

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,685 of 20th November, 2008

B. 26/08

BILL

FOR

AN ACT to amend the European Parliamentary Elections Act 2004.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the European Parliamentary Elections (Amendment) Act 2008 and comes into operation on the day of publication.

Amendment of the European Parliamentary Elections Act 2004.

2. The European Parliamentary Elections Act 2004 is amended in section 14 as follows—

(a) after “14” there is inserted “(1)”; and

(b) the following is inserted after subsection (1)—

“(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for such offences and penalties therefor as the Government may deem appropriate in respect of any act or omission contrary to the provisions of this Act.”.

Amendment of the Schedule to the European Parliamentary Elections Act 2004.

3.(1) Schedule 1 of the European Parliamentary Elections Act 2004 is amended in accordance with the provisions of this section.

(2) Paragraph 1 is amended by inserting in the appropriate place the following definition—

““certificate of anonymous registration” means a certificate issued in pursuance of paragraph 74;”.

(3) Paragraphs 3 and 4 are amended by inserting after “notice”, “representation”.

(4) Paragraph 5(5)(b) is amended by substituting for “12(2) or 13(2)”, “12 or 13”.

(5) Paragraph 6(3)(i) is amended by deleting “Maundy Thursday”.

(6) Paragraph 10 is amended as follows—

(a) by inserting after sub-paragraph (3) the following sub-paragraphs—

“(3A) Subparagraph (3) above applies to an objection to a person’s registration whether the objection is made before or after the person is registered in the register.

(3B) No objection to a person’s registration may be made if the person has an anonymous entry in the register.”.

(b) in sub-paragraph (4), by omitting the word “duly” and substituting for sub-paragraph (b) the following paragraph—

“(b) determines that the elector was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the lawful conditions for registration.”;

(c) the following is inserted after sub-paragraph (4)–

“(4A) A registration officer may, for the purpose of obtaining any information relevant to a determination under sub-paragraph (4)(b) above, make such house to house inquiries as he sees fit.”.

(7) For paragraph 12, there is substituted the following paragraph–

“Alteration of register.

12.(1) This paragraph applies where, at any time (“the relevant time”) after the publication of a revised version of the register by a registration officer, the registration officer–

- (a) on an application for registration being made by any person in accordance with this Act, determines that that person is entitled to be so registered;
- (b) is required, by virtue of any provision of this Act, to remove a person’s entry from the register;
- (c) is notified of any decision on an appeal which requires any such alteration in the register; or
- (d) determines that the register contains any clerical error.

(2) In such a case the registration officer shall (subject to subparagraph (3) below) issue a notice specifying the appropriate alteration in the register; and–

- (a) the notice shall be so issued by him–
 - (i) on the first day of the month which follows that in which the relevant time falls; or
 - (ii) if that day is less than 14 days after that time, on the first day of the month immediately following that month; and

- (b) (subject to paragraph 13 below) the alteration in question shall have effect as from the beginning of the day on which the notice is issued.
 - (3) Subparagraph (2) above does not require a registration officer to issue a notice under that subparagraph in a case where (apart from this subparagraph) that subparagraph would require the notice to be issued—
 - (a) at the beginning of the month containing the date on which a revised version of the register is next due to be published in accordance with the provisions of this Part; or
 - (b) at the beginning of either of the two months preceding that containing the date on which a revised version of the register is next due to be published in accordance with the provisions of this Part,and in such a case the alteration in question shall be made in that revised version of the register.
 - (4) Subparagraph (2) above also does not require a registration officer to issue a notice under that subparagraph in a case where paragraph 13(3) below requires him to issue a notice under that provision.
 - (5) No alteration affecting a published version of a register of electors shall be made otherwise than in accordance with this paragraph and paragraph 13 below.
 - (6) For the purposes of subparagraph (1) above “determines” means determines in accordance with the provisions of this Act.”.
- (8) Paragraph 13 is amended as follows—
- (a) for sub-paragraph (1) there is substituted the following paragraph—

“(1) If, by virtue of paragraph 12(2) above, an alteration in a published version of a register is to take effect after the fifth day before the date of the poll, the alteration does not have effect for the purposes of the election.”;

(b) For sub-paragraph (2) there is substituted the following sub-paragraph—

“(2) Sub-paragraph (3) below applies where—

- (a) at any time before the publication date of a register, paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination, requirement or decision falling within any of indents (a) to (d) of that sub-paragraph;
- (b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address; and
- (c) no alteration made in consequence of the determination, requirement or decision—
 - (i) has already taken effect; or
 - (ii) is due to take effect,

under sub-paragraph (2) of that paragraph on or before the fifth day before the date of the poll.”;

(c) after sub-paragraph (3) insert the following sub-paragraphs—

“(3A) Sub-paragraph (3B) below applies where—

- (a) at any time on or after the publication date of a register but before 9pm on the day of the poll, paragraph 12 above applies to a registration officer, by virtue of sub-paragraph (1) of that

paragraph, in connection with a notification mentioned in paragraph (c) of that sub-paragraph; and

(b) in consequence of the notification—

(i) an entry relating to that person falls to be made in the register in respect of an address; or

(ii) his entry in the register requires to be altered.

(3B) In such a case the registration officer shall issue, in accordance with this Schedule, notice specifying the appropriate alteration in the register; and—

(a) the notice shall be so issued by him when he receives the notification; and

(b) the alteration shall take effect as from the beginning of the day on which the notice is issued.

(3C) Sub-paragraph (3D) below applies where—

(a) at any time on or after the publication date of a register but before 9pm on the day of the poll, paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination falling within paragraph (d) of that subparagraph;

(b) the determination was made following a representation made by or on behalf of a person to the registration officer; and

(c) in consequence of the determination—

(i) an entry relating to that person falls to be made in the register in respect of an address; or

(ii) his entry in the register requires to be altered.

(3D) In such a case the registration officer shall issue, in accordance with this Schedule, a notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him when he makes the determination; and
- (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.

(3E) In sub-paragraph (3C)(b) above, “representation” means a representation made to the effect that the register contains a clerical error.”.

(9) Paragraph 22(2) is amended by deleting all words in indent (b).

(10) Paragraph 23 is amended by inserting after sub-paragraph (4), the following sub-paragraph—

“(4A) Sub-paragraph (4) applies where the declarant has, or has applied for, an anonymous entry.”.

(11) Paragraph 25(1)(e) is amended as follows—

- (a) by inserting after “in the case of an applicant”, “whose application is not accompanied by an application for an anonymous entry and”;
- (b) by inserting after paragraph (e) the following paragraphs—
 - “(f) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact;
 - (g) except in the case of a person applying to be registered in pursuance of an overseas elector’s declaration, the applicant’s nationality;
 - (h) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact.”;

(c) by inserting after sub-paragraph (9) the following sub-paragraph–

“(10) Sub-paragraphs (6) to (9) do not apply to an application for registration which is accompanied by an application for an anonymous entry.”.

(12) Paragraph 26 is amended as follows–

(a) sub-paragraph 26(1)(b) is amended by inserting prior to “the address of that person”, “in the case of an objection made before that person is entered in the register”;

(b) the following is inserted after sub-paragraph 26(1)(b)–

“(ba) in the case of an objection made after that person is entered in the register, the electoral number and qualifying address of that person contained in the register.”.

(13) Paragraph 27 is amended as follows–

(a) the existing words are numbered sub-paragraph (1);

(b) the following is inserted after sub-paragraph (1)–

“(2) This paragraph does not apply to an application for registration which is accompanied by an application for an anonymous entry.”.

(14) Paragraph 28 is amended as follows–

(a) in paragraph (1) for “and 30” substitute” to 30A”;

(b) for paragraph (2) substitute–

“(2) The registration officer must keep separate lists of–

(a) applications for registration;

- (b) objections made before the person against whom the objection is made is entered in the register;
 - (c) objections made after the person against whom the objection is made is entered in the register.
- (2A) On receipt of an application the registration officer must enter the name of the applicant and the address claimed as his qualifying address in the list he keeps in pursuance of sub-paragraph (2)(a).
- (2B) Sub-paragraph (2A) does not apply to an application accompanied by an application for an anonymous entry.
- (2C) On receipt of an objection made before the person against whom the objection is made is entered in the register, the registration officer must enter—
- (a) in the list he keeps in pursuance of sub-paragraph (2)(b), the name and qualifying address of the objector together with the particulars referred to in sub-paragraph (2A); and
 - (b) in the list he keeps in pursuance of sub-paragraph (2)(a), the particulars of the objection.
- (2D) On receipt of any other objection, the registration officer must enter the name and qualifying address of the objector together with the particulars referred to in sub-paragraph (2A) in the list he keeps in pursuance of paragraph (2)(c).”;
- (c) at the beginning of sub-paragraph (4) insert “Subject to sub-paragraph (4A).”;
 - (d) in sub-paragraph (4) for “five days of” substitute “the period of five days beginning with the day following”;
 - (e) after sub-paragraph (4) insert—

“(4A) In the case of an application for registration accompanied by an application for an anonymous entry, the registration officer may allow the former application without a hearing at any time.”.

(f) In sub-paragraph (5) omit the words from “or the objection” to “has expired”;

(g) After sub-paragraph (5) insert—

“(5A) The registration officer may disallow an objection without a hearing if he is of the opinion that the objection is clearly without merit.

(5B) Where the registration officer disallows an objection under sub-paragraph (5A), he must send to the objector a notice stating that the application has been disallowed on that basis and the grounds for his opinion.”.

(5C) An objector may require the objection to be heard by giving notice to the registration officer within three days from the date of the notice given under sub-paragraph (5B).

(5D) A notification under sub-paragraph (5C) is not to prevent the application to which the objection relates from being allowed.”;

(h) after sub-paragraph (7) insert—

“(8) In this paragraph, “qualifying address “includes the address specified in an overseas elector's declaration.”.

(15) The following paragraphs are inserted after paragraph 30—

“Objections relating to applications that have been allowed, but before alterations to register have taken effect.

30A.(1) This paragraph applies where—

- (a) an application for registration has been allowed (whether without or following a hearing); and
- (b) either—
 - (i) an objection is later made to that application; or
 - (ii) an objector whose objection in respect of that application has been disallowed notifies the registration officer, in accordance with this Schedule that he requires the objection to be heard, and
- (c) no alteration to the register has yet taken effect in respect of that application by virtue of this Schedule.

(2) Where the registration officer—

- (a) is able to determine the objection before the alteration to the register is due to take effect; and
- (b) allows the objection,

the application is to be treated as if it had been disallowed.

(3) Where the registration officer is not able to determine the objection before the alteration to the register is due to take effect, the objection is to be treated as if it was made after the person against whom it is made is entered in the register.

Other determinations by registration officer of entitlement to registration.

30B.(1) A registration officer must discharge the functions specified in sub-paragraph (2) in accordance with paragraphs 30C to 30F.

(2) The functions specified in this sub-paragraph are—

- (a) determining whether a person was entitled by law to be registered;
- (b) determining whether a person has ceased to be resident at the address in respect of which he is entered in the register or otherwise ceased to satisfy the lawful conditions for registration.

Summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration.

- 30C.(1) In any of the circumstances specified in sub-paragraph (2) the registration officer may make the determination specified in paragraph 30B(2)(b) without following the procedure set out in paragraphs 30D to 30F.
- (2) The circumstances specified in this paragraph are where the registration officer—
 - (a) has received an application under paragraph 25, which includes a statement to which sub-paragraph (1)(c) of that paragraph refers;
 - (b) has been given information by the elector that he has ceased to reside at the address in question or has otherwise ceased to satisfy the conditions for registration;
 - (c) has been notified by a relative or executor of the elector or by the registrar of births and deaths that the elector has died.
 - (3) In sub-paragraph (2) “elector” means a person who is duly entered in a register in respect of an address; “relative” means a spouse, parent, grandparent, brother, sister, child or grandchild.

Procedure for reviewing entitlement to registration.

- 30D.(1) A registration officer may, for the purposes of making a determination of the nature specified in paragraph 30B(2), conduct a review in respect of a person entered in the register.
- (2) Where the registration officer is not satisfied that the subject of the review is entitled to be registered, he must—
- (a) send to that person such notice, of a kind specified in sub-paragraph (4), as he considers appropriate; and
 - (b) enter the review in the list kept in pursuance of paragraph 30E.
- (3) Sub-paragraph (2)(b) does not apply where the subject of a review has an anonymous entry.
- (4) A notice is specified for the purposes of this paragraph if it—
- (a) states that the registration officer is of the opinion that the subject of the review is not entitled to be registered and the grounds for his opinion;
 - (b) states the reason for the review and requires the subject of the review to provide such further information as might be specified in the notice or requires him to make a declaration under this Schedule or both; or
 - (c) states the reason for the review and that the registration officer intends to conduct a hearing of it.
- (5) Where—
- (a) the registration officer sends to the subject of the review a notice in the form specified in sub-paragraph (4)(a); and

- (b) that person does not, within 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration.

(6) Sub-paragraph (7) applies where—

- (a) the registration officer sends to the subject of the review a notice in the form specified in sub-paragraph (4)(b), and
- (b) that person does not respond to the registration officer's satisfaction, or at all, within the period of 28 days beginning with the date of that notice.

(7) The registration officer may send a notice to the subject of the review which states that he is not satisfied that that person is entitled to be registered, and the grounds for his opinion.

(8) Where—

- (a) the registration officer sends to the subject of the review a notice in pursuance of sub-paragraph (7); and
- (b) the subject of the review does not, within the period of 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration.

(9) In making a determination under sub-paragraph (5) or (8), the registration officer must take into account any written representations made to him by the subject of the review and

may take into account the written representations of any other person who appears to him to be interested.

- (10) In this paragraph and paragraphs 30E and 30F—“review” must be construed in accordance with sub-paragraph (1); “the subject of the review” means the person in respect of whom the review is conducted.

List of reviews.

30E.(1) The registration officer must keep a list of reviews.

- (2) The list must contain, in relation to each review, the following particulars—
- (a) the full name of the subject of the review;
 - (b) his electoral number;
 - (c) his qualifying address; and
 - (d) the reason for the review.
- (3) The list must be made available for inspection at the registration officer's office.
- (4) This paragraph does not apply to any review where the subject of the review has an anonymous entry.

Hearings of reviews.

30F.(1) Where the registration officer determines that a hearing of the review should be conducted, the notice given under paragraph 30D(4)(c) must also state the time and place at which he proposes to hear the review.

- (2) Where the subject of the review requires the review to be heard, the registration officer must send to that person a notice stating the time and place at which he proposes to hear the review.

- (3) The time fixed for the hearing must not be earlier than the third day after the date of the notice in which that time is stated.
 - (4) The persons entitled to appear and be heard are—
 - (a) the subject of the review;
 - (b) any other person who appears to the registration officer to be interested.
 - (5) Sub-paragraphs (2) to (4) of paragraph 30 apply to the hearing of a review as they apply to the hearing of an application for registration or objection.
 - (6) The registration officer may determine that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration, despite the failure of that person (or any other person entitled to appear and be heard) to attend.
 - (7) In making a determination under sub-paragraph (6), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.”
- (16) For paragraph 31(1) there is inserted the following sub-paragraph—
- “(1) This paragraph makes provision in connection with the right of appeal—
 - (a) from the decision of a registration officer regarding an application for registration;
 - (b) from the decision of a registration officer made in accordance with paragraphs 30C to 30F that a person was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration;

- (c) from a determination of the registration officer made in accordance with paragraph 30H.”;

(17) Omit paragraph 32;

(18) For paragraph 33(2)(c) substitute–

“(c) that person was registered at that address otherwise than in pursuance of–

- (i) an application made by persons resident in a mental hospital who are not detained offenders or on remand, or people remanded in custody; or
- (ii) a declaration of local connection, a service declaration or an overseas elector's declaration.”.

(19) Paragraph 35 is amended as follows–

- (a) sub-paragraph (2) is amended by substituting for “12(2) or 13(2)”, “12 or 13”;
- (b) sub-paragraph (2)(c) is amended by substituting for “paragraph 32(2)(d)”, “paragraph 30C(2)(d).”.

(20) Paragraph 40 is amended by substituting for “name” wherever it occurs, “entry”.

(21) The following is inserted after paragraph 40–

“Anonymous entries.

40A.(1) An anonymous entry of a person consists of that person's electoral number together with the letter “N”.

(2) The entry is to be entered in the register–

- (a) at the end of the part of the register which relates to the qualifying address of the person entitled to the entry; and

- (b) following the names grouped together under that heading.”.

(22) Paragraph 42 is amended as follows–

- (a) after “paragraphs (2) to (4) “insert” and (5)”;
- (b) after paragraph 42(4) insert–

“(5) The document referred to in sub-paragraph (1) shall state the total number of electors who have an anonymous entry.”.

(23) Paragraph 44 is amended by substituting for “12(2) or 13(2)”, “12 or 13”.

(24) Paragraph 45 is amended by inserting after sub-paragraph (2) the following sub-paragraph–

“(2A) The edited register shall omit all anonymous entries in the register, and any information relating to them.”.

(25) Paragraph 49(1)(b) is amended by substituting for “12(2) or 13(2)”, “12 or 13”.

(26) Paragraph 50(1)(b) is amended by substituting for “12(2) or 13(2)”, “12 or 13”.

(27) Paragraph 51(1)(b) is amended by substituting for “12(2) or 13(2)”, “12 or 13”.

(28) The following is inserted after paragraph 59–

Registration officers: duty to take necessary steps.

60.(1) The registration officer must take all steps that are necessary for the purpose of complying with his duty to maintain the register under this Act.

(2) The steps include–

- (a) sending more than once to any address the form to be used for the canvass;
 - (b) making on one or more occasions house to house inquiries;
 - (c) making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register;
 - (d) inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law;
 - (e) providing training to persons under his direction or control in connection with the carrying out of the duty.
- (3) Regulations made by the Government may amend subparagraph (2) by—
- (a) varying any of the indents in that subparagraph;
 - (b) inserting any indent;
 - (c) repealing any indent.

PART 5

ANONYMOUS REGISTRATION

Anonymous registration.

- 61.(1) This paragraph applies if an application for registration in the register is made in accordance with the requirements of this Act and is accompanied by—
- (a) an application under this paragraph made in accordance with this Act (an application for an anonymous entry);

- (b) a declaration made in accordance with such requirements for the purposes of this paragraph; and
 - (c) such evidence in support of the application for an anonymous entry as may be required under this Act.
- (2) If the registration officer determines that the person is entitled to be registered, he must also determine whether the safety test is satisfied.
- (3) If the registration officer determines that the safety test is satisfied the person's entry in the register shall, notwithstanding anything to the contrary provided for in this Act, instead contain letters in the form prescribed by the Government by regulations and his electoral number.
- (4) An entry containing the matters mentioned in subparagraph (3) above is referred to in this Act as an anonymous entry.
- (5) If an anonymous entry is made in respect of a person, the registration officer shall remove any other entry in the register for that person.
- (6) If the registration officer does not determine that the safety test is satisfied, no entry is to be made in respect of him in the register (whether an anonymous entry or otherwise).
- (7) Subparagraph (6) above does not affect—
 - (a) any other entry in the register for the person;
 - (b) the determination of any further application for registration which is made by the person (including an application which is treated as having been made by him by virtue of any provision of this Act).
- (8) Any communication sent by a registration officer or the returning officer for any election to a person who has an anonymous entry (“A”) must be sent in an envelope or other form of covering so as not to disclose to any other person that A has an anonymous entry.

- (9) The safety test is satisfied if the safety of the applicant for an anonymous entry or that of any other person of the same household would be at risk if the register contains the name of the applicant or his qualifying address.
- (10) In this paragraph, “determines” means determines in accordance with this Act.

Removal of anonymous entry.

- 62. If a person has an anonymous entry in a register, his entitlement to remain registered in pursuance of the application for registration mentioned in paragraph 61 terminates—
 - (a) at the end of the period of 12 months beginning with the date when the entry in the register first takes effect; or
 - (b) if the declaration made for the purposes of paragraph 61 is cancelled at any time before the expiry of that 12 month period, at the time when the declaration is cancelled.

Application of paragraph 62.

- 63. Paragraph 62 above does not affect the application of any other statutory provision which has the effect that the person's entitlement to registration terminates before the expiry of the 12 month period mentioned in paragraph 62 or before the cancellation of the declaration made for the purposes of paragraph 61.

Termination of entitlement by virtue of paragraph 62.

- 64. If a person's entitlement to remain registered terminates by virtue of paragraph 62 above, the registration officer concerned shall remove his entry from the register, unless he is entitled to remain registered with an anonymous entry in pursuance of a further application for registration accompanied by a further application under paragraph 61.

Anonymous registration: applications and declarations.

- 65.(1) An application for an anonymous entry must state–
- (a) the applicant's full name;
 - (b) his address;
 - (c) the reason for the application; and
 - (d) the date of the application.
- (2) The application must be in writing and signed by the applicant.
- (3) The application must be accompanied by evidence of the nature set out in paragraph 67 or 68.
- (4) Where the evidence mentioned in subparagraph (3) relates not to the applicant, but to another person of the same household as the applicant, the application must be accompanied by evidence that that person is of that household.
- (5) The application must be accompanied by a declaration made by the applicant that–
- (a) the particulars given in accordance with subparagraph (1) are true;
 - (b) so far as he is aware, the evidence provided in pursuance of subparagraph (3) is genuine; and
 - (c) where subparagraph (4) applies–
 - (i) the person to whom the evidence relates is a person of the same household of the applicant; and
 - (ii) so far as he is aware, the evidence provided in pursuance of subparagraph (4) is genuine.

- (6) The application may give an address to which the registration officer must send correspondence, where that is different to the address given in accordance with subparagraph (1)(b).

Anonymous registration: determination of applications by registration officer.

66.(1) Subparagraph (2) applies where—

- (a) the registration officer determines that the applicant for an anonymous entry is entitled to be registered; and
 - (b) the application for an anonymous entry is made in accordance with paragraph 65.
- (2) The registration officer must determine that the safety test is satisfied (and accordingly allow the application for an anonymous entry) where he is satisfied—
- (a) that the evidence provided in support of the application in pursuance of paragraph 65(3) constitutes evidence of the nature prescribed in paragraph 67 or 68; and
 - (b) in the case of an application where paragraph 65(4) applies, that the evidence provided in pursuance of that subparagraph establishes that the person in question is a person of the same household as the applicant.

Anonymous registration: evidence consisting of relevant court orders or injunctions.

- 67.(1) Evidence which meets the following conditions applies for the purposes of paragraphs 65(3) and 66(2)(a).
- (2) The first condition is that the evidence is, or is a copy of, a relevant order or injunction.

- (3) A relevant order or injunction is an order or injunction for the purpose of restraining a person from pursuing any conduct which amounts to harassment or molestation.
- (4) The second condition is that the relevant order or injunction is made for the protection, or otherwise for the benefit, of—
 - (a) the applicant for an anonymous entry; or
 - (b) another person of the same household as him.
- (5) The third condition is that the relevant order or injunction is in force on the day on which the application for an anonymous entry is made.

Anonymous registration: evidence by attestation.

- 68.(1) An attestation within the meaning of this paragraph applies in the purposes of paragraphs 65(3) and 66(2)(a).
- (2) The attestation must—
 - (a) certify that the safety of the applicant, or of another named person of the same household as him, would be at risk if the register contained the name of the applicant or his qualifying address;
 - (b) state the date on which it is made; and
 - (c) be in writing and signed by a qualifying officer.
- (3) The attestation must state the period for which it has effect, being a period of between one and five years beginning with the date on which the attestation is made.
- (4) Qualifying officer means—
 - (a) the Commissioner of Police;
 - (b) the Chief Executive of the Social Services Agency.

Record of anonymous entries.

- 69.(1) The registration officer must keep a record of anonymous entries.
- (2) The registration officer must enter in the record each person who is entered in the register with an anonymous entry.
- (3) The entry in the record must contain the following particulars—
- (a) the full name of the person to whom the entry relates;
 - (b) his electoral number;
 - (c) his qualifying address;
 - (d) where he has given in his application for an anonymous entry an address other than his qualifying address to which correspondence should be sent, that address;
 - (e) the date on which the anonymous entry in the register took effect.
- (4) Where the application of a person with an anonymous entry to vote by post is granted, the registration officer must also enter in the record the address to which the postal ballot paper should be sent as given in the application.

Duties of registration officer and his staff in relation to record of anonymous entries.

- 70.(1) This paragraph applies to—
- (a) the registration officer; and
 - (b) any person appointed to assist that officer or who in the course of his employment is assigned to assist that officer in his registration duties.
- (2) No person to whom this paragraph applies may—

- (a) supply to any person a copy of the record;
- (b) disclose information contained in it; or
- (c) make use of such information,

otherwise than in accordance with an enactment (including this Act) or the order of any court or tribunal made at any hearing or during the course of any proceedings.

- (3) Nothing in subparagraph (2) applies to the supply or disclosure by a person to whom this paragraph applies to another such person in connection with his registration duties or for the purposes of an election.
- (4) The persons to whom this paragraph applies must take proper precautions for the safe custody of the record.

Supply of record of anonymous entries to returning and counting officers.

71.(1) Subparagraph (2) applies whenever the registration officer supplies a copy of the full register, or any part of it, to a returning officer or counting officer.

- (2) The registration officer must supply–
 - (a) together with the copy of the register, a copy of the record of anonymous entries;
 - (b) together with any part of the register, a copy of the record so far as it relates to that part.
- (3) The registration officer may supply a copy of the record to a returning officer or counting officer at any other time.
- (4) No person to whom a copy of the record has been supplied under this paragraph may–
 - (a) supply a copy of the record;

- (b) disclose any information contained in it; or
- (c) make use of any such information,

other than for the purposes of an election.

- (5) Each person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

Supply of record of anonymous entries to the security services.

72.(1) This paragraph applies where the registration officer supplies a copy of the full register to the Royal Gibraltar Police or to the Ministry of Defence.

- (2) The registration officer must supply a copy of the record of anonymous entries together with the register.
- (3) No person serving as an officer or employee in the Royal Gibraltar Police or Ministry of Defence may—
 - (a) supply to any person a copy of the record;
 - (b) disclose any information contained in it; or
 - (c) make use of any such information,

otherwise than for purposes connected with the carrying out of any of their statutory functions.

- (4) Each person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

Supply of the record of anonymous entries to police forces and other organisations.

73.(1) The registration officer may supply a copy of the record of anonymous entries with the prior consent of the Chief Secretary, to any overseas law enforcement agency upon written request by such agency.

- (2) Where information pursuant to subparagraph (1) is supplied, it is to be subject to the condition that the law enforcement agency concerned may not—
- (a) supply to any person a copy of the record;
 - (b) disclose any information contained in it; or
 - (c) make use of any such information,
- otherwise than for the purposes specified in subparagraph (3).
- (3) The purposes are—
- (a) the prevention and detection of crime and the enforcement of the criminal law;
 - (b) the vetting of a relevant person for the purpose of safeguarding national security.
- (4) Where information pursuant to subparagraph (1) is supplied, it is to be subject to the condition that the person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

Certificate of anonymous registration.

- 74.(1) Where a registration officer enters a person in the record of anonymous entries, he must issue to that person a certificate of anonymous registration.
- (2) A certificate of anonymous registration must be in writing and signed by the registration officer.
- (3) A certificate of anonymous registration must state—
- (a) the name, electoral number and qualifying address of the person who has the anonymous entry;
 - (b) the date on which the anonymous entry took effect;

- (c) that unless a fresh application for an anonymous entry is made, the entitlement to remain registered anonymously will terminate no later than at the end of the period of 12 months beginning with the date stated in accordance with sub-paragraph (b).

Reminders to people with anonymous registration.

- 75.(1) This paragraph applies to each person who has an anonymous entry.
- (2) Subject to sub-paragraph (3), the registration officer must, during the relevant period, send to a person to whom this paragraph applies a reminder that—
 - (a) his entitlement to registration will terminate at the end of the period of 12 months beginning with the date on which his entry in the register first took effect;
 - (b) if he wishes to remain entered in the register after that period, he must make a fresh application for registration;
 - (c) if he wishes to remain entered in the register anonymously, the application for registration must be accompanied by a fresh application for an anonymous entry.
- (3) Sub-paragraph (2) does not apply where the registration officer has already received from that person a fresh application for registration accompanied by a fresh application for an anonymous entry.
- (4) In this paragraph, “the relevant period” means the period beginning nine months after the date when the existing entry in a register of the person in question first takes effect, and ending ten months after that date.

Provision of false information.

76.(1) A person who, for any purpose connected with a registration officer's duties under this Act provides to a registration officer any false information is guilty of an offence.

(2) In relation to a signature "false information" for the purposes of sub-paragraph (1) means a signature which—

(a) is not the usual signature of; or

(b) was written by a person other than,

the person whose signature it purports to be.

(3) A person does not commit an offence under sub-paragraph (1) if he does not know, and had no reason to suspect, that the information was false.

(4) Where sufficient evidence is adduced to raise an issue with respect to the defence under sub-paragraph (3), the court shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(5) A person guilty of an offence under this paragraph shall be liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks;
or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.”.

(29) For Part II of the form in the Appendix to the Schedule there is substituted the following Part—

“PART II

Form of words about the two versions of the register

The two versions of the register.

The electoral registration officer makes and keeps two versions of the electoral register – the full register and the edited register.

Please say in your application if you wish your name and address to be excluded from the edited register.

The full register lists the name and address of everyone who is registered to vote. The council holds a copy. Anyone can look at it, but it is a criminal offence to supply or use copies for purposes other than those set down in law.

The main use of the full register is to show who can vote in elections and referendums. Credit reference agencies can use it, but only to check your name and address if you are applying for credit and for other purposes specified in law. It can also be used for law enforcement.

The edited register is available for general sale and can be used for any purpose. The edited register can be bought by any person, company or organisation and can be used for commercial activities such as marketing.”

EXPLANATORY MEMORANDUM

This Bill amends Schedule 1 to the European Parliamentary Elections Act 2004, inter alia by the addition of a new Part 5

The purpose of the amendments are to make provision for the control of donations to candidates standing for election in Gibraltar to the European Parliament and for late and anonymous registrations.

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