

**CONSTITUTION (REFERENDUMS) AMENDMENT
ACT, 1978, No. 45**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 45, 1978.

An Act to amend the Constitution Further Amendment (Referendum) Act, 1930, in relation to the conduct of any referendum upon a Bill authorised or directed by law to be submitted to a referendum. [Assented to, 29th March, 1978.]

Constitution (Referendums) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. 1. This Act may be cited as the "Constitution (Referendums) Amendment Act, 1978".

**Amend-
ment of
Act No. 2,
1930.** 2. The Constitution Further Amendment (Referendum) Act, 1930, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

**AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930.**

(1) (a) Long title—

Omit "to provide for the holding of a referendum upon a Bill intituled 'A Bill to alter the Constitution of the Legislative Council; to amend the Constitution Act, 1902, and certain other Acts; and for purposes connected therewith'; to provide for certain matters necessary for giving effect to that Bill if approved at the referendum and assented to by His Majesty, including the conduct of elections of Members of the Legislative Council;"

(b) Long title—

Omit "; to make certain provisions as to the privileges of existing Members of the Legislative Council; and for purposes connected therewith".

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

- (2) (a) Section 2—
Omit the matter relating to Parts II, IV and V.
- (b) Section 2—
From the matter relating to Division 1 of Part III,
omit “—1929”.
- (c) Section 2—
From the matter relating to Division 3 of Part III,
omit “18”, insert instead “16”.
- (d) Section 2—
Omit “FIRST SCHEDULE.”.
- (e) Section 2—
Omit “THIRD SCHEDULE.”.
- (3) Part III, Division 1, heading—
Omit “—1929”.
- (4) (a) Section 4 (1), definition of “This Part”—
Omit “means this Part of this Act, and”.

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

(b) Section 4 (2)—

Omit the subsection.

(5) (a) Section 5 (1)—

Omit “—1929, and any Act amending or replacing that Act and any regulations or rules made under any such Act”, insert instead “, and any regulations or rules made thereunder”.

(b) Section 5 (1) (b1)—

After section 5 (1) (b), insert :—

(b1) a reference to a day of nomination shall be read—

(i) except as provided in subparagraph (ii), as a reference to the day that is 7 days after the day on which the writ for a referendum is issued; or

(ii) where the day fixed for the taking of the votes for the purposes of a referendum is the same as that for the polling at an election, as a reference to the day of nomination for that election;

(c) Section 5 (1) (f)—

After “ballot-paper” wherever occurring, insert “(including the form of a ballot-paper)”.

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

(6) Section 14 (2)—

Omit the subsection, insert instead :—

(2) Each elector shall mark his vote on the ballot-paper—

- (a) if he approves of the Bill, by placing the number “1” in the square opposite the word “Yes” and by placing the number “2” in the square opposite the word “No”; or
- (b) if he does not approve of the Bill, by placing the number “1” in the square opposite the word “No” and by placing the number “2” in the square opposite the word “Yes”.

(7) Section 15 (1), (2), (3) and (4)—

Omit the subsections, insert instead :—

(1) Except as provided in subsection (5), the ballot-papers to be used at a referendum shall be—

- (a) except as provided in paragraph (b), in or to the effect of Form B in the Second Schedule; and
- (b) in the case of ballot-papers to be used for postal voting, in or to the effect of Form D in the Second Schedule.

Constitution (Referendums) Amendment.

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
 (REFERENDUM) ACT, 1930—*continued.*

(8) Sections 16, 17 and 18—

Omit the sections, insert instead :—

Simul-
taneous
poll for
referendum
and
election.

16. Where the day fixed for the taking of the votes for the purposes of a referendum is the same as that fixed for the taking of the poll at an election—

- (a) an application for a postal vote certificate and postal ballot-paper or an application to vote before polling-day made in respect of the election is a corresponding application in respect of the referendum;
- (b) a declaration or certificate which enables an elector to vote under any provision of the Parliamentary Electorates and Elections Act, 1912, at the election enables him to vote under the corresponding provision at the referendum;
- (c) the answers by a person claiming to vote at the election, put to him pursuant to the Parliamentary Electorates and Elections Act, 1912, may be accepted as sufficient to enable him to vote at the referendum if they are satisfactory as regards the election;
- (d) the ballot-papers used for the referendum shall be of a different colour from those used for the election;
- (e) a ballot-paper shall not be issued to a person for the referendum unless a ballot-paper is issued to that person for the election;

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

- (f) a ballot-paper used at the referendum shall, if it is required to be placed in an envelope by a voter, be placed in the same envelope as the ballot-paper used at the election;
- (g) the copy of the printed roll and the certified copies of rolls in force provided for the purposes of the election shall be used for the purposes of the referendum;
- (h) the same polling-booths and ballot-boxes shall be used for the purposes of the referendum and the election; and
- (i) a reference in Division 13 of Part V of, or Schedule 20 to, the Parliamentary Electorates and Elections Act, 1912, to an election shall be construed as a reference to the election and the referendum and the Electoral Commissioner shall not under section 120c of that Act send more than one notice to the same elector.

(9) Section 20 (1) (a)—

Omit the paragraph, insert instead :—

- (a) it is not signed or initialled or does not bear a mark as required by the Parliamentary Electorates and Elections Act, 1912, in respect of ballot-papers for an election; or

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

(10) (a) Section 28—

After “Assembly”, insert “, within 15 sitting days of the House making the reference after the publication in the Gazette of the copy of the statement signed by the Electoral Commissioner under section 27 (1),”.

(b) Section 28 (2)—

At the end of section 28, insert :—

(2) For the purposes of subsection (1), sitting days shall be counted, whether or not they occur during the same session.

(11) Section 30—

Omit “—1929”.

(12) (a) Section 35 (2)—

Omit “Form C,”.

(b) Section 35 (4), (5) and (6)—

Omit the subsections, insert instead :—

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(13) Section 36—

Omit “—1929”.

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

(14) (a) Second Schedule—

From Form B, omit "*Directions to Voter.*", insert instead :—

Electoral District for which voter is enrolled :—

Directions to Voter.

(b) Second Schedule—

Omit Form C.

(c) Second Schedule—

Omit Form D, insert instead :—

POSTAL BALLOT-PAPER.

CONSTITUTION FURTHER AMENDMENT **Sec. 15.**
(REFERENDUM) ACT, 1930.

Electoral District for which voter is enrolled :—

Directions to Voter.

The voter must not mark his vote hereon until he has first exhibited the ballot-paper (in blank) to the authorised witness.

The voter should indicate his vote as follows :—

If he approves of the Bill he should place the number "1" in the square opposite the word "Yes" and place the number "2" in the square opposite the word "No".

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

If he does not approve of the Bill he should place the number "1" in the square opposite the word "No" and place the number "2" in the square opposite the word "Yes".

The voter should then fold the ballot-paper so that the vote cannot be seen and place it in the envelope provided and fasten the envelope.

Submission to the Electors of a Bill.

Do you approve of the Bill, entitled
[here set out the title of the Bill?]

<input type="checkbox"/>	YES.
<input type="checkbox"/>	NO.

(d) Second Schedule—

From Form E, omit "Directions to Voter.", insert instead :—

Electoral District for which voter is enrolled :—

Constitution (Referendums) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION FURTHER AMENDMENT
(REFERENDUM) ACT, 1930—*continued.*

Directions to Voter.

(e) Second Schedule—

At the end of Form E, insert :—

(If this form is to be used as a postal ballot-paper,
include in this form additional directions to voter as
in Form D.)
