

European Union (Croatian Accession and Irish Protocol) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Foreign and Commonwealth Office, are published separately as Bill 76 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary William Hague has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the European Union (Croatian Accession and Irish Protocol) Bill are compatible with the Convention rights.

European Union (Croatian Accession and Irish Protocol) Bill

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Make provision consequential on the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011, and provision consequential on the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012; and to make provision about the entitlement of nationals of the Republic of Croatia to enter or reside in the United Kingdom as workers.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Approval of Croatian Accession Treaty

- (1) Subsections (2) and (3) have effect for the purposes of section 2 of the European Union Act 2011 (which sets out requirements to be met before a treaty which amends or replaces the Treaty on European Union or the Treaty on the Functioning of the European Union may be ratified). 5
- (2) The treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011, is approved.
- (3) That treaty does not fall within section 4 of the European Union Act 2011 (cases where treaty or Article 48(6) decision attracts a referendum).

2 Approval of Irish Protocol

- (1) Subsections (2) and (3) have effect for the purposes of section 2 of the European Union Act 2011 (which sets out requirements to be met before a treaty which amends or replaces the Treaty on European Union or the Treaty on the Functioning of the European Union may be ratified). 10
- (2) The Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012, is approved. 15
- (3) That Protocol does not fall within section 4 of the European Union Act 2011 (cases where treaty or Article 48(6) decision attracts a referendum).

3 Addition of Croatian Accession Treaty and Irish Protocol to list of Treaties

In section 1(2) of the European Communities Act 1972, in the definition of “the Treaties” and “the EU Treaties”, after paragraph (t) insert “and—

- (u) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011; and 5
- (v) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012;”.

4 Freedom of movement for Croatian nationals as workers

- (1) The Secretary of State may by regulations make provision about— 10
 - (a) the entitlement of a Croatian national to enter or reside in the United Kingdom as a worker, and
 - (b) any matter ancillary to that entitlement.
- (2) The provision that may be made by regulations under this section includes provision which applies (with or without modification) a specified enactment relating to— 15
 - (a) the entitlement of a national of an EEA State to enter or reside in the United Kingdom as a worker, or
 - (b) any matter ancillary to that entitlement.
- (3) Regulations under this section may (in particular) include provision whose effect is— 20
 - (a) to require a Croatian national to be authorised in accordance with the regulations in order to work in the United Kingdom;
 - (b) to require a fee to be paid in respect of an application for an authorisation under the regulations; 25
 - (c) to make it an offence for a Croatian national to work in the United Kingdom unless authorised to do so under the regulations;
 - (d) to make it an offence for a person (“E”) to employ a Croatian national unless E’s employment of that person is authorised by the regulations;
 - (e) to make it an offence to use deception in connection with an application for, or the obtaining of, an authorisation under the regulations; 30
 - (f) to allow the liability of a person (“P”) to conviction for an offence by virtue of paragraph (c) to be discharged by payment to the Secretary of State of a penalty of a specified amount in accordance with a notice given to P under the regulations; 35
 - (g) to enable the Secretary of State to require a person who employs another person in contravention of a specified provision of the regulations to pay a penalty of an amount not exceeding a specified amount;
 - (h) to treat an offence under the regulations as one to which any specified provision of sections 28A to 28H of the Immigration Act 1971 (which relate to arrest, search and entry) applies. 40
- (4) An offence by virtue of regulations under this section—
 - (a) is to be an offence triable only summarily,
 - (b) is not to be punishable by a fine exceeding level 5 on the standard scale, and 45

- (c) is not to be punishable by imprisonment for a term exceeding the applicable maximum.
- (5) The applicable maximum is –
- (a) for England and Wales, 51 weeks;
 - (b) for Scotland or Northern Ireland –
 - (i) in relation to an offence by virtue of subsection (3)(c) or (e), 3 months, and
 - (ii) in relation to an offence by virtue of subsection (3)(d), 6 months.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (5)(a) to 51 weeks is to be read –
- (a) in relation to an offence by virtue of subsection (3)(c) or (e), as a reference to 3 months, and
 - (b) in relation to an offence by virtue of subsection (3)(d), as a reference to 6 months.
- (7) Provision made by virtue of subsection (3)(f) –
- (a) is not to specify an amount greater than the maximum fine for an offence by virtue of subsection (3)(c),
 - (b) is not to enable the notice referred to in subsection (3)(f) to be given by a person other than a constable or an immigration officer, and
 - (c) must include provision about the circumstances in which the notice is to be withdrawn.
- (8) Provision made by virtue of subsection (3)(g) –
- (a) is not to specify an amount greater than the maximum fine for an offence by virtue of subsection (3)(d),
 - (b) must include provision corresponding, with such modifications as the Secretary of State considers appropriate, to the following provisions of the Immigration, Asylum and Nationality Act 2006 –
 - (i) section 16 (objection),
 - (ii) section 17 (appeal), and
 - (iii) section 19 (code of practice).
- (9) Regulations under this section –
- (a) may include incidental, supplementary or transitional provision;
 - (b) may include consequential provision, including provision amending or revoking provisions of subordinate legislation;
 - (c) may make different provision for different cases.
- (10) Regulations under this section are to be made by statutory instrument.
- (11) In this section –
- “Croatian national” means a national of the Republic of Croatia;
 - “enactment” includes a provision of subordinate legislation;
 - “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971;
 - “modification” includes omissions, additions and alterations;
 - “specified” means specified in regulations made under this section;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978;

“worker” has the same meaning as it has for the purposes of Article 45 of the Treaty on the Functioning of the European Union.

5 Orders under section 4: Parliamentary control

- (1) A statutory instrument containing (alone or with other provision) the first regulations made under section 4 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament. 5
- (2) Subsection (3) applies to a statutory instrument containing (alone or with other provision) any subsequent regulations made under section 4.
- (3) If the statutory instrument is made without a draft having been approved by resolution of each House of Parliament, the instrument is subject to annulment in pursuance of a resolution of either House. 10

6 Extent, commencement and short title

- (1) This Act extends to the whole of the United Kingdom.
- (2) This Act comes into force on the day on which it is passed. 15
- (3) This Act may be cited as the European Union (Croatian Accession and Irish Protocol) Act 2012.

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To make provision consequential on the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011, and provision consequential on the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012; and to make provision about the entitlement of nationals of the Republic of Croatia to enter or reside in the United Kingdom as workers.

*Presented by Secretary William Hague,
supported by the Prime Minister,
the Deputy Prime Minister,
Secretary Theresa May, Secretary Vince Cable,
Secretary Iain Duncan Smith,
Secretary Edward Davey,
Secretary Owen Paterson,
Secretary Theresa Villiers and
Mr David Lidington.*

*Ordered, by The House of Commons,
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