



European Communities Act 1972

1972 CHAPTER 68

PART II

AMENDMENT OF LAW

4 General provision for repeal and amendment

- (1) The enactments mentioned in Schedule 3 to this Act (being enactments that are superseded or to be superseded by reason of Community obligations and of the provision made by this Act in relation thereto or are not compatible with Community obligations) are hereby repealed, to the extent specified in column 3 of the Schedule, with effect from the entry date or other date mentioned in the Schedule; and in the enactments mentioned in Schedule 4 to this Act there shall, subject to any transitional provision there included, be made the amendments provided for by that Schedule.
- (2) Where in any Part of Schedule 3 to this Act it is provided that repeals made by that Part are to take effect from a date appointed by order, the orders shall be made by statutory instrument, and an order may appoint different dates for the repeal of different provisions to take effect, or for the repeal of the same provision to take effect for different purposes; and an order appointing a date for a repeal to take effect may include transitional and other supplementary provisions arising out of that repeal, including provisions adapting the operation of other enactments included for repeal but not yet repealed by that Schedule, and may amend or revoke any such provisions included in a previous order.
- (3) Where any of the following sections of this Act, or any paragraph of Schedule 4 to this Act, affects or is construed as one with an Act or Part of an Act similar in purpose to provisions having effect only in Northern Ireland, then—
 - (a) unless otherwise provided by Act of the Parliament of Northern Ireland, the Governor of Northern Ireland may by Order in Council make provision corresponding to any made by the section or paragraph, and amend or revoke any provision so made; and
 - (b) no limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act 1920 shall apply in relation to legislation for

purposes similar to the purpose of the section or paragraph so as to preclude that Parliament from enacting similar provisions.

- (4) Where Schedule 3 or 4 to this Act provides for the repeal or amendment of an enactment that extends or is capable of being extended to any of the Channel Islands or the Isle of Man, the repeal or amendment shall in like manner extend or be capable of being extended thereto.

5 Customs duties

- (1) Subject to subsection (2) below, on and after the relevant date there shall be charged, levied, collected and paid on goods imported into the United Kingdom such Community customs duty, if any, as is for the time being applicable in accordance with the Treaties or, if the goods are not within the common customs tariff of the Economic Community and the duties chargeable are not otherwise fixed by any directly applicable Community provision, such duty of customs, if any, as the Treasury, on the recommendation of the Secretary of State, may by order specify.

For this purpose " the relevant date", in relation to any goods, is the date on and after which the duties of customs that may be charged thereon are no longer affected under the Treaties by any temporary provision made on or with reference to the accession of the United Kingdom to the Communities.

- (2) Where as regards goods imported into the United Kingdom provision may, in accordance with the Treaties, be made in derogation of the common customs tariff or of the exclusion of customs duties as between member States, the Treasury may by order make such provision as to the customs duties chargeable on the goods, or as to exempting the goods from any customs duty, as the Treasury may on the recommendation of the Secretary of State determine.
- (3) The customs duties charged in accordance with subsections (1) and (2) above shall be deemed for the purposes of any enactment to be import duties charged under the Import Duties Act 1958 (but references to the enactments relating to customs generally shall not by reason thereof be treated as including that Act); and, subject to any amendment made by this Act, section 13 of that Act shall apply to orders under subsection (1) or (2) above as if they were orders under that Act.
- (4) Except as otherwise provided by or under this Act or any later enactment, the law in force at the passing of this Act in relation to customs duties shall continue to apply, notwithstanding that any duties are imposed for the benefit of the Communities, as if the revenue from duties so imposed remained part of the revenues of the Crown.
- (5) So long as section 1 of the Import Duties Act 1958 remains in force, that Act shall have effect subject to the following modifications:—
- (a) the power under section 1 to impose duties shall include power to impose duties with a view to securing compliance with any Community obligation ;
 - (b) orders under section 1 may, in relation to goods of the same description, make different provision by reference to the use to be made of the goods or to other matters not ascertainable from an examination of the goods;
 - (c) the powers exercisable by virtue of section 2(1) in relation to goods qualifying for Commonwealth preference shall include power to distinguish in any respect between different parts of the Commonwealth preference area;
 - (d) the powers exercisable by virtue of section 5(1) and (4) together with paragraph 8 of Schedule 3 shall, as regards relief provided for by or under

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the Treaties or for conformity with any Community obligation, extend to any customs duties.

- (6) As regards reliefs from import duties, the Secretary of State may by regulations make such further provision as appears to him to be expedient having regard to the practices adopted or to be adopted in other member States, whether by law or administrative action and whether or not for conformity with Community obligations; and any such regulations may amend or repeal accordingly any of the provisions of Part II of the Import Duties Act 1958 or section 1 of the Finance Act 1966, as modified by this Act.
- (7) For the purpose of implementing Community obligations the Commissioners of Customs and Excise shall co-operate with other customs services on matters of mutual concern, and (without prejudice to the foregoing) may for that purpose—
- (a) give effect, in accordance with such arrangements as they may direct or by regulations prescribe, to any Community requirement or practice as to the movement of goods between countries, including any rules requiring payment to be made in connection with the exportation of goods to compensate for any relief from customs duty allowed or to be allowed (and may recover any such payment as if it were an amount of customs duty unpaid); and
 - (b) give effect to any reciprocal arrangements made between member States (with or without other countries or territories) for securing, by the exchange of information or otherwise, the due administration of their customs laws and the prevention or detection of fraud or evasion.
- (8) Where on the exportation of any goods from the United Kingdom there has been furnished for the purpose of any Community requirement or practice any certificate or other evidence as to the origin of those goods, or as to payments made or relief from duty allowed in any country or territory, then for the purpose of verifying or investigating that certificate or evidence, the Commissioners or an officer may require the exporter, or any other person appearing to the Commissioners or officer to have been concerned in any way with the goods, or with any goods from which, directly or indirectly, they have been produced or manufactured, or to have been concerned with the obtaining or furnishing of the certificate or evidence.—
- (a) to furnish such information, in such form and within such time, as the Commissioners or officer may specify in the requirement; or
 - (b) to produce for inspection, and to allow the taking of copies or extracts from, such invoices, bills of lading, books or documents as may be so specified;
- and any person who, without reasonable cause, fails to comply with a requirement under this subsection shall be liable to a penalty of £50.
- (9) Subsections (7) and (8) above shall have effect as if contained in the Customs and Excise Act 1952.

6 The common agricultural policy

- (1) There shall be a Board in charge of a government department, which shall be appointed by and responsible to the Ministers, and shall be by the name of the Intervention Board for Agricultural Produce a body corporate (but not subject as a statutory corporation to restrictions on its corporate capacity); and the Board (in addition to any other functions that may be entrusted to it) shall be charged, subject to the direction and control of the Ministers, with such functions as they may from time to time determine in connection with the carrying out of the obligations of the United Kingdom under the common agricultural policy of the Economic Community.

- (2) Her Majesty may by Order in Council make further provision as to the constitution and membership of the Board, and the remuneration (including pensions) of members of the Board or any committee thereof, and for regulating or facilitating the discharge of the Board's functions, including provision for the Board to arrange for its functions to be performed by other bodies on its behalf and any such provision as was made by Schedule 1 to the Ministers of the Crown Act 1964 in relation to a Minister to whom that Schedule applied; and the Ministers—
- (a) may, after consultation with any body created by a statutory provision and concerned with agriculture or agricultural produce, by regulations modify or add to the constitution or powers of the body so as to enable it to act for the Board, or by written directions given to the body require it to discontinue or modify any activity appearing to the Ministers to be prejudicial to the proper discharge of the Board's functions; and
 - (b) may by regulations provide for the charging of fees in connection with the discharge of any functions of the Board.
- (3) Sections 5 and 7 of the Agriculture Act 1957 (which make provision for the support of arrangements under section 1 of that Act for providing guaranteed prices or assured markets) shall apply in relation to any Community arrangements for or related to the regulation of the market for any agricultural produce as if references, in whatever terms, to payments made by virtue of section 1 were references to payments made by virtue of the Community arrangements by or on behalf of the Board and as if in section 5(1)(d) the reference to the Minister included the Board.
- (4) Agricultural levies of the Economic Community, so far as they are charged on goods exported from the United Kingdom or shipped as stores, shall be paid to and recoverable by the Board; and the power of the Ministers to make orders under section 5 of the Agriculture Act 1957, as extended by this section, shall include power to make such provision supplementary to any directly applicable Community provision as the Ministers consider necessary for securing the payment of any agricultural levies so charged, including provision for the making of declarations or the giving of other information in respect of goods exported, shipped as stores, warehoused or otherwise dealt with.
- (5) Except as otherwise provided by or under any enactment, agricultural levies of the Economic Community, so far as they are charged on goods imported into the United Kingdom, shall be levied, collected and paid, and the proceeds shall be dealt with, as if they were Community customs duties, and in relation to those levies the following enactments shall apply as they would apply in relation to Community customs duties, that is to say:—
- (a) the general provisions of the Customs and Excise Act 1952 (as for the time being amended, whether by this or any earlier or later Act) and any other statutory provisions for the time being in force and relating to customs generally, as well as section 88(4) of that Act as so amended; and
 - (b) sections 5, 6, 7, 10 and 13 of the Import Duties Act 1958, but so that in those sections (and in Schedule 3 to the Act), as amended by this Act, references to the Secretary of State shall include the Ministers;

and if, in connection with any such Community arrangements as aforesaid, the Commissioners of Customs and Excise are charged with the performance, on behalf of the Board or otherwise, of any duties in relation to the payment of refunds or allowances on goods exported or to be exported from the United Kingdom, then in relation to any such refund or allowance section 267 (except subsection (2)(a)) and

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section 294 of the Customs and Excise Act 1952 shall apply as they apply in relation to a drawback of customs duties, and other provisions of that Act shall have effect accordingly.

- (6) The enactments applied by subsection (5) (a) above shall apply subject to such exceptions and modifications, if any, as the Commissioners of Customs and Excise may by regulations prescribe, and shall be taken to include section 10 of the Finance Act 1901 (which relates to changes in customs import duties in their effect on contracts), but shall not include section 259 of the Customs and Excise Act 1952 (charge of duty on manufactured or composite articles).
- (7) Where it appears to the Ministers, having regard to any such Community arrangements as aforesaid (and any obligations of the United Kingdom in relation thereto), that section 1 of the Agriculture Act 1957 should cease to apply to produce of any description mentioned in Schedule 1 to that Act, they may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, provide that as from such date as may be prescribed by the order (but subject to such savings and transitional provisions as may be so prescribed) the Act shall have effect as if produce of that description were omitted from Schedule 1.
- (8) Expressions used in this section shall be construed as if contained in Part I of the Agriculture Act 1957; and in this section " agricultural levy " shall include any tax not being a customs duty, but of equivalent effect, that may be chargeable in accordance with any such Community arrangements as aforesaid, and " statutory provision " includes any provision having effect by virtue of any enactment and, in subsection (2), any enactment of the Parliament of Northern Ireland or provision having effect by virtue of such an enactment.

7 Sugar

- (1) In relation to amounts charged for the use of the Sugar Board by a directly applicable Community provision on goods imported into the United Kingdom, and to refunds of any such amounts, section 6(5) above shall have effect as it has effect in the case of other agricultural levies of the European Community, except that the Commissioners of Customs and Excise shall account to the Sugar Board, in such manner as the Treasury may direct, for all money collected for the benefit of the Board by virtue of that subsection and, pending payment to the Board, shall deal with all such money in such manner as the Treasury may direct.

There shall be allowed to the Commissioners, in the taking of any account under this subsection, such sums as the Treasury may from time to time determine in respect of their expenses attributable to this subsection, and the amount so allowed shall in the accounts of the Sugar Board be treated as expenses of the Board.

- (2) The Minister shall, at such times as the Treasury may determine, pay to the Sugar Board any amount by which the sums charged for their benefit as mentioned in subsection (1) above, their receipts from dealings (as principals) in sugar and their other income fall short of their outgoings, whether in respect of those dealings, or of payments to be made by them in respect of imports under any directly applicable Community provision, or otherwise; but if at any time it appears to the Minister that the Sugar Board have accumulated funds in excess of the amount that they reasonably require to have available for the performance of their functions, he may direct the Board to pay to him such sum as may be specified in the direction, and the Board shall thereupon pay him the amount so specified.

- (3) If as regards the home-grown beet crop for the year 1973 or any subsequent year it is made to appear to the Ministers by the processors of home-grown beet or by a body which is in their opinion substantially representative of the growers of home-grown beet that the processors and that body are unable to agree on the prices and other terms and conditions for the purchase of home-grown beet by the processors, the Ministers may determine or designate a person to determine those prices, terms and conditions ; and any purchase by processors for which prices, terms and conditions have been so determined, or contract for such a purchase, shall take effect as a purchase or contract for purchase at those prices and on those terms and conditions.
- (4) This section shall be construed as one with the Sugar Act 1956; and in this section, as in that Act, "the Minister" means the Minister of Agriculture, Fisheries and Food, and " the Ministers" means the Minister and the Secretary of State acting jointly.

8 Cinematograph films

- (1) On and after the entry date Community films shall be registered under the Films Acts 1960 to 1970 as a class distinct from other foreign films, and be registered as quota films, and the register shall be kept accordingly; and—
- (a) references in those Acts to a foreign film, except in sections 11 and 17 of the Films Act 1960 (which relate to registration) shall have effect as references to a foreign film other than a Community film; and
 - (b) references to a British film shall in the following provisions of the Films Act 1960 have effect as references to a British or Community film, that is to say, in sections 1(1), 2(2) (as set out in section 10(1) of the Films Act 1970), 30(3) (b), 32(1)(b) and 44(1)(b).

In this subsection and in subsection (2) below " Community film " means any such film as in accordance with any relevant Community instrument is to be regarded as a film of a member State.

- (2) Where a film which on the entry date is registered under the Films Act 1960 as a foreign film is a Community film, a person who has the right to distribute the film or is in a position to confer that right may apply for the register to be amended by registering the film as a Community film; and if the application is accompanied by the requisite particulars and evidence to show the film is a Community film, and by such fee as may be prescribed for this purpose under section 44 of the Act, the register shall be amended accordingly and there shall be issued to the applicant, in substitution for any certificate of registration previously issued, a certificate of registration specifying the particulars of the film as recorded in the register after the amendment.

In relation to a film registered as a Community film by virtue of this subsection, section 2 of the Films Act 1960 (disregard of old films for quota purposes) shall have effect as if in subsection (2), whether as originally enacted or as set out in section 10(1) of the Films Act 1970, the reference to a film being first registered as a British film were a reference to its being first registered.

- (3) The requirements for the registration of a film as a British film under section 17 of the Films Act 1960 shall be modified, with effect from the entry date, by inserting after the words " of the Republic of Ireland " , wherever those words occur in section 17(2) (a) and (3), the words " or of any country that is a member State " .
- (4) If, on the application of an exhibitor in respect of a cinema, the Secretary of State is satisfied that during the year 1973 or any later year it is proposed to exhibit at the

cinema no films other than foreign language films, he may (after consultation with the Cinematograph Films Council) direct that section 1 of the Films Act 1960 shall not apply to the exhibition of films at that cinema during that year; but section 1 shall nevertheless apply as if no such direction had been given—

- (a) where during the year any film other than a foreign language film is exhibited at the cinema; and
- (b) where, on the application of an exhibitor who exhibits films at the cinema, the Secretary of State substitutes for the direction a direction under section 4(1) of the Act.

In this subsection " foreign language film " means a film in which the dialogue is mainly in a foreign language.

- (5) This section shall be construed as one with the Films Act 1960.

9 Companies

- (1) In favour of a person dealing with a company in good faith, any transaction decided on by the directors shall be deemed to be one which it is within the capacity of the company to enter into, and the power of the directors to bind the company shall be deemed to be free of any limitation under the memorandum or articles of association; and a party to a transaction so decided on shall not be bound to enquire as to the capacity of the company to enter into it or as to any such limitation on the powers of the directors, and shall be presumed to have acted in good faith unless the contrary is proved.
- (2) Where a contract purports to be made by a company, or by a person as agent for a company, at a time when the company has not been formed, then subject to any agreement to the contrary the contract shall have effect as a contract entered into by the person purporting to act for the company or as agent for it, and he shall be personally liable on the contract accordingly.
- (3) The registrar of companies shall cause to be published in the Gazette notice of the issue or receipt by him of documents of any of the following descriptions (stating in the notice the name of the company, the description of document and the date of issue or receipt), that is to say—
- (a) any certificate of incorporation of a company;
 - (b) any document making or evidencing an alteration in the memorandum or articles of association of a company;
 - (c) any return relating to a company's register of directors, or notification of a change among its directors ;
 - (d) a company's annual return ;
 - (e) any notice of the situation of a company's registered office, or of any change therein ;
 - (f) any copy of a winding-up order in respect of a company;
 - (g) any order for the dissolution of a company on a winding up;
 - (h) any return by a liquidator of the final meeting of a company on a winding up ;
- and in the following provisions of this section " official notification " means, in relation to anything stated in a document of any of the above descriptions, the notification of that document in the Gazette under this section and, in relation to the appointment of a liquidator in a voluntary winding up, the notification thereof in the Gazette under

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section 305 of the Companies Act 1948, and " officially notified " shall be construed accordingly.

- (4) A company shall not be entitled to rely against other persons on the happening of any of the following events, that is to say—
- (a) the making of a winding-up order in respect of the company, or the appointment of a liquidator in a voluntary winding up of the company; or
 - (b) any alteration of the company's memorandum or articles or association; or
 - (c) any change among the company's directors ; or
 - (d) (as regards service of any document on the company) any change in the situation of the company's registered office;

if the event had not been officially notified at the material time and is not shown by the company to have been known at that time to the person concerned, or if the material time fell on or before the fifteenth day after the date of official notification (or, where the fifteenth day was a non-business day, on or before the next day that was not) and it is shown that the person concerned was unavoidably prevented from knowing of the event at that time.

For this purpose " non-business day " means a Saturday or Sunday, Christmas Day, Good Friday and any other day which, in the part of Great Britain where the company is registered, is a bank holiday under the Banking and Financial Dealings Act 1971.

- (5) Where any alteration is made in a company's memorandum or articles of association by any statutory provision, whether contained in an Act of Parliament or in an instrument made under an Act, a printed copy of the Act or instrument shall not later than fifteen days after that provision comes into force be forwarded to the registrar of companies and recorded by him; and where a company is required by this section or otherwise to send to the registrar any document making or evidencing an alteration in the company's memorandum or articles of association (other than a special resolution under section 5 of the Companies Act 1948), the company shall send with it a printed copy of the memorandum or articles as altered.

If a company fails to comply with this subsection, the company and any officer of the company who is in default shall be liable to a default fine.

- (6) Where before the coming into force of this subsection—
- (a) an alteration has been made in a company's memorandum or articles of association by any statutory provision, and a printed copy of the relevant Act or instrument has not been sent to the registrar of companies; or
 - (b) an alteration has been made in a company's memorandum or articles of association in any manner, and a printed copy of the memorandum or articles as altered has not been sent to him;

such a copy shall be sent to him within one month after the coming into force of this subsection.

If a company fails to comply with this subsection, the company and any officer of the company who is in default shall be liable to a default fine.

- (7) Every company shall have the following particulars mentioned in legible characters in all business letters and order forms of the company, that is to say.—
- (a) the place of registration of the company, and the number with which it is registered ;
 - (b) the address of its registered office ; and

(c) in the case of a limited company exempt from the obligation to use the word " limited " as part of its name, the fact that it is a limited company ;
and, if in the case of a company having a share capital there is on the stationery used for any such letters or on the order forms a reference to the amount of the share capital, the reference shall be to paid-up share capital.

If a company fails to comply with this subsection, the company shall be liable to a fine not exceeding £50; and if an officer of a company or any person on its behalf issues or authorises the issue of any business letter or order form not complying with this subsection, he shall be liable to a fine not exceeding £50.

- (8) This section shall be construed as one with the Companies Act 1948 ; and section 435 of that Act (which enables certain provisions of it to be extended to unregistered companies) shall have effect as if this section were among those mentioned in Schedule 14 to that Act with an entry in column 3 of that Schedule to the effect that this section is to apply so far only as may be specified by regulations under section 435 and to such bodies corporate as may be so specified, and as if sections 107 (registered office) and 437 (service of documents) were so mentioned (and section 437 were not included in the last entry in the Schedule).

The modifications of this section that may be made by regulations under section 435 shall include the extension of subsections (3), (5) and (6) to additional matters (and in particular to the instruments constituting or regulating a company as well as to alterations thereof).

- (9) This section shall not come into force until the entry date (except to authorise the making with effect from that date of regulations by virtue of subsection (8) above).

10 Restrictive trade practices

- (1) Part I of the Restrictive Trade Practices Act 1956 shall apply to an agreement notwithstanding that it is or may be void by reason of any directly applicable Community provision, or is expressly authorised by or under any such provision; but the Restrictive Practices Court may decline or postpone the exercise of its jurisdiction under section 20 of the Act, or may (notwithstanding section 22(2)) exercise its jurisdiction under section 22, if and in so far as it appears to the court right so to do having regard to the operation of any such provision or to the purpose and effect of any authorisation or exemption granted in relation thereto, and the Registrar may refrain from taking proceedings before the court in respect of any agreement if and for so long as he thinks it appropriate so to do having regard to the operation of any such provision and to the purpose and effect of any such authorisation or exemption.
- (2) Regulations under section 19 of the Restrictive Trade Practices Act 1956 may require that the Registrar shall be furnished in respect of an agreement with information as to any steps taken, or decision given, under or for the purpose of any directly applicable Community provision affecting the agreement, and that the information so given or such part, if any of it, as may be provided by the regulations shall be included in the particulars to be entered or filed in the register under section 11(2); but an agreement shall be exempt from registration under the Act so long as there is in force in relation thereto any authorisation given for the purpose of any provision of the E.C.S.C. Treaty relating to restrictive trade practices.

- (3) At the end of section 33(1) of the Restrictive Trade Practices Act 1956 (which restricts the disclosure of information obtained under the Act to the purposes there specified) there shall be added the words " or is made in pursuance of a Community obligation ".

11 Community offences

- (1) A person who, in sworn evidence before the European Court, makes any statement which he knows to be false or does not believe to be true shall, whether he is a British subject or not, be guilty of an offence and may be proceeded against and punished—
- (a) in England and Wales as for an offence against section 1(1) of the Perjury Act 1911; or
 - (b) in Scotland as for an offence against section 1 of the False Oaths (Scotland) Act 1933 ; or
 - (c) in Northern Ireland as for an offence against section 1(1) of the Perjury Act (Northern Ireland) 1946.

Where a report is made as to any such offence under the authority of the European Court, then a bill of indictment for the offence may, in England or Wales or in Northern Ireland, be preferred as in a case where a prosecution is ordered under section 9 of the Perjury Act 1911 or section 8 of the Perjury Act (Northern Ireland) 1946, but the report shall not be given in evidence on a person's trial for the offence.

- (2) Where a person (whether a British subject or not) owing either—
- (a) to his duties as a member of any Euratom institution or committee, or as an officer or servant of Euratom ; or
 - (b) to his dealings in any capacity (official or unofficial) with any Euratom institution or installation or with any Euratom joint enterprise;

has occasion to acquire, or obtain cognisance of, any classified information, he shall be guilty of a misdemeanour if, knowing or having reason to believe that it is classified information, he communicates it to any unauthorised person or makes any public disclosure of it, whether in the United Kingdom or elsewhere and whether before or after the termination of those duties or dealings ; and for this purpose " classified information " means any facts, information, knowledge, documents or objects that are subject to the security rules of a member State or of any Euratom institution.

This subsection shall be construed, and the Official Secrets Acts 1911 to 1939 shall have effect, as if this subsection were contained in the Official Secrets Act 1911, but so that in that Act sections 10 and 11, except section 10(4), shall not apply.

- (3) This section shall not come into force until the entry date.

12 Furnishing of information to Communities

Estimates, returns and information that may under section 9 of the Statistics of Trade Act 1947 or section 80 of the Agriculture Act 1947 be disclosed to a government department or Minister in charge of a government department may, in like manner, be disclosed in pursuance of a Community obligation to a Community institution.