



# European Union Act 2011

## 2011 CHAPTER 12

### PART 1

#### RESTRICTIONS ON TREATIES AND DECISIONS RELATING TO EU

##### *Restrictions relating to amendments of TEU or TFEU*

### **2 Treaties amending or replacing TEU or TFEU**

- (1) A treaty which amends or replaces TEU or TFEU is not to be ratified unless—
  - (a) a statement relating to the treaty was laid before Parliament in accordance with section 5,
  - (b) the treaty is approved by Act of Parliament, and
  - (c) the referendum condition or the exemption condition is met.
- (2) The referendum condition is that—
  - (a) the Act providing for the approval of the treaty provides that the provision approving the treaty is not to come into force until a referendum about whether the treaty should be ratified has been held throughout the United Kingdom or, where the treaty also affects Gibraltar, throughout the United Kingdom and Gibraltar,
  - (b) the referendum has been held, and
  - (c) the majority of those voting in the referendum are in favour of the ratification of the treaty.
- (3) The exemption condition is that the Act providing for the approval of the treaty states that the treaty does not fall within section 4.

### **3 Amendment of TFEU under simplified revision procedure**

- (1) Where the European Council has adopted an Article 48(6) decision subject to its approval by the member States, a Minister of the Crown may not confirm the approval of the decision by the United Kingdom unless—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a statement relating to the decision was laid before Parliament in accordance with section 5,
  - (b) the decision is approved by Act of Parliament, and
  - (c) the referendum condition, the exemption condition or the significance condition is met.
- (2) The referendum condition is that—
- (a) the Act providing for the approval of the decision provides that the provision approving the decision is not to come into force until a referendum about whether the decision should be approved has been held throughout the United Kingdom or, where the decision also affects Gibraltar, throughout the United Kingdom and Gibraltar,
  - (b) the referendum has been held, and
  - (c) the majority of those voting in the referendum are in favour of the approval of the decision.
- (3) The exemption condition is that the Act providing for the approval of the decision states that the decision does not fall within section 4.
- (4) The significance condition is that the Act providing for the approval of the decision states that—
- (a) the decision falls within section 4 only because of provision of the kind mentioned in subsection (1)(i) or (j) of that section, and
  - (b) the effect of that provision in relation to the United Kingdom is not significant.

#### **4 Cases where treaty or Article 48(6) decision attracts a referendum**

- (1) Subject to subsection (4), a treaty or an Article 48(6) decision falls within this section if it involves one or more of the following—
- (a) the extension of the objectives of the EU as set out in Article 3 of TEU;
  - (b) the conferring on the EU of a new exclusive competence;
  - (c) the extension of an exclusive competence of the EU;
  - (d) the conferring on the EU of a new competence shared with the member States;
  - (e) the extension of any competence of the EU that is shared with the member States;
  - (f) the extension of the competence of the EU in relation to—
    - (i) the co-ordination of economic and employment policies, or
    - (ii) common foreign and security policy;
  - (g) the conferring on the EU of a new competence to carry out actions to support, co-ordinate or supplement the actions of member States;
  - (h) the extension of a supporting, co-ordinating or supplementing competence of the EU;
  - (i) the conferring on an EU institution or body of power to impose a requirement or obligation on the United Kingdom, or the removal of any limitation on any such power of an EU institution or body;
  - (j) the conferring on an EU institution or body of new or extended power to impose sanctions on the United Kingdom;
  - (k) any amendment of a provision listed in Schedule 1 that removes a requirement that anything should be done unanimously, by consensus or by common accord;

- (l) any amendment of Article 31(2) of TEU (decisions relating to common foreign and security policy to which qualified majority voting applies) that removes or amends the provision enabling a member of the Council to oppose the adoption of a decision to be taken by qualified majority voting;
  - (m) any amendment of any of the provisions specified in subsection (3) that removes or amends the provision enabling a member of the Council, in relation to a draft legislative act, to ensure the suspension of the ordinary legislative procedure.
- (2) Any reference in subsection (1) to the extension of a competence includes a reference to the removal of a limitation on a competence.
- (3) The provisions referred to in subsection (1)(m) are—
- (a) Article 48 of TFEU (social security),
  - (b) Article 82(3) of TFEU (judicial co-operation in criminal matters), and
  - (c) Article 83(3) of TFEU (particularly serious crime with a cross-border dimension).
- (4) A treaty or Article 48(6) decision does not fall within this section merely because it involves one or more of the following—
- (a) the codification of practice under TEU or TFEU in relation to the previous exercise of an existing competence;
  - (b) the making of any provision that applies only to member States other than the United Kingdom;
  - (c) in the case of a treaty, the accession of a new member State.

## **5 Statement to be laid before Parliament**

- (1) If a treaty amending TEU or TFEU is agreed in an inter-governmental conference, a Minister of the Crown must lay the required statement before Parliament before the end of the 2 months beginning with the date on which the treaty is agreed.
- (2) If an Article 48(6) decision is adopted by the European Council subject to its approval by the member States, a Minister of the Crown must lay the required statement before Parliament before the end of the 2 months beginning with the date on which the decision is adopted.
- (3) The required statement is a statement as to whether, in the Minister's opinion, the treaty or Article 48(6) decision falls within section 4.
- (4) If the Minister is of the opinion that an Article 48(6) decision falls within section 4 only because of provision of the kind mentioned in subsection (1)(i) or (j) of that section, the statement must indicate whether in the Minister's opinion the effect of that provision in relation to the United Kingdom is significant.
- (5) The statement must give reasons for the Minister's opinion under subsection (3) and, if relevant, subsection (4).
- (6) In relation to an Article 48(6) decision adopted by the European Council before the day on which this section comes into force ("the commencement date"), the condition in section 3(1)(a) is to be taken to be complied with if a statement under this section is laid before Parliament before the end of the 2 months beginning with the commencement date.