



# European Parliament (Representation) Act 2003

## 2003 CHAPTER 7

### PART 2

#### GIBRALTAR

##### *Miscellaneous provisions*

#### **19 Extension of 2002 Act to Gibraltar**

The provisions of the 2002 Act, other than Schedules 3 and 4, extend to Gibraltar.

#### **20 Returning officers**

- (1) Section 6 of the 2002 Act (returning officers) is amended as follows.
- (2) In subsection (2) for “and for Wales” there is substituted “and Wales (including the combined region)”.
- (3) For subsection (5) there is substituted—
  - “(5) The Secretary of State may by regulations confer functions on the returning officers for the electoral regions and on local returning officers.
  - (5A) For the purposes of subsection (5) “local returning officer” means—
    - (a) a person who is, in relation to parliamentary elections, an acting returning officer (in England and Wales) or a returning officer (in Scotland); or
    - (b) the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003).”
- (4) In subsection (7) for the words from “the council” to “must” there is substituted—

- “(a) in the case of an electoral region other than the combined region, the council of a relevant area falling wholly or partly within that region; and
- (b) in the case of the combined region, the council of a relevant area falling wholly or partly within that region and the Government of Gibraltar,

must”.

(5) In section 17 of the 2002 Act (interpretation), there is inserted at the end—

““combined region” means the electoral region which includes Gibraltar.”

## **21 Disqualification from office of MEP**

(1) In section 10 of the 2002 Act (disqualification)—

- (a) in subsection (3), after “Kingdom” there is inserted “or Gibraltar”;
- (b) after subsection (4) there is inserted—

“(4A) The Secretary of State may by order provide for persons of a description connected to Gibraltar (including any description of persons who are disqualified for membership of the Gibraltar House of Assembly) to be disqualified from the office of MEP.

(4B) The Secretary of State must consult the Electoral Commission before making an order under subsection (4A).”

(2) In section 11(5) of the 2002 Act (power to amend maximum security for costs in disqualification proceedings), after “order” there is inserted “(a)” and at the end there is inserted “; and

- (b) prescribe a different figure for applications where the electoral region concerned is the combined region.”

(3) In section 13 of the 2002 Act (Parliamentary procedure for regulations and orders under that Act), after subsection (3) there is inserted—

“(3A) An order under section 10(4A) may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(3B) Subsection (3A) does not apply if it appears to the Lord Chancellor that by reason of urgency the order should be made without being approved in draft.

(3C) Where an order is made without being approved in draft, by virtue of subsection (3A)—

- (a) it must be laid before Parliament after being made; and
- (b) if it is not approved by a resolution of each House of Parliament within the period of 40 days after the date on which it is made, the order shall cease to have effect at the end of that period.”

## **22 European Parliamentary elections regulations**

In section 7 of the 2002 Act (regulation-making powers: general), after subsection (4) there is inserted—

“(4A) Without prejudice to the generality of the power under which they are made, regulations under this Act may make different provision for different electoral regions and, in particular, for the part of the combined region which is in England and Wales and for Gibraltar.”

## **23 Jurisdiction of courts**

- (1) Without prejudice to the generality of the power under which it is made, subordinate legislation to which this section applies—
  - (a) may make provision for a judge of the Supreme Court of Gibraltar to be appointed as an additional judge (with the two judges acting under section 123 of the Representation of the People Act 1983 (c. 2) as applied for the purposes of European Parliamentary elections) for the trial of an election petition relating to the election of MEPs in the combined region; and
  - (b) may, for the purposes of such an election petition—
    - (i) confer the powers, jurisdiction and authority of a judge of the High Court on any Gibraltar judge who is so appointed; and
    - (ii) make any other provision necessary to secure that a Gibraltar judge so appointed is treated as if he were a judge of the High Court.
- (2) Without prejudice to the generality of the power under which it is made, subordinate legislation to which this section applies may—
  - (a) confer jurisdiction over any matter connected with the election of MEPs in the combined region on an election court constituted under section 123 of the Representation of the People Act 1983 (as applied for the purposes of European Parliamentary elections);
  - (b) confer jurisdiction over any such matter (not being a matter within the jurisdiction of the election court) on—
    - (i) one or more courts in the United Kingdom;
    - (ii) one or more courts in Gibraltar (whether specified in the subordinate legislation or left to be determined by or under the law of Gibraltar); or
    - (iii) one or more courts in the United Kingdom and one or more courts in Gibraltar.
- (3) This section applies to—
  - (a) an order under section 12;
  - (b) regulations under section 17; and
  - (c) regulations under section 7 of the 2002 Act.

## **24 Effect of statutory powers on capacity of Gibraltar legislature**

- (1) The capacity (apart from this Act) of the Gibraltar legislature to make law for Gibraltar is not affected by the existence of a power under this Part or the 2002 Act to make subordinate legislation extending to Gibraltar.
- (2) Subsection (1) does not affect the operation of the Colonial Laws Validity Act 1865 (c. 63) in relation to subordinate legislation made under such a power.