



**An Roinn Gnóthaí Eachtracha**  
**Department of Foreign Affairs**

**Guidelines for Departments**  
in relation to the  
**Scrutiny of EU Matters**  
by the  
**Houses of the Oireachtas**

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**Treoirlínte do Ranna**  
i ndáil le  
**Grinnscrúdú ar Nithe AE**  
ag  
**Tithe an Oireachtais**

**EU Division**  
**Department of Foreign Affairs**  
**September 2021**

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# **SECTION 1- Introduction**

## **1.1 Background**

- 1.1.1 These Guidelines set out the procedures to be followed by Departments in meeting their obligations under the European (Scrutiny) Act 2002, as amended by the European Communities (Amendment) Act 2002 (hereinafter the EU Scrutiny Act 2002) and the European Union Act 2009, with regard to the provision of information on EU business to the Houses of the Oireachtas in a timely and transparent manner.
- 1.1.2 The procedures set out in this document update the guidelines which were first introduced in 2002. A number of significant changes have been made since 2011 to improve Oireachtas scrutiny of EU Affairs on foot of the enhanced role of national parliaments under the Lisbon Treaty and as a result of commitments arising from the 2011 Programme for Government. These include mainstreaming of scrutiny of EU proposals across sectoral committees and more structured engagement by Ministers with Oireachtas Committees prior to Council of Ministers meetings.

## **1.2 Oireachtas oversight of EU measures and legislation**

- 1.2.1 Arrangements for dealing with oversight of EU affairs and scrutiny of EU legislation have been ongoing since 2002.
- 1.2.2 The Orders of Reference of Sectoral Committees agreed by Dáil Éireann in July 2020 and Seanad Éireann in September 2020 reflect the Programme for Government by requiring Committees to consider European Union matters within the remit of the relevant Department(s) and to engage with Ministers in the context of meetings of the Council of Ministers (Standing Order 96 (6)).
- 1.2.3 Consideration of EU matters will be a standing item on the agenda for each sectoral Committee meeting during which the Committee may consider all or some of the following issues:
- draft measures within the Committee's remit. Each Committee will decide which proposals to scrutinise in depth e.g. by engaging with relevant stakeholders
  - compliance of draft legislative acts with the principle of subsidiarity and related issues in support of the role of the Houses of the Oireachtas under Article 29.4 of the Constitution, section 7 of the European Union Act 2009 and Standing Orders relating to the role of the Houses under the Lisbon Treaty. If a breach of subsidiarity is found, the Committee will report to the Houses recommending the adoption of a reasoned opinion, and
  - in the case of major policy issues and consultation papers from the EU, Committees may decide to make a "contribution" to the relevant institution on particular issues of interest or concern.

Each Committee will also –

- invite the relevant Minister to attend in advance of relevant EU Council meetings to brief the Committee on the agenda and on the outcome of the previous Council meeting; and
- meet with Secretaries General in relation to Departmental reports on measures, proposed measures and other developments in relation to the EU which are provided by each Minister under the European Union (Scrutiny) Act 2002.

1.2.4 The Oireachtas EU Co-ordination Unit co-ordinates document flows and supports these arrangements.

1.2.5 EU Policy Advisors will be in regular contact with Departments in relation to the necessary information inputs to support their Committee's consideration of EU business, including information notes required under the 2002 Act.

1.2.6 The Joint Committee on European Union Affairs performs the oversight function in relation to EU Affairs and:

- considers EU related Bills, estimates or motions
- conducts pre-General Affairs Council meetings with the Minister for Foreign Affairs or the Minister of State for European Affairs and Data Protection
- invites witnesses and guest speakers on EU policy and strategic issues

The Joint Committee also considers:

- the EU Commission's strategic planning documents including the Commission's Annual Work Programme,
- cross-sectoral policy developments at European Union level,
- matters listed for consideration on the agenda for meetings of the General Affairs Council of Ministers and the outcome of such meetings,
- such regulations under the European Communities Acts 1972 to 2009 and other instruments made under statute and necessitated by the obligations of membership of the European Union as the Committee may select,
- notifications referred by the Dáil under 134(1)(a) and (b),
- notifications of proposals for the amendment of the Treaties received from the European Council pursuant to Article 48.2 of the Treaty on European Union, and
- notifications of applications for membership of the European Union received from the European Council pursuant to Article 49 of the Treaty on European Union.

Section 5 of the European Union (Scrutiny) Act 2002 specifies that the Joint Committee on European Affairs shall make an annual report to each House of the Oireachtas on the operation of the Act. This provision has been included in the terms of reference of the Joint Committee on European Union Affairs. The Joint Committee will receive details of each Committee's consideration of draft legislation for inclusion in this report.

## **1.3 Arrangements for Departments**

- 1.3.1 In accordance with the provisions of section 2(1) of the 2002 Act, a proposed measure is not properly before the Oireachtas for consideration until such time as the Information Note is supplied.
- 1.3.2 The guidelines have been revised, most recently, to reflect the recommendations of the review of the EU legislation scrutiny process completed in June 2015. The guidelines also take account of the internal arrangements in the Oireachtas. Other streamlining changes have also been made to underline each individual Department's statutory responsibility for keeping the Oireachtas informed in a timely way on relevant EU measures. Increasingly, EU measures are cross cutting in nature and a joined-up approach to preparing Information Notes is vital if we are to meet our obligation to inform the Oireachtas about their wide-ranging implications. Amendments have also been made to take account of the Lisbon Treaty, particularly with regard to subsidiarity issues.
- 1.3.3 Should doubts arise about which Department has responsibility for reporting on a particular EU proposal to the Oireachtas, resulting in potential delays in supplying the Information Note, it is the responsibility of Departments to seek immediate guidance from EU Division, Department of Foreign Affairs on the matter.
- 1.3.4 In such situations it is the responsibility of EU Division, Department of Foreign Affairs to attempt to mediate a solution and if necessary make an early ruling on which Department is responsible for the supply of the information note, and eventually, if required, by the Secretary General to the Government. Departments' willingness to resolve such difficulties in a speedy and pragmatic way will ensure that any delay in supplying Information Notes to the Oireachtas is kept to an absolute minimum. A copy of the Government Decision of 29 November 2011 is attached as Appendix III.

## **1.4 Acknowledgement**

- 1.4.1 The cooperation and assistance of colleagues in Government Departments and the Secretariat of the Oireachtas EU Co-ordination Unit in updating the guidelines is acknowledged and much appreciated.

EU Division  
Department of Foreign Affairs  
September 2021

## SECTION 2 - EU Measures

### 2.1 Information Notes – General

#### 2.1.1 In line with Section 2 (1) of the EU Scrutiny Act 2002,

*"As soon as practicable after a proposed measure is presented by the Commission of the European Communities or initiated by a Member State, as the case may be, the Minister shall cause a copy of the text concerned to be laid before each House of the Oireachtas together with a statement of the Minister outlining the content, purpose and likely implications for Ireland of the proposed measure and including such other information as he or she considers appropriate."*

within **21 working days**<sup>1</sup> of formal publication by the Commission of a proposed "measure", defined in Section 6 of the European Union Act, 2009 (which amends Section 1 of the EU Scrutiny Act 2002) as follows,

*"measure" means—*

*(a) a regulation or directive adopted under the Treaty on the Functioning of the European Union,*

*(b) a decision adopted under Article 28 or 29 of the Treaty on European Union,*  
*or*

*(c) an act (other than a regulation, directive or decision referred to in paragraph (a) or (b)) requiring the prior approval of both Houses of the Oireachtas pursuant to subsection 7 or 8 of Article 29.4 of the Constitution;"*

2.1.2 An **Information Note** outlining the content, purpose and likely implications for Ireland of the proposed measure and including such information as the relevant Minister considers appropriate is to be prepared and transmitted to the Oireachtas EU Co-ordination Unit (email: [oirscrutiny@oireachtas.ie](mailto:oirscrutiny@oireachtas.ie)) and also copied to the Department of Foreign Affairs ([euscrutiny2@dfa.ie](mailto:euscrutiny2@dfa.ie)).

2.1.3 The Information Note should highlight the significance of the measure and give an indication of the expected time required within the EU to make a decision on it. In briefing on EU proposals, particular attention should be paid by Departments to the practical implications for Ireland of such proposals. The potential impact, if any, on existing national legislation should be explained in information notes from Departments.

2.1.4 Departments should submit information notes in a timely manner to the Oireachtas, paying particular regard to those which may fall under the scope of the subsidiary procedure.

2.1.5 To assist in the process, the Department of Foreign Affairs (EU Division) should seek to resolve any dispute on lead Department responsibility in a speedy manner.

2.1.6 Departments should note that the deadline for submission of information notes to the Oireachtas continues to apply during dissolution periods.

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<sup>1</sup> The due date shall be calculated by considering the publication date printed on the Commission measure as Day 1, the next working day as Day 2, and so on.

## 2.2 Information Note Template

The **Information Note template**, to be used for submission of information notes on proposed EU legislative measures is attached at Appendix I.

## 2.3 Subsidiarity

2.3.1 The Lisbon Treaty introduced important new roles and powers for national Parliaments in the European Union. This included the power to national Parliaments to send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion where the national parliament considers that a draft legislative act does not comply with the principle of subsidiarity.

This is provided for under Protocols No 1 and No 2 TFEU (see page 203 at following link –

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:FULL:EN:PDF>

2.3.2 The responsibility for considering whether draft legislative acts comply with the principle of subsidiarity has been delegated to the Sectoral Committees and the Joint Committee on European Union Affairs.

The Sectoral Committees and the Joint Committee on European Union Affairs are also responsible for identifying acts of the EU institutions which may infringe the principle of subsidiarity and for reporting to the Dáil and Seanad for the purposes of requesting the Minister for Foreign Affairs to bring proceedings before the European Court of Justice.

While it is expected that in general, the Sectoral Joint Committees will consider the question of subsidiarity, sectoral Select Committees, may decide to consider the question of subsidiarity separately.

Standing Orders of both Houses provide that within sitting 3 days following the first meeting of each House after an election, a Select Committee will be established to carry out the functions under the Lisbon Treaty.

The principle of **subsidiarity** is defined as follows –

*Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. (Art 5.3, TEU, page 18 at following link)*

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:FULL:EN:PDF>



- 2.3.3 In order to assist the Oireachtas in forming a view on possible non-compliance with regard to the principle of subsidiarity in regard to any measure proposed by the Commission, the following procedure should be followed by the relevant lead Department –

If there are grounds for considering that a proposed measure, in whole or in part, may not be in compliance with the principle of subsidiarity this should be indicated as soon as possible to the Oireachtas before the 20-day deadline for the submission of information notes. This notification may be done by means of a brief email message to the Oireachtas EU Co-ordination Unit [oirscrutiny@oireachtas.ie](mailto:oirscrutiny@oireachtas.ie), with a copy to D/Foreign Affairs at [euscrutiny2@dfa.ie](mailto:euscrutiny2@dfa.ie), outlining the possible subsidiarity issues.

When the Information Note is subsequently being submitted, full details of any subsidiarity issues, whether or not these have been indicated earlier, should be included in the Information Note.

- 2.3.4 It should be noted that national Parliaments have only 8 weeks to submit to the EU institutions reasoned opinions on proposals they believe breach the principle of subsidiarity. Therefore, in order that the Oireachtas has time to complete its procedures, Departments should engage with the relevant Committee as early as possible on proposals which they believe raise subsidiarity concerns.

## 2.4 Commission Non-Legislative Proposals

- 2.4.1 Additionally, in the spirit of the Act and as is current practice, the Oireachtas may request an Information Note in the case of:

- Commission Green and White papers, Communications and other non-legislative proposals,

outlining the content, purpose and likely implications for Ireland of the proposed measure and including such information the relevant Minister considers appropriate is to be prepared and transmitted to the Oireachtas EU Co-ordination Unit (email: [oirscrutiny@oireachtas.ie](mailto:oirscrutiny@oireachtas.ie)) and EU Division, D/Foreign Affairs (email: [euscrutiny2@dfa.ie](mailto:euscrutiny2@dfa.ie)) within the 20 day deadline.

- 2.4.2 The Information Note template, to be used for submission of information notes for this purpose is attached at Appendix II.

Commission documents are available on **Eur-Lex** from  
<http://eur-lex.europa.eu/collection/eu-law/pre-acts.html?locale=en>

Council documents are available from  
<http://www.consilium.europa.eu/en/documents-publications/>

The IPEX (EU Interparliamentary Exchange) website is useful for following the decision making process in other National Parliaments

<http://www.ipex.eu/IPEXL-WEB/search.do>

## 2.5 Lead Department & Management of Proposals

- 2.5.1 Departments are responsible for identifying the proposals for which they have responsibility and should do so as soon as possible after their publication on the relevant Council or Commission website.

A diagram representing the processes and management in the reporting system can be found at Appendix VII.

- 2.5.2 To assist in this process, EU Division, Department of Foreign Affairs, will circulate by email, twice weekly, a list of all new draft EU legislative proposals (and any other proposals for which Information Notes have been requested by the Oireachtas) to all Interdepartmental EU Scrutiny Co-ordinators, copying the Oireachtas EU Coordination Unit. Departments are asked to respond to the Department of Foreign Affairs within 3 working days and indicate the proposals:

- for which they have lead responsibility, and those
- on which they wish to be consulted by the lead Department on the preparation of the Information note.

To assist in identifying lead Department responsibility for proposals, the Department of Foreign Affairs will indicate which it considers as the most likely lead Department.

Should a Department (either that indicated on the Department of Foreign Affairs list or another Department) accept lead responsibility it should confirm this to DFA.

Similarly, should a Department not accept lead role, it should advise Department of Foreign Affairs of this, providing the reasons and which Department it considers as having lead responsibility.

Departments are requested to respond to Department of Foreign Affairs in all instances within **3 working days**.

**It is the responsibility of lead Departments to provide relevant Information Notes to the Oireachtas within the 21-day deadline.**

**All Information Notes submitted after the deadline must be accompanied by a letter addressed to the Committee Chairperson explaining the delay.**

- 2.5.3 The Department of Foreign Affairs will circulate on a regular basis (weekly, or more frequently if required) a composite list of **unaccepted proposals, as well as overdue information notes**, to all Interdepartmental EU Scrutiny Co-ordinators and the Oireachtas EU Coordination Unit, indicating likely lead Departments for these proposals. Departments are requested to respond to Department of Foreign Affairs within **3 working days**.

- 2.5.4 In cases where lead responsibility remains unclear or disputed, EU Division, Department of Foreign Affairs will consult with potentially interested Departments for their views to **mediate** agreement on responsibility.

The Department of Foreign Affairs will issue a request by email to the relevant department/s asking for a concise reply within 2 working days, either on reflection to accept the proposal, or to respond (max 1 page) as to why the proposal is not for their Department. This will form the input to recommendation at Assistant Secretary level in Department of Foreign Affairs, which will then be responded at Assistant Secretary level to the Department/s concerned

Generally, the Department of Foreign Affairs will aim to deal with such cases within 10-15 days of initial circulation of the proposal to Departments.

However, if this mediation is not successful, the Department of Foreign Affairs will proceed to make a formal **initial ruling** on which Department is responsible for the supply of the Information Note. The Department of Foreign Affairs will endeavour to make such rulings quickly and as early as possible prior to the 21-day Oireachtas deadline. In cases where a ruling cannot be made within the deadline, The Department of Foreign Affairs will notify the Oireachtas that the proposal is subject to further consideration by the Department of Foreign Affairs to establish/identify a lead Department (Annex III attached).

## **2.6 Extensions of Time**

On occasion there may be a need to extend the 21-day deadline, particularly in relation to complex proposals where there is a need to consult a number of Departments and/or where legal advice may be required. In such cases, the lead Department should inform the Oireachtas of the situation within 10 working days of receipt of the proposal and indicate a reasonable time frame within which an information note will be forthcoming and cc the Department of Foreign Affairs.

## **2.7 Transmission and Circulation of Information Notes**

- 2.7.1 **Information Notes should be sent to the Oireachtas EU Co-ordination Unit, Department of Foreign Affairs and other relevant Departments as well as the Houses of the Oireachtas Library.**

- 2.7.2 **Information notes (in Word format) should be emailed to the Oireachtas EU Co-ordination Unit ([oirscrutiny@oireachtas.ie](mailto:oirscrutiny@oireachtas.ie)), in the name of the relevant Minister. These should also be copied to Department of Foreign Affairs at [euscrutiny2@dfa.ie](mailto:euscrutiny2@dfa.ie)**

Notes should also be emailed to the EU Scrutiny Coordinators in other Government Departments who have expressed an interest in any particular proposal. It is not necessary to copy information notes to all Departments.

**2.7.3 The text of the draft measure and accompanying information note must also be laid electronically before both Houses of the Oireachtas.**

You can self-register by heading to the [registration link](#) on the [DocsLaid page](#) at Oireachtas.ie – there is a handy [QuickGuide](#) to help you through the registration process, which we encourage you to follow.

Once you have registered, you will receive a ‘welcome’ email and a copy of the Laying Guidelines, which we encourage you to read.

Within the Laying Guidelines there is a section on laying EU Scrutiny Information Notes before the Houses – please see page 27. There is an accompanying video called ‘Laying EU Scrutiny Notes’ in the ‘Help’ section of the ‘Lay a Document’ Tab in the DocsLaid application. We strongly encourage to view this video before laying your first EU Scrutiny Note.

The European Commission’s Proposal document and the department’s Information Note must be merged into *one* PDF before laying. Please use the full title as it appears on the front cover of the proposal. Please note that they are *always* laid pursuant to the European Union (Scrutiny) Act 2002 – Section 2(1).

For further help with laying documents before the Houses, please contact [docslaid@oireachtas.ie](mailto:docslaid@oireachtas.ie) or by phone at the numbers below:

**Oireachtas EU Co-ordination Unit**

E-mail: [oirscrutiny@oireachtas.ie](mailto:oirscrutiny@oireachtas.ie)

**Documents Laid Team at the Oireachtas library**

[rori.macgowan@oireachtas.ie](mailto:rori.macgowan@oireachtas.ie) 618 4279

[neil.mccormack@oireachtas.ie](mailto:neil.mccormack@oireachtas.ie) 618 4708

[suzie.rafter@oireachtas.ie](mailto:suzie.rafter@oireachtas.ie) 618 4185

**EU Division, Department of Foreign Affairs**

[euscrutiny2@dfa.ie](mailto:euscrutiny2@dfa.ie)

## 2.8 Amending Information Notes

Departments may, on occasion and prior to scrutiny taking place, have reason to amend or revise Information Notes that have been submitted to the Oireachtas. In such instances Departments are required to re-submit the new version of the Information Note as outlined above AND clearly indicate that this version of the Information Note supersedes and replaces all previously submitted versions.

## 2.9 Cases where there is insufficient time for Scrutiny (Early Adoption)

2.9.1 Section 2 (3) and 2 (4) of the EU Scrutiny Act 2002, is as follows:

*"Subsections (1) and (2) shall not apply, if in the opinion of the Minister, there is insufficient time for the carrying out of the procedures aforesaid and the performance of the functions of the Houses of the Oireachtas in relation to the text aforesaid.*

*(4) Where, pursuant to subsection (3), a text of a proposed measure has not been laid before each House of the Oireachtas and the measure concerned is adopted by an institution of the European Communities, the Minister shall cause a copy of the text of the measure to be laid before both Houses of the Oireachtas together with a statement outlining the implications for Ireland of the measure and the circumstances of its adoption and including other information as he or she considers appropriate".*

2.9.2 In exceptional circumstances there may not be sufficient time to refer draft proposals to the Oireachtas for scrutiny. If the urgency provision, Section 2(3)/(4) of the EU Scrutiny Act 2002, is invoked, the lead Department should inform the Oireachtas EU Co-ordination Unit and the Department of Foreign Affairs as soon as possible after the publication of the proposal.

2.9.3 If the proposal is adopted, the Minister should lay a copy of the text of the measure before the Oireachtas with a statement outlining the implications for Ireland, the circumstances of its adoption and any other information that he/she deems appropriate. This material should be sent to the Oireachtas with an overall explanatory cover note highlighting the early adoption of the measure.

## 2.10 Special arrangements in relation to confidentiality

2.10.1 Section 3 (1) of the EU Scrutiny Act 2002, states that:

*"Subsections (1) and (2) of section 2 shall not apply to a proposed measure which, in the opinion of the Minister, is confidential. (2) Where by virtue of subsection (1), subsections (1) and (2) of section 2 do not apply to a proposed measure, the Minister may make a report to either or both Houses of the Oireachtas or to a committee of either or both such Houses in relation to the proposed measure as he or she deems appropriate in the circumstances."*

Section 3 of the EU Scrutiny Act 2002 outlines the procedure to be followed for measures which, in the opinion of a Minister, are confidential and which would not, therefore, be referred to the Oireachtas for scrutiny in the manner outlined in Section 2 of the Act.

- 2.10.2 Ireland, along with its EU Partners, is bound by EU Security Regulations which, inter alia, govern the treatment of classified documentation. In fulfilling its obligations under the Act, the Government is required to act in accordance with these Regulations. The position regarding access to EU documentation in this regard is set out in Regulation 1049/2001.
- 2.10.3 As laid out in Section 3 (2), a Minister may, having reviewed a proposed measure in question, at his/her initiative inform the Oireachtas about the contents of the measure. It is proposed that this notification should take the form of either:
- the provision of a written information note from his/her Department; or
  - an oral briefing from officials in that Department.
- 2.10.4 In such instances, officials from the Department which has lead responsibility for the measure will contact the Advisor to the Joint Committee on Foreign Affairs and Defence to:
- indicate that confidential written briefing material will be forwarded to the Chairperson of the Joint Committee on Foreign Affairs and Defence or
  - seek an appointment to orally brief the Committee Chairperson in private.
- 2.10.5 In the event that the Chairperson of the Joint Committee on Foreign Affairs and Defence determines that they wish to consult with members of a Committee or otherwise involve Committee members in a confidential briefing provided under these guidelines, the prior agreement of the Minister shall be required and, in order to respect the obligation to protect the confidentiality of the information, any such consultation or briefing should take place in private.
- 2.10.6 When the measure is adopted and is no longer classified as confidential, the Minister concerned should submit the text of the measure to the Oireachtas in the same manner outlined for urgent measures in paragraph 2.2.2.
- 2.10.7 The release of, and provision of briefing on, sensitive or confidential information relating to a proposed measure shall be based on the understanding that the documents or information contained within the documents or provided in confidential briefing shall not be published, forwarded, disclosed or otherwise transmitted to any other addressee and that documents will be appropriately filed and stored according to the given security classification.
- 2.10.8 Full regard shall be given at all times to the interests of the institutions which classification is designed to protect and the security of the State, the European Union and/or one or more of its Member States. The highest security standards should also be adhered to when material is being transmitted, handled or stored.
- 2.10.9 The agreement of a Member State(s) will be sought before the release or circulation of material received from that Member State(s) which is, in the opinion of a Minister, confidential.

2.10.10 Information received from EU institutions, a third State or international organisation may only be transmitted to the Oireachtas if that institution, State or organisation agrees to transmission.

## **2.11 Measures which require the prior approval of the Oireachtas**

2.11.1 The Twenty-Eighth Amendment of the Constitution (dealing with the Lisbon Treaty) amended Article 29.4 of the Constitution dealing with international relations. The amended Article 29.4 allows Ireland to opt in or opt out of provisions in relation to enhanced co-operation and certain aspects of the Area of Freedom, Security and Justice subject to the prior approval of the Houses of the Oireachtas.

Section 6 of the European Union Act 2009 (which amends the 2002 Scrutiny Act) provides for this where it refers to:

*(c) an act (other than a regulation, directive or decision referred to in paragraph (a) or (b)) requiring the prior approval of both Houses of the Oireachtas pursuant to subsection 7 or 8 of Article 29.4 of the Constitution;”.*

2.11.2 In the case of measures under Title V, Part Three of the Treaty on the Functioning of the European Union to which Protocol 21 (the 'JHA Protocol') to the Lisbon Treaty applies, Ireland can either opt into the measure in the early stages of negotiation, i.e. within the first three months, or can accept the measure after it has been adopted by the Council. Oireachtas approval is required in either case.

Under Protocol 19 of the Lisbon Treaty (the 'Schengen Protocol'), Oireachtas approval is required for a request by Ireland to participate in additional provisions of the Schengen acquis. Oireachtas approval is also required for Ireland to opt out of any provisions of the acquis in which it participates, or any measures building on such provisions. Where Ireland wishes to opt out of a new Schengen building measure, it must notify the Council within three months.

An information note on the draft proposal will be prepared and transmitted to the Oireachtas EU Co-ordination Unit which should also alert them to the Title V status of the measure and the applicability of Protocol 19 or 21 as appropriate.

2.11.3 Where Protocol 19 or 21 applies to a legislative proposal, the start date for the preparation of the information note coincides with the start of any three-month option period under the Protocol. As with all other EU legislative proposals, the information note should be submitted to the Oireachtas EU Co-ordination Unit within 21 working days from this start date. Thereafter the Department concerned will liaise with the Oireachtas so as to avoid duplication of effort between the Oireachtas scrutiny process and the arrangements for obtaining Oireachtas approval. The Justice committee shall be informed on the exercise of the Protocol 19 or 21 option so that it can continue its work of tracking all EU legislative proposals.

## **SECTION 3 - Periodic Reports**

### **3.1 Six-monthly Report**

3.1.1 Section 2 (5) of the EU Scrutiny Act 2002 states that:

*"Every Minister of the Government shall make a report to each House of the Oireachtas not less than twice yearly in relation to measures, proposed measures and other developments in relation to the European Communities and the European Union in relation to which he or she performs functions."*

3.1.2 As such each Minister must provide the Oireachtas with a six-monthly report on progress in relation to:

- measures
- proposed measures; and
- other relevant developments

for which the Minister has lead responsibility.

3.1.3 The primary aim of the six-monthly report is to provide an overview of draft legislative measures submitted to the Oireachtas by Departments. With this in mind, Departments are requested to **briefly** summarise the legislative progress of each proposal submitted in the six month period covered, after initial review by the relevant sectoral Committee including, if applicable, subsequent amendment(s), adoption of the measure at Council and finally transposition into Irish law.

3.1.4 Departments which have not submitted any measures to the Oireachtas for review in the previous six months should make a brief statement to this effect.

3.1.5 **Contributions from Departments should be short, concise, aimed at a general readership and include a brief summary of key events and policy developments in EU policy in the preceding six-month period.** A brief forward look to any significant developments anticipated for the following six months should also be included. Report coordinators should consult with other Departments to avoid duplication of reporting in Council formations/policy areas involving more than one Department.

3.1.6 Wherever possible, web addresses should be used to "signpost" readers to other relevant websites for further information.

3.1.7 Each Department is responsible for compiling and submitting its own report to the Oireachtas. Reports should be compiled, formatted and printed in-house, without recourse to external printers.

3.1.8 These reports should be submitted to the Oireachtas as soon as possible following the end of the period under review or at least no later than six



weeks i.e. in mid-August and mid-February each year. Departments are encouraged to circulate their six-monthly reports widely and to post reports on Departmental websites.

- 3.1.9 Reports should be submitted to the Oireachtas in the same way as information notes and should be circulated to the Department of Foreign Affairs and all other inter-departmental coordinators.
- 3.1.10 Departments should also be aware that Sectoral Committees have the power to request the attendance of Secretaries General to discuss the six-monthly reports and other developments related to the European Union which fall within the remit of their respective Departments.

## 3.2 Annual Report

- 3.2.1 Section 4 (5) of the EU Scrutiny Act 2002 states that:

*"In each year, beginning with the year 2003, the Government shall make a report to each House of the Oireachtas on developments in the European Communities and the European Union."*

- 3.2.2 As such, the Government reports once a year to the Oireachtas on developments in the EU in the previous calendar year. The report is compiled by the Department of Foreign Affairs on the basis of submissions received from all Departments.
- 3.2.3 The report is intended for a general audience and information outlined in the report should be drafted by Departments in a succinct and concise manner. **In many cases, short paragraphs on significant EU developments and individual policy priorities will suffice.** Wherever possible, anticipated legislative developments which will give effect to the proposed policy objectives should be highlighted in the report.

## **SECTION 4 - Council Meetings**

### **4.1 General Affairs Councils**

The Minister for Foreign Affairs or Minister of State for European Affairs will, on request, brief the Joint Committee on European Union Affairs in advance of the General Affairs Council in order to set out the Government's broad approach and hear the views of Oireachtas members. The Minister will report back on the outcome of Council meetings, in a format/frequency as agreed with the Committee.

### **4.2 Foreign Affairs Councils**

The Minister for Foreign Affairs will, on request, brief the Joint Committee on Foreign Affairs in advance of the Foreign Affairs Council in order to set out the Government's broad approach and hear the views of Oireachtas members. The Minister will report back on the outcome of Council meetings, in a format/frequency as agreed with the Committee.

### **4.3 Sectoral Councils**

All relevant Ministers will, on request, brief their respective sectoral Committees in advance of Council meetings in order to set out the Government's broad approach and hear the views of Oireachtas members. Ministers will report back on the outcome of Council meetings, in a format/frequency as agreed with their respective sectoral Committees.

### **4.4 Briefing Arrangements**

In order to safeguard the negotiating position of Ireland and other Member States, a Minister, in consultation with the Chair of the Committee, may opt to provide a briefing in private.

Committees may choose from time to time to seek a briefing at official level.

### **4.5 European Council**

Statements and discussions in the Dáil prior to and following meetings of the European Council will continue to provide for open debate involving statements by the Taoiseach and the Opposition leaders followed by a question and answer session. As part of this process, prior and subsequent Parliamentary questions would not be allowed.

### **4.6 Provision of Meeting Agenda/Minutes**

In line with the terms of Protocol No. 1 of the Lisbon Treaty, the agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, are now forwarded directly to national Parliaments, at the same time as to Member States' governments. These may be found here -

<http://www.consilium.europa.eu/en/press/>

# APPENDICES

## Appendix I - General Information Note Template (*Rev April 2018*)

The standardised note format/font/numbering layout should be used for all information notes submitted with the exception of Commission Non-Legislative Proposals or pre-adoption confidential CFSP draft measures:

Font type: Times New Roman  
Font size: 12  
Page Layout: Portrait, single column format  
Format: Word (\*.doc) or Rich Text Format (\*.rtf)  
(Not \*.docx)

The information to be inserted is noted in italics under each heading.

**Com \*\*\* (2021)**

### Information Note

**1. Proposal**

*Full title of proposal*

**2. Date of Commission document**

*\*\*/\*\*/2021*

**3. Number of Commission document**

*COM (2021)\*\*\**

**4. Number of Council document:**

*\*\*\*\*/21*

**5. Dealt with in Brussels by**

*Name of Council and name of working group*

**6. Department with primary responsibility**

*Name of lead Department*

**7. Other Departments involved**

*Names of any other Departments with an interest in the proposal*

**8. Background to, Short summary and aim of the proposal**

*Give details of any earlier proposals or particular consultation process relevant to the proposal.*

**9. Legal basis of the proposal**

*Cite relevant Treaty Article/s*

**10. Voting Method**

*QMV or Unanimity*

**11. Role of the EP**

*Consultation/co-decision/assent/cooperation (as appropriate)*

**12. Category of proposal**

*Major significance/some significance/little significance/purely technical/comitology/recast/ codification/alignment to TFEU*

**13. Implications for Ireland & Ireland's Initial View'**

*Particular attention should be paid by Departments to the practical implications for Ireland of such proposals. The information note should provide an initial assessment of the implications, if any, for Ireland. Indicate if Ireland supports the measure or indicate areas of concern.*

**14. Impact on the public**

*Give details*

**15. Have any consultations with Stakeholders taken place or are there any plans to do so?**

*Y/N Give details*

**16. Are there any subsidiarity issues for Ireland?**

*Y/N. Explain if necessary.*

**17. Anticipated negotiating period**

*If known*

**18. Proposed implementation date**

*Is there a target date for entry into force?*

**19. Consequences for national legislation**

*Brief description of implementation measures*

**20. Method of Transposition into Irish law**

*The information note should include details of and the reasons for the intended means of transposition and outline how the measure will be transposed into Irish law when adopted*

**21. Anticipated Transposition date**

*Indicate when measure may be transposed into Irish law*

**22. Consequences for the EU budget in Euros annually**

*None/annual amount if available*

**23. Contact name, telephone number and e-mail address of official in Department with primary responsibility**

**Date**

## **Appendix II - Information Note Template Commission Non-Legislative Proposal**

The standardised note format/font/numbering layout should be used for all Commission Communications, Green/White paper and other non-Legislative proposal Information Notes:

Font type: Times New Roman  
Font size: 12  
Page Layout: Portrait, single column format  
Format: Word (\*.doc) or Rich Text Format (\*.rtf) ; (Not \*.docx)

**COM \*\*\* (2021)**

### **Information Note**

#### **1. Title of Proposal**

*Full title of paper*

#### **2. Date of Issue**

#### **3. Number of Commission document:**

*COM (2021)\*\**

#### **4. Department with primary responsibility**

*Name of lead Department*

#### **5. Other Department(s) involved**

*Names of any other Departments with an interest in the proposal*

#### **6. Short summary and aim of the paper**

#### **7. Implications for Ireland**

*Initial assessment of the implications, if any, for Ireland*

#### **8. Deadline Set by the Commission for Responses**

*If known (the date is usually included in the Commission's proposal)*

#### **9. Contact name, telephone number and e-mail address of official in Department with primary responsibility**

**Date**

## Appendix III - Government Decision on Lead Department responsibility of 29 November 2011

Uimhir Thagartha: S140/48/07/0001B

### CRUINNIÚ RIALTAIS

Dáta: 29/11/2011

**Ábhar:** EU Legislative Proposals - Revision to inter-Departmental dispute resolution procedures.

**An tAire a thionscain:** Oifig an Aire Gnóthai Eachtracha agus Trádála

**Dáta an Mheabhráin:** 25/11/2011

**Cinneadh an Rialtais:**

Agreed

(1) new procedures for the resolution of any difficulties that may arise in relation to Departmental responsibility for bringing forward measures to the Oireachtas, as follows:

(i) when a dispute arises about which a Department is responsible for an EU measure it will be for the Second Secretary General, EU Affairs and Coordination Division, Department of the Taoiseach, to make an initial ruling on which Department is responsible, and

(ii) if a Department wishes to appeal, the Secretary General of that Department can indicate in writing to the Secretary General to the Government:-

(a) the reasons why the Department identified should not have responsibility for the measure, and

(b) the reasons why another Department should; and

(2) that the Secretary General to the Government, in consultation with the Taoiseach, shall make a finding which will be binding on Departments regarding (ii) above.

## Appendix IV - Terms of Reference of Joint Committee on European Union Affairs

### **Dáil Éireann on 23 July, 2020 ordered:**

- (1) Go gceapfar Roghchoiste, dá ngairfear an Roghchoiste um Ghnóthaí Eorpacha, ar a mbeidh 9 gcomhalta de Dháil Éireann, chun breithniú a dhéanamh ar cibé nithe a éiríonn—
- (a) as ballraíocht na hÉireann san Aontas Eorpach, agus
- (b) as Éirinn do chloí leis an gConradh ar an Aontas Eorpach agus leis an gConradh ar Fheidhmiú an Aontais Eorpaigh,
- a roghnóidh sé agus nach bhfuil tarchurtha chuig aon Choiste eile.
- (2) Gan dochar do ghinearáltacht mhír (1), breithneoidh an Roghchoiste—
- (a) cibé Billí a bpléann an Roinn Gnóthaí Eachtracha agus an Roinn Cosanta leis an dlí reachtach ina leith,
- (b) cibé tograí a bheidh in aon tairiscint, lena n-áirítear aon tairiscint de réir bhrí Bhuan-Ordú 220, agus
- (c) cibé nithe eile,
- a tharchuirfidh an Dáil chuige.
- (3) Beidh an tAire Gnóthaí Eachtracha (nó comhalta den Rialtas nó Aire Stáit a ainmneofar chun gníomhú ina áit nó ina háit chun na críche sin), ina chomhalta nó ina comhalta *ex officio* den Roghchoiste chun na nithe atá leagtha amach i mír (2)(a) agus (b) a bhreithniú agus beidh sé nó sí i dteideal vótáil in imeachtaí an Roghchoiste.
- (4) Beidh ag an Roghchoiste na cumhachtaí a mhínítear i mBuan-Ordú 96, seachas míreanna (6) go (10).
- (5) Déanfar an Roghchoiste a chomhcheangal le Roghchoiste arna cheapadh ag Seanad Éireann chun bheith ina Chomhchoiste um Ghnóthaí Eorpacha, agus, gan dochar do ghinearáltacht mhír (1), déanfaidh an Roghchoiste an méid seo a leanas a bhreithniú—
- (a) doiciméid phleanála straitéiseacha an Choimisiúin Eorpaigh lena n-áirítear Clár Oibre an Choimisiúin,
- (1) That a Select Committee, which shall be called the Select Committee on European Union Affairs, consisting of 9 members of Dáil Éireann, be appointed to consider such matters arising from—
- (a) Ireland's membership of the European Union, and
- (b) Ireland's adherence to the Treaty on European Union and the Treaty on the Functioning of the European Union,
- as it may select and which are not referred to any other Committee.
- (2) Without prejudice to the generality of paragraph (1), the Select Committee shall consider such—
- (a) Bills the statute law in respect of which is dealt with by the Department of Foreign Affairs and the Department of Defence,
- (b) proposals contained in any motion, including any motion within the meaning of Standing Order 220, and
- (c) other matters,
- as shall be referred to it by the Dáil.
- (3) The Minister for Foreign Affairs (or a member of the Government or Minister of State nominated to act in his or her stead for that purpose) shall be an *ex officio* member of the Select Committee for the purpose of consideration of the matters outlined at paragraph (2)(a) and (b) and shall be entitled to vote in Select Committee proceedings.
- (4) The Select Committee shall have the powers defined in Standing Order 96, other than paragraphs (6) to (10).
- (5) The Select Committee shall be joined with a Select Committee appointed by Seanad Éireann, to form the Joint Committee on European Union Affairs, which, without prejudice to the generality of paragraph (1), shall consider—
- (a) the European Commission's strategic planning documents including the Commission Work Programme,

- (b) forbairtí beartais tras-earnála ag leibhéal an Aontais Eorpaigh,
  - (c) nithe a liostaítear lena mbreithniú ar an gclár gnó i gcomhair cruinnithe de Chomhairle (Airí) Gnóthaí Ginearálta an Aontais Eorpaigh agus toradh cruinnithe den sórt sin.
  - (d) cibé rialacháin faoi Achtanna na gComhphobal Eorpach, 1972 go 2009 agus ionstraimí eile arna ndéanamh faoi reacht agus is gá de dhroim na n-oibleagáidí a ghabhann le ballraíocht san Aontas Eorpach a roghnóidh an Coiste,
  - (e) fógraí arna dtarchur ag an Dáil faoi Bhuan-Ordú 134(1)(a),
  - (f) fógraí i dtaobh tograí chun na Conarthaí a fuarthas ón gComhairle Eorpach de bhun Airteagal 48.2 den Chonradh ar an Aontas Eorpach a leasú,
  - (g) fógraí i dtaobh iarratais ar bhallaíocht san Aontas Eorpach a fuarthas ón gComhairle Eorpach de bhun Airteagal 49 den Chonradh ar an Aontas Eorpach, agus
  - (h) cibé nithe eile a tharchuirfidh an Dáil chuige ó am go ham.
- (b) cross-sectoral policy developments at European Union level,
  - (c) matters listed for consideration on the agenda for meetings of the General Affairs Council (of Ministers) of the European Union and the outcome of such meetings,
  - (d) such regulations under the European Communities Acts 1972 to 2009 and other instruments made under statute and necessitated by the obligations of membership of the European Union as the Committee may select,
  - (e) notifications referred by the Dáil under Standing Order 134(1)(a),
  - (f) notifications of proposals for the amendment of the Treaties received from the European Council pursuant to Article 48.2 of the Treaty on European Union,
  - (g) notifications of applications for membership of the European Union received from the European Council pursuant to Article 49 of the Treaty on European Union, and
  - (h) such other matters as may be referred to it by the Dáil from time to time.
- (6) Tabharfaidh an Comhchoiste tuarascáil do dhá Theach an Oireachtais ar oibriú Acht an Aontais Eorpaigh (Grinnscrúdú), 2002.
- (7) Beidh ag an gComhchoiste na cumhachtaí a mhínítear i mBuan-Ordú 96, 133 agus 135 agus beidh aige an chumhacht chun moltaí a chur faoi bhráid an Aire Gnóthaí Eachtracha (nó faoi bhráid Aire Stáit) i dtaobh nithe a bhaineann leis an Aontas Eorpach.
- (8) Féadfaidh na daoine seo a leanas freastal ar chruinnithe den Chomhchoiste agus páirt a ghlacadh in imeachtaí gan ceart vótála a bheith acu ná ceart tairiscintí a dhéanamh ná leasuithe a thairiscint:
- (a) Comhaltaí de Pharlaimint na hEorpa arna dtoghadh ó thoghcheantair in Éirinn,
  - (b) Comhaltaí de thoscaireacht na hÉireann chuig Tionól Parlaiminteach Chomhairle na hEorpa, agus
  - (c) ar chuireadh a fháil ón gCoiste, Comhaltaí eile de Pharlaimint na hEorpa.
- (6) The Joint Committee shall report to both Houses of the Oireachtas on the operation of the European Union (Scrutiny) Act 2002.
- (7) The Joint Committee shall have the powers defined in Standing Order 96, 133 and 135 and shall have the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.
- (8) The following may attend meetings of the Joint Committee and take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland,
  - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (c) at the invitation of the Committee, other Members of the European Parliament.



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- (9) Déanfaidh an Comhchoiste ionadaíocht do dhá Theach an Oireachtais ag Comhdháil na gCoistí um Ghnóthaí Comhphobail agus Eorpacha de chuid Pharlaimintí an Aontais Eorpaigh (COSAC) agus tabharfaidh sé tuarascáil ar an gcéanna do dhá Theach an Oireachtais.
- (10) Beidh Cathaoirleach Roghchoiste na Dála ina Chathaoirleach nó ina Cathaoirleach ar an gComhchoiste freisin.
- (9) The Joint Committee shall represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) and shall report to both Houses of the Oireachtas thereon.
- (10) The Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.

## **SEANAD ÉIREANN**

- “(1) Go ndéanfar Roghchoiste, dá ngairfear an Roghchoiste um Ghnóthaí an Aontais Eorpaigh, ar a mbeidh 5 chomhalta de Sheanad Éireann, a cheapadh chun breithniú a dhéanamh ar cibé nithe a éiríonn—
- (a) as comhaltas na hÉireann den Aontas Eorpach, agus
- (b) as Éirinn do chloí leis an gConradh ar an Aontas Eorpach agus leis an gConradh ar Fheidhmiú an Aontais Eorpaigh,
- a roghnóidh sé agus nach mbeidh tarchurtha chuig aon Choiste eile.
- (2) Beidh ag an Roghchoiste na cumhachtaí a mhínítear i mBuan-Ordú 72, seachas míreanna (6) go (10).
- (3) Déanfar an Roghchoiste a chomhcheangal le Roghchoiste arna cheapadh ag Dáil Éireann, chun an Comhchoiste um Ghnóthaí an Aontais Eorpaigh a dhéanamh, agus, gan dochar do ghinearáltacht mhír (1), breithneoidh an Comhchoiste—
- (a) doiciméid pleanála straitéisí an Choimisiúin Eorpaigh lena n-áirítear Clár Oibre an Choimisiúin,
- (b) forbairtí beartais tras-earnála ar leibhéal an Aontais Eorpaigh,
- (1) That a Select Committee, which shall be called the Select Committee on European Union Affairs, consisting of 5 members of Seanad Éireann, be appointed to consider such matters arising from—
- (a) Ireland’s membership of the European Union, and
- (b) Ireland’s adherence to the Treaty on European Union and the Treaty on the Functioning of the European Union,
- as it may select and which are not referred to any other Committee.
- (2) The Select Committee shall have the powers defined in Standing Order 72, other than paragraphs (6) to (10).
- (3) The Select Committee shall be joined with a Select Committee appointed by Dáil Éireann, to form the Joint Committee on European Union Affairs, which, without prejudice to the generality of paragraph (1), shall consider—
- (a) the European Commission’s strategic planning documents including the Commission Work Programme,
- (b) cross-sectoral policy developments at European Union level,

- |  |  |
|--|--|
| <p>(c) nithe a liostaítear lena mbreithniú ar an gclár oibre do chruinnithe de Chomhairle Gnóthaí Ginearálta an Aontais Eorpaigh (Comhairle Gnóthaí Ginearálta na nAirí) agus toradh na gcrúinnithe sin,</p> <p>(d) cibé rialacháin faoi Achtanna na gComhphobal Eorpach, 1972 go 2009 agus ionstraimí eile arna ndéanamh faoi reacht agus is gá de dhroim na n-oibleagáidí a ghabhann le comhaltas den Aontas Eorpach a roghnóidh an Coiste,</p> <p>(e) fógraí arna dtarchur ag an Seanad faoi Bhuan-Ordú 117 (1)(a),</p> <p>(f) fógraí i dtaobh tograí chun na Conarthaí a leasú a fuarthas ón gComhairle Eorpach de bhun Airteagal 48.2 den Chonradh ar an Aontas Eorpach,</p> <p>(g) fógraí i dtaobh iarratais ar chomhaltas den Aontas Eorpach a fuarthas ón gComhairle Eorpach de bhun Airteagal 49 den Chonradh ar an Aontas Eorpach, agus</p> <p>(h) cibé nithe eile a tharchuirfidh an Seanad chuige ó am go ham.</p> | <p>(c) matters listed for consideration on the agenda for meetings of the General Affairs Council (of Ministers) of the European Union and the outcome of such meetings,</p> <p>(d) such regulations under the European Communities Acts 1972 to 2009 and other instruments made under statute and necessitated by the obligations of membership of the European Union as the Committee may select,</p> <p>(e) notifications referred by the Seanad under Standing Order 117 (1)(a),</p> <p>(f) notifications of proposals for the amendment of the Treaties received from the European Council pursuant to Article 48.2 of the Treaty on European Union,</p> <p>(g) notifications of applications for membership of the European Union received from the European Council pursuant to Article 49 of the Treaty on European Union, and</p> <p>(h) such other matters as may be referred to it by the Seanad from time to time.</p> |
| <p>(4) Tabharfaidh an Comhchoiste tuarascáil do dhá Theach an Oireachtais ar oibriú Acht an Aontais Eorpaigh (Grinnscrúdú), 2002.</p> <p>(5) Beidh ag an gComhchoiste na cumhachtaí a mhínítear i mBuan-Ordú 72, 116 agus 118 agus beidh an chumhacht aige chun moltaí a dhéanamh chun an Aire Gnóthaí Eachtracha (nó chun Aire Stáit) i dtaobh nithe a bhaineann leis an Aontas Eorpach.</p> <p>(6) Féadfaidh na daoine seo a leanas freastal ar chruinnithe den Chomhchoiste agus páirt a ghlacadh in imeachtaí gan ceart vótála a bheith acu ná ceart tairiscintí a dhéanamh agus leasuithe a thairiscint:</p>  | <p>(4) The Joint Committee shall report to both Houses of the Oireachtas on the operation of the European Union (Scrutiny) Act 2002.</p> <p>(5) The Joint Committee shall have the powers defined in Standing Order 72, 116 and 118 and shall have the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.</p> <p>(6) The following may attend meetings of the Joint Committee and take part in proceedings without having a right to vote or to move motions and amendments:</p>  |

- 
- (a) Comhaltaí de Pharlaimint na hEorpa arna dtoghadh ó thoghlaigh in Éirinn,
- (b) Comhaltaí de thoscaireacht na hÉireann chuig Tionól Parlaiminteach Chomhairle na hEorpa, agus
- (c) ar chuireadh a fháil ón gCoiste, Comhaltaí eile de Pharlaimint na hEorpa.
- (7) Déanfaidh an Comhchoiste ionadaíocht do dhá Theach an Oireachtais ag Comhdháil na gCoistí um Ghnóthaí Comhphobail agus Eorpacha de chuid Parlaimintí an Aontais Eorpaigh (COSAC) agus tabharfaidh sé tuarascáil ar an gcéanna do dhá Theach an Oireachtais.
- (8) Beidh Cathaoirleach Roghchoiste na Dála ina Chathaoirleach nó ina Cathaoirleach ar an gComhchoiste freisin.
- (a) Members of the European Parliament elected from constituencies in Ireland,
- (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (c) at the invitation of the Committee, other Members of the European Parliament.
- (7) The Joint Committee shall represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) and shall report to both Houses of the Oireachtas thereon.
- (8) The Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.”

**[11<sup>th</sup> September 2020]**

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## Appendix V - Standing Orders 95 (8) a-d and 96 (6)

### Functions of Departmental Select Committees.

(8) Where a Select Committee proposes to consider—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, or

(d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) (iii) at the invitation of the Committee, other members of the European Parliament.

### **96. Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:**

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

## Appendix VI - Submission of documents to the Houses of the Oireachtas Library

You can self-register by heading to the [registration link](#) on the [DocsLaid page](#) at Oireachtas.ie – there is a handy [QuickGuide](#) to help you through the registration process.

Once you are registered, you will receive a 'welcome' email and a copy of the Laying Guidelines, which we encourage you to read.

Within the [Laying Guidelines](#) there is a section on laying EU Scrutiny Information Notes before the Houses – please see page 27. There is an accompanying video called 'Laying EU Scrutiny Notes' in the 'Help' section of the 'Lay a Document' Tab in the DocsLaid application.

For further help with laying documents before the Houses, please contact [docslaid@oireachtas.ie](mailto:docslaid@oireachtas.ie) or by phone at:

[rory.macgowan@oireachtas.ie](mailto:rory.macgowan@oireachtas.ie) 618 4279

[neil.mccormack@oireachtas.ie](mailto:neil.mccormack@oireachtas.ie) 618 4708

[suzie.rafter@oireachtas.ie](mailto:suzie.rafter@oireachtas.ie) 618 4185

## Appendix VII – Overview of the Oireachtas scrutiny system

<b>Day 1</b>	<b>Twice weekly, DFA circulates a list of all new proposals indicating potential lead Departments Departments identify proposals relating to their respective Ministers' areas of responsibility</b>
<b>By Day 3</b>	<b>Departments respond within 3 working days indicating lead responsibility and/or interest Having identified a proposal relating to their Minister's areas of responsibility, the Department begins preparing an Information Note for submission to the Oireachtas Relevant Department notifies Oireachtas, as soon as possible, if proposal raises subsidiarity concerns</b>
<b>By Day 21</b>	<b>Relevant Department submits Information Note within 21-day deadline</b>

### **If not accepted....**

<b>Day 5</b>	<b>DFA circulates weekly list of all overdue and/or unaccepted proposals</b>
<b>By Day 8</b>	<b>Departments respond confirming acceptance (or with reasons suggesting other lead Department) Department begins preparing an Information Note for submission to the Oireachtas</b>
<b>By Day 20</b>	<b>Relevant Department submits Information Note within 21-day deadline</b>

### **If still disputed....**

<b>By Days 8-10</b>	<b>Mediation - DFA works with Departments to agree lead Dept responsibility for any unaccepted proposals</b>
<b>By Day 15</b>	<b>Initial Ruling - If mediation is unsuccessful, DFA makes initial ruling on lead Department responsibility</b>
<b>By Day 20</b>	<b>Department provides information note to Oireachtas</b>

### **If (possibly) overdue....**

<b>Day5+</b>	<b>DFA circulates a status report on all proposals on a weekly basis. If a Department has reason to believe that an information note may be late it should advise the Oireachtas and DFA immediately</b>
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<b>Day 20+</b>	<b>Department provides letter of explanation along with any information note submitted after the 21-day deadline</b>
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## Appendix VIII - EU (Scrutiny) Act 2002



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*Number 25 of 2002*

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### **EUROPEAN UNION (SCRUTINY) ACT, 2002**

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*Number 25 of 2002*

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### **EUROPEAN UNION (SCRUTINY) ACT, 2002**

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AN ACT TO PROVIDE FOR THE SCRUTINY BY THE HOUSES OF THE OIREACHTAS OF CERTAIN PROPOSED MEASURES, TO AMEND THE EUROPEAN COMMUNITIES ACT, 1972, AND TO PROVIDE FOR RELATED MATTERS. [23rd October, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

**1.** —(1) In this Act, save where the context otherwise



requires—

“European Communities” has the meaning assigned to it by the [European Communities Act, 1972](#) ;

“measure” means—

- (a) a regulation or directive adopted under the Treaty establishing the European Community;
- (b) a joint action adopted under Article 14 of the Treaty on European Union;
- (c) a common position adopted under Article 15 of the Treaty on European Union;
- (d) a measure requiring the prior approval of both Houses of the Oireachtas pursuant to Article 29.4.6° of the Constitution not otherwise mentioned in this definition;

“Minister”, in relation to a measure, means the Minister of the Government performing functions in relation to the measure or, if there is more than one such Minister of the Government, such one of them as may be agreed upon by them.

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other provision is intended,
- (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

Scrutiny of measures by Houses of Oireachtas.

**2.** —(1) As soon as practicable after a proposed measure is presented by the Commission of the European Communities or initiated by a Member State, as the case may be, the Minister shall cause a copy of the text concerned to be laid before each House of the Oireachtas together with a statement of the Minister outlining the content, purpose and likely implications for Ireland of the proposed measure and including such other information as he or she considers appropriate.

(2) The Minister shall have regard to any recommendations made to him or her from time to time by either or both Houses of the Oireachtas or by a committee of either or both such Houses in relation to a proposed measure.

(3) *Subsections (1) and (2)* shall not apply, if in the opinion of the Minister, there is insufficient time for the carrying out of the procedures aforesaid and the performance of the functions of the Houses of the Oireachtas in relation to the text aforesaid.

(4) Where, pursuant to *subsection (3)*, a text of a proposed measure has not been laid before each House of the Oireachtas and the measure concerned is adopted by an institution of the European Communities, the Minister shall cause a copy of the text of the measure to be laid before both Houses of the Oireachtas together with a statement outlining the implications for Ireland of the measure and the circumstances of its adoption and including such other information as he or she considers appropriate.

(5) Every Minister of the Government shall make a report to each House of the Oireachtas not less than twice yearly in relation to measures, proposed measures and other developments in relation to the European Communities and the European Union in relation to which he or she performs functions.

Exempt measures.

**3.** —(1) *Subsections (1) and (2) of [section 2](#)* shall not apply to a proposed measure which, in the opinion of the Minister, is confidential.

(2) Where by virtue of *subsection (1), subsections (1) and (2) of [section 2](#)* do not apply to a proposed measure,

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the Minister may make a report to either or both Houses of the Oireachtas or to a committee of either or both such Houses in relation to the proposed measure as he or she deems appropriate in the circumstances.

Amendment of European Communities Act, 1972.

**4.** —The [European Communities Act, 1972](#) , is hereby amended by the substitution of the following section for section 5:

“5.—In each year, beginning with the year 2003, the Government shall make a report to each House of the Oireachtas on developments in the European Communities and the European Union.”.

Annual Report to Houses of Oireachtas.

**5.** —In each year, beginning with the year 2003, the Joint Committee on European Affairs shall make a report to each House of the Oireachtas on the operation in the preceding year of this Act.

Short title and collective citation.

**6.** —(1) This Act may be cited as the [European Union \(Scrutiny\) Act, 2002](#) .

(2) The European Communities Acts, 1972 to 2001, and [section 4](#) may be cited together as the European Communities Acts, 1972 to 2002.

## Appendix IX – European Union Act 2009

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*Number 33 of 2009*

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### EUROPEAN UNION ACT 2009

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AN ACT TO MAKE PROVISION WITH RESPECT TO THE STATE'S MEMBERSHIP OF THE EUROPEAN UNION; TO PROVIDE FOR THE APPLICATION UNDER THE LAW OF THE STATE OF THE TREATY OF LISBON AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY, SIGNED AT LISBON ON THE 13TH DAY OF DECEMBER 2007; FOR THOSE PURPOSES TO AMEND THE EUROPEAN COMMUNITIES ACT 1972; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[27th October, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.— In this Act—

“Act of 1972” means the [European Communities Act 1972](#) ;

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

“ Minister ” means the Minister for Foreign Affairs; and

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

Amendment of  
section 1 of Act of  
1972.

2.— Section 1 of the Act of 1972 is amended, in subsection (1), by the insertion of the following definitions:

“ ‘ European Union ’ means the European Union, established by virtue of the Lisbon Treaty, and the European Atomic Energy Community;

‘ Lisbon Treaty ’ means the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on the 13th day of December 2007;

‘ treaties governing the European Union ’ means—

(a) the Treaty on European Union,

(b) the Treaty on the Functioning of the European Union,

(c) the Lisbon Treaty, and

(d) the treaties governing the European Communities,

but shall not include the provisions to which the first paragraph of Article 275 of the treaty referred to in paragraph (b) applies;”.

Amendment of  
section 2 of Act of  
1972.

**3.**— Section 2 of the Act of 1972 is amended by the substitution of the following subsection for subsection (1):

“(1) The following shall be binding on the State and shall be part of the domestic law thereof under the conditions laid down in the treaties governing the European Union:

(a) the treaties governing the European Union;

(b) acts adopted by the institutions of the European Union (other than acts to which the first paragraph of Article 275 of the Treaty on the Functioning of the European Union applies);

(c) acts adopted by the institutions of the European Communities in force immediately before the entry into force of the Lisbon Treaty; and

(d) acts adopted by bodies competent under those treaties (other than acts to which the first paragraph of the said Article 275 applies).”.

Amendment of section 3 of Act of 1972.

4.— Section 3 of the Act of 1972 is amended by the substitution, in paragraph (a) of subsection (3) (inserted by [section 2](#) of the [European Communities Act 2007](#) ) of the following subparagraphs for subparagraphs (i) and (ii):

- “(i) a provision of the treaties governing the European Union, or
- (ii) an act, or provision of an act, adopted by an institution of the European Union, an institution of the European Communities or a body competent under those treaties, and”.

Construction of references.

5.— (1) References in any enactment (other than this Act and the Act of 1972) to the European Communities shall be construed as including references to the European Union.

(2) References in any enactment (other than this Act and the Act of 1972) to the treaties governing the European Communities shall be construed as references to the treaties governing the European Union.

(3) References in any enactment to the Treaty establishing the European Economic Community or the Treaty establishing the European Community shall be construed as references to the Treaty on the Functioning of the European Union.

(4) In this section “enactment” has the same meaning as it has in the [Interpretation Act 2005](#) .

Amendment of European Union (Scrutiny) Act 2002.

6.— [Section 1](#) of the [European Union \(Scrutiny\) Act 2002](#) is amended by the substitution of the following definition for the definition of “measure”:

“ ‘ measure ’ means—

- (a) a regulation or directive adopted under the Treaty on the Functioning of the European Union,
- (b) a decision adopted under Article 28 or 29 of the Treaty on European Union, or
- (c) an act (other than a regulation, directive or decision referred to in paragraph (a) or (b)) requiring the prior approval of both Houses of the Oireachtas pursuant to subsection 7° or 8° of Article 29.4 of the Constitution;”.

Role of Houses of Oireachtas.

7.— (1) (a) Either House of the Oireachtas may, not later than 6 months after receiving a notification under the

third subparagraph of Article 48.7 of the Treaty on European Union, pass a resolution opposing the adoption of the decision to which the notification relates.

(b) A resolution referred to in *paragraph (a)* shall constitute an opposition to the decision concerned for the purposes of the third subparagraph of Article 48.7 of the Treaty on European Union, and the European Council shall be informed accordingly thereof.

(2) (a) Either House of the Oireachtas may, not later than 6 months after receiving a notification under the third subparagraph of Article 81.3 of the Treaty on the Functioning of the European Union, pass a resolution opposing the adoption of the decision to which the notification relates.

(b) A resolution referred to in *paragraph (a)* shall constitute an opposition to the decision concerned for the purposes of the third subparagraph of Article 81.3 of the Treaty on the Functioning of the European Union, and the Council shall be informed accordingly thereof.

(3) Either House of the Oireachtas may, not later than 8 weeks after the transmission of a draft legislative act referred to in Article 6 of Protocol No. 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union, send to the Presidents of the European Parliament, the Council and the European Commission a reasoned opinion in accordance with that Article if the House concerned passes a resolution in respect of the draft legislative act concerned authorising the House to so do.

(4) Where either House of the Oireachtas is of opinion that an act of an institution of the European Union infringes the principle of subsidiarity provided for in the treaties governing the European Union and wishes that proceedings seeking a review of the act concerned be brought in the Court of Justice of the European Union in accordance with Article 263 of the Treaty on the Functioning of the European Union, it shall so notify the Minister in writing for the purposes of Article 8 of Protocol No. 2 to that treaty and the Treaty on European Union and the Minister shall, as soon as may be after being so notified, arrange for such proceedings to be brought.

Continuation in force of certain statutory instruments.

**8.—** (1) Where a European act (in this subsection referred to as a “repealed act”), to which effect or further effect has been given, in whole or in part, by a statutory instrument, is repealed and replaced by another European act (in this subsection referred to as a “codifying act”) without any material modification of the repealed act, that statutory instrument shall, upon and after the repeal of the repealed

act, have effect as if it had been made for the purpose of giving effect or further effect, in whole or in part (as the case may be), to the codifying act, and accordingly—

- (a) references in that statutory instrument to the repealed act shall be construed as references to the codifying act, and
- (b) references in that statutory instrument to a provision of the repealed act shall be construed as references to the provision of the codifying act that corresponds, in accordance with the codifying act, to the first-mentioned provision.

(2) Where, before the passing of this Act, a European act (in this subsection referred to as a “repealed act”), to which effect or further effect was given, in whole or in part, by a statutory instrument, was repealed and replaced by another European act (in this subsection referred to as a “codifying act”) without any material modification of the repealed act, that statutory instrument shall, from the date of the repeal of the repealed act, be deemed to have been made for the purpose of giving effect or further effect, in whole or in part (as the case may be), to the codifying act, and accordingly shall have effect, and be deemed from that date to have had effect, subject to—

- (a) references in that statutory instrument to the repealed act being construed as references to the codifying act, and
- (b) references in that statutory instrument to a provision of the repealed act being construed as references to the provision of the codifying act that corresponds, in accordance with the codifying act, to the first-mentioned provision.

(3) In this section—

“European act” means—

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

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



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(a) an Act of the Oireachtas (including the Act of 1972), or

(b) a statute that was in force immediately before the date of the coming into force of the Constitution and that continues to be of full force and effect by virtue of Article 50 of the Constitution.

Short title,  
collective citation  
and  
commencement.

**9.**— (1) This Act may be cited as the European Union Act 2009.

(2) The European Communities Acts 1972 to 2007 and this Act may be cited together as the European Communities Acts 1972 to 2009.

(3) This Act (other than [section 8](#)) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.