

NORFOLK



ISLAND

# REFERENDUM ACT 1964

[Consolidated as at 31 December 2012  
on the authority of the Administrator  
and in accordance with  
the *Enactments Reprinting Act 1980*]

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## TABLE OF PROVISIONS

### PART 1 — PRELIMINARY

1. Short title
2. Parts
3. Definitions

### PART 2 — INITIATION OF REFERENDUM

4. Referendum as directed by the Commonwealth Minister
5. Referendum as directed by the Speaker
6. Referendum as requested by electors
7. Referenda on same question not to be held within 2 years

### PART 3 — CONDUCT OF REFERENDUM

....

9. Questions to be submitted to be notified in the Gazette, etc
10. Closing of roll
11. Returning Officer to forward ballot papers, etc, to electors
12. Polling places
13. Qualifications for voting, etc
14. Compartments for voting
15. Ballot papers and ballot boxes

16. Method of voting
17. Questions that may be asked
18. Scrutineers at polling places
19. Offences by scrutineers
20. Absentee vote
21. Counting of votes
22. Scrutineers at counting of votes
23. Objections
24. Declaration of poll
25. Compulsory voting

#### **PART 4 — REGULATIONS**

26. Regulations



## Referendum Act 1964

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An Act to provide for ascertaining by referendum the opinion of the electors on any question relating to a matter affecting the peace, order and good government of Norfolk Island.

### PART 1 — PRELIMINARY

#### Short title

1. This Act may be cited as the *Referendum Act 1964*.

#### Parts

2. This Act is divided into Parts, as follows:  
Part 1 — Preliminary  
Part 2 — Initiation of Referendum  
Part 3 — Conduct of Referendum  
Part 4 — Regulations.

#### Definitions

3. In this Act, unless the contrary intention appears —  
“Assembly”, “elector”, and “the electoral roll” have the same respective meanings as in the *Legislative Assembly Act 1979*;  
“polling day”, in relation to a referendum, means the day for the polling in the referendum notified by the Returning Officer under section 9;  
“referendum” means a referendum under this Act;  
“Returning Officer” means the person appointed as Returning Officer under section 11 of the *Legislative Assembly Act 1979* or anyone acting in that office;  
“Speaker” means the Speaker of the Legislative Assembly.

## PART 2 — INITIATION OF REFERENDUM

### Referendum as directed by the Commonwealth Minister

4. (1) Where the Commonwealth Minister considers it desirable to obtain an expression of the opinion of the electors on a matter affecting the peace, order and good government of Norfolk Island with a view to the introduction into the Parliament of a proposed law with respect to that matter, he may instruct the Administrator to direct a referendum to ascertain the opinion of the electors on any question relating to that matter.

(2) In directing a referendum under this section, the Administrator shall, subject to this Act, comply with any requirement with respect to the referendum specified by the Commonwealth Minister in his direction.

### Referendum as directed by the Speaker

5. Subject to section 7, where the Assembly resolves to ascertain the opinion of the electors on a specified question relating to the peace, order and good government of Norfolk Island, the Speaker shall, in accordance with the resolution, direct a referendum on the question.

### Referendum as requested by electors

6. Subject to section 7, the Administrator shall, if so requested by a number of electors, not being less than one third of the total number of persons whose names are entered on the electoral roll, direct a referendum to ascertain the opinion of the electors on any question relating to a matter affecting the peace, order and good government of Norfolk Island, not being a question relating to the constitution of the Assembly.

### Referenda on same question not to be held within 2 years

7. A referendum shall not be directed under section 5 or 6 if the question on which the opinion of the electors is to be ascertained is the same, or substantially the same, as a question on which that opinion was ascertained by a referendum directed under this Act within the preceding 2 years.

## PART 3 — CONDUCT OF REFERENDUM

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### Questions to be submitted to be notified in the Gazette, etc

9. (1) For the purposes of a referendum, the Returning Officer shall notify in the Gazette —

- (a) the question on which the opinion of the electors is to be ascertained;
- (b) the method of voting on the question;
- (c) the day for the closing of the electoral roll;
- (d) the day for the polling; and
- (e) the method by which votes shall be counted.

(2) The day for the closing of the electoral roll shall be not earlier than one week after the date of the notification in the Gazette and not later than 4 weeks before the day for the polling.

**Closing of roll**

**10. (1)** Where a referendum is to be held, the electoral roll shall be closed at 5 pm on the day notified under paragraph 9(1)(c) and shall not be re-opened until after the day for the polling.

**(2)** While the electoral roll is closed, an alteration shall not be made to the roll except in accordance with subsection 8(2) of the *Legislative Assembly Act 1979*.

**(3)** In its application to a referendum, section 8 of the *Legislative Assembly Act 1979* is to be read as if the reference in that section to the closing of the roll where an election is to be held were a reference to the closing of the roll in accordance with subsection 10(1) where a referendum is to be held.

**Returning Officer to forward ballot papers, etc, to electors**

**11.** The Returning Officer shall, not less than 3 weeks before the polling day, forward to each elector —

- (a) a specimen of the ballot paper to be used in the referendum;
- (b) a statement setting out such matters as the Commonwealth Minister in the case of a referendum held in pursuance of a direction under section 4, or the Speaker in the case of a referendum directed under section 5 or the Administrator in any other case, considers would assist an elector in his consideration of the question on which the opinion of electors is to be ascertained;
- (c) any statement that has been prepared on behalf of a group of electors who are in favour of the question being adopted and has been approved, in the case of a referendum held in pursuance of a direction under section 4, by the Commonwealth Minister, the Speaker in the case of a referendum directed under section 5 or, in any other case, by the Administrator for distribution to the electors; and
- (d) any statement that has been prepared on behalf of a group of electors who oppose the adoption of the question and has been approved, in the case of a referendum held in pursuance of a direction under section 4, by the Commonwealth Minister, the Speaker in the case of a referendum directed under section 5 or, in any other case, by the Administrator for distribution to the electors.

**Polling places**

**12. (1)** The poll in a referendum shall be taken at such place or places as the Returning Officer appoints.

**(2)** Where the Returning Officer appoints more than one polling place, he shall appoint a Presiding Officer at each polling place.

**(3)** Where the Returning Officer appoints only one polling place, he shall be the Presiding Officer at that polling place.

**(4)** The Returning Officer may appoint a Poll Clerk to assist the Presiding Officer at a polling place.

**Qualifications for voting, etc**

13. (1) Subject to this Act, every elector is entitled to vote at a referendum.
- (2) Voting in a referendum shall be by secret ballot.
- (3) The voting shall commence at 8 a.m. of polling day and shall close at 5 p.m. that day.

**Compartments for voting**

14. (1) At each polling place there shall be one or more separate voting compartments.
- (2) A person who is not an elector about to mark his ballot paper shall not enter a voting compartment during the poll.

Penalty: 2 penalty units.

**Ballot papers and ballot boxes**

15. (1) The Returning Officer shall furnish to each Presiding Officer a sufficient number of ballot papers.
- (2) Each ballot paper shall include a statement of the question on which the opinion of the elector is to be ascertained and a statement of the method of voting in the referendum.
- (3) The Presiding Officer shall initial each ballot paper on the back before delivering it to an elector voting at the polling place at which he presides.
- (4) The Returning Officer shall furnish to each Presiding Officer a ballot box, the front of which shall be of glass and in the top of which there shall be an opening sufficiently large to receive a folded ballot paper.
- (5) The box shall be locked throughout the polling and the key shall be retained by the Returning Officer.

**Method of voting**

16. (1) An elector may vote at any polling place appointed by the Returning Officer.
- (2) The Presiding Officer at a polling place shall deliver to each elector desiring to vote at that polling place a ballot paper initialled in accordance with section 15.
- (3) An elector who has received a ballot paper shall —
- (a) enter a voting compartment;
  - (b) without leaving the compartment, mark the ballot paper in accordance with the directions for voting set out in the ballot paper and fold the ballot paper so as to conceal the manner in which he has voted; and
  - (c) openly, in the presence of the Presiding Officer place the ballot paper in the ballot box.
- (4) If an elector cannot read, the Presiding Officer may, at the request of the elector, mark the ballot paper in accordance with the wishes of the elector.

(5) Where, at the request of an elector, the Presiding Officer marks a ballot paper, he shall take all reasonable precautions to ensure that the details of the vote of that elector are not communicated to any other person.

#### **Questions that may be asked**

17. (1) A Presiding Officer may ask an elector to state his full name and address and whether he has already voted in the referendum.

(2) A Presiding Officer shall not ask an elector any other question.

(3) A person shall not make a false answer to a question referred to in subsection 17(1) asked by a Presiding Officer.

Penalty: 5 penalty units.

(4) A Presiding Officer shall not give a ballot paper to a person unless —

(a) the person states his full name and address and that he has not already voted in the referendum; and

(b) the name and address of the person is on the electoral roll.

#### **Scrutineers at polling places**

18. (1) The Administrator may appoint a scrutineer for each polling place to represent him at that polling place.

(2) The Administrator may also appoint 2 other scrutineers for each polling place, one of whom shall be a person nominated by a group of electors on whose behalf a statement has been distributed under paragraph 11(c) to represent that group of electors at that polling place and the other shall be a person nominated by a group of electors on whose behalf a statement has been distributed under paragraph 11(d) to represent that group of electors at that polling place.

#### **Offences by scrutineers**

19. (1) A scrutineer shall not —

(a) interfere with or attempt to influence an elector within a polling place; or

(b) communicate with any person in the polling place except so far as it is necessary in the discharge of his functions.

Penalty: 5 penalty units.

(2) Subject to subsection 19(3), a person shall not hinder a scrutineer from entering or leaving a polling place during the poll.

Penalty: 5 penalty units.

(3) A scrutineer who —

(a) contravenes or fails to comply with this section; or

(b) fails to obey a lawful direction of the Presiding Officer,

may be removed from the polling place by a member of the Police Force of Norfolk Island or any person authorised by the Presiding Officer.

**Absentee vote**

**20. (1)** Sections 21 and 22, subsections 23(1) and 23(3), section 24, subsections 26(1) and 26(2), and sections 27, 28, 29, 30, 31 and 32 of the *Legislative Assembly Act 1979* apply in relation to a referendum as if the referendum were an election under that Act and, for the purposes of those provisions as so applied —

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- (b) a reference to the polling day or to a polling place shall be read as a reference to the polling day or a polling place, respectively, for the purposes of the referendum;
- (c) a reference to nomination day shall be read as a reference to the day for the closing of the electoral roll for the purposes of the referendum; and
- (d) a reference to a Form shall be read as a reference to that Form modified as prescribed.

**(2)** Section 25 of the *Legislative Assembly Act 1979* applies in relation to a referendum as if the referendum were an election under that Act and as if the words “in the manner provided by subparagraph 20(3)(b)(i)” (twice occurring) were omitted.

**Counting of votes**

**21. (1)** Immediately after the close of the poll, the Presiding Officer at each polling place shall bring the ballot boxes unopened to the Returning Officer, who shall cause all the ballot boxes to be opened and the votes to be counted.

**(2)** The Returning Officer may appoint a person or persons to assist him to count the votes.

**Scrutineers at counting of votes**

**22. (1)** The Administrator may appoint a scrutineer to represent him at the counting of the votes.

**(2)** The Administrator may also appoint 2 other scrutineers for the counting of the votes, one of whom shall be a person nominated by a group of electors on whose behalf a statement has been distributed under paragraph 11(c) to represent that group at the counting and the other shall be a person nominated by a group of electors on whose behalf a statement has been distributed under paragraph 11(d) to represent that group at the counting.

**(3)** A scrutineer appointed under this section shall not handle a ballot paper.

Penalty: 1 penalty unit.

**Objections**

**23. (1)** If a scrutineer objects that a ballot paper is informal the Returning Officer or person appointed by him to count the votes shall mark the ballot paper “admitted” or “rejected” according to his decision to admit or reject the ballot paper.

**(2)** Subsection 23(1) does not prevent the Returning Officer or other person from rejecting a ballot paper as informal although a scrutineer has not objected to the ballot paper.



### Declaration of poll

**24. (1)** The Returning Officer shall, as soon as practicable after the result of a referendum is ascertained, declare publicly at the Court House at Norfolk Island whether or not the electors have expressed their opinion in favour of a question submitted to the electors at the referendum and shall, at the time of making the declaration, publish the details of the voting in the referendum, including the number of informal votes.

**(2)** The electors shall be deemed not to have expressed their opinion in favour of a question submitted to them at a referendum unless the number of votes cast at the referendum in favour of the question exceeds the number of votes cast at the referendum against the question and any other question submitted at the referendum by not less than 10 per centum of the total number of votes (including informal votes) cast at the referendum.

### Compulsory voting

**25.** Section 47 of the *Legislative Assembly Act 1979* applies in relation to a referendum as if the referendum were an election under that Act and, for the purposes of that application —

- (a) a reference in that section to the Returning Officer shall be read as a reference to the person appointed to be the Returning Officer to conduct the referendum; and
- (b) a reference in that section to a Form shall be read as a reference to the Form as modified as prescribed.

## PART 4 — REGULATIONS

### Regulations

**26.** The Commonwealth Minister may make Regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

#### NOTES

The *Referendum Act 1964* as shown in this consolidation comprises Act No. 5 of 1964 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Referendum Act 1964</i>	5, 1964	18.6.64	
<i>Ordinances Revision Act 1979</i>	13, 1979	7.8.79	5
<i>Ordinances Revision Act 1979</i>	2, 1980	10.8.79	
<i>Ordinances Revision (Decimal Currency) Act 1980</i>	31, 1980	15.1.81	

  

Enactment	Number and year	Date of commencement	Application saving or
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			<b>transitional provision</b>
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
<i>Referendum Amendment Act 1987</i>	23, 1987	30.12.87	
<i>Referendum Amendment Act 1992</i>	5, 1992	15.4.92	
<i>Statute Law (Miscellaneous Provisions) Act 1995</i>	13, 1995	27.7.95	
<i>[Previously consolidated as at 8 February 2000]</i>			
<i>Interpretation (Amendment) Act 2012</i>	14, 2012	28.12.12	
<i>[to substitute throughout — Commonwealth Minister for Minister; and to substitute Minister for executive member]</i>			

#### Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and  
inserted substituted

Provisions affected	How affected
3	am 13, 1979; 23, 1987; 5, 1992; 13, 1995
5	am 13, 1979
	rs 23, 1987
	am 13, 1995
6	am 13, 1979; 23, 1985
8	rep 5, 1992
10	rs 5, 1992
10(2)	am 13, 1979; 2, 1980
11	am 23, 1987; 13, 1995
14	am 31, 1980; 9, 1985
17(3)	am 31, 1980; 9, 1985
19(1),(2)	am 31, 1980; 9, 1985
20	rs 13, 1979
	am 5, 1992
22	am 31, 1980; 9, 1985
25	am 13, 1979