

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN PARLIAMENT (HOUSE OF LORDS DISQUALIFICATION)
REGULATIONS 2008**

2008 No. 1647

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations allow a life peer to take office as a MEP by disqualifying the life peer from his or her House of Lords duties in the event of being elected as a MEP at the 2009, and subsequent, European Parliamentary elections. This is required as dual mandate of membership of the United Kingdom Parliament and the European Parliament will not be permitted following the current term of the European Parliament.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Council Decision 2002/772/EC, Euratom was implemented in UK law by the European Communities (Definition of Treaties) (Common Electoral Principles) Order 2004 (S.I.2004/304) and Parliamentary Elections (Common Electoral Principles) Regulations 2004 (S.I.2004/1374), and bars persons from membership of a national Parliament and the European Parliament at the same time.

4.2 At the time the Decision was agreed by Member States, the UK Government negotiated a derogation to allow Members of the House of Commons and House of Lords who were also MEPs during the five-year term preceding election to the European Parliament in 2004 a dual mandate until the 2009 European Parliament elections.

4.3 Dual mandates will be prohibited following the 2009 European Parliament elections, thereby precluding life peers from standing in the European Parliament elections.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Following the current European Parliament term, the law will prevent life peers (who are unable to resign their peerage) from standing at the elections to the European Parliament in 2009.

7.2 The Government has previously given a commitment to address the position of life peers who may wish to stand as MEPs at the 2009 and future European Parliament elections.

7.3 These Regulations disqualify any life peer from sitting or voting in the House of Lords in the event that the peer is elected to the European Parliament from 2009 onwards. The Regulations will therefore allow life peers to take office as a MEP without breaching the prohibition on dual mandate.

7.4 Once a life peer ceased to be a MEP, the disqualification provisions would no longer apply and the life peer would be able to resume sitting and voting in the House of Lords.

7.5 In the circumstance where a life peer is elected or returned as a MEP, the Regulations specify that the returning officer is responsible for notifying the Speaker of the House of Lords.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal.

9. Contact

9.1 Any queries about the content of this memorandum should be addressed to: Ada Young, Elections and Democracy Division, Ministry of Justice, e-mail: ada.young@justice.gsi.gov.uk, telephone 020 7210 8244.