



REPUBLIC OF SAN MARINO

We the Captains Regent of the Most Serene Republic of San Marino

Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;

Hereby promulgate and order the publication of the following Qualified Law, approved by the Great and General Council during its sitting of 23 May 2013 with 38 votes in favour, 9 votes against and 8 not voting:

QUALIFIED LAW NO. 1 OF 29 MAY 2013

REFERENDUM AND POPULAR LEGISLATIVE INITIATIVE

Art. 1

(Purpose of the Law)

1. This qualified law shall regulate the direct exercise of sovereignty by the people through the instruments of referendum and popular legislative initiative provided for in Article 2 of the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order referred to in Law no. 59 of 8 July 1974, and subsequent amendments (hereinafter referred to as the "Declaration on the Citizens' Rights").
2. A referendum may be abrogative, propositive or on policy issues and confirmative.

TITLE I

REFERENDUM

Art. 2

(Types of referenda)

1. The abrogative referendum may be invoked to totally or partially abrogate laws, acts and rules, including customary ones, having force of law.
2. By means of the propositive referendum or referendum on policy issues, the electorate shall be called upon to determine the principles and criteria for the legal provisions to be introduced into the legal system. The Great and General Council shall comply with these principles and criteria when regulating the subject matter of the referendum by law.
3. The confirmative referendum shall be held whenever a law is subject to popular approval.

CHAPTER I
ABROGATIVE REFERENDUM

Art. 3

(Admissibility of popular initiative referenda)

1. It shall be permitted to hold an abrogative referendum:
 - a) provided that its subject matter is not the suppression of fundamental bodies, entities and powers of the State referred to in the Declaration on the Citizens' Rights and provided that its subject matter is not the abolition of fundamental rights and principles of San Marino law. Abrogative referenda on laws or acts having force of law specifically on taxes, duties, budget issues, amnesty and pardon, and ratification of international conventions or treaties shall also be excluded;
 - b) provided that the question contains the precise, clear and unequivocal wording of the petition submitted to popular voting, so as to guarantee a full, informed and free exercise of sovereignty.

Art. 4

(Electorate and vote counting)

1. All citizens in the voters lists may take part in abrogative referenda.
2. The proposal being the subject of an abrogative referendum shall be approved if it receives the majority of votes validly cast and in any case not less than 25% (twenty-five per cent) of the votes of citizens in the electoral lists.
3. The expression "votes validly cast" shall mean all votes in favour of and against the referendum proposal.

Art. 5

(Admissibility conditions for abrogative referenda of popular initiative. Promoting Committee)

1. In order to be admissible, a petition for an abrogative referendum of popular initiative shall be submitted in writing to the Captains Regent by at least sixty voting citizens. The petition shall be filed by the legal representative of the Promoting Committee referred to in paragraph 4 below at the State Institutional Secretariat of the Department of Institutional Affairs and Justice, which shall issue a certified copy bearing a stamp attesting the filing and the date. The relevant minutes shall be drawn up.
2. To be accepted, the petition shall be drawn up on legal paper and shall contain particulars of the signatories, as well as their signatures duly certified by a public notary or by the Vital Statistics Registrar or the Court's Registrar and the indication of the relevant electoral lists.
3. Another condition for admissibility shall be the lodging of an explanatory report accompanying the referendum petition.
4. Starting from the lodging of the petition, the subscribing citizens shall be lawfully recognised as the Promoting Committee. The petition shall also indicate who, among the subscribers, shall be the legal representative of the committee for the purpose of possible communication and notices.

Art. 6

(Admissibility of abrogative referenda submitted by Township Councils)

1. The abrogative referendum requested by at least five Township Councils shall be admitted if each requesting Council has adopted its own decision to this end.
2. In order to be admissible, the referendum petition - to be filed under Art. 5 - shall be accompanied by a certified abstract of the minutes of the Council's sessions and shall be signed by two delegates for each of the proposing Councils forming the Promoting Committee of the Referendum. To be valid, any communication or notice shall be addressed to the Heads of the Township Councils.

Another condition for admissibility is the lodging of an explanatory report accompanying the referendum petition.

Art. 7

(Publicity of the referendum petition or request)

1. The lodging of a petition or request for an abrogative referendum and of the integral text of the referendum petition by the parties referred to in Articles 5 and 6 shall be immediately notified to the Captains Regent by the State Institutional Secretariat. The request shall also be made public through a notice posted on the notice board of the Government Building. The notice shall be transmitted to the Court Registry and to the Heads of the Township Councils for its posting at their seats.

Art. 8

(Establishment of a Committee contrary to the referendum)

1. Any Committee contrary to the referendum shall be constituted by means of a written document submitted to the Captains Regent by at least fifteen voting citizens. Such document shall be filed with the State Institutional Secretariat of the Department of Institutional Affairs and Justice, which shall issue a certified copy bearing a stamp attesting the filing and the date. The relevant minutes shall be drawn up.

2. The document shall be drawn up on legal paper and shall contain particulars of the signatories, as well as their signatures duly certified by public notary or by the Vital Statistics Registrar or the Court's Registrar and the indication of the relevant electoral lists. The document shall also indicate who, among the signatories, shall be the legal representative of the Committee contrary to the referendum also for the purpose of possible communication and notices.

3. The Committee contrary to the referendum may be formed from the day of publication of the referendum petition or request referred to in Article 7 until five days before the opening of the referendum campaign referred to in Article 15.

Art. 9

(Convocation of the Guarantors' Panel on the Constitutionality of Rules)

1. The Captains Regent, upon receipt of the communication referred to in Article 7, shall forward it to the Guarantors' Panel on the Constitutionality of Rules (hereinafter referred to as the "Guarantors' Panel"). The President of the Guarantor's Panel shall convene the Panel within a maximum of twenty days from the date of the communication in order to rule on the admissibility of the referendum question in accordance with article 10.

Art. 10

(Admissibility ruling)

1. The Guarantor's Panel shall be responsible for ruling on the admissibility of the popular initiative referendum question. The referendum shall be admitted if the formal procedures referred to in Article 5 have been complied with and if the requirements of points a) and b) of Article 3 are met.

2. The Guarantor's Panel, after having verified that the requirements of Article 5 and of points a) and b) of Article 3 have been fully complied with, shall declare the referendum admitted.

3. In establishing the admissibility of the referendum, no consideration shall be made on the legislative actions resulting from the possible granting of the referendum petition or on the consequent repeal of the law or act having the force of law covered by the referendum.

4. The decisions referred to in this Article shall be adopted by a simple majority of the Panel's members and without the possibility of appeal, except for the ruling on the assessment of the obligations related to the regularity of the minimum number of necessary signatures of voting citizens referred to in Article 5 and the inclusion of signatories in the electoral lists. Against this ruling appeal may be made to the Panel within a peremptory time limit of ten days from the ruling

of the Guarantor's Panel.

5. The Guarantor's Panel shall deliver its ruling within twenty days from the date of the convocation and, before declaring the inadmissibility, may request the Promoting Committee to provide clarifications and integrations to the explanatory memorandum to the petition, setting a short deadline for its response.

6. The ruling of the Guarantor's Panel shall be transmitted to the Captains Regent who, in case of a negative outcome, shall take note of it and make the decision public by means of a decree.

7. Instead, once the Guarantor's Panel has declared the referendum admissible, the Captains Regent shall formally notify the Promoting Committee so that it may start collecting signatures, in accordance with Article 12.

Art. 11

(Right to intervene)

1. The Guarantor's Panel shall make its decision in a public hearing, where the Promoting Committee and the Committee contrary to the referendum may be represented also by lawyers in accordance with the laws in force on representation and defence. These Committees shall notify the President of the Panel of their willingness to intervene at least one day in advance of the hearing.

Art. 12

(Collection of signatures)

1. With the exception of the referendum proposed by the Township Councils, the admitted referendum may be held provided that, after the ruling referred to in Article 10, it is subscribed by a number of citizens making up at least 1.5% of the electorate resulting from the last and definitive annual revision of the electoral lists under the Electoral Law in force.

2. Within ninety days of the date of receipt of the notice referred to in Article 10, paragraph 7, the Promoting Committee shall collect the authenticated signatures of voters in the percentage referred to in paragraph 1.

3. In order to collect signatures, the Promoting Committee shall prepare specific typed or printed forms containing the referendum question. The following details shall be indicated for each signatory: surname, first name, place and date of birth, residence, San Marino citizenship, Social Security Number and details of a valid identification document.

4. For the purpose of the authenticity declaration referred to in paragraph 2, the Vital Statistics Registrar, the Court's Registrar, the acting Notary of the State Lawyer's Office, the Director of the State Institutional Secretariat, the Director of the Executive Secretariat of the Congress of State shall receive the signatures of citizens on specific forms kept by them and signed also by the legal representative of the Promoting Committee, who may also choose public notaries of its choice. The Heads of the Township Councils or members of the Township Councils delegated by them may also collect signatures within their Township and declare their authenticity.

Art. 13

(Deposit of signatures)

1. The sheets containing the signatures referred to in Article 12, which shall be admitted only if collected under the terms set out in said article, shall be deposited by the legal representative of the Promoting Committee at the State Institutional Secretariat, which shall immediately transmit them to the Guarantor's Panel. Within fifteen days of the deposit, the Guarantor's Panel shall verify the number of signatories, their compliance with the requirements provided for by this law and their registration in the electoral lists.

2. The certificates attesting the inclusion of the signatories in the electoral lists shall be transmitted to the State Institutional Secretariat for the Guarantor's Panel by the Vital Statistics Office - Population and Electoral Services.

3. Within the aforementioned deadline, the Guarantor's Panel shall draw up a report certifying the regularity of the signatures collected for the purposes of holding the referendum. The Panel shall then immediately transmit the report to the Captains Regent for the relevant measures. If the legal requirements are not met, the Captains Regent shall not admit the referendum by means of a decree. If the procedures have been declared regular, the Captains Regent, by means of a decree, shall definitively admit the referendum and set the date for holding it between 60 and 90 days from the date of the decree.

4. Appeals against the measure of the Guarantor's Panel may be lodged with the same Panel in the manner and within the time limits provided for in Article 10, paragraph 4.

Art. 14

(Impediments to the referendum)

1. Within twelve months, no more than one round for the holding of one or more abrogative referenda may be held.

2. All referenda for which petitions have been lodged within the fixed deadlines shall be grouped in one round.

3. An abrogative referendum may not be held in the six months preceding or following general elections and elections for the appointment of at least five Heads of Township Councils and relevant Councils and in any case not before a period of six months has elapsed from the holding of the above-mentioned elections.

4. The Captains Regent shall fix the date of the referendum in the cases regulated by the preceding paragraph by issuing a decree at the end of the period laid down above.

5. The early dissolution of the Great and General Council or the need for early elections of at least five Heads of the Township Councils and their respective Councils shall cause the suspension of the referendum procedure. The suspension shall be declared by means of a Regency Decree. Another Regency Decree shall provide for the reopening of the procedure suspended under the terms established in paragraph 3 of this Article.

Art. 15

(Referendum campaign)

1. The holding of a referendum shall be preceded by a campaign of fifteen days.

2. The campaign shall be open to the Promoting Committee and the Committee contrary to the referendum, the political parties represented in the Great and General Council and the political forces which participated in the last elections for the renewal of the Great and General Council.

3. The referendum propaganda shall be regulated by the applicable provisions of Law no. 36 of 14 July 1997 and subsequent amendments, taking into account the following amendments:

a) posting spaces shall be reserved to the Promoting Committee, to the Committee contrary to the referendum and to the political forces referred to in the preceding paragraph. An additional space shall be reserved to citizens, associations and social groups intending to make use of it;

b) the holding of rallies shall be reserved to the Promoting Committee, to the Committee contrary to the referendum and to the political forces referred to in paragraph 2; individual citizens, associations and social groups may also request to hold rallies.

Art. 16

(Voting)

1. The voting of referenda shall take place by means of state polling cards having the format adopted by means of a Regency Decree and containing the clear and integral wording of the referendum petition, followed by YES or NO.

2. If more referenda are held concomitantly, the polling cards for each question shall have a different colour.
3. The polling stations shall be established pursuant to the rules laid down by the electoral law in force, without prejudice to the right of representation for the committees and other organisations referred to in Article 15.
4. With regard to referenda, a specific law shall introduce rules governing the exercise of the right to vote electronically, starting with the abolition of the paper voting certificate and the adoption of electronic media for counting the number of voters, all in full compliance with the fundamental principles of secrecy, universality, uniqueness of the vote and direct expression of the voter's will.

Art. 17

(Approval of a proposal of abrogative referendum)

1. Once the voting and counting procedures have been concluded and the result of the abrogative referendum published, if the proposal has been approved, the Captains Regent shall repeal, by means of a decree to be issued within three days from the date of the referendum, the law, the act or also the customary provision, in any case having the force of law or part them. Such decree shall become effective on the day of its publication.
2. If a referendum proposal is not approved by the electorate, the same referendum question cannot be proposed again unless five years have elapsed.

Art. 18

(Abrogative referendum submitted by the Township Councils)

1. Whenever an abrogative referendum is submitted by the Township Councils, the Guarantor's Panel shall exclusively ascertain the fulfilment of the obligations under Article 6 and the presence of the conditions referred to in points a) and b) of article 3, paragraph 1.
2. The provisions contained in this Chapter shall apply to abrogative referenda proposed by the Township Councils in so far as they are compatible.

Art. 19

(Interruption of the referendum procedure)

1. If the law, the act or also the customary provision having the force of law or part of them, for which an abrogative referendum has been requested, are repealed or amended by the Great and General Council before the holding of the referendum, so as to receive the requests of the Promoting Committee, the referendum procedures shall be interrupted.
2. The procedure shall also be interrupted if the Promoting Committee, by means of a solemn declaration and the authenticated signatures of all its members, submits a request for interruption to the Captains Regent and if the Great and General Council approves this request by absolute majority. The request shall be submitted to the Great and General Council at its first possible meeting.
3. In the case referred to in paragraph 1, the declaration of interruption shall be pronounced by the Captains Regent by means of a decree on the basis of a resolution of the Guarantor's Panel, convened for this purpose. To this end, the Panel may convene the Promoting Committee, the Committee contrary to the referendum and - in the case referred to in paragraph 2 - a delegation of the Great and General Council.

CHAPTER II
PROPOSITIVE REFERENDUM OR REFERENDUM ON POLICY ISSUES

Art. 20

(Admissibility of propositive referenda)

1. A propositive referendum or referendum on policy issues shall be admissible in the manner and for the purposes set out in Article 2, paragraph 2, for the same matters as those for which an abrogative referendum is admissible. It may be held provided that it is requested by sixty voting citizens who have formed the Promoting Committee pursuant to Article 5.
2. Furthermore, propositive referenda shall also be admitted provided that they do not cover limitations to the right to vote, right to work and the free movement and establishment of people and, more in general, violations or limitations of human rights.
3. A propositive referendum shall never be admitted when the principles and the guidelines subject to the vote of the electoral body may entail the introduction of rules in contrast with the general principles of San Marino law set forth in the Declaration on the Citizens' Rights.
4. Moreover, a propositive referendum shall only be admitted if the question specifies, in a clear and unequivocal manner, the principles and guidelines subject to the vote of the electoral body and with which the regulatory provisions shall comply.
5. Having assessed the fulfilment of the requirements for the filing of the petition referred to in Article 5, the Guarantor's Panel shall verify the admissibility of the propositive referendum or referendum on policy issues in compliance with the provisions of this article.

Art. 21

(Provisions applicable to propositive referenda. Referral)

1. All the provisions for abrogative referenda of popular initiative contained in Chapter I shall apply to the propositive referenda or referenda on policy issues and, in particular, the provisions of Articles 12, 13, 15 and 16 shall apply in case of admissibility.
2. One or more propositive referenda may be held on the same day fixed for one or more abrogative referenda.
3. The provisions of Article 14 shall apply.

Art. 22

(Electorate and vote counting)

1. All citizens in the electoral lists may take part in propositive referenda.
2. The proposal being the subject of a propositive referendum shall be approved if it receives the majority of votes validly cast and in any case not less than 25% (twenty-five percent) of the votes of citizens in the electoral lists.
3. The expression "votes validly cast" shall mean all votes in favour of and against the proposal.

Art. 23

(Implementation of the referendum outcome)

1. Once the voting and counting procedures have been concluded, if the proposal has been approved, the Captains Regent shall fix a period of six months during which the Congress of State shall draw up a bill regulating the issue covered by the referendum, according to the principles and guidelines approved by the electoral body.
2. After receiving the bill mentioned in the preceding paragraph, the Captains Regent shall transmit it to the Guarantor's Panel for an opinion on the compatibility of the bill with the approved question, and suggest to the Congress of State any amendments to be made to the bill.

The Captains Regent, having received the notice from the Guarantor's Panel, shall transmit it to the Congress of State, which shall be given a period of thirty days to regulate the bill in accordance with the notices received from the Panel.

3. Having introduced the amendments, the Congress of State shall lodge the bill with the Bureau of the Great and General Council, which shall include it in the agenda of the first possible meeting.

4. The Captains Regent shall have the responsibility of monitoring the correct implementation of the procedure referred to in the preceding paragraphs.

Art. 24

(Interruption of the referendum procedure)

1. If after the admissibility ruling referred to in art. 20 and before the holding of a propositive referendum the Great and General Council approves a law fully receiving the principles and guidelines requested by the Promoting Committee, and if this is ascertained by the Guarantor's Panel explicitly convened to this end, the Captains Regent, having received the favourable decision of the Guarantor's Panel, shall declare the interruption of the procedure for the holding of the referendum by means of a Regency Decree.

2. In the cases referred to in the preceding paragraph, the provisions of Article 19 shall apply.

CHAPTER III

CONFIRMATIVE REFERENDUM

Art. 25

(Admissibility of confirmative referenda of popular initiative)

1. Confirmative referenda of popular initiative shall only be allowed for laws that concern the fundamental bodies, entities or powers of the State as referred to in the Declaration on the Citizens' Rights.

2. The referendum procedure shall start with the submission of the written petition to the Captains Regent. The petition shall be filed at the State Institutional Secretariat before the entry into force of the law by at least ten voting citizens who have formed the Promoting Committee.

3. A petition for a confirmative referendum shall suspend the law in question.

4. The procedures concerning the filing of the petition shall be governed by the provisions in Article 5.

5. The Captains regent shall immediately transmit the referendum petition to the Guarantor's Panel.

6. Within twenty days from the filing of the petition referred to in paragraph 2, the Guarantor's Panel shall pronounce itself on the admissibility of the petition in relation to the issues allowed. Within the next ninety days, in the event of a favourable opinion by the Guarantor's Panel, it shall be allowed to collect signatures in the manner and to the extent set out in Article 12. The verification of the validity of signatures and the transmission of documents to the Captains Regent shall be carried out as provided for in Article 13.

Art. 26

(Confirmative referendum of parliamentary initiative)

1. Confirmative referenda may be expressly requested for each law by means of a specific provision contained in the law to be subject to referendum approved by at least 31 Council's members. They shall be admitted for any matter, except for laws of fiscal or financial nature, concerning amnesty or pardon.

2. The admissibility opinion of the Guarantor's Panel or the collection of signatures referred to in Article 12 shall not be requested.

Art. 27

(Holding of confirmative referenda)

1. If the Guarantors' Panel declares a confirmative referendum of popular initiative admissible or in case of confirmative referenda provided for by the single laws or of parliamentary initiative, the Captains Regent shall fix the date for the holding of the referendum by means of a decree. The Referendum shall be held on a Sunday within a period between sixty to ninety days from the date of the Decree in question.
2. The provisions of Article 14 on impediments shall also apply to confirmative referenda.
3. The referendum campaign and the voting procedures shall be those established for abrogative or propositive referenda.

Art. 28

(Electorate, vote counting, effects of the referendum)

1. All citizens in the electoral lists may take part in confirmative referenda.
2. The proposal being the subject of a confirmative referendum shall be approved if it receives the majority of votes validly cast and in any case not less than 25% (twenty-five per cent) of the votes of citizens in the electoral lists.
3. The expression "votes validly cast" shall mean all votes in favour of and against the proposal.
4. The Captains Regent, having acknowledged the definitive result of the confirmation referendum, by means of a decree, shall declare the law subject to referendum effective in case of a favourable result and shall declare it null and void in case of an unfavourable result.

TITLE II

POPULAR LEGISLATIVE INITIATIVE

Art. 29

(Submission of a bill of popular legislative initiative)

1. The electorate may submit to the Great and General Council, and through it to the Captains Regent, bills drawn up in articles, accompanied by an explanatory report and indicating the necessary financial coverage, when so specified in the bill.
2. The bill shall be filed with the Institutional Secretariat by the rapporteur expressly indicated by the subscribers.
3. Each bill shall be accompanied by at least sixty signatures of voting citizens. The rapporteur shall guarantee the authenticity of the signatures for all legal purposes.

Art. 30

(Procedure)

1. Bills of popular initiative shall undergo the same discussion procedure envisaged by the Great and General Council's Regulations for bills submitted by the Council itself.
2. Bills of popular initiative shall be included by the Captains Regent, having heard the Bureau of the Great and General Council, in the agenda of the Council itself for their discussion in second reading within 180 days from submission.
3. The rapporteur designated by subscribers shall be invited to participate with the right to speak in the examination of the bill by the competent Permanent Parliamentary Commissions. If the bill is examined directly by the Council, the rapporteur shall be invited to attend the Parliamentary meeting when discussing the bill at its second reading.

TITLE III
COMMON, TRANSITIONAL AND FINAL PROVISIONS

Art.31
(Financial costs)

1. The financial costs for holding the referendum shall be borne by the State.
2. If the referendum is admitted, the Promoting Committee and the Committee contrary to the referendum shall each be entitled to receive a contribution for documented advertising costs, but not exceeding €5,000.00 (five thousand euro) for each committee.

Art.32
(Transitional provisions)

1. Referendums for which questions are submitted before the entry into force of this Law shall be governed by the provisions of Law no. 101 of 28 November 1994, and subsequent amendments.

Art. 33
(Repeal and entry into force)

1. The provisions in contrast with this Law shall be repealed, in particular Law no. 101 of 28 November 1994 and subsequent amendments and article 16 of Qualified Law no. 1 of 5 August 2008, without prejudice to the provisions of article 32.
2. This Law shall enter into force on the fifteenth day following that of its legal publication.

Done at Our Residence, on 29 May 2013/1712 since the Foundation of the Republic

THE CAPTAINS REGENT
Antonella Mularoni - Denis Amici

THE MINISTER OF
INTERNAL AFFAIRS
Gian Carlo Venturini