

# European Union (Amendment) Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Foreign and Commonwealth Office, are published separately as Bill 48 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary David Miliband 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 (Amendment) Bill are compatible with the Convention rights.

# European Union (Amendment) Bill

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Schedule – Changes of Terminology  
Part 1 – European Communities Act 1972  
Part 2 – Interpretation Act 1978

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**B I L L**

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Make provision in connection with the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, signed at Lisbon on 13th December 2007.

**B**E 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 The Treaty of Lisbon**

In this Act “the Treaty of Lisbon” means the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007.

**2 Addition to list of treaties**

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At the end of the list of treaties in section 1(2) of the European Communities Act 1972 (c. 68) add—

“; and

- (s) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy;”

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**3 Changes of terminology**

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- (1) In section 1(2) of the European Communities Act 1972 (interpretation) before the definition of “the Communities” insert—

““the EU” means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7th February 1992 (as amended by any later Treaty),”.

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- (2) A reference to the EU in an Act or an instrument made under an Act includes, if and in so far as the context permits or requires, a reference to the European Atomic Energy Community.
- (3) The Table in the Schedule to this Act sets out substitutions required to reflect terminology after the commencement of the Treaty of Lisbon. 5
- (4) The Secretary of State or the Treasury may by order make other amendments of Acts or instruments made under Acts to reflect changes in terminology or numbering arising out of the Treaty of Lisbon.
- (5) An order under subsection (4) – 10
- (a) may include incidental provision,
  - (b) shall be made by statutory instrument, and
  - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In an Act or instrument made under an Act a reference to all or any of the Communities shall, in the application of the enactment or instrument after the passing of this Act, be treated as being or including (as the context requires) a reference to the EU. 15
- 4 Increase of powers of European Parliament**
- The Treaty of Lisbon is approved for the purposes of section 12 of the European Parliamentary Elections Act 2002 (c. 24) (Parliamentary approval of treaties increasing the European Parliament’s powers). 20
- 5 Amendment of founding treaties**
- (1) A treaty which satisfies the following conditions may not be ratified unless approved by Act of Parliament.
- (2) Condition 1 is that the treaty amends – 25
- (a) the Treaty on European Union (signed at Maastricht on 7th February 1992),
  - (b) the Treaty on the Functioning of the European Union (the Treaty establishing (what was then called) the European Economic Community, signed at Rome on 25th March 1957 (renamed by the Treaty of Lisbon)), or 30
  - (c) the Treaty establishing the European Atomic Energy Community (signed at Rome on 25th March 1957).
- (3) Condition 2 is that the treaty results from the application of Article 48(2) to (5) of the Treaty on European Union (as amended by the Treaty of Lisbon) (Ordinary Revision Procedure for amendment of founding Treaties, including amendments affecting EU competence). 35
- 6 Parliamentary control of decisions**
- (1) A Minister of the Crown may not vote in favour of or otherwise support a decision under any of the following unless Parliamentary approval has been given in accordance with this section – 40
- (a) Article 48(6) of the Treaty on European Union (simplified revision procedure),

- (b) Article 48(7) of that Treaty (adopting qualified majority voting or applying ordinary legislative procedure: general),
- (c) the provision of Article 31(3) of that Treaty (Common and Foreign Security Policy) that permits the adoption of qualified majority voting,
- (d) the provision of Article 81(3) of the Treaty on the Functioning of the European Union (family law) that permits the application of ordinary legislative procedure in place of special legislative procedure, 5
- (e) the provision of Article 153(2) of that Treaty (social policy) that permits the application of ordinary legislative procedure in place of special legislative procedure, 10
- (f) the provision of Article 192(2) of that Treaty (environment) that permits the application of ordinary legislative procedure in place of special legislative procedure,
- (g) the provision of Article 312(2) of that Treaty (EU finance) that permits the adoption of qualified majority voting, 15
- (h) the provision of Article 333(1) of that Treaty (enhanced cooperation) that permits the adoption of qualified majority voting, or
- (i) the provision of Article 333(2) of that Treaty that permits the application of ordinary legislative procedure in place of special legislative procedure. 20
- (2) Parliamentary approval is given if—
- (a) in each House of Parliament a Minister of the Crown moves a motion that the House approves Her Majesty’s Government’s intention to support the adoption of a specified draft decision, and
- (b) each House agrees to the motion without amendment. 25
- (3) The motions under subsection (2) in respect of a draft decision (“Draft Decision 1”) may include provision (“disapplication provision”) disapplying subsection (1) in respect of any later draft decision which a Minister of the Crown may certify as an amended version of Draft Decision 1; and—
- (a) if Parliamentary approval is given in accordance with subsection (2), any disapplication provision agreed to by both Houses shall have effect, and
- (b) an amendment to omit the disapplication provision shall be ignored for the purposes of deciding under subsection (2) whether a motion has been agreed to without amendment. 30
- (4) In this section—
- (a) “the Treaty on European Union” means the Treaty on European Union signed at Maastricht on 7th February 1992 (as amended by the Treaty of Lisbon), and
- (b) “the Treaty on the Functioning of the European Union” means the Treaty establishing (what was then called) the European Economic Community, signed at Rome on 25th March 1957 (as amended and renamed by the Treaty of Lisbon). 35

## 7 Short title

This Act may be cited as the European Union (Amendment) Act 2008. 45

**8 Commencement**

- (1) Section 3 (and the Schedule) come into force in accordance with provision made by the Secretary of State by order made by statutory instrument.
- (2) An order under subsection (1) –
  - (a) may make provision generally or for specified purposes only,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, transitional and consequential provision.
- (3) The other provisions of this Act come into force on Royal Assent.

## SCHEDULE

Section 3

### CHANGES OF TERMINOLOGY

#### PART 1

#### EUROPEAN COMMUNITIES ACT 1972

<i>Provision of the European Communities Act 1972 (c. 68)</i>	<i>Existing expression</i>	<i>Substituted expression</i>	
Section 1(2) (interpretation)	“the Community Treaties”	“the EU Treaties”	5
Section 1(2)	“any other treaty entered into by any of the Communities”	“any other treaty entered into by the EU (except in so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy)”	10
Section 1(3) (Order in Council)	“the Community Treaties”	“the EU Treaties”	15
Section 2(1) (general implementation)	“enforceable Community right”	“enforceable EU right”	
Section 2(2)(a) (power to implement)	“Community obligation”	“EU obligation”	
Section 2(2)	“objects of the Communities”	“objects of the EU”	20
Section 2(3) (money)	“Community obligation” (three times)	“EU obligation”	
Section 2(3)	“any of the Communities or member States”	“the EU or a member State”	25
Section 3 (heading) (treaties and instruments)	“Community instruments”	“EU instruments”	
Section 3(1) (construction)	“Community instrument”	“EU instrument”	
Section 3(1)	“the European Court or any court attached thereto”	“the European Court”	30
Section 3(2) (judicial notice)	“the European Court or any court attached thereto”	“the European Court”	
Section 3(2)	“Official Journal of the Communities”	“Official Journal of the European Union”	
Section 3(2)	“any of the Communities”	“the EU”	35
Section 3(2)	“Community institution”	“EU institution”	
Section 3(3) (evidence)	“Community institution” (twice)	“EU institution”	

<i>Provision of the European Communities Act 1972 (c. 68)</i>	<i>Existing expression</i>	<i>Substituted expression</i>	
Section 3(3)	“the European Court or any court attached thereto”	“the European Court”	
Section 3(4) (evidence)	“Community instrument”	“EU instrument”	5
Section 4(1) (amendment of the law)	“Community obligations” (twice)	“EU obligations”	
Section 5(1) (customs duties)	“Community customs duty”	“EU customs duty”	
Section 5(1)	“Economic Community”	“EU”	
Section 5(1)	“Community provision”	“EU provision”	10
Section 6(3) (common agricultural policy)	“Community arrangements” (twice)	“EU arrangements”	
Section 6(4)	“Economic Community”	“EU”	
Section 6(4)	“Community provision”	“EU provision”	
Section 6(5)	“Economic Community”	“EU”	15
Section 6(5)	“Community customs duties” (twice)	“EU customs duties”	
Section 6(5)	“Community arrangements”	“EU arrangements”	
Section 6(8)	“Community arrangements”	“EU arrangements”	
Section 11 (heading) (offences)	“Community offences”	“EU offences”	20
Section 11(1)	“the European Court or any court attached thereto” (twice)	“the European Court”	
Section 12 (heading) (information)	“Communities”	“EU”	25
Section 12	“Community obligation”	“EU obligation”	
Section 12	“Community institution”	“EU institution”	
Schedule 1 (heading) (defined terms)	“Communities”	“EU”	30
Schedule 1, Part 2	““Community customs duty””	““EU customs duty””	
Schedule 1, Part 2	“Community provision”	“EU provision”	
Schedule 1, Part 2	““Community institution” means any institution of any of the Communities or common to the Communities; and any reference to an institution of a particular Community shall include one common to the Communities when it acts for that Community, and similarly with references to a committee, officer or servant of a particular Community.”	““EU institution” means any institution of the EU.”	35
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<i>Provision of the European Communities Act 1972 (c. 68)</i>	<i>Existing expression</i>	<i>Substituted expression</i>	
Schedule 1, Part 2	““Community instrument””	““EU instrument””	
Schedule 1, Part 2	“issued by a Community institution”	“issued by an EU institution”	5
Schedule 1, Part 2	““Community obligation””	““EU obligation””	
Schedule 1, Part 2	“enforceable Community obligation”	“enforceable EU obligation”	
Schedule 1, Part 2	““Enforceable Community right””	““Enforceable EU right””	10
Schedule 1, Part 2	““European Court” means the Court of Justice of the European Communities 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.”	““European Court” means the Court of Justice of the European Union.”	15
Schedule 1, Part 2	“membership of the Communities”	“membership of the EU”	20
Schedule 2 (subordinate legislation) para. 1A	“Community instrument” (twice)	“EU instrument”	
Schedule 2, para. 4	“Community obligation”	“EU obligation”	

PART 2

INTERPRETATION ACT 1978 25

<i>Provision of the Interpretation Act 1978 (c. 30)</i>	<i>Existing expression</i>	<i>Substituted expression</i>	
Section 20A (heading) (references to Community instruments)	“Community instruments”	“EU instruments”	30
Section 20A	“Community instrument”	“EU instrument”	
Schedule 1 (definitions)	““The Communities”, “the Treaties” or “the Community Treaties”	“The EU” or “the EU Treaties”” (to be substituted in the appropriate place in the Schedule)	35

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## B I L L

To make provision in connection with the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, signed at Lisbon on 13th December 2007.

*Presented by Secretary David Miliband  
supported by  
The Prime Minister,  
Mr Chancellor of the Exchequer,  
Secretary Jack Straw, Secretary Jacqui Smith,  
Secretary Des Browne, Secretary Alan Johnson,  
Mr Secretary Alexander, Mr Secretary Hutton  
and Mr Jim Murphy.*

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*Ordered, by The House of Commons,  
to be printed, 17th December 2007.*

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