

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,742 of 5th November, 2009

B. 37/09

BILL

FOR

AN ACT to make provision for the making of a declaration by the Supreme Court regarding the compatibility of any Act or subsidiary legislation or any Bill for an Act or any provision thereof with the Constitution; and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Constitution (Declaration of Compatibility) Act 2009 and shall be deemed to have come into operation on 1st November 2009.

Application to the Supreme Court.

2. The Chief Minister, or any other Minister authorised to that effect by the Chief Minister, may on behalf of the Government apply to the Supreme Court for a declaration under section 3 as to whether any Act or subsidiary legislation or any Bill for an Act or any provision thereof is compatible with the Constitution whether or not there is any other party to the application or proceedings.

Declaration regarding compatibility.

3.(1) The Supreme Court shall have original jurisdiction to hear and determine any application made under section 2.

(2) The Supreme Court may if it is satisfied that any Act or subsidiary legislation or any Bill for an Act or any provision thereof—

- (a) is incompatible with the Constitution, make a declaration of incompatibility; or
- (b) is compatible with the Constitution, make a declaration of compatibility.

(3) A declaration under this section does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given.

Power to make rules.

4. The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to the jurisdiction and powers conferred upon it by or under this Act.

EXPLANATORY MEMORANDUM

This Bill enables the Supreme Court to make a declaration on the application of the Chief Minister, or any other Minister authorised to that effect by the Chief Minister, on behalf of the Government with regard to the compatibility of any Act or subsidiary legislation or any Bill for an Act or any provision thereof with the Constitution.

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