

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

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

*Wednesday 25 November 2015*

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**The Committee consisted of the following Members:**

*Chair:* MR DAVID HANSON

Cleverly, James (*Braintree*) (Con)  
 † David, Wayne (*Caerphilly*) (Lab)  
 Ffello, Robert (*Stoke-on-Trent South*) (Lab)  
 † Frazer, Lucy (*South East Cambridgeshire*) (Con)  
 † Hall, Luke (*Thornbury and Yate*) (Con)  
 Hendry, Drew (*Inverness, Nairn, Badenoch and Strathspey*) (SNP)  
 † Johnson, Gareth (*Dartford*) (Con)  
 † Lord, Jonathan (*Woking*) (Con)  
 † McGinn, Conor (*St Helens North*) (Lab)  
 † Penrose, John (*Parliamentary Secretary, Cabinet Office*)

† Pickles, Sir Eric (*Brentwood and Ongar*) (Con)  
 Robinson, Mr Geoffrey (*Coventry North West*) (Lab)  
 † Robinson, Mary (*Cheadle*) (Con)  
 † Stevens, Jo (*Cardiff Central*) (Lab)  
 † Stevenson, John (*Carlisle*) (Con)  
 Wilson, Phil (*Sedgefield*) (Lab)  
 † Wollaston, Dr Sarah (*Totnes*) (Con)

Marek Kubala, *Committee Clerk*

† **attended the Committee**

## Fifth Delegated Legislation Committee

Wednesday 25 November 2015

[MR DAVID HANSON *in the Chair*]

### Draft European Parliamentary Elections (Miscellaneous Provisions) (United Kingdom and Gibraltar) Order 2015

2.30 pm

**The Parliamentary Secretary, Cabinet Office (John Penrose):** I beg to move,

That the Committee has considered the draft European Parliamentary Elections (Miscellaneous Provisions) (United Kingdom and Gibraltar) Order 2015.

It is good to have you in charge of our proceedings, Mr Hanson. I am glad that everyone has managed to tear themselves away from the autumn statement. I hope not to detain the Committee for terribly long, although obviously that will depend on whether there are any burning questions on this minor and technical order—I will happily answer questions if necessary.

The order relates to the functioning of the Political Parties, Elections and Referendums Act 2000—PPERA to its friends—as it applies in Gibraltar. The European Union Referendum Bill, which has just completed its Report stage in the House of Lords, will apply various provisions of PPERA relevant to Gibraltar matters. In drafting the Bill, and following discussions with the Government of Gibraltar, we have identified that certain references to Gibraltar legislation in PPERA are now out of date or otherwise inaccurate. I reassure everyone that the provisions are entirely technical and consequential, rather than making any substantive changes, but they are needed for good order. To ensure the effective functioning of future European parliamentary elections and the EU referendum, the order will deliver those changes.

The order also substitutes references to the House of Assembly of Gibraltar with references to the Gibraltar Parliament. The Gibraltar Parliament, as I am sure everyone here will know, replaced the House of Assembly of Gibraltar as a result of the Gibraltar Constitution Order 2006. Finally, the order also removes certain redundant transitional provisions that accounted for circumstances before the publication of the first version of the Gibraltar electoral register for the purpose of European parliamentary elections.

I reassure the Committee that, in accordance with our statutory duty, the Electoral Commission has also been consulted and has confirmed its contentment with the order. Officials have worked closely with the Government of Gibraltar in preparing this order, and the Government of Gibraltar are happy, too. I commend the order to the Committee.

2.32 pm

**Wayne David (Caerphilly) (Lab):** It is a pleasure to serve under your chairmanship, Mr Hanson. I recognise that the order is technical, but nevertheless I have a couple of questions to get more information from the Minister.

As the Minister has said, the order essentially replaces references to the House of Assembly of Gibraltar with references to the Gibraltar Parliament, and there is a change regarding building societies and one or two other small technical amendments. I would like more information on two areas in particular. First, on electoral finance, the explanatory memorandum states that “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.” For European Parliament elections we have the unusual situation of the south-west of England being linked with Gibraltar. What arrangements are there for an individual who receives donations from Gibraltar but spends the money in another part of the region—in other words, the south-west of England?

The financial situation in Gibraltar is different from the one in the United Kingdom. I will not go into the detail of whether Gibraltar is a tax haven, which is a moot point, but I will simply say that a person who lives in Gibraltar pays tax only on income earned in Gibraltar. They are classed as a resident if they spend the majority of their time in the territory or, if they are British or of Irish descent, if they work in Gibraltar. There is no capital gains tax, VAT or sales tax in Gibraltar, so the territory is attractive to those who are quite well off. It has been rumoured that quite a number of Conservatives live there—I cannot think why. An individual can apply for category 2 status, which limits the amount of tax they need to pay. I refer to that simply to highlight the point that Gibraltar is very different from the United Kingdom, but for European Parliament elections it is part of the electoral arrangements for the UK. What are the regulations regarding money that is raised in Gibraltar but spent in these elections in the south-west of England? That is my first question.

My second question is about the conduct of those European Parliament elections. We all know that, as far as England, Wales, Scotland and Northern Ireland are concerned, there are quite rigid regulations in place, monitored in large part by the Electoral Commission. The Minister referred to the fact that the Electoral Commission has been consulted about these regulations. Will he say whether the mandate of the Electoral Commission also applies to Gibraltar, especially for elections to the European Parliament, where there is a joint constituency covering the south-west of England and Gibraltar? If that is the case, can he give me some practical examples of how the Electoral Commission monitors the situation? Many people suspect that electoral arrangements in Gibraltar are not as hard and fast as we would perhaps like them to be.

The Opposition will support these regulations. Gibraltar is sometimes forgotten when we talk about elections. In the case of European Parliament elections, Gibraltar is to all intents and purposes part of the United Kingdom, and I would like to hear the Minister’s comments on that.

2.36 pm

**John Penrose:** I am glad to hear that the Opposition are supporting the regulations, and I am happy to answer the questions as part of that process. The hon. Gentleman made a point about electoral finance. Broadly speaking, the European Union Referendum Bill tries to ensure that the status of any kind of donor is on all fours, whether they start from Gibraltar or Devises or

anywhere else in the south-west. He is right to say that some of the legal background in Gibraltar is inevitably and necessarily different.

I am that sure the hon. Gentleman will have observed that in the EU Referendum Bill we have tried to apply the general principle that, no matter whether someone is making a donation from the UK or from Gibraltar, broadly the same principles apply in every case. Nothing about that is changed by anything in this set of provisions. I can reassure him that we are not doing anything that would alter any of that. I do not want to try your patience, Mr Hanson, by straying too far into the detail of the Bill, since that is a separate point. Broadly speaking, the principles laid out in the Bill are as I have said they are, and they are not altered by what we are discussing.

On the mandate of the Electoral Commission, the hon. Gentleman will be aware that, unusually for referendums—is it referendums or referenda?—effectively the returning officer for a national poll of that kind is the head of the Electoral Commission. They have a legal position and duty in relation to referendums, which is normally taken by individual constituency returning officers and counting agents.

The entire referendum will be administered legally and led by the Electoral Commission in that respect. That will apply for the mainland UK and all other applicable areas. Again, because of the different legal background in Gibraltar, that may need to have some different legal mechanisms to be delivered, but broadly speaking the principle is clear and applies throughout.

**Wayne David:** I do not want to try the patience of the Chair. I appreciate that that answer is specific to the EU Referendum—is it an Act now or still a Bill?

**John Penrose:** It is still a Bill.

**Wayne David:** My comment, which takes its cue from the explanatory memorandum, is slightly broader than that, relating to elections more generally, and to European Parliament elections in particular, which in many ways are unique. The explanatory memorandum refers to them in the background section, if not in the specifics of the draft order. Would the Minister care to comment on those elections?

**John Penrose:** I am happy to do that. I can confirm to the hon. Gentleman that for these electoral purposes, and particularly for European parliamentary elections, as he mentioned, Gibraltar is part of the south-west region and, broadly speaking, the Electoral Commission's legal functions in Gibraltar are the same as they are in the rest of the UK. I hope that explicitly clarifies that point.

With that, Mr Hanson, I commend the order to the Committee and hope that we can move on and count it as passed.

*Question put and agreed to.*

2.40 pm

*Committee rose.*

