



Commission on Democratic and Political Reform

A Consultation Paper on Democratic and Parliamentary Reform



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About the consultation:

- Duration: This consultation will close on 28th September 2012.
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- How to respond: Please send your response to be received by no later than 28th September 2012 to:

Dennis Figueras RD*
Secretary
Commission on Democratic and Political Reform
PO Box 1236
Gibraltar.

Or by email to: comdpr@gibtelecom.net
- Report to Parliament: A report to Parliament following this consultation is due to be submitted by 1st June 2013.
- This consultation paper is also available on the Gibraltar Government website: www.gibraltar.gov.gi

Part I Introduction.

Why are we carrying out this consultation?

Following the general election held on 8th December 2011, the Government of Gibraltar wants to establish what Parliament presently is and what it should be in a 21st century democracy, governed by the rule of law and by a commitment to openness and to devolvement of government to the people.

Accordingly, this Commission was appointed on 2nd March 2012 with terms of reference requiring the Commission to "report on all aspects of the parliamentary and electoral system in Gibraltar and to make recommendations therein to Parliament".

The Commission has been very conscious of its wide remit. It does not want to constrain or restrict the public in its submissions. The public should consider itself free to make submissions on any subject whether or not it is a matter that the Commission has indicated in this consultation paper that it has already turned its mind to. The Commission has in its deliberations to date been very alive to the desire of both Parliament and people to increase the transparency and openness of the parliamentary process in Gibraltar in order to enhance the democratic offering. The Commission has also borne in mind the need for Parliament to be accountable in a system that presently has no separation of powers between the legislature and the executive. The Commission has also been alive to the need for Gibraltar to have effective government.

The Commission was instructed to issue this consultation paper within three months of its appointment and to submit its report to Parliament within twelve months after the commencement of the consultation process. The Government is committed to implement those recommendations approved by Parliament, within six months.

The Commission is composed of-

The Hon A J Canepa OBE... in the Chair;
Mr C Gomez;
The Hon G Mascarenhas;
Mr R Vasquez QC;
Mr F Vinet; and

Mr D Figueras RD*as Secretary.

This consultation process will close on 28th September 2012 by which time individuals and organisations wishing to send responses, should do so. Please see instructions in Part VI.

Part II Background.

The purpose of this consultation is to encourage and stimulate debate on the current parliamentary and electoral procedures and practices. Accordingly, we invite views and evidence from individuals and organisations on the merits of those arguments, on how they could be affected by any of those changes and to raise any other pertinent matters they may wish.

(a) Parliamentary procedures and practices.

Section 39 of the Gibraltar Constitution 2006 empowers Parliament to make, amend and revoke rules of procedure for the regulation and orderly conduct of its proceedings and the despatch of business. Accordingly, in exercise of these powers, Parliament has made its standing rules and orders (commonly known as the standing orders).

Part V of the Parliament Act provides for the regulation of the powers and privileges of the Parliament.

It is logical that Gibraltar, as a British Overseas Territory, should and does base its parliamentary standing orders on the standing orders, procedure and practices in the House of Commons. Members of Parliament, particularly the Speaker, can seek guidance on these procedures and practices, some enshrined in ancient custom, by reference to Erskine May's *Parliamentary Practice*. This work of reference, because of its wealth of advice and guidance, is relied upon by all Commonwealth Parliaments to guide them on the many aspects of their parliamentary lives.

This consultation paper sets out potential changes to the parliamentary procedures and practices of the Gibraltar Parliament.

(b) Electoral procedures.

The registration of electors and the conduct of elections are regulated by Parts II, III and IV of the Parliament Act with subsidiary legislation made under this Act providing more detailed procedures for these two activities. In the case of electoral registration, this subsidiary legislation is the Electors (Registration) Rules and for the conduct of elections, the subsidiary legislation is the Election Rules and the Postal Voting (Procedure) Rules.

Any proposals that would change the nature and operation of the system of electoral registration and the procedures for the conduct of elections will have a more profound effect on the public in general than changes to parliamentary procedures and practices.

(c) Views and evidence.

This consultation paper sets out what are the Commission's current proposals and views on a wide variety of parliamentary and electoral procedures and practices on which it is seeking views from the public in general. Where the Commission has been unable currently to reach a consensus view on any matter, both the majority and minority views are put forward. Taking into account views expressed by responders, the Commission will prepare and submit its report to Parliament containing recommendations that it considers necessary or desirable. Parliament will then debate the report and take its own view on which of the recommendations will be implemented.

Part III

Glossary of terms used in this consultation paper.

In this consultation paper-

“backbencher” means a Member of Parliament who is not a Minister nor a spokesman for his or her party. There are no backbenchers in the current Parliament;

“a Bill” means a proposal for a new Act, or an amendment to an existing Act and its passage through Parliament is carried out in four stages, namely first reading; second reading; committee stage and third Reading. The body of a Bill consists of clauses that become sections of the Act once the Bill is approved by Parliament, is enacted and published;

“Hansard” is the official report of the proceedings of Parliament that records everything that is said and done in Parliament. The name Hansard has been officially adopted in the Houses of Parliament in the United Kingdom and in Commonwealth Parliaments after Luke Hansard (1752 - 1828) who was the printer of the House of Commons Journal from 1774;

“meeting”, in its simplest form, consists of one or more sittings, that need not be on consecutive days, as are necessary to complete all the business set down in the order paper. The meeting commences, on the day members are summoned to Parliament by written notice, with the first item on the order paper and concludes with an adjournment sine die. A “sitting” is a day’s work of Parliament at the end of which Parliament adjourns to another day to continue with the unfinished business standing in the order paper. If all the business in the order paper is concluded at the end of the sitting, the meeting has ended and Parliament usually adjourns sine die and continues so adjourned until the leader of the Parliament gives notice of the date for the commencement of another meeting;

“motion” is a formal proposal that calls for Parliament to take a specified action and the proposal is normally put forward for debate and a decision on it by the Speaker putting the question for a vote by Parliament;

“move a motion” is the act of introducing and subsequently voting on a motion and is a basic parliamentary procedure. A motion must first be moved by a Member of Parliament and seconded by another member. The Speaker then proposes the question which is debated by members who may propose amendments. There are rules on the number of times a member can speak. Finally, the Speaker puts the question on the motion, with any amendments agreed to, and Parliament makes its decision;

“order paper” is a paper, also referred to as the agenda, that outlines the business that Parliament has before it and the order in which that business will be transacted during a meeting;

“questions” see under “tabling of questions”. Ministers may also be asked on-the-spot questions to seek clarification on matters covered in statements made by a Minister in Parliament;

“question time” is a stage in the order paper allotted (whether or not restricted by time) for the asking of questions and supplementary questions and the giving of answers thereto;

“stages of a Bill” are its introduction by a first reading when the Bill is read by its title only. Second Reading is the stage when Parliament carries out a general debate on the principles and merits of the Bill. Committee stage takes place within a committee (in Gibraltar, usually of the whole Parliament) that considers the Bill clause by clause with a vote being taken on each clause after any amendments agreed to. At the third reading, the Bill is read by its title only and if there are no amendments or objections, the Bill is passed;

“select committee” is a committee set up by Parliament to look at a particular subject and, for example, examine the expenditure, administration and policy of government departments. Select committees have the power to take evidence and issue reports to Parliament;

“session” is the word used to describe the life (a maximum of 4 years) of Parliament. A session begins with the Ceremonial Opening of Parliament, shortly after a general election and finishes when Parliament is formally dissolved;

“sine die” means “without assigning a day for a further meeting”. Parliament adjourns sine die when it adjourns without appointing a day on which to assemble again;

“sitting” see under meeting;

“standing rules and orders” are the formal rules that govern the proceedings of Parliament and set out the arrangement of the business to be conducted as well as the rules of debate. The standing rules and orders are based on the standing orders, procedure and practices in the House of Commons and guidance on those procedures and practices is obtained by reference to Erskine May’s *Parliamentary Practice*;

“supplementary questions” are additional questions that may also be asked in order to elicit further information following an initial answer by a Minister;

“surgeries” are held by Members of Parliament to give the people in their constituency an opportunity to meet them. Rather like a doctor’s surgery, constituents can turn up at such surgeries to discuss matters that concern them and a Member of Parliament will often take up an issue on a constituent’s behalf. There is no formal availability of such surgeries in Gibraltar because there are no constituencies.

“tabling of papers and reports” is the act of laying on the table a variety of papers and reports from government departments, agencies and authorities and from parliamentary committees and is the way of formally presenting them to Parliament;

“tabling of questions” is the act of the giving of notice to the Clerk of the Parliament by a Member of Parliament (i.e. an Opposition member or a backbencher) that the member wishes to ask a question of a Minister on a given day for oral or written answer relating to the public affairs for which the Minister is responsible.

Part IV Parliamentary Reform.

1. Chief Minister's term of office.

We have noted that in recent times there have been views expressed that the Chief Minister's term of office should be limited to a maximum number of parliamentary terms.

We have considered the effects on Gibraltar's political life of the introduction or otherwise of such a limitation on an Elected Member's term of office as Chief Minister.

Our current proposal is that such a restriction should not be placed on a Chief Minister's term of office. The democratic processes available to the electorate to elect a new Government and so a new Chief Minister or for a Chief Minister to be forced out of office are considered to be adequate enough for the purpose.

2. Chief Minister's attendance at Parliament.

We have considered the effects of the Chief Minister not necessarily attending every sitting of Parliament, particularly because since January 2012 there have been monthly meetings of Parliament. The Chief Minister should instead be required to attend at pre-determined sittings of Parliament, with due notice being given.

Invariably past and present Chief Ministers have attended all sittings of the then House of Assembly and now the Parliament.

Our current proposal is that the present system, whereby the Chief Minister enjoys complete flexibility on what sittings of Parliament he attends, should not be curtailed by imposing any sort of control. The Chief Minister should however be required to be present to answer oral questions at a number of pre-determined sittings in a year.

3. Frequency of meetings and recesses.

Standing order 2 requires Members of Parliament to be ordinarily summoned to meetings of Parliament by written notice sent at least seven working days before the meeting.

Recently it has been decided to meet for questions and answers on the third Thursday of the month and for Bills on the last Friday of the month. This is to be welcomed.

Nevertheless, we have considered the introduction of a system of fixed days for sittings of Parliament. We take the view that four shorter sittings a month, perhaps lasting half a day, would be preferable to the present tendency for "marathon" sittings. Shorter sittings would not be so tiresome for Members of Parliament, encourage more members of the public to follow proceedings and would also facilitate the televising of Parliament.

Recently it has also been decided that Parliament should have an Easter recess in April and a summer recess lasting the whole of August.

Our current proposal is that Parliament, unless it resolves otherwise at the end of a sitting, should sit four times a month and that Parliament should continue to have its Christmas and Easter recesses but the summer recess should last from the end of July to the third week in September.

4. Questions and answers.

Part V of Standing Orders deals with the notice required to be given to table parliamentary questions, the manner of asking them, the matters to which questions must relate and the rules governing the right to ask questions. This Part also deals with the manner of answering questions.

We have considered a number of options to overhaul the system for parliamentary questions and for answers thereto, particularly because there is no limit on the number of questions that can be put down for oral answer during a meeting. There is also no limit on the amount of parliamentary time that the members can spend dealing with all the questions in the order paper.

The current procedure for questions put down for written answers does not warrant changing.

Our current proposal is that the number of questions for oral answer that the same member can put down in the order paper for the same meeting should not be restricted. Question time should however be guillotined i.e. a limit on the time that can be spent on questions and answers. The Chief Minister should answer questions (including supplementary questions) for not more than, say, three hours a month and each Minister for not more than, say, two hours a month.

If a tabled question for oral answer is not reached during the time allowed in the preceding paragraph, the Minister to whom it is addressed should provide the answer in writing unless the questioner withdraws the question or tables it for answer at a sitting of a subsequent meeting.

Our current proposal is that the period of notice that a Member of Parliament is required to give for tabling a question at a meeting should be increased from not less than five working days to not less than seven working days before the day on which the answer is required.

In recent years there appears to have been a marked relaxation of the rules governing the asking of questions and supplementary questions, particularly the prohibition in standing order 16(6) that a question must not be made a pretext for a debate.

Our current proposal is to impress upon Parliament that there is a need for strict adherence to standing order 16(6), viz that a question must not be made a pretext for a debate.

5. Adjournments.

Standing order 24A provides a procedure for any Member of Parliament, with the approval of the Speaker, to move a motion at certain stages in a sitting for the purpose of discussing a definite matter of urgent public importance.

Standing order 24B provides a procedure for a Minister, at certain stages in a sitting, to stand and raise any matter which the Minister desires to debate without formulating a motion in express terms.

In both cases, the Speaker must be satisfied of the purpose for which the adjournment is being moved.

Our current proposal is that such motions should, after giving due notice to the Speaker, also be permitted to be moved at the last sitting in any month if Parliament is not to be adjourned sine die at the end of that sitting.

6. Statements by the Government.

For many years the Government of the day has made statements in Parliament on a few rare occasions. Instead Ministers have given preference to making such statements to the media thereby negating the Opposition the chance of seeking clarification on the contents of the statement. Furthermore, statements in Parliament would provide an official record in Hansard of the Government of the day's position on any matter of policy or public business.

Our current proposal is to impress upon the Government the importance of Ministers making statements in Parliament on matters of policy or public importance.

7. Committal of a Bill to select committee.

Under standing order 32, when a Bill has been read a second time i.e. there has already been a discussion on the principles and merits of the Bill, it stands committed to a committee of the whole Parliament but the Bill can also, on a motion, be committed to a select committee (known as a Public Bills Committee).

A Public Bills Committee needs to report back to Parliament that the Bill has gone through committee stage, with or without amendment, and is ready to go to the third reading stage. The Minister in charge of the Bill would normally chair meetings and the members of the committee would be drawn from the Government and Opposition benches.

However, a Bill is rarely committed to a select committee. We consider that there is a need for a greater use of this kind of committees, particularly where a Bill, because of its size and complexity, would require a more in-depth legislative scrutiny.

We consider that if Government backbenchers were to be introduced into the Parliament, they could in addition to the tasks mentioned under section 15 below, form part of Public Bills Committees, if it is not desirable that other Ministers should do so.

Standing order 41 provides for select committees to be nominated by Parliament.

Our current proposal is that there should be a more frequent referral of a Bill, that because of its size and complexity would need to undergo an in-depth legislative scrutiny, to a select committee appointed for the purpose i.e. a Public Bills Committee.

8. Standing committees.

We have considered whether there is a need for an increase in the number of parliamentary standing committees and whether one of these should be a general purpose committee.

The Standing Orders only make provision for one standing committee i.e. a Standing Rules Committee consisting of three members nominated by the Chief Minister and two nominated by the Leader of the Opposition.

We have considered the re-introduction of a public accounts committee as it existed from 1980 to 1984. That committee was composed of two Opposition Members, one of whom was the chairman and two Government Members. It is our view that the committee proved ineffective, impractical and unworkable particularly because Ministers were expected to scrutinise and question senior executives of their ministerial colleagues' departments. If a public accounts committee were to be set up, it would be essential for Government backbenchers to take the place of Ministers. See further information under section 15 below.

Our current proposal is that neither a general purpose standing committee nor a public accounts committee should be established.

9. Deputy Speaker.

We feel that the time has come for a Deputy Speaker to be appointed particularly as Parliament is now meeting more often and because we are proposing an even greater frequency of sittings (see section 3).

Our current proposal is that a Deputy Speaker should be appointed.

10. Remuneration of Members of Parliament.

The present structure of allowances payable to the Chief Minister, Ministers, the Leader of the Opposition, the Speaker and other Members of Parliament was adopted in the late 1990's shortly after the Gibraltar Social Democrats first took office. There is provision for annual increases in line with the increases in salary paid to public officers.

Our current proposal is that there should be a review of this structure to be conducted by a body made up of persons from an appropriate independent authority from the United Kingdom and suitably qualified persons from Gibraltar.

11. Members' interests and parliamentary code.

A Register of Members' Interests was first drawn up in June 1979 and it is clear that the original rules on the declaration of members' interests have not been reviewed since then.

Our current proposal is that such a review should be carried out by a select committee of Parliament appointed for that purpose and that, additionally, consideration should also be given as to whether a parliamentary code applicable to all Members of Parliament should be introduced.

12. Ministerial code.

A ministerial code was first adopted after the enactment of the 1969 Constitution. This code should be kept under constant review.

Our current proposal is that an up-to-date ministerial code along the lines of that applicable to Ministers in the United Kingdom should be introduced.

13. Televising of proceedings.

We have considered whether sittings of Parliament, or any part of them, should be televised.

We are in favour of the sittings of Parliament being televised and our current proposal is that at least the Chief Minister's question time should be televised.

14. The news media.

In any democracy the news media plays a vital part. In Gibraltar, Government direct and/or indirect funding plays an important part in the financing of the news media.

It is essential that if the democratic process is to be seen to be fair, any resulting perception of bias should be mitigated by objective means.

We believe that it is desirable that an independent authority should be created to oversee the distribution of Government funds to the media.

15. Constituencies and the number of Members of Parliament.

In the House of Commons, the role of all Members of Parliament is, inter alia, to represent their constituency, to look after the interests of their constituents and to take up their personal problems. This function is discharged through the use of surgeries where Members of Parliament interview those constituents who ask to see them. In addition, Members of Parliament receive a great deal of correspondence from their constituents.

In Gibraltar, the public cannot take advantage of similar arrangements to the same extent. They have recourse more directly to Ministers. We have considered whether backbenchers on the Government side (if they were to be introduced into Parliament) could be tasked with addressing to Ministers the problems the public raise with them. The public, needless to say also have recourse to Opposition Members.

We have considered whether there would be merit in formally partitioning Gibraltar into constituency areas and in setting a limit on the number of candidates standing for election in any constituency. We have also considered whether as an alternative, all Members of

Parliament should be associated with separate “precincts” with a view to permitting the electorate to have a more personal contact with parliamentarians. The electorate would then be able to raise matters of concern affecting their area or their daily lives with “their own MP” at appropriately set-up surgeries within those “precincts”.

If at the end of the whole process, Parliament were to decide that there should be backbenchers on the Government side, then we consider that two would be an equitable minimum number necessary to take up “constituency work” and work in select committees. This addition would then provide 12 Government Members but only 10 of whom would be Ministers. However, in order to maintain the same differential between Government and Opposition benches as exists now, two additional Opposition seats should be provided for. The number of Elected Members would thus increase from 17 to 21.

At this stage there is no unanimity among members of the Commission on the matters raised in this section 15.

1. The majority view within the Commission is-

- (a) that Gibraltar should not be partitioned into constituency areas;
- (b) that Members of Parliament should be associated with separate “precincts”; but
- (c) that there should not be an increase in the number of Elected Members since 17 Members in a place of our size are quite enough to meet the commitments set out in this section 15.

2. The minority view is-

- (a) that there should be a dual system of representation (see the minority view under section 31) that includes constituencies; and
- (b) that the Parliament should be increased to 25 Elected Members and that the number of Ministers should be limited to 10, including the Chief Minister. This would allow for a minimum of three backbenchers on the Government side.

16. Select committees.

In the House of Commons, Opposition Members and even Government backbenchers, can influence the conduct of the administration and modify aspects of policy by their scrutiny of administrative activity as members of select committees. Given the great extension of the range and complexity of government activities together with a parallel growth of bureaucracy, it could be said that it has become a more difficult task to check the actions of Ministers and their departments. In their scrutiny of Government policies, the select committees question Ministers and their senior executives.

In Gibraltar, Opposition Members have the opportunity to question Ministers in considerable detail by asking topical questions in Parliament. Additionally, Opposition Members can table motions for debate. Select committees could also, through hearings and published reports, bring before Parliament and thus put in the public domain, a body of fact and informed opinion on important issues and build up expertise in their subject of inquiry.

Standing order 41 provides for Parliament to nominate select committees after giving notice which must include the names of the Members of Parliament proposed to be nominated. It further provides that a select committee shall be confined to the matter referred to it by Parliament and they may from time to time report their opinions or observations.

We have considered whether select committees should be created and how they should be made up in order to fulfil their task. On the other hand, would select committees be a realistic possibility given that matters have become so polarised and confrontational in local politics as to make them unworkable in practice or could a greater use of select committees serve to diminish negative aspects of local politics?

Our current view is that there is already adequate provision to appoint select committees if Parliament decides to do so.

17. Petitions to Parliament.

In light of the size of Gibraltar it may be possible to have greater public engagement with Parliament beyond that offered by four yearly elections. This public engagement could take the form of improvement to the petition system, for example, by introducing a system as has recently been introduced in the United Kingdom whereby if sufficient signatories subscribe to an issue online or in writing, Parliament would be required to debate the subject in question.

Our current proposal is that the Standing Orders should be reviewed to improve public participation in the Parliamentary process on the lines suggested in this section 17.

Part V Electoral Reform.

18. Electoral registration.

Electoral registration procedures are described in detail in the Parliament Act together with rules made under the Act i.e. The Electors (Registration) Rules.

There is a different procedure for the compilation of the register of electors for Gibraltar and for European parliamentary elections.

The register for European parliamentary elections is an open or rolling register which means that at any time during its four year life, the register can be amended by inserting new electors, deleting electors either because of death or because of the elector leaving Gibraltar and by changing addresses or surnames of women who have married.

The register for Gibraltar parliamentary elections once published, remains as it is until the next register is published four years later. Unless a supplement to the register is prepared no new elector can be registered. Furthermore, there are no provisions for amendments or any other changes.

Maintaining a rolling register would mean that the register could be kept as up to date as the electorate wishes.

Our current proposal is that an open or rolling register should be maintained for Gibraltar parliamentary elections.

19. Election expenses.

We have considered whether there is a need to reinforce the regime for the authorisation, payment and declaration of a candidate's or a political party's election expenses.

Section 14 of the Parliament Act limits the level of expenditure by or on behalf of candidates at elections. The authorised level of expenditure on a candidate's election campaign was set at £3000 in 2007.

Section 14(2) of the Parliament Act permits any election expenses incurred one month before the date of the poll in respect of services rendered or materials supplied, not to be taken into account to arrive at the total amount of election expenses incurred. We consider that this provision provides an unfair advantage to Government Members over any other candidate who would not be privy to the planned date of an election.

Our current proposal is that section 14(2) of the Parliament Act should be revoked.

20. Return of election expenses.

Section 15 of the Parliament Act requires the election agent of a candidate at an election, within six weeks after the date of an election, to make a return containing a full statement of all expenditure incurred in connection with the election.

However, as there is no provision as to the format of the return, submissions differ in style and content.

Our current proposal is that the Election Rules should provide, by means of a schedule, the format of the return of election expenses and the form of words of the declaration.

21. Inspection of election expenses returns.

Section 15(5) of the Parliament Act requires the Returning Officer to publish in the media a notice of the time and place at which the returns of election expenses can be inspected but the sub-section is silent as to the length of time that these returns can be available for inspection. Current administrative practice allows one day for such inspection.

Our current proposal is that section 15 of the Parliament Act should specify that the returns of election expenses should be available for public inspection for two years from the date of the election.

22. Donations.

The return of election expenses must contain a full statement of all moneys, securities or value received by an election agent from the candidate or from any other person in connection with the election.

We consider that the time has come in Gibraltar for the return of election expenses to contain a more open declaration of every donation received by a candidate or his party from third parties for financing the election campaign.

In the United Kingdom there are also controls over which donations a political party can accept.

Our current proposal is that every donation over £100 received by a candidate or his party for financing an election campaign should be separately declared in the return of election expenses together with the identity of the donor.

23. Definition of election expenses.

As mentioned in sections 19 to 22, there should be tighter controls over election expenses. But this cannot be achieved unless the law provide a clear interpretation of "election expenses" and how and to what extent property, goods and services provided to the candidate or to a political party free of charge should be treated as election expenses.

Our current proposal is that the Parliament Act should provide an extensive definition of "election expenses".

24. Proxy voting.

We have considered the introduction of proxy voting as a further alternative to an elector voting in person or voting by post. The advantage would be that proxy voting could be used by an elector where the postal voting procedure does not provide him or her with the ability of being able to cast a vote. For example, an elector on a cruise on polling day would not be

able to provide a reliable address for the delivery of the ballot paper by post.

Any procedure that is introduced should provide a proxy-giver with a guarantee that the proxy would cast the vote in accordance with his or her wishes. In an effort to minimise abuse, a proxy should be required to mark an original ballot paper (for the ballot box) and a duplicate "carbon paper" ballot paper for posting to the proxy-giver.

Our current proposal is that proxy voting should be introduced as an alternative to voting in person and to voting by post in the manner described in this section 24.

25. Broadcasting during election campaigns.

Section 7 of the European Parliamentary Elections Act requires the Gibraltar Regulatory Authority to set a code of broadcasting standards for the contents of programmes to be included in television and radio services in relation to European parliamentary elections. The standards are intended to secure that such programmes, and in particular news, are presented with due accuracy and impartiality and that advertising by a body with objects of a political nature and advertisements directed towards a political end are not included in television or radio services.

Our current proposal is that the Gibraltar Regulatory Authority should set a similar code of broadcasting standards for Gibraltar parliamentary elections in consultation with the Returning Officer and the Gibraltar Broadcasting Corporation.

26. Exit polls.

We have considered the merits of exit polls and the way they have been conducted during the last couple of general elections. We are of the view that the way that these polls have been conducted has been most unsatisfactory, without the reliability of those conducted in other countries.

Our current proposal is that serious consideration should be given to regulating the manner in which exit polls are conducted. Additionally, publication of any exit poll should be prohibited prior to the closure of the poll.

27. Counting of votes at general elections.

We have considered the procedure for the counting of votes at general elections and we are dissatisfied with the length of time it takes to count the votes using the present tedious manual system. We have noted that very much faster systems are employed in other countries judging by the speed with which results are declared.

Our current proposal is that the Electoral Registration Officer should give serious consideration to establishing what technological advances are available for the counting of votes and whether these could be adopted in Gibraltar.

28. Register of political parties.

We have considered the merits of setting up a register of political parties. There is no such register maintained in Gibraltar and it can therefore be said that political parties are not specially recognised.

A register would provide political parties with a stronger legal recognition and ensure that before they can be registered, they conform to certain basic requirements as to their constitution, emblems, executive committee, accounting records and the holding of annual assemblies of the membership. This will enhance the democratic process.

Our current proposal is that subsidiary legislation for the registration of political parties with the basic provisions detailed in the outline proposals at Appendix 2 should be introduced.

29. Establishment of an electoral commission.

We have considered the merits of an electoral commission being established in Gibraltar whose general functions would be that of an advisory and audit nature, keeping involvement in elections and referendums completely at arm's length.

We have taken particular care not to charge the electoral commission with any functions that would compromise the independence of the electoral registration officer, the Returning Officer or a referendum administrator (if one is appointed in the future) in carrying out their statutory duties.

Our current proposal is the introduction of a Bill for the establishment of a statutory body to be known as the Electoral Commission with the basic provisions detailed in the outline proposals at Appendix 3.

30. Legislative provisions regulating referendums.

We have noted that both the 2002 and the 2006 referendums were conducted following a resolution of the House of Assembly.

Our current proposal is that legislation regulating the conduct of a referendum should be enacted.

31. Electoral systems.

The Single Transferable Vote ("STV") under proportional representation, was the system adopted in Gibraltar in elections to the Legislative Council from 1951 to 1964. Concurrently, a Limited Vote ("LV") (i.e. a block vote system) was in place in elections to the City Council.

Following the 1969 Constitution, the present LV or block vote system was adopted for the House of Assembly elections. It remains in force to this day.

Appendix 1 sets out 12 electoral systems in operation globally. The information contained therein has been compiled for the Commission by the Hansard Society, following the visit of Dr Ruth Fox to Gibraltar in March 2012.

This matter is of fundamental importance in the workings of our democratic system.

Views and considered opinions are invited on whether we should continue with our present electoral system or adopt one of the other eleven systems set out in Appendix 1 at future general elections.

The majority view within the Commission is that the present LV or block vote system has served Gibraltar well over the years since its inception and should be retained.

The minority view is that there should be a Mixed Member Proportional ("MMP") system in which 17 Members of Parliament are elected through List Proportional Representation ("LPR") and 8 constituency Members of Parliament are elected by a First Past the Post ("FPTP") system. As indicated above, these systems are explained in Appendix 1.

32. Residency and external electors.

In Gibraltar, a person over the age of 18 is able to be included in the register of electors provided he is British, has permanently resided in Gibraltar for at least 6 months and intends to make Gibraltar his or her home. That person will remain on the register until a new register of electors is compiled, when he or she has to register again. If that person takes up residence abroad he or she no longer qualifies, since he or she clearly no longer intends to make Gibraltar his or her home.

In the UK there is effectively no period of residence required before a person can apply to be included in the register of electors of his or her constituency. British nationals living abroad are eligible to register and vote as overseas electors if their name was previously on the electoral register for an address in the United Kingdom and no more than 15 years have passed between the qualification date of that register and the date on their application to register as an overseas elector; or if they have reached the age of 18 while living abroad and they were too young to be on an electoral register before they left the United Kingdom and a parent or guardian was on the electoral register for the address at which they were living on that date.

The Parliament Act sets the eligibility criteria as follows to be registered as an elector in Gibraltar. A person on the register's qualification date-

- (a) must be 18 years of age or over;
- (b) must be a British citizen, a British Overseas Territories citizen, a British Overseas citizen, a British National (Overseas), a British protected person or a British subject under the British Nationality Act 1981;
- (c) must have lived in Gibraltar during a continuous period of six months; and
- (d) must intend to live in Gibraltar either permanently or indefinitely.

There is already a fairly-widely held view in Gibraltar that the six months residence period is too liberal and allows British expatriates to prematurely vote in Gibraltar parliamentary elections, even though many do not have a long-term interest in our political affairs. Moreover, it is known that some have subsequently ceased to reside in Gibraltar, after being included in the register of electors.

On the other hand, there are some Gibraltarians living abroad who are aggrieved because they can no longer vote in our elections and hold the view that they should be allowed to register and vote because they continue to keep a close interest in our affairs.

We have discussed this issue of “residency” at some length including whether the period of residency to be eligible to be registered should be increased to 12 months.

Our current proposal is that the Parliament Act should-

- (a) have an increased residency period from a continuous period of 6 months to a continuous period of 12 months: and
- (b) provide for extending the franchise to persons residing outside Gibraltar who meet the criteria in sub-paragraphs (a) and (b) of the third paragraph of this section 32, are registered as Gibraltarians under the Gibraltarian Status Act and who are-
 - (i) in permanent employment;
 - (ii) actively involved in carrying on a business;
 - (iii) exercising their profession; or
 - (iv) in full time education;

in Gibraltar.

APPENDIX 1

Types of Electoral Systems.

Globally there are 12 electoral systems in operation that fall broadly into three categories: (a) a plurality or majority system; (b) a mixed system; and (c) a proportional system. In addition, there are a small number of 'other' systems that do not fit neatly into these categories. An explanation of each system within these categories, as well as their perceived advantages and disadvantages is outlined below.¹

(A) PLURALITY/MAJORITY SYSTEMS.

A distinguishing feature of these systems is that they usually use single-member constituencies. When First Past the Post is used in multi-member seats then this is a form of Block Vote – voters have as many votes as there are seats to be filled and the highest polling candidates fill the positions regardless of the percentage share of the vote they achieved.

1. **First Past the Post (FPTP):** This is the simplest form of electoral system in this group. The winning candidate is the one that gains the most votes, even if this is not an absolute majority (i.e. the winner does not require 50%+). It uses single member constituencies and voters choose candidates rather than parties.
 - a. *Advantages:* It is simple to use and understand; it tends to produce clear winners; it promotes a link between constituents and their representative based on a geographical area; it provides a clear-cut choice for voters between the main parties; it provides for single-party governments – coalitions tend to be the exception not the rule; it provides for coherent opposition; it advantages broadly based political parties; it generally does not provide for extremist parties to achieve representation in the legislature; and it allows for a choice of candidates rather than just parties, thereby providing an opportunity for popular independents to be elected.
 - b. *Disadvantages:* it can exclude small parties, minorities and women from 'fair' representation; it can encourage party development on regional/clan/ethnic lines; it exaggerates the phenomenon of regional fiefdoms where one party wins all of the seats in an area; it leaves a large number of 'wasted' votes which don't contribute to the election of any candidate; it can cause vote-splitting; it may be unresponsive to changes in public opinion; the results are heavily dependent on the drawing of the electoral boundaries (which can thus be open to gerrymandering).
2. **Alternative Vote (AV):** This is a form of preferential voting in single member seats. Voters mark preferences on their ballot paper 1,2,3 etc. The candidate who receives a simple majority (50%+1) of first preferences is elected. If no candidate secures that on first preferences, then the least successful candidates are eliminated and their voters reallocated according to their second preferences until one candidate gets an absolute majority. Voters select candidates rather than parties. Some AV systems require you to indicate a preference order for all the candidates; some allow you to indicate as many preferences as you wish (so you might only indicate one preference and leave the rest of the ballot paper blank).

¹ The information in this Appendix draws on (i) the International IDEA's work on electoral design (see, for example, International IDEA (2008) *Electoral System Design: The New International IDEA Handbook*) and (ii) the work of the Electoral Reform Society in the UK (see, for example, Electoral Reform Society (2007), *Britain's Experience of Electoral Systems*).

- a. *Advantages:* Candidates command 50% support. Because ballots transfer through the reallocation of preferences then the votes of several candidates accumulate – diverse interests thus combine to win representation. Supporters of minor candidates that are unlikely to be elected can nonetheless have their views counted because their second and third preferences count in the election of the overall winner. It encourages parties to reach out beyond party lines for the second preferences of voters and is thereby perceived to promote centrist politics.
 - b. *Disadvantages:* It can be unpredictable and because it works in single member seats it can produce disproportional results. It is deemed by many to be less simple to understand than FPTP.
3. **Block Vote (BV):** This is the use of plurality voting in multi-member seats. Voters have as many votes as there are seats to be filled, are generally free to vote for individual candidates regardless of party affiliation, and can use as many, or as few, of their votes as they wish. The winners are the ones with the highest vote totals. This system tends to be most commonly used in countries with weak or non-existent political parties.
- a. *Advantages:* It retains the ability to vote for individual candidates and allows for reasonably sized geographical districts. It strengthens those parties that are most coherent/organised.
 - b. *Disadvantages:* It can be unpredictable and can exaggerate the disadvantages of FPTP, particularly in relation to disproportionality (e.g. if electors all vote for candidates of a single party). It has on occasion led to one party winning all the seats in the legislature which impacts on its ability to function effectively (e.g. Mauritius in 1982 and 1995). It can lead to internal party factionalism and corruption as candidates within a party that are seeking election in the same constituency compete against each other.
4. **Party Block Vote (PBV):** This is based on multi-member seats where voters cast a single vote for their party of choice. The party with the most votes wins all the seats in the constituency.
- a. *Advantages:* It is simple to use; it encourages a strong party system; and it facilitates representativeness because parties can present diverse candidate slates.
 - b. *Disadvantages:* It can produce highly disproportional outcomes – it possesses the same disadvantages as FPTP and can lead to all the seats being won by one party as with the Block Vote.
5. **Two Round System (TRS):** A second election is held if no candidate/party gets the required number of votes in round one. In some systems only the top two candidates go forward into the second round run-off; in others all candidates proceed into the second round. FPTP is usually utilised but sometimes the BV is used in multi-member seats.

- a. *Advantages:* Voters get a second opportunity to make a choice; it can encourage diverse interests to coalesce around successful candidates in the first round; it can lessen the problems of vote-splitting.
- b. *Disadvantages:* It imposes an additional burden on the voter to vote twice within a couple of weeks and declining turnout in the second round can raise issues with regard to credibility and legitimacy. It can also place significant pressure on electoral administration. It can be very disproportional and shares many of the problems of FPTP.

(B) MIXED SYSTEMS.

These combine plurality/majority and proportional systems – two electoral systems are deployed alongside each other.

6. **Mixed Member Proportional (MMP):** Voters choose candidates through both List PR (generally multi-member regional seats) and FPTP (single-member seats). The List PR system compensates for the disproportionality of results in the seats where the plurality/majority system is deployed. Thus, if a party wins 10% of the vote nationally but no local seats through FPTP, it will be awarded enough regional seats through List PR to bring its representation up to 10% or thereabouts. Voters can receive one ballot paper which is used to cast a vote for candidate (single-member seats) and party (regional seats) or two separate ballot papers for the FPTP and List vote.
 - a. *Advantages:* It has all the general advantages of a PR system regarding proportionality and elected representatives are linked to constituency areas.
 - b. *Disadvantages:* It can be unpredictable and lead to strategic voting anomalies. The disproportionality in FPTP seats can sometimes be so great that the List PR cannot fully compensate for it. There is a perception that it creates a two-tier system of elected representatives in which those who are directly elected (through the FPTP seats) have constituency responsibilities/pressures whilst members elected in the regional List PR seats do not. This can impact negatively on party cohesion.

7. **Parallel Systems:** This system works as with MMP but no account is taken of the seats allocated under the first system in calculating the results in the second system. The non-PR component is generally FPTP but can come from other non-PR systems. The balance between the number of proportional seats and the number of plurality/majority seats varies greatly from country to country.
 - a. *Advantages:* Minority parties can still win representation even when they are unsuccessful in the plurality/majority vote. It is deemed to have less impact on the party system – e.g. in terms of fragmentation – than other PR/mixed systems.
 - b. *Disadvantages:* The results are not fully proportional and some parties may still be excluded despite winning a considerable number of votes. It is perceived to create two classes of representative (those with individual constituency responsibilities and those without) as with MMP. It is deemed by some to be complex /confusing for voters.

(C) PROPORTIONAL REPRESENTATION (PR) SYSTEMS.

PR systems seek to reduce the disparity between a party's share of the national vote and its share of seats in the legislature; the seats won should proportionally reflect the party's share of the vote (e.g. 40% vote share = 40% of seats).

PR systems require multi-member seats. 'District magnitude' is important: the greater the number of representatives to be elected the more proportional the system will be. Thus those systems that use large districts will have the greatest degree of proportionality. As a general principle, seats with between 3-7 candidates to be elected are deemed to work well (and it is thought that odd numbers - e.g. 3,5,7 work best). Numbers at the high/low end of the district magnitude spectrum tend to deliver more extreme results.

- a. *Advantages of PR systems:* They achieve the best translation of votes into seats and thereby avoid 'unfair' outcomes and wasted votes; they facilitate representation by minority parties; they encourage parties to look beyond the seats where they are strong – the system maximises the use of all votes wherever they are won; it makes power-sharing between parties more obvious and visible.
- b. *Disadvantages of PR systems:* they are deemed more difficult for voters to understand (particularly in relation to how the results are counted/calculated); they tend to lead to coalition government (sometimes coalitions of convenience with few if any ideological ties) and can lead to a fragmented party system; they can give small parties disproportionate power and influence and provide a platform for extremist parties; they can make it difficult to remove a reasonably sized centre party from power.

8. **Single Transferable Vote (STV):** This is a preferential system in which voters rank candidates in multi-member seats. The candidate that passes a specified quota of first preference votes is elected. In successive counts votes are redistributed from the least successful candidates who are eliminated, and votes surplus to the quota are redistributed from successful candidates, until sufficient candidates are elected. Generally voters choose candidates rather than parties although party-lists are an option.

- a. *Advantages:* It is the most sophisticated electoral system in use – for example, it allows for a choice between parties and candidates within parties. It creates proportional outcomes (though the degree of proportionality is dependent on district magnitude). The representational link between the voter and elected members can be retained if the geographical extent of the seat is not too large. It encourages party co-operation / conciliation as parties must seek to broaden their appeal in pursuit of voters' second preferences. It can provide for the election of popular independents.
- b. *Disadvantages:* It is widely considered to be one of the more complex systems for voters to understand, particularly in relation to how the results are calculated. It can encourage internal party competition/fragmentation as candidates within parties compete against each other. It can be unpredictable; for example, it can lead to a party with a plurality of votes nonetheless winning fewer seats than its rivals.

9. **List Proportional Representation (List PR):** Each party presents a list of candidates for multi-member seats. Electors vote for a party and parties receive seats in proportion to their overall share of the vote. If it is an 'open' list system then voters can influence the order of candidates by marking their preferences; if it is a 'closed' list system then the

winning candidates are taken in the order of their position on the party list. A formal threshold for representation in the legislature may be required – a high threshold is likely to exclude smaller parties; a lower threshold may promote their representation.

- a. *Advantages:* It is generally more likely that minority groups will be represented in the legislature and parties can ensure diversity balance on their lists.
- b. *Disadvantages:* It offers only a weak link between the voter and representative; candidate lists facilitate centralised party control, particularly closed lists; it is difficult for loosely organised/structured parties and independents to get elected.

(D) OTHER SYSTEMS.

10. **Single Non-Transferable Vote (SNTV):** A single vote is cast by electors in multi-member seats. Candidates with the highest total number of votes are elected. The public votes for candidates rather than parties.

- a. *Advantage:* It is easy to use and understand; it better facilitates representation of minority parties and independents than pure plurality/majority systems. The larger the district the more proportional it is. Voters are given a choice from a party's list of candidates.
- b. *Disadvantage:* Small parties whose votes are widely dispersed may not pick up any seats and it can be problematic in terms of internal party faction/competition. It helps the most organised parties because it poses strategic challenges in relation to party nomination and vote management: putting up too many candidates can be as unproductive as putting up too few; parties need voters to spread their votes equally across all party candidates rather than piling them up for a favoured figure and leaving other party candidates with too few votes to guarantee a seat. There is no pressure on parties to broaden their appeal because there are no second preferences to appeal to.

11. **Limited Vote (LV):** Plurality/majority system used in multi-member seats. Unlike SNTV electors have more than one vote, but they have fewer votes than there are candidates to be elected. Those candidates with the highest number of votes win.

- a. *Advantages:* It is simple to understand. The link between member and constituents depends on the drawing of and size of the constituency boundaries.
- b. *Disadvantages:* The same concerns about inter-party competition, party management of nominations, and clientelistic politics apply as with SNTV.

12. **Borda Count (BC):** This is a candidate centred preferential system and can be used in single or multi-member seats. Voters mark preferences on their ballot paper (1,2,3 etc); and each preference is then assigned a value (fractional vote) – e.g. first preferences could be assigned the value of one; second preferences the value of a half; third preferences the value of a third or a quarter etc. At the count, rather than eliminating last placed candidates and re-assigning their second, third preferences etc, the sum of the

preference values are simply added up and the candidate(s) with the highest total win(s). This system is only really used on the Pacific Island of Nauru so it is relatively untested in terms of advantages/disadvantages!

ELECTORAL SYSTEMS USED FOR SMALL LEGISLATURES.

Looking at single-tier legislatures with 30 seats or less, the following applies²:

Country / Territory	Size of Legislature (no. of voting members)	Electoral System
Andorra	28	Parallel
Anguilla	11	FPTP
Antigua & Barbuda	17	FPTP
Aruba	21	List PR
Barbados	30	FPTP
Belize	29	FPTP
British Virgin Islands	13	FPTP & BV
Cayman Islands	18	BV
Cook Islands	24	FPTP
Dominica	30	FPTP
Falkland Islands	8	BV
Gibraltar	17	LV
Grenada	15	FPTP
Isle of Man	24	BV & FPTP
Liechtenstein	25	List PR
Micronesia	14	FPTP
Monaco	24	Parallel (List PR & BV)
Montserrat	11	TRS
Nauru	18	BC
Netherlands Antilles	22	List PR
Niue	20	FPTP & BV
Palau	16	FPTP
Pitcairn Islands	8	SNTV
Saint Helena	14	BV & FPTP
Saint Kitts & Nevis	15	FPTP
Saint Lucia	17	FPTP
Saint Vincent & Grenadines	21	FPTP
Tonga	30	BV
Turks & Caicos Islands	18	FPTP
Tuvalu	15	BV

NOTE: the comparisons above are made only on the basis of the size of the legislature – they do not take into account other important criteria such as population size, number of constituencies etc.

² <http://www.idea.int/esd/world.cfm> - Data accurate as of 14 October 2010, as accessed in April 2012.

APPENDIX 2

Registration of political parties.

Outline proposal for subsidiary legislation.

A. Requirements for political party to be registered.

1. The name of the party, and any emblem of the party, must not be offensive, obscene or otherwise inappropriate or be either identical to, or similar to that of any other organisation.
2. The party must have at least three office holders, namely the leader, treasurer and secretary and these persons must be on the register of electors.
3. The party must have an address in Gibraltar for delivery of communications.
4. The party must have a written constitution which must make provision for-
 - (a) its executive committee to consist of a leader (by whatever title known) and a specified number of members elected at least every two years by a ballot of the membership at an assembly convened for that purpose;
 - (b) members to be required to signify their acceptance in writing of the constitution of the party. This need not preclude their paying a subscription;
 - (c) one assembly being called at least once in a calendar year;
 - (d) all members to be entitled to attend an assembly of the party, subject to the member being up-to-date with his or her subscriptions (if applicable);
 - (e) the maintenance of proper accounting records; and
 - (f) the selection of parliamentary candidates by the party's executive committee and their subsequent endorsement by the membership at an assembly of the party convened for that purpose.

B. Restriction on name and emblem used by registered political party.

1. A registered political party must not use or otherwise hold itself out as known by any name other than the name that it is registered under nor use or hold itself out as associated with any emblem other than the emblem that is registered for it.

C. Application for registration.

1. An application for registration, signed by not less than 20 persons, must be made to the Registrar and must contain –
 - (a) the full name of the party and its emblem, if any;
 - (b) the address under which it wants to be registered; and
 - (c) the full names of all office holders.
2. An application must be accompanied by a copy of the party's constitution and a copy of the party's most recent statement of accounts (if appropriate);
3. A person can only sign an application if he or she is registered as an elector.

D. Registration of political party.

1. The Registrar must maintain a register of political parties containing all the particulars regarding the political party as are required by the preceding paragraphs.

E. Application for change of name or emblem of registered political party.

1. A registered political party may apply to the Registrar for its name or emblem to be altered or substituted.

F. Changes in particulars of registered party.

1. The Registrar must be notified, in writing, of a change in the constitution of a registered political party and of a change of any of its office holders and of a change of address.

2. A notice under F.1. must be delivered to the Registrar within 10 working days following the change and be signed by two registered office holders; and in the case of a change in the constitution of a registered political party, the notice must be accompanied by a copy of the constitution as changed.

G. Accounts to be filed.

1. A copy of the audited accounts in respect of an accounting period of a registered political party must be delivered to the Registrar within three months following the end of the accounting period.

H. Removal from the register.

1. The Registrar must remove a registered political party from the register upon an application signed by the three registered office holders mentioned in paragraph A2.

2. The Registrar may remove a registered political party from the register if he or she is satisfied that the party no longer complies or has not complied with any of the requirements in the preceding paragraphs.

I. Inspection of the register.

1. Any person may inspect the register at Parliament House during its normal working hours.

J. Offences.

1. A person who, knowingly or recklessly, makes any application to the Registrar which is false in a material particular or acts in contravention of paragraph B1, shall be guilty of an offence and liable to

K. The registrar.

1. The registrar shall be the Clerk of the Parliament.

APPENDIX 3

Establishment of an Electoral Commission.

Outline proposal for a Bill.

A. Establishment of Electoral Commission.

1. An Electoral Commission ("the Commission") shall be a statutory body.
2. The schedule provides for the status, powers, composition and other matters relating to the Commission.
3. The Commission shall consist of not less than three members to be known as Electoral Commissioners.
4. One of the electoral commissioners shall be the chairperson of the Commission.

B. Appointment of electoral commissioners.

1. An electoral commissioner shall be appointed by the Speaker of the Parliament in consultation with the Chief Minister and the Leader of the Opposition and on a resolution of Parliament.
2. The Speaker of the Parliament shall appoint one of the electoral commissioners as chairperson of the Commission
3. An electoral commissioner shall be appointed (and re-appointed) for a period not exceeding 3 years.
4. A person may not be so appointed if he or she-
 - (a) is a member of a registered political party;
 - (b) is an officer or employee of a registered political party;
 - (c) has at any time within the previous ten years been such an officer or employee as is mentioned in paragraph (b).

C. Report of elections and referendums.

1. The Commission shall, after each parliamentary and European parliamentary election and each referendum prepare and publish a report on the administration of the election or referendum.

D. Review of electoral and political matters.

1. The Commission shall keep under review and, from time to time, submit reports to the Chief Minister on the following matters-
 - (a) such matters relating to elections or referendums as the Commission may determine;
 - (b) the registration of political parties and the regulation of their income and expenditure;
 - (c) political advertising in the broadcast and other electronic media;
 - (d) the law relating to the matters mentioned in each of paragraphs (a) to (c).

2. At the request of the Chief Minister, the Commission shall review and submit a report to him on such matter or matters as he may specify.

E. Commission to be consulted on changes to electoral law.

1. Before the publishing of a bill or the making of subsidiary legislation to which sub-clause (2) applies, the Commission shall be consulted by the Government.

2. Sub-clause 1 shall apply to any bill or subsidiary legislation amending, substituting or revoking any primary or subsidiary legislation regulating the registration of electors, parliamentary elections or the conduct of referendums.

F. Involvement of Commission in changes in electoral laws and procedures.

1. The Commission may submit to the Chief Minister proposals for legislation.

2. The Commission may, in connection with changes to or the implementation of electoral procedures, provide any of the following persons with such assistance as the Commission may think fit-

(a) the electoral registration officer;

(b) the returning officer; or

(c) the referendum administrator.

G. Giving of advice and assistance.

1. The Commission may provide advice and assistance as respects any matter in which the Commission have skill and experience.

2. The Commission may also-

(a) provide advice and assistance to-

(i) Parliament;

(ii) the electoral registration officer;

(iii) the returning officer;

(iv) the referendum administrator;

(v) the registrar of political parties;

(vi) any registered political party; and

(b) provide advice and assistance to other persons which is incidental to, or otherwise connected with, the discharge by the Commission of its functions.

H. Education about electoral systems.

1. The Commission may promote public awareness of current electoral systems in Gibraltar together with such matters connected with any such existing systems as the Commission may determine.

I. Financing of the Commission.

1. The expenditure of the Commission shall be met out of money provided by the Consolidated Fund.

SCHEDULE

THE ELECTORAL COMMISSION

Status of Commission.

1. The Commission shall not be regarded-
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.

Powers.

2. The Commission may do anything (except borrow money) which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions.

Term of office etc. of electoral commissioners.

- 3.(1) An electoral commissioner shall hold office for the period for which he or she is appointed, and otherwise in accordance with the terms of the appointment.
- (2) An electoral commissioner shall cease to hold office on the occurrence of any of the following events-
- (a) he or she consents to being nominated as a candidate at a Parliamentary or European Parliamentary election;
 - (b) he or she takes up any office or employment in or with a registered political party; or
 - (c) he or she becomes a member of a registered political party.
- (3) An electoral commissioner shall be removed from office by the person appointing him or her if he or she-
- (a) has failed to discharge the functions of his or her office for a continuous period of at least 6 months;
 - (b) has failed to comply with the terms of the appointment;
 - (c) has been convicted of a criminal offence;
 - (d) has been declared bankrupt and he or she has not been discharged;
 - (e) has made an arrangement with his or her creditors;
 - (f) is otherwise unfit to hold office or unable to carry out his or her functions.
- (4) An electoral commissioner may be relieved of his office at his own request.

Procedure and proceedings.

4.(1) The Commission shall regulate its own procedure including the quorum for meetings.

(2) The validity of any proceedings of the Commission shall not be affected by-

(a) any vacancy among the members of the Commission; or

(b) any defect in the appointments of any such member.

Part VI

How to respond and responder's contact details.

Please send your response to be received by no later than the 28th September 2012 to:

Dennis Figueras RD*
Secretary
Commission on Democratic and Political Reform
PO Box 1236
Gibraltar

Or by email to: comdpr@gibtelecom.net

Submission of report to Parliament.

A report to Parliament following this consultation is due to be submitted by 1st June 2013.

Confidentiality.

Information provided in response to this consultation, including personal particulars, will not be published or disclosed and strict confidentiality will be maintained in accordance with the provisions of the Data Protection Act.

Representative groups.

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Responses to proposals.

If you respond, you need not comment on all the current proposals or views (whether majority or minority). Please specify the number(s) of the sections you are commenting on.

Contact details of responder.

Please tell us:

Your full name.

Your job title or capacity (e.g. member of the public) in which you are responding to this consultation.

Company or Organisation's name (if applicable).

Address.

Telephone number.

Email address.

Date of response.

Please bear in mind that this consultation closes on 28th September 2012 and late responses may not be taken into account by the Commission.