

**EXPLANATORY MEMORANDUM TO THE
REGISTRATION OF POLITICAL PARTIES (PROHIBITED WORDS AND
EXPRESSIONS) (AMENDMENT) ORDER 2005**

2005 No. 147

1. The Registration of Political Parties (Prohibited Words and Expressions) (Amendment) Order 2005 is the responsibility of the Department for Constitutional Affairs.

2. DESCRIPTION

- 2.1 The Order amends the Registration of Political Parties (Prohibited Words and Expressions) Order 2001 (SI 2001/82). It inserts a new Part V into the Schedule of this Order. The effect is that the expression “None of the above” may not be included in the name of a political party.

**3. MATTERS OF SPECIAL INTEREST TO THE JOINT COMMITTEE ON
STATUTORY INSTRUMENT**

- 3.1.

4. LEGISLATIVE BACKGROUND

- 4.1. The independent Electoral Commission’s functions include the registration of political parties. Section 28(4) of the Political Parties, Elections and Referendums Act (PPERA) 2000 governs the constraints upon the right to register a party. For example, the Commission may refuse to register a party if its proposed name would be likely to result in electors confusing that party with a party which is already registered, or if it comprises more than six words, or if it is obscene or offensive.
- 4.2. Furthermore, under section 28(4)(f) and (6) of PPERA 2000, the Electoral Commission may not register a name which contains a word or expression prohibited by Order made by the Secretary of State after consulting the Commission. As indicated, the Secretary of State made an Order in 2001 prohibiting the use of certain words and expressions. That Order was modified in 2004 by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004 (S.I. 2004/366). The 2004 Order extended various provisions of PPERA 2000 to Gibraltar, including section 28 and the 2001 Order made under it, with modifications for the purposes of European Parliamentary elections.

5. EXTENT

- 5.1. The amending Order automatically extends to each part of the UK and also to Gibraltar for the purposes of European Parliamentary elections.

6. EUROPEAN CONVENTION ON HUMAN RIGHTS

- 6.1 In the view of the Parliamentary Under-Secretary of State (Christopher Leslie MP), the provisions of this amending Order are compatible with the Convention rights (as defined in the Human Rights Act 1998).

7. POLICY BACKGROUND

- 7.1. Late in 2004, the Electoral Commission brought to the attention of the Government an application it had received to register the name “None of the above”. The Commission expressed concern to the Department for Constitutional Affairs as to a possible abuse of the right to register. It could be thought to be the prescribed method by which a voter could register his dissatisfaction with all the listed candidates and parties, whereas it would be a vote for a registered party.
- 7.2. The Government shares the Electoral Commission’s concerns. It considers that the expression “None of the above” is misleading and liable to cause confusion among voters and might potentially undermine the electoral process. The confusion can only be avoided by prohibiting the use of the expression. A new Part V of the Schedule is added to achieve this result.
- 7.3 The Electoral Commission has been consulted on the amending Order as required by section 28(4)(f) of PPERA and has expressed its support.

8. IMPACT

- 8.1 There is no impact on business, charities, voluntary bodies or the Exchequer, so no Regulatory Impact Assessment has been undertaken.

9. CONTACT

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