

EUROPEAN UNION (APPROVALS) BILL [HL]

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the European Union (Approvals) Bill [HL] as brought from the House of Lords on 21 October 2013. They have been prepared by the Department for Culture, Media and Sport in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not require any explanation or comment, none is given.

SUMMARY

3. The purpose of the Bill is to approve two draft decisions of the Council of the European Union. This is to fulfil the requirements of the European Union Act 2011 (“the 2011 Act”).
4. The first draft decision establishes a legal obligation for an historical archive of documentation from EU institutions to be deposited at the European University Institute (“the EUI”) in Florence. The second establishes a programme, “Europe for Citizens”, for the period from 1 January 2014 to 31 December 2020.

BACKGROUND

The draft decision in relation to the historical archive of the European Union

5. The draft Regulation will impose a legal obligation on the EU institutions, except the Court of Justice of the European Union and the European Central Bank, to deposit their paper historical records at the European University Institute (“the EUI”) in Florence. This would ensure that the archives continue to be available from a single location, which makes access to them easier.

6. The European institutions are obliged by Council Regulation (EEC, Euratom) No 354/83 to make arrangements for the preservation of and provision of access to their historical records once those records are 30 years old. Although the existing 1983 Regulation does not require it, the European Council, European Commission, European Court of Auditors, European Economic and Social Committee and European Investment Bank have, as a matter of practice, deposited their physical (paper) archives with the EUI in accordance with a series of contracts entered into in 1983, 1984 and 2005.
7. The legal obligation included in the proposed Regulation therefore reflects existing arrangements and will not change the point in time at which the public can access historical records or the place at which they can be accessed. Owing to the nature of their activities, the obligation to deposit historical records would not apply to the Court of Justice of the European Union or the European Central Bank. However, it will be open to these institutions to deposit their historical records at the EUI on a voluntary basis.
8. The proposed Regulation also provides that institutions and the EUI should, where possible, make their historical records available to the public in digital form. The individual institutions continue to bear responsibility for the permanent preservation of and public access to their own digital material. The EUI shall have permanent access to each institution's digital archives in such a way as to allow it to fulfil its obligation to make historical records accessible to the public from a single location once they are 30 years old.
9. The proposed Regulation also confirms that personal data contained in the historical records deposited at the EUI is to be processed in accordance with Regulation (EC) No 45/2001.
10. The Council published the agreed draft Regulation on 18 March 2013 (document number 6867/13), which was approved by the European Parliament on 21 May 2013. The next step will be for the Council to act unanimously to adopt the text of the Regulation.

The draft decision in relation to the Europe for Citizens Programme

11. The draft Regulation proposes the establishment of the "Europe for Citizens" programme ("the Programme") for the period from 1 January 2014 to 31 December 2020, replacing the 2007-2013 programme of the same name.
12. The Programme is concerned with improving the way citizens can participate in and contribute to EU matters, by strengthening remembrance and common values, and encouraging a broader engagement and debate.

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13. Following consultation and data analysis, the Programme is intended to build on the previous programme but will adopt a simpler and more effective approach.
14. The Programme would support a range of organisations which have a general European interest, transnational partnerships and networks with a view to stimulating citizens' interactions on EU matters, together with organisations that promote debate and activities concerning European values and history.
15. As with its predecessor, the Programme will be implemented through operating and action grants based on open calls for proposals and through service contracts based on calls for tender. The Programme will provide for the analysis and dissemination of the results of its activities, supported by regular, external and independent evaluation.
16. The Council published the agreed draft Regulation on 17 September 2013 (document number 12557/13), removing its 'limite' marking on 20 September 2013 (document number 12557/13/COR 1). The draft Regulation has now been sent to the European Parliament for its consent. If this is obtained, the next step will be for the Council to act unanimously to adopt the text of the Regulation.

Requirements under the European Union Act 2011

17. Section 8 of the 2011 Act sets out the requirements for the approval by the UK of decisions under Article 352 of the Treaty on the Functioning of the European Union ("TFEU"). Section 8(3) provides that a Minister may only vote in favour of an Article 352 decision where the draft decision is approved by Act of Parliament. This requirement does not apply where urgent approval is required (section 8(4)) or where the draft decision relates to an exempt purpose (section 8(5)), as defined in section 8(6). Neither section 8(4) or 8(5) is applicable to the draft decision proposed under Article 352 relating to the historical archive or to that relating to the Europe for Citizens Programme. Therefore, an Act of Parliament is required before the United Kingdom may vote in favour of either decision in the Council of the European Union.

TERRITORIAL EXTENT AND APPLICATION

18. The Bill extends to the whole of the United Kingdom.
19. The Bill does not contain any provisions falling within the terms of the Sewel Convention. Because the Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament, if there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.
20. The Bill does not contain any provisions that would require a legislative consent motion in respect of Wales or Northern Ireland.

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COMMENTARY

Clause 1: Approval of certain decisions under Article 352 of TFEU

21. *Clause 1(2)(a)* provides, for the purposes of section 8 of the 2011 Act, for the approval of the draft decision of the Council of the European Union under Article 352 of TFEU relating to the deposit of the historical archives. *Subsection (2)(b)* provides for the equivalent approval for the draft decision of the Council of the European Union relating the “Europe for Citizens” programme.

Clause 2: Extent, commencement and short title

22. *Clause 2(1)* provides that the Bill extends to the whole of the United Kingdom. *Subsection (2)* provides that the Bill will come into force on the day that the Bill receives Royal Assent. *Subsection (3)* gives the Bill’s short title.

FINANCIAL EFFECTS OF THE BILL

23. There will be no financial effects as a result of the Bill.

EFFECT OF THE BILL ON PUBLIC SERVICE MANPOWER

24. There will be no impact on public service manpower as a result of the Bill.

IMPACT ASSESSMENT

25. The provisions contained within this Bill do not require an Impact Assessment.

COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

26. The Department does not consider that any of the Bill’s provisions engage Convention Rights. Accordingly, no issues arise as to the compatibility of the Bill with those rights.
27. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions in the Bill with the Convention rights (as defined by section 1 of that Act).
28. The Secretary of State for Culture, Media and Sport has made the following statement:

“In my view, the provisions of the European Union (Approvals) Bill [HL] are

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compatible with the Convention rights.”

COMMENCEMENT DATE

29. The Bill will come into force on the day of Royal Assent.

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*Ordered, by The House of Commons,
to be Printed, 21 October 2013.*

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LONDON — THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by The Stationery Office Limited
£x.xx