

The 1972 European Communities Act ^[1]



In brief:

- The 1972 European Communities Act was the piece of legislation that brought the UK into the Europe Union: it gives EU law supremacy over UK national law.
- A large amount of EU law effective in the UK currently relies on the 1972 Act.
- The Act will be repealed through the Government's [Repeal Bill](#) ^[2]. In reality this is more of a 'copy and paste' act that transfers EU regulation and law onto the UK statute book.

What is the 1972 European Communities Act?

The Act started life as the European Communities Bill, which was introduced into the House of Commons in 1972. Its purpose was to secure parliamentary approval for the Treaty of Accession signed by Edward Heath, the-then British Prime Minister, in Brussels on 22 January 1972, making the UK part of the European Economic Community.

Following 300 hours of parliamentary debate, the short 12-clause bill became law as the [European Communities Act 1972](#) ^[3]. As a consequence, Britain became a member of the European Economic Community (EEC) from 1 January 1973. The EEC became the European Union (EU) following the Maastricht Treaty of 1992.

Why does the 1972 Act matter?

The 1972 Act gives legal authority for EU law to have effect as national law in the UK. There are two ways in which it does this:

- It ensures that some types of EU legislation – including treaty obligations and regulations – have direct effect in the UK's legal system without the UK Parliament having to pass any further legislation. For example, safety standards on imported goods have been agreed at EU level and apply in every member country.
- It means that some types of EU legislation – including directives and decisions – can be made to apply in the UK either by primary legislation (Act of Parliament) or – much more commonly – by secondary legislation. An example here is the Working Time Directive which was implemented in the UK via the Working Time Regulations.

The 1972 Act also gives EU law supremacy over UK national law. Where the interpretation of EU law is in doubt, the 1972 Act requires UK courts to refer judgment to the European Court of Justice. All primary legislation enacted by the UK Parliament after the 1972 Act came into force on 1 January 1973 has effect subject to the requirements of EU law. This means that the courts are obliged to strike down legislation which is inconsistent with EU law.

Could the 1972 Act be repealed?

Like any other Act of Parliament, the 1972 Act can be removed from the statute book – or repealed – by passing another piece of primary legislation. The Government plans to do this through their recently announced [Repeal Bill](#) ^[2]. This will have to pass through both the House of Commons and the House of Lords, a task made much harder by the Conservatives' recent loss of their majority in the Commons.

Although 'emergency' legislation can be passed in a day when necessary, it is more typical for government bills to take six to nine months to complete their passage through both Houses of Parliament.

What would happen if we repealed the 1972 Act?

Put simply, EU legislation that currently applies in UK law by virtue of the 1972 Act would cease to have effect. This would leave big holes in the statute book – for example, in relation to workplace health and

safety requirements. For this reason the Repeal Bill will actually be more of a 'copy and paste' act, transferring most of the relevant EU law onto the UK statute book in order to ensure a smooth transition as the UK leaves.

Not all the EU law that has effect in the UK is implemented through the 1972 Act. For example, the European Arrest Warrant would be unaffected by repeal of the 1972 Act, as it is given effect by a different piece of legislation – the Extradition Act 2003.

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[2] <https://www.instituteforgovernment.org.uk/brexit-explained/brexit-explained-great-repeal-bill>

[3] <http://www.legislation.gov.uk/ukpga/1972/68/contents>