

*These notes refer to the European Union (Accessions) Act 2003 (c.35),
which received Royal Assent on 13 November 2003*

EUROPEAN UNION (ACCESSIONS) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the European Union (Accessions) Act 2003 (c.35) (“the Act”), which received Royal Assent on 13 November 2003. They have been prepared by the Foreign and Commonwealth Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Act relates to the Treaty concerning the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union, signed in Athens on 16 April 2003 (“the Accession Treaty”).
4. The Accession Treaty provides for the accession of the ten new Member States (as above) to the European Union on 1 May 2004. The Treaty falls into three parts: (a) a Treaty between the fifteen existing and the ten new Member States, (b) an Act concerning the conditions of accession and the adjustments to the Treaties on which the European Union is founded (“the Act of Accession”), and (c) the Final Act of the parties to the Treaty.
5. The Government presented the Accession Treaty to Parliament as a Command Paper (Cm 5805) published by the Stationery Office. Alongside that, it submitted an Explanatory Memorandum, which summarises and analyses the contents of the Treaty. Copies of the Explanatory Memorandum can be found on the website of the Foreign and Commonwealth Office: www.fco.gov.uk.
6. The Act does two things. First, it enables the Accession Treaty to be implemented in UK law, and approves the provisions of the Accession Treaty insofar as they relate to the powers of the European Parliament. Secondly, it provides a power to grant nationals of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia (“the eight relevant states”) the same rights to work in the UK from 1 May 2004 as are enjoyed by

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nationals of the states in the European Economic Area (EEA)¹.

Implementation in UK law of the Accession Treaty

7. In order to give effect in UK law to the Accession Treaty, the Act amends the definitions of “the treaties” and “the Community treaties” in the European Communities Act 1972 (c.68). In broad terms, this grants automatic effect to directly applicable Treaty provisions, and otherwise allows designated Ministers, under section 2(2) of the 1972 Act, to make regulations amending existing UK legislation, to the extent necessary to implement the Treaty.

Freedom of movement for workers

8. The Accession Treaty grants nationals of Cyprus and Malta the same rights to work in another Member State as are currently enjoyed by nationals of the existing Member States. Nationals of the eight relevant states, however, are subject to transitional provisions, set out in Annexes V, VI, VIII, IX, X, XII, XIII and XIV of the Act of Accession. These provisions are as follows:
 - for the first two years after accession (i.e. until 30 April 2006), Member States are free to apply national measures or bilateral agreements restricting the rights of nationals from the eight relevant states to work in their territories;
 - from 1 May 2006, Member States must either grant nationals from the eight relevant states the right to move freely for the purpose of work in accordance with Community law, or continue to apply national measures or bilateral agreements – up to 30 April 2009 (or 2011, in exceptional circumstances).
9. Prior to 1 May 2006, any Member State that has not imposed restrictions on free movement of workers from the eight relevant states, or has relaxed them in the interim, is free to impose them or re-impose them. After that date, any Member State that has granted the right of free movement in accordance with Community law can request the Commission to suspend in whole or in part the application of that law if the Member State undergoes or foresees disturbances to its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation. Such suspensions can last at most until 30 April 2011.
10. In December 2002, the Government announced that it would grant nationals of the eight relevant states the same rights to work in the UK as are enjoyed by nationals of the existing Member States – from the date of accession. Section 2 of the Act provides a power to make regulations implementing this decision. It is the Government’s intention to lay regulations under this power, to take effect on 1 May 2004.

¹ The European Economic Area currently comprises the fifteen Member States of the EU, together with Norway, Iceland and Liechtenstein.

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11. In the event of an unexpected threat to a region or occupational sector within the UK labour market, the following safeguards are available:
 - Under the normal rules governing subordinate legislation and subject to parliamentary procedure, the Government can re-impose restrictions on some or all of the eight relevant states by repealing or suspending the application of any regulations made under the Act; and
 - The Government can exclude nationals of one or more of the eight relevant states from the right to work in the UK under powers contained in the Act.
12. The Government does not expect that safeguards will be necessary, but intends to monitor closely the application of regulations made under the Act. As far as possible, this will be done through existing means of monitoring the labour market, such as the Labour Force Survey. The Government also intends to take into account the views of stakeholders, such as representatives of employers and employees, the devolved administrations and regional interests.

COMMENTARY

Section 1 Accession treaty

13. *Subsection (1)* amends section 1(2) of the European Communities Act 1972 (c.68), so as to include the new Accession Treaty within the list of treaties implemented by the 1972 Act in UK law. As amended by the Act, the 1972 Act reads:

1 Short title and interpretation

(1) ...

(2) In this Act...-

...

“the Treaties” or “the Community Treaties” means, subject to subsection (3) below, the pre-accession treaties, that is to say, those described in Part I of Schedule 1 to this Act, taken with –

(a)...[*list of treaties*]; and

(g) the treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed at Athens on 16th April 2003.

14. *Subsection (2)* approves, for the purpose of section 12 of the European Parliamentary Elections Act 2002 (c.24), the provisions of the Accession Treaty insofar as they relate to the powers of the European Parliament. Section 12 of the 2002 Act says:

12 Ratification of treaties

(1) No treaty which provides for any increase in the powers of the European Parliament is to be ratified by the United Kingdom unless it has been approved by an Act of Parliament.

(2) In this section “treaty” includes –

(a) any international agreement, and

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(b) any protocol or annex to a treaty or international agreement.

Three provisions of the Act of Accession, annexed to the Accession Treaty, affect the powers of the European Parliament. Article 11 specifies the number of representatives allocated to each of the 25 Member States with effect from the start of the 2004-9 parliamentary term. Article 25 performs a similar task for the transitional period from 1 May 2004 until the election of the new Parliament shortly afterwards. Article 43 requires the Parliament to make the necessary adaptations to its rules of procedure. Although none of these provisions creates new powers for the Parliament, they have the effect of applying existing powers to persons to whom they could not otherwise have been applied prior to the entry into force of the Accession Treaty. For this reason, approval is required under the 2002 Act.

Section 2 Freedom of movement for workers

15. This section enables the Secretary of State to make regulations allowing nationals of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia (“the eight relevant states”) to work in the UK on the same terms as are enjoyed by nationals of the existing Member States of the European Union. It achieves this in the following way:
- *Subsection (1)* – allows for regulations to be made to provide that the rights of nationals of the European Economic Area (EEA) to enter and reside in the UK in order to work apply to nationals of the eight relevant states; such rights are currently implemented in the UK by the Immigration (European Economic Area) Regulations 2000 (SI 2000/2326) (as amended);
 - *Subsection (2)* - enables the regulations to extend the rights of EEA nationals to nationals of the eight relevant states in a modified or partial fashion; this will allow the application of safeguards if, e.g., it becomes necessary to restrict freedom of movement for workers from some but not all of the eight relevant states;
 - *Subsection (3)* – allows for transitional or consequential provisions and enables the regulations to make different provisions for different cases; this could be used to make different provisions for different states;
 - *Subsection (4)* – provides that the regulations will apply only in respect of states that have ratified the Accession Treaty;
 - *Subsection (6)* – requires the regulations to be subject to the affirmative resolution procedure in each House of Parliament;
 - *Subsections (7)-(10)* – allow regulations, notwithstanding subsection (6), to be made subject to the delayed affirmative resolution procedure in each House of Parliament, if it appears to the Secretary of State that this should be done because of urgency. However, the delayed affirmative resolution procedure cannot be used for the first set of regulations made under this section, which are subject to the affirmative resolution procedure.

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CONCLUDING SECTIONS

Territorial application

16. The Act extends to the whole of the UK.

Commencement

17. The Act entered into force on the date on which it received Royal Assent.

HANSARD REFERENCES

18. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	30 April 2003	Vol. 404 Col. 300
Second Reading	21 May 2003	Vol. 405 Col.1021-1122
Committee, Report and Third Reading	5 June 2003	Vol. 406 Col. 328-375
Consideration of Lords Amendments	11 November 2003	Vol. 413 Col. 195-198
House of Lords		
Introduction	5 June 2003	Vol. 648 Col. 1563
Second Reading	3 July 2003	Vol. 650 Col. 1065-1095
Committee	10 September 2003	Vol. 652 Col. 395-401
Report	27 October 2003	Vol. 654 Col. 11-21
Third Reading	4 November 2003	Vol. 654 Col. 691

Royal Assent – 13 November 2003 House of Lords Hansard Vol. 654 Col. 1521
House of Commons Hansard Vol. 413 Col. 393