



BRIEFING PAPER

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EU Treaty change: the parliamentary process of bills

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Summary

Since the UK joined the European Economic Community (EEC) in 1973, there have been six major EU Treaty ratification procedures in the UK Parliament. These concerned the Single European Act and the Treaties of Maastricht, Amsterdam, Nice and Lisbon, all of which amended the original Treaty of Rome to take account of institutional and constitutional changes, new policy developments and additional EU competences. There have been other Treaty amendments – concerning new accessions, for example – which are not considered here.

Although treaty ratification is strictly speaking a matter of Royal Prerogative, EC/EU Treaty amendments have always been brought into force by means of an Act of Parliament. The passage of the implementing legislation is not formally part of ratification and there is no reference to ratification in the bills, but legislation is necessary if ratification is to proceed smoothly.

The UK joined the EEC by means of the *European Communities Act 1972* and all subsequent bills relating to Treaty change have amended the *European Communities Act 1972*. Since 1978 the UK Parliament has had to give its explicit approval (by Act of Parliament) to any subsequent treaty or other international agreement which increases the powers of the European Parliament.

Legislation in 2008 and 2011 specified that EU treaty amendments adopted under the Ordinary Revision Procedure could not be ratified “unless approved by Act of Parliament”. The later Act also provided for a referendum in certain cases where sovereignty was transferred from the UK to the EU.

Of the six Bills linked to EC/EU Treaties, Parliament spent most time on the Maastricht Treaty (41 days), closely followed by the original membership process (39 days). Lisbon came third with 25 days. Lisbon gave rise to the largest number of divisions, although a number of these were not on the Bill itself but concerned government policy in various policy areas relevant to the Lisbon Treaty.

1. Ratifying EU Treaty amendments

In the UK treaties are ratified by the Foreign Secretary or his/her representative, acting on behalf of the Crown (the so-called "Royal Prerogative").

When the UK joined the European Economic Community (EEC) in 1973, accession was preceded by the passing of an Act of Parliament which made the obligations under the Treaty and the law deriving from it applicable within the UK. This was the [European Communities Act 1972](#). On all subsequent occasions when new treaties have been agreed which amend the original Treaty, including treaties of accession, there has been new legislation in the UK to amend the *European Communities Act*. This allows those parts of the new treaty which are intended to have domestic legal effect to be applicable within the UK. These parts are sometimes described as forming part of the "EU legal order".

The passage of the implementing legislation is not formally part of ratification and there is no reference to ratification in the bill, but legislation is necessary if ratification is to proceed smoothly. Successive *European Community (Amendment) Bills* have been designed to make all the legislative provisions necessary for the implementation of a new treaty, clearing the way for the Government to deposit an instrument of ratification after the Bill has received the Royal Assent and become an Act of Parliament.

The [European Parliamentary Elections Act 2002](#), which consolidated EP Elections Acts 1978, 1993 and 1999, contained a specific limitation on the freedom of the Government to ratify treaties on the basis of the prerogative power. Section 12(1) of the 2002 Act required that "No treaty which provides for any increase in the powers of the European Parliament is to be ratified by the United Kingdom unless it has been approved by an Act of Parliament". Thus, since 1978 Parliament has had to give its explicit approval (by Act of Parliament) to any subsequent treaty or other international agreement which increases the powers of the European Parliament.

The [European Union \(Amendment\) Act 2008](#) stipulated in [section 5](#) that EU treaties agreed by the Ordinary Revision Procedure which amended the *Treaty on European Union* (TEU) or the *Treaty on the Functioning of the European Union* (TFEU) "may not be ratified unless approved by Act of Parliament".

The [European Union Act 2011](#) strengthened the provisions of the 2008 Act with explicit procedures for agreeing to or ratifying certain EU decisions or Treaty changes, including in [section 2](#) the requirement for an Act of Parliament and in specific circumstances a referendum.

2. UK bills linked to ratification of EU Treaty amendments

2.1 Treaty of Rome

The [European Communities Bill 1972](#) was linked to UK ratification of the EC Treaties and membership of the EEC under the terms and conditions of the Accession Treaty.¹ The Bill was some 37 pages long and contained twelve clauses and four schedules. It was preceded by a debate on a Government motion to approve the Government's decision of principle to join the EEC, on the basis of the arrangements negotiated. The motion was debated in the Commons for six days and in the Lords for three days in October 1971.

There have been six major EU Treaty ratification procedures in the UK since it joined the European Economic Community in 1973.

2.2 Single European Act

This *European Communities (Amendment) Bill* (Bill 126 of 1985-86) was a three-page, four-clause Bill to give legal effect to parts of the Single European Act (SEA). The SEA redefined some EC objectives, confirmed the 1992 timetable for completion of the internal market and made changes to EC legislative procedures with an increase in qualified majority voting (QMV) and an enhanced role for the European Parliament.²

2.3 Treaty on European Union (Maastricht)

The 1992 Government Bill to take account of the Treaty on European Union (TEU or Maastricht Treaty) was a one-page bill with two substantive clauses, including one on conditions for a future move to Economic and Monetary Union EMU.

However, the 1993 Act contained seven substantive clauses, including further conditions regarding EMU and clauses pertaining to:

- an annual report by the Bank of England concerning Article 108, Treaty Establishing the European Communities (now Article 131, Treaty on the Functioning of the European Union)
- information to be provided to the European Commission on economic performance, trade and investment
- a report to Parliament on the UK's fulfilment of the Maastricht convergence criteria (assessment of deficits)
- membership of the Committee of the Regions, and
- a commencement clause relating to the Protocol on Social Policy.

The 'Maastricht Treaty' Bill changed from being one page with two substantive clauses to being two pages with seven substantive clauses.

¹ The Accession Treaty applied to the UK, Denmark, Ireland and Norway, although Norway did not subsequently join the EEC.

² For information on the Bill, see Reference Sheet 86/11, *European Communities (Amendment) Bill* (Bill 126 of 1985-86), 21 April 1986.

2.4 Treaty of Amsterdam

This was a short bill with two substantive clauses on one page.³

2.5 Treaty of Nice

This bill contained three substantive clauses on just over one page.⁴

2.6 Treaty of Lisbon

The Bill had eight Clauses and one Schedule. It made changes to terminology, and modified and added to the 1972 Act to provide for new Treaty elements, and for legal and administrative continuity. The main amendments concerned:

- The definition of “the Community Treaties”
- A mechanism for parliamentary approval of Treaty amendments using new procedures
- Changes to terminology under existing UK legislation to take account of the new Treaty
- The “European Community” was re-named the “European Union” and the *Treaty Establishing*
- *The European Community* (TEC) was re-named the *Treaty on the Functioning of the European Union* (TFEU)
- Provisions on parliamentary control that were not essential for ratification.⁵

³ For information on the Bill, see Research Paper 97/112, 5 November 1997, [The European Communities \(Amendment\) Bill: Implementing The Amsterdam Treaty \[Bill No 71\]](#).

⁴ For information on the Bill, see Research Paper 01/61, 28 June 2001, [The European Communities \(Amendment\) Bill: Implementing the Treaty of Nice: Bill 3 of 2001-2002](#).

⁵ For further information on the Bill, see Research Paper 08/3, 15 January 2008, [European Union \(Amendment\) Bill: Bill 48 of 2007-08](#).

3. Parliamentary time spent on EU (amendment) bills

	European Communities Bill 1971-72 (Treaty of Rome)	European Communities (Amendment) Bill 1985-86 (Single European Act)	European Communities (Amendment) Bill 1992-93 (Treaty on European Union - Maastricht)	European Communities (Amendment) Bill 1997-98 (Treaty of Amsterdam)	European Communities (Amendment) Bill 2001-02 (Treaty of Nice)	European Union (Amendment) Bill 2008 (Treaty of Lisbon)
HC 1R (formal)	25.1.72	27.3.86	7.5.92	30.10.97	21.6.01	17.12.2007
HC 2R	3 days (15-17.2.72)	1 day (23.4.86)	2 days [22 hrs 9 mins] (20-21.5.92)	1 day (12.11.97)	1 day (4.7.01) and programming motion	1 day (21.1.2008)
HC 2R Division (Ayes-Noes)	17.2.72 (309-301)	23.4.96 (319-160)	21.5.92 (336-92)	12.11.97 (392 - 162)	4.7.01 (385-148)	21.1.2008 (362 -224)
Other debates	22.2.72 (Ways & Means and Money Res.); 1.2.72 (Censure motion: selection of amendments); 6.3.72 (Censure motion: framing of Bill)	-	4.11.92 ('Paving debate')			8 themed debates on Government motion to approve Government's policy towards Lisbon Treaty in respect of specified matters: 29, 30.1.2008; 5, 6, 20, 25, 26, 27.2.2008 ⁶
HC Committee of Whole House	1.3.72 – 5.7.72: 10 days before guillotine; 12 days after [just over 173 hrs]	3 days before guillotine; 1 day after (16,26 & 27.6.86)	23 days [162 hrs 45 mins] (2.12.92; 3,14,18,19,20,27,28.1.93; 1,4,22,25.2.93; 4,8,11,24,25,30.3.93; 15,19,21,22.4.93)	3 days before guillotine (27.11 & 2,3.12.97); 2 days after (15,19.1.98)[12 hours]	3 days (11,17,18.7.01, approx.18 hrs)	11 days (39 hrs 17 mins) (29, 30.1 2008; 5, 6, 20, 25, 26, 27.2.2008; 3, 4, 5.3.2008)
HC Guillotine	2.5.72	1.7.86	-	17.12.97		
HC Report	5.7.72 (last day of Committee stage)	10.7.86	2 days [13 hrs 28 mins] (4-5.5.93)	15.1.98	18.7.01	5.3.2008 (last day of Committee stage)

⁶ For timetabling of themed and Bill debates, see [HC Deb 28 January 2008, c32](#).

HC 3R	13.7.72	10.7.86	20.5.93	19.1.98	17.10.01	11.03.2008
HC time Spent	30 days	7 days	29 days	8 days	5 days	13 days
HL 1R (formal)	14.7.72	11.7.86	24.5.93	20.1.98	18.10.01	12.03.2008
HL 2R	2 days (25 - 26.7.72)	1 day (31.7.86)	2 days (7 – 8.6.93)	1 day (16.2.98)	1 day (1.11.01)	1.04.2008
HL Committee of Whole House	4 days (3,7,8,10.8.72)	2 days (8,17.10.86)	6 days (22 - 24, 28-30.6.93)	5 days (12,24,26.3.98 & 27,28.4.98)	3 days (15,20,26.11.01)	7 days (22, 29.4.2008; 6, 12, 14, 19, 20.5.2008)
HL Report	2 days (12 - 3.9.72)	1 day (27.10.86)	3 days (12-14.7.93)	1 day (14.5.98)	1 day (22.1.02)	3 days (4, 9, 11.6.2008)
HL 3R	20.9.72	3.11.86	20.7.93	21.5.98 guillotine motion & Lords amendment, 9.6.98; HL consideration of HC objection, 11.6.98	28.1.02	18.6.2008
HL time spent	9 days	5 days	12 days	8 days	6 days	12 days
Royal Assent	17.10.72	7.11.86	20.7.93	11.6.98	26.2.02	19.6.2008
Total no. of divisions	102	10	88	5	4	122 (incl. on themed debates)
Actual time spent	39 days	12 days	41 days	16 days	11 days	25 days

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