

# LEGISLATIVE AND REGULATORY REFORM ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Legislation Relating to the European Communities Etc**

##### **Implementation of Community obligations etc**

##### *Section 29: Combination of powers*

150. [Section 29](#) makes provision to enable the power conferred by section 2(2) of the 1972 Act (power to implement Community obligations etc) to be combined with delegated powers in other legislation where the procedures in each case are different.
151. It is generally not possible for a statutory instrument made under an enabling power in one Act to be combined with an instrument made under an enabling power in another, if the Parliamentary procedures to be followed under the two Acts differ. Sometimes it is desired to exercise the power in section 2(2) together with another power to create a single new regime. If the powers are subject to different procedures, it may not be possible to do so in a single instrument. It is this difficulty which is addressed by the section.
152. The Parliamentary procedures which apply to instruments made under section 2(2) of the 1972 Act are set out in paragraph 2 of Schedule 2 to that Act. That paragraph permits a choice of procedure: negative or affirmative.
153. New paragraph 2A allows for instruments which are made under section 2(2) and are subject to the affirmative procedure to be combined with instruments which would otherwise be subject to the negative resolution procedure or other less onerous procedures. In each case, the provision made under the non-section 2(2) power will be subject to the affirmative resolution procedure, rather than the less onerous procedures which would otherwise apply.
154. New paragraph 2B deals with the case where the negative resolution procedure is the one to be followed for the provision to be made under section 2(2) of the 1972 Act. The statutory instrument containing the provision to be made under section 2(2) of the 1972 Act can also contain provision which would otherwise have to be laid before Parliament after being made, but would not be subject to annulment nor have to be approved; or would not be required to be laid before Parliament. In this case, the provision made under the non-section 2(2) power will be subject to the negative resolution procedure rather than the less onerous procedure which would otherwise apply.
155. New paragraph 2C makes the modifications needed so that Scottish statutory instruments can also contain provision made under section 2(2) of the 1972 Act and under other delegated powers in other legislation even though the procedures to be followed under section 2(2) differs from the procedure required by the other legislation.