twenty-one days after the date on which the result of the referendum was declared.”
- Section 85 Delete the section and substitute —
 “Conclusion of trial of referendum petition. **85.** (1) At the conclusion of the trial of a referendum petition the Referendum Tribunal shall either —
 (a) confirm without alteration the declared result of the referendum in any constituency; or
 (b) direct that the declared result of the referendum in any constituency be amended in accordance with the finding of the Tribunal and in any such case the Tribunal may order the retaking of the referendum in that constituency.
 (2) The Referendum Tribunal shall certify in writing the determination to the Governor-General and the Parliamentary Commissioner; and the determination so certified shall be final to all intents and purposes.”

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- Section 86 (i) Delete from subsection (1) the words “the Speaker” and substitute the words “the Parliamentary Commissioner”.
(ii) Delete subsection (7).
- Section 87 Delete the words “for whom” and substitute the word “how”.
- Section 92 Delete the words “and petitions under section 90 of this Act”.
- Section 95 Delete paragraph (d) of subsection (1).
- Section 96 (i) Delete paragraph (c), (d) and (h) of subsection (1).
(ii) In subsection (3) substitute “(c)” for “(d)” and delete “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 public 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 word “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”.

Form A. Delete the section and substitute —

“FORM A (Section 34)

FORM OF A WRIT OF REFERENDUM

Elizabeth the Second by the Grace of God Queen of the Commonwealth of The Bahamas and of Her other Realms and Territories, Head of the Commonwealth:

To the Returning Officer for the

Constituency:

GREETING:

WHEREAS we have ordered a REFERENDUM to be held in the Commonwealth of The Bahamas on the day of , 20 next;

We command you that, due notice being first given, you do cause a referendum to be held according to law and that you certify the results of the referendum to us without delay.

Dated this _____ day of _____, 20

GOVERNOR-GENERAL

Endorsement of Receipt of Writ

Received the enclosed writ on the _____ day of _____, 20

Returning Officer for the

_____ Constituency

Endorsement of Certificate of Writ of Referendum

I hereby certify that the results of the Referendum for the _____ Constituency, in pursuance of the enclosed writ is

Question No.:

(state the question)

Affirmative answers _____

Negative answers _____

Question No.:

(state the question)

Affirmative answers _____

Negative answers _____

Date _____

Returning Officer for the _____ Constituency”.

Form B Delete the Form and substitute —

“FORM B

FORM OF NOTICE OF REFERENDUM

FOR THE _____ CONSTITUENCY

NOTICE OF REFERENDUM

Notice is hereby given that —

(1) The polling day for the referendum will be the , 20 .

(2) The question or questions to be asked in the referendum is/are

Question No.:
(state the question)

Question No.:
(state the question)

(3) The Poll will take place between the hours of eight o'clock in the morning and six o'clock in the evening in the following polling places —

Polling Division	No.	Polling Place
	No.	
	No.	
	No.	
	No.	
	No.	

Date

Returning Officer for the
_____ Constituency”.

Form K Delete the Form and substitute —

“FORM K

FORM OF BALLOT PAPER

Counterfoil No.....	Question No. <i>(state the question)</i>	YES (Symbol)
		NO (Symbol)
	Question No. <i>(state the question)</i>	YES (Symbol)
		NO (Symbol)

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” and the symbol if he desires to answer the question in the affirmative or within the space containing the word “No” and the symbol 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 (i) Delete the words —
“Number of Regular votes cast for” wherever they occur and substitute the words “Number of regular votes answering in the question in the affirmative” and “Number of votes answering in the question in the negative”.

(ii) Delete the words —

“Number of protest votes cast for” wherever they occur and substitute the words “Number of protest votes answering the question in the affirmative” and “Number of protest votes answering the question in the negative”.

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)

_____ Affirmative Answers

_____ Negative Answers

Question No:
(state the question)

_____ Affirmative Answers

_____ Negative Answers

Date _____
RETURNING OFFICER”.

Form S Delete the Form and substitute —

“FORM S (Section 72)

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” ⁷represents/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” ⁸represents/does not represent the majority of all the voters voting in the Referendum.

Date _____

PARLIAMENTARY COMMISSIONER”.

⁷ Delete where not applicable.

⁸ Delete where not applicable.

S.I. 34/2002.

SECOND SCHEDULE (Regulation 4)

APPLICATION AND MODIFICATION OF THE
PROVISIONS OF THE PARLIAMENTARY ELECTIONS
(SYMBOLS AND TIME-OFF) REGULATIONS, 2002

Column 1

Column 2

Regulation 3

Delete the regulation and substitute the following —

“Symbols

3. There shall be printed upon every ballot paper opposite the word “Yes” the symbol of the star numbered 1 in the Schedule and opposite the word “No” the symbol of the aeroplane numbered 2 in the said Schedule.”.

Regulation 8

Delete the words “polling day” wherever they appear and substitute the words “the day for the holding of the referendum”.

Schedule

Delete the Schedule and substitute the following —

“SCHEDULE

Symbols



1.



2”.