



# European Communities Act 1972

## 1972 CHAPTER 68

### PART I

#### GENERAL PROVISIONS

#### 1 Short title and interpretation.

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

(2) In this Act . . . <sup>F1</sup>—

“the Communities” means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community;

“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) the treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the 22nd January 1972; and
- (b) the decision, of the same date, of the Council of the European Communities relating to the accession of the United Kingdom to the European Coal and Steel Community; <sup>F2</sup>and
- (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; <sup>F3</sup>and
- (e) the decisions of the Council of 7th May 1985, 24th June 1988, 31st October 1994 and 29th September 2000, on the Communities’ system of own resources; <sup>F4</sup>and
- (g) 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

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- (h) 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;<sup>[F5]</sup> and
- (j) 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);<sup>[F6]</sup> and
- (k) 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<sup>[F7]</sup> and
- (l) the decision, of 1st February 1993, of the Council amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to Council Decision [76/787/ECSC](#), EEC, Euratom of 20th September 1976.<sup>[F8]</sup> 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<sup>[F9]</sup> and
- (n) 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;<sup>[F10]</sup> and
- (o) 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]

and any other treaty entered into by any of the Communities, 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 Community 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.

#### Textual Amendments

**F1** Words repealed by [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), s. 25, [Sch. 3](#)

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- F2** S. 1(2)(c)(d) inserted by [European Communities \(Greek Accession\) Act 1979 \(c. 57, SIF 29:5\)](#), **s. 1**
- F3** S. 1(2)(e) and the word “and” immediately preceding it substituted (4.12.2001) by [2001 c. 22, s. 1](#) (the replaced para. (e) having itself previously been substituted for paras. (e) and (f))
- F4** S. 1(2)(g)(h) inserted by [European Communities \(Spanish and Portuguese Accession\) Act 1985 \(c. 75, SIF 29:5\)](#), **s. 1**
- F5** Words inserted by [European Communities \(Amendment\) Act 1986 \(c. 58, SIF 29:5\)](#), **s. 1**
- F6** S. 1(2)(k) and the word “and” immediately preceding it inserted (23.7.1992) by [1993, c. 32, s. 1\(1\)\(7\)](#); resolution of House of Lords dated 27.7.1993; resolution of House of Commons dated 23.7.1993
- F7** S. 1(2)(l) and the word “and” immediately preceding it inserted (5.11.1993) by [1993 c. 41, s. 3\(2\)](#)
- F8** S. 1(2)(m) and the word “and” immediately preceding it added (5.11.1993) by [1993 c. 51, s. 1](#)
- F9** S. 1(2)(n) and the preceding “and” inserted (3.11.1994) by [1994 c. 38, s. 1](#)
- F10** S. 1(2)(o) and the preceding “and” inserted (11.6.1998) by [1998 c. 21, s. 1](#)

## 2 General implementation of Treaties.

- (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 are without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law, and be enforced, allowed and followed accordingly; and the expression “enforceable Community 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 regulations, make provision—
- for the purpose of implementing any Community 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
  - 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 Communities 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 Community obligation to make payments to any of the Communities or member States, or any Community 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 Community obligation; and, except as otherwise provided by or under any enactment,—

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- (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 and regulations.
- (5) . . . <sup>F11</sup> 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 <sup>M1</sup>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

**F11** Words repealed by Northern Ireland Constitution Act 1973 (c. 36 SIF 29:3), Sch. 6 Pt. I

#### Modifications etc. (not altering text)

- C1** S. 2 extended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 15(2)**; S.I. 1998/3178, **art. 2(1)**  
 S. 2 modified (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 15(3)**; S.I. 1998/3178, **art. 2(1)**  
 S. 2: power to make certain corresponding provisions conferred (27.7.1999) by 1999 c. 24, s. 2, **Sch. 1 Pt. I para. 20(1)(d)**
- C2** S. 2(2) extended (27.9.1993) by 1993 c. 36, s. 70(2)
- C3** S. 2(2) extended (5.11.1993) by 1993 c. 51, s. 2(5)  
 S. 2(2) extended (1.12.1998) by 1998 c. 38, s. 29(2); S.I. 1998/2789, **art. 2**  
 S. 2(2) amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2**; S.I. 1998/3178, **art. 2(1)** (with art. 7(4))  
 S. 2(2) modified (30.11.2000) by 2000 c. 37, s. 81(2)
- C4** S. 2(2): Transfer of certain functions (27.3.2002) by S.I. 2002/794, **art. 3(11)**
- C5** S. 2(2) power made exercisable concurrently (15.2.2006) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 {S.I. 2006/304}, {art. 3} (with art. 5)
- C6** S. 2(2)(a)(b) excluded (N.I.) by Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), s. 2(2), **Sch. 2 para. 3**

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- C7** Reference in s. 2(5) to “that subsection” means s. 2(2) of this Act. Reference to a Minister of the Government of Northern Ireland to be construed, as respects the discharge of functions, as a reference to the head of a Northern Ireland department: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 5 para. 7\(2\)](#)

#### Marginal Citations

- M1** [1865 c. 63\(26:1\)](#).

### 3 Decisions on, and proof of, Treaties and Community 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 Community 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 [<sup>F12</sup>decision of the European Court or any court attached thereto]).
- (2) Judicial notice shall be taken of the Treaties, of the Official Journal of the Communities and of any decision of, or expression of opinion by, the European Court [<sup>F13</sup>or any court attached thereto] on any such question as aforesaid; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of any of the Communities or of any Community institution.
- (3) Evidence of any instrument issued by a Community institution, including any judgment or order of the European Court [<sup>F13</sup>or any court attached thereto], or of any document in the custody of a Community 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 Community 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

- F12** Words substituted by [European Communities \(Amendment\) Act 1986 \(c. 58, SIF 29:5\)](#), [s. 2\(a\)](#)
- F13** Words inserted by [European Communities \(Amendment\) Act 1986 \(c. 58, SIF 29:5\)](#), [s. 2\(b\)](#)

#### Modifications etc. (not altering text)

- C8** [Sections 3\(2\)-\(5\)](#) extended (5.11.1993) by [1993 c. 51, s. 4](#)  
[S. 3\(4\)](#) extended (1.7.1999) by [1998 c. 46, s. 125, Sch. 8 para. 15\(4\)](#); [S.I. 1998/3178, art. 2](#)

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S. 3(3)(4): power to modify conferred (2.12.1999) by 1998 c. 47, s. 7(2); S.I 1999/3208, art. 2

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