

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DEFINITION OF TREATIES) (UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES) ORDER 2009

2009 No.

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 This Order specifies the United Nations Convention on the Rights of Persons with Disabilities (“the UN Convention”) as a Community Treaty for the purposes of the European Communities Act 1972 (“the Act”). The provisions of section 2 of the Act (which provide for the general implementation of Community Treaties) will apply in relation to the UN Convention and will be available for implementation of its provisions should the need arise.
3. **Matters of special interest to the Joint Committee on Statutory Instruments.**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 This Order is made under Section 1 of the Act.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**
 - 6.1 The Minister for Disabled People and the South East, Jonathan Shaw, has made the following statement regarding Human Rights: in my view the provisions of the European Communities (Definition of Treaties) (United Nations Convention on the Rights of Persons with Disabilities) Order 2009 are compatible with the Convention rights.
7. **Policy background**
 - 7.1 The UN Convention builds on existing international human rights instruments in order to explicitly reaffirm the human rights of disabled people. The UN Convention does not aim to establish new human rights for disabled people but sets out with greater clarity the obligation on States to promote, protect, and ensure the human rights that disabled people already have, so that they are treated on an equal basis with other people.

7.2 The UN Convention has a wide field of application. It encompasses civil and political, as well as economic, social and cultural rights. These rights cover all areas of life including: the right to life, liberty and security of the person; access to justice; personal mobility; health; education; work; recreation; and provision for equal recognition of disabled people before the law. It also makes specific provision in respect of the rights of disabled women and disabled children.

7.3 Both the United Kingdom and the European Community have signed the UN Convention, and the Government intends, subject to the making of this Order, to ratify it on behalf of the United Kingdom. An Explanatory Memorandum setting out the Government's proposals for ratification was laid before Parliament on 3rd March 2009. The European Commission has published a proposal for Conclusion (ie ratification) of the UN Convention by the European Community which is currently under negotiation.

7.4 The matters covered by the UN Convention are partly within the competence of the European Community by virtue, for example, of Community law on discrimination, and partly within the competence of Member States. Specification of the UN Convention as a Community Treaty will ensure that the provisions of section 2 of the Act can be used to implement any Community obligations which may arise as a result of the UN Convention's incorporation into the Community legal order. It is accepted practice that mixed agreements such as the UN Convention which may give rise to directly effective rights are so specified. No implementation under the powers conferred by specification is at present anticipated.

8. Consultation outcome

8.1 Specification is one of the steps towards ratification of the UN Convention, and has not been subject to consultation in its own right. A detailed Parliamentary statement on UK progress towards ratification of the Convention was made by the then Minister for Disabled People on 6 May 2008. Subsequently there have been a number of discussions with disabled people and their organisations. The Government has continued to provide updates on the UN Convention via two websites: www.odi.gov.uk and www.direct.gov.uk. Information is also available on the www.un-convention.info website run by an independent advisor to the Government on disability and human rights. The Government will continue to work with the independent mechanism of the UN Convention monitoring framework to promote, protect and monitor implementation, and with disabled people and their organisations.

9. Guidance

9.1 Specification will not be the subject of guidance or publicity separate to that for ratification of the UN Convention, where Government will work with disabled people and their organisations and the independent mechanism of the monitoring framework to raise awareness of the Convention.

10. Impact

10.1 Specification of the UN Convention does not impact on business, charities or voluntary bodies.

10.2 Specification of the UN Convention does not impact on the public sector but is an enabling measure to allow the powers to make subordinate legislation under section 2 of the Act to be exercised to give effect to Community obligations falling on the UK as a result of the UN Convention's incorporation into the Community legal order, and to enable expenditure to be incurred out of the Consolidated Fund.

10.3 An Impact Assessment has not been prepared for this instrument. An Impact Assessment has been produced for ratification of the UN Convention and is available on the ODI website: www.odi.gov.uk.

11. Regulating small business

11.1 The draft Order does not apply to small business.

12. Monitoring & review

12. The UN Convention will require that the UK makes a report on implementation to the UN Committee established for the purpose of monitoring the Convention, two years after ratification, and regularly thereafter.

13. Contact

Stephen Thrower at the Department for Work and Pensions Tel: 020 7449 5072 or email: stephen.thrower@dwp.gsi.gov.uk can answer any queries regarding the instrument.