

**2004 No. 366**

**NATIONAL ELECTION EXPENDITURE**

**POLITICAL PARTIES**

**REPRESENTATION OF THE PEOPLE**

**The European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004**

*Made* - - - - - *4th February 2004*

*Coming into force* - - - in accordance with article 1(2)

The Secretary of State, in exercise of the powers conferred on him by sections 11, 12, 13, 23(2), 25(3) and 26 of the European Parliament (Representation) Act 2003(a), after consultation with the Electoral Commission in accordance with sections 11(3) and 12(5) of that Act, and by paragraph 4 of Schedule 8 to, and section 156(5) of, the Political Parties, Elections and Referendums Act 2000(b), following a recommendation of the Electoral Commission under paragraph 4(2)(a) of Schedule 8 to that Act, hereby makes the following Order, a draft of which has been laid before and approved by a resolution of each House of Parliament:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004.

(2) It shall come into force on the day after the day on which it is made.

(3) It extends to the United Kingdom and Gibraltar.

**The combined region**

2. The existing electoral region in England and Wales which is to be combined with Gibraltar to form the combined region for the purposes of the European Parliament (Representation) Act 2003 is the South West electoral region(c).

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(a) 2003 (c.7).

(b) 2000 (c.41).

(c) Following a recommendation of the Electoral Commission under section 10(1)(b) of the European Parliament (Representation) Act 2003 (c.7).

### **Amendments to the European Parliamentary Elections Act 2002**

- 3.—(1) The European Parliamentary Elections Act 2002<sup>(a)</sup> shall be amended as follows.
- (2) In section 1(2)(a) (number of MEPs and electoral regions) for “England is” substitute “the area of England and Gibraltar is”;
- (3) In section 2 (voting system in Great Britain)—
- (a) in the heading, at the end, insert “and Gibraltar”; and
  - (b) in subsection (1) for “in Great Britain” substitute “other than Northern Ireland”.
- (4) In section 9(2) (double voting) after “United Kingdom” insert “and Gibraltar”.
- (5) In section 11(2) (judicial determination of disqualification) for “in England, or is Wales” substitute “an electoral region in England and Wales or the combined region”.
- (6) In Schedule 1 (electoral regions in England)—
- (a) in the heading after “England” insert “and Gibraltar”;
  - (b) in paragraph 1 after “England” insert “and Gibraltar”;
  - (c) in paragraph 2(2) after “United Kingdom” insert “and Gibraltar”; and
  - (d) in column (2) of the Table in the list of areas comprising the South West electoral region, below “Isles of Scilly”, insert “Gibraltar”.

### **Consequential etc. amendments to the Political Parties, Elections and Referendums Act 2000**

- 4.—(1) In section 163 (short title, commencement, transitional provisions and extent) of the Political Parties, Elections and Referendums Act 2000 after subsection (10) insert—
- “(11) The following provisions of this Act extend to Gibraltar—
- (a) Part 1 (The Electoral Commission), except sections 9, 12 and 14 to 20;
  - (b) Part 2 (Registration of Political Parties), except sections 36 and 38;
  - (c) Part 3 (Accounting requirements for registered parties);
  - (d) Part 4 (Control of donations to registered parties and their members etc.);
  - (e) Part 5 (Control of campaign expenditure);
  - (f) Part 6 (Controls relating to third party national election campaigns); and
  - (g) Part 10 (Miscellaneous and general), except sections 141, 142, 144 and 158.”
- (2) The further amendments to that Act specified in the Schedule shall have effect.

### **Extension to Gibraltar and modification of Orders made under the Political Parties, Elections and Referendums Act 2000**

- 5.—(1) The following Orders shall extend to Gibraltar—
- (a) the Registered Parties (Non-constituent and Non-affiliated Organisations) Order 2000<sup>(b)</sup>;
  - (b) the Registration of Political Parties (Fees) Order 2001<sup>(c)</sup>;
  - (c) the Registration of Political Parties (Prohibited Words and Expressions) Order 2001<sup>(d)</sup>;
  - (d) the Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc.) Order 2001<sup>(e)</sup>;

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<sup>(a)</sup> 2002 (c.24); which is amended by sections 1, 8, 20, 21, 22, 23 and 25, and extended to Gibraltar by section 19, of the European Parliament (Representation) Act 2003 (c.7).

<sup>(b)</sup> S.I. 2000/3183.

<sup>(c)</sup> S.I. 2001/83.

<sup>(d)</sup> S.I. 2001/82.

<sup>(e)</sup> S.I.2001/446.

- (e) the Registered Parties (Non-constituent and Non-affiliated Organisations) (Amendment) Order 2002(a); and
- (f) the Electoral Commission (Limit on Public Awareness Expenditure) Order 2002(b).

(2) The Registration of Political Parties (Prohibited Words and Expressions) Order 2001(c) shall have effect as if—

- (a) it provided that the combined region is to be regarded as part of England for the purposes of the reference to a part of Great Britain in article 2(3)(b)(i);
- (b) in article 2 after paragraph (2) there were inserted—
  - “(2A) Paragraph (1) shall not apply as respects a party established in Gibraltar, in connection with the registration of that party in the Great Britain register in respect of England (including the combined region), to the word “Gibraltar” or “Gibraltarian” where it is qualified by the registered name of a party which is already registered in respect of England (including the combined region).”;
- (c) in Part II of the Schedule in the appropriate places the following words and expressions were inserted—
  - (i) “Gibraltar”;
  - (ii) “Gibraltarian”; and
  - (iii) “combined region”.

(3) The Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc.) Order 2001(d) shall have effect as if the combined region were regarded as part of England for the purposes of the reference to Great Britain in article 5.

**Right of audience and right to conduct litigation of Gibraltar persons in proceedings connected with European Parliamentary elections in the combined region**

6.—(1) Persons who have a right of audience before a court in Gibraltar shall have a right of audience(e) before a court in England and Wales in relation to proceedings connected with European Parliamentary elections in the combined region.

(2) Persons who have a right to conduct litigation in Gibraltar shall have a right to conduct litigation(f) in England and Wales in relation to proceedings connected with European Parliamentary elections in the combined region.

**Amendment to Schedule 8 to the Political Parties, Elections and Referendums Act 2000: Campaign expenditure: qualifying expenses**

7. In Part 1 of Schedule 8 to the Political Parties, Elections and Referendums Act 2000 (campaign expenditure: qualifying expenses)—

- (a) renumber paragraph 2 as sub-paragraph (1) of that paragraph; and
- (b) after that sub-paragraph insert—
  - “(2) Sub-paragraph (1)(a) does not apply in relation to any expenses which are incurred—
    - (a) in respect of newsletters or similar publications issued by or on behalf of a party with a view to giving electors in a particular electoral area information about the opinions or activities of, or other personal information relating to, a member of the European Parliament elected in Great Britain (including the combined region) or existing or prospective candidates for such election; and

(a) S.I. 2002/414.  
 (b) S.I. 2002/505.  
 (c) S.I. 2001/82.  
 (d) S.I. 2001/446.  
 (e) See also section 27 of the Courts and Legal Services Act 1990 (c. 41).  
 (f) See also section 28 of the Courts and Legal Services Act 1990 (c. 41).

- (b) within the period of four months ending with the date of the poll for an election to the European Parliament. ”

Signed by authority of the Secretary of State for Constitutional Affairs

Date 4th February 2004

*Christopher Leslie*  
Parliamentary Under Secretary of State  
Department for Constitutional Affairs

## SCHEDULE

### Amendments to the Political Parties, Elections and Referendums Act 2000

1. The Political Parties, Elections and Referendums Act 2000<sup>(a)</sup> shall be amended as follows.
2. In section 13 (education about electoral and democratic systems) after subsection (1) insert—
  - “(1A) Subsection (1) applies to the promotion of public awareness in Gibraltar with the following modifications—
    - (a) in paragraph (a), for “in the United Kingdom” there is substituted “for elections to the European Parliament in the United Kingdom and Gibraltar”; and
    - (b) paragraph (b) is omitted.”
3. In section 24(8)(b) (office-holders to be registered) after “relevant election” insert “, an election to the House of Assembly of Gibraltar”.
4. In section 28 (registration of parties)—
  - (a) after subsection (3) insert—
    - “(3A) A declaration under subsection (2)(a) or (b) which specifies that the party is applying to be registered in respect of England may include a statement that the party intends to contest one or more elections to the European Parliament in the combined region.”; and
  - (b) in subsection (8) omit the “and” after paragraph (a) and, after paragraph (b) insert—
    - “(c) any statement made under subsection (3A); and
    - (d) if the party—
      - (i) is established in Gibraltar (in this Act referred to as a “Gibraltar party”); and
      - (ii) has made a statement under subsection (3A), a notice that it is a Gibraltar party.”
5. In section 30 (changes to the register)—
  - (a) in subsection (1) after paragraph (b) insert—
    - “(ba) (if registered in the Great Britain register in respect of England) the addition or removal of a statement that the party intends to contest one or more elections to the European Parliament in the combined region;”; and
  - (b) after subsection (2) insert—
    - “(2A) If the party—
      - (a) is a Gibraltar party; and
      - (b) the Commission grants an application to have its entry in the register altered by the addition of a statement that it intends to contest one or more elections to the European Parliament in the combined region,
 the Commission shall include in the party’s entry in the register a notice that it is a Gibraltar party.”
6. In section 31 (notification of changes in party’s officers etc.)—
  - (a) in subsection (3) after “section” insert “(other than under subsection (3A))”;

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<sup>(a)</sup> 2000 (c. 41).

(b) after subsection (3) insert—

“(3A) If a party’s entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region and the statement ceases to be accurate, the person registered as the treasurer of the party must give the Commission a notification to that effect under this section.”; and

(c) in subsection (4) after paragraph (b) insert—

“(c) where subsection (3A) applies, within the period of 14 days beginning with the date when the statement ceases to be accurate.”

7. In section 37 (party political broadcasts) after subsection (2) insert—

“(3) The reference in subsection (1) to a broadcaster includes a reference to the Gibraltar Broadcasting Corporation, but only as respects party political broadcasts relating to elections to the European Parliament.”

8. In section 40 (interpretation of Part 2) after subsection (2) insert—

“(3) The combined region is to be regarded as part of England for the purposes of—

- (a) the references to England in sections 22(2)(a), 23(2)(a) and (3), 28(3A) and 30(1)(ba);
- (b) the references to Great Britain (other than in the expression “Great Britain register”) in sections 23(5)(c) and 28(2)(a) and (b); and
- (c) any reference in this Part to a part or parts of Great Britain or to a part or parts of the United Kingdom (other than a reference by name to a particular part).”

9. In section 44 (supplementary provisions about auditors) after subsection (4) insert—

“(5) In the application of this section to Gibraltar, the reference to the High Court shall have effect as if it were a reference to the Gibraltar court.”

10. In section 48(12) (revision of defective statements of accounts) after paragraph (b), insert—

“(c) in relation to Gibraltar, means the Gibraltar court.”

11. In section 52 (payments, services etc. not to be regarded as donations) after subsection (3) insert—

“(4) The reference in subsection (1)(d) to the transmission by a broadcaster of a party political broadcast includes a reference to the transmission by the Gibraltar Broadcasting Corporation of such a broadcast.”

12. In section 54(a) (permissible donors)—

(a) in subsection (2)(c), at the end, insert “, other than a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region”;

(b) after subsection (2) insert—

“(2A) As respects a registered party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region, the following are also permissible donors for the purposes of this Part—

- (a) a Gibraltar elector;
- (b) a company—
  - (i) registered under the Companies Ordinance; and
  - (ii) incorporated within Gibraltar, the United Kingdom or another member State, which carries on business in Gibraltar;

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(a) Subsection (8) was amended by regulation 11(b) of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (S.I. 2001/1184).

- (c) a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region;
- (d) a trade union within the meaning of the Trade Union and Trade Disputes Ordinance;
- (e) a building society within the meaning of the Banking (Extension to Building Societies) Ordinance 1997;
- (f) a limited liability partnership registered under the Limited Partnerships Ordinance, which carries on business in Gibraltar; and
- (g) any unincorporated association of two or more persons which does not fall within any of the preceding paragraphs but which carries on business or other activities wholly or mainly in Gibraltar and whose main office is there,

but, in the case of a party other than a Gibraltar party, only where the donation is received by the party within the period of four months ending with the date of the poll for an election to the European Parliament in the combined region.”

- (c) after subsection (3) insert—

“(3A) In relation to a donation in the form of a bequest subsection (2A)(a) shall be read as referring to an individual who was, at any time within the period of five years ending with the date of his death, a Gibraltar elector.”

**13.** In section 55 (payments etc. which are (or are not) to be treated as donations by permissible donors)—

- (a) after subsection (5) insert—

“(5A) Any exempt Gibraltar trust donation received by a registered party shall be regarded as a donation received by the party from a permissible donor if—

- (a) at the time the donation is received by the party, its entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region; and
- (b) in the case of a party other than a Gibraltar party, the donation is received by the party within the period of four months ending with the date of the poll for an election to the European Parliament in the combined region.”; and

- (b) in subsection (6) after paragraph (a) insert—

“(aa) an exempt Gibraltar trust donation regarded by virtue of subsection (5A) as received from a permissible donor, or”.

**14.** After section 57 insert—

**“Additional limit on Gibraltar donations to UK parties**

**57A.**—(1) This section applies where the aggregate value of Gibraltar donations which are—

- (a) received by a registered party which is not a Gibraltar party within the period of four months ending with the date of the poll for an election to the European Parliament in the combined region, and
- (b) accepted by that registered party,

exceeds the permitted maximum.

(2) Such of the Gibraltar donations as are donations falling within subsection (3) are to be treated for the purposes of this Part (other than this section) as if they were received—

- (a) at the end of the period of three months after that date, and
- (b) from a person who was not a permissible donor at that time.

(3) A Gibraltar donation falls within this subsection if—

- (a) in a case where it is the first of the Gibraltar donations received or is the only one, the value of that donation exceeds the permitted maximum, and
- (b) otherwise, the aggregate of the value of that donation and such of the Gibraltar donations as were previously received exceeds the permitted maximum.

(4) But—

- (a) in a case within subsection (3)(a), only so much of the donation as exceeds the permitted maximum is a donation falling within subsection (3), and
- (b) in a case within subsection (3)(b) in which the aggregate value of the Gibraltar donations previously received does not exceed the permitted maximum, only so much of the donation as exceeds the difference between that aggregate value and the permitted maximum is a donation falling within subsection (3).

(5) “Gibraltar donation” means a donation—

- (a) which is received from a permissible donor falling within subsection (2A) (but not subsection (2)) of section 54, or
- (b) which is an exempt Gibraltar trust donation regarded by virtue of section 55(5A) as received from a permissible donor.

(6) “Permitted maximum” means an amount equal to the limit imposed by paragraph 4(2) of Schedule 9 on campaign expenditure incurred by or on behalf of a registered party which stands for election at a general election to the European Parliament in the combined region only.”

**15.** In section 58(5) (forfeiture of donations made by impermissible or unidentifiable donors) after paragraph (c) insert—

“(d) in relation to Gibraltar, the Gibraltar court;”.

**16.** In section 59 (appeal against order under section 58) after subsection (2) insert—

“(2A) In the application of subsections (1) and (2) to Gibraltar, the references to a magistrates’ court and the Crown court shall have effect as if they were references to the Gibraltar court.”

**17.** In section 60 (supplementary provision about order under section 58)—

- (a) in subsection (1) for “Provision” substitute “In relation to courts in any part of the United Kingdom, provision”; and
- (b) in subsection (4)(b)(i) after “Ireland” insert “or the Gibraltar court”.

**18.** In section 73 (notional campaign expenditure) after subsection (10) insert—

“(11) The reference in subsection (9)(a) to a broadcaster includes a reference to the Gibraltar Broadcasting Corporation.”

**19.** In section 74(3) (officers of registered party with responsibility for campaign expenditure) after “Part II” insert “, an election to the House of Assembly of Gibraltar”.

**20.** In section 77 (restriction on making claims in respect of campaign expenditure)—

- (a) in subsection (10), after “means” insert “a day within subsection (11) or”; and
- (b) after subsection (10) insert—

“(11) A day is within this subsection if under the law of Gibraltar it is a bank holiday or a public holiday and—

- (a) the office of the treasurer, deputy treasurer or (as the case may be) other authorised person to whom the claim is sent pursuant to subsection (1) is situated in Gibraltar; or
- (b) the person providing the property, services or facilities to which the expenditure relates conducts his business in Gibraltar; or



- (c) (if he conducts his business in one or more parts of the United Kingdom and Gibraltar) the office from which dealings relating to the expenditure were conducted is situated in Gibraltar.

(12) In the application of subsection (4) to Gibraltar, the references to the High Court or a county court shall have effect as if they were references to the Gibraltar court.”

**21.** In section 85 (controlled expenditure by third parties) after subsection (5) insert—

“(5A) “Recognised Gibraltar third party” means a recognised third party falling within paragraph (d) or (e) (but not paragraph (a), (b) or (c)) of section 88(2).”

**22.** In section 87(2)(a) (expenditure by third parties which is not controlled expenditure) for “or by Sianel Pedwar Cymru” substitute “, by Sianel Pedwar Cymru or by the Gibraltar Broadcasting Corporation”.

**23.** In section 88 (third parties recognised for the purposes of this Part)—

(a) in subsection (2)—

(i) in paragraph (b) after “party” insert “other than a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region”; and

(ii) after paragraph (c) insert—

“(d) an individual who is resident in Gibraltar or is a Gibraltar elector, or

(e) a body falling within any of paragraphs (b) to (g) of section 54(2A).”; and

(b) in subsection (3)—

(i) in paragraph (a) after sub-paragraph (ii) insert—

“(iii) (if he is a Gibraltar elector who is not resident in Gibraltar and the first version of the Gibraltar register has not been published) that he is registered in the register of electors used for House of Assembly elections;”; and

(ii) in paragraph (c) after “54(2)” insert “or any of paragraphs (b) and (d) to (g) of section 54(2A)”.

**24.** In section 90 (restriction on incurring controlled expenditure) after subsection (3) insert—

“(4) This section does not apply in relation to a recognised Gibraltar third party except in relation to controlled expenditure incurred by or on behalf of that party during the period of four months ending with the date of the poll for a general election to the European Parliament.”

**25.** In section 91 (restriction on payments in respect of controlled expenditure) after subsection (4) insert—

“(5) This section does not apply in relation to a recognised Gibraltar third party except in relation to controlled expenditure incurred or to be incurred by or on behalf of that party during the period of four months ending with the date of the poll for a general election to the European Parliament.”

**26.** In section 92 (restriction on making claims in respect of controlled expenditure)—

(a) in subsection (7) for “(10)” substitute “(11)”; and

(b) after subsection (7) insert—

“(8) In the application of this section to Gibraltar, references to the High Court or a county court shall have effect as if they were references to the Gibraltar court.”

**27.** In section 94 (limits on controlled expenditure by third parties)—

(a) after subsection (5) insert—

“(5A) Subsections (3) to (5) apply to a recognised Gibraltar third party as they apply to a third party that is not a recognised third party, subject to the following modification namely that for the purposes of those subsections any expenditure incurred by or on behalf of the

recognised Gibraltar third party during the period of four months ending with the date of the poll for a general election to the European Parliament is to be disregarded.”;

(b) in subsection (10)(a), after “is” insert “(subject to subsection (11))”; and

(c) after subsection (10) insert—

“(11) As respects a recognised Gibraltar third party, the periods in relation to which paragraphs 3 and 5 to 11 of Schedule 10 impose limits—

(a) are regulated periods for the purposes of this section, but

(b) are not regulated periods for the purposes of sections 92, 93 and 96 to 99.”

**28.** In section 150 (punishment of offences) after subsection (3) insert—

“(4) In the application of this section to Gibraltar—

(a) the reference to the standard scale shall have effect as if it were a reference to the standard scale pursuant to section 189 of, and Schedule 6 to, the Criminal Procedure Ordinance; and

(b) the reference to the statutory maximum shall have effect as if it were a reference to level 5 on that scale.”

**29.** In section 151 (summary proceedings) after subsection (4) insert—

“(4A) Despite anything in section 117 of the Criminal Procedure Ordinance, any information or complaint relating to such an offence which is triable by a magistrates’ court in Gibraltar may be so tried if it is laid or made at any time within three years after the commission of the offence and within six months after the relevant date.”

**30.** In section 153 (offences committed by unincorporated associations) after subsection (5) insert—

“(5A) Sections 124 and 144 of, and Schedule 4 to, the Criminal Procedure Ordinance shall have effect in a case in which an unincorporated association is charged in Gibraltar with an offence under this Act in like manner as they have effect in the case of a corporation so charged.”

**31.** In section 160 (general interpretation)—

(a) in subsection (1)—

(i) in the definition of “qualified auditor”—

(aa) after “(2)” insert “(a)”; and

(bb) at the end insert—

“or (b) in the case of a Gibraltar party, a person who is, in accordance with section 6 of the Auditors Approval and Registration Ordinance 1998, eligible for appointment as a company auditor;”;

(ii) insert in the appropriate places—

““combined region” means the electoral region which includes Gibraltar, namely the South West electoral region;”;

““exempt Gibraltar trust donation” has the meaning given by section 162;”;

““Gibraltar court” as respects any purpose, means the court determined by or under the law of Gibraltar to be the court for that purpose;”;

““Gibraltar elector” means an individual—

(a) who is registered in the Gibraltar register, or

(b) if the first version of that register has not been published—

(i) who is registered in the register of electors used for House of Assembly elections, or

(ii) who is resident in Gibraltar, aged 16 or over and is a Commonwealth citizen or a citizen of the European Union (other than a Commonwealth citizen);”;

““Gibraltar party” has the meaning given by section 28(8)(d);” and;

““Gibraltar register” has the meaning given by section 14 of the European Parliament (Representation) Act 2003”; and

(b) after subsection (5) insert—

“(6) References in this Act to a named Ordinance are to the Gibraltar Ordinance of that name.”

**32.** In section 162 (interpretation: exempt trust donations)—

(a) in subsection (1)—

(i) after “Act” insert “(a)”; and

(ii) at the end insert—

“(b) “exempt Gibraltar trust donation” means a donation to which subsection (3A) applies, other than one falling within subsection (5).”;

(b) after subsection (3) insert—

“(3A) This subsection applies to any donation received from a trustee of any property in accordance with the terms of a trust—

(a) which was created by—

(i) a person falling within section 54(2A)(a) to (g) at the time when the trust was created, or

(ii) the will of a person falling within section 54(3A), and

(b) to which no property has been transferred other than—

(i) by a person falling within section 54(2A)(a) to (g) at the time of the transfer, or

(ii) under the will of a person falling within section 54(3A),

provided that, at or before the time of the receipt of the donation, the trustee gives the recipient of the donation the relevant information.”;

(c) in subsection (4) for “subsection (3)” substitute “subsections (3) and (3A)”; and

(d) in subsection (6)(a) after “exempt trust donation” insert “or exempt Gibraltar trust donation”.

**33.** In Schedule 6 (details to be given in donation reports)—

(a) in paragraph 2(2)(a) after “54)” insert “or the Gibraltar register”;

(b) after paragraph 2(2) insert—

“(2A) In the case of a donation from a Gibraltar elector, received on a date before the date of publication of the first version of the Gibraltar register—

(a) the reference in sub-paragraph (2)(a) to the Gibraltar register shall have effect as if it were a reference to the register of electors used for House of Assembly elections; and

(b) where, on the date of receipt of the donation, the elector was not registered in the register of electors used for House of Assembly elections, the report must confirm that on that date he was aged 16 or over and was a Commonwealth citizen or a citizen of the European Union (other than a Commonwealth citizen).”;

(c) in paragraph 2(3)(b) after “54)” insert “or the Gibraltar register”;

(d) after paragraph 2(3) insert—

“(3A) In the application of sub-paragraph (3) to a bequest made by a person who was a Gibraltar elector—

(a) in relation to any time before the publication of the first version of the Gibraltar register, the reference in sub-paragraph (3)(b) to the Gibraltar register shall have

effect as if it were a reference to the register of electors used for House of Assembly elections;

- (b) where the person who made the bequest—
  - (i) died before the end of the period of five years beginning with the date on which the first version of the Gibraltar register was published, and
  - (ii) was not registered in the Gibraltar register or the register of electors used for House of Assembly elections during the period of five years ending with the date of his death,

the reference in sub-paragraph (3)(b) to the last address at which he was registered during the period mentioned there shall have effect as if it were a reference to the address at which he was last resident in Gibraltar during that period; and

- (c) where sub-paragraph (b) above applies, the report must confirm that the person who made the bequest was aged 16 or over and was a Commonwealth citizen or a citizen of the European Union (other than a Commonwealth citizen) at any time during the period of five years ending with the date of his death when he was resident in Gibraltar.”;
- (e) in paragraph 2(4) after “54(2)(b)” insert “or 54(2A)(b)”;
- (f) in paragraph 2(6)—
  - (i) after “54(2)(d)” insert “or 54(2A)(d)”;
  - (ii) at the end insert “or the Trade Union and Trade Disputes Ordinance”;
- (g) in paragraph 2(7) after “1986” insert “or the Banking (Extension to Building Societies) Ordinance 1997”;
- (h) in paragraph 2(8) after “54(2)(f)” insert “or 54(2A)(f)”;
- (i) in paragraph 2(10)—
  - (i) after “54(2)(h)” insert “or 54(2A)(g)”;
  - (ii) after “United Kingdom” insert “or Gibraltar”;
- (j) in paragraph 2(13)—
  - (i) after “55(5)” insert “or 55(5A)”;
  - (ii) in sub-paragraph (b) after “162(3)” insert “or 162(3A)”;
- (k) in paragraph 6 after sub-paragraph (b) insert—

“(c) if the donation is a Gibraltar donation (within the meaning of section 57A), record that fact.”

**34. In Schedule 7 (controls of donations to individuals and members associations)—**

- (a) in paragraph 1 (operation and interpretation of Schedule) insert—
  - (i) in sub-paragraph (8)(b) after “United Kingdom” insert “(including the combined region)”;
  - (ii) after sub-paragraph (10) insert—

“(11) In sub-paragraph (10)(a) the combined region is to be regarded as part of England for the purposes of the reference to Great Britain.”;
- (b) in paragraph 7—
  - (i) after sub-paragraph (1) insert—

“(1A) A person falling within section 54(2A)(a) to (g) is a permissible donor if—

    - (a) the controlled donation is received by—
      - (i) a member of a registered party; or
      - (ii) a members association whose membership consists wholly or mainly of members of a registered party,

and the party is a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region; or

(b) the controlled donation is received by a member of the European Parliament elected in the combined region.”;

(ii) after sub-paragraph (5) insert—

“(5A) Any controlled donation received by a regulated donee which is an exempt Gibraltar trust donation shall be regarded as a controlled donation received by the donee from a permissible donor if—

(a) the donation is received by—

(i) a member of a registered party; or

(ii) a members association whose membership consists wholly or mainly of members of a registered party,

and the party is a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region; or

(b) the donation is received by a member of the European Parliament elected in the combined region.”; and

(iii) in sub-paragraph (6)—

(aa) after sub-paragraph (a) insert—

“(aa) an exempt Gibraltar trust donation regarded by virtue of sub-paragraph (5A) as received from a permissible donor, or”; and

(bb) in sub-paragraph (b)(i) after “54(2)” insert “or permissible donors by virtue of sub-paragraph (1A)”.

**35.** In Schedule 9 (limits on campaign expenditure)—

(a) in paragraph 2 after sub-paragraph (3) insert—

“(3A) As respects campaign expenditure incurred in the period of four months ending with the date of the poll for an election to the European Parliament in the combined region, that region is to be regarded as part of England for the purposes of the references in sub-paragraphs (2) and (3) to a part or parts of Great Britain.”; and

(b) in paragraph 4(2) and (3) after the first “England” insert “(including the combined region)”.

**36.** In Schedule 10 (limits on controlled expenditure)—

(a) in paragraph 1 after sub-paragraph (2) insert—

“(3) Paragraphs 3 and 5 to 11 do not apply in relation to a recognised Gibraltar third party.”;

(b) in paragraph 2 after sub-paragraph (3) insert—

“(3A) As respects controlled expenditure incurred in the period of four months ending with the date of the poll for an election to the European Parliament in the combined region, that region is to be regarded as part of England for the purposes of the references in sub-paragraphs (2) and (3) to a part or parts of the United Kingdom.”; and

(c) in paragraph 4 after sub-paragraph (2) insert—

“(2A) As respects a recognised Gibraltar third party, sub-paragraph (2) shall have effect as if for paragraphs (a) to (d) there were substituted—

“(a) in relation to England, £16,000; and

(b) in relation to Scotland, Wales or Northern Ireland, £5,000.””

**37.** In Schedule 11 (control of donations to recognised third parties) in paragraph 6—

(a) after sub-paragraph (1) insert—

“(1A) In the case of a relevant donation received by a recognised Gibraltar third party sub-paragraph (1) shall have effect as if in sub-paragraph (a) after “54(2)” there were inserted “or a person falling within any of paragraphs (a), (b) and (d) to (g) of section 54(2A).”;

(b) after sub-paragraph (2) insert—

“(2A) For the purposes of this Schedule any relevant donation received by a recognised Gibraltar third party which is an exempt Gibraltar trust donation shall be regarded as a relevant donation received by the third party from a person falling within any of paragraphs (a), (b) and (d) to (g) of section 54(2A).”; and

(c) after sub-paragraph (3) insert—

“(3A) As respects any relevant donation received by a recognised Gibraltar third party, sub-paragraph (3) shall have effect as if—

(a) after sub-paragraph (a) there were inserted—

“(aa) an exempt Gibraltar trust donation,”;

(b) in sub-paragraph (b)(i) after “54(2)” there were inserted “or persons falling within any of paragraphs (a), (b) and (d) to (g) of section 54(2A)”;

(c) in sub-paragraph (b)(ii) after “donor” there were inserted “or falls within section 54(2A)(g)”;

(d) at the end there were inserted “and is not a person falling within any of paragraphs (a), (b) and (d) to (g) of section 54(2A).”

## EXPLANATORY NOTE

*(This note is not part of the Order)*

By virtue of the European Parliament (Representation) Act 2003 (the 2003 Act), Gibraltar is to be combined with one of the electoral regions in England and Wales to form a new electoral region for the purposes of European Parliamentary elections. The new region is referred to in that Act, and in this Order, as “the combined region”.

Section 11 of the 2003 Act enables the Secretary of State to specify an existing region which is to be combined with Gibraltar to form the combined region. In article 2 this Order specifies the South West region, implementing a recommendation of the Electoral Commission made under section 10(1)(b) of the 2003 Act; and in article 3 it makes minor amendments to the European Parliamentary Elections Act 2002.

As a result of the combination, in article 4 and the Schedule the Order also amends a number of provisions of the Political Parties, Elections and Referendums Act 2000 or extends them to Gibraltar, or both. In article 5 relevant Orders made under that Act are also extended to Gibraltar and, where appropriate, modified.

The principal effect of article 4 and the Schedule is to adapt the Act to take into account Gibraltar in its framework where relevant, including for the purposes of Gibraltar parties which may wish to register under it with a view to contesting European Parliamentary elections. Gibraltar third parties will also be able to become recognised third parties for the purposes of campaigning while a European Parliamentary general election is pending. Registered parties may declare that they intend to contest a European Parliamentary election in the combined region so that they may receive donations from Gibraltar based donors. However, in the case of parties which are not Gibraltar parties they may only receive such donations during the four month period preceding the date of the European Parliamentary election and if those donations exceed in total the amount of campaign expenditure that the registered party would be permitted to incur if it were standing for election in the combined region only, the excess is to be returned to the donors.

Article 6 enables Gibraltar lawyers to have rights of audience, and to conduct litigation, in England and Wales courts in proceedings connected with European Parliamentary elections in the combined region.

The Order also deals with a matter not directly connected to Gibraltar. Part 5 of the Political Parties, Elections and Referendums Act 2000 controls campaign expenditure, which is defined by reference to the list of matters, and the exclusions, in Part 1 of Schedule 8. Article 7 amends the exclusions in Part 1 of that Schedule so that expenses in respect of newsletters and similar publications relating to MEPs and candidates for European Parliamentary elections in Great Britain are no longer excluded during the four month period preceding a European Parliamentary election, following a recommendation of the Electoral Commission.

The Order refers to a number of Gibraltar Ordinances. They can be obtained from:

Publications

Government Secretariat

No 6 Convent Place

Gibraltar

Telephone: 00 350 47932

Fax: 00 350 74524

email: [legisunit2@gibnynex.gi](mailto:legisunit2@gibnynex.gi)

**2004 No. 366**

**NATIONAL ELECTION EXPENDITURE**

**POLITICAL PARTIES**

**REPRESENTATION OF THE PEOPLE**

The European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order  
2004

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