

Oireachtas Scrutiny of EU Business

Guidelines for Departments

EU Division
Department of Foreign Affairs
October 2008

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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), to supply information on EU business to the Oireachtas in a timely and transparent way.

1.1.2 The new procedures draw on the guidelines which were approved by the Government on 30 January, 2002 and subsequently modified. Changes have now been made to simplify procedures to reflect Departments' extensive experience in operating the system for the last six years and the well established contacts which are now in place between Government Departments and the Oireachtas Secretariat. The new procedures also take account of the recent changes made by the Oireachtas in relation to EU business for the 30th Dáil.

1.2 Recent Developments in the Oireachtas

1.2.1 New internal arrangements for dealing with oversight of EU affairs and scrutiny of EU legislation were agreed by the Oireachtas in November 2007. The Oireachtas has established a new Joint Committee on European Scrutiny which will work alongside the long established Joint Committee on European Affairs.

1.2.2 It is intended that the Joint Committee on European Affairs will perform the oversight function in relation to EU Affairs and will:

- consider EU related Bills, estimates or motions;
- conduct pre-Council meetings with the Minister for Foreign Affairs;
- invite witnesses and guest speakers on EU policy and strategic issues; and
- consider non-legislative EU documents such as Commission Green and White papers, which it can refer to sectoral committees as appropriate

1.2.3 In contrast, the Joint Committee on European Scrutiny will perform the scrutiny function and will:

- examine draft measures, including Regulations, certain Draft Council Decisions, Directives, Common Foreign & Security Policy (CFSP) measures and Title IV measures, as well as, related Commission communications if appropriate; and
- request the attendance of relevant Ministers for pre-Council briefings.

1.3 Response to these and future changes

- 1.3.1 The guidelines for Scrutiny have been revised to take account of these internal changes 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.
- 1.3.2 As envisaged in the Government decision of December 2002 (s140/48/007/0001 - see Annex III), 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 Department of Foreign Affairs on the matter.
- 1.3.3 In such situations it is the responsibility of the 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, (assisted where necessary by D/Taoiseach 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.

1.4 Acknowledgement

- 1.4.1 The cooperation and assistance of colleagues in Government Departments and the Secretariat of the Joint Oireachtas Committee on EU Affairs and the Joint Committee on European Scrutiny in drawing up these revised guidelines is acknowledged and greatly appreciated.

EU Division
Department of Foreign Affairs
October 2008

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 20 working days of formal publication by the Commission of a proposed “measure”, defined in Section 1 (1) of the EU Scrutiny Act 2002 as,

“In this Act ... “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 subsections 6^o or 8^o of section 4 of Article 29 of the Constitution not otherwise mentioned in this definition”

a paper (Information Note) outlining the content, purpose and likely implications for Ireland of the proposed measure and including such information he or she considers appropriate is to be prepared and transmitted to the Joint Committee on European Scrutiny. This paper 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. A template for such notes is attached at Annex I.

2.1.2 Additionally, in the spirit of the Act and as is current practice, in the case of:

- Certain proposed Council Decisions¹ in the first pillar, and
- Green and White papers

a paper (Information Note) outlining the content, purpose and likely implications for Ireland of the proposed measure and including such information he or she considers appropriate is to be prepared and transmitted to the Joint Committee on European Scrutiny. The template attached at Annex I should be used for Certain proposed Council Decisions in the first pillar. Information notes relating to Green and/or White papers should be sent to the Joint Committee on European Affairs. A template for notes on Green and/or White papers is attached at Annex II.

All legislative proposals from the Commission are available from
<http://eur-lex.europa.eu/COMIndex.do?ihmlang=en>

Council documents are available from
<http://register.consilium.eu.int>

Lead Department & Management of Proposals

2.1.3 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 is to be found at Annex VIII.

2.1.4 In order to highlight proposals for which no Department has assumed responsibility, the Department of Foreign Affairs will circulate by email, twice a week, a list of all new draft EU legislative proposals and Green and White papers (for which Information Notes are required to be submitted to the Oireachtas) to all Interdepartmental EU Co-ordinators, copying the Secretariats of the Joint Committees. Departments will be asked to indicate the proposals:

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

2.1.5 The Department of Foreign Affairs will subsequently circulate a composite list indicating lead Departments for all draft EU legislative proposals and Green and White papers to all Interdepartmental EU Co-ordinators and the Secretariats of both Joint Committees.

¹ Draft First Pillar Council Decisions are Decisions which are publicly circulated to member states as draft legal measures (as defined within the meaning of Article 249 of the Treaty establishing the European Community) in the form of a proposal for a Council Decision, which have been adopted by the Commission and transmitted to the Council and/or the European Parliament for agreement and which would be, if adopted, applicable to all member states. It is not proposed to extend scrutiny of draft Decisions to draft Decisions which are not applicable to all Member States.

- 2.1.6 In cases where lead responsibility is unclear or disputed, the Department of Foreign Affairs is to be contacted as soon as possible for the purpose of mediating a solution and if necessary making an early ruling on which Department is responsible for the supply of the Information Note.

Extensions of Time

- 2.1.7 On occasion there may be a need to extend the 20 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 Department of Foreign Affairs.

Transmission and Circulation of Information Notes

- 2.1.8 Information Notes should be sent electronically to the Secretariat of the Joint Committee on European Scrutiny, in the name of the relevant Minister.
- 2.1.9 The text of the draft measure and accompanying information note should be laid before both Houses of the Oireachtas. Pending the introduction of a fully electronic system for the laying of material before the Oireachtas, Departments will be required to transmit two hard copies of all documentation (one for each House) to the Oireachtas Librarian, together with a completed submission form (attached in Annex VII). At the same time, completed notes should be sent electronically to the Oireachtas Library, the Secretariat of the Joint Committee on European Scrutiny and to the Coordinators for Oireachtas scrutiny of EU business in all other Government Departments.

E-mail: oirscrutiny@oireachtas.ie
(Clerk to the Joint Committee on European Scrutiny)

docslaid@oireachtas.ie
(Oireachtas library)

Amending Information Notes

- 2.1.10 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.

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

2.2.1 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”.

2.2.2 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 Clerk to the appropriate Joint Committee (European Scrutiny or European Affairs) and the Department of Foreign Affairs as soon as possible after the publication of the proposal.

2.2.3 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.

2.3 Special arrangements in relation to confidentiality

2.3.1 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.

- 2.3.2 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.
- 2.3.3 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.
- 2.3.4 In such instances, officials from the Department which has lead responsibility for the measure will contact the Clerk to the Joint Committee on European Scrutiny to:
- indicate that confidential written briefing material will be forwarded to the Chairperson of the Joint Committee on European Scrutiny, or
 - seek an appointment to orally brief the Committee Chairperson in private.

The Chairperson of the Joint Committee on European Scrutiny may determine whether this confidential briefing should also be provided to the Chairperson(s) of the relevant sectoral Committee(s).

- 2.3.5 In the event that the Chairperson of the Joint Committee on European Scrutiny 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.
- 2.3.6 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.
- 2.3.7 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.

- 2.3.8 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.
- 2.3.9 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.
- 2.3.10 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.

2.4 Measures which require the prior approval of the Oireachtas

- 2.4.1 Section 1 of the EU Scrutiny Act 2002 refers to:

“a measure requiring the prior approval of both Houses of the Oireachtas pursuant to subsections 6° or 8° of section 4 of Article 29 of the Constitution not otherwise mentioned in this definition”

Under subsections 6° or 8° of section 4 of Article 29 of the Constitution, Oireachtas approval is required for certain “options or discretions” provided under the Treaty of Amsterdam and the Treaty of Nice (see Annex IV for an indicative list of “options or discretions”). These are primarily Title IV TEC measures (visas, asylum, immigration, judicial co-operation in civil matters) and Title VI TEU (judicial co-operation in criminal matters).

- 2.4.2 In the case of Title IV TEC measures (visas, asylum, immigration, judicial co-operation in civil matters) Ireland can opt in to the measure in either 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. Prior approval of the Oireachtas is required in either case. An information note on the draft proposal will be prepared and transmitted to the Joint Committee on European Scrutiny which should also alert them to the Title IV status of the measure.
- 2.4.3 The start date for the preparation of information notes on legislative proposals under Title IV TEC will coincide with the start of the three month opt-in period under the Fourth Protocol to the Treaty of Amsterdam. As with all other EU legislative proposals, the information note should be submitted to the Joint Committee on European Scrutiny within 20 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 Scrutiny committee shall be informed on the exercise of the Title IV opt-in so that it can continue its work of tracking all EU legislative proposals.
- 2.4.4 In the case of Framework Decisions under Title VI TEU (judicial co-operation in criminal matters), Oireachtas approval under subsections 6° or 8° of section 4 of Article 29 of the Constitution is sought in the latter stages of negotiation

prior to adoption of the instrument by the Council. The initial information note forwarded to the Joint Committee on European Scrutiny will state that the Minister will bring the measure before the Houses of the Oireachtas for formal approval in due course.

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. Reports should be laid before 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.

3.1.3 The primary aim of the semestral 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 Joint Committee on European Scrutiny/sectoral Committee including subsequent amendment(s) and recirculation of amended proposal (if applicable), 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 Departments are also requested to provide a brief summary of significant events and developments in EU policy under the six month Presidency in question.

3.1.6 Contributions from Departments should be short, concise, aimed at a general readership and relate to developments in the preceding six month period. A brief indication of 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.

3.1.7 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 Wherever possible, web addresses should be used to “signpost” readers to other relevant websites for further information.
- 3.1.9 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.
- 3.1.10 Departments should also be aware that the Joint Committee on European Scrutiny was given a new power in November 2007 (see Annex VI for the Committee’s Orders of Reference) 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 will report once a year to the Oireachtas on developments in the EU in the previous calendar year. The report will be 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 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 Provision of Meeting Agendas

- 4.1.1 The Department of Foreign Affairs will forward to the Oireachtas draft agendas and revised agendas as they become available for all meetings of the Council of Ministers. Approved agendas and Council Secretariat press summaries of Council meetings are available at the address below.

Council Secretariat Press Summaries and Council Conclusions
are available from
<http://ue.eu.int/Newsroom>

- 4.1.2 It should be noted that the Seville European Council (June 2002) decided that debates in the Council of Ministers on acts adopted in accordance with the procedure of co-decision with the European Parliament, will be open to the public for the initial presentation by the Commission of its legislative proposal and for the final vote and explanations of voting.

4.2 Sectoral Committees

- 4.2.1 All relevant Ministers should be available on request to offer an oral briefing in advance of Council meetings in order to set out the Government's broad approach and hear the views of Oireachtas members.
- 4.2.2 Committees may choose from time to time to seek a briefing at official level. In order to safeguard the negotiating position of Ireland and other Member States, a Minister would be entitled in consultation with the Chair of the Committee, to opt to provide a briefing in private.

4.3 General Affairs and External Relations Council

- 4.3.1 The Minister for Foreign Affairs or Minister of State for European Affairs will, on request, brief the Joint Committee on European Affairs in advance of the General Affairs and External Relations Council. Statements and discussions in the Dáil 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.

Annex I**General Information Note Template**

The standardised note format/font/numbering layout must be used for all information notes submitted with the exception of Green/White papers (see Annex II) or pre-adoption confidential CFSP draft measures:

Font type: Times New Roman
 Font size: 12
 Page set-up: Portrait
 Format: Word (*.doc **not** *.docx) or Rich Text Format (*.rtf)

Com * (2008)****Information Note**

- | | |
|--|--|
| 1. Proposal | Short title of proposal |
| 2. Title | Full title of proposal |
| 3. Date of Council document | **/**/2008 |
| 4. Number of Council document | ****/08 |
| 5. Number of Commission document: | COM(2008)*** |
| 6. Dealt with in Brussels by | Name of Council and name of working group |
| 7. Department with primary responsibility | Name of lead Department |
| 8. Other Departments involved | Names of any other Departments with an interest in the proposal |
| 9. Short summary and aim of the proposal | |
| 10. Legal basis of the proposal | Cite relevant Treaty Article/s |
| 11. Voting Method | QMV or Unanimity |
| 12. Role of the EP | Consultation/co-decision/assent/cooperation (as appropriate) |
| 13. Category of proposal | Major significance/some significance/purely technical/comitology/recast/codification |

- | | |
|--|--|
| 14. Implications for Ireland | Initial assessment of the implications, if any, for Ireland |
| 15. Anticipated negotiating period | If known |
| 16. Proposed implementation date | Is there a target date for entry into force? |
| 17. Consequences for national legislation | Brief description of implementation measures |
| 18. Method of Transposition into Irish law | Outline how measure will be transposed into Irish law when adopted |
| 19. Anticipated Transposition date | Indicate when measure may be transposed into Irish law |
| 20. Consequences for the EU budget in euros annually | None/annual amount if available |
| 21. Contact name, telephone number and e-mail address of official in Department with primary responsibility | |

Date

Annex II**Green/White Paper Information Note Template**

The standardised note format/font/numbering layout must be used for all Commission Green/White paper Information Notes:

Font type: Times New Roman
 Font size: 12
 Page set-up: Portrait
 Format: Word (*.doc **not** *.docx) or Rich Text Format (*.rtf)

Com * (2008)****Information Note**

- | | |
|---|---|
| 1. Title of Green/White Paper | Full title of paper |
| 2. Date of Issue | |
| 3. Number of Commission document: | COM(2003)** |
| 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 |
| 9. Contact name, telephone number and e-mail address of official in Department with primary responsibility | |

Date

Annex III

Government Decision of December 2002

S140/48/07/0001

10 Nollaig, 2002.

An Rúnaí Príobháideach
An tAire Gnóthai Eachtracha

I am to refer to the aide memoire ref. 600/7048 dated 5 December, 2002, submitted by the Minister for Foreign Affairs concerning the Oireachtas Scrutiny of European Union Business and to inform you that, at a meeting held today, the Government

- (1) noted the contents of the aide memoire; and
- (2) agreed new procedures for the resolution of any difficulties that any may arise in relation to Departmental responsibility for bringing forward measures to the Oireachtas Joint Committee for European Affairs, as follows:

when a dispute arises about which Department is responsible for an EU measure it will be for the Department of Foreign Affairs, assisted where necessary by the European Affairs Division, Department of the Taoiseach, to make an initial ruling on which Department is responsible. If a Department feels that the ruling is incorrect, 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.*

The Secretary General to the Government, in consultation with the Taoiseach, shall make a finding which will be binding on Departments.

Ard-Rúnaí an Rialtais

Annex IV

Options or Discretions

Treaty of Amsterdam

Article 29.4.6 of the Constitution refers to the following articles/protocols of the Treaty of Amsterdam (TA) as "options or discretions".

- Article 1.11,
- Article 2.5,
- Article 2.15,
- 2nd Protocol and
- 4th Protocol.

The relevant provisions of the EU/EC treaties/protocols after the entry into force of the TA were:

- Title VI (Articles 29-42) EU (police and judicial cooperation in criminal matters, including Article 40 on enhanced cooperation/JHA),
- Article 11 EC (closer (enhanced) cooperation/first pillar)
- Title IV EC (Articles 61-69) (visas, asylum, immigration and other policies related to free movement of persons),
- Schengen Protocol, and
- Protocol on the position of the UK and Ireland (re Title IV EC).

Treaty of Nice

Article 29.4.8 of the Constitution refers to the following provisions of the Treaty of Nice (TN) as "options or discretions":

- (i) Article 1.6
- (ii) Article 1.9
- (iii) Article 1.11
- (iv) Article 1.12
- (v) Article 1.13
- (vi) Article 2.1

The relevant provisions of the EU/EC treaties after the entry into force of the TN were:

- Articles 27a-27e EU (enhanced cooperation/CFSP),
- Articles 40-40b EU (enhanced cooperation/JHA- replacing the previous Article 40, covering the same subject matter, forming part of article 1.11 TA),
- Article 43 EU (enhanced cooperation/general- replacing the previous Article 43, which was dealt with in Article 1.12 of the TA, but not covered as an option or discretion),
- Articles 43a-43b EU (enhanced cooperation/general),
- Articles 44/44a EU (enhanced cooperation/general), and
- Articles 11/11a EC (enhanced cooperation/first pillar) (replacing the previous Article 11, which was dealt with in Article 2.5 of the TA).

Annex V

JCES Orders of Reference

Dáil Éireann on 23 October 2007 ordered:

“(1) (a) That a Select Committee, consisting of 11 Members of Dáil Éireann, be appointed to be joined with a Select Committee to be appointed by Seanad Éireann to form the Joint Committee on European Scrutiny to-

(i) scrutinise, in the context of European Union issues and measures to be taken by the Council of Ministers of the European Union-

(I) any proposals under the Community treaties for legislation by the Council or the Council acting jointly with the European Parliament,

(II) any document which is published for submission to the European Council, the Council or the European Central Bank,

(III) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council,

(IV) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council,

and

(V) any document (not falling within (II), (III), or (IV) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to the consideration of any proposal for legislation,

as it may select;

(ii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas;

and

(iii) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Affairs;

and report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Affairs.

(b) The Joint Committee shall have:

(i) the powers defined in Standing Order 83(1) to (9) inclusive;

(ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 83(4) to consider such proposals;

(iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) and provide, in private session if so

desired by the Member of the Government or Minister of State, oral briefings to enable the Joint Committee to make known its views;

(iv) the power to request the attendance of the Secretary General of a Government Department (or a nominated representative) to discuss the six monthly reports laid before each House of the Oireachtas under section 2(4) of the European Union (Scrutiny) Act 2002 and other developments related to the European Union which falls within the remit of that Department;

and

(v) the power, in accordance with Standing Order 88, to refer by way of a report, a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require further debate) to either or both Houses of the Oireachtas.

(c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments-

(i) Members of the European Parliament elected from constituencies in Ireland (including Northern Ireland);

and

(ii) at the invitation of the Joint Committee, other Members of the European Parliament.

(d) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.

(3) The Chairman of the Joint Committee, who shall be a Member of Dáil Éireann, shall also be Chairman of the Select Committee."

Seanad Éireann on 24 October 2007 ordered:

"(1) (a) That a Select Committee, consisting of 4 Members of Seanad Éireann, be appointed to be joined with a Select Committee to be appointed by Dáil Éireann to form the Joint Committee on European Scrutiny to-

(i) scrutinise, in the context of European Union issues and measures to be taken by the Council of Ministers of the European Union-

(I) any proposals under the Community treaties for legislation by the Council or the Council acting jointly with the European Parliament,

(II) any document which is published for submission to the European Council, the Council or the European Central Bank,

(III) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council,

(IV) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council,

and

(V) any document (not falling within (II), (III), or (IV) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to the consideration of any proposal for legislation,

as it may select;

(ii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas;

and

(iii) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Affairs;

and report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Affairs.

(b) The Joint Committee shall have:

(i) the powers defined in Standing Order 70(1) to (9) inclusive;

(ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 70(4) to consider such proposals;

(iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) and provide, in private session if so desired by the Member of the Government or Minister of State, oral briefings to enable the Joint Committee to make known its views;

(iv) the power to request the attendance of the Secretary General of a Government Department (or a nominated representative) to discuss the six monthly reports laid before each House of the Oireachtas under section 2(4) of the European Union (Scrutiny) Act 2002 and other developments related to the European Union which falls within the remit of that Department;

and

(v) the power, in accordance with Standing Order 75, to refer by way of a report, a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require further debate) to either or both Houses of the Oireachtas.

(c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments-

(i) Members of the European Parliament elected from constituencies in Ireland (including Northern Ireland);

(b) and

(ii) at the invitation of the Joint Committee, other Members of the European Parliament.

(d) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.

(2) The Chairman of the Joint Committee shall be a Member of Dáil Éireann.”

Annex VI

JCEA Orders of Reference

Dáil Éireann on 23 October 2007 ordered:

“(1) (a) That a Select Committee, which shall be called the Select Committee on European Affairs, consisting of 11 Members of Dáil Éireann (of whom four shall constitute a quorum), be appointed to consider—

(i) such Bills the statute law in respect of which is dealt with by the Department of Foreign Affairs;

(ii) such proposals contained in any motion, including any motion within the meaning of Standing Order 159 concerning the approval by the Dáil of international agreements involving a charge on public funds; and

(iii) such other matters as shall be referred to it by Dáil Éireann from time to time.

(b) For the purpose of its consideration of matters under paragraphs (1)(a)(i), (ii) and (iii), the Select Committee shall have the powers defined in Standing Order 83(1), (2) and (3).

(c) For the avoidance of doubt, by virtue of his or her ex officio membership of the Select Committee in accordance with Standing Order 92(1), the Minister for Foreign Affairs (or a Minister or Minister of State nominated in his or her stead) shall be entitled to vote.

(2) (a) The Select Committee shall be joined with a Select Committee to be appointed by Seanad Éireann to form the Joint Committee on European Affairs to—

(i) consider such matters arising from Ireland’s membership of the European Communities and its adherence to the Treaty on European Union, as it may select;

(ii) consider such—

(I) programmes and guidelines prepared by the Commission of the European Communities as a basis for possible legislative action,

(II) non legislative documents published by any Union Institution in relation to EU policy matters,

(III) acts of the institutions of the European Communities,

(IV) regulations under the European Communities Acts 1972 to 2007,

(V) other instruments made under statute and necessitated by the obligations of membership of the European Communities, and

(VI) any other document relating to European Union matters deposited in both Houses of the Oireachtas by a Member of the Government or Minister of State, as it may select;

(iii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas; and

(iv) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Scrutiny;

and shall report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Scrutiny.

(b) The Joint Committee shall have:

- (i) the powers defined in Standing Order 83(1) to (9) inclusive;
- (ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 83(4) to consider such proposals;
- (iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) (or, in the case of the European Council, the Taoiseach or Minister for Foreign Affairs) before the Joint Committee and provide, in private session if so desired by the Member of the Government or Minister of State, oral briefings in advance of Council meetings to enable the Joint Committee to make known its views; and
- (iv) the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.

(c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments—

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

(d) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.

(3) The Chairman of the Joint Committee, who shall be a Member of Dáil Éireann, shall also be Chairman of the Select Committee.”.

Seanad Éireann on 24 October 2007 ordered:

“(1) (a) That a Select Committee consisting of 6 members of Seanad Éireann shall be appointed to be joined with a Select Committee of Dáil Éireann to form the Joint Committee on European Affairs to—

- (i) consider such matters arising from Ireland’s membership of the European Communities and its adherence to the Treaty on European Union, as it may select;
- (ii) consider such—
 - (I) programmes and guidelines prepared by the Commission of the European Communities as a basis for possible legislative action,
 - (II) non legislative documents published by any Union Institution in relation to EU policy matters,
 - (III) acts of the institutions of the European Communities,

- (IV) regulations under the European Communities Acts 1972 to 2007,
- (V) other instruments made under statute and necessitated by the obligations of membership of the European Communities,
- and
- (VI) any other document relating to European Union matters deposited in both Houses of the Oireachtas by a Member of the Government or Minister of State, as it may select;

(iii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas; and

(iv) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Scrutiny;

and shall report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Scrutiny.

(b) The Joint Committee shall have:

(i) the powers defined in Standing Order 70(1) to (9) inclusive;

(ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 70(4) to consider such proposals;

(iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) (or, in the case of the European Council, the Taoiseach or Minister for Foreign Affairs) before the Joint Committee and provide, in private session if so desired by the Member of the Government or Minister of State, oral briefings in advance of Council meetings to enable the Joint Committee to make known its views; and

(iv) the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.

(c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments—

(i) Members of the European Parliament elected from constituencies in Ireland (including Northern Ireland);

(ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe; and

(iii) at the invitation of the Joint Committee, other Members of the European Parliament.

(d) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.

(2) The Chairman of the Joint Committee, shall be a Member of Dáil Éireann”.

Annex VII

Oireachtas Library Submission Form

DOCUMENT(S) TO BE LAID BEFORE HOUSE OF OIREACHTAS

Clerk of Dáil / Seanad (delete as appropriate)

I enclose copies* of the under mentioned document(s) to be laid before the House. The information sought below is as set out.

For Head of Department or other body (please print)

Date: _____ Telephone: _____ E-mail: _____

<p>1. Department or other body laying document ..</p> <p>2. Title of document</p> <p>3. Parliamentary number (Prn) (available from Government Supplies Agency (01) 647 6628)</p> <p>4. ¹If the requirement to lay the document is set out in an Act please state the title and specific section of the Act</p> <p>5. If specified in the Act, within how many sitting days may the House annul or disapprove the document? (e.g. 21 sitting days)</p> <p>6. Does the Act specify whether the House must approve the document? (e.g. by resolution)</p> <p>7. Full URL if the document is available online ..</p>	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>..... Yes / No (delete as appropriate)</p> <p>..... http://</p>
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***Three** copies of the document in respect of each House, or **six** copies where it is to be laid before one House only.

(Irish version overleaf)

¹ The information required for questions 4 – 6 inclusive can, in general, be found in the specific section of the Act containing the requirement to lay the document before the House.

DOICIMÉAD (DOICIMÉID) ATÁ LE LEAGAN FAOI BHRÁID TÍ DEN OIREACHTAS

Cléireach na Dála / an tSeanaid (scrios mar is cuí)

Iaim cóipeanna* den doiciméad (de na doiciméid) thíosluaite atá le leagan faoi bhráid an Tí. Is mar atá leagtha amach an fhaisnéis a iarrtar thíos.

do Cheann na Roinne nó an chomhlachta eile (clóigh le do thoil)

Dáta: _____ Teileafón: _____ Ríomhphost: _____

1. An Roinn nó an comhlacht eile atá ag leagan an doiciméid
2. Teideal an doiciméid
3. Uimhir Parlaiminte (Pm) (ar fáil ó Ghníomhaireacht Soláthair an Rialtais (01 6476628))
4. ¹ Má cheanglaítear le hAcht an doiciméad a leagan luaigh teideal an Achta agus sonraigh an t-alt de le do thoil
5. Má shonraítear é san Acht, cá mhéad lá suí ar laistigh díobh a fhéadfaidh an Teach an doiciméad a neamhniú nó a dhícheadú laistigh de? (e.g. 21 lá suí)
6. An sonraítear san Acht nach mór don Teach an doiciméad a cheadú? (e.g. le rún)	Sonraítear /Ní shonraítear (scrios mar is cuí).....
7. URL iomlán má tá an doiciméad ar fáil ar líne http://

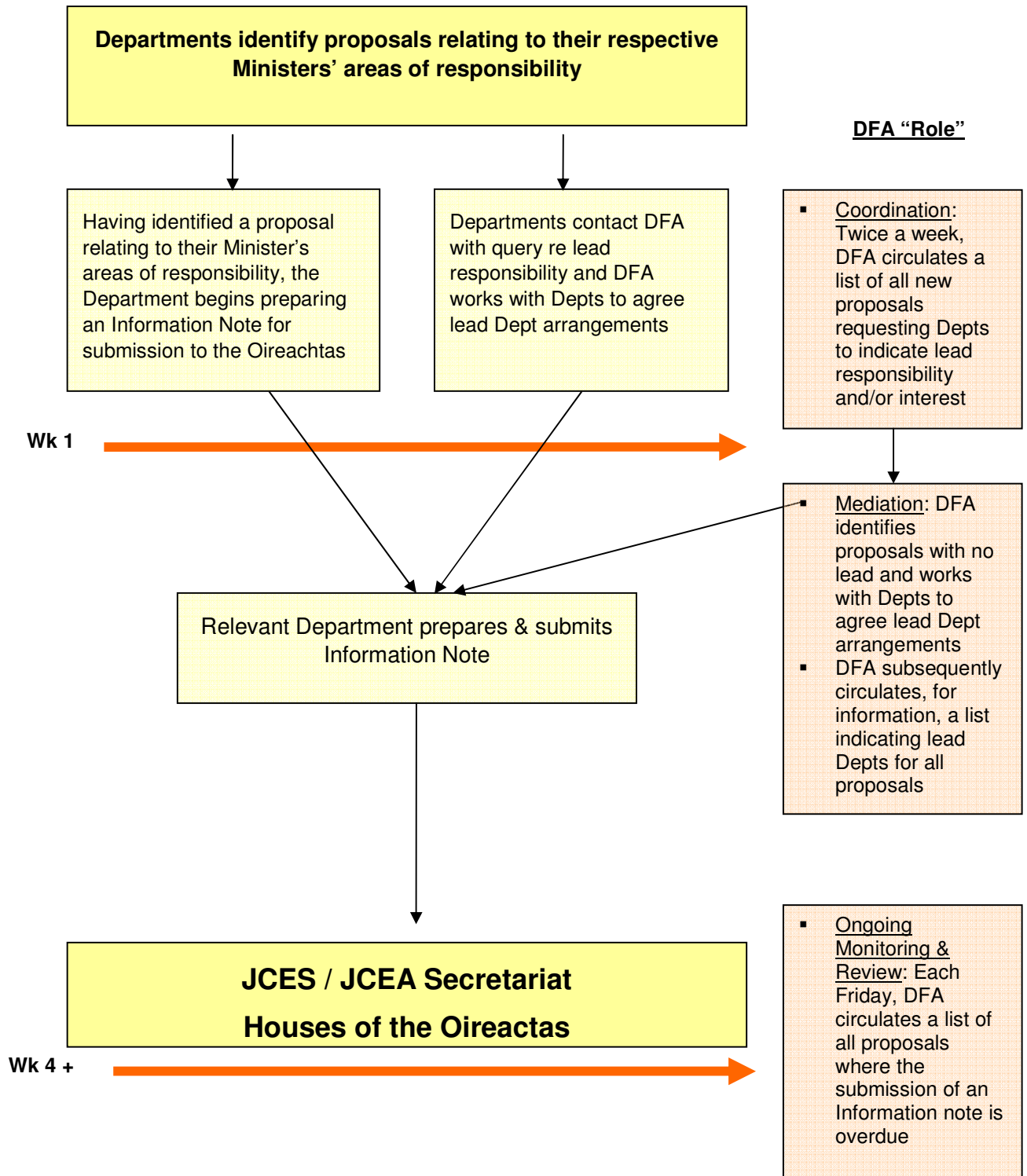
* Trí chóip den doiciméad i leith gach Tí, nó sé chóip más faoi bhráid Tí amháin atá sé le leagan.

(Leagan Béarla lastall)

¹ An fhaisnéis a cheanglaítear a thabhairt le haghaidh ceisteanna 4 – 6 go huile, bíonn sí ar fáil de ghnáth san alt sonrath den Acht ina gceanglaítear an doiciméad a leagan faoi bhráid an Tí.

Annex VIII

Diagrammatic overview of the management system



Annex IX

EU (Scrutiny) Act 2002



Number 25 of 2002

EUROPEAN UNION (SCRUTINY) ACT, 2002

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
 2. Scrutiny of measures by Houses of Oireachtas.
 3. Exempt measures.
 4. Amendment of European Communities Act, 1972.
 5. Annual Report to Houses of Oireachtas.
 6. Short title and collective citation.
-

ACTS REFERRED TO

European Communities Act, 1972

1972, No. 27

European Communities Acts, 1972 to 2001



Number 25 of 2002

EUROPEAN UNION (SCRUTINY) ACT, 2002

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, 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 **5.** —In each year, beginning with the year 2003, the

Houses of
Oireachtas.

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.