

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

EUROPEAN PARLIAMENT (REPRESENTATION) ACT 2003

EXPLANATORY NOTES

BACKGROUND

Changes in total number of United Kingdom MEPs

5. The Treaty of Nice (March 2001) provides for the enlargement of the EU to potentially include 12 new Member States to make a total of 27. As a consequence, it provides that there will be an enlarged European Parliament of a maximum 732 MEPs, with representation roughly divided between each member state according to its population size. Existing member states are obliged to make reductions in the number of their MEPs to make space so that accession states have fair representation in the European Parliament. The Treaty provides for the UK to have 72 seats - a reduction of 15 from the current 87 seats.
6. Currently it is expected that 10 new States will accede before the 2004 elections. The Accession Treaty signed in Athens provides for the UK to have 78 MEPs for the 2004 elections based on the accession of 10 States.
7. This Act:
 - establishes a mechanism by which the UK can adjust the number of MEPs;
 - provides for the Electoral Commission to undertake reviews and report their recommendations about the numbers of MEPs representing electoral regions in European Parliamentary elections; and
 - provides order-making powers to implement changes following their recommendations.

Gibraltar

8. Gibraltar is an overseas territory of the UK. It exercises self-government except in matters of defence, internal security and foreign affairs, which are reserved to the UK. The Treaty Establishing the European Community (the EC Treaty) applies to Gibraltar by virtue of Article 299(4) which provides that the EC Treaty applies to European territories for whose external relations a member state is responsible. However, certain provisions of the EC Treaty do not apply to Gibraltar, as set out in Article 28 of the UK's Act of Accession 1972, and Gibraltar is not a separate member state.
9. Under European Community (EC) law, elections to the European Parliament are governed by the EC Act on Direct Elections of 1976 (EC Act 1976). Annex II to this Act states that "The United Kingdom will apply the provisions of this Act only in respect of the United Kingdom". Gibraltar forms part of Her Majesty the Queen's Dominions, but is not part of the United Kingdom. For this reason, when provision was originally made in the UK for European Parliamentary elections (by the European Parliamentary Elections Act 1978), Gibraltar was not included.

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10. In 1999, the European Court of Human Rights considered the case of *Matthews v UK* (28 EHRR 361). Ms Matthews had claimed that the exclusion of the Gibraltar electorate from enfranchisement in the European Parliamentary elections was a breach of human rights. The Court ruled that the European Parliament formed a part of Gibraltar's legislature and held that the UK was bound by its conventions to secure the right for the people of Gibraltar to elect the European Parliament. The UK accepted the judgement of the Court and its obligation to secure the enfranchisement of the Gibraltar electorate.
11. The UK tabled an amendment to the EC Act 1976 in March 1999, but were unable to secure the unanimous agreement of the Council to such an amendment. In November 2001, the Government announced to Parliament that the UK would act unilaterally to enfranchise the Gibraltar electorate by means of UK domestic legislation. This Act will provide for the entirety of UK electoral law, as it applies to European Parliamentary elections, to be applied to Gibraltar for those purposes, modified as necessary to ensure practical application.