

*These notes refer to the European Union (Accessions) Act 2006 (c.2)
which received Royal Assent on 16 February 2006*

EUROPEAN UNION (ACCESSIONS) ACT 2006

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the European Union (Accessions) Act which received Royal Assent on 16 February 2006. They have been prepared by the Foreign and Commonwealth Office in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Act relates to the Treaty concerning the accession of Bulgaria and Romania to the European Union signed in Luxembourg on 25 April 2005 (“the Accession Treaty”).
4. The Accession Treaty provides for the accession of Bulgaria and Romania to the European Union on 1 January 2007. It allows for the possibility that ‘the Treaty establishing a Constitution for Europe’ (or “Constitutional Treaty”), signed by the 25 Member States of the EU in Rome on 29 October 2004, is in force at that time (see sub-paragraph b) on the ‘Accession Protocol’ below). Equally the Accession Treaty allows for a scenario where the Constitutional Treaty is not in force at that time, and indeed one where it never comes into force (see sub-paragraph c) on the Act of Accession below). The Accession Treaty falls into four parts:
 - a) a Treaty between the twenty-five existing Member States and Bulgaria and Romania;
 - b) an ‘Accession Protocol’ concerning the conditions and arrangements for the entry of Bulgaria and Romania into the European Union, which takes effect if the Constitutional Treaty is in force on the date the Accession Treaty enters into force;
 - c) an ‘Act of Accession’, in similar terms to the Protocol, which takes effect if the Constitutional Treaty is not in force on the date the Accession Treaty enters into force; and
 - d) the Final Act of the parties to the Treaty, including declarations, both joint and individual, by the current and the acceding States.
5. The Government has presented the Accession Treaty to Parliament as a Command Paper (Cm 6657), published by the HMSO, and has also submitted an Explanatory Memorandum, which summarises and analyses the contents of the Accession

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Treaty. Copies of the Explanatory Memorandum can be found on the website of the Foreign and Commonwealth Office: www.fco.gov.uk.

6. The Act does two things. Firstly, it enables the Accession Treaty to be implemented in UK law, and approves the provisions of the Accession Treaty insofar as they relate to the powers of the European Parliament. Secondly, it provides a power to make provision on the entitlement of Bulgarian and Romanian workers to work and reside in the UK.

Implementation in UK law of the Accession Treaty

7. In order to give effect in UK law to the Accession Treaty, the Act amends the definitions of “the treaties” and “the Community treaties” in the European Communities Act 1972 (c.68). In broad terms, this grants automatic effect to directly applicable Treaty provisions, and otherwise allows designated Ministers, under section 2(2) of the 1972 Act, to make regulations amending existing UK legislation, to the extent necessary to implement the Treaty.

Freedom of movement for workers

8. The Accession Treaty sets out the transitional provisions in relation to the free movement of workers that will apply to Bulgarian and Romanian nationals. These provisions are as follows:
 - for the first two years after accession, Member States are required to apply national measures or bilateral agreements regulating the rights of nationals from Bulgaria and Romania to work in their territories;
 - from the third year, Member States may either grant nationals from Bulgaria and Romania the right to move and work freely in accordance with Community law, or continue to apply national measures or bilateral agreements for a further three years (or 5 years, in exceptional circumstances).
9. Any Member State that has granted the right of free movement in accordance with Community law during the 7 year transitional period can request that the Commission suspend in whole or in part the application of that law if the Member State undergoes or foresees disturbances of its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation.
10. Section 2 of the Act provides a power to make regulations implementing these transitional arrangements concerning the free movement of Bulgarian and Romanian workers.

TERRITORIAL EXTENT

11. The Act extends to the whole of the UK. All of its provisions are reserved (or ‘excepted’ in the case of Northern Ireland), and there are no direct implications for the Welsh Assembly, the Scottish Executive or the Northern Ireland Office.

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COMMENTARY

Section 1: The Accession Treaty

12. *Subsection (1)* amends section 1(2) of the European Communities Act 1972 (c.68), so as to include the new Accession Treaty within the list of treaties implemented by the 1972 Act in UK law.
13. *Subsection (2)* approves, for the purpose of section 12 of the European Parliamentary Elections Act 2002 (c.24), the provisions of the Accession Treaty insofar as they relate to the powers of the European Parliament. Section 12 of that Act requires that a treaty which provides for any increase in the powers of the European Parliament must be approved by an Act of Parliament before being ratified by the United Kingdom.
14. Two provisions of the Protocol and three provisions of the Act of Accession, annexed to the Accession Treaty, affect the powers of the European Parliament. Article 9 of the Act specifies the number of representatives allocated to each of the 27 Member States with effect from the start of the 2009-2014 parliamentary term. Article 21 of the Protocol and Article 24 of the Act perform the same task for the transitional period from the date of accession until the election of the new Parliament. Article 43 of the Protocol and Article 43 of the Act require that the European Parliament makes the necessary adaptations to its rules of procedure. Although none of these provisions create new powers for the Parliament, they have the effect of applying existing powers to persons to whom they could not otherwise have been applied prior to the entry into force of the Accession Treaty. For this reason, approval is required under the 2002 Act.

Section 2: Freedom of movement for workers

15. This section provides a power for the Secretary of State to make regulations implementing the transitional arrangements concerning the free movement of Bulgarian and Romanian workers. It achieves this in the following way:
 - *Subsection (1)* – allows for regulations to make provision concerning the entitlement of Bulgarian and Romanian nationals to enter or reside in the UK as workers.
 - *Subsection (2)* – states that such regulations may provide that an enactment relating to the rights of nationals of the European Economic Area (EEA) to enter or reside in the UK in order to work (the “specified enactment”), applies (with or without modifications) to nationals of Bulgaria and Romania; the general free movement rights of EEA nationals are currently implemented in the UK by the Immigration (European Economic Area) Regulations 2000 (SI 2000/2326)¹ (as amended) and the transitional provision made in relation to workers from eight of the States that acceded to the EU in 2004 are set out in

¹ The European Economic Area currently comprises the twenty-five Member States of the EU, together with Norway, Iceland and Liechtenstein.

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the Accession (Immigration and Worker Registration) Regulations 2004 (SI 2004/ 1219) (as amended);

- *Subsections (3) and (4)* – provide that regulations under the section may, in particular, require Bulgarian and Romanian workers to be registered, require a fee to be paid in relation to such registration (or applications for registration) and make it an offence (subject to the limits in *subsection (4)*) for an employer to employ such a worker unless authorised to do so under the regulations;
- *Subsection (5)* – allows the regulations under section 2 to include incidental, supplementary, transitional or consequential provisions and to make different provisions for different cases; this would, for example, allow different provision to be made in relation to different economic sectors;
- *Subsections (6) to (9)* - these subsections require regulations made under section 2 to follow the affirmative parliamentary procedure, which requires a draft of the regulations to be approved by both Houses of Parliament before they are made; if, however, regulations need to be made urgently (for example, to address serious disturbances to the UK labour market) regulations can be made and then approved by Parliament within 40 days (in computing the 40 day period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days, as provided for in section 7(1) of the Statutory Instruments Act 1946).

COMMENCEMENT

16. The European Union (Accessions) Act entered into force on Royal Assent.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament:

Stage	Date	Hansard reference
<i>House of Commons</i>		
Introduction	11 October 2005	Vol. 437 Col. 169
Second Reading	1 November 2005	Vol. 438 Cols. 731-795
Committee, Report and Third Reading	24 November 2005	Vol. 439 Cols.1681-1720

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<i>House of Lords</i>		
Introduction	28 November 2005	Vol. 676 Col. 9
Second Reading	20 December 2005	Vol. 676 Cols. 1683-1718
Committee	10 January 2006	Vol. 677 Cols. 135-154
Report	24 January 2006	Vol. 677 Col. 1067
Third reading	7 February 2006	Vol. 678 Cols. 513-516

Royal Assent – 16 February 2006 House of Lords Hansard Vol. 678 Col. 1253
House of Commons Hansard Vol. 442 Col. 1579

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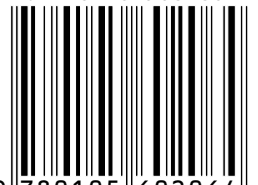
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