

# EUROPEAN UNION (APPROVALS) BILL [HL]

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the European Union (Approvals) Bill [HL] as brought from the House of Lords on 16 September 2015 (Bill 73).

- These Explanatory Notes have been prepared by the Ministry of Justice and the Department for Work and Pensions 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.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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## Overview of the Bill

- 1 The purpose of the Bill is to approve two draft decisions of the Council of the European Union. This is to fulfil a requirement in section 8 of the European Union Act 2011 (“2011 Act”) which will enable the United Kingdom to vote in favour of the draft decisions.
- 2 The first draft decision is on the participation of the former Yugoslav Republic of Macedonia as an observer in the work of the European Union Agency for Fundamental Rights.
- 3 The second draft decision is to update the instrument that formalises the Tripartite Social Summit (TSS), the long-established forum for high-level consultation between the EU institutions and the EU social partners. A new decision was proposed in order to take account of the changes in the EU’s legal and institutional framework in the last decade.

## Policy background

### The draft decision on the participation of the former Yugoslav Republic of Macedonia as an observer in the work of the European Union Agency for Fundamental Rights

- 4 The EU Fundamental Rights Agency (“the FRA”) was established in 2007 by Regulation 168/2007 EC (“the Regulation”). Its function is to provide assistance and expertise on fundamental rights to the EU institutions and Member States. It collects and analyses data across the EU and provides advice by way of reports and opinions, raising awareness of fundamental rights.
- 5 Under Article 28 of the Regulation, the FRA is open to the participation of candidate countries as observers. The draft decision is on the participation of the former Yugoslav Republic of Macedonia as an observer in the work of the FRA. The draft decision will not, itself, confer observer status. Instead it establishes an EU position at another body, the EU - the former Yugoslav Republic of Macedonia Stabilisation and Association Council. Participation as an observer, and the conditions of doing so, are determined by the Stabilisation and Association Council.
- 6 The draft decision is based on Articles 218(9) and 352 of the Treaty on the Functioning of the European Union (“TFEU”). It has been proposed by the Commission and can be made by the Council acting unanimously after obtaining the consent of the European Parliament.
- 7 The draft decision was originally deposited in Parliament on 24 January 2011 and cleared the scrutiny requirements then in place. The House of Commons European Scrutiny Committee cleared it without a report to the House (decision reported in the Seventeenth Report of the ESC, Session 2010-12, HC 428-xv) -

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmeuleg/428-xv/42814.htm>

The House of Lords European Union Committee cleared it at the sift on 1 February 2011, and it was sent for information to the Sub-Committees on Foreign Affairs, Defence & Development Policy, and on Justice & Institutions (decision reported in the Progress of Scrutiny Eleventh Edition, EUC-11) -

<http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/11/11.pdf> .

However the draft decision was not pursued within Council at that time. This was due to opposition from Greece, which has since been lifted. The 2011 Act came into force in the interim and when the proposal re-emerged in April 2014 the UK placed a scrutiny reserve on

the decision pending approval by an Act of Parliament.

- 8 The text of the draft decision is now settled and it is intended that the proposal is concluded in Council as soon as possible.

## The draft decision in relation to the Tripartite Social Summit for Growth and Employment

- 9 The Tripartite Social Summit (TSS) is a regular forum for meetings of representatives of the European social partner organisations, the European Commission, and the Council to enable high level discussion between the three parties of employment and social aspects of the European agenda for growth and jobs.
- 10 The present formal basis of the TSS is Council Decision 2003/174/EC, which the new decision is intended to replace reflecting changes over the succeeding decade. The main changes to be introduced include that the role of the TSS is related to the Europe 2020 agenda for jobs and growth launched in 2010, which replaced the Lisbon agenda for employment and growth. The Council delegation now includes the European Council President as joint-chair, alongside a rolling trio of rotating Member State Presidencies, and it is recalled that TSS itself is now recognised as part of EU social dialogue arrangements. Also name changes to some of the employers' federations are reflected.
- 11 The Council published the draft Decision on 12 November 2013. It was approved by the European Parliament on 15 April 2014. The next steps will be for the Council to act unanimously to adopt the text of the Regulation.
- 12 The proposal cleared UK Parliamentary Scrutiny in both Houses in 2014. The House of Commons European Scrutiny Committee cleared it in March 2014 with a short Report which noted that a Bill would be necessary because of the use of Article 352 TFEU -  
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmeuleg/83-xxxv/8317.htm>  
The House of Lords European Union Committee cleared it at the sift on 7 January 2014 (decision reported in the Progress of Scrutiny 9<sup>th</sup> edition, EUC-9) -  
<http://www.parliament.uk/documents/lords-committees/eu-select/PoS/PoS-9-2013-14.pdf>  
It was sent for information to the Sub-Committee on the Internal Market, Infrastructure and Employment.
- 13 The text of the draft decision has been approved by all other Member States.

## Legal background

- 14 Section 8 of the 2011 Act sets out the requirements for approval by the United Kingdom of decisions under Article 352 of the 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 decisions proposed under Article 352. Therefore, an Act of Parliament is required before the United Kingdom may vote in favour of the draft decisions in the Council.

## Territorial extent and application

- 15 The Bill extends to the whole of the United Kingdom.
- 16 The Bill does not contain any provisions that would require a legislative consent motion in respect of Scotland, Wales or Northern Ireland.

## Commentary on provisions of Bill

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

- 17 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 the TFEU on the participation of the former Yugoslav Republic of Macedonia as an observer in the work of the FRA.
- 18 Clause 1(2)(b) 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 the TFEU on a Tripartite Social Summit for Growth and Employment.

### Clause 2: Extent, commencement and short title

- 19 Clause 2 is self-explanatory.

## Commencement

- 20 The Bill will enter into force on the day of Royal Assent.

## Financial implications of the Bill

- 21 These draft decisions are expected to have no or negligible impact on business, charities or the voluntary sector in the UK, and no financial effects are therefore expected as a result of the Bill.

## Compatibility with the European Convention on Human Rights

- 22 The Departments do not consider that any of the Bill's provisions engage the Convention rights. Accordingly, no issues arise as to the compatibility of the Bill with those rights.
- 23 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).
- 24 The Minister of State for Employment, Rt. Hon. Priti Patel has made the following statement:

*"In my view the provisions of the European Union (Approvals) Bill are compatible with the Convention rights."*

## Related documents

25 The following documents are relevant to the Bill and can be read at the stated locations:

- Council Decision on a Tripartite Social Summit for Growth and Employment. (document number 5820/14) <http://data.consilium.europa.eu/doc/document/ST-5820-2014-INIT/en/pdf>
- Proposal for a Council Decision on a Union position in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia, as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework set in Articles 4 and 5 of Council Regulation (EC) No 168/2007, including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff [http://www.parlament.gv.at/PAKT/EU/XXV/EU/03/76/EU\\_37600/imfname\\_10492524.pdf](http://www.parlament.gv.at/PAKT/EU/XXV/EU/03/76/EU_37600/imfname_10492524.pdf)

## Annex A - Territorial extent and application

| Provision  | England                                  | Wales                                  |                                      | Scotland             |                                      | Northern Ireland             |                                      |
|--|--|--|--------------------------------------|----------------------|--------------------------------------|------------------------------|--------------------------------------|
|  | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Legislative Consent Motion required? | Extends to Scotland? | Legislative Consent Motion required? | Extends to Northern Ireland? | Legislative Consent Motion required? |
| Clause 1:<br>Approval of certain decisions under Article 352 of TFEU | Yes                                      | Yes                                    | No                                   | Yes                  | No                                   | Yes                          | No                                   |
| Clause 2:<br>Extent, commencement and short title                    | Yes                                      | Yes                                    | No                                   | Yes                  | No                                   | Yes                          | No                                   |

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