



European Economic Area Act 1993

1993 CHAPTER 51

An Act to make provision in relation to the European Economic Area established under the Agreement signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993. [5th November 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Agreement on European Economic Area

In section 1(2) of the 1972 Act, in the list in the definition of “the Treaties” and “the Community Treaties”, there shall be added at the end the words “and

- (m) 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”.

2 Consistent application of law to whole of EEA

(1) Where—

- (a) the operation of any relevant enactment is limited (expressly or by implication) by reference to the Communities or by reference to some connection with the Communities, and
- (b) the enactment relates to a matter to which the Agreement (as it has effect on the date on which it comes into force) relates,

then, unless the context otherwise requires, the enactment shall have effect on and after that date in relation to that matter with the substitution of a corresponding limitation relating to the European Economic Area (or, where appropriate, to both the Communities and the European Economic Area).

(2) Subsection (1) above shall have effect—

- (a) subject to the Schedule to this Act, and

- (b) subject to such exceptions and modifications as may be prescribed by regulations made by a Minister of the Crown.
- (3) Subsection (1) above shall not be regarded—
- (a) as having an effect which is inconsistent with the operation, by virtue of the Agreement, of section 2(1) of the 1972 Act, or
 - (b) as prejudicing any power to make provision for the purpose of implementing any obligation of the United Kingdom created or arising by or under the Agreement, or for any other purpose mentioned in section 2(2)(a) or (b) of the 1972 Act relating to the Agreement;
- and any instrument made for such a purpose under section 2(2) of the 1972 Act or under any other enactment may exclude the operation of subsection (1) above.
- (4) In relation to matters to which the Agreement (as it has effect on the date on which it comes into force or subsequently) relates, the powers conferred by section 2(2) of the 1972 Act shall include power to make provision for the elimination or reduction of any difference between—
- (a) the application of any relevant enactment in cases having a connection with member States, and
 - (b) its application in cases having a connection with other States within the European Economic Area;
- and paragraph 1(1)(a), (c) and (d) of Schedule 2 to the 1972 Act shall not apply to the powers conferred by section 2(2) of that Act so far as they are exercisable by virtue of this subsection.
- (5) In relation to matters to which the Agreement (as it has effect on the date on which it comes into force or subsequently) relates, the powers conferred by section 2(2) of the 1972 Act shall include power to make provision for the avoidance, elimination or reduction of any difference between—
- (a) the application of an instrument made under that section on or after the date on which the Agreement comes into force in cases having a connection with member States, and
 - (b) its application in cases having a connection with other States within the European Economic Area.
- (6) The provision that may be made by virtue of subsection (4) above includes provision amending the Schedule to this Act.
- (7) In this section (and in the Schedule to this Act) “relevant enactment” means a provision of an Act passed, or of any subordinate legislation made, before the date on which the Agreement comes into force.

3 General implementation of Agreement

- (1) Subject to section 2 above, where by virtue of the Agreement (as it has effect on the date on which it comes into force) it is necessary for a purpose mentioned in section 2(2)(a) or (b) of the 1972 Act that any relevant provision should have effect with modifications which can be ascertained from the Agreement, then on and after that date the provision shall have effect with those modifications.
- (2) A Minister of the Crown may by regulations modify or exclude the operation of subsection (1) above in relation to a relevant provision where it appears to him

appropriate to do so because of the suspension of any part of the Agreement in accordance with the terms of the Agreement.

- (3) Subsection (1) above shall not be regarded—
- (a) as providing for modifications the effect of which is achieved through the operation, by virtue of the Agreement, of section 2(1) of the 1972 Act, or
 - (b) as prejudicing any power to make provision for the purpose of implementing any obligation of the United Kingdom created or arising by or under the Agreement, or for any other purpose mentioned in section 2(2)(a) or (b) of the 1972 Act relating to the Agreement;
- and any instrument made for such a purpose under section 2(2) of the 1972 Act or under any other enactment may exclude the operation of subsection (1) above.
- (4) Subsection (1) above shall not apply so as to require a modification if that modification, or a corresponding modification limited so as to relate only to the Communities,—
- (a) could have been made, by Act passed before the date on which the Agreement comes into force, for a purpose mentioned in section 2(2)(a) or (b) of the 1972 Act, but
 - (b) was not made (by that or other means).
- (5) In this section “relevant provision” means—
- (a) a provision of an Act passed, or of any subordinate legislation made, before the date on which the Agreement comes into force;
 - (b) a provision of any other instrument made before that date by a person as against whom the effect of a directive issued by a Community institution (if such a directive were relevant) might be relied upon in proceedings to which he was a party.

4 Amendment of 1972 Act s.3

Subsections (2) to (5) of section 3 of the 1972 Act (provisions as to judicial notice and evidence)—

- (a) shall have effect in relation to the EFTA Court (to be established under Article 108 of the Agreement) as they have effect in relation to the European Court, and
- (b) shall have effect in relation to the EFTA Surveillance Authority (also to be established under that Article) as they have effect in relation to a Community institution other than the European Court.

5 Regulations

The power to make regulations under section 2(2) or section 3(2) above shall be exercisable by statutory instrument; and any statutory instrument containing such regulations, if made without a draft having been approved by resolution of each House of Parliament, shall be subject to annulment in pursuance of a resolution of either House.

6 Interpretation

- (1) In this Act, except where the context otherwise requires,—
- “the 1972 Act” means the European Communities Act 1972;

“Act” includes an Act of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;

“the Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“Minister of the Crown” includes the Treasury;

“subordinate legislation” means Orders in Council, orders, rules, regulations, schemes, warrants, byelaws and other instruments made under any Act.

- (2) References in this Act to the date on which the Agreement comes into force are references to the date on which (in accordance with the Protocol signed at Brussels on 17th March 1993) it comes into force otherwise than as regards Liechtenstein.

7 **Short title**

This Act may be cited as the European Economic Area Act 1993.

SCHEDULE

Section 2.

LIMITATIONS ON APPLICATION OF SECTION 2(1)

- 1 Section 2(1) of this Act shall not apply to a relevant enactment by reason only that it refers to, or to a provision of, one of the Treaties or a Community instrument.
- 2 In the case of a relevant enactment the operation of which is limited by reference to a Community institution, section 2(1) of this Act shall not be construed as requiring the substitution of a limitation relating to the EFTA Surveillance Authority or the EFTA Court.
- 3 Section 2(1) of this Act shall not apply in relation to the following instruments:—
 - (a) the Education (Fees and Awards) Regulations 1983;
 - (b) the Education (Fees and Awards) (Scotland) Regulations 1983;
 - (c) the Education Authority Bursaries (Scotland) Regulations 1988;
 - (d) the Students' Allowances (Scotland) Regulations 1991;
 - (e) the Public Supply Contracts Regulations 1991;
 - (f) the Public Works Contracts Regulations 1991;
 - (g) the Education (Student Loans) Regulations 1992;
 - (h) the Education (Mandatory Awards) Regulations 1992;
 - (i) the Education (Student Loans) Regulations (Northern Ireland) 1992;
 - (j) the Students Awards Regulations (Northern Ireland) 1992.