

C05/2018



**Command Paper
on a draft bill to amend the
provisions of the
Parliament Act to provide
for an open register of electors**

**Presented to Parliament by
the Deputy Chief Minister**

**by Command of Her Majesty
5th December 2018**

1. Explanatory Memorandum

2. Draft Bill

Comments on this Command Paper should be sent by email to-

command.papers@gibraltar.gov.gi , or delivered to-

Command Papers Consultation c/o Karl Tonna, Ministry of Health Care and Justice, Zone 1, Level 7, St Bernard's Hospital, Harbour Views Road, Gibraltar, no later than the 14th December 2018.

Any comments received later than the 14th December 2018 may not be taken into account for the purposes of the relevant consultation.

Explanatory Memorandum

The proposed Bill, together with subsidiary legislation, provides for:

- an open register;
- makes provisions for proxy voting;
- makes provisions for the official mark to be printed on the ballot paper removing the need for the ballot paper to be perforated;
- the provisions for absentee voting remains in place.

Canvass

Under the proposed legislation an initial canvass will be carried out in 2019. The initial canvass will be sent to all households in Gibraltar requesting that persons living at that address and meeting the qualification criteria register themselves. The proposed eligibility criteria for the canvass is:

1. Is 18 years old or over or will be 18 years old on or prior to the 31st December 2019;
2. is either:
 - a. a British citizen; or
 - b. a British Overseas Territories citizen; or
 - c. a British Overseas citizen; or
 - d. a British National (Overseas); or
 - e. a British protected person; or
 - f. a British subject under the British Nationality Act 1981; and
3. has lived in Gibraltar in for a continuous period of 6 months ending on the date of receipt by the electoral registration officer of the completed form; and
4. intends to live in Gibraltar either permanently or indefinitely

Publication of Register

The register will be in published in June 2019 and subsequently every June thereafter. A Notice of Alteration will be published in January 2020 and every January thereafter. This Notice will set out any changes, deletions etc. in the preceding 6 months. Although there is no requirement for any further canvass, there is provision to carry out a further canvass should there be a need for this in the future.

Once the register is published in June 2019 the following will apply:

- (i) A person must apply on individual basis and has to be 18 years old;
- (ii) There is provision to change the particulars of a person in the register;

- (iii) There is provision for person to apply if not 18 years of age but will be 18 on date of election; and
- (iv) A person will be able to register to vote up to 6 days before an election.

The register will remain open until 5 days before an election when it will be closed and published.

Eligibility Criteria

The eligibility criteria for individual registration would be the same as for the canvass except that the applicant would have to be 18 when he applies. There is provision that a person who has not attained the age of eighteen years and/or not complied with the qualifying period requirements shall, if he will have attained such age and/or qualifying period requirements on or before the date fixed for an election, be entitled to be included in the register and to vote at any election which takes place after he has attained the age of eighteen and after he has complied with the qualifying period requirements

New Proxy Vote

- To register as proxy you must be:
 - ✓ Must be 18 and over; and
 - ✓ be on the register.
- A proxy voter can only vote for 2 voters as well as immediate family.

Draft Bill

BILL

FOR

AN ACT TO AMEND THE PROVISIONS OF THE PARLIAMENT ACT 1950 TO PROVIDE FOR AN OPEN REGISTER OF ELECTORS.

ENACTED BY THE LEGISLATURE OF GIBRALTAR.

TITLE

1. This Act may be cited as the Parliament (Amendment) Act 2018.

COMMENCEMENT

2. This Act comes into operation on [the day of publication/the day appointed by the Minister by notice in the Gazette].

3. AMENDMENT OF THE ACT

- 3(1). The Parliament Act 1950 is amended in accordance with the provisions of this Act.

- (2) In the Arrangement of Sections list the entry for section 6 is deleted in its entirety and substituted with the following new entry:-

“6. Maintenance of Register”

- (3) The second proviso to section 3(1) of the Act is deleted in its entirety and substituted with the following new proviso:-

“Provided further that a person who has not attained the age of eighteen years and/or not complied with the qualifying period requirements shall, if he will have attained such age and/or qualifying period requirements on or before the date fixed for an election, be entitled to be included in the register and to vote at any election which takes place after he has attained the age of eighteen and after he has complied with the qualifying period requirements.”

- (4) The following new sub-section shall be inserted immediately after sub-section 3(1B):-

“(1C) For the purposes of sub-section (1)(i) the registration officer shall have the power to require the applicant applying for registration in the register for such documentation and proof as the registration officer shall deem fit showing that the applicant has lived in Gibraltar during the whole of the qualifying period”.

- (5) Section 3(2) is deleted in its entirety and substituted with the following new sub-section:-

“(2) An applicant wishing to be included in the register of electors must have been continuously living in Gibraltar for a period of not less than six months prior to the date on which his application for registration in the register of electors is received by the registration officer (in this Act referred to as ‘the qualifying period’)”.

- (6) Sections 3(3) and 3(4) are deleted in their entirety.

(7) Section 5(1) is deleted in its entirety and substituted with the following new sub-section:-

“5(1) It shall be the duty of the registration officer to prepare and publish a register of electors in the year 2019 and such a register shall:-

- (a) be prepared and maintained in accordance with the provisions of this Act and with any rules made under the provisions of this Act;
- (b) be published not later than the 1st day of June 2019; and
- (c) come into force immediately upon publication.”

(8) The following new sub-section shall be inserted immediately after section 5(1):-

“5(1A) The register of electors published pursuant to the provisions of section 5(1)(b) shall be amended after the date of its publication as and when:-

- (a) the registration officer receives an application for registration in the register from an applicant who the registration officer deems is entitled to be registered in the register of electors pursuant to the provisions of section 3; or
- (b) the registration officer receives and accepts from a person registered in the register of electors a duly completed form notifying the registration officer of their change of particulars.

Provided always that any application for registration or amendment received 5 days or less before an election shall be disregarded by the registration officer until after the election has been held.”

(9) Section 5(2) is amended by:-

- (a) the insertion of the words “published pursuant to the provisions of section 5(1)(b) and thereafter whenever deemed necessary by the registration officer” immediately after the words “with a view to the preparation of the register”;
- (b) the deletion of the words “by virtue of a non-residence qualification” in paragraph (b); and
- (c) the deletion of the words “and all objections to any person’s registration duly made by another person appearing from the electors list to be himself entitled to be registered” in paragraph (d).

(10) Section 5 is amended by the insertion of the following new sub-sections immediately after section 5(2):-

“(3). The registration officer must on or before the 1st day of June 2020 and on or before the 1st day of June each year thereafter prepare and publish the register of electors by making copies available at any of the place or places which he may deem fit.

- (4) The register published in accordance with the provisions of section 5(3) shall include all additions to and changes of particulars made to the register of electors during the period from and including the date on which the register was previously published to the date of the next publication of the register.
- (5) The register published pursuant to the provisions of sub-sections 5(1) and 5(3) shall not contain the electoral registration number of each elector on the register but save as to that particular all other details on the register shall be published.
- (6) The register published pursuant to the provisions of section 5(1) as amended from time to time in accordance with the provisions of section 5 shall constitute and continue to constitute the register of electors.”

(11) Section 6 of the Act inclusive of the heading is deleted in its entirety and substituted with the following new heading and section:-

“Maintenance of Register.

6(1). The registration officer must on or before the 15th day of January 2020 and on or before the 15th day of January of each year thereafter publish in such a manner as he may deem fit a notice informing the members of the public that he has published a list of amendments to the register of electors.

(2) The list of amendments must set out the additions to and changes of particulars made to the register of electors during the six month period since the last publication of the register in accordance with the provisions of section 5(3)”.

(12) Section 19 is amended by the deletion of the words “for the time being in force”.

(13) Section 25 of the Act is amended by:-

(a) deleting the word “and” that appears after the word “hospital” in sub-section (1)(eb); and

(b) inserting immediately after sub-section (1)(eb) the following new paragraph:-

“(ec) enabling persons wishing to vote by proxy to do so and prescribing the procedure and forms to enable them to appoint a proxy; and”.

(14) Section 48(3) and (4) are deleted in their entirety and substituted with the following new sub-sections:-

“(3) No person whatsoever shall:-

(a) interfere or attempt to interfere with a voter when recording his vote or with a proxy voter when recording the absent voters’ vote;

(b) obtain or attempt to obtain in a polling station information as to the candidates for whom a voter or proxy voter in that station is about to vote or has voted;

- (c) communicate at any time to any person any information obtained in a polling station as to the candidates for whom a voter or proxy voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter or proxy voter at that station; or
 - (d) directly or indirectly induce a voter or proxy voter to display their ballot paper after they have marked it so as to make known to any person the name or names of the candidate or candidates for whom the voter has voted.
- (4). No person having undertaken to assist a blind voter, or a person appointed as the proxy of a voter, or a person making a postal vote, under rules made pursuant to section 25, shall communicate at any time to any person any information as to the candidate or candidates for whom that voter or proxy as the case may be intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter or proxy”.

EXPLANATORY MEMORANDUM

The purpose of this Bill is to amend the Parliament Act 1950 so as to provide for the continuous consequential amendment of the register of electors by the inclusion of the details of persons added onto the register or the amendment of the particulars of persons included in the register and consequential amendments in connection therewith.