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SCHEDULE – WRIT OF CONSTITUTIONAL REFERENDUM



GRENADA

ACT NO. 25 OF 2016

I assent,

CÉCILE E. F. LA GRENADE
*Governor-General.**5th August, 2016.*

AN ACT to make provision for the procedures for the holding of constitutional referendum on Bills for the altering of the Constitution, and certain other constitutional instruments, for the purposes of section 39 of the Constitution.

[By Proclamation].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the

CONSTITUTIONAL REFERENDUM ACT, 2016.

Short title
and com-
mencement.

(2) This Act shall come into effect on such date as may be appointed by Proclamation by the Governor-General published in the *Gazette*.

Scope and application.

2.—(1) Every constitutional amendment Bill shall be approved or disapproved by a constitutional referendum held in accordance with section 39 (5) (c) and section 39 (6) of the Constitution and in accordance with this Act.

(2) The Referendum Act shall not apply to a constitutional referendum.

Interpretation.

3. In this Act—

“community organisation” includes civil society organisations, commercial bodies, farmers’ organisations, media bodies, political parties, religious organisations and trade unions;

“constituency” means a constituency within the meaning under the Representation of the People Act;

“constitutional amendment Bill” means a Bill to alter the Constitution that—

- (a) has been passed by both Houses of Parliament; or
- (b) in the case of a Bill to which section 48 of the Constitution applies, has been passed by the House of Representatives and has been rejected by the Senate for the second time,

and to which the requirement to be approved on a referendum pursuant to section 39 (5) of the Constitution applies;

“constitutional referendum” means a referendum in which the electorate is invited to vote on the question as to whether they approve or disapprove a constitutional amendment Bill, and held in accordance with this Act;

“constitutional referendum ballot paper” and “ballot paper” mean a sheet of paper on which voters are asked to vote on a constitutional referendum question, pursuant to sections 9 and 10;

“constitutional referendum day” means the date appointed for the holding of a constitutional referendum under section 4 (2) (d);

“constitutional referendum question” means a question in a constitutional referendum that asks a voter whether he or she approves or disapproves a constitutional amendment Bill;

“current list” has the meaning given to it by section 2 of the Representation of the People Act and to which section 103 of the Representation of People Act shall apply;

“election officer” means an election officer for the purposes of the Representation of the People Act;

“elector” means an elector for the purposes of the Representation of the People Act;

“polling station” means a polling station established under section 47 of the Representation of the People Act;

“presiding officer” means a presiding officer appointed under section 32 of the Representation of the People Act;

“referendum monitor” means a person appointed as a referendum monitor pursuant to section 12, and includes a chief referendum monitor;

“Representation of the People Act” means the Representation of the People Act, Chapter 286A and any regulations made thereunder;

“returning officer” means a returning officer appointed under section 29 (3) of the Representation of the People Act;

“State” means the State of Grenada;

“voter” means an elector who casts a vote on a constitutional referendum;

“writ” means a writ of constitutional referendum issued pursuant to section 4.

PART II

PROCEDURES FOR HOLDING A CONSTITUTIONAL REFERENDUM

Writ of constitutional referendum.

4.—(1) Where in accordance with section 39 of the Constitution a constitutional amendment Bill has been—

(a) passed by both Houses of Parliament; or

- (b) in the case of a Bill to which section 48 of the Constitution applies, passed by the House of Representatives and has been rejected by the Senate for the second time,

the Governor-General may issue a writ of constitutional referendum under the Public Seal of the State.

(2) A writ under subsection (1) shall—

- (a) be in the form set out in the Schedule;
- (b) be signed by the Governor-General;
- (c) appoint the date on or before which every person entitled to vote in the constitutional referendum shall be registered;
- (d) appoint the date on which the constitutional referendum shall be held;
- (e) appoint the date on which the writ shall be returned; and
- (f) have attached to it a copy of the constitutional amendment Bill to which the writ relates.

(3) The date fixed under subsection (2) (c) for the close of registration of persons entitled to be registered pursuant to the Representation of the People Act to vote in the constitutional referendum shall be the ninth day after the issue of a writ.

(4) The date fixed under subsection (2) (d) as the constitutional referendum day shall be no less than twenty-one days, and no more than ninety days, after the issue of the writ, and may constitute one day or two or more consecutive days.

(5) The date fixed under subsection (2) (e) for the return of the writ shall be no less than one hundred days after the issue of the writ.

Action on writ.

5.—(1) The Governor-General shall, immediately after issuing a writ, forward the original writ with a copy of the relevant constitutional amendment Bill attached thereto to the Supervisor of Elections who shall be responsible for the conduct of the constitutional referendum and shall exercise such functions relating to the constitutional referendum as prescribed under this Act and any regulations made thereunder.

(2) The Supervisor of Elections shall, immediately after receiving a writ and an attached copy of the relevant constitutional amendment Bill—

- (a) forward a copy of the writ and of the relevant constitutional amendment Bill to the returning officer for each constituency; and
- (b) cause to be published a copy of the writ and of the relevant constitutional amendment Bill in two issues of the *Gazette* and two issues of two newspapers circulating regularly in the State not less than twenty-

one days before the date fixed for the constitutional referendum.

(3) Each returning officer shall, immediately after receiving a copy of a writ and of the relevant constitutional amendment Bill from the Supervisor of Elections—

- (a) cause copies of the writ and of the relevant constitutional amendment Bill to be made available for examination by the public at such public buildings or offices as Court Houses, Police Stations, Medical Stations, Revenue Offices, Post Offices, Parliamentary Elections Constituency Offices and other places in the constituency as he or she may deem fit;
- (b) cause to be published copies of a notice informing the public of the places in the constituency at which copies of the writ and the relevant constitutional amendment Bill are available for examination pursuant to paragraph (a); and
- (c) forward a copy of the writ and the relevant constitutional amendment Bill to each presiding officer in the constituency.

(4) Each presiding officer shall, subject to the directions of the Supervisor of Elections, immediately after receiving a copy of the writ and the relevant constitutional amendment Bill from his or her returning officer, take all necessary actions as directed to him or her by the returning officer in accordance with this Act and regulations made thereunder.

Power to extend period of constitutional referendum.

6. Notwithstanding the date appointed in the writ pursuant to section 4 (2) (c), the Governor-General may, in consultation with the Supervisor of Elections, extend the period so appointed, before or after voting begins in a referendum.

Power to adjourn constitutional referendum day in event of emergency.

7.—(1) Where at any time between the issue of a writ under section 4 of this Act and the day appointed by the writ pursuant to section 4 (2) (d) the Governor-General is satisfied that it is expedient to adjourn the holding of the constitutional referendum by reason of—

- (a) Her Majesty's Government having become engaged or being likely to become engaged in any war;
- (b) the proclamation of any state of emergency under the Constitution, or the Emergency Powers Act, Chapter 88;
- (c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not; or
- (d) the likelihood that the current list for every constituency or for any particular constituency will not be printed before the day appointed pursuant to section 4 (2) (d) that any essential constitutional referendum supplies or materials will not be available in adequate quantities upon such day,

he or she may by proclamation adjourn the holding of the constitutional referendum for some other day specified in the

proclamation, not being more than thirty days after the day specified in the writ issued under section 4.

(2) Where any proclamation is made under this section the writs for all constituencies to which such proclamation applies shall be deemed to have been amended by the substitution for the day specified in such writs as being the day for the holding of the poll on the day so specified in such proclamation.

8. Subject to this Act, a person is entitled to vote on a constitutional referendum, if by the time specified on the writ in accordance with section 4 (2) (c) he or she is qualified and registered as an elector for the purposes of the Representation of the People Act.

Right of person to vote on constitutional referendum.

9.—(1) Each constitutional referendum question shall be framed in such a manner as to require no answer except either an affirmative answer “yes” or a negative answer “no”, and shall be on a constitutional referendum ballot paper in the form prescribed under section 11.

Constitutional referendum question.

(2) Each elector may cast his or her vote with respect to a constitutional amendment Bill by secret ballot, indicating on a ballot paper an affirmative answer “yes” or a negative answer “no”, and each answer, whether affirmative or negative, to a constitutional referendum question shall constitute a vote.

(3) In respect of any one constitutional amendment Bill, no more than one constitutional referendum question may be asked.

More than one
constitutional
referendum.

10.—(1) Notwithstanding subsection (2), in no case shall more than one constitutional amendment Bill be approved or disapproved by one constitutional referendum.

(2) More than one constitutional amendment Bill may be approved or disapproved by voters on the same date and the approval or disapproval of each constitutional amendment Bill shall constitute one constitutional referendum.

(3) Where more than one constitutional referendum is held on one date, the Supervisor of Elections may allocate to each constitutional referendum ballot paper—

- (a) one distinct number and include the number in its short title; or
- (b) any distinct feature as may be determined by the Supervisor of Elections.

(4) Notwithstanding subsection (3), the Supervisor of Elections shall not allocate to any constitutional amendment Bill any distinct feature that is associated with any candidate for election, or any entity having as one of its purposes the proposing of candidates for election, to the membership of the House of Representatives under the Representation of the People Act.

Form of ballot
paper.

11.—(1) A constitutional referendum ballot paper shall be designed to ascertain whether voters indicate an affirmative answer “yes”, or a negative answer “no”, to the constitutional referendum question.

(2) The ballot papers—

- (a) shall be numbered on the top of the stub and the counterfoil, the same number being printed or written on the stub as on the counterfoil;
- (b) shall be bound or stitched in books containing ten, twenty-five, fifty or one hundred ballots; and
- (c) may be affixed with an official mark of authentication, which may be a watermark or any other feature as the Supervisor of Elections deems it fit,

and shall be in a form as may be prescribed in Regulations.

(3) Where more than one constitutional referendum is held on one date, the Supervisor of Elections may allocate to one ballot paper more than one constitutional referendum question.

12.—(1) A community organisation may appoint, in writing to the Supervisor of Elections, in each constituency referendum monitors, who shall observe the conduct of a constitutional referendum across such constituency. Appointment of referendum monitors.

(2) A community organisation may, in each constituency, appoint one referendum monitor as the chief referendum monitor to oversee the observation of the conduct of a constitutional referendum across such constituency.

PART III**COUNTING OF VOTES, REPORTING AND
RETURNING OF WRIT**

Counting of
votes in
constitutional
referendum.

13.—(1) The results of a constitutional referendum on a constitutional amendment Bill shall be ascertained by—

- (a) counting the votes cast with an affirmative answer “yes” on the constitutional referendum question and thereby in approval of the constitutional amendment Bill;
- (b) counting the votes cast with a negative answer “no” on the constitutional referendum and thereby in disapproval of the constitutional amendment Bill; and
- (c) calculating the respective percentages of the figure under paragraph (a) and the figure under paragraph (b), excluding all spoilt or rejected votes.

(2) Where more than one constitutional referendum are held on one constitutional referendum day, the votes with respect to each constitutional referendum shall be counted separately and calculated separately from the votes of any other constitutional referendum.

(3) Where more than one calendar day constitutes a constitutional referendum day, the ballot boxes shall be secured at the end of each calendar day and subsection (1) shall apply to the final calendar day only.

14.—(1) Upon receipt of the results of the poll from each polling station in his or her constituency, each returning officer shall—

Statement of the poll from returning officers.

- (a) prepare a written statement of the poll in respect of each constitutional referendum held in his or her constituency, which shall set out—
 - (i) the number of valid votes cast answering the constitutional referendum question in the affirmative and thereby approving the constitutional amendment Bill voted on in the constitutional referendum;
 - (ii) the number of valid votes cast answering the constitutional referendum question in the negative and thereby disapproving the constitutional amendment Bill;
 - (iii) the number of rejected votes; and
 - (iv) the number of spoiled votes;
- (b) sign the statement of the poll; and
- (c) send the signed statement of the poll to the Supervisor of Elections.

(2) In addition to and at the same time of preparation of a statement of the poll under subsection (1), each returning officer shall—

- (a) prepare a report on the results of the poll in respect of each constitutional referendum

held in the constituency, which shall set out, in relation to each polling division and polling station in his or her constituency—

- (i) the number of valid votes cast answering the constitutional referendum question in the affirmative and thereby approving the constitutional amendment Bill voted on in the constitutional referendum;
 - (ii) the number of valid votes cast answering the constitutional referendum question in the negative and thereby not approving the constitutional amendment Bill;
 - (iii) the number of rejected votes; and
 - (iv) the number of spoilt votes;
- (b) sign the report; and
 - (c) send the signed report to the Supervisor of Elections.

Return of the writ by Supervisor of Elections.

15.—(1) The Supervisor of Elections, upon receipt of a statement of a poll pursuant to section 14 (1) shall—

- (a) prepare a certificate of the result of the constitutional referendum, which, in relation to each constituency and the whole State, shall set out—
 - (i) the number of valid votes cast answering the constitutional referendum question in

the affirmative and thereby approving the constitutional amendment Bill voted on in the constitutional referendum;

- (ii) the number of valid votes cast answering the constitutional referendum question in the negative and thereby not approving the constitutional amendment Bill;
 - (iii) the number of rejected votes;
 - (iv) the number of spoiled votes; and
 - (v) whether or not the total number of votes cast answering the constitutional referendum question in the affirmative represents at least two-thirds of all the votes validly cast on the constitutional referendum;
- (b) sign the certificate of the result;
 - (c) attach the signed certificate of the result to the respective writ; and
 - (d) return the writ with his or her signed certificate of the result of the constitutional referendum endorsed on the writ.

(2) The Supervisor of Elections shall, on a date no later than the date prescribed under section 4 (2) (e), deliver—

- (a) the returned writ;
- (b) the signed certificate of the result of the constitutional referendum endorsed on the writ pursuant to subsection (1) (c); and

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- (c) the signed statement of the poll pursuant to section 14,

to the Governor-General.

(3) The Supervisor of Elections shall cause a copy of his or her certificate of the result of the constitutional referendum under subsection (1) (a) to be published in one issue of the *Gazette* and in one issue of two newspapers circulating regularly in the State.

(4) Subject to section 17, such a copy of the certificate of the result of the constitutional referendum published in the *Gazette* pursuant to subsection (3) shall constitute conclusive evidence of the result of the constitutional referendum to which it relates.

(5) The Supervisor of Elections shall cause a copy of the report of the results of the poll under section 14 (2) to be published in two newspapers circulating regularly in the State.

Report of
Supervisor of
Elections.

16.—(1) The Supervisor of Elections shall, immediately after the voting on a constitutional referendum day, cause to be prepared a report that shall, in respect of each constitutional referendum and in relation to each polling division and each polling station in each constituency, set out—

- (a) the number of valid votes cast answering the constitutional referendum question in the affirmative and thereby approving the constitutional amendment Bill voted on in the constitutional referendum;

- (b) the number of valid votes cast answering the constitutional referendum question in the negative and thereby disapproving the constitutional amendment Bill;
- (c) the number of rejected votes; and
- (d) the number of spoilt votes.

(2) A report under subsection (1) shall also set out—

- (a) with respect to each constitutional amendment Bill on which votes were cast on a constitutional referendum day and in relation to the whole State, whether or not the constitutional amendment Bill was approved by not less than two-thirds of all the votes validly cast on the constitutional referendum day; and
- (b) the number of names on the current list in relation to each constituency and the whole State,

and shall include such comments on the conduct of the constitutional referendum and may include any other information as the Supervisor of Elections may deem fit.

(3) Where the date appointed as the constitutional referendum day constitutes more than one calendar day, the report under subsection (1) shall be prepared immediately after the voting on the final day.

(4) A report under subsection (1) shall be printed and shall be a public document.

PART IV**OFFENCES**

Holding a public meeting.

17.—(1) Every person who, between the date of the notification by the Supervisor of Elections of the issue by the Governor-General of a writ and the day before the constitutional referendum day, intends to hold a meeting in any public place or road, shall give at least three hours notice in writing of his or her intention to the nearest police station or the Central Police Station.

(2) Where more than one person gives notice of an intention to hold a meeting at the same place or within three hundred yards of each other at or about the same time, the person who first gave notice shall be entitled to hold the meeting, and the police shall inform that other person accordingly.

Influencing electors to vote for any answer.

18.—(1) During the hours that the poll is open upon a constitutional referendum day, no person shall upon any public road or in any public place or in any place or building with the intent of influencing the public within one hundred yards of any building in which a polling station is situate seek to influence any elector to vote for any answer to the constitutional referendum question or to ascertain for which answer any elector intends to vote or has voted.

(2) Every person who contravenes any of the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months, or to both such fine and imprisonment.

19.—(1) Every election officer in attendance at a polling station, or the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting in such station and shall not communicate, except for some purpose authorised by law, to any person any information as to the name or number on the current list of—

Offences by
election
officers.

- (a) any elector who has or has not applied for a ballot paper; or
- (b) any voter who has voted at that station,

and no person shall interfere with or attempt to interfere with an elector when casting his or her vote or otherwise attempt to obtain in the polling station any information as to the nature of his or her vote.

(2) No person shall, directly or indirectly, induce any voter to display his or her ballot paper after he or she has marked it so as to make known whether he or she approved or disapproved a constitutional amendment Bill.

(3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to imprisonment for six months or to a fine of five hundred dollars.

(4) Every election officer who wilfully counts any ballot papers as being cast to approve or disapprove a constitutional amendment Bill, which he or she knows or has reasonable cause to believe was not validly cast to approve or disapprove the constitutional amendment Bill, as the case may be, commits an offence and is liable on conviction on indictment to imprisonment for five years.

Offences from
the Repre-
sentation of the
People Act.

20. The following provisions of the Representation of the People Act shall apply, to the extent appropriate, with respect to a constitutional referendum as if “election” were “constitutional referendum”, “election day” were “constitutional referendum day”, “ballot paper” were “constitutional referendum ballot paper” and “this Act” were “the Constitutional Referendum Act, 2016”–

- (a) section 26;
- (b) section 82;
- (c) section 83;
- (d) section 85;
- (e) section 86;
- (f) section 88, to the extent that “the return of any person as an elected member of the House of Representatives or the vote of any elector at any election” shall be read as “any return or report of the constitutional referendum”;
- (g) section 89;
- (h) section 90;
- (i) section 91;
- (j) section 92;
- (k) section 94;
- (l) subsection (1) (a) and (c) and subsection (3) of section 95;
- (m) section 96;
- (n) section 106,

and any offence committed under any such provision for the purposes of this section shall constitute an offence under this Act.

PART V

MISCELLANEOUS

21.—(1) The High Court shall, on application made by the Attorney General or any person entitled to vote in the constitutional referendum, determine the validity of any—

Constitutional
referendum
petition.

- (a) constitutional referendum; or
- (b) statement or certificate concerning the conduct or results of a constitutional referendum,

in accordance with procedures as may be prescribed in regulations made by the Governor-General pursuant to section 23.

(2) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining such a question as is referred to in subsection (1).

(3) No appeal shall lie from any decision of the Court of Appeal in exercise of the jurisdiction conferred by subsection (2), and no appeal shall lie from any decision of the High Court in proceedings under subsection (1) other than a final decision determining such a question as is referred to in subsection (1).

Application of
the Repre-
sentation of the
People Act.

22. Subject to section 13, for the purposes of a constitutional referendum, the votes of voters shall be cast, and the proceedings on the casting of votes shall be conducted, so

far as practicable, in accordance with the procedure for a general election of members of the House of Representatives held pursuant to the Constitution, and the Representation of the People Act and any subsidiary legislation made thereunder.

Expenses. **23.** Every expense incurred in carrying this Act into effect shall be a charge on the Consolidated Fund.

Computation of time. **24.—(1)** In reckoning time for the purposes of this Act, Sundays, bank holidays or days appointed for public thanksgiving or mourning shall be excluded.

(2) Where anything required by this Act or any rules thereunder to be done on any day falls to be done on any day excluded by subsection (1), that thing may be done on the next day, not being one of such excluded days.

Using electronic media for publishing. **25.** Where any provision of this Act stipulates that the Supervisor of Elections shall publish a document in the Gazette or an issue of a newspaper, the Supervisor of Elections may, in addition to complying with the relevant provision, publish the document on such electronic media, including internet facilities, as the Supervisor of Elections thinks fit.

Savings. **26.** Where anything in connection with the preparation or publication of any list, register, addendum or supplementary list under this Act or the Representation of the People Act is omitted to be done or cannot be done at the time required or is done before or after that time or is otherwise irregularly done in matter of form, the Governor-General may by order, at any time before or after the time within which the thing is

required to be done, extend that time or validate anything so done before or after the time required or irregularly done in matter of form.

27.—(1) The Governor-General may make regulations for Regulations. the carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), the Governor-General may make Regulations—

- (a) prescribing forms to be used for the purposes of a constitutional referendum;
- (b) providing for modification of the application of provisions of the Representation of the People Act and any subsidiary legislation made thereunder;
- (c) providing for procedure for the filing of petitions in the High Court for the purposes of section 21; and
- (d) for any other matter appearing to the Governor-General to be necessary or expedient for the purposes of this Act.

(3) Regulations made under this section shall be subject to negative resolution of the House of Representatives.

(4) Where regulations made under this section provide for an offence, the regulations may prescribe that any breach thereof be tried summarily and prescribed penalties therefor shall not exceed a fine of one thousand dollars, imprisonment for six months, or to both such a fine and such a term of imprisonment.

SCHEDULE

(section 4)

WRIT FOR A CONSTITUTIONAL REFERENDUM

To the Supervisor of Elections

I command you to cause a Bill for an Act entitled *[here insert the title of the Bill]*, being a Bill, as one to alter certain provisions of the Constitution, which needs to be approved on a referendum, to be submitted, according to the Constitution of Grenada and the Constitutional Referendum Act, 2016, in each constituency in the State, to the voters who are qualified to vote at referendums.

I appoint the following day and dates:

- 1. For the close of registration of persons to vote at the referendum: day the day of 20...
- 2. For taking the votes of the voters on referendum day:.....day the day of 20...
- 3. For the return of the writ:..... day the day of 20.

[Here insert Governor-General's title and the date]
Governor-General.

By Her Excellency's command

Passed by the House of Representatives this 21st day of June, 2016.

WILLAN A. THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 13th day of July, 2016.

WILLAN A. THOMPSON
Clerk to the Senate.

GRENADA