

Version
as at 12 April 2022



Citizens Initiated Referenda Act 1993

Public Act 1993 No 101
Date of assent 28 September 1993
Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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An Act to provide for the holding, on specific questions, of citizens initiated referenda, the results of which referenda will indicate the views held by the people of New Zealand on specific questions but will not be binding on the New Zealand Government

1 Short Title and commencement

- (1) This Act may be cited as the Citizens Initiated Referenda Act 1993.
- (2) This Act shall come into force on 1 February 1994.

2 Interpretation

In this Act, unless the context otherwise requires,—

applicant means a group that makes an application

application means an application under section 47

court, in Part 4, means the High Court

elector means a person registered as an elector of an electoral district

Electoral Commission has the same meaning as in section 3(1) of the Electoral Act 1993

electoral district means a General electoral district or Maori electoral district constituted under the Electoral Act 1993

electoral poll means the poll taken under the Electoral Act 1993 of the electors of each electoral district for the return of a member of Parliament for the district

electoral roll has the meaning given to that term by section 3(1) of the Electoral Act 1993

eligible elector, in relation to an indicative referendum petition, means an elector whose name appears on an electoral roll that is in force on the date on which the petition is delivered to the Clerk of the House of Representatives under section 15(3)

hearing means the hearing of an application

indicative referendum petition means a petition seeking the holding under this Act of an indicative referendum; and includes the forms on which the signatures of the signatories are recorded

person complained of means a person named in an application as a person connected with the referendum, into whose conduct the application asks for an inquiry

postal voting has the same meaning as it has in the Referenda (Postal Voting) Act 2000

promoter, in relation to an indicative referendum petition, means the person who, in accordance with section 13(2)(a)(ii), is the promoter of that petition

Registrar of the court means the Registrar of the High Court where an application is filed

respondent means a respondent to an application

Speaker means the Speaker of the House of Representatives

voting period has the same meaning as it has in the Referenda (Postal Voting) Act 2000

working day means any day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year.

Section 2 **applicant**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **application**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **Chief Electoral Officer**: repealed, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 2 **Clerk of the Writs**: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 2 **court**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **Electoral Commission**: inserted, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 2 **electoral district**: amended, on 1 July 1995, by section 2(2) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 2 **electoral poll**: amended, on 1 July 1995, by section 2(3) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 2 **electoral roll**: amended, on 1 July 1995, by section 2(4) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 2 **eligible elector**: substituted, on 6 December 1995, by section 2 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 2 **hearing**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **person complained of**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **postal voting**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **Registrar of the court**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **respondent**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **voting period**: inserted, on 15 November 2000, by section 83 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 2 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Part 1

Indicative referendum petition

Heading: substituted, on 15 November 2000, by section 84 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

3 Indicative referendum petition

A petition seeking the holding of an indicative referendum may, in accordance with this Act, be presented to the House of Representatives.

4 Prohibitions

An indicative referendum petition shall not relate to a matter that is or could be or could have been the subject of an election petition under Part 8 of the Electoral Act 1993 or of an application under this Act.

Section 4: amended, on 15 November 2000, by section 85 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 4: amended, on 1 July 1995, by section 3 of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

5 Contents of indicative referendum petition

(1) Every indicative referendum petition—

- (a) shall ask that an indicative referendum be held; and
- (b) shall specify the question that the petitioners propose be put to the voters in the indicative referendum.

- (2) Neither an indicative referendum petition nor an indicative referendum may relate to more than 1 question.

6 Proposal to promote indicative referendum petition

- (1) Every person who proposes to promote an indicative referendum petition shall submit the proposal to the Clerk of the House of Representatives.
- (2) The proposal shall be accompanied by—
- (a) a draft of the proposed indicative referendum petition; and
 - (b) the prescribed fee.
- (3) The proposal shall clearly state—
- (a) the name of the proposer; and
 - (b) an address in New Zealand at which the proposer or a representative of the proposer can be contacted; and
 - (c) where a representative of the proposer is the person to be contacted, the name of that representative.

7 Gazetting of notice of proposal for indicative referendum petition

- (1) The Clerk of the House of Representatives shall, as soon as practicable after receiving a proposal that complies with section 6, publish in the *Gazette*, and in such newspapers as he or she considers necessary, notice of the receipt of that proposal.
- (2) The notice—
- (a) shall include the wording of the question proposed to be put to voters in the indicative referendum and shall call for comments on that wording; and
 - (b) shall require any person who wishes to make comments on the wording to give 3 written copies of those comments to the Clerk of the House of Representatives not later than 5 pm on a specified date (which date, being a date not earlier than the 28th day after the publication of the notice in the *Gazette*, shall be determined by the Clerk of the House of Representatives).
- (3) Where a proposal relates to an indicative referendum petition that would contravene section 4, the Clerk of the House of Representatives shall not publish, under subsection (1), notice of the receipt of that proposal.

8 Comments on wording

The Clerk of the House of Representatives, on receiving any comments made under section 7(2)(b), shall—

- (a) give 1 copy of those comments to the person who submitted the proposal; and

- (b) make 1 copy of those comments available for public inspection at the office of the Clerk of the House of Representatives.

9 Consultation on wording of precise question

The Clerk of the House of Representatives, before making a determination under section 11,—

- (a) shall consult with the person who submitted the proposal to promote the indicative referendum petition; and
- (b) may consult with such other persons as the Clerk of the House of Representatives thinks fit.

10 Criteria

- (1) The wording of the precise question to be put to the voters, as determined under section 11 by the Clerk of the House of Representatives,—
 - (a) shall be such as to convey clearly the purpose and effect of the indicative referendum; and
 - (b) shall be such as to ensure that only 1 of 2 answers may be given to the question.
- (2) Subject to subsection (1), the Clerk of the House of Representatives, in making a determination under section 11,—
 - (a) shall take into account—
 - (i) the proposal submitted under section 6; and
 - (ii) any comments received under section 7(2)(b); and
 - (iii) the consultation that took place under section 9; and
 - (b) may take into account such other matters as the Clerk of the House of Representatives considers relevant.

11 Determination of precise question

- (1) The Clerk of the House of Representatives shall determine the wording of the precise question to be put to voters in the proposed indicative referendum.
- (2) The Clerk of the House of Representatives shall make the determination within 3 months after the date on which the Clerk of the House of Representatives receives, under section 6, the proposal to promote the indicative referendum petition unless,—
 - (a) before the Clerk of the House of Representatives makes the determination, the person who submitted the proposal—
 - (i) withdraws the proposal by written notice given to the Clerk of the House of Representatives; or
 - (ii) being a natural person, dies; or

- (iii) being a corporation, is dissolved or has been put into liquidation;
or
- (b) the Clerk of the House of Representatives determines that an indicative referendum to like effect has been held within the period of 60 months preceding the date on which the proposal is received by the Clerk of the House of Representatives and notifies the person who submitted the proposal that such an indicative referendum has been so held; or
- (c) the indicative referendum petition to which the proposal relates would contravene section 4.

Section 11(2)(a)(iii): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

12 Approval of form

- (1) As soon as practicable after the making of a determination under section 11, the Clerk of the House of Representatives shall approve in writing, in relation to the indicative referendum petition, the form to be used for the collection of signatures to the petition.
- (2) The Clerk of the House of Representatives may consult the Government Statistician and such other persons as the Clerk of the House of Representatives thinks fit about the suitability of any form.

13 Notification of determination and approval

- (1) As soon as practicable after giving an approval under section 12, the Clerk of the House of Representatives—
 - (a) shall give to the person who submitted the proposal to promote the indicative referendum petition or to that person's representative—
 - (i) written notice of the making of the determination under section 11; and
 - (ii) written notice of the giving of the approval under section 12; and
 - (b) shall, by notice in the *Gazette*, and in such newspapers as he or she considers necessary, give notice to the public of the making of the determination and the giving of the approval.
- (2) Every notice under subsection (1) shall specify—
 - (a) the name of the person who submitted to the Clerk of the House of Representatives the proposal to promote the indicative referendum petition, which person shall be identified in the notice—
 - (i) as the person approved to use, for the purposes of the indicative referendum petition, the wording determined under section 11; and
 - (ii) as the promoter of the indicative referendum petition in which the wording determined under section 11 is to be used; and

- (iii) as the person approved to use, for the purposes of the indicative referendum petition, the form approved under section 12; and
- (b) the wording (as determined by the Clerk of the House of Representatives) of the specific question to be put to voters in the proposed indicative referendum.

14 Promotion of indicative referendum petition

- (1) Subject to subsections (2) and (3), and to section 15, the promoter of an indicative referendum petition may, on receiving notification under section 13(1), proceed to promote the petition and to collect signatures.
- (2) All signatures to the indicative referendum petition must be on forms approved in writing in relation to that petition under section 12.
- (3) It shall be the responsibility of the promoter to ensure that a sufficient quantity of forms is made available and that the forms are printed in accordance with the approval given by the Clerk of the House of Representatives.

15 Requirements in relation to indicative referendum petition

- (1) Every signatory to an indicative referendum petition—
 - (a) shall, against his or her signature, state—
 - (i) his or her full name; and
 - (ii) his or her residential address; and
 - (b) may, against his or her signature, state his or her date of birth.
- (2) Failure by a signatory to comply with any of the requirements of subsection (1) shall not of itself prevent the signature of that signatory from being used for the purposes of determining the number of signatures that must be checked in accordance with section 19.
- (3) The promoter shall deliver the indicative referendum petition to the Clerk of the House of Representatives within 12 months after the date of the publication in the *Gazette* of the notice required by section 13(1)(b).
- (4) Subject to section 20, no pages or signatures shall be added to an indicative referendum petition after it has been delivered to the Clerk of the House of Representatives.
- (5) An indicative referendum petition shall lapse if it is not delivered to the Clerk of the House of Representatives within the time prescribed by subsection (3).

Section 15: substituted, on 6 December 1995, by section 3 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

16 Duties of Clerk of House of Representatives on receipt of indicative referendum petition

- (1) After receiving an indicative referendum petition pursuant to section 15(3), the Clerk of the House of Representatives shall disregard any signature that is not

on a form supplied by the promoter and approved by the Clerk of the House of Representatives under section 14(2).

- (2) Where the Clerk of the House of Representatives finds that the total number of signatures on a petition delivered to him or her pursuant to section 15(3) is less than the number of eligible electors required to sign a petition before it can be certified correct under section 18(1), the petition shall lapse and the Clerk of the House of Representatives shall notify the promoter accordingly.
- (3) Signatures disregarded under subsection (1) shall not be taken into account for the purpose of ascertaining—
 - (a) the total number of signatures on a petition for the purposes of subsection (2); or
 - (b) whether the indicative referendum petition can be certified correct under section 18.

Section 16: substituted, on 6 December 1995, by section 4 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

17 Duties of promoter in relation to defects in indicative referendum petition

[Repealed]

Section 17 : repealed, on 6 December 1995, by section 5 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

18 Certification of indicative referendum petition

- (1) Where the Clerk of the House of Representatives receives an indicative referendum petition that complies with section 14(2), the Clerk of the House of Representatives shall, within 2 months after the date on which he or she receives the indicative referendum petition, either—
 - (a) certify that the indicative referendum petition is correct and give that petition to the Speaker; or
 - (b) certify that the indicative referendum petition has lapsed and return that petition to the promoter of the petition.
- (2) Subject to the provisions of this Act, an indicative referendum petition shall be certified correct by the Clerk of the House of Representatives if he or she is satisfied, in accordance with section 19, that the petition has, after the date on which the promoter received the written notice required by section 13(1)(a), been signed by not less than 10% of the eligible electors.

Section 18: substituted, on 6 December 1995, by section 6 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

19 Procedure in relation to certification

- (1) For the purpose of ascertaining whether an indicative referendum petition has, after the date on which the promoter received the written notice required by section 13(1)(a), been signed by not less than 10% of the eligible electors, the

Clerk of the House of Representatives shall, with the assistance of the Government Statistician,—

- (a) calculate the number of signatures that must be checked for the purpose of providing a sample that can, with confidence, be regarded as providing an accurate estimate of the result that would be obtained if all of the signatures were checked; and
 - (b) take, from the signatures to the indicative referendum petition, the number of signatures calculated under paragraph (a).
- (2) The Clerk of the House of Representatives must give to the Electoral Commission established by section 4B of the Electoral Act 1993 the signatures taken under subsection (1)(b).
- (3) The Electoral Commission must check whether or not the signatories are eligible electors and shall give the result to the Clerk of the House of Representatives.
- (4) The Clerk of the House of Representatives shall, on receiving the result, determine, with the assistance of the Government Statistician, whether or not the indicative referendum petition has, after the date on which the promoter received the written notice required by section 13(1)(a), been signed by not less than 10% of the eligible electors.

Section 19: substituted, on 6 December 1995, by section 6 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 19(2): replaced, on 1 July 2012, by section 54(2) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 19(3): amended, on 1 July 2012, by section 54(3) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

20 Power to resubmit rejected indicative referendum petition

- (1) Notwithstanding that an indicative referendum petition has been delivered to the Clerk of the House of Representatives under section 15(3), the promoter of that petition may continue to collect signatures to that petition and those signatures may be added to that petition if it is resubmitted to the Clerk of the House of Representatives under subsection (2).
- (2) Where an indicative referendum petition has lapsed under section 16 or section 18, the promoter of that petition may at any time within 2 months after the date on which the petition lapsed, resubmit that petition to the Clerk of the House of Representatives.
- (3) Where a petition that is resubmitted under subsection (2) is not certified correct under section 18, that petition shall lapse and may not be resubmitted pursuant to this section.

Section 20: substituted, on 6 December 1995, by section 6 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

21 Duty of Speaker to present indicative referendum petition to House

The Speaker, on receiving from the Clerk of the House of Representatives an indicative referendum petition certified correct under section 18(1)(a), shall forthwith—

- (a) announce to the House of Representatives the receipt of that petition; and
- (b) present the petition to the House of Representatives.

22 Date of, or voting period for, indicative referendum

- (1) This section applies when a petition that has been certified correct under section 18(1)(a) is presented to the House of Representatives under section 21.
- (2) Within 1 month after the date on which the indicative referendum petition is presented to the House of Representatives, the Governor-General must either—
 - (a) make an Order in Council appointing, in accordance with section 22AA, the date on which the indicative referendum is to be held under this Act; or
 - (b) make an Order in Council under section 5(b) of the Referenda (Postal Voting) Act 2000 specifying the indicative referendum as a referendum that must be conducted by postal voting.
- (3) An order under subsection (2)(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 22: substituted, on 15 November 2000, by section 86 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 22(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22AA Date of indicative referendum not conducted by postal voting

- (1) The date appointed under section 22(2)(a) for holding the indicative referendum under this Act must be a date within 12 months after the date on which the indicative referendum petition is presented to the House of Representatives.
- (2) However, subsection (1) does not apply in the circumstances described in subsection (3) or subsection (5).
- (3) The circumstances referred to in subsection (2) are that—
 - (a) the House of Representatives passes a resolution deferring the holding of the indicative referendum; and

- (b) the resolution is passed within 3 months after the date on which the petition is presented to the House of Representatives; and
 - (c) the resolution is passed by a majority of 75% of all the members; and
 - (d) the House of Representatives fixes a date for the holding of the indicative referendum, and the date is not earlier than 12 months, and not later than 24 months, after the date on which the indicative referendum petition is presented to the House of Representatives.
- (4) In the circumstances described in subsection (3), the date on which the indicative referendum is held is the date fixed by the House of Representatives.
- (5) The circumstances referred to in subsection (2) are that—
- (a) a general election must be held on a date that is within 12 months after the date on which the indicative referendum petition is presented to the House of Representatives (because of section 17 of the Constitution Act 1986); and
 - (b) the House of Representatives passes a resolution requiring the indicative referendum to be held on the polling day for the general election.
- (6) In the circumstances described in subsection (5), the indicative referendum is held on polling day.
- (7) If a writ for a general election is issued under section 125 of the Electoral Act 1993 after an Order in Council has been made under section 22(2)(a), the Governor-General may, by Order in Council, revoke the former Order in Council and appoint the polling day for the general election as the day on which the indicative referendum is to be held.
- (8) An order under subsection (7) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 22AA: inserted, on 15 November 2000, by section 86 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 22AA(7): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 22AA(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22AB Date of indicative referendum conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying that the indicative referendum be conducted by postal voting.
- (2) The Friday appointed by the Governor-General under section 30(2) of the Referenda (Postal Voting) Act 2000 must be within 12 months after the date on which the indicative referendum petition is presented to the House of Representatives.
- (3) However, subsection (2) does not apply in the circumstances described in subsection (4) or subsection (6).
- (4) The circumstances are that—
 - (a) the House of Representatives passes a resolution deferring the holding of the indicative referendum; and
 - (b) the resolution is passed within 3 months after the date on which the petition is presented to the House of Representatives; and
 - (c) the resolution is passed by a majority of 75% of all the members; and
 - (d) the House of Representatives fixes a date for the closing of the voting period, and the date is not earlier than 12 months, and not later than 24 months, after the date on which the indicative referendum petition is presented to the House of Representatives.
- (5) In the circumstances described in subsection (4),—
 - (a) the Governor-General does not appoint a Friday under section 30(2) of the Referenda (Postal Voting) Act 2000; and
 - (b) the date on which the voting period closes is the date fixed by the House of Representatives.
- (6) The circumstances referred to in subsection (3) are that—
 - (a) a general election must be held on a date that is within 12 months after the date on which the indicative referendum petition is presented to the House of Representatives (because of section 17 of the Constitution Act 1986); and
 - (b) the House of Representatives passes a resolution requiring the voting period to close on the polling day for the general election.
- (7) In the circumstances described in subsection (6), the date on which the voting period closes is polling day.
- (8) If a writ for a general election is issued under section 125 of the Electoral Act 1993 after an Order in Council has been made in accordance with section 22(2)(b), the Governor-General may, by Order in Council, revoke the former Order in Council and appoint the polling day for the general election as the day on which the voting period closes.

- (9) An order under subsection (8) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 22AB: inserted, on 15 November 2000, by section 86 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 22AB(8): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 22AB(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22A Withdrawal of indicative referendum petition

- (1) The promoter of an indicative referendum petition may withdraw that petition by delivering to the Clerk of the House of Representatives a notice in writing withdrawing that petition, before the Governor-General has, under section 26 or section 26A, as the case may require, issued a writ for the holding of the indicative referendum.
- (2) Where a promoter withdraws an indicative referendum petition in accordance with subsection (1), the indicative referendum shall not be held.
- (3) Where an indicative referendum is withdrawn under subsection (1), the Clerk of the House of Representatives shall, forthwith after the receipt by the Clerk of the House of Representatives of the notice of withdrawal,—
- notify the Governor-General of the receipt of that notice; and
 - publish in the *Gazette* notice of the withdrawal of the indicative referendum.

Section 22A: inserted, on 6 December 1995, by section 7 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 22A(1): substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 22A(3)(a): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

23 Delegation of functions of Clerk of the House of Representatives

- (1) The Clerk of the House of Representatives shall not delegate to any other person (other than the Deputy Clerk of the House of Representatives) all or any of the Clerk's functions under any of the provisions of sections 9, 11, 12, 13, 18, and 19.
- (2) Nothing in this section affects the operation of section 5 or section 6 of the Clerk of the House of Representatives Act 1988.

Part 2

Indicative referendum

Heading: substituted, on 15 November 2000, by section 87 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

24 Application of Electoral Act 1993 to indicative referendum not conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council under section 22(2)(a) appointing the date on which the indicative referendum is to be held under this Act.
- (2) This section is subject to the provisions of this Act and of any regulations made under this Act.
- (3) The indicative referendum is taken in the manner prescribed by the Electoral Act 1993 for the taking of an electoral poll.
- (4) The provisions of the Electoral Act 1993 and of any regulations made under that Act, as far as they are applicable and with the necessary modifications, apply to the indicative referendum as if it were an electoral poll.
- (5) However, the sections of the Electoral Act 1993 that do not apply to an indicative referendum are sections 4B to 9, 28 to 38, 41 to 45(8), 46 to 59, 62 to 71, 113, 125 to 140, 143 to 146L, 148 to 154, 157(2), 160(1), (3), (4), and (8), 165(1)(b), 168(1) to (3), 170(6), 174(4), 179(1)(a), 180(1) to (5), 180(7)(e), 181, 183, 185, 186, 191 to 193A, 196A, 197 to 199, 203 to 210F, 221A, 229 to 231, 236(3), 236(8), 237 to 239, 243 to 246, 256(1)(c), 256(2), 256(3), 258 to 262, 264, 267, 268, and 269 to 284.

Section 24: substituted, on 15 November 2000, by section 88 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 24(5): substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 24(5): amended, on 1 January 2011, by section 38 of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 24(5): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 24(5): amended, on 20 December 2007, by section 150 of the Electoral Finance Act 2007 (2007 No 111).

24A Application of Electoral Act 1993 to indicative referendum conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying that the indicative referendum be conducted by postal voting.
- (2) The provisions of the Electoral Act 1993 and of any regulations made under that Act apply to the indicative referendum to the extent provided by the Referenda (Postal Voting) Act 2000. The provisions invoked by the Referenda

(Postal Voting) Act 2000 apply to the indicative referendum as far as they are applicable and with the necessary modifications.

- (3) However, the sections of the Electoral Act 1993 that do not apply to an indicative referendum conducted by postal voting are sections 4B to 9, 28 to 38, 41 to 45(8), 46 to 59, 61 to 71, 113, 125 to 177, 178(8), 179(1)(a), 180(1) to (5), 180(7)(e), 181 to 199, 203 to 205S, 207 to 207P (so far as they are applicable to candidate donations), 209 to 209E, 215 to 219, 221A, 229 to 231, 236(3), 236(8), 237 to 239, 243 to 246, 256(1)(c), 256(2), 256(3), 258 to 262, 264, and 266 to 284.

Section 24A: inserted, on 15 November 2000, by section 88 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 24A(3): amended, on 1 January 2011, by section 39(a) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 24A(3): amended, on 1 January 2011, by section 39(b) of the Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137).

Section 24A(3): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 24A(3): amended, on 1 March 2009, by section 16 of the Electoral Amendment Act 2009 (2009 No 1).

Section 24A(3): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

24B Application of this Act to indicative referendum conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying that the indicative referendum be conducted by postal voting.
- (2) Sections 27, 29 to 38, 40A, 40B, 48 to 51G, 52, 53, 54, and 58 do not apply to the indicative referendum.

Section 24B: inserted, on 15 November 2000, by section 88 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

25 Governor-General's warrant for issue of writ: indicative referendum not conducted by postal voting

[Repealed]

Section 25: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

25A Governor-General's warrant for issue of writ: indicative referendum conducted by postal voting

[Repealed]

Section 25A: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

26 Writ for indicative referendum not conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council, under section 22(2)(a) or section 22AA(7), appointing the date on which an indicative referendum is to be held under this Act.
- (2) The Governor-General must issue a writ in form 2 of the Schedule to the Electoral Commission requiring the Electoral Commission to make all necessary arrangements for the conduct of the indicative referendum.
- (3) If the indicative referendum is to be held on the polling day for a general election, the writ must be issued on the day on which the writ for the general election is issued.
- (4) If the indicative referendum is to be held on another day, the writ must be issued at least 28 days before the day on which the indicative referendum is to be held.
- (5) The latest day for the return of the writ must be stated in the writ.
- (6) The latest day for the return of the writ is,—
 - (a) if the indicative referendum is to be held on the polling day for a general election, the 60th day after the issue of the writ:
 - (b) if the indicative referendum is to be held on another day, the 50th day after the issue of the writ.

Section 26: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 26(2): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

26A Writ for indicative referendum conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying the indicative referendum as a referendum that must be conducted by postal voting.
- (2) The Governor-General must issue a writ in form 2A of the Schedule to the Electoral Commission requiring the Electoral Commission to conduct the indicative referendum.
- (3) If the voting period for the indicative referendum ends on the polling day for a general election, the writ must be issued on the day on which the writ for the general election is issued.
- (4) If the voting period for the indicative referendum ends on another day, the writ must be issued at least 28 days before the commencement of that period.
- (5) The latest day for the return of the writ must be stated in the writ.
- (6) The latest day for the return of the writ is the 60th day after the issue of the writ.

Section 26A: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 26A(2): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 26A(6): replaced, on 25 February 2012, by section 4 of the Citizens Initiated Referenda Amendment Act 2012 (2012 No 5).

26B Notice of issue of writ

- (1) Immediately after receiving a writ for an indicative referendum, the Electoral Commission must notify the following persons of the issue and the contents of the writ:
 - (a) the Clerk of the House of Representatives:
 - (b) *[Repealed]*
 - (c) the promoter of the indicative referendum petition seeking the holding of that indicative referendum.
- (2) If the indicative referendum is not to be conducted by postal voting, the Electoral Commission must also notify the Returning Officer for each electoral district.

Section 26B: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 26B(1): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 26B(1)(b): repealed, on 1 July 2012, by section 54(4) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 26B(2): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

26C Notice of issue of writ for indicative referendum conducted by postal voting

[Repealed]

Section 26C: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

27 Electoral rolls

- (1) Subject to the provisions of this Act and to any regulations made under this Act, the electoral rolls for the purpose of the indicative referendum shall,—
 - (a) where the citizens initiated indicative referendum is held before the first general election has been held under the Electoral Act 1993, be deemed to be the lists compiled pursuant to section 101(1) of that Act; and
 - (b) where the citizens initiated indicative referendum is held on or after polling day for the first general election held under the Electoral Act 1993, be deemed to be the electoral rolls for the time being in force under the Electoral Act 1993.
- (2) For the purposes of the indicative referendum,—

- (a) a person shall, subject to subsection (3), be deemed not to be registered as an elector if that person became registered by reason of an application for registration as an elector under the Electoral Act 1993 received by the Electoral Commission on or after the day appointed for the taking of the indicative referendum or on or after the day on which the voting period for the indicative referendum period ends; and
 - (b) section 88(2) of the Electoral Act 1993 shall, with such modifications as may be necessary, apply for the purposes of determining whether an application for registration was received on or after the day appointed for the taking of the indicative referendum or on or after the day on which the voting period for the indicative referendum period ends.
- (3) Where any person applies for registration as an elector of a district after a writ has been issued for the holding of the indicative referendum and before the day appointed for the taking of the indicative referendum,—
- (a) the Electoral Commission must, if the Electoral Commission is satisfied that that person is qualified to be registered, forthwith enter the name of that person on the electoral roll; and
 - (b) the Electoral Commission is not required to enter the name of that person on the main roll or any supplementary roll or composite roll used at the indicative referendum; and
 - (c) that person may, at the indicative referendum, vote only by way of a special vote.

Section 27: substituted, on 6 December 1995, by section 10(1) of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 27(2)(a): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 27(2)(a): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 27(2)(b): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 27(3)(a): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 27(3)(b): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

28 Voting paper

The voting paper shall—

- (a) contain the precise question to be put to voters in the indicative referendum; and
- (b) provide, opposite the precise question to be put to voters, a space for the answers:
- (c) provide a circle to the right of each answer:
- (d) have a counterfoil in form 13 of Schedule 2 of the Electoral Act 1993:

- (e) have printed on the top right-hand corner and in the space provided in the counterfoil a number (called a consecutive number) beginning with the number 1 in the case of the first voting paper printed and being consecutive on all succeeding voting papers printed, so that no 2 voting papers for the district bear the same number.

Section 28(d): substituted, on 1 July 1995, by section 8 of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

29 Nomination of scrutineers by electors in favour of one answer

Any 10 or more electors who are in favour of one answer to the question may, by nomination paper signed by each of those electors, nominate any 2 specified persons to appoint 1 or more scrutineers to act at each polling place in the district in the interest of all electors who are in favour of that answer.

Compare: 1990 No 3 s 5

Section 29: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

30 Nomination of scrutineers by electors in favour of the other answer

Any 10 or more electors who are in favour of the other of the 2 answers may, in like manner, nominate any 2 specified persons to appoint 1 or more scrutineers to act at each polling place in the interest of all electors who are in favour of that answer.

Compare: 1990 No 3 s 6

Section 30: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

31 Form of nomination paper

The nomination paper shall be in form 3 of the Schedule.

Compare: 1990 No 3 s 7

32 Nomination paper to be lodged with Returning Officer

The nomination paper shall be lodged with the Returning Officer of the electoral district not later than the 12th day before the day on which the indicative referendum is to be held, and shall be open to public inspection.

Compare: 1990 No 3 s 8

33 Selection of fit persons to appoint scrutineers

On a day to be publicly notified by the Returning Officer of the electoral district, being not earlier than the tenth nor later than the fifth day before the day on which the indicative referendum is to be held, the Returning Officer shall publicly consider all the nomination papers duly lodged, and, after hearing all objections, select 2 fit persons to appoint one scrutineer, and 2 fit persons to

appoint the other scrutineer, to act at each polling place in the respective interests as aforesaid; and the persons so selected may appoint accordingly.

Compare: 1990 No 3 s 9

Section 33: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

34 Selection to be in writing

The selection shall be signed by the Returning Officer and shall be in form 4 of the Schedule.

Compare: 1990 No 3 s 10

35 Appointments of scrutineers to be in writing

The appointment shall in each case be signed by the persons selected, and shall be in form 5 of the Schedule.

Compare: 1990 No 3 s 11

36 Powers and rights of scrutineers

- (1) Every scrutineer so appointed shall, for the purposes of the indicative referendum, have all the powers and rights of a scrutineer under the Electoral Act 1993, and shall make a declaration in a form that the Electoral Commission has approved.
- (2) Without limiting subsection (1), a scrutineer so appointed—
 - (a) may be present at the office of the Electoral Commission for the district when the Electoral Commission is performing its duties under section 172 of the Electoral Act 1993 (as applied by this Act) in relation to declarations in respect of special votes for the district, but not more than 1 such scrutineer per answer may be present at any time; and
 - (b) may be present at the scrutiny of the rolls conducted by the Returning Officer under section 175 of the Electoral Act 1993 (as applied by this Act) but only 1 such scrutineer per answer, or such greater number as is permitted by the Returning Officer, shall be present at the scrutiny of the rolls at any time.
- (3) The number of scrutineers for each answer who may be present in a polling place may not exceed the number of issuing officers designated for the polling place.

Compare: 1990 No 3 s 12

Section 36(1): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 36(1): amended, on 1 July 1995, by section 9(1)(a) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 36(1): amended, on 1 July 1995, by section 9(1)(b) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 36(2)(a): replaced, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 36(2)(b): amended, on 1 July 1995, by section 9(2)(b) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 36(3): added, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

37 Remuneration of scrutineers not to be paid out of public money

The remuneration (if any) of the scrutineers shall not be paid out of public money appropriated for the purposes of conducting the indicative referendum.

Compare: 1990 No 3 s 13

38 Application to District Court Judge for recount

If the result of any indicative referendum in any electoral district is disputed on the ground that the public declaration by the Electoral Commission in accordance with section 179(2) of the Electoral Act 1993 (as applied by this Act) was incorrect, the following provisions shall apply:

- (a) any 6 electors may, within 3 working days after the public declaration, apply to a District Court Judge for a recount of the votes:
- (b) every such application shall be accompanied by a deposit of \$200 (which deposit is inclusive of goods and services tax):
- (c) the District Court Judge shall cause a recount of the votes to be commenced within 3 working days of receiving the application, and shall give notice in writing to the applicants and to any scrutineers appointed under section 35 of the time and place at which the recount will be made:
- (d) sections 180(6), 180(7)(a) to (d), 180(8) to (11), 182, and 184 of the Electoral Act 1993, so far as they are applicable and with the necessary modifications, shall apply to the recount.

Compare: 1990 No 3 s 14

Section 38: amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 38: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 38: amended, on 1 July 1995, by section 10(1) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 38(d): substituted, on 1 July 1995, by section 10(2) of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

39 Endorsement and return of writ

- (1) An Electoral Commissioner must, on behalf of the Electoral Commission,—
 - (a) endorse on the writ—
 - (i) the total number of valid votes recorded for each of the 2 answers to the precise question; and

- (ii) if the writ is in form 2, the total number of valid votes recorded in each electoral district for each of the 2 answers to the precise question; and
 - (iii) the date of the endorsement; and
 - (b) sign the writ; and
 - (c) immediately after endorsing and signing the writ, transmit the writ to the Clerk of the House of Representatives.
- (2) The date endorsed on the writ under subsection (1) is the day of the return of the writ.
- (3) The writ must be returned within the time specified in the writ for its return.
- (4) If any application for a recount of the votes has been made, the Electoral Commission must postpone the return of the writ until the completion of every recount.
- (5) If, at any time before the expiry of the time for an application for a recount of the votes, it appears to the Electoral Commission that such an application may be made, the Electoral Commission may postpone the return of the writ until that expiry.
- (5A) If the voting period for an indicative referendum conducted by postal voting is extended under section 37 of the Referenda (Postal Voting) Act 2000, the Electoral Commission may postpone the return of the writ until as soon as practicable after noon on the fourth day after the last day of the extended voting period.
- (5B) Subsection (5A) applies whether the voting period is extended in relation to the whole or any area or areas of New Zealand, or any or all of Tokelau, Campbell Island, Raoul Island, or the Ross Dependency.
- (6) Subsections (4) to (5B) prevail over subsections (1) to (3).

Section 39: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 39(1): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 39(4): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 39(5): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 39(5A): inserted, on 25 February 2012, by section 5(1) of the Citizens Initiated Referenda Amendment Act 2012 (2012 No 5).

Section 39(5B): inserted, on 25 February 2012, by section 5(1) of the Citizens Initiated Referenda Amendment Act 2012 (2012 No 5).

Section 39(6): amended, on 25 February 2012, by section 5(2) of the Citizens Initiated Referenda Amendment Act 2012 (2012 No 5).

40 Declaration of result

- (1) This section applies when the Governor-General makes an Order in Council, under section 22(2)(a) or section 22AA(7), appointing the date on which an indicative referendum is to be held under this Act.
- (2) The Electoral Commission—
 - (a) must notify in the *Gazette*—
 - (i) the total number of valid votes recorded for each of the 2 answers to the precise question; and
 - (ii) the total number of valid votes recorded in each electoral district for each of the 2 answers to the precise question; and
 - (b) must give to the Minister of Justice written notice of the numbers notified in the *Gazette* under paragraph (a).
- (3) The Minister of Justice must, as soon as practicable, present to the House of Representatives a copy of the notice given to the Minister of Justice under subsection (2)(b).

Section 40: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 40(2): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

40AA Declaration of result of indicative referendum conducted by postal voting

- (1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying that the indicative referendum be conducted by postal voting.
- (2) The result of an indicative referendum conducted by postal voting must be declared under section 49 of the Referenda (Postal Voting) Act 2000.

Section 40AA: inserted, on 15 November 2000, by section 90 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

40A Infringement of secrecy

- (1) Every official, clerk, scrutineer, interpreter, or other person appointed for the purposes of this Act shall use or disclose information acquired by him or her in that capacity only in accordance with his or her official duty or his or her duty as a scrutineer, as the case may require.
- (2) No person, except for some purpose authorised by law, shall—
 - (a) interfere with or attempt to interfere with a voter when marking his or her vote;
 - (b) attempt to obtain in a polling place information as to the answer for which a voter in the polling place is about to vote or has voted;
 - (c) communicate at any time to any person any information obtained in a polling place as to the answer for which any voter at the polling place is

about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the polling place.

- (3) Every person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the answer for which any vote is given in any particular voting paper.
- (4) No person shall directly or indirectly induce any voter to display his or her voting paper or any piece of his or her voting paper after he or she has marked it, so as to make known to any person the answer for which he or she has voted.

Section 40A: inserted, on 6 December 1995, by section 11 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 40A(2)(b): substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 40A(2)(c): substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

40B Infringement of secrecy constitutes corrupt practice

Every person is guilty of a corrupt practice within the meaning of the Electoral Act 1993 who wilfully contravenes any provision of section 40A of this Act.

Section 40B: inserted, on 6 December 1995, by section 11 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Part 3 Publicity

Heading: substituted, on 15 November 2000, by section 91 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

41 Publicity for indicative referendum

- (1) No person shall, at any time in the indicative referendum period, or, in the case of an indicative referendum conducted by postal voting, at any time during the voting period, publish or cause or permit to be published in any newspaper, periodical, poster, or handbill, or broadcast or cause or permit to be broadcast over any radio or television station, any advertisement used or appearing to be used in connection with the indicative referendum petition or to promote one of the answers to the precise question in the indicative referendum unless the advertisement contains a statement setting out the true name of the person for whom or at whose direction it is published or broadcast and the address of that person's place of residence or business.
- (2) For the purposes of this section, the term **indicative referendum period** means, in relation to an indicative referendum, the period commencing on the day after the date of the publication in the *Gazette*, in relation to the indicative referendum petition, of the notice required by section 13(1)(b), and ending with the close of the day before the day on which the referendum is held.

- (3) Every person is guilty of an illegal practice within the meaning of the Electoral Act 1993 who wilfully contravenes subsection (1).
- (4) Nothing in this section shall restrict the publication of any news or comments relating to the indicative referendum petition or the indicative referendum in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989.

Compare: 1990 No 3 s 16

Section 41(1): amended, on 15 November 2000, by section 92 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 41(3): substituted, on 6 December 1995, by section 12 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

42 Limits on expenditure

Every person commits an offence and is liable on conviction to a fine not exceeding \$20,000 who, either alone or in combination with others,—

- (a) knowingly spends, on advertisements published or broadcast in relation to an indicative referendum petition, more than \$50,000;
- (b) knowingly spends, on advertisements promoting one of the answers to the precise question to be put to voters in an indicative referendum (whether those advertisements are published or broadcast or both), more than \$50,000.

Section 42: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 42: amended, on 6 December 1995, by section 13 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

43 Returns in relation to advertisements

- (1) In this section,—

advertisement means an advertisement in relation to an indicative referendum petition or an advertisement promoting one of the answers to the precise question to be put to voters in an indicative referendum

advertiser means a person for whom, or at whose direction, an advertisement is published or broadcast

return means a document that—

- (a) lists where every advertisement was published or broadcast; and
- (b) states the cost of every advertisement.
- (1A) Every advertiser must make a return to the Electoral Commission as follows:
- (a) if the petition finally lapses under this Act, within 1 month after the date on which the petition finally lapses; or
- (b) if the result of the indicative referendum is notified in the *Gazette* under section 40(2), within 1 month after the date on which the result is notified; or

- (c) if the result is declared under section 49 of the Referenda (Postal Voting) Act 2000, within 1 month after the date on which the result is declared.
- (2) *[Repealed]*
- (3) Every person commits an offence and is liable on conviction to a fine not exceeding \$20,000 who fails, without reasonable excuse, to comply with subsection (1A).
- (4) Every person who makes, under subsection (1A), a return that is false in any material particular—
- (a) is, if the person makes the return knowing that the return is false in a material particular, guilty of a corrupt practice and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$20,000, or to both; and
- (b) is, in any other case, guilty of an illegal practice, and is liable on conviction to a fine not exceeding \$20,000, unless the person proves:
- (i) that he or she had no intention to mis-state or conceal the facts; and
- (ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- (5) Every person charged with an offence against subsection (4)(a) may be convicted of an offence against subsection (4)(b).

Section 43: substituted, on 6 December 1995, by section 14 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 43(1): substituted, on 15 November 2000, by section 93(1) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 43(1) **appropriate official**: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 43(1A): inserted, on 15 November 2000, by section 93(1) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 43(1A): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 43(1A)(b): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 43(2): repealed, on 15 November 2000, by section 93(1) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 43(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43(3): amended, on 15 November 2000, by section 93(2) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 43(4): amended, on 15 November 2000, by section 93(3) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 43(4)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43(4)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

44 Duty of Electoral Commission

- (1) It shall be the duty of the Electoral Commission to see that the provisions of sections 41 to 43 are faithfully complied with.
- (2) Where the Electoral Commission believes that any person has committed an offence against any of the provisions of sections 41 to 43, the Electoral Commission must report the facts on which that belief is based to the Police.
- (3) *[Repealed]*

Compare: 1956 No 107 s 137(5), (6); 1983 No 104 s 22

Section 44: substituted, on 6 December 1995, by section 15 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 44 heading: amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 44(1): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 44(2): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 44(3): repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

45 Return to be open for public inspection

- (1) Every return under section 43—
 - (a) must be kept by the Electoral Commission in the office of the Electoral Commission, or some other convenient place to be appointed by the Electoral Commission, for a period of 5 years after it has been received by the Electoral Commission; and
 - (b) shall, during the period that it is kept under paragraph (a), be open to inspection by any person on payment of such charges (if any) as may be made under the Official Information Act 1982.
- (2) At the end of the period specified in subsection (1), the Electoral Commission must cause the return to be destroyed.
- (3) *[Repealed]*

Section 45: substituted, on 6 December 1995, by section 15 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 45(1)(a): substituted, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 45(2): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 45(3): repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

46 Transmission of copy of return to Chief Electoral Officer

[Repealed]

Section 46: repealed, on 6 December 1995, by section 15 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Part 4

Application for inquiry into conduct of indicative referendum

Heading: substituted, on 15 November 2000, by section 96 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

47 Sections of Electoral Act 1993 applied

- (1) The sections of the Electoral Act 1993 described in subsection (2), as far as they are applicable and with the necessary modifications, shall apply to a petition for an inquiry under section 48.
- (2) The sections of the Electoral Act 1993 referred to in subsection (1) are sections 232 to 234, 235, 236(1), (2), (4) to (7), 240, 241, 242, 247 to 255, 256(1)(a) and (b), and 257.

Section 47: substituted, on 1 July 1995, by section 11 of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Applicants

Heading: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

48 Who may be applicants

If a group of at least 50 electors in an electoral district is dissatisfied with the result of the indicative referendum in that district, the group may apply to the High Court for an inquiry into the conduct of the referendum or of any person connected with it.

Compare: 1993 No 101 s 48(1)

Section 48: substituted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Respondents

Heading: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

49 Who may be respondents

- (1) Any group of at least 6 electors in the electoral district to which an application relates may file notice of its intention to oppose the application or, if there is more than 1, to oppose specified applications.
- (2) The notice must be in the prescribed form.
- (3) Such a notice must be filed at least 3 working days before the day fixed for the start of the hearing.
- (4) A group filing such a notice within that time becomes a respondent to the application or applications.

Compare: 1993 No 101 s 49

Section 49: substituted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

50 Who may be respondents

The person complained of is a respondent to the application if the person is—

- (a) the Returning Officer; or
- (b) the Electoral Commission.

Compare: 1993 No 101 s 48(2)

Section 50: substituted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 50(b): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Making of application

Heading: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51 Application form

- (1) The application must be in form 6 of the Schedule, or in a similar form.
- (2) The application must state the specific grounds on which the applicant is dissatisfied with the result of the referendum.

Compare: 1993 No 101 s 48(3), (4)

Section 51: substituted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51A Application to be filed in High Court

An applicant makes its application by filing the application in the High Court nearest to the place where the spokesperson for the applicant lives.

Compare: 1993 No 101 s 48(4)

Section 51A: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51B Time for making application

An applicant must make its application within 20 working days after the Electoral Commission has declared the result of the referendum under section 179(2) of the Electoral Act 1993 (as applied by this Act).

Compare: 1993 No 101 s 48(1)

Section 51B: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 51B: amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 51B: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

51C Application to be sent to Returning Officer

The Registrar of the court must send a copy of the application to the Returning Officer as soon as practicable after it is filed.

Compare: 1993 No 101 s 48(4)

Section 51C: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51D Application to be served on respondents

- (1) An application must be served on a group that becomes a respondent under section 49 as soon as practicable after the group files its notice.
- (2) An application that asks for an inquiry into the conduct of a person connected with the indicative referendum must be served on the person complained of as soon as practicable after it is made.
- (3) An application must be served in a manner as close as possible to that in which a statement of claim is served.

Compare: 1993 No 101 s 48(5)

Section 51D: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51E Matters to be inquired into at hearing

- (1) At the hearing, the court has jurisdiction to inquire into and adjudicate on any matter relating to the application in any manner that the court thinks fit.
- (2) The court may give leave for grounds other than those stated in the application to be inquired into. The leave may be given on any terms and conditions that the court considers just.
- (3) Evidence may be given to prove that the total number of valid votes recorded for each of the 2 answers to the precise question was other than that declared, without any applicant having to state that as a ground of dissatisfaction or the court having to give leave for that ground to be inquired into.

Compare: 1993 No 101 s 48(3)

Section 51E: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Court's decision

Heading: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51F Decision of court as to result of indicative referendum

At the end of a hearing, the court must do one of the following:

- (a) it must determine the total number of valid votes recorded for each of the 2 answers to the precise question; or

- (b) it must determine whether the indicative referendum is void because of some irregularity that in the court's opinion materially affected the result of the indicative referendum.

Compare: 1993 No 101 s 50

Section 51F: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

51G Fresh indicative referendum

- (1) When the court declares a indicative referendum void, a fresh indicative referendum must be held in the manner specified by this Act.
- (2) The Registrar of the court must notify the Electoral Commission that the indicative referendum has been declared void.
- (3) The Electoral Commission must, by notice in the *Gazette*, fix a day for the holding of the fresh indicative referendum, which must be no later than 30 working days after the date on which the Electoral Commission is notified under subsection (2).
- (4) At the fresh indicative referendum the same roll of electors must be used as was used at the voided indicative referendum.

Compare: 1993 No 101 s 51

Section 51G: inserted, on 15 November 2000, by section 97 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 51G(2): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 51G(3): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Part 5 Offences

Heading: substituted on 15 November 2000, by section 98 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

52 Interfering with or influencing voters

- (1) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$5,000 who, at an indicative referendum,—
 - (a) in any way interferes with any elector, either in the polling place or while the elector is on the way to the polling place, with the intention of influencing the elector or advising the elector as to the elector's vote:
 - (b) at any time on the day on which the referendum is held before the close of the poll in or in view or hearing of any public place holds or takes part in any demonstration or procession having direct or indirect reference to the indicative referendum, by any means whatsoever:
 - (c) at any time on the day on which the referendum is held before the close of the poll makes any statement having direct or indirect reference to the

indicative referendum, by means of any loudspeaker or public address apparatus or cinematograph or television apparatus:

provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989 of—

- (i) any advertisement placed by the Electoral Commission or a Returning Officer; or
 - (ii) any non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989; or
 - (iii) any news in relation to the indicative referendum:
- (d) at any time before the close of the poll, conducts in relation to the indicative referendum a public opinion poll of persons voting before the day on which the referendum is held:
- (e) at any time on the day on which the referendum is held before the close of the poll, conducts a public opinion poll in relation to the indicative referendum:
- (f) at any time on the day on which the referendum is held before the close of the poll, or at any time on any of the 3 days immediately preceding that day, prints or distributes or delivers to any person anything being or purporting to be in imitation of the voting paper to be used at the poll, together with any direction or indication as to the answer for which any elector should or should not vote, or in any way containing any such direction or indication, or having on it any matter likely to influence any vote:
- (g) at any time on the day on which the referendum is held before the close of the poll exhibits in or in view of any public place, or publishes, or distributes, or broadcasts,—
- (i) any statement advising or intended or likely to influence any elector as to the answer for which the elector should or should not vote; or
 - (ii) any statement advising or intended or likely to influence any elector to abstain from voting; or
 - (iii) any name, emblem, slogan, or logo identified with any answer to which the indicative referendum relates or with any proponent of any such answer:

provided that this paragraph shall not apply to any statement, name, emblem, slogan, or logo in a newspaper published before 6 pm on the day before the day on which the referendum is held:

provided also that where any statement, name, emblem, slogan, or logo which does not relate specifically to the indicative referendum and

which is so exhibited before the day on which the referendum is held in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a proponent of any answer to a question to which the indicative referendum relates, it shall not be an offence to leave the statement, name, emblem, slogan, or logo so exhibited on the day on which the referendum is held:

provided further that this paragraph shall not restrict the publication of the name of any proponent of any answer to a question to which the indicative referendum relates in any news which relates to the indicative referendum and which is published in a newspaper or other periodical or in a radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1989:

- (h) at any time on the day on which the referendum is held before the close of the poll exhibits in or in view of any public place or distributes any ribbons, streamers, rosettes, or items of a similar nature in colours that are identified with any answer to a question to which the indicative referendum relates or with any proponent of any such answer:

provided that this paragraph shall not apply to ribbons, streamers, rosettes, or items of a similar nature, which are worn or displayed by any person (not being an electoral official) on his or her person or on any vehicle in colours that are identified with any answer to a question to which the indicative referendum relates or with any proponent of any such answer or to a lapel badge worn by any person (not being an electoral official):

- (i) at any time on the day on which the referendum is held before the close of the poll prints or distributes or delivers to any person any card or paper (whether or not it is an imitation voting paper) having on it the question to which the indicative referendum relates:
- (j) exhibits or leaves in any polling place any card or paper having on it any direction or indication as to how any person should vote or as to the method of voting:
- (k) subject to any regulations made under this Act, at any time on the day on which the referendum is held before the close of the poll, within, or at the entrance to, or in the vicinity of, any polling place,—
- (i) gives or offers to give any person any written or oral information as to any name or number on the main roll or any supplementary roll being used at the election:
- (ii) permits or offers to permit any person to examine any copy of the main roll or any supplementary roll being used at the election.
- (2) It shall be a defence to a prosecution for an offence against subsection (1)(g) that relates to the exhibition in or in view of a public place of a statement, name, emblem, slogan, or logo, if the defendant proves that—

- (a) the exhibition was inadvertent; and
 - (b) the defendant caused the exhibition to cease as soon as the defendant was notified by a Returning Officer or a Deputy Returning Officer that the exhibition was taking place.
- (3) Nothing in this section shall apply to any official statement or announcement made or exhibited under the authority of this Act or the Electoral Act 1993.

Compare: 1956 No 107 s 127; 1990 No 1 s 65(1)

Section 52(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 52(1)(a): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 52(1)(c)(i): amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 52(1)(j): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 52(3): amended, on 1 July 1995, by section 13 of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

53 Power to remove statements, names, emblems, slogans, or logos

- (1) The Returning Officer may at any time on the day on which the referendum is held before the close of the poll cause to be removed or obliterated—
- (a) any statement advising or intended or likely to influence any elector as to the answer for which the elector should or should not vote; or
 - (b) any statement advising or intended or likely to influence any elector to abstain from voting; or
 - (c) any name, emblem, slogan, or logo identified with any answer to the question to which the indicative referendum relates or any proponent of any such answer,—

which is exhibited in or in view of any public place.

- (2) Nothing in subsection (1)(c) shall apply to ribbons, streamers, rosettes, or items of a similar nature which are worn or displayed by any person (whether on his or her person or on any vehicle) in colours that are identified with any answer to the question to which the indicative referendum relates or with any proponent of any such answer or to a lapel badge worn by any person.
- (3) Nothing in subsection (1) shall apply to a statement, name, emblem, slogan, or logo which does not relate specifically to the indicative referendum and which was so exhibited before the day on which the referendum is held in a fixed position and in relation to the New Zealand or regional or campaign headquarters (not being mobile headquarters) of a proponent of any answer to the question to which the indicative referendum relates.
- (4) All expenses incurred by the Returning Officer in carrying out the power conferred by subsection (1) may be recovered by the Returning Officer from the persons by whom or by whose direction the statement, name, emblem, slogan,

or logo was exhibited, as a debt due by them jointly and severally to the Crown.

Compare: 1956 No 107 s 127A; 1981 No 120 s 40(1); 1990 No 1 s 66

53A Bribery of promoter

- (1) Every person is guilty of a corrupt practice within the meaning of the Electoral Act 1993 who commits the offence of bribery of a promoter.
- (2) Every person commits the offence of bribery of a promoter who, directly or indirectly, by himself or herself or by any other person on his or her behalf—
 - (a) gives any money or procures any office to or for a promoter, or to or for any other person on behalf of a promoter, or to or for any other person, in order to induce a promoter to withdraw an indicative referendum petition; or
 - (b) corruptly does any such act as aforesaid on account of a promoter having withdrawn an indicative referendum petition; or
 - (c) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the withdrawal of an indicative referendum petition,—or who, upon or in consequence of any such gift or procurement as aforesaid, procures, or engages, promises, or endeavours to procure, the withdrawal of an indicative referendum petition.
- (3) For the purposes of this section,—
 - (a) references to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure, any money or valuable consideration:
 - (b) references to procuring any office shall include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure, any office, place, or employment.
- (4) Every person commits the offence of bribery who—
 - (a) advances or pays or causes to be paid any money to or to the use of any other person with the intent that the money or any part thereof shall be expended in bribery of a promoter; or
 - (b) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery of a promoter.
- (5) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith in relation to an indicative referendum petition.
- (6) A promoter commits the offence of bribery of a promoter if, before or during an indicative referendum petition, he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives, or agrees or con-

tracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for withdrawing an indicative referendum petition or agreeing to withdraw an indicative referendum petition.

- (7) Every person commits the offence of bribery of a promoter if, after the withdrawal of an indicative referendum petition, he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives any money or valuable consideration on account of a promoter having withdrawn an indicative referendum petition or having induced a promoter to withdraw an indicative referendum petition.
- (8) Nothing in this section shall be construed to extend to any actions taken by a person in good faith in resolving or attempting to resolve the issues raised by an indicative referendum petition.

Section 53A: inserted, on 6 December 1995, by section 16 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

53B Undue influence of promoter

Every person is guilty of a corrupt practice within the meaning of the Electoral Act 1993 who—

- (a) directly or indirectly, by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against a promoter, in order to induce or compel that promoter to withdraw an indicative referendum petition, or on account of that promoter having refrained from withdrawing an indicative referendum petition; or
- (b) by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of decision by a promoter to withdraw an indicative referendum petition, or thereby compels, induces, or prevails upon a promoter to withdraw an indicative referendum petition.

Section 53B: inserted, on 6 December 1995, by section 16 of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

54 Offences

- (1) Every person commits an offence who, at an indicative referendum,—
 - (a) except in accordance with any regulations made under the Electoral Act 1993 or this Act in relation to special voters, obtains possession of or has in his or her possession any voting paper other than the one given to him or her by the Returning Officer or issuing officer for the purpose of recording his or her vote, or retains any voting paper in his or her possession after leaving the polling place; or

- (b) does or omits to do an act (other than an act to which section 52 applies) that if done or omitted to be done at an electoral poll would be an offence under the Electoral Act 1993.
- (2) Every person who commits an offence against subsection (1)(a) shall be liable on conviction to a fine not exceeding \$2,000.
- (3) Every person who commits an offence against subsection (1)(b) shall be liable on conviction to the same penalty as that for which he or she would have been liable if he or she had committed the offence under the Electoral Act 1993.

Section 54: substituted, on 6 December 1995, by section 17(1) of the Citizens Initiated Referenda Amendment Act 1995 (1995 No 62).

Section 54(1)(a): amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Section 54(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 54(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 6

Miscellaneous provisions

Heading: substituted, on 15 November 2000, by section 99 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

55 Two or more referenda

- (1) Two or more indicative referenda may be held on the same day.
- (2) One or more indicative referenda may be held during the voting period for 1 or more referenda (within the meaning of the Referenda (Postal Voting) Act 2000).

Section 55: substituted, on 15 November 2000, by section 100 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

56 Appropriation

- (1) All expenses incidental to the holding of an indicative referendum under this Act shall be paid out of public money without further appropriation than this section.
- (2) Nothing in subsection (1) applies in respect of—
- (a) expenses incurred in preparing a proposal to promote an indicative referendum petition:
 - (b) expenses incurred by a promoter of an indicative referendum petition:
 - (c) expenses incurred in collecting signatures to an indicative referendum petition.

57 Application of Ombudsmen Act 1975 and Official Information Act 1982

The Ombudsmen Act 1975 and the Official Information Act 1982 shall apply in relation to the Clerk of the House of Representatives as if the Clerk of the House of Representatives were, in relation to the functions conferred on the Clerk of the House of Representatives by this Act, an organisation named in Schedule 1 of the Ombudsmen Act 1975.

58 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) applying, with or without modifications, for the purposes of this Act, provisions of any regulations made under the Electoral Act 1993:
 - (b) prescribing forms in relation to the holding of an indicative referendum:
 - (c) prescribing the time at which, and the manner in which, special voters may vote (whether at a polling place or not and whether in or outside New Zealand) at an indicative referendum:
 - (d) prescribing conditions upon or subject to which special voters may vote at an indicative referendum:
 - (e) prescribing, for the purposes of an indicative referendum, different methods of voting for different classes of special voters:
 - (f) prescribing fees for the purposes of this Act:
 - (g) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 58(1)(a): amended, on 1 July 1995, by section 15 of the Citizens Initiated Referenda Amendment Act 1994 (1994 No 146).

Section 58(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

58A Rules of court

Rules of court may be made in the manner prescribed in the Senior Courts Act 2016 for the purposes of Part 6.

Section 58A: inserted, on 15 November 2000, by section 101 of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Section 58A: amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

59 Right to petition House of Representatives unaffected

Nothing in this Act affects in any way the right of any person to petition the House of Representatives, or the jurisdiction of any committee or other body set up by the House of Representatives to deal with a petition to the House of Representatives.

Schedule Forms

Form 1

Warrant for issue of writs for indicative referendum

[Repealed]

s 25

Form 1: repealed, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 2

Writ for indicative referendum to be taken by electoral poll

s 26

Governor-General

To the Electoral Commission:

Pursuant to section 26 of the Citizens Initiated Referenda Act 1993, I authorise and require the Electoral Commission to make all necessary arrangements for the conduct of an indicative referendum on the following question, namely, *[specify the question]*.

The indicative referendum is to be taken on Saturday, *[date]*.

An Electoral Commissioner, on behalf of the Electoral Commission, is required—

- (a) to endorse on the writ—
 - (i) the total number of valid votes recorded for each of the 2 answers to the question; and
 - (ii) the total number of valid votes recorded in each electoral district for each of the 2 answers to the question; and then
- (b) to return the writ to the Clerk of the House of Representatives on or before *[date]*.

Signed by Her Excellency the Governor-General at *[place]* on *[date]*.

Form 2: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 2: amended, on 25 March 2014, by section 48(2) of the Electoral Amendment Act 2014 (2014 No 8).

Form 2: amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 2: amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 2A

Writ for indicative referendum to be conducted by postal voting

s 26A

Governor-General

To the Electoral Commission:

Pursuant to section 26A of the Citizens Initiated Referenda Act 1993, I authorise and require the Electoral Commission to conduct, by postal voting, an indicative referendum on the following question, namely, [*specify the question*].

The voting period for the indicative referendum commences on [*date*] and closes at 7 pm on [*date*].

An Electoral Commissioner, on behalf of the Electoral Commission, is required—

- (a) to endorse on the writ the total number of valid votes recorded for each of the 2 answers to the question; and then
- (b) to return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency the Governor-General at [*place*] on [*date*].

Form 2A: substituted, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 2A: amended, on 25 March 2014, by section 48(3) of the Electoral Amendment Act 2014 (2014 No 8).

Form 2A: amended, on 1 October 2010, by section 32(1)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 2A: amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Form 3

Nomination of scrutineers for purposes of indicative referendum on [*describe the question*]

s 31

- 1 For the purposes of the indicative referendum to be taken in the [*name of district*] Electoral District on [*date*] on [*describe the question*], we, the undersigned electors of the district, hereby nominate [*full names, addresses, and occupations of the 2 persons nominated*] as fit persons to appoint 1 or more scrutineers to act at each polling place in the interest of all electors who are in favour of the [*describe the answer favoured*].
- 2 In support of our nomination we hereby severally, each for himself or herself, solemnly and sincerely declare that we are, and we believe each of the persons nominated to be, honestly in favour of that answer.

We severally make this solemn declaration conscientiously believing the same to be true, and by virtue of the Oaths and Declarations Act 1957.

	Signature, address, and occupation
Severally declared by each of the [<i>number</i>] declarants whose signatures are subscribed hereto, this [<i>date</i>], before me—	1.
	2.
	3.
	4.
	5.
	6.
	7.
Signature:	8.
JP (solicitor, or, as the case may be)	9. 10.

Note—Not less than 10 electors must sign.

Form 3: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 4

Returning Officer's selection for the purposes of the indicative referendum

s 34

Having considered the nominations duly lodged in this behalf, and having heard all objections hereto, I hereby select [*full names, addresses, and occupations of the 2 persons selected, etc, (as above)*] as fit persons to appoint 1 or more scrutineers to act at each polling place at the indicative referendum for the [*name of district*] Electoral District on [*date*] on [*describe the question*], in the interest of all electors who are in favour of the [*describe the answer favoured*].

Date:

Signature of Returning Officer:

Form 4: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 5

Appointment of scrutineers for the purposes of the indicative referendum

s 35

To the Returning Officer

For the purposes of the indicative referendum for the [*name of district*] Electoral District to be taken on [*date*] on [*describe the question*], we, the undersigned, being duly authorised in this behalf, hereby appoint the persons named in the Schedule hereto to act as scrutineers at the polling places named in the Schedule, in the interest of all electors who are in favour of [*describe the answer favoured*].

Schedule

Scrutineer

Polling Place [*name of polling place*]

[*Full name, address, and occupation of the scrutineer*]

Date:

Signatures of the 2 persons authorised to appoint:

Form 5: amended, on 28 February 2002, by section 101(2) of the Electoral Amendment Act 2002 (2002 No 1).

Form 6
Application for inquiry into result of indicative referendum

s 50

In the High Court of New Zealand

No:

[*name of registry*] Registry

In the matter of an indicative referendum held on [*date*] on [*describe question*].

Applicant

- 1 The applicant is a group of [*number in group*] electors who are dissatisfied with the result of the indicative referendum in their electoral district.
- 2 The names, addresses, electoral districts, and signatures of each member of the group are set out in the appendix to this application.
- 3 The spokesperson for the group is [*name of spokesperson*] of [*address of spokesperson*].
- 4 The applicant acts—
 - (a) through a solicitor, who is [*name of solicitor*], of [*address of solicitor*];
or
 - (b) through its spokesperson.

[*Delete one*]

Application

- 5 The applicant asks for an inquiry into—
 - (a) the conduct of the indicative referendum;
 - (b) the conduct of [*name of person complained of*], [*office described in section 49, if relevant*], of [*address of person complained of*], who was connected with the indicative referendum.

[*Delete those which are inapplicable*]

- 6 The specific grounds on which the applicant is dissatisfied with the result of the indicative referendum are as follows: [*state specific grounds*].
- 7 The applicant asks the court to—
 - (a) determine the total number of valid votes recorded for each of the 2 answers to the question; or
 - (b) declare the indicative referendum void.

[*Delete one*]

Address for service

- 8 The applicant's address for service is [*address*].

Signature

9 Signature of spokesperson for applicant; or person on behalf of spokesperson for applicant:

[Delete one]

Appendix

Members of applicant group

Name	Address	Electoral District	Signature
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Form 6: substituted, on 15 November 2000, by section 102(2) of the Referenda (Postal Voting) Act 2000 (2000 No 48).

Notes

1 *General*

This is a consolidation of the Citizens Initiated Referenda Act 1993 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Secondary Legislation Act 2021 (2021 No 7): section 3

Electoral Amendment Act 2017 (2017 No 9): section 114

Senior Courts Act 2016 (2016 No 48): section 183(b)

Electoral Amendment Act 2014 (2014 No 8): section 48

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Citizens Initiated Referenda Amendment Act 2012 (2012 No 5)

Criminal Procedure Act 2011 (2011 No 81): section 413

Electoral (Administration) Amendment Act 2011 (2011 No 57): section 54

Electoral (Finance Reform and Advance Voting) Amendment Act 2010 (2010 No 137): sections 38, 39

Electoral (Administration) Amendment Act 2010 (2010 No 26): section 32(1)(b), (2)(b)

Electoral Amendment Act 2009 (2009 No 1): section 16

Electoral Finance Act 2007 (2007 No 111): section 150

Electoral Amendment Act 2002 (2002 No 1): section 101(2)

Referenda (Postal Voting) Act 2000 (2000 No 48): Part 9

Citizens Initiated Referenda Amendment Act 1995 (1995 No 62)

Citizens Initiated Referenda Amendment Act 1994 (1994 No 146)

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16): section 2

