



# European Parliament (Representation) Act 2003

## CHAPTER 7

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Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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# European Parliament (Representation) Act 2003

## CHAPTER 7

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# European Parliament (Representation) Act 2003

## 2003 CHAPTER 7

An Act to make provision enabling alterations to be made to the total number of Members of the European Parliament to be elected for the United Kingdom and to their distribution between the electoral regions; to make provision for and in connection with the establishment of an electoral region including Gibraltar for the purposes of European Parliamentary elections; and for connected purposes. [8th May 2003]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### CHANGES IN TOTAL NUMBER OF UNITED KINGDOM MEPs

##### *Preliminary*

#### **1 Electoral regions in the United Kingdom**

For section 1 of the European Parliamentary Elections Act 2002 (c. 24) (“the 2002 Act”) (electoral regions and number of MEPs) there is substituted—

##### **“1 Number of MEPs and electoral regions**

- (1) There shall be 87 members of the European Parliament (“MEPs”) elected for the United Kingdom.
- (2) For the purposes of electing those MEPs—

- (a) England is divided into the nine electoral regions specified in Schedule 1; and
  - (b) Scotland, Wales and Northern Ireland are each single electoral regions.
- (3) The number of MEPs to be elected for each electoral region is as follows—

East Midlands	6
Eastern	8
London	10
North East	4
North West	10
South East	11
South West	7
West Midlands	8
Yorkshire and the Humber	7
Scotland	8
Wales	5
Northern Ireland	3.”

*Electoral Commission recommendations relating to changes in total number of United Kingdom MEPs*

## **2 References to changes under Community law**

- (1) In this Part “change under Community law” (in relation to a change in the number of MEPs to be elected for the United Kingdom) means a change made by—
  - (a) a treaty provision that is part of the Community Treaties; or
  - (b) any provision of a Council Decision, or of any other instrument, made under a treaty provision that is part of the Community Treaties.
- (2) In this Part a reference to a treaty provision being part of the Community Treaties is to it being, or being included in provisions which are, specified in section 1(2) of the European Communities Act 1972 (c. 68) by virtue of an amendment made by an Act (whether passed before or after this Act).
- (3) In this Part “treaty” includes any international agreement (however described) and a protocol or annex to a treaty or other international agreement.

### **3 Recommendations by Electoral Commission as to the distribution of United Kingdom MEPs**

- (1) The Lord Chancellor may by notice require the Electoral Commission to make a recommendation to him as to the distribution between the electoral regions of—
  - (a) a total number of MEPs specified in the notice; or
  - (b) if the notice specifies more than one total number of MEPs, each of the total numbers so specified.
- (2) The power to give such a notice is exercisable with a view to the implementation of any change or anticipated change under Community law in the total number of MEPs to be elected for the United Kingdom.
- (3) The Electoral Commission must comply with such a notice within the period specified in the notice.
- (4) In determining what recommendation to make for the distribution of any total number of MEPs, the Electoral Commission must ensure that—
  - (a) each electoral region is allocated at least three MEPs; and
  - (b) the ratio of electors to MEPs is as nearly as possible the same in each electoral region.
- (5) A recommendation under this section—
  - (a) must be published by the Electoral Commission and laid before Parliament by the Lord Chancellor; and
  - (b) ceases to have effect at the end of the period of one year beginning with the day on which it is made.

### **4 Section 3: meaning of “elector”**

- (1) For the purposes of section 3(4) an elector, in relation to an electoral region, is a person whose name appears on the relevant day in (or in any part of) a relevant register which relates to the region.
- (2) In subsection (1)—

“relevant day” means 1st December preceding the day on which the notice under section 3 is given; and

“relevant register” has the same meaning as in Schedule 1A to the 2002 Act (periodic reviews).
- (3) In calculating the total number of electors for any electoral region—
  - (a) persons who are registered but have not attained the age of 18 are to be counted as electors;
  - (b) a citizen of the European Union (not being a Commonwealth citizen or a citizen of the Republic of Ireland) who is registered only for the purposes of local government elections is to be disregarded; and
  - (c) the Electoral Commission may assume that each relevant register is accurate and that names appearing more than once on registers (or parts of registers) which relate to an electoral region are the names of different electors.

*Implementation of changes in total number of United Kingdom MEPs***5 Orders implementing changes**

- (1) The Lord Chancellor may by order give effect to a change under Community law in the number of MEPs to be elected for the United Kingdom by amending –
  - (a) the figure specified in section 1(1) of the 2002 Act (total number of MEPs to be elected for the United Kingdom); and
  - (b) any of the figures specified in section 1(3) of that Act (numbers of MEPs to be elected in the electoral regions).
- (2) The distribution of MEPs resulting from the provision made under subsection (1)(b) must (subject to section 6(6) to (8)) be the distribution proposed in a recommendation of the Electoral Commission under section 3 which is effective on the day on which the order is made.
- (3) An order making an amendment to section 1 of the 2002 Act may be made before the provision making the relevant change has entered into force.
- (4) If the relevant change is made by a provision of a treaty, an order making such an amendment may also be made before that provision has become part of the Community Treaties and, if the treaty requires ratification, before it is ratified by the United Kingdom.
- (5) But no amendment to section 1 of the 2002 Act may be made so as to come into force –
  - (a) if the relevant change is made by a provision mentioned in section 2(1)(b), before that provision has entered into force; and
  - (b) if the relevant change is made by a treaty provision, before that provision has both entered into force and become part of the Community Treaties.
- (6) In subsections (3) to (5) “the relevant change”, in relation to an order under this section amending section 1 of the 2002 Act, means the change under Community law being implemented by the order.
- (7) The Lord Chancellor must consult the Electoral Commission before making an order under this section.

**6 Section 5: supplementary**

- (1) This section applies to orders under section 5.
- (2) The power to make such an order is exercisable by statutory instrument.
- (3) Such an order may make consequential, transitional or saving provision.
- (4) Provision made under subsection (3) may modify any enactment.
- (5) An order which contains amendments to section 1 of the 2002 Act may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If a motion for the approval of a draft order is rejected by either House or withdrawn by leave of the House the Lord Chancellor may, after consulting the Electoral Commission, alter the draft order.

- (7) But the Lord Chancellor may not, without the consent of the Electoral Commission, alter any amendments to section 1(3) of the 2002 Act contained in the draft order.
- (8) The Electoral Commission may not give its consent under subsection (7) unless it is satisfied that the distribution of MEPs proposed by the altered draft order could have been recommended under section 3.
- (9) A statutory instrument containing an order that is not subject to approval in draft under subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

### *Supplementary*

## **7 Periodic reviews of distribution of MEPs**

- (1) After section 1 of the 2002 Act there is inserted –

### **“1A Periodic reviews of distribution of MEPs**

Schedule 1A (which provides for periodic reviews by the Electoral Commission of the distribution of MEPs between the electoral regions) has effect.”

- (2) After Schedule 1 to the 2002 Act there is inserted the Schedule 1A set out in the Schedule to this Act.

## **8 Consequential amendments**

- (1) The 2002 Act is amended as follows.
- (2) In section 13(3) (instruments subject to annulment) paragraph (b) and the preceding “or” are repealed.
- (3) In Schedule 1 (electoral regions in England) –
  - (a) for paragraph 1 (and the preceding heading) there is substituted –

“1 The electoral regions in England are listed in column (1) of the Table below and comprise the areas specified in column (2) of the Table.”;
  - (b) in paragraph 2 (changes to areas specified in column (2) of the Table) in sub-paragraph (1), for the words from “in” to “area” (in the first place it appears) there is substituted “to an area specified in column (2) of the Table”; and
  - (c) paragraphs 3 and 4 (with the preceding heading), and column (3) of the Table, are repealed.



**PART 2**

## GIBRALTAR

*New combined electoral region***9 Combination of Gibraltar with existing electoral region**

Gibraltar is to be combined with an existing electoral region in England and Wales to form a new electoral region (“the combined region”) for the purposes of European Parliamentary elections taking place after 1st April 2004.

**10 Electoral Commission recommendation as to the electoral region to be combined with Gibraltar**

- (1) The Electoral Commission must, before 1st September 2003—
  - (a) consider which of the existing electoral regions in England and Wales should be combined with Gibraltar; and
  - (b) report its conclusions (with a recommendation as to which existing region should be so combined) to the Lord Chancellor.
- (2) Before determining what recommendation to make under subsection (1)(b) the Electoral Commission must consult the Governor, the Chief Minister and the leader of each political party represented in the House of Assembly of Gibraltar.
- (3) The report required by this section must be published by the Electoral Commission and laid before Parliament by the Lord Chancellor.

**11 Establishment of combined region**

- (1) The Lord Chancellor may by order—
  - (a) specify the existing electoral region to be combined with Gibraltar to form the combined region; and
  - (b) make provision establishing the combined region.
- (2) The existing electoral region specified under subsection (1)(a) must (subject to section 13(8)) be the one recommended by the Electoral Commission under section 10.
- (3) The Lord Chancellor must consult the Electoral Commission before making an order under this section.

**12 Power to make consequential etc provision**

- (1) The Lord Chancellor may by order make such provision as he considers necessary or expedient in consequence of, or in connection with, the inclusion of Gibraltar in an electoral region for the purposes of European Parliamentary elections.
- (2) Such an order may be made before or after the combined region is established under section 11.
- (3) Without prejudice to the generality of subsection (1), the provision which may be made under this section includes provision about—

- (a) the registration of political parties established in Gibraltar (as a condition for nomination in relation to a European Parliamentary election in the combined region) and the obligations of registered parties in Gibraltar and their officers;
  - (b) the control of any description of donation to registered parties in Gibraltar or to their members or officers;
  - (c) the obligations of persons providing programme services in or to Gibraltar, and the functions of any public authority in Gibraltar responsible for the regulation of persons providing such services, in relation to European Parliamentary elections and election campaigns.
- (4) In subsection (3) –
- “donation” includes anything which is (or corresponds to) a donation within the meaning of Part 4 of the Political Parties, Elections and Referendums Act 2000 (c. 41); and
  - “programme services” includes services which would, if Gibraltar were part of the United Kingdom, be programme services (including digital services), teletext services or local delivery services for the purposes of the Broadcasting Act 1990 (c. 42).
- (5) The Lord Chancellor must consult the Electoral Commission before making an order under this section.
- (6) The power under this section is not restricted by any power conferred by section 17 (or any other power to make subordinate legislation which is exercisable by the Lord Chancellor).

### **13 Sections 11 and 12: supplementary**

- (1) This section applies to orders under section 11 or 12.
- (2) The power to make such an order is exercisable by statutory instrument.
- (3) Such an order may –
- (a) confer power to make subordinate legislation;
  - (b) make consequential, supplementary, incidental, transitional or saving provision;
  - (c) make provision extending or applying to (or extending or applying only to) Gibraltar or any part of the United Kingdom; and
  - (d) make different provision for different electoral regions or for different parts of the combined region.
- (4) Such an order may modify, exclude or apply (with or without modifications) any enactment.
- (5) Such an order may not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (6) Subsection (5) does not apply to an order (not being an order which specifies the existing electoral region to be combined with Gibraltar) if it appears to the Lord Chancellor that by reason of urgency the order should be made without being approved in draft.
- (7) Where an order is made without being approved in draft, by virtue of subsection (6) –
- (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.
- (8) If a motion for the approval of a draft order which specifies the existing electoral region to be combined with Gibraltar is rejected by either House or withdrawn by leave of the House, the Lord Chancellor may, after consulting the Electoral Commission, alter the draft order.
- (9) If, apart from this subsection, an order to which this section applies would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it shall proceed as if it were not such an instrument.

*Electoral registration and voting in Gibraltar*

**14 The Gibraltar register**

- (1) There shall be a register of European Parliamentary electors in Gibraltar (referred to in this Act as “the Gibraltar register”) maintained by the European electoral registration officer for Gibraltar.
- (2) The Clerk of the House of Assembly of Gibraltar shall (by virtue of his office) be the European electoral registration officer for Gibraltar.

**15 Gibraltar franchise for European Parliamentary elections**

- (1) A person is entitled to vote in Gibraltar as an elector at a European Parliamentary election if on the day of the poll he—
  - (a) is registered in the Gibraltar register;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at such an election (age apart);
  - (c) is a Commonwealth citizen or a citizen of the European Union (other than a Commonwealth citizen); and
  - (d) is at least 18 years of age.
- (2) Subsection (1)(a) has effect subject to any enactment which provides for alterations made after a specified date in the register to be disregarded.
- (3) In section 8 of the 2002 Act (persons entitled to vote), at the end there is added—
  - “(8) The entitlement to vote under this section does not apply to voting in Gibraltar.”

**16 Entitlement to be registered in Gibraltar**

- (1) A person is entitled to be registered in the Gibraltar register if, on the relevant date, he—
  - (a) is resident in Gibraltar;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at a European Parliamentary election (age apart);
  - (c) is a qualifying Commonwealth citizen or a citizen of the European Union (other than a qualifying Commonwealth citizen); and
  - (d) is at least 18 years of age.

- (2) A person is also entitled to be registered in the Gibraltar register if, on the relevant date, he –
  - (a) is not resident in Gibraltar but qualifies for registration in Gibraltar as an overseas elector;
  - (b) is not subject to a legal incapacity to vote in Gibraltar at a European Parliamentary election (age apart);
  - (c) is a Commonwealth citizen; and
  - (d) is at least 18 years of age.
- (3) Subsections (1) and (2) have effect subject to or in accordance with any provision made under section 17.
- (4) In this section “the relevant date” is the date on which an application for registration in the Gibraltar register is made or treated (by virtue of any enactment) as having been made.
- (5) In this section “qualifying Commonwealth citizen” means a Commonwealth citizen who –
  - (a) does not, under the law of Gibraltar, require a permit or certificate to enter or remain in Gibraltar; or
  - (b) for the time being has (or is by virtue of any provision of the law of Gibraltar to be treated as having) a permit or certificate entitling him to enter or remain in Gibraltar.

## **17 Regulations relating to sections 14 to 16**

- (1) The Lord Chancellor may by regulations –
  - (a) make provision about the Gibraltar register and the manner in which it is to be maintained;
  - (b) confer functions on the European electoral registration officer for Gibraltar;
  - (c) prescribe requirements to be complied with in connection with the registration of electors in the Gibraltar register;
  - (d) prescribe circumstances in which a person is legally incapable of voting in Gibraltar at a European Parliamentary election;
  - (e) make provision for determining whether a person is or may be treated as resident in Gibraltar for the purposes of section 16;
  - (f) prescribe conditions which must be satisfied by a person in order for him to qualify for registration in Gibraltar as an overseas elector;
  - (g) impose a disqualification for registration in Gibraltar as a European Parliamentary elector;
  - (h) make provision enabling a person who has not attained the age of 18 to be entered on the Gibraltar register with a view to his being able to vote at a European Parliamentary election in Gibraltar after he has attained that age; and
  - (i) amend the definition of “qualifying Commonwealth citizen” in section 16 if he considers it necessary or expedient to do so in consequence of developments in the law of Gibraltar relating to immigration control.
- (2) The provision which may be made under subsection (1) includes anything which corresponds to any provision that may be made for the United Kingdom in regulations under section 53 of the Representation of the People Act 1983 (c. 2) (regulations as to registration etc).

- (3) Regulations under this section may (without prejudice to the generality of the paragraph in subsection (1) under which they are made) make provision corresponding to any provision of –
  - (a) sections 3 and 3A of the Representation of the People Act 1983 (incapacity of offenders detained in prison or in a mental hospital) and any other provision relating to incapacity from voting;
  - (b) sections 5 to 7C and 14 to 17 of that Act (residence, declarations of local connection and service qualifications) and any other provision relating to residence for electoral purposes; and
  - (c) sections 1 and 2 of the Representation of the People Act 1985 (c. 50) (registration of British citizens overseas) and any other provision relating to overseas electors.
- (4) The Lord Chancellor must consult the Electoral Commission before making regulations under this section.

## **18 Section 17: supplementary**

- (1) This section applies to regulations under section 17.
- (2) The power to make such regulations is exercisable by statutory instrument.
- (3) Such regulations may –
  - (a) make consequential, supplementary, incidental, transitional or saving provision;
  - (b) make provision extending or applying to (or extending or applying only to) Gibraltar or any part of the United Kingdom; and
  - (c) modify, exclude or apply (with or without modifications) any enactment.
- (4) Such regulations may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Subsection (4) does not apply to any regulations if it appears to the Lord Chancellor that by reason of urgency the regulations should be made without being approved in draft.
- (6) Where regulations are made without being approved in draft, by virtue of subsection (5) –
  - (a) the regulations must be laid before Parliament after being made; and
  - (b) if the regulations are not approved by a resolution of each House of Parliament within the period of 40 days after the date on which they are made, the regulations shall cease to have effect at the end of that period.

### *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.

### **PART 3**

#### SUPPLEMENTARY

## **25 Financial provisions**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenditure incurred by a Minister of the Crown in consequence of this Act;
  - (b) any increase attributable to this Act in the sums so payable by virtue of paragraph 14 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000 (c. 41) (expenditure of the Electoral Commission in the performance of its functions); and
  - (c) any other increase attributable to this Act in the sums payable out of money so provided by virtue of an Act other than this Act.
- (2) There shall be charged on and paid out of the Consolidated Fund any increase attributable to this Act in the sums to be charged on and paid out of that Fund under any other Act.
- (3) Subordinate legislation to which this subsection applies may make provision—
  - (a) for sums required to meet any expenditure (other than expenditure to be met from funds provided by Gibraltar) to be—
    - (i) paid out of money provided by Parliament; or
    - (ii) charged on and paid out of the Consolidated Fund; and
  - (b) for the payment of sums into the Consolidated Fund.
- (4) Subsection (3) applies to—
  - (a) an order under section 12;
  - (b) regulations under section 17; and
  - (c) regulations under section 7 of the 2002 Act.

## **26 Functions of Lord Chancellor exercisable concurrently with Secretary of State**

The functions of the Lord Chancellor under this Act are exercisable concurrently with the Secretary of State.

## **27 Interpretation**

- (1) In this Act—
  - “combined region” means the electoral region which includes Gibraltar;



“electoral region” means an electoral region of the United Kingdom established under the 2002 Act for the purposes of European Parliamentary elections;

“existing electoral region” means an electoral region existing immediately before the passing of this Act;

“MEP” means a member of the European Parliament; and

“the 2002 Act” means the European Parliamentary Elections Act 2002 (c. 24).

- (2) In this Act “enactment” means (subject to subsection (3)) –
  - (a) a provision of an Act (whether passed before or after this Act), including a provision modified by this Act; or
  - (b) a provision of subordinate legislation (whenever made).
- (3) In sections 13(4) and 18(3)(c) “enactment” also includes a provision of law passed or made in or for Gibraltar (whenever passed or made) and in section 13(4) it also includes a provision of Part 1 or 3 of this Act.

## **28 Short title, extent and commencement**

- (1) This Act may be cited as the European Parliament (Representation) Act 2003.
- (2) This Act extends to each part of the United Kingdom and to Gibraltar.
- (3) Part 1, sections 9 and 10 and this Part come into force in each part of the United Kingdom on the passing of this Act but shall not come into force in Gibraltar until such day as the Lord Chancellor may appoint by order made by statutory instrument.
- (4) Sections 11 to 24 shall not come into force until such day as the Lord Chancellor may appoint by order made by statutory instrument.
- (5) Different days may be appointed under this section for different purposes.

## SCHEDULE

Section 7

### SCHEDULE 1A TO THE 2002 ACT

#### “SCHEDULE 1A

#### PERIODIC REVIEWS OF DISTRIBUTION OF MEPS

##### *Electoral Commission review and recommendation*

- 1 (1) As soon as possible after 1st May in a pre-election year the Electoral Commission (“the Commission”) must, subject to paragraph 2—
  - (a) carry out a review (“the periodic review”) of the distribution of MEPs between the electoral regions; and
  - (b) report its conclusions to the Secretary of State.
- (2) In carrying out the periodic review the Commission must consider whether (assuming that each region is entitled to be allocated at least three MEPs) the ratio of electors to MEPs is as nearly as possible the same for every electoral region.
- (3) If the Commission concludes that the result mentioned in sub-paragraph (2) is not achieved by the current distribution of MEPs, it must include in its report a recommendation specifying a distribution that would achieve that result.
- (4) The report must be published by the Commission and laid before Parliament by the Secretary of State.

##### *Exclusion or suspension of duties under paragraph 1*

- 2 (1) The Commission may not take any step (or further step) under paragraph 1 if a 2003 Act order is made or a suspension notice is given to the Commission—
  - (a) within the period of 12 months ending with 1st May in the pre-election year in question or,
  - (b) after the end of that period but before the Commission makes its report,unless and until the duties under paragraph 1 revive by virtue of sub-paragraph (2).
- (2) If the Secretary of State withdraws a suspension notice more than nine months before the date of the poll for the next general election of MEPs, the duties under paragraph 1 revive (but subject again to this paragraph).
- (3) In this Schedule—

“2003 Act order” means an order under section 5 of the European Parliament (Representation) Act 2003 (orders implementing changes in the number of United Kingdom

MEPs) which takes effect in relation to the next general election of MEPs after it is made; and  
 “suspension notice” means a notice stating that the Secretary of State considers it likely that a 2003 Act order will be made before the next general election of MEPs.

*Implementation of Electoral Commission recommendation*

- 3 (1) Where a recommendation under paragraph 1(3) is made to him, the Secretary of State must –
- (a) lay before Parliament a draft of an order giving effect to the recommendation by amending any of the numbers specified in section 1(3); and
  - (b) if the draft is approved by resolution of each House, make an order in the terms of the draft.
- (2) An order under this paragraph may make consequential, transitional or saving provision.
- (3) Provision made under sub-paragraph (2) may modify any enactment.
- (4) The Secretary of State must consult the Commission before laying an order under this paragraph before Parliament.
- (5) This paragraph has effect subject to paragraphs 4 and 5.
- 4 (1) If a motion for the approval of a draft of an order under paragraph 3 is rejected by either House or withdrawn by leave of the House, the Secretary of State may, after consulting the Commission, alter the draft order and lay it before Parliament for approval.
- (2) But the Secretary of State may not, without the consent of the Commission, alter a draft order so as to propose a distribution of MEPs other than that recommended under paragraph 1(3).
- (3) The Commission may not give its consent under sub-paragraph (2) unless it is satisfied that the distribution of MEPs could have been recommended under paragraph 1(3).
- (4) If an altered draft order is approved by both Houses the Secretary of State must make an order under paragraph 3 in the terms of the altered draft.
- (5) This paragraph has effect subject to paragraph 5.

*Exclusion or suspension of duties and powers under paragraph 3 or 4*

- 5 (1) The Secretary of State may not take any step (or further step) under paragraph 3 or 4 if a 2003 Act order is made before he would otherwise have taken it.
- (2) Subject to that, the Secretary of State is not required to take any step (or further step) under paragraph 3 or 4 if and so long as he is of the opinion that it is likely that a 2003 Act order will be made before the next general election of MEPs.
- (3) But if he ceases to be of that opinion, the Secretary of State –
- (a) may not make an order under paragraph 3 on or after the relevant day; and

- (b) is not required to take any other step under paragraph 3 or 4 if he does not consider that it will be practicable to make an order under paragraph 3 before the relevant day.
- (4) In sub-paragraph (3) “the relevant day” means the first day of the period of four months ending with the day on which the poll for the next general election of MEPs is to be held.

*Supplementary*

- 6 (1) In this Schedule—
- “general election of MEPs” means an election required to be held in the United Kingdom by virtue of Article 10(2) of the Act annexed to Council Decision 76/787;
  - “pre-election year” means a year (including 2003) which immediately precedes a year in which a general election of MEPs is to be held; and
  - “relevant register” means—
    - (a) a register of parliamentary electors;
    - (b) a register of local government electors;
    - (c) a register of peers maintained under section 3 of the Representation of the People Act 1985 (c. 50) (peers resident outside the United Kingdom); and
    - (d) a register maintained under regulation 5 of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (SI 2001/1184) (citizens of the European Union other than Commonwealth and Republic of Ireland citizens).
- (2) For the purposes of paragraph 1(2) a person is an “elector”, in relation to an electoral region, if his name appears on 1st May in the pre-election year concerned in (or in any part of) a relevant register which relates to the region.
- (3) In calculating the total number of electors for any electoral region—
- (a) persons who are registered but have not attained the age of 18 are to be counted as electors;
  - (b) a citizen of the European Union (not being a Commonwealth citizen or a citizen of the Republic of Ireland) who is registered only for the purposes of local government elections is to be disregarded; and
  - (c) the Electoral Commission may assume that each relevant register is accurate and that names appearing more than once on registers (or parts of registers) which relate to an electoral region are the names of different electors.”