

EXPLANATORY MEMORANDUM TO
THE REGISTRATION OF POLITICAL PARTIES (PROHIBITED WORDS AND
EXPRESSIONS) (AMENDMENT) ORDER 2006

2006 No. 3252

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty

2. Description

2.1 This Order prohibits a political party from including in a description that it registers with the Electoral Commission certain words and expressions; those words and expressions being the same as those already prohibited from use in a registered political party's name.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None

4. Legislative Background

4.1. The Electoral Administration Act 2006 amended the Political Parties, Elections and Referendums Act 2000 ("the 2000 Act") by introducing new sections 28A (descriptions) and 28B (joint descriptions). Section 28A permits a party to register up to 12 descriptions for use on nomination papers or ballot papers. Section 28B permits two or more parties to register a joint description for use by a candidate standing in the names of both or all parties. Section 28A (2)(g) enables the Secretary of State to prohibit the use of words and expressions in such a description. This Order amends the Registration of Political Parties (Prohibited Words and Expressions) Order 2001 so as to prohibit the use of the same words and expressions already banned by the 2001 Order for use in party names. The 2001 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 Regulations apply to England, Wales, Scotland, Northern Ireland and Gibraltar.

6. European Convention on Human Rights

- 6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1. The 2000 Act provided for the registration of political parties wishing to field candidates at relevant elections, bringing them within a scheme of control for regulating their income and expenditure. Each such party must apply to register with the Electoral Commission who must grant that application unless in their opinion the party propose a name that exceeds more than six words or falls into certain other categories. These constraints include whether the name is the same or confusingly similar to another party's registered name, whether it would be offensive, or would be misleading or confusing to the voter if it appeared on the ballot paper or if it contains words or expressions which are prohibited from being used by an order made by the Secretary of State. The Registration of Political Parties (Prohibited Words and Expressions) Order 2001 (as amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004 and the Registration of Political Parties (Prohibited Words and Expressions) (Amendment) Order 2005 prescribes certain prohibited words and phrases.
- 7.2. In their 2003 report "Standing for Election", The Electoral Commission recommended further formalisation of the system whereby a candidate representing a political party could use a description of not more than six words on his or her nomination or ballot paper if that description had been authorised by the Nominating Officer of the registered political party. This flexibility had given rise to some practical problems and inconsistent decisions by returning officers scrutinising nominations. The Commission therefore recommended that the system be formalised by parties registering their descriptions directly with the Electoral Commission in the same way that their names are registered. It was proposed that a party be allowed to register up to five descriptions.
- 7.3. An amendment to the 2000 Act to that effect was included in the Electoral Administration Bill during the passage of which the number of descriptions allowed was increased to 12. The provisions enabling the registration of descriptions (sections 28A and B of the 2000 Act) are modelled on those for the registration of party names and include an enabling power for the Secretary of State to prohibit the use of certain words and expressions. This Order amends the Registration of Political Parties (Prohibited Words and Expressions Order 2001 so that it applies to party descriptions as well as party names.

8. Impact

8.1. No Regulatory Impact Assessment has been prepared because there is no regulatory impact on any part of the private or voluntary sector. It is expected that should any services from the private sector be procured in the future the key requirements of these provisions must be provided before any award. These provisions also complement the Private Security Industries Act. There are no implications for the Exchequer.

9. Contact

9.1. Any enquiries about the contents of this memorandum should be addressed to:
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