

EUROPEAN UNION (APPROVAL OF TREATY AMENDMENT DECISION) ACT 2012

EXPLANATORY NOTES

BACKGROUND

Requirements under the European Union Act 2011

15. The 2011 Act sets out three requirements for the approval, by the UK, of a decision under Article 48(6) TEU: a Ministerial statement as to whether the decision triggers a referendum under section 4 of the Act; an Act of Parliament approving the decision; and compliance with the referendum condition, the exemption condition or the significance condition. Each of those conditions is set out in section 3 of the Act. The “exemption condition” is met if the Act providing for the approval of the decision states that the decision does not fall within section 4 of the Act.
16. [Section 4](#) sets out the cases in which a treaty or Article 48(6) decision attracts a referendum. Section 4(4)(b) sets out an exemption to the referendum requirement and provides that an Article 48(6) decision does not fall within section 4 merely because it involves the making of a provision that applies only to Member States other than the United Kingdom.
17. The Treaty amendment Decision amends Article 136 TFEU with regard to a “stability mechanism for Member States whose currency is the euro”. Article 136 itself is part of Chapter 4 of Title VIII TFEU which includes only provisions specific to Member States whose currency is the euro.
18. Under section 5 of the 2011 Act, the Minister must lay a statement before Parliament setting out his or her opinion as to whether a referendum is required under section 4 of the Act within two months of the date on which the decision was adopted. Subsection (6) makes transitional provision in relation to a European Council decision adopted before section 5 came into force. In such a case, a statement must be laid within two months of the commencement date of that section of the 2011 Act. Section 5 came into force on 19 August 2011. The Foreign Secretary laid a statement before Parliament on 13 October 2011 to the effect that, in his opinion, the Treaty amendment Decision does not fall within section 4 of the 2011 Act. The statement relies on the exemption in section 4(4)(b), on the basis that the Treaty amendment Decision applies only to Member States other than the UK.