

Draft Order laid before Parliament under section 13(3A) of the European Parliamentary Elections Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

REPRESENTATION OF THE PEOPLE

**The European Parliament (Disqualification)
(United Kingdom and Gibraltar) Order 2009**

Made - - - - 2009

Coming into force in accordance with article 1(1)

This Order is made in exercise of the powers conferred by section 10(4A) of the European Parliamentary Elections Act 2002(1)(“the 2002 Act”).

The Secretary of State has consulted the Electoral Commission in accordance with section 10(4B) of the 2002 Act.

In accordance with section 13(3A) of the 2002 Act(2), a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order:

Citation, interpretation, commencement and extent

1.—(1) This Order may be cited as the European Parliament (Disqualification)(United Kingdom and Gibraltar) Order 2009 and shall come into force on the day after the day on which it is made.

(2) In this Order “Gibraltar public office” is to be construed in accordance with section 79 (references to public office, etc.) of the Constitution of Gibraltar set out in Annex 1 to the Gibraltar Constitution Order 2006.

(3) This Order extends to the United Kingdom and Gibraltar.

Revocation

2. The European Parliament (Disqualification)(United Kingdom and Gibraltar) Order 2004(3) is revoked.

(1) [2002 c.24](#); section 10(4A) and (4B) were inserted by section 21 of the European Parliament (Representation) Act [2003 \(c.7\)](#). Section 10(4A) was amended by section 18 of, and paragraph 41 of Schedule 1 to, the Electoral Administration Act [2006 \(c.22\)](#).

(2) Section 13(3A) to (3C) were inserted by section 21 of the European Parliament (Representation) Act [2003 \(c.7\)](#).

(3) [S.I.2004/1246](#).

Disqualification for the office of MEP

3. In addition to persons otherwise disqualified for the office of MEP(4), a person is disqualified for the office of MEP if that person—

- (a) has been adjudged or otherwise declared bankrupt under any law in force in Gibraltar and has not been discharged;
- (b) holds or acts in a Gibraltar public office, unless the public office in question is described in Schedule 1 (classes of public officers who may be elected as members) or Schedule 2 (classes of public officers who may be candidates for election) to the Parliament Act(5) ;
- (c) is the Clerk of the Parliament of Gibraltar, or any deputy or clerk appointed by the Clerk (in the Clerk’s capacity as local returning officer or the European electoral registration officer for Gibraltar)(6);
- (d) is disqualified for election as an Elected Member of the Parliament of Gibraltar by virtue of section 36 of the Parliament Act (penalty for and incapacity following illegal practices); or
- (e) having been found guilty of one or more offences (whether in Gibraltar or elsewhere), and sentenced or ordered to be imprisoned or detained indefinitely or for more than one year, is imprisoned or detained anywhere in Gibraltar in pursuance of the sentence or order or is unlawfully at large at a time when such a person would otherwise be liable to be so imprisoned or detained.

Signed by authority of the Secretary of State

Date

Name
Minister of State
Ministry of Justice

(4) See section 10 of the European Parliamentary Elections Act 2002 (c.24) and the Act annexed to the Council Decision 76/787/ECSC, EEC, Euratom (OJ L 278, 08.10.1976, p.1 (Cmnd.6623)).

(5) Gibraltar Act No. 1950-15.

(6) The Clerk of the Parliament of Gibraltar is the European electoral registration officer for Gibraltar by virtue of section 14(2) of the European Parliament (Representation) Act 2003 (c.7) and is the local returning officer by virtue of section 6(5A)(b) of the 2002 Act as inserted by section 20 of the European Parliament (Representation) Act 2003 (c.7).

EXPLANATORY NOTE

(This note is not part of the Order)

Section 10 of the European Parliamentary Elections Act 2002 (c.24) (“2002 Act”) provides for certain classes of people to be disqualified for the office of Member of the European Parliament (“MEPs”). Section 21 of the European Parliament (Representation) Act 2003 (c.7) amended section 10 of the 2002 Act so as to give the Secretary of State power to disqualify persons of a description connected with Gibraltar. The Order provides for similar classes of people to be disqualified as those who are disqualified in the United Kingdom.

This Order revokes and replaces the European Parliament (Disqualification)(United Kingdom and Gibraltar) Order 2004 (S.I.2004/1246) and is necessary in the light of the changes made by the Gibraltar Constitution Order 2006.

The Order refers to the Parliament Act (Gibraltar Act No. 1950-15) and the Gibraltar Constitution Order 2006. These can be obtained from www.gibraltarlaws.gov.gi