

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 3,596 of 3rd May, 2007

B. 35/07

BILL
FOR

AN ACT to amend the Parliament Act following the coming into operation of the Constitution of Gibraltar and to provide for the making of rules to allow for advance voting, and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Parliament (Amendment) Act 2007 and comes into operation on the day of publication.

Amendment of Parliament Act.

2.(1) The Parliament Act (in this Act referred to as “the principal Act”) is amended in accordance with the provisions of this section.

(2) In section 2 of the principal Act—

(a) in paragraph (a)—

(i) the definition of “industrial employment” is repealed,
and

(ii) after the definition of “member” insert—

““Minister” means the Minister with responsibility
for elections”,

- (iii) in the definition of “registration officer” for “appointed” substitute “designated”,
 - (iv) in the definition of “returning officer” for “appointed under section 17(1)” substitute “designated under section 17”,
 - (v) in the definition of “Standing Orders” for “Gibraltar (Constitution) Order 1964” substitute “Gibraltar Constitution Order 2006”; and
- (b) in paragraph (b) for “79” substitute “78”.
- (3) In section 3 of the principal Act—
- (a) in subsection (1)—
 - (i) for “hereinafter” substitute “in this Act”; and
 - (ii) for “Gibraltar Constitution Order 1969” substitute “Gibraltar Constitution Order 2006”;
 - (b) in subsection (1)(iii) for “British Dependent Territories citizens, British Overseas citizens” substitute “British Overseas Territories citizens, British Overseas citizens, British Nationals (Overseas), British protected persons”;
 - (c) in paragraph (e) of the proviso to subsection (1) for “wife” substitute “spouse”;
 - (d) in the second proviso to subsection (1) and in subsections (3) and (4) for “Governor” substitute “Minister”; and
 - (e) in subsection (1B)(c) for “wife” substitute “spouse”.
- (4) In section 4 of the principal Act—
- (a) for the section heading substitute “Registration officer.”;
 - (b) in subsection (2) for “appointed by the Governor” substitute “the Clerk”; and

- (c) subsections (3) and (4) are repealed.
- (5) In section 5 of the principal Act—
 - (a) in subsection (1) for “1991” substitute “2007”; and
 - (b) in the proviso to subsection (1) for “Governor” substitute “Minister”.
- (6) In section 6 of the principal Act for “Governor” substitute “Minister”.
- (7) In section 7(3) of the principal Act delete “be subject to the prior approval of the Governor and shall”.
- (8) In section 14(1) of the principal Act for “£2,000” substitute “£3,000”.
- (9) For section 17 of the principal Act substitute—

“Returning Officer.

17. The returning officer shall be the registration officer.”.
- (10) In section 20 of the principal Act—
 - (a) in subsection (1) for “commanding” substitute “directing”; and
 - (b) in subsection (4) delete “Deputy”.
- (11) In section 22 of the principal Act, on both occasions “eight” appears substitute “ten”.
- (12) After section 22 of the principal Act insert—

“Equality of votes.

22A.(1) Where the counting of votes (including any recount) has been completed and an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, a new poll shall be conducted as between those candidates on the day 21 days after the date of that election.

- (2) Where a poll is conducted pursuant to subsection (1) the Elections Rules shall apply to that poll save that the returning officer may abridge the time for the taking of any act required under those rules where this is required to enable the poll to be undertaken on the day specified in subsection (1).
- (3) If any number of such candidates is withdrawn so that only one of them remains, that remaining candidate shall be duly elected without the need for such a poll to be taken.”.

(13) For section 23 of the principal Act substitute-

“23. All expenses properly incurred by the returning officer in relation to the holding of elections shall be paid out of the Consolidated Fund.”

(14) In section 25 of the principal Act-

(a) in subsection (1)-

- (i) for “Governor” substitute “Minister”,
- (ii) at the end of paragraph (e) delete “and”,
- (iii) after paragraph (e) insert-

“(ea) enabling persons who are entitled to vote as electors but whose temporary absence from Gibraltar is such that they will not be able to cast a postal vote in elections;

(eb) enabling persons who are entitled to vote at an election who, after the registration as an absentee voter closes, are informed that on election day they will be an in-patient at a hospital; and”;

(b) in subsection (2) for “Assembly” substitute “Parliament”.

(15) For section 86 of the principal Act substitute-

“86. The powers and privileges vested in the Speaker by this Act shall, in the absence of the Speaker for a reason other than a reason mentioned in section 26(5) of the Constitution, be vested during a sitting of the Parliament in the person appointed by the Parliament to preside at that sitting of the Parliament (and any such person may be a member of the Parliament).”.

(16) In section 88 of the principal Act for “Gibraltar (Constitution) Order 1969” substitute “Gibraltar Constitution Order 2006”.

(17) In section 91(1)(b) of the principal Act delete “Gibraltar” on the first occasion that that word appears.

(18) In section 100 of the principal Act for “paragraphs (g) and (j)” substitute “paragraphs (f) and (i)”.

(19) In section 101 of the principal Act on each occasion the words “Financial and Development Secretary” appears substitute “Financial Secretary”.

(20) In Schedule 2 to the principal Act—

(a) delete “(a) industrial employment; or”;

(b) in subparagraph (b)—

(i) in sub-sub-paragraph (i) for “the clerical grades” substitute “administrative and executive grades”,

(ii) delete sub-sub-paragraph (iii),

(iii) in sub-sub-paragraph (iv) after “typist” insert “personal secretary, senior personal secretary”,

(iv) delete sub-sub-paragraph (v),

(v) in sub-sub-paragraph (vi) for “drawing office assistant” substitute “professional and technology officer grades”,

- (vi) in sub-sub-paragraph (ix) after “fire control operator” insert “senior fire control operator,”
- (vii) in sub-sub-paragraph (x) for “deckhand, seaman, engine driver ‘A’, engine driver ‘B’, engine mechanic, Port Department” substitute “seaman/mechanic, coxswain, engine driver ‘A’, Port Department,”
- (viii) in sub-sub-paragraph (xi) for “junior technician ‘A’ and ‘B’, Medical and Public Health Department (Laboratory),” substitute “junior medical laboratory scientific officer,”
- (ix) delete sub-sub-paragraph (xii),
- (x) in sub-sub-paragraph (xiii) for “tracer” substitute “technical grade 1,”
- (xi) in sub-sub-paragraph (xv) delete “Department” on the first occasion that that word appears,
- (xii) delete sub-sub-paragraph (xvi),
- (xiii) in sub-sub-paragraph (xvii) for “dark room technician Medical and Public Health Department” substitute “radiography helper,”
- (xiv) delete sub-sub-paragraphs (xviii) and (xxii),
- (xv) in sub-sub-paragraph (xxiii) delete—
 - (aa) “porter/”; and
 - (bb) “Medical and Public Health Department”,
- (xvi) delete sub-sub-paragraph (xxiv) and (xxv).

(21) In Schedule 3 to the principal Act for “79(1)” substitute “78(1)”.

EXPLANATORY MEMORANDUM

This Bill amends the Parliament Act (“the principal Act”) following the coming into operation of the Constitution of Gibraltar.

Clause 2(3) amends the list of persons who are entitled to be registered as electors and reflects the additional categories of persons who are entitled to be so registered. This sub-clause also amends section 3 of the principal act so that the references to “wife” are amended to the gender neutral term “spouse”.

Clause 2(5) amends section 5 of the principal Act to require that a register of electors be compiled and published in 2007 and every four years thereafter. Additionally, and together with clause 2(6) references to the Governor are substituted by references to the Minister with responsibility for elections.

Clause 2(7) removes the requirement that registration expenses be the subject of the Governor’s prior approval.

Clause 2(8) amends section 14(1) of the principal Act and increases the limit of expenditure that may be incurred in relation to the candidature of a person at an election from £2,000 to £3,000.

Section 17 of the principal Act is amended by clause 2(9) which provides that the registration officer shall be the returning officer.

Clause 2(11) amends section 22 of the principal Act to reflect the increase in size of the Parliament. Whereas a person could vote for up to eight candidates at an election, this has been increased to ten.

Clause 2(12) provides for the determination of the election of candidates whose votes are tied. Unless there are withdrawals a further poll will determine the outcome.

Clause 2(13) substitutes section 23 of the principal Act which provided for the Governor’s prior approval of returning officer’s expenses in relation to the holding of elections. Such expenses are now automatically charged to the Consolidated Fund.

Clause 2(14) amends section 25 of the principal Act to inter alia confer the power to make rules enabling voters to cast their votes prior to election day if they are not going to be in Gibraltar on that day or in cases where they will be in hospital on election day but have been informed after registration for absentee voters has closed.

Clause 2(15) provides for the substitution of section 86 of the principal Act with a section that enables a member of the Parliament to sit as Speaker where the Speaker is absent for a reason other than one provided for in section 26(5) of the Constitution.

Clause 2(19) amends references to Financial and Development Secretary in section 101 of the principal Act to Financial Secretary.

Clause 2(20) amends Schedule 2 to the Act to update and where obsolete, delete, the references to the various posts stated therein.