



Number 33 of 2009

EUROPEAN UNION ACT 2009

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[No. 33.]

European Union Act 2009.

[2009.]

ACTS REFERRED TO

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Number 33 of 2009

EUROPEAN UNION ACT 2009

AN ACT TO MAKE PROVISION WITH RESPECT TO THE STATE'S MEMBERSHIP OF THE EUROPEAN UNION; TO PROVIDE FOR THE APPLICATION UNDER THE LAW OF THE STATE OF THE TREATY OF LISBON AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY, SIGNED AT LISBON ON THE 13TH DAY OF DECEMBER 2007; FOR THOSE PURPOSES TO AMEND THE EUROPEAN COMMUNITIES ACT 1972; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[27th October, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 1972” means the European Communities Act 1972;

“European Union” has the same meaning as it has in the Act of 1972;

“Minister” means the Minister for Foreign Affairs; and

“treaties governing the European Union” has the same meaning as it has in the Act of 1972.

2.—Section 1 of the Act of 1972 is amended, in subsection (1), by the insertion of the following definitions:

Amendment of section 1 of Act of 1972.

“ ‘European Union’ means the European Union, established by virtue of the Lisbon Treaty, and the European Atomic Energy Community;

‘Lisbon Treaty’ means the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on the 13th day of December 2007;

‘treaties governing the European Union’ means—

(a) the Treaty on European Union,

- (b) the Treaty on the Functioning of the European Union,
- (c) the Lisbon Treaty, and
- (d) the treaties governing the European Communities,

but shall not include the provisions to which the first paragraph of Article 275 of the treaty referred to in paragraph (b) applies;”.

Amendment of section 2 of Act of 1972.

3.—Section 2 of the Act of 1972 is amended by the substitution of the following subsection for subsection (1):

“(1) The following shall be binding on the State and shall be part of the domestic law thereof under the conditions laid down in the treaties governing the European Union:

- (a) the treaties governing the European Union;
- (b) acts adopted by the institutions of the European Union (other than acts to which the first paragraph of Article 275 of the Treaty on the Functioning of the European Union applies);
- (c) acts adopted by the institutions of the European Communities in force immediately before the entry into force of the Lisbon Treaty; and
- (d) acts adopted by bodies competent under those treaties (other than acts to which the first paragraph of the said Article 275 applies).”.

Amendment of section 3 of Act of 1972.

4.—Section 3 of the Act of 1972 is amended by the substitution, in paragraph (a) of subsection (3) (inserted by section 2 of the European Communities Act 2007) of the following subparagraphs for subparagraphs (i) and (ii):

- “(i) a provision of the treaties governing the European Union, or
- (ii) an act, or provision of an act, adopted by an institution of the European Union, an institution of the European Communities or a body competent under those treaties, and”.

Construction of references.

5.—(1) References in any enactment (other than this Act and the Act of 1972) to the European Communities shall be construed as including references to the European Union.

(2) References in any enactment (other than this Act and the Act of 1972) to the treaties governing the European Communities shall be construed as references to the treaties governing the European Union.

(3) References in any enactment to the Treaty establishing the European Economic Community or the Treaty establishing the European Community shall be construed as references to the Treaty on the Functioning of the European Union.

(4) In this section “enactment” has the same meaning as it has in the Interpretation Act 2005.

6.—Section 1 of the European Union (Scrutiny) Act 2002 is amended by the substitution of the following definition for the definition of “measure”:

Amendment of
European Union
(Scrutiny) Act 2002.

“ ‘measure’ means—

- (a) a regulation or directive adopted under the Treaty on the Functioning of the European Union,
- (b) a decision adopted under Article 28 or 29 of the Treaty on European Union, or
- (c) an act (other than a regulation, directive or decision referred to in paragraph (a) or (b)) requiring the prior approval of both Houses of the Oireachtas pursuant to subsection 7° or 8° of Article 29.4 of the Constitution;”.

7.—(1) (a) Either House of the Oireachtas may, not later than 6 months after receiving a notification under the third subparagraph of Article 48.7 of the Treaty on European Union, pass a resolution opposing the adoption of the decision to which the notification relates.

Role of Houses of
Oireachtas.

(b) A resolution referred to in *paragraph (a)* shall constitute an opposition to the decision concerned for the purposes of the third subparagraph of Article 48.7 of the Treaty on European Union, and the European Council shall be informed accordingly thereof.

(2) (a) Either House of the Oireachtas may, not later than 6 months after receiving a notification under the third subparagraph of Article 81.3 of the Treaty on the Functioning of the European Union, pass a resolution opposing the adoption of the decision to which the notification relates.

(b) A resolution referred to in *paragraph (a)* shall constitute an opposition to the decision concerned for the purposes of the third subparagraph of Article 81.3 of the Treaty on the Functioning of the European Union, and the Council shall be informed accordingly thereof.

(3) Either House of the Oireachtas may, not later than 8 weeks after the transmission of a draft legislative act referred to in Article 6 of Protocol No. 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union, send to the Presidents of the European Parliament, the Council and the European Commission a reasoned opinion in accordance with that Article if the House concerned passes a resolution in respect of the draft legislative act concerned authorising the House to so do.

(4) Where either House of the Oireachtas is of opinion that an act of an institution of the European Union infringes the principle of subsidiarity provided for in the treaties governing the European Union and wishes that proceedings seeking a review of the act concerned be brought in the Court of Justice of the European Union in accordance with Article 263 of the Treaty on the Functioning of the

European Union, it shall so notify the Minister in writing for the purposes of Article 8 of Protocol No. 2 to that treaty and the Treaty on European Union and the Minister shall, as soon as may be after being so notified, arrange for such proceedings to be brought.

Continuation in force of certain statutory instruments.

8.—(1) Where a European act (in this subsection referred to as a “repealed act”), to which effect or further effect has been given, in whole or in part, by a statutory instrument, is repealed and replaced by another European act (in this subsection referred to as a “codifying act”) without any material modification of the repealed act, that statutory instrument shall, upon and after the repeal of the repealed act, have effect as if it had been made for the purpose of giving effect or further effect, in whole or in part (as the case may be), to the codifying act, and accordingly—

- (a) references in that statutory instrument to the repealed act shall be construed as references to the codifying act, and
- (b) references in that statutory instrument to a provision of the repealed act shall be construed as references to the provision of the codifying act that corresponds, in accordance with the codifying act, to the first-mentioned provision.

(2) Where, before the passing of this Act, a European act (in this subsection referred to as a “repealed act”), to which effect or further effect was given, in whole or in part, by a statutory instrument, was repealed and replaced by another European act (in this subsection referred to as a “codifying act”) without any material modification of the repealed act, that statutory instrument shall, from the date of the repeal of the repealed act, be deemed to have been made for the purpose of giving effect or further effect, in whole or in part (as the case may be), to the codifying act, and accordingly shall have effect, and be deemed from that date to have had effect, subject to—

- (a) references in that statutory instrument to the repealed act being construed as references to the codifying act, and
- (b) references in that statutory instrument to a provision of the repealed act being construed as references to the provision of the codifying act that corresponds, in accordance with the codifying act, to the first-mentioned provision.

(3) In this section—

“European act” means—

- (a) a provision of the treaties governing the European Union, or
- (b) an act or provision of an act, adopted by an institution of the European Union, an institution of the European Communities or any other body competent under those treaties;

“statutory instrument” means an order, regulation, rule, scheme or bye-law made in exercise of a power conferred by—

- (a) an Act of the Oireachtas (including the Act of 1972), or

- (b) a statute that was in force immediately before the date of the coming into force of the Constitution and that continues to be of full force and effect by virtue of Article 50 of the Constitution.

9.—(1) This Act may be cited as the European Union Act 2009.

Short title,
collective citation
and
commencement.

(2) The European Communities Acts 1972 to 2007 and this Act may be cited together as the European Communities Acts 1972 to 2009.

(3) This Act (other than *section 8*) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.