



Number 18 of 2007

EUROPEAN COMMUNITIES ACT 2007

ARRANGEMENT OF SECTIONS

Section

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[No. 18.] *European Communities Act 2007.* [2007.]

ACTS REFERRED TO

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Ministers and Secretaries (Amendment) (No. 2) Act 1977	1977, No. 28



Number 18 of 2007

EUROPEAN COMMUNITIES ACT 2007

AN ACT TO AMEND THE EUROPEAN COMMUNITIES ACT 1972 FOR THE PURPOSE OF ALLOWING OFFENCES UNDER REGULATIONS UNDER THAT ACT TO BE PROSECUTED ON INDICTMENT; TO MAKE PROVISION IN RELATION TO THE TRANSPOSITION OF PROVISIONS OF THE TREATIES GOVERNING, AND ACTS OF THE INSTITUTIONS OF, THE EUROPEAN COMMUNITIES UNDER ACTS OF THE OIREACHTAS OTHER THAN THAT ACT; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[21st April, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 1972” means the European Communities Act 1972;

“European act” means—

- (a) a provision of the treaties governing the European Communities, or
- (b) an act, or provision of an act, adopted by an institution of the European Communities or any other body competent under those treaties;

“European Communities” has the same meaning as it has in the Act of 1972;

“statute” means—

- (a) an Act of the Oireachtas, or
- (b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues to be of full force and effect by virtue of Article 50 of the Constitution;

“statutory instrument” means an order, regulation, rule, scheme or bye-law made in exercise of a power conferred by statute;

“treaties governing the European Communities” has the same meaning as it has in the Act of 1972.

Amendment of
section 3 of Act of
1972.

2.—Section 3 of the Act of 1972 is amended by—

(a) the substitution of the following subsection for subsection (3):

“(3) Regulations under this section may—

(a) make provision for offences under the regulations to be prosecuted on indictment, where the Minister of the Government making the regulations considers it necessary for the purpose of giving full effect to—

(i) a provision of the treaties governing the European Communities, or

(ii) an act, or provision of an act, adopted by an institution of the European Communities or any other body competent under those treaties,

and

(b) make such provision as that Minister of the Government considers necessary for the purpose of ensuring that penalties in respect of an offence prosecuted in that manner are effective and proportionate, and have a deterrent effect, having regard to the acts or omissions of which the offence consists, provided that the maximum fine (if any) shall not be greater than €500,000 and the maximum term of imprisonment (if any) shall not be greater than 3 years.”,

and

(b) the insertion of the following subsection:

“(5) In this section—

‘maximum fine’ means the maximum fine to which a person shall be liable on conviction on indictment of an offence;

‘maximum term of imprisonment’ means the maximum term of imprisonment to which a person shall be liable on conviction on indictment of an offence.”.

Regulations to
which section 3(3)
of Act of 1972
applies.

3.—The Act of 1972 is amended by the insertion of the following section:

“3A.—Every regulation to which subsection (3) (inserted by section 2(a) of the *European Communities Act 2007*) of section 3 of this Act applies shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.”.

4.—(1) A power to make a statutory instrument conferred on a Minister of the Government by a provision of a statute may be exercised for the purpose of giving effect to a European act if the obligations imposed on the State under the European act concerned relate, in whole, to matters to which that provision relates.

Power to give effect to European acts under statutes other than Act of 1972.

(2) A statutory instrument made for a purpose referred to in *subsection (1)* may contain such incidental, supplementary and consequential provisions as appear to the Minister of the Government making the statutory instrument to be necessary for the purposes of the statutory instrument (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act, the Act of 1972 and the provision of the statute under which the statutory instrument is made).

(3) Where a statutory instrument is made for a purpose referred to in *subsection (1)*, the statutory instrument, or the preamble or recital to the statutory instrument, shall specify the European act to which the statutory instrument gives effect.

(4) Section 2 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977 shall not apply to a power to make a statutory instrument for a purpose referred to in *subsection (1)*.

(5) This section applies to a power that, but for this section, would not be exercisable for the purpose of giving effect to a European act.

5.—(1) Every statutory instrument made before the passing of this Act—

Validation of certain statutory instruments.

- (a) under a provision of a statute that did not provide for the exercise of the power conferred by that provision for the purpose of giving effect to a European act, and
- (b) that purported to give effect to a European act,

shall, in so far as it purported to give such effect, have statutory effect as if it were an Act of the Oireachtas.

(2) If *subsection (1)* would, but for this subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

6.—(1) This Act may be cited as the European Communities Act 2007.

Short title and collective citation.

(2) The European Communities Acts 1972 to 2006 and this Act may be cited together as the European Communities Acts 1972 to 2007.