

CAYMAN ISLANDS



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**THE REFERENDUM (CONSTITUTIONAL MODERNISATION) LAW,
2009
(LAW 1 OF 2009)**

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2009 (AMENDMENT OF SCHEDULE 2) ORDER, 2009**

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2009 (AMENDMENT OF SCHEDULE 2) ORDER, 2009**

In exercise of the powers conferred by section 9(4) of the Referendum (Constitutional Modernisation) Law, 2009, the Governor in Cabinet makes the following order -

1. This order may be cited as the Referendum (Constitutional Modernisation) Law, 2009 (Amendment of Schedule 2) Order, 2009. Citation

2. The Referendum (Constitutional Modernisation) Law, 2009 is amended in Part 1 of Schedule 2 as follows - Amendment of Part 1 of
Schedule 2 to the
Referendum
(Constitutional
Modernisation) Law,
2009
Law 1 of 2009

(a) by deleting the modifications made to sections 29, 36, 47, 49 and 56 of the Elections Law (2004 Revision) and substituting the respective modifications set out in the Schedule to this Order; and

(b) by inserting, after the modification relating to section 100 of the Elections Law, the following -

“Provi- sion applied and subject matter	Modification
Form 1 (Poll Book)	Omit the words “Objections, if any, made on behalf of any candidate” and substitute the words “Objections, if any, made by an observer”.

SCHEDULE

(paragraph 2(a))

MODIFICATION OF MISCELLANEOUS PROVISIONS OF THE
ELECTIONS LAW (2004 REVISION)

Provision of the Elections Law (2004 Revision)	Modification
section 29 (Nominations)	Omit and substitute - “29. (1) The Supervisor shall - (a) establish one counting station for counting the votes cast in the referendum; and (b) give notice of the holding of the referendum, specifying in the notice - (i) the date and time for the holding of the referendum; (ii) the locations of the polling stations in an electoral district; (iii) the location of the counting station; and (iv) the date and time when the number of votes cast in the referendum shall be counted. (2) A notice under subsection (1)(b) shall be published in the Gazette and in at least one newspaper circulating in the Islands.”.
section 36 (Presiding officers)	In subsection (1) omit the words “by or on behalf of a candidate in or about the election” and substitute the words “, in or about the referendum, by a political party or by a person who has been nominated to contest an election of members to the Legislative Assembly during the year 2009”.
section 47 (General mode of taking ballot)	In subsection (3) omit the words “within the space to the right of the name of the candidate or each candidate for whom” and substitute the words “in the space to the right of the answer for which”.

section 49 Omit subsection (2)(c) and substitute -
(Mode of taking ballot in special cases) “(c) any objections made by an observer.”.

section 56 Omit subsections (1) and (2) and substitute -
(The count)

“ (1) Each returning officer, or deputy returning officer, as the case may be, shall, upon receipt by him of each of the ballot boxes place his seal thereon in the presence of the observers, take every precaution for its safekeeping and deliver it to the Supervisor on the date and at the time specified by the Supervisor under section 29(1)(b)(iv).

(1A) Upon receipt of the sealed ballot boxes from a returning officer of an electoral district, the Supervisor shall break the seals thereon in the presence of observers and of any other persons who are lawfully in the counting station at that time and place all the ballot papers therein contained in the appropriate ballot box which shall be provided, and the ballot papers shall be mixed together for the purpose of being counted.

(2) When all the ballot boxes from an electoral district have been received by the Supervisor and dealt with in accordance with subsection (1A), and not before, the Supervisor or the returning officer, as the case may be, shall, in the presence of such of the observers as are present, or, if no observers are present, two electors -

- (a) record and count, in such segments as the Supervisor may deem appropriate, the number of votes for the electoral district (allowing the observers or, in the absence of the observers, the two electors present, full opportunity to see such votes but not the official number on the back of the ballot paper) and a poll clerk and not less than two witnesses shall be supplied with tally sheets upon which they may keep their

own scores as each vote is called out by the Supervisor or such returning officer; and

- (b) reject all ballot papers -
 - (i) which have not been marked; or
 - (ii) upon which there is any writing or mark by which the elector could be identified, but no ballot paper shall be rejected on account of any writing, number or mark placed thereon by any presiding officer.”.

Omit subsections (7) to (13) (inclusive) and substitute -

“ (7) If, in the course of counting the votes, the Supervisor or the returning officer, as the case may be, discovers that the presiding officer has omitted to affix his initials to any ballot paper as provided by section 47(1), he shall, in the presence of the poll clerk and such of the observers as are present, affix his initials to such ballot paper and shall count such ballot paper as if it had been initialled by the presiding officer in the first place, provided that he is satisfied that the ballot paper is one that has been supplied by the presiding officer, and also that every ballot paper supplied to such presiding officer has been accounted for as provided by paragraph (f) of section 55(1).

(8) Where a vote is marked -

- (a) otherwise than in the proper place;
- (b) otherwise than by way of an X; or
- (c) by more than one mark,

the vote is valid if it clearly appears that it was intended for a particular answer, and that answer shall be awarded the vote accordingly.

(9) The Supervisor or the returning officer, as the case may be, shall keep a record, on the special form printed in the poll book, of every objection made by any observer or any elector present, to any ballot paper found in a ballot box, and shall decide every

question arising out of the objection. The decision of the Supervisor or such returning officer shall be final, subject to reversal on petition under section 83 questioning the election or return; and every such objection shall be numbered and a corresponding number placed on the back of the ballot paper and initialled by the Supervisor or such returning officer.

(10) All the ballot papers not rejected by the Supervisor or the returning officer, as the case may be, shall be counted and a list shall be kept of the number of votes for the respective answers relating to the referendum and of the number of rejected ballot papers. The rejected ballot papers must be put into one packet and the remaining used ballot papers into another, both of which must be sealed by the Supervisor or such returning officer and may be sealed or signed by such agents or witnesses present as desire to seal or sign the packets.

(11) Any of the observers, if not satisfied with the accuracy of the count of any segment of the count, may, on completion of the count of that segment, immediately demand a recount which shall thereupon be carried out in the same manner as the original count; but no observer may demand such a recount more than once in respect of any segment of the count.” ”.

Made in Cabinet the 21st day of April, 2009.

Carmena Watler

Clerk of the Cabinet.