

## EUROPEAN COMMUNITIES ACT 1972 c. 68

An Act to make provision in connection with the enlargement of the European Communities to include the United Kingdom, together with (for certain purposes) the Channel Islands, the Isle of Man and Gibraltar. [17 October 1972]

### PART I GENERAL PROVISIONS

#### 1 Short title and interpretation

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

1(2) In this Act . . .

"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,  
.....

and any expression defined in Schedule 1 to this Act has the meaning there given to it.

1(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.

1(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.

#### 2 General implementation of Treaties

2(1) All such rights, powers, liabilities, obligations and restrictions from time to time treated 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 to 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(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

(a) 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

(b) 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.

2(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.
- 2(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.
- 2(5) .....
- 2(6) .....
- 3 Decisions on, and proof of, Treaties and Community instruments, etc.**
- 3(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 decision of the European Court).
- 3(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 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(3) .....
- 3(4) .....
- 3(5) .....

### SECTION 2 : SCHEDULE 2

#### PROVISIONS AS TO SUBORDINATE LEGISLATION

- 1(1) The powers conferred by section 2(2) of this Act to make provision for the purposes mentioned in section 2(2)(a) and (b) shall not include power –
- (a) to make any provision imposing or increasing taxation; or
  - (b) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision; or
  - (c) to confer any power to legislate by means of orders, rules regulations or other subordinate instrument, other than rules of procedure for any court or tribunal; or
  - (d) to create any new criminal offence punishable with imprisonment for more than two years or punishable on summary conviction with imprisonment for more than three months or with a fine of more than [level 5 on the standard scale] (if not calculated on a daily basis) or with a fine of more than [£100 a day].
- 1(2) Sub-paragraph (1) (c) above shall not be taken to preclude the modification of a power to legislate conferred otherwise than under section 2(2), or the extension of any such power to purposes of the like nature as those for which it was conferred; and a power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of sub-paragraph (1) (c).
- 2(1) Subject to paragraph 3 below, where a provision contained in any section of this Act confers power to make regulations (otherwise than by modification or extension of an existing power), the power shall be exercisable by statutory instrument.
- 2(2) Any statutory instrument containing an Order in Council or regulations made in the exercise of a power so conferred, 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.

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### European Communities (Amendment) Act 2002 Chapter 3

An Act to make provision consequential on the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts. [26th February 2002]

#### 1 Incorporation of provisions of the Treaty of Nice

- 1(1) In section 1(2) of the European Communities Act 1972 (c. 68), in the definition of "the Treaties" and "the Community Treaties", after paragraph (o) there shall be inserted "and
- (p) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts-
- (i) Articles 2 to 10, and
- (ii) the other provisions of the Treaty so far as they relate to those Articles, and the Protocols adopted on that occasion;"
- 1(2) Her Majesty may by Order in Council amend the definition referred to in subsection (1) so as to add to it provisions adopted by the Council of the European Communities under Article 229a of the Treaty establishing the European Community (provisions conferring jurisdiction on the European Court in connection with Community industrial property rights).
- 1(3) No recommendation may be made to Her Majesty to make an Order in Council under subsection (2) unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament.

#### 2 References to the European Court etc

In Part 2 of Schedule 1 to the European Communities Act 1972 (c. 68) (definitions relating to Communities), at the end of the definition of "European Court" there shall be added "or the Court of First Instance, and any reference to a court attached to the European Court is a reference to a judicial panel attached to the Court of First Instance".

#### 3 Approval of increase in powers of European Parliament

For the purpose of section 6 of the European Parliamentary Elections Act 1978 (c. 10) (approval of treaties increasing the Parliament's powers) the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts is approved.

#### 4 Short title

This Act may be cited as the European Communities (Amendment) Act 2002.

### European Communities (Finance) Act 1995 Chapter c. 1

An Act to amend the definition of "the Treaties" and "the Community Treaties" in section 1(2) of the European Communities Act 1972 so as to include the decision of 31st October 1994 of the Council on the Communities' system of own resources and so as to remove a spent provision. [16th January 1995]

#### Extended meaning of "the Treaties" and "the Community Treaties".

1. In section 1(2) of the [1972 c. 68.] European Communities Act 1972, in the definition of "the Treaties" and "the Community Treaties", for paragraphs (e) and (f) (Council decisions of 7th May 1985 and of 24th June 1988 on Communities' own resources, and undertaking of Member States confirmed on 24th June 1988 for financing the Communities' budget for 1988), and the word "and" immediately preceding them, there shall be substituted the words
- "and
- (e) the decisions of the Council of 7th May 1985, 24th June 1988, and 31st October 1994, on the Communities' system of own resources; and"

#### Short title and repeal.

- 2(1) This Act may be cited as the European Communities (Finance) Act 1995.
- 2(2) The 1988 c.46 European Communities (Finance) Act 1988 (which is superseded by this Act) is hereby repealed.