

EUROPEAN PARLIAMENT (REPRESENTATION) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Changes in total number of United Kingdom MEPs

Section 1: Electoral regions in the United Kingdom

13. This section replaces section 1 of the European Parliamentary Elections Act 2002 (2002 Act), and restates the existing position in a way which makes subsequent changes to the total number of MEPs - and the numbers of MEPs for each region - more easily achievable across the UK as a whole. It does not itself change the numbers of MEPs in any region.

Section 2: References to changes under Community law

14. **Section 2** defines “change under Community law” in **sections 3** and **5**. It has the effect of limiting changes which can be implemented under **section 5** to ones made either by a Treaty specified in section 1(2) of the European Communities Act 1972 (following an amendment made by an Act) or by an EC instrument made under such a Treaty.

Section 3: Recommendations by Electoral Commission relating to changes in number of United Kingdom MEPs

15. **Section 3** establishes a mechanism for reviews of the distribution of MEPs in the UK to take place when a change to the numbers under EC law has been agreed or is anticipated. The UK must take action to make sure that no more than the agreed number of MEPs are elected for the UK as a whole, though their distribution between the UK electoral regions is a matter for the UK alone.
16. **Subsections (1)** and **(3)** therefore give the Lord Chancellor the power to require the Electoral Commission to make recommendations within a specified period about the distribution of MEPs according to a total number specified by him. That number will be the number agreed at European level, or one the Lord Chancellor anticipates will be agreed. It is possible that the timing of the accession ratification process will be such that the Lord Chancellor will need to ask the Electoral Commission to begin work on calculations before a final number has been agreed. Provision has therefore been made for him to ask for calculations to be made for one or more different numbers.
17. **Subsection (4)** sets out the objectives which the Electoral Commission must achieve when making their recommendations. Each region is entitled to a minimum of 3 MEPs and subject to that the Commission must ensure that as nearly as possible the ratio of electors to MEPs is the same in each region.

Section 4: Section 3: meaning of "elector"

18. This section defines the electorate to be used by the Electoral Commission when calculating the new distribution and in making their recommendations. It is possible for the same person to be registered at more than one address for the same electoral region. There is however no reliable means of identifying from the registers themselves the few cases where this may have happened. Subsection (3) allows the Commission to assume that separate registrations relate to different people.

Section 5: Orders implementing changes in the number of United Kingdom MEPs

19. **Section 5** gives the Lord Chancellor the power to make an order giving effect to a change in Community law in the number of MEPs to be elected for the United Kingdom and a recommendation made by the Electoral Commission as to their distribution in the regions by altering the total number and distribution of UK MEPs. The order must be made within twelve months of the Electoral Commission's recommendation. It can be made before the Treaty provision or other instrument making the change comes into force and before the Treaty has been specified in section 1(2) of the European Communities Act 1972, but it cannot come into force until those measures have come into force.

Section 6: Orders under section 5: supplementary

20. **Section 6** makes supplementary provision to the order making power under **section 5**. It provides that the draft orders implementing the recommendations of the Electoral Commission by amending section 1 of the 2002 Act are to be approved by both Houses of Parliament before they can be made. If a draft order is rejected or withdrawn it can be amended by the Lord Chancellor with the consent of the Electoral Commission and re-laid for approval. The Electoral Commission can only consent to an amendment if satisfied that they would have been able to recommend the change made by the order (that is so that the distribution still complies with the requirements of section 3(4)). There is also power to make consequential; transitional; or saving provisions, and if an order making such provisions does not also amend section 1 of the 2002 Act, it is subject to the negative resolution procedure.

Section 7 and Schedule: Periodic reviews of distribution of MEPs and Schedule 1A to the 2002 Act

21. This section inserts a new section and Schedule into the 2002 Act and replaces the periodic reviews formerly undertaken in England by the Secretary of State about a year before each election. The inserted Schedule provides for this periodic exercise to take place on the same basis as the re-numbering exercise provided for by **section 3**. That is, the whole of the UK will be considered at the periodic reviews (not just the English regions) and the principles set out in **section 3(4)** will apply.
22. The new Schedule requires the Electoral Commission to carry out the periodic reviews rather than the Secretary of State. However, the Commission will not be required to carry out a periodic review if a review under **section 3** has recently been concluded, or has begun, or is expected to begin shortly. A similar process for making recommendations and for making subsequent orders applies to periodic reviews as to **section 3** reviews.
23. The new Schedule 1A to the 2002 Act refers throughout to the Secretary of State rather than the Lord Chancellor. That follows the wording of other provisions of that Act which confer functions on the Secretary of State. The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 provides for the Lord Chancellor and the Secretary of State to have concurrent powers in relation to these functions.

*These notes refer to the European Parliament (Representation)
Act 2003 (c.7) which received Royal Assent on 8 May 2003*

Section 8: Consequential amendments

24. **Section 8** makes consequential amendments to the 2002 Act in consequence of *Part 1* of the Act.