



# European Parliament (Representation) Act 2003

## 2003 CHAPTER 7

### PART 2

#### GIBRALTAR

##### *Electoral registration and voting in Gibraltar*

#### **14 The Gibraltar register**

- (1) There shall be a register of European Parliamentary electors in Gibraltar (referred to in this Act as “the Gibraltar register”) maintained by the European electoral registration officer for Gibraltar.
- (2) The Clerk of the House of Assembly of Gibraltar shall (by virtue of his office) be the European electoral registration officer for Gibraltar.

#### **15 Gibraltar franchise for European Parliamentary elections**

- (1) A person is entitled to vote in Gibraltar as an elector at a European Parliamentary election if on the day of the poll he—
  - (a) is registered in the Gibraltar register;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at such an election (age apart);
  - (c) is a Commonwealth citizen or a citizen of the European Union (other than a Commonwealth citizen); and
  - (d) is at least 18 years of age.
- (2) Subsection (1)(a) has effect subject to any enactment which provides for alterations made after a specified date in the register to be disregarded.
- (3) In section 8 of the 2002 Act (persons entitled to vote), at the end there is added—

“(8) The entitlement to vote under this section does not apply to voting in Gibraltar.”

## **16 Entitlement to be registered in Gibraltar**

- (1) A person is entitled to be registered in the Gibraltar register if, on the relevant date, he—
- (a) is resident in Gibraltar;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at a European Parliamentary election (age apart);
  - (c) is a qualifying Commonwealth citizen or a citizen of the European Union (other than a qualifying Commonwealth citizen); and
  - (d) is at least 18 years of age.
- (2) A person is also entitled to be registered in the Gibraltar register if, on the relevant date, he—
- (a) is not resident in Gibraltar but qualifies for registration in Gibraltar as an overseas elector;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at a European Parliamentary election (age apart);
  - (c) is a Commonwealth citizen; and
  - (d) is at least 18 years of age.
- (3) Subsections (1) and (2) have effect subject to or in accordance with any provision made under section 17.
- (4) In this section “the relevant date” is the date on which an application for registration in the Gibraltar register is made or treated (by virtue of any enactment) as having been made.
- (5) In this section “qualifying Commonwealth citizen” means a Commonwealth citizen who—
- (a) does not, under the law of Gibraltar, require a permit or certificate to enter or remain in Gibraltar; or
  - (b) for the time being has (or is by virtue of any provision of the law of Gibraltar to be treated as having) a permit or certificate entitling him to enter or remain in Gibraltar.

## **17 Regulations relating to sections 14 to 16**

- (1) The Lord Chancellor may by regulations—
- (a) make provision about the Gibraltar register and the manner in which it is to be maintained;
  - (b) confer functions on the European electoral registration officer for Gibraltar;
  - (c) prescribe requirements to be complied with in connection with the registration of electors in the Gibraltar register;
  - (d) prescribe circumstances in which a person is legally incapable of voting in Gibraltar at a European Parliamentary election;
  - (e) make provision for determining whether a person is or may be treated as resident in Gibraltar for the purposes of section 16;

- (f) prescribe conditions which must be satisfied by a person in order for him to qualify for registration in Gibraltar as an overseas elector;
  - (g) impose a disqualification for registration in Gibraltar as a European Parliamentary elector;
  - (h) make provision enabling a person who has not attained the age of 18 to be entered on the Gibraltar register with a view to his being able to vote at a European Parliamentary election in Gibraltar after he has attained that age; and
  - (i) amend the definition of “qualifying Commonwealth citizen” in section 16 if he considers it necessary or expedient to do so in consequence of developments in the law of Gibraltar relating to immigration control.
- (2) The provision which may be made under subsection (1) includes anything which corresponds to any provision that may be made for the United Kingdom in regulations under section 53 of the Representation of the People Act 1983 (c. 2) (regulations as to registration etc).
- (3) Regulations under this section may (without prejudice to the generality of the paragraph in subsection (1) under which they are made) make provision corresponding to any provision of—
- (a) sections 3 and 3A of the Representation of the People Act 1983 (incapacity of offenders detained in prison or in a mental hospital) and any other provision relating to incapacity from voting;
  - (b) sections 5 to 7C and 14 to 17 of that Act (residence, declarations of local connection and service qualifications) and any other provision relating to residence for electoral purposes; and
  - (c) sections 1 and 2 of the Representation of the People Act 1985 (c. 50) (registration of British citizens overseas) and any other provision relating to overseas electors.
- (4) The Lord Chancellor must consult the Electoral Commission before making regulations under this section.

## **18 Section 17: supplementary**

- (1) This section applies to regulations under section 17.
- (2) The power to make such regulations is exercisable by statutory instrument.
- (3) Such regulations may—
- (a) make consequential, supplementary, incidental, transitional or saving provision;
  - (b) make provision extending or applying to (or extending or applying only to) Gibraltar or any part of the United Kingdom; and
  - (c) modify, exclude or apply (with or without modifications) any enactment.
- (4) Such regulations may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Subsection (4) does not apply to any regulations if it appears to the Lord Chancellor that by reason of urgency the regulations should be made without being approved in draft.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Where regulations are made without being approved in draft, by virtue of subsection (5)—
- (a) the regulations must be laid before Parliament after being made; and
  - (b) if the regulations are not approved by a resolution of each House of Parliament within the period of 40 days after the date on which they are made, the regulations shall cease to have effect at the end of that period.