

# **EUROPEAN UNION (AMENDMENT) ACT 2008**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

3. This Act is intended to enable the United Kingdom to ratify the Treaty of Lisbon. The United Kingdom signed the Treaty on 13 December 2007. The Treaty has been published as Command Paper CM 7294, European Community Series no. 13 (2007), entitled “Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community including the Protocols and Annexes, and Final Acts with Declarations”.
4. The Treaty of Lisbon amends the principal EU Treaties, namely, the Treaty on European Union (TEU), the Treaty establishing the European Community (TEC) and the Treaty establishing the European Atomic Energy Community. A consolidated version of the TEU and Treaty on the Functioning of the European Union (TFEU) (the re-named TEC) has been published as Command Paper CM 7310, along with a comparative table of the current EU Treaties as amended by the Treaty of Lisbon (Command Paper CM 7311).
5. The principal changes made by the Treaty - see Articles 1 and 2 - are as follows:
  - Underlines the principle that the EU has only those powers conferred on it by the Member States. Categories of competence are defined. The Treaty includes provision for competences to be transferred back to Member States from the EU.
  - Institutional reforms, notably the creation of a President of the European Council elected by the European Council for a two and half year term (renewable once) and a High Representative of the Union for Foreign and Security Policy (a post which combines the existing roles of Council High Representative for the Common Foreign and Security Policy and the Commissioner for External Affairs) appointed by the European Council; the introduction of new system for calculating a Qualified Majority for the system of voting in the Council (from 2014); and a reduction in the size of the European Commission (from 2014).
  - Recognition by the EU of the Charter of Fundamental Rights, subject to the Protocol on the application of the Charter to Poland and the United Kingdom. Provision for the EU to accede to the European Convention on Human Rights.
  - Placing the Common Foreign and Security Policy, including the common security and defence policy, in the context of the EU’s external action generally, and the creation of an External Action Service. The CFSP provisions remain in the TEU.
  - The introduction of opportunities for national Parliaments to be more involved in the functioning of the European Union, including a role in ensuring that proposed legislation conforms with the principle of Subsidiarity.
  - The revision of the procedure for amending the principal EU Treaties and the introduction of other procedures for Treaty revision.
  - The introduction of a procedure for managing the withdrawal of a Member State from the EU.

*These notes refer to the European Union (Amendment) Act  
2008 (c.7) which received Royal Assent on 19 June 2008*

- The succession of the EU with express legal personality to the European Community (which currently has legal personality), and the re-naming of the Treaty establishing the European Community as the Treaty on the Functioning of the Union.
  - Bringing together in the Treaty on the Functioning of the Union, and revising, the provisions on asylum, migration and police and judicial cooperation under the heading of the Area of Freedom, Security and Justice, subject to revised Protocols concerning the United Kingdom's "opt in" arrangements.
  - The creation of specific competences for EU action, including in the areas of space policy, energy, tourism, civil protection and administrative cooperation.<sup>1</sup>
  - The extension of Qualified Majority Voting and co-decision of legislation by the Council and the European Parliament to new policy areas.
  - Revised procedures for "enhanced co-operation", under which fewer than all the Member States may be authorised to exercise EU competences through the EU Institutions. At least 9 Member States must participate initially and other Member States may participate following the initial authorisation. Such cooperation must not undermine the internal market or economic, social or territorial cohesion in the EU.
6. Article 4 of the Treaty of Lisbon introduces Protocol no. 1 to the Treaty, which contains amendments to the Protocols currently annexed to the TEU, TEC and the Treaty establishing the European Atomic Energy Community. The amendments include those to the current protocols for the UK's "opt in" arrangements with respect to Title IV TEC.
  7. [Article 4](#) also introduces Protocol no. 2 to the Treaty, which amends the Treaty establishing the European Atomic Energy Community.
  8. [Article 5](#) provides for a comprehensive simplification of the numbering of Treaty articles, including cross-references within the treaties and secondary legislation of the European Union, in accordance with the table set out in the Annex to the Treaty. The numbers of articles in the TEU and the TEC which appear in the text of the articles of the Treaty of Lisbon are subject to the provisions of Article 5. The Act and these Notes refer to articles of the TEU and the TEC as re-numbered in accordance with Article 5 and the Annex.
  9. The other articles (Articles 3, 6 and 7) are formal and relate to the indefinite duration of the Treaty, ratification, and the authentic languages in which the Treaty is drawn up.

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<sup>1</sup> Further details on competences in the Lisbon Treaty are set out in the Minister for Europe's letter of 17 January 2008 to the House of Lords EU Select Committee, to be published with the House of Lords European Union Committee's 10th Report 2007-08 *The Treaty of Lisbon: an impact assessment* (evidence, HL Paper 62-II)