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**THE CITIZENS INITIATED REFERENDA (FEES) REGULATIONS
1993**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of December 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 58 of the Citizens Initiated Referenda Act 1993, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Citizens Initiated Referenda (Fees) Regulations 1993.

(2) These regulations shall come into force on the 1st day of February 1994.

2. Fee—The fee that, under section 6 (2) (b) of the Citizens Initiated Referenda Act 1993, is required to accompany a proposal shall be \$500.

3. Goods and services tax included—The fee prescribed by regulation 2 of these regulations is inclusive of goods and services tax under the Goods and Services Tax Act 1985.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 February 1994, prescribe the fee that is required to accompany every proposal for the promotion of an indicative referendum petition.

The fee prescribed, which is payable on the submission of the proposal to the Clerk of the House of Representatives and which is inclusive of goods and services tax, is \$500.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 16 December 1993.

These regulations are administered in the Department of Justice.



ANALYSIS

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 Schedule

1993, No. 101

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

[28 September 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

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 the 1st day of February 1994.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Clerk of the Writs” means the Clerk of the Writs appointed under the Electoral Act 1956; and includes any person authorised to exercise the powers, duties, and functions of the Clerk of the Writs:

“Elector” means a person registered as an elector of an electoral district:

“Electoral district” means a General electoral district or Maori electoral district constituted under the Electoral Act 1956:

“Electoral poll” means the poll taken under the Electoral Act 1956 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 2 (1) of the Electoral Act 1956:

“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 signatures to the petition are checked under this Act by the Chief Registrar of Electors:

“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:

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

"Speaker" means the Speaker of the House of Representatives:

"Working day" means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

Indicative Referendum Petition

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 VI of the Electoral Act 1956 or of a petition under section 48 of this Act.

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 one 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 of this Act, 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 p.m. 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 of this Act, the Clerk of the House of Representatives shall not publish, under subsection (1) of this section, 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) of this Act, shall—

(a) Give one copy of those comments to the person who submitted the proposal; and

(b) Make one 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 of this Act,—

(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 of this Act 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 one of two answers may be given to the question.

(2) Subject to subsection (1) of this section, the Clerk of the House of Representatives, in making a determination under section 11 of this Act,—

(a) Shall take into account—

(i) The proposal submitted under section 6 of this Act; and

(ii) Any comments received under section 7 (2) (b) of this Act; and

(iii) The consultation that took place under section 9 of this Act; 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 of this Act, 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 wound up;
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 of this Act.

12. Approval of form—(1) As soon as practicable after the making of a determination under section 11 of this Act, 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 of this Act, 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 of this Act; and

(ii) Written notice of the giving of the approval under section 12 of this Act; 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) of this section 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 of this Act; and

(ii) As the promoter of the indicative referendum petition in which the wording determined under section 11 of this Act 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 of this Act; 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) of this section, and to section 15 of this Act, the promoter of an indicative referendum petition may, on receiving notification under

section 13 (1) of this Act, 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 of this Act.

(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) The address in respect of which he or she possesses a qualification as an elector; and

(iii) The electorate (if known) in respect of which that person is then registered; and

(iv) The date on which he or she signs the petition; and

(b) May, against his or her signature, state his or her date of birth.

(2) The promoter shall, before delivering the indicative referendum petition to the Clerk of the House of Representatives,—

(a) Identify each page on which erasures have been made; and

(b) Identify each page that is not filled with signatures; and

(c) Where a page is not filled with signatures, note on that page the number of signatures on it.

(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) of this Act.

(4) Subject to sections 17 and 20 of this Act, 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) of this section.

16. Duties of Clerk of the House of Representatives on receipt of indicative referendum petition—(1) The Clerk

of the House of Representatives shall, within 20 working days after receiving an indicative referendum petition,—

- (a) Check whether all the signatures are on forms supplied by the promoter and approved by the Clerk of the House of Representatives; and
 - (b) Check whether the promoter has identified each page on which erasures have been made; and
 - (c) Check whether the promoter—
 - (i) Has identified each page that is not filled with signatures; and
 - (ii) Has noted, on each page that is not filled with signatures, the number of signatures on it.
- (2) Where the Clerk of the House of Representatives finds—
- (a) That the signatures are not all on forms supplied by the promoter and approved by the Clerk of the House of Representatives; or
 - (b) That any of the provisions of section 15 (2) of this Act have not been complied with in relation to the petition,—

the Clerk of the House of Representatives shall return to the promoter either the pages that do not comply or the whole of the indicative referendum petition.

(3) Signatures that are not on forms supplied by the promoter and approved by the Clerk of the House of Representatives shall not be taken into account for the purpose of ascertaining whether the indicative referendum petition can be certified correct under section 18 of this Act.

17. Duties of promoter in relation to defects in indicative referendum petition—(1) Where, under section 16 (2) of this Act, any pages are, or any indicative referendum petition is, returned to the promoter, the promoter shall, within 2 months after the date on which those pages are, or that petition is, returned to the promoter,—

- (a) Correct any defects identified by the checking carried out by the Clerk of the House of Representatives and resulting from non-compliance with any of the provisions of section 15 (2) of this Act; and
- (b) Return the corrected pages or the corrected indicative referendum petition, as the case may require, to the Clerk of the House of the Representatives.

(2) Where the corrected pages are not returned within the time allowed by subsection (1) of this section, the signatures on the pages sent for correction shall not be taken into account for the purpose of ascertaining whether the indicative referendum

can be certified correct under section 18 of this Act and the Clerk of the House of Representatives shall notify the promoter accordingly.

(3) Where the corrected indicative referendum petition is not returned within the time allowed by subsection (1) of this section, the indicative referendum petition sent for correction shall lapse and the Clerk of the House of Representatives shall notify the promoter accordingly.

18. Certification of indicative referendum petition—

(1) Where the Clerk of the House of Representatives receives an indicative referendum petition or a corrected indicative referendum petition that complies with sections 14 (2) and 15 (2) of this Act, the Clerk of the House of Representatives shall, within two months after the date on which he or she receives the indicative referendum petition or the corrected indicative referendum petition, as the case may be, 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 of this Act, that the petition has, after the date of the publication in the *Gazette* of the notice required by section 13 (1) (b) of this Act, been signed by not less than 10 percent of the eligible electors.

19. Procedure in relation to certification—(1) For the purpose of ascertaining whether an indicative referendum petition has, after the date of the publication in the *Gazette* of the notice required by section 13 (1) (b) of this Act, been signed by not less than 10 percent 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) of this subsection.

(2) The Clerk of the House of Representatives shall give to the Chief Registrar of Electors the signatures taken under subsection (1) (b) of this section.

(3) The Chief Registrar of Electors shall 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 of the publication in the *Gazette* of the notice required by section 13 (1) (b) of this Act, been signed by not less than 10 percent of eligible electors.

20. Power to resubmit rejected indicative referendum petition—(1) Where an indicative referendum petition has lapsed under section 17 or section 18 of this Act, the promoter of that petition may—

(a) Collect more signatures to that petition; and

(b) 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.

(2) Where a petition that is resubmitted under subsection (1) of this section is not certified correct under section 18 of this Act, that petition shall lapse.

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) of this Act, 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 indicative referendum—(1) Where a petition that has been certified correct under section 18 (1) (a) of this Act is, under section 21 of this Act, presented to the House of Representatives, the Governor-General shall, by Order in Council published in the *Gazette*, appoint the day on which the indicative referendum is to be held.

(2) The Order in Council shall be made within one month after the date on which the indicative referendum petition is, under section 21 of this Act, presented to the House of Representatives.

(3) The date appointed for the holding of the indicative referendum shall be a date within 12 months after the date on which the indicative referendum petition is, under section 21 of this Act, presented to the House of Representatives.

(4) Notwithstanding anything in subsection (3) of this section or in any order made under this section,—

(a) If the House of Representatives, within 3 months after the date on which the petition is, under section 21 of this Act, presented to the House of Representatives, passes, by a majority of 75 percent of all of the members of the House of Representatives, a resolution deferring the holding of the indicative referendum and fixing a date for the holding of the indicative referendum (being a date not earlier than 12 months and not later than 24 months after the date on which the indicative referendum petition was, under section 21 of this Act, presented to the House of Representatives), the indicative referendum shall be held on the date so fixed:

(b) If—

(i) Section 17 of the Constitution Act 1986 requires that a general election be held within 12 months after the date on which the indicative referendum petition is, under section 21 of this Act, presented to the House of Representatives; and

(ii) The House of Representatives passes a resolution requiring the indicative referendum to be held on the polling day for the general election,—the indicative referendum shall be held on that polling day:

(c) If, after an Order in Council has been made under subsection (1) of this section, a writ for a general election is issued under section 71 of the Electoral Act 1956, the Governor-General may, by Order in Council published in the *Gazette*, revoke the Order in Council made under subsection (1) of this section and appoint the polling day for the general election as the day on which the indicative referendum is to be held.

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 of this Act.

(2) Nothing in this section affects the operation of section 5 or section 6 of the Clerk of the House of Representatives Act 1988.

Indicative Referendum

24. Application of Electoral Act 1956—(1) Subject to the provisions of this Act and of any regulations made under this Act,—

- (a) The provisions of the Electoral Act 1956 and of any regulations made under that Act shall, as far as they are applicable and with the necessary modifications, apply to the referendum as if the indicative referendum were an electoral poll; and
- (b) The indicative referendum shall be taken in the manner prescribed by the Electoral Act 1956 for the taking of an electoral poll.

(2) Sections 15 to 18, 20 to 23 (7), 24 to 36, 64A, 70 to 76, 80 to 90, 95 (1) and (2), 117 (1) to (3), 119, 120, 126 (g), 127, 127A, 133 to 139A, 147A, 155 to 157, 162 (3), 162 (6), 163 to 165, 169 to 172, 182 (1) (c), 182 (2), 182 (3), 188, and 189 of the Electoral Act 1956 shall not apply to an indicative referendum.

25. Governor-General's warrant for issue of writs—For every indicative referendum the Governor-General shall, at least 28 days before the date appointed for the holding of the indicative referendum, by warrant in form 1 in the Schedule to this Act, signed by the Governor-General, direct the Clerk of the Writs to proceed forthwith to issue writs for the holding of the indicative referendum.

26. Writs for indicative referendum—(1) The Clerk of the Writs shall, within 3 days after the receipt of the Governor-General's warrant, issue a writ in form 2 in the Schedule to this Act to the Returning Officer for each electoral district.

(2) The latest day for the return of the writ shall be stated in the writ.

(3) That latest day shall be the 50th day after the issue of the writ.

27. Electoral rolls—(1) Subject to the provisions of this Act and to any regulations made under this Act, the electoral rolls for the time being in force under the Electoral Act 1956 shall be deemed to be the rolls of electors for the purpose of the indicative referendum.

(2) For the purposes of the indicative referendum,—

(a) A person shall, subject to subsections (3) and (4) of this section, 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 1956 received by the Registrar of the electoral district in respect of which the person became registered after the day on which the writ for the holding of the indicative referendum was issued; and

(b) Section 50 (2) of the Electoral Act 1956 shall, with such modifications as may be necessary, apply for the purposes of determining whether an application for registration was received after the day on which the writ for the holding of the indicative referendum was issued.

(3) Nothing in subsection (2) of this section applies to any applicant who satisfies the Registrar that the applicant has become qualified for registration as an elector of the district in the period commencing on the 31st day before the day on which the writ for the holding of the indicative referendum was issued and ending with the close of the day before polling day.

(4) Where any person who has become qualified for registration as an elector of a district in the period specified in subsection (3) of this section both applies for registration as an elector and is registered as an elector after the day on which the writ for the holding of the indicative referendum is issued and before 4 p.m. on the day before polling day,—

(a) The Registrar shall not be 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

(b) That person may, at the indicative referendum, vote only by way of a special vote.

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 9 in the First Schedule to the Electoral Act 1956:

(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 two voting papers for the district bear the same number.

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 one scrutineer to act at each polling booth in the district in the interest of all electors who are in favour of that answer.

Cf. 1990, No. 3, s. 5

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 two answers may, in like manner, nominate any 2 specified persons to appoint one scrutineer to act at each such polling booth in the interest of all electors who are in favour of that answer.

Cf. 1990, No. 3, s. 6

31. Form of nomination paper—The nomination paper shall be in form 3 in the Schedule to this Act.

Cf. 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 twelfth day before the day on which the indicative referendum is to be held, and shall be open to public inspection.

Cf. 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 booth in the respective interests as aforesaid; and the persons so selected may appoint accordingly.

Cf. 1990, No. 3, s. 9

34. Selection to be in writing—The selection shall be signed by the Returning Officer and shall be in form 4 in the Schedule to this Act.

Cf. 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 in the Schedule to this Act.

Cf. 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 1956, and shall make a declaration in form 1 in the First Schedule to the Electoral Act 1956 (which form shall be used with all necessary modifications).

(2) Without limiting subsection (1) of this section, a scrutineer so appointed—

(a) May be present at the office of the Registrar of Electors when the Registrar of Electors is performing his or her duties under section 110 of the Electoral Act 1956 (as applied by this Act) in relation to declarations in respect of special votes, but not more than one such scrutineer per answer shall be present at the office of the Registrar of Electors at any time; and

(b) May be present at the scrutiny of the rolls conducted by the Returning Officer under section 112 of the Electoral Act 1956 (as applied by this Act) but only one 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.

Cf. 1990, No. 3, s. 12

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.

Cf. 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 Returning Officer in accordance with section 116(1) of the

Electoral Act 1956 (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 this Act of the time and place at which the recount will be made:
- (d) Section 117 (4) to (9) and section 118 of the Electoral Act 1956, so far as they are applicable and with the necessary modifications, shall apply to the recount.

Cf. 1990, No. 3, s. 14

39. Endorsement and return of the writ—(1) The Returning Officer—

- (a) Shall endorse on the writ the total number of valid votes recorded for each of the two answers to the precise question; and
 - (b) Having signed the endorsement, shall forthwith transmit the writ to the Clerk of the Writs.
- (2) The date of the endorsement shall be deemed to be the day of the return of the writ.
- (3) Subject to subsection (4) of this section, the writ shall be returned within the time specified in the writ for its return.
- (4) Where it appears to the Returning Officer that an application for a recount of the votes may be made, he or she may postpone the return of the writ until the time for making the application has expired, and, if within that time application is made, he or she shall further postpone the return of the writ until the recount has been completed.

Cf. 1956, No. 107, s. 119

40. Declaration of result—(1) As soon as conveniently may be after the return of the writs, the Clerk of the Writs shall ascertain the total number of valid votes recorded for each of the two answers to the precise question.

- (2) The Clerk of the Writs—
 - (a) Shall notify in the *Gazette*—

- (i) The total number of valid votes recorded for each of the two answers to the precise question; and
 - (ii) In respect of each electoral district, the total number of valid votes recorded for each of the two answers to the precise question; and
 - (b) Shall give to the Minister of Justice written notice of the numbers notified in the *Gazette* under paragraph (a) of this subsection.
- (3) The Minister of Justice shall, as soon as practicable, lay before the House of Representatives a copy of the notice given to the Minister of Justice under subsection (2) (b) of this section.
- (4) The Clerk of the Writs shall forward to the Clerk of the House of Representatives the writs that have been returned.

Cf. 1990, No. 3, s. 15 (2), (3)

Publicity

41. Publicity for indicative referendum—(1) No person shall, at any time in the indicative referendum 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) of this Act, and ending with the close of the day before the day on which the referendum is held.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$70,000 who wilfully contravenes subsection (1) of this section.

(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.

Cf. 1990, No. 3, s. 16

42. Limits on expenditure—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 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.

43. Returns in relation to advertisements—(1) Every person for whom or at whose direction an advertisement in relation to an indicative referendum petition or indicative referendum is published or broadcast must, within one month after the date of the publication of the *Gazette* in which the result of the indicative referendum is published, make a return to the Returning Officer for the district in which the advertisement was published or broadcast, which return shall list where every such advertisement was published or broadcast and shall state its cost.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$70,000 who wilfully contravenes subsection (1) of this section or who wilfully makes a return under that subsection that is false in any material particular.

44. Duty of Returning Officer—(1) It shall be the duty of every Returning Officer to see that the provisions of sections 41 to 43 of this Act are faithfully complied with.

(2) Where any Returning Officer believes that any person has committed an offence against any of the provisions of sections 41 to 43 of this Act, the Returning Officer shall report the facts on which that belief is based to the Police.

Cf. 1956, No. 107, s. 137 (5), (6); 1983, No. 104, s. 22

45. Return to be open for public inspection—(1) Every return under section 43 of this Act—

- (a) Shall be kept by the Returning Officer in the Returning Officer's office, or at some other convenient place to be appointed by the Minister of Justice, for a period of one year after it has been received by the Returning Officer; and
 - (b) Shall, during the period that it is kept under paragraph (a) of this subsection, be open to inspection by any person on payment of such charges (if any) as shall be made under the Official Information Act 1982.
- (2) At the end of the period specified in subsection (1) of this section, the Returning Officer shall cause the return to be destroyed.

Cf. 1956, No. 107, s. 138; 1990, No. 1, s. 73

46. Transmission of copy of return to Chief Electoral Officer—(1) The Returning Officer shall, as soon as practicable after receiving a return under section 43 of this Act, send a copy of that return to the Chief Electoral Officer.

(2) The Chief Electoral Officer shall keep the copy in his or her office or in some other convenient place for a period of 5 years, beginning with the date of the receipt of that copy.

(3) During that period the copy of the return shall be open to inspection by any person on payment of such charges (if any) as shall be made under the Official Information Act 1982.

(4) At the end of that period the Chief Electoral Officer shall cause the copy of the return to be destroyed.

Cf. 1956, No. 107, s. 138A; 1990, No. 1, s. 73

Petition for Inquiry

47. Sections of Electoral Act 1956 applied—(1) The sections of the Electoral Act 1956 described in subsection (2) of this section, as far as they are applicable and with the necessary modifications, shall apply to a petition for an inquiry under section 48 of this Act.

(2) The sections of the Electoral Act 1956 referred to in subsection (1) of this section are sections 158 to 160, 161, 162 (1), (2), (4), and (5), 166, 167, 168, 173 to 181, 182 (1) (a) and (b), and 183.

Cf. 1990, No. 3, s. 18

48. Petition for inquiry—(1) Where any 50 electors in an electoral district are dissatisfied with the result of the indicative referendum in their district, they may, within 20 working days after the Returning Officer has made a public declaration in

accordance with section 116 (1) of the Electoral Act 1956 (as applied by this Act), file a petition in the High Court for an inquiry as to the conduct of the indicative referendum or of any person connected with it.

(2) If the petition complains of the conduct of a Returning Officer or Registrar of Electors, the person complained of shall be a respondent to the petition.

(3) The petition shall allege the specific grounds on which the complaint is founded, and no other grounds than those stated shall be investigated, except by leave of the Court and upon reasonable notice being given, which leave may be given upon such terms and conditions as the Court considers just:

Provided that evidence may be given to prove that the total number of valid votes recorded for each of the two answers to the precise question was other than that declared.

(4) Such petition shall be in form 6 in the Schedule to this Act, or to the like effect, and shall be filed in the registry of the High Court nearest to the place where the indicative referendum was held. The Registrar of the Court shall forthwith send a copy of the petition to the Returning Officer.

(5) The petition shall be served as nearly as may be in the manner in which a statement of claim is served, or in such other manner as may be prescribed by rules of Court.

Cf. 1990, No. 3, s. 19

49. Who may be respondents—Any 6 electors in the electoral district may, at any time not later than 3 working days before the commencement of the inquiry, file in the Court in which the petition is filed a notice in writing of their intention to oppose the petition, and thereupon the electors giving such notice shall be deemed to be respondents to the petition.

Cf. 1990, No. 3, s. 20

50. Determination of Court as to result of indicative referendum—At the conclusion of the trial of a petition for an inquiry, the Court—

- (a) Shall determine whether, by reason of some irregularity that in its opinion materially affected the result of the indicative referendum, the indicative referendum is void; or
- (b) Shall determine the total number of valid votes recorded for each of the two answers to the precise question.

Cf. 1990, No. 3, s. 21

51. Fresh poll—(1) The Court, on declaring a referendum void under section 50 of this Act, shall notify the Returning Officer accordingly, and a fresh indicative referendum shall be taken in the manner prescribed by this Act in the case of an indicative referendum.

(2) The fresh indicative referendum shall be taken on a day fixed by the Returning Officer, which day shall be not later than 30 working days after the date on which notice of the voided indicative referendum is given to the Returning Officer under subsection (1) of this section.

(3) At any such fresh indicative referendum the same roll of electors shall be used as was used at the voided indicative referendum.

Cf. 1990, No. 3, s. 23

Offences

52. Interfering with or influencing voters—(1) Every person commits an offence and shall be liable on summary 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 booth or while the elector is on the way to the polling booth, 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 Chief Electoral Officer 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 p.m. 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 booth 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) of this section 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 1956.

Cf. 1956, No. 107, s. 127; 1990, No. 1, s. 65 (1)

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) of this section 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) of this section 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) of this section 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.

Cf. 1956, No. 107, s. 127A; 1981, No. 120, s. 40 (1); 1990, No. 1, s. 66

54. Offences—Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 who, at an indicative referendum,—

- (a) Except in accordance with any regulations made under the Electoral Act 1956 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 Deputy Returning Officer for the purpose of recording his or her vote, or retains any voting paper in his or her possession after leaving the polling booth; or
- (b) Does or omits to do an act (other than an act to which section 52 of this Act applies) that if done or omitted to be done at an electoral poll would be an offence under the Electoral Act 1956.

Cf. 1990, No. 3, s. 24 (d), (f)

Miscellaneous Provisions

55. Two or more referenda—Two or more indicative referenda may be held under this Act on the same day.

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) of this section 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 the First Schedule to the Ombudsmen Act 1975.

58. Regulations—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 1956:
- (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.

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

Section 25

FORMS

Form 1

WARRANT FOR ISSUE OF WRITS FOR INDICATIVE REFERENDUM
Governor-General

To the Clerk of the Writs

PURSUANT to the Citizens Initiated Referenda Act 1993, I hereby authorise and direct you to proceed forthwith to issue writs for an indicative referendum on the following question, namely, [*Specify the question*].

As witness the hand of Her Excellency the Governor-General, this
..... day of 19.....

C.D.,
Minister of Justice.

SCHEDULE—continued

Section 26

Form 2

WRIT FOR INDICATIVE REFERENDUM

To the Returning Officer for the
District

Electoral

PURSUANT to the Citizens Initiated Referenda Act 1993, I hereby authorise and require you to proceed, according to law, to hold an indicative referendum on the following question, namely, [*Specify the question*].

The indicative referendum shall be taken on Saturday the day of 19.....

You are hereby required—

(a) To endorse on this writ the total number of valid votes recorded for each of the two answers to the question; and

(b) Then to return the writ to me on or before the day of 19.....

Dated at this day of 19....

A.B.

Clerk of the Writs.

SCHEDULE—continued

Form 3

Section 31

NOMINATION OF SCRUTINEERS FOR PURPOSES
OF INDICATIVE REFERENDUM ON *[Describe the question]*

1. For the purposes of the indicative referendum to be taken in the
..... Electoral District on the
day of 19.... 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
one scrutineer to act at each polling booth 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.

Severally declared by each of
the *[Number]* declarants
whose signatures are
subscribed hereto, this
..... day of
19...., before me—

J. P. *[Solicitor,
or, as the case may be]*

Signature, Address, and Occupation

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

NOTE—Not less than 10 electors must sign.

SCHEDULE—continued

Section 34

Form 4

RETURNING OFFICER'S SELECTION FOR THE PURPOSES OF THE
INDICATIVE REFERENDUM

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 one scrutineer to act at each polling booth at the indicative referendum for the Electoral District on the day of 19..... on *[Describe the question]*, in the interest of all electors who are in favour of the *[Describe the answer favoured]*.

Dated at this day of 19

.....Returning Officer.

SCHEDULE—continued

Form 5

Section 35

APPOINTMENT OF SCRUTINEERS FOR THE PURPOSES OF THE
INDICATIVE REFERENDUM

To the Returning Officer

For the purposes of the indicative referendum for the
Electoral District to be taken on the day of
 19..... 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 booths named in the Schedule, in the
 interest of all electors who are in favour of [Describe the answer favoured].

SCHEDULE

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

Polling Booth
 [Name of polling booth]

Dated at this day of 19

[Signatures of the 2
 persons authorised to
 appoint].

SCHEDULE—continued

Section 48 (4)

Form 6

PETITION FOR INQUIRY AS TO RESULT OF INDICATIVE
REFERENDUM

In the matter of an indicative referendum held in the
 Electoral District on the day of
 19....., on *[Describe the question]*.

The petition of the undersigned electors of the
 Electoral District, namely, A.B., of, C.D., of
, etc.

1. Your petitioners state that the indicative referendum was held on the
 day of 19....., and that the Returning
 Officer has given public notice that the total number of valid votes
 recorded for each of the two answers to the precise question was as
 follows: *[Specify]*.

2. And your petitioners say that *[State the facts and grounds on which the
 petitioners rely]*.

Wherefore your petitioners pray that it may be determined that the total
 number of valid votes recorded for each of the two answers to the precise
 question was not correct *(or that the referendum was void)*.

A.B.,
 C.D.,
 etc.

This Act is administered in the Department of Justice.