

## EXPLANATORY MEMORANDUM TO

### THE EUROPEAN PARLIAMENTARY ELECTIONS (MISCELLANEOUS PROVISIONS) (UNITED KINGDOM AND GIBRALTAR) ORDER 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This Order updates the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”) to reflect changes in Gibraltar legislation and the creation of the Gibraltar Parliament. It also makes other miscellaneous changes to provisions in the 2000 Act that are relevant to Gibraltar.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 The 2000 Act includes provision about the registration of political parties; the regulation of donations to and expenditure by political parties; and the regulation of donations to and expenditure by third parties at elections and campaigners at referendums.
  - 4.2 The European Parliament (Representation) Act 2003 (“the 2003 Act”) provides for Gibraltar to form part of an electoral region in England and Wales for the purposes of European Parliamentary elections and includes powers to make consequential provision, including through amendments to the 2000 Act.
  - 4.3 Two previous instruments made under the 2003 Act, the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004 (S.I. 2004/366) and the European Parliamentary Elections (Loans and Related Transactions and Miscellaneous Provisions) (United Kingdom and Gibraltar) Order 2009 (S.I. 2009/185), amended the 2000 Act to take into account Gibraltar in its framework where relevant. By virtue of these amendments, Gibraltar parties may register under the 2000 Act with a view to contesting European Parliamentary elections; Gibraltar third parties are able to become recognised third parties for the purposes of campaigning in the run up to a European Parliamentary general election; and registered parties may declare that they intend to contest a European Parliamentary election in the combined region so that they may receive donations and loans from Gibraltar-based donors.
  - 4.4 The European Union Referendum Bill will apply provisions of the 2000 Act for the purposes of the referendum, including certain of the provisions amended by this Order.

## **5. Territorial Extent and Application**

5.1 The Order extends to each part of the United Kingdom and Gibraltar.

## **6. European Convention on Human Rights**

6.1 John Penrose MP, Minister for Constitutional Reform, Cabinet Office, has made the following statement regarding Human Rights:

In my view the provisions of the European Parliamentary Elections (Miscellaneous Provisions) (United Kingdom and Gibraltar) Order 2015 are compatible with the Convention rights.

## **7. Policy background**

7.1 The Order aims to ensure that the provisions of the 2000 Act as they relate to Gibraltar are up to date and reflect the current state of the law in Gibraltar. This is necessary to ensure the effective functioning of future European Parliamentary elections and of the EU referendum.

7.2 Paragraphs 1 and 3 of the Schedule update the 2000 Act to replace references to the “House Assembly of Gibraltar” with “Gibraltar Parliament”. The Gibraltar Parliament replaced the House Assembly of Gibraltar as a result of the Gibraltar Constitution Order 2006.

7.3 Paragraphs 2(a), (b) and (d), 5, 6, 7, 8(b), 9(c) and 10(b) update and amend references in the 2000 Act to named Gibraltar legislation, and make consequential changes. In particular, the amendments take account of the enactment, in Gibraltar, of the Companies Act 2014, the Criminal Procedure and Evidence Act 2011 and the Financial Services (Auditors) Act 2009.

7.4 Paragraphs 2(c), 9(b) and 10(a) remove references to building societies in Gibraltar, because Gibraltar law has required them to be wound up or converted into companies.

7.5 Paragraph 4, 8(a) and 9(a) remove redundant transitional provisions in the 2000 Act. These provisions accounted for circumstances before the publication of the first version of the Gibraltar electoral register for the purpose of European Parliament elections, and are no longer necessary.

## **8 Consultation**

8.1 In accordance with section 12(5) of the European Parliament (Representation) Act 2003, the Electoral Commission has been consulted and has informed the department that it has no comments on this Order. The Government of Gibraltar has also been consulted and supports this Order.

## **9. Guidance**

9.1 The Electoral Commission issues guidance to electoral administrators, political parties and campaigners relating to campaigning and the administration and conduct of elections and referendums.

**10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 The Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration.

**13. Contact**

**Tim Cork** at the Cabinet Office, tel 020 7271 1435: email: [tim.cork@cabinetoffice.gov.uk](mailto:tim.cork@cabinetoffice.gov.uk) can answer any queries regarding the instrument.