European Communities Act 1972

1972 CHAPTER 68

PART I

GENERAL PROVISIONS

Textual Amendments

Act repealed (31.1.2020 at 11.00 p.m. subject to savings for implementation period in ss. 1A, 1B of the repealing Act) by European Union (Withdrawal) Act 2018 (c. 16), ss. 1, 25(4) (with savings relating to retention of existing EU law in ss. 2-7, Sch. 1, Sch. 8 para. 37) (as amended by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 1, 2, 25(c), 42(7), Sch. 5 para. 55; S.I. 2020/75, reg. 4; S.I. 2019/1198, reg. 2)

1 Short title and interpretation.

(1) This Act may be cited as the European Communities Act 1972.

(2) In this Act...
(c) the treaty relating to the accession of the Hellenic Republic to the European Economic Community and to the European Atomic Energy Community, signed at Athens on 28th May 1979; and

(d) the decision, of 24th May 1979, of the Council relating to the accession of the Hellenic Republic to the European Coal and Steel Community; and

(e) the decisions of the Council of 7 May 1985, 24 June 1988, 31 October 1994, 29 September 2000 and 7 June 2007 on the Communities’ system of own resources, and the decision of the Council of 26 May 2014 on the EU’s system of own resources;

(f) the treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, signed at Lisbon and Madrid on 12th June 1985; and

(g) the decision, of 11th June 1985, of the Council relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Coal and Steel Community;

(h) the following provisions of the Single European Act signed at Luxembourg and The Hague on 17th and 28th February 1986, namely Title II (amendment of the treaties establishing the Communities) and, so far as they relate to any of the Communities or any Community institution, the preamble and Titles I (common provisions) and IV (general and final provisions);

(i) Titles II, III and IV of the Treaty on European Union signed at Maastricht on 7th February 1992, together with the other provisions of the Treaty so far as they relate to those Titles, and the Protocols adopted at Maastricht on that date and annexed to the Treaty establishing the European Community with the exception of the Protocol on Social Policy on page 117 of Cm 1934 and


(k) the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 and

(l) the treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, signed at Corfu on 24th June 1994 and

(m) the following provisions of the Treaty signed at Amsterdam on 2nd October 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts—

(i) Articles 2 to 9,

(ii) Article 12, and

(iii) the other provisions of the Treaty so far as they relate to those Articles, and the Protocols adopted on that occasion other than the Protocol on Article J.7 of the Treaty on European Union;

(n) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts—

(i) Articles 2 to 10, and

(ii) the other provisions of the Treaty so far as they relate to those Articles, and the Protocols adopted on that occasion;
(q) 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;\[\text{F15}\] and

(r) the treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed at Luxembourg on 25th April 2005;\[\text{F16}\] and

(s) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy;\[\text{F17}\] and

(t) the Protocol amending the Protocol (No. 36) on transitional provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, signed at Brussels on 23 June 2010;\[\text{F18}\] and

(u) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011; and

(v) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012;\[\text{F19}\] and any other treaty entered into by the EU (except in so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy), with or without any of the member States, or entered into, as a treaty ancillary to any of the Treaties, by the United Kingdom;

and any expression defined in Schedule 1 to this Act has the meaning there given to it.

(3) If Her Majesty by Order in Council declares that a treaty specified in the Order is to be regarded as one of the EU Treaties as herein defined, the Order shall be conclusive that it is to be so regarded; but a treaty entered into by the United Kingdom after the 22nd January 1972, other than a pre-accession treaty to which the United Kingdom accedes on terms settled on or before that date, shall not be so regarded unless it is so specified, nor be so specified unless a draft of the Order in Council has been approved by resolution of each House of Parliament.

(4) For purposes of subsections (2) and (3) above, “treaty” includes any international agreement, and any protocol or annex to a treaty or international agreement.
(1) All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as in accordance with the Treaties shall be recognised and available in law, and be enforced, allowed and followed accordingly; and the expression ["enforceable EU right"] and similar expressions shall be read as referring to one to which this subsection applies.

(2) Subject to Schedule 2 to this Act, at any time after its passing Her Majesty may by Order in Council, and any designated Minister or department may [by order, rules, regulations or scheme] make provision—

(a) for the purpose of implementing any [EU obligation] of the United Kingdom, or enabling any such obligation to be implemented, or of enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Treaties to be exercised; or

(b) for the purpose of dealing with matters arising out of or related to any such obligation or rights or the coming into force, or the operation from time to time, of subsection (1) above;

and in the exercise of any statutory power or duty, including any power to give directions or to legislate by means of orders, rules, regulations or other subordinate instrument, the person entrusted with the power or duty may have regard to the [objects of the EU] and to any such obligation or rights as aforesaid.

In this subsection “designated Minister or department” means such Minister of the Crown or government department as may from time to time be designated by Order in Council in relation to any matter or for any purpose, but subject to such restrictions or conditions (if any) as may be specified by the Order in Council.
(3) There shall be charged on and issued out of the Consolidated Fund or, if so determined by the Treasury, the National Loans Fund the amounts required to meet any [F25 EU obligation] to make payments to [F26 the EU or a member State], or any [F25 EU obligation] in respect of contributions to the capital or reserves of the European Investment Bank or in respect of loans to the Bank, or to redeem any notes or obligations issued or created in respect of any such [F25 EU obligation] and, except as otherwise provided by or under any enactment,—

(a) any other expenses incurred under or by virtue of the Treaties or this Act by any Minister of the Crown or government department may be paid out of moneys provided by Parliament; and

(b) any sums received under or by virtue of the Treaties or this Act by any Minister of the Crown or government department, save for such sums as may be required for disbursements permitted by any other enactment, shall be paid into the Consolidated Fund or, if so determined by the Treasury, the National Loans Fund.

(4) The provision that may be made under subsection (2) above includes, subject to Schedule 2 to this Act, any such provision (of any such extent) as might be made by Act of Parliament, and any enactment passed or to be passed, other than one contained in this part of this Act, shall be construed and have effect subject to the foregoing provisions of this section; but, except as may be provided by any Act passed after this Act, Schedule 2 shall have effect in connection with the powers conferred by this and the following sections of this Act to make Orders in Council [F27 or orders, rules, regulations or schemes].

(5) . . . and the references in that subsection to a Minister of the Crown or government department and to a statutory power or duty shall include a Minister or department of the Government of Northern Ireland and a power or duty arising under or by virtue of an Act of the Parliament of Northern Ireland.

(6) A law passed by the legislature of any of the Channel Islands or of the Isle of Man, or a colonial Law (within the meaning of the 34 Colonial Laws Validity Act 1865) passed or made for Gibraltar, if expressed to be passed or made in the implementation of the Treaties and of the obligations of the United Kingdom thereunder, shall not be void or inoperative by reason of any inconsistency with or repugnancy to an Act of Parliament, passed or to be passed, that extends to the Island or Gibraltar or any provision having the force and effect of an Act there (but not including this section), nor by reason of its having some operation outside the Island or Gibraltar; and any such Act or provision that extends to the Island or Gibraltar shall be construed and have effect subject to the provisions of any such law.

Textual Amendments

F21 Words in s. 2(1) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2

F22 Words in s. 2(2) substituted (8.1.2007) by Legislative and Regulatory Reform Act 2006 (c. 51), ss. 27(1)(a), 33

F23 Words in s. 2(2)(a) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2

F24 Words in s. 2(2) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2

F25 Words in s. 2(3) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
3 Decisions on, and proof of, Treaties and EU instruments etc.

(1) For the purposes of all legal proceedings any question as to the meaning or effect of any of the Treaties, or as to the validity, meaning or effect of any EU instrument, shall be treated as a question of law (and, if not referred to the European Court, be for determination as such in accordance with the principles laid down by and any relevant decision of the European Court).

(2) Judicial notice shall be taken of the Treaties, of the Official Journal of the European Union and of any decision of, or expression of opinion by, the European Court on any such question as aforesaid; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of the EU or of any EU institution.
(3) Evidence of any instrument issued by a [EU institution], including any judgment or order of the European Court, or of any document in the custody of a [EU institution], or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(4) Evidence of any EU instrument may also be given in any legal proceedings—
(a) by production of a copy purporting to be printed by the Queen’s Printer;
(b) where the instrument is in the custody of a government department (including a department of the Government of Northern Ireland), by production of a copy certified on behalf of the department to be a true copy by an officer of the department generally or specially authorised so to do;
and any document purporting to be such a copy as is mentioned in paragraph (b) above of an instrument in the custody of a department shall be received in evidence without proof of the official position or handwriting of the person signing the certificate, or of his authority to do so, or of the document being in the custody of the department.

(5) In any legal proceedings in Scotland evidence of any matter given in a manner authorised by this section shall be sufficient evidence of it.]

Textual Amendments

F29 Words in s. 3 heading substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F30 Words in s. 3(1) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F31 Words substituted by European Communities (Amendment) Act 1986 (c. 58, SIF 29:5), s. 2(a)
F32 Words in s. 3(1) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F33 Words in s. 3(2) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F34 Words in s. 3(2) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F35 Words in s. 3(2) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F36 Words in s. 3(2) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F37 Words in s. 3(3) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F38 Words in s. 3(3) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2
F39 Words in s. 3(4) substituted (1.12.2009) by European Union (Amendment) Act 2008 (c. 7), ss. 3, 8, Sch. Pt. 1; S.I. 2009/3143, art. 2

Modifications etc. (not altering text)

C13 Sections 3(2)-(5) extended (5.11.1993) by 1993 c. 51, s. 4
S. c. 3(4) extended (1.7.1999) by 1998 c. 46, s. 125, Sch. 8 para. 15(4); S.I. 1998/3178, art. 2
S. 3(3)(4): power to modify conferred (2.12.1999) by 1998 c. 47, s. 7(2); S.I 1999/3208, art. 2
Changes to legislation:
European Communities Act 1972, Part I is up to date with all changes known to be in force on or before 01 February 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- Sch. 2 para. 1(3) inserted by 2003 c. 44 Sch. 27 para. 3(3)