

Gibraltar Consultative Council Act 2016

Principal Act

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Commencement (LN. 2016/211)
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8.11.2016

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AN ACT ESTABLISHING THE GIBRALTAR CONSULTATIVE COUNCIL AND GOVERNING ITS FUNCTIONS AND DUTIES, AND PRESCRIBING THE TERMS OF MEMBERSHIP OF THE SAME.

Title and commencement.

1.(1) This Act may be cited as the Gibraltar Consultative Council Act 2016.

(2) This Act shall come into operation on a date to be appointed by the Chief Minister, by notice published in the Gazette, and different days may be appointed under this subsection for different provisions; and any reference in any provision to the commencement of this Act shall be construed as a reference to the day appointed under this subsection for the coming into operation of that provision.

PART I
PRELIMINARY PROVISIONS

Interpretation.

2. In this Act, unless the context otherwise require—

“Ad Hoc Member” means an Ad Hoc Member of the Gibraltar Consultative Council;

“Chief Justice” means the Chief Justice of Gibraltar;

“Life Member” means a Life Member of the Gibraltar Consultative Council;

“Member” means a Member of the Gibraltar Consultative Council and includes reference to Ad Hoc Members, Life Members and Post-Holder Members; and

“Post-Holder Member” means a Post-Holder Member of the Gibraltar Consultative Council.

PART II
ESTABLISHMENT AND MEMBERSHIP

Establishment of Gibraltar Consultative Council.

3.(1) There shall be a Council to aid and advise in the government of Gibraltar, to be styled the Gibraltar Consultative Council and the persons who are Members of that Council shall from time to time be summoned by the Chief Minister and sworn in as Councillors.

(2) The Gibraltar Consultative Council be composed of Post-Holder Members, Life Members and Ad Hoc Members as prescribed in this section.

(3) The following shall be Members of the Gibraltar Consultative Council—

(a) as Post-Holder Members—

- (i) The Chief Minister who shall subject to section 15(2) Chair the Gibraltar Consultative Council and have such other functions as may be stipulated herein;
- (ii) The Deputy Chief Minister;
- (iii) The Minister with responsibility for Justice;
- (iv) The Leader of the Opposition;

(b) As Life Members—

- (i) All individuals who have held the post of Chief Minister;
- (ii) All individuals who have held the post of Deputy Chief Minister;

(c) As Ad Hoc Members any person or persons, not exceeding ten, as may be appointed by the Chief Minister.

(4) On the coming into effect of this Act there shall be an inaugural meeting of the Gibraltar Consultative Council at which all members shall take the Oath of Appointment set out in Schedule 1 and be duly appointed as members of the Gibraltar Consultative Council

(5) No Member appointed after the inaugural meeting shall be permitted to take part in the proceedings of the Gibraltar Consultative Council (other than proceedings necessary for the purpose of this section) until he has made an Oath of appointment in the form set out in Schedule 1.

(6) The Secretary of the Gibraltar Consultative Council and the Chief Secretary shall take the oaths set out in Schedule 2 and 3 respectively.

(7) Oaths of Appointment under sub-sections (4), (5) and (6) shall be administered by the Chief Justice or such other Judge of the Supreme Court as the Chief Justice may determine.

PART III

TENURE AND MEMBERSHIP

Post-Holder Members.

4. Subject to section 9, Post-Holder Members shall hold membership of the Gibraltar Consultative Council for such time as they hold the particular post that entitles them to membership of the Gibraltar Consultative Council.

Life Members.

5. Subject to section 9, Life Members shall hold membership of the Gibraltar Consultative Council for their life-time.

Ad Hoc Members.

6. Subject to section 9, Ad Hoc Members shall hold membership of the Gibraltar Council for such period as may be specified in the Notice of Appointment published in the Gazette or until the next dissolution of Parliament after their appointment (if earlier).

Remuneration.

7. Membership of the Gibraltar Consultative Council shall not be remunerated.

Styling.

8. Persons who hold membership of the Gibraltar Consultative Council may, for such period that they remain members, use the pre-nominal style “The Honourable” and may be referred to as Councillors.

Disqualification, Suspension and Termination of Membership of the Gibraltar Consultative Council.

9.(1) No person shall be qualified to serve as a member of the Gibraltar Consultative Council and a serving member of the Gibraltar Consultative Council shall not so serve if he—

- (a) is by virtue of his own act under any acknowledgment of allegiance, obedience or adherence to a foreign power or State; or
- (b) has been adjudged or otherwise declared bankrupt under any law in force in or outside Gibraltar and has not been discharged; or
- (c) is a member of the regular armed forces of Her Majesty; or
- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Gibraltar; or
- (e) is under a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court of law or substituted by a competent authority

for some other sentence imposed on him by such a court or is under such a sentence of imprisonment the execution of which has been suspended.

(2) The reference in sub-section 1(c) to a member of the regular armed forces of Her Majesty shall not include a reference to an officer of the Reserve of Officers of the Royal Gibraltar Regiment or to a member of the Reserve of that Regiment or any other Reserve Military Unit in any of Her Majesty's Armed Forces except whilst he is called for actual military service.

(3) For the purposes of sub-section 1(e)–

- (a) Two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms;
- (b) No account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

(4) Membership of the Gibraltar Consultative Council of any individual Member shall be suspended–

- (a) on the happening of any event prescribed in sub-section (1) and for such period as the prescribed situation subsists; or
- (b) if the Member being a Life-Member has been appointed to a judicial office as defined in the Judicial Service Commission Act 2007.

(5) Membership of any Ad Hoc Member of the Gibraltar Consultative Council shall cease either–

- (a) on the expiry of the period of appointment specified in the Notice of Appointment; or
- (b) if the Ad Hoc Member is either–
 - (i) elected as an Elected Member of the Parliament and does not otherwise become qualified as a Post-Holder Member provided that membership of the Gibraltar Consultative Council shall not be cease in the case of any such person who has been appointed as a Minister under 45(4) of the Constitution if the Chief Minister so prescribes;
 - (ii) is appointed to judicial office as defined in the Judicial Service Act 2007.

(6) Membership of any Post-Holder Member of the Gibraltar Consultative Council shall cease on his vacating the post qualifying that person for membership of the Gibraltar

Consultative Council unless that person is otherwise qualified by virtue of entitlement to appointment by meeting the criteria for Life Membership or Ad Hoc Membership.

(7) During the time of suspension or on cessation of membership of the Gibraltar Consultative Council the particular member shall not be entitled to any rights and privileges deriving from membership but shall continue to be bound by the duties of confidentiality arising from membership.

(8) Any Member may resign his membership of the Gibraltar Consultative Council by notice in writing addressed to the Chief Minister.

(9) Any Life Member or Ad Hoc Member may be removed from membership of the Gibraltar Consultative Council by the Chief Minister if all Post-Holder Members and two-thirds of other Members so agree.

Secretary.

10. The Chief Minister shall appoint a public officer to be the Secretary of the Gibraltar Consultative Council.

PART III
FUNCTIONS, MEETINGS, DUTIES AND PROCEDURES

Annual Plenary Meeting.

11.(1) The Chief Minister shall convene a plenary meeting of the Gibraltar Consultative Council at least once every 12 calendar months.

(2) Notwithstanding sub-section (1) a plenary meeting of the Gibraltar Consultative Council shall be convened at least once within four months of the appointment of a Chief Minister under 45(3) of the Constitution.

Additional Plenary Meetings.

12. The Chief Minister may in his discretion from time to time—

- (a) convene such other plenary meetings of all members of the Gibraltar Consultative Council as he determines the governance of Gibraltar or the public interest requires;
- (b) constitute and convene sub-committees of members of the Gibraltar Consultative Council as he determines necessary; or
- (c) consult individual members or groups of members of the Gibraltar Consultative Council on such questions or matters as he determines necessary.

Duties of the Gibraltar Consultative Council.

13.(1) It shall be the principal duty of the Gibraltar Consultative Council to carry out such functions conferred upon it by this Act so far as practicable.

(2) Without prejudice to the generality of sub-section (1) it shall be the duty of the Gibraltar Consultative Council and the Members thereof to advise Her Majesty's Government of Gibraltar and specifically the Chief Minister on any issue on which advice is requested by him via the structures and mechanisms laid out in this Act in respect of–

- (a) the governance of Gibraltar;
- (b) the public interest of Gibraltar;
- (c) the conduct of or performance of public policy;
- (d) the international obligations of Gibraltar;
- (e) any matter touching upon the public affairs, peace, order and good government of Gibraltar.

Validity of Proceedings.

14. The validity of the proceedings of the Gibraltar Consultative Council shall not be affected by any defect in the appointment of a member thereof.

Procedure.

15.(1) The quorum at all plenary meetings of the Gibraltar Consultative Council shall be five.

(2) At all meetings of the Gibraltar Consultative Council the Chief Minister, or in his absence, the Deputy Chief Minister shall preside.

(3) The Chief Minister shall, after consultation with the Members, regulate the procedures of the Gibraltar Consultative Council.

(4) The Secretary of the Gibraltar Consultative Council may, with the approval of the Chief Minister, make standing orders with respect to the quorum, proceedings and place of meetings of the Gibraltar Consultative Council or any sub-committee thereof but subject to any standing orders the quorum, proceedings or place of meetings shall be as specified in this Act or if not so specified as the Chief Minister may decide.

(5) Minutes of plenary and sub-committee meetings of the Gibraltar Consultative Council shall be kept by the Secretary who shall following approval by members provide a copy to the Chief Secretary.

Liability.

16. No personal liability shall attach to any member of the Gibraltar Consultative Council in respect of anything done or advice tendered under the provisions of this Act.

PART V
CONFIDENTIALITY, PUBLICATION AND DISCLOSURE

Confidentiality.

17. All deliberations of the Gibraltar Consultative Council and advice tendered by any member to the Chief Minister shall be tendered and received in absolute confidence.

Secrecy.

18. Any member of the Gibraltar Consultative Council shall be required on appointment to signify on such form approved by the Chief Secretary for that purpose that he agrees to be bound by such provisions of the Official Secrets Act of the United Kingdom as apply to Gibraltar for the purposes of receiving information and documents and the carrying out of duties under the provisions of this Act.

Offences.

19.(1) No member nor any other person shall without the consent in writing of the Chief Minister publish or disclose to any unauthorised person or otherwise than in the course of duties under this Act the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under this Act and a person who knowingly acts in contravention of this sub-section is guilty of an offence and is liable on conviction on indictment to imprisonment for up to one year and to a fine not exceeding level 4 on the standard scale or to both.

(2) A person who having possession of any information which to his knowledge has been published or disclosed in contravention of sub-section (1) publishes or communicates to any other person any such information otherwise than for the purpose of any prosecution under this Act or in the course of his duty is guilty of an offence and is liable on conviction on indictment to imprisonment for up to one year and to a fine not exceeding level 4 on the standard scale or to both.

Disclosure.

20. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, that has taken place—

- (a) between the Chief Minister, any member of the Gibraltar Consultative Council, the Secretary, the Chief Secretary or a public officer; or
- (b) between any persons who are Members of the Gibraltar Consultative Council or the Secretary or Chief Secretary in the exercise of or in connection with the exercise of their functions,

unless the Chief Secretary, acting after consultation with the Chief Minister, consents in writing to such production or disclosure.

PART VI GENERAL

Regulations.

21. The Chief Minister may by regulations provide for any matter that is necessary or incidental to the administration of the provisions of this Act and specifically for all or any of the following purposes—

- (a) for such other matters as may be prescribed under this Act;
- (b) to repeal, replace, amend or vary the Schedules to this Act.

SCHEDULE 1

Section 3

OATH OF APPOINTMENT FOR MEMBERS

I [name] do solemnly and sincerely swear [declare] that I shall truly and faithfully serve the interests of Gibraltar as a member of the Gibraltar Consultative Council. I will in all things to be treated, debated and resolved in Council honestly and truly declare my mind and my opinion. I will freely, without fear or favour provide my counsel and advice to the Chief Minister in connection with such matters as may be referred to the Gibraltar Consultative Council and I shall keep secret all matters committed and revealed to me in this capacity or that shall be secretly treated of in Council. I will not directly or indirectly reveal to any unauthorised person or otherwise than in the course of duty the contents of any documents, communications or information whatsoever which may come to my knowledge in the course of my duties [so help me God]

Sworn [or Made] before me this day of 20

SCHEDULE 2

Section 3

I [name] having been called upon to exercise the functions of Secretary of the Gibraltar Consultative Council do solemnly and sincerely swear [declare] that I shall keep secret all matters committed and revealed to me in this capacity or that shall be secretly treated of in Council and I will not directly or indirectly reveal to any unauthorised person or otherwise than in the course of duty the contents of any documents, communications or information whatsoever which may come to my knowledge in the course of my duties as such Secretary [so help me God].

Sworn [or Made] before me this day of 20

SCHEDULE 3**Section 3**

I [name] having been called upon to exercise the functions of Chief Secretary of Her Majesty's Government of Gibraltar do solemnly and sincerely swear [declare] that I shall keep secret all matters committed and revealed to me in this capacity or that shall be secretly treated of in Council and I will not directly or indirectly reveal to any unauthorised person or otherwise than in the course of duty the contents of any documents, communications or information whatsoever which may come to my knowledge in the course of my duties as such Secretary [so help me God].

Sworn [or Made] before me this day of 20