

**BERMUDA STATUTORY INSTRUMENT**

**BR 28/1989**

**CAPITAL PUNISHMENT REFERENDUM REGULATIONS 1989**

*[made under section 4 of the Capital Punishment Referendum Act 1989  
[title 2 item 24] and brought into operation on 30 June 1989]*

ARRANGEMENT OF REGULATIONS

- 1 Citation
- 2 Interpretation
- 3 Conduct of referendum
- 4 Application of certain statutory provisions to the referendum
- 5 Observers

SCHEDULE

**Citation**

1 These regulations may be cited as the Capital Punishment Referendum Regulations 1989.

**Interpretation**

2 Unless the contrary intention appears, in these regulations, and in any provision applied by these regulations—

"Act" means the Capital Punishment Referendum Act 1989 [*title 2 item 24*];

"designated central counting station" means the place designated by the Minister by notice published in the Gazette as the place where the votes in the referendum shall be counted;

"Minister" means the Minister of Labour and Home Affairs;

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"parliamentary elector" or "elector" means a person who is entitled to vote in the referendum;

"observer" means a person appointed in accordance with regulation 5;

"polling room" means the place appointed by notice for the holding of the referendum in a constituency;

"referendum" means the referendum to be held under the Act;

"Registrar" has the meaning ascribed to it in section 1(1) of the Parliamentary Election Act 1978 [*title 2 item 11*];

"Returning Officer" has the meaning ascribed to it in section 1(1) of the Parliamentary Election Act 1978.

### **Conduct of referendum**

3 (1) The functions which, in relation to a general election, are conferred on the Registrar by any provision of the Parliamentary Election Act 1978 [*title 2 item 11*] applied by these regulations shall, in relation to the referendum, be discharged by that officer.

(2) The Registrar shall, in addition to the functions conferred upon him by paragraph (1) of this regulation, be responsible for conducting the count of votes case in the referendum and for certifying the total of the ballot papers and the respective answers relating to the referendum.

(3) The Minister shall in writing appoint such persons as may be necessary—

(a) as Returning Officers for the purpose of conducting the referendum in a constituency;

(b) to assist the Registrar in conducting the count of votes cast in the referendum.

(4) The functions which, in relation to a general election are conferred respectively on Returning Officers and presiding officers by any provision of the Parliamentary Election Act 1978 applied by these regulations shall, in relation to the referendum, be discharged by those officers respectively.

### **Application of certain statutory provisions to the referendum**

4 (1) The provisions of the Parliamentary Election Act 1978 [*title 2 item 11*] and the Parliamentary Election Rules 1979 [*title 2 item 11(a)*] specified in column 1 of the Schedule shall, subject to the modifications or exceptions (if any) specified in relation to those provisions in column 2 of that Schedule, apply in connexion with the referendum, but any reference to a candidate, nomination, election agent, polling agent shall, unless the context otherwise requires, be disregarded.

(2) Unless the contrary intention appears, in these Regulations and in the provisions applied by this regulation—

- (a) any reference to an election, parliamentary election or poll shall be construed as a reference to the referendum;
- (b) any reference to a constituency shall be construed as a reference to the area for which the relevant Returning Officer acts;
- (c) any reference to the election room shall be construed as a reference to a polling room.

**Observers**

5 (1) The Minister may make arrangements for the appointment of persons to observe the conduct of the referendum, the verification of the ballot paper accounts and the counting of the votes.

(2) Any such appointment shall be in writing and shall be signed by the Minister.

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SCHEDULE (Regulation 4)

Application and Modification of Provisions of the Parliamentary Election Act 1978 and regulations made thereunder.

Provision applied and subject matter	Modification
Section 2 (meaning of resi.....	
Section 4 (Entitlement to .....	
Section 25 (Voter's identifi.....	
Section 27 (Issue of writs of ....	Omit and substitute "27(1) On the issue of the notice of the referendum under section 2(4) of the Act, the Minister shall by notice published in the Gazette appoint the polling room for the holding of the referendum in a constituency.  (2) The place appointed for the holding of a referendum in a constituency shall be some convenient building or part of a building within, or in the opinion of the Minister conveniently near the boundary of the constituency concerned, not being a building licensed for the sale of intoxicating liquor."
Section 29 (Duties of return.....	In subsections (1) and (2), omit "executing a writ of election" and substitute "conducting the referendum in a constituency".
Section 30 (Notice of election)	Omit and substitute— "30 The Registrar shall also give notice of the holding of the referendum by publication of a notice in two successive issues of the Gazette and in at least one other newspaper circulating in Bermuda specifying the day for the holding of the referendum and the location of the polling place in a constituency."

Section 31	(Delivery of parlia ...	In subsection (1), omit "eleven o'clock in the forenoon of nomination day in any parliamentary election" and substitute "nine o'clock in the forenoon of the polling day in the referendum".
Section 36	(Taking a poll in ....	Omit subsection (1).
Section 39	(Duration of poll)	
Section 40	(Advanced polls for sick, infirm and .....	Omit subsection (5) and  "(5) The Registrar shall invite the attendance of observers at any advanced poll."
Section 41	(Advanced polls for incapacitated vot....	
Section 42	(Conduct of ad.....	Omit subsections (1), (2) and (3) and substitute the following—  "(1) At any advanced poll held in accordance with section 40 or 41 a ballot box shall be provided and at the close of such advanced poll the ballot papers shall without any examination be placed in a packet and sealed by the officer conducting the poll, such packet clearly designating the number of ballot papers it contains.  (2) Each sealed packet of ballot papers taken at an advanced poll shall be immediately given by the officer conducting the poll to the Registrar to be kept intact in his office until delivery by him on the polling day in the referendum to the designated central counting station.

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(3) The Registrar shall open every packet of ballot papers delivered to him pursuant to subsection (2) immediately before the count of the ballots for all areas in the referendum and without examining them, in the presence of observers and such other persons who are lawfully in the designated central counting station at that time, place the ballot papers in the ballot box which contains all the other ballot papers."

- Section 43 (General duties of .. In subsection (1), omit the words "and the counting of the votes".
- Section 44 (Adjournment of ....
- Section 45 (Rules for taking a .
- Section 46 (Ballot papers) In subsection (1), omit the words "in the prescribed form showing the full names of all the nominated candidates in alphabetical order" and substitute "in the form set out in the Schedule to the Capital Punishment Referendum Act 1989".
- Omit section (2)
- Section 47 (Premises not to be used as committee In subsection (3), omit the words "promoting the election of any candidate nominated in a parliamentary election" and substitute "the referendum".
- Section 48 (Issue of ballot pa...
- Section 49 (Identification of ....
- Section 50 (Challenge of ..... In subsection (1), delete the words "at the request of the election agent of any candidate or".
- Omit subsection (2)
- Section 51 (Marking of ballot .. Omit subsection (2)
- Section 52 (Incapacitated .....
- Section 53 (Spoilt ballot pa.....
- Section 54 (Void ballot ..... For paragraph (1)(b), substitute—

"(b) on which more than one vote is given; or".

In paragraph (1)(d), omit from "which" where it appears for the second time to the end of paragraph and substitute "void for uncertainty".

In paragraph (2)(c) —

(i)

(ii)

Section 55 (Arrest of voters for personation)

In subsection (1) omit —

(i)

(ii)

Section 56 (Count of ballots)

For section 56 substitute:

"56(1) Immediately after the close of the poll, the Returning Officer shall—

(a)

(b)

(i)

(ii)

and shall endorse on each packet a description of its contents and the name of the constituency and deliver all the aforesaid packets so endorsed to the Registrar.

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(2) Upon receipt of a sealed ballot box from a Returning Officer under subsection (1), the Registrar shall break the seal thereon in the presence of observers and of any other persons who are lawfully in the central counting station at that time and place all the ballot papers therein contained in the appropriate ballot box which shall be provided, and in such box all the ballot papers removed from the ballot boxes for the areas in the referendum shall be placed and mixed together for the purpose of being counted.

(3) When all the ballot boxes from all the polling stations have been received by the Registrar and dealt with in accordance with subsection (2), and not before, the Registrar shall then ascertain the result of the poll by counting the votes and the respective answers given by valid votes.

(4) When the result of the poll has been ascertained the Registrar shall forthwith publicly declare that result and shall subsequently by notice published in the Gazette, publish the result.

Section 60 (Secrecy during ....

In subsection (1)—

(i)

(ii)

(iii)

(iv)

(v)

In subsection (2) omit "a political party" and substitute "or opposition to the referendum".

In subsection (3)(b), omit "name of the candidate for whom" and substitute "manner in which".



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		In subsection (3)(c), omit "declare for whom" and substitute "declare the manner in which"
Section 61	(Misconduct at .....	Subsection (1)(a)(iv), omit "candidates for whom" and substitute "manner in which".  Subsection (1)(a)(v), omit "name of any candidate for whom" and substitute "manner in which".
Section 62	(Returning officer ..	
Section 63	(No person to carry offensive weapons .	In subsection (2)(a), insert after "propaganda" "relating to the referendum".
Section 64	(Bribery)	In paragraph (c), omit "the election of any person" and substitute "a specific result".
Section 65	(Undue influence)	In paragraph (d), omit "election of any person: and substitute "specific result".
Section 66	(Punishment for ....	
Section 68	(Personation and ...	Omit paragraphs (a) and (b)
Section 69	(Offences relating ..	
Section 70	(Supplying .....	
Section 71	(Disqualification)	
Section 73	Breaches of official	
Section 74	(Registrar to .....	
Section 77	(Duty of Commis ....	Omit "issue of a writ of election under the Act" and substitute "the day for the holding of the referendum has been published in the Gazette under section 2(4) of the Capital Punishment Referendum Act 1989".

**SCHEDULE**

Paragraph 2	Omit subparagraph (1)(a) and substitute —
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"(a) an adequate number of tables is provided in the polling station for use by officers in, and by observers in observing, the checking of the credentials of, and the handing out of ballot papers to, electors;

Paragraph 3

Paragraph 5

Omit "after placing therein any ballot papers which may be delivered to him in respect of an advanced poll,".

Paragraph 6

Paragraph 7

Paragraph 8

Omit "and subject to any challenge under section 50"

Paragraph 9

Paragraph 10

Omit and substitute —  
"10 At the count of votes the Registrar shall endorse any ballot paper appearing to him to be void under section 52 with the word "rejected".

Paragraph 11

Omit and substitute—  
"11(1) On the completion of the counting of the votes the Registrar shall seal up in separate packets all—  
(a)  
(b)  
(c)  
(d)  
and shall endorse in each packet a description of its contents and the date of the referendum.

(2) The Registrar shall then deliver all the aforesaid packets so endorsed to the Secretary to the Cabinet together with a statement showing the total number of ballot papers prepared by him for the referendum."

The Parliamentary Elections  
Rules 1979 (BR 30/80)  
First Schedule Form 6