CHAPTER 460

EUROPEAN UNION ACT

To provide for Malta's accession to the European Union and to make provision consequent and ancillary thereto.

16th July, 2003;
1st May, 2004

ACT V of 2003, as amended by Act III of 2006; Legal Notice 427 of 2007; and Act VII of 2012.

Short title.

1. The short title of this Act is the European Union Act.

Interpretation.
Amended by: III. 2006.7; VII. 2012.2.

2. (1) In this Act, unless the context otherwise requires:

"acts adopted by the European Union" include regulations, directives, and other acts which Malta is bound to accede to as a Member State of the European Union, treaties and international conventions which Malta may accede to by virtue of its membership within the European Union, and treaties and international conventions which Malta is bound to ratify in its own name or on behalf of the European Community by virtue of its membership within the European Union;

"the Communities" means the European Community, and the European Atomic Energy Community;

"the European Union" means the European Union as referred to in the Treaty;

"the Treaty" means the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed in Athens on the 16th day of April, 2003, of which an electronic copy of the Maltese and English texts was laid on the Table of the House on the 23rd day of June, 2003, (and which shall be published in electronic format in the Maltese and English text as a Government publication) and includes any other treaty, agreement or protocol to which Malta became a party or which became applicable to Malta in virtue thereof.

(2) If the Prime Minister by order declares that a treaty specified

in the order being a treaty entered into by Malta after the 16th April, 2003, or that a Decision of the European Council specified in the order, being a decision that amends the Treaty, is to be regarded as one with the Treaty as herein defined, the order shall be conclusive that it is to be so regarded:

Provided that no such order shall be made until a draft thereof has been approved by resolution of the House:

Provided further that a resolution for the approval of any such draft shall be submitted for examination by the Standing Committee on Foreign Affairs (or any such Standing Committee from time to time substituting the same) which shall meet on such motion within fifteen days of the tabling of the said motion within which term a report shall be made to the House on such motion and the debate thereon in the Committee by the Chairman. Following the presentation of such report the House shall proceed to debate and vote on such motion.

(3) For the purposes of this article "Treaty" and "treaty" include any protocol or annex thereto; a "treaty" includes any international agreement.

General provisions.

3. (1) From the First day of May 2004, the Treaty and existing and future acts adopted by the European Union shall be binding on Malta and shall be part of the domestic law thereof under the conditions laid down in the Treaty.

(2) Any provision of any law which from the said date is incompatible with Malta's obligations under the Treaty or which derogates from any right given to any person by or under the Treaty shall to the extent that such law is incompatible with such obligations or to the extent that it derogates from such rights be without effect and unenforceable.

General implementation of Treaty.
Amended by: III. 2006.7; L.N. 427 of 2007.

4. (1) All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaty, and all such remedies and procedures from time to time provided for by or under the Treaty, that in accordance with the Treaty are without further enactment to be given legal effect or used in Malta, shall be recognised and available in Law, and be enforced, allowed and followed accordingly.

(2) To give effect to the provisions of article 3 above and subject to the provisions of subarticle (4) hereof, the Prime Minister or, and, any designated Minister or Authority may by order, (to which order the provisions of article 11 of the Interpretation Act shall apply) make provision:

Cap. 249.

(*a*) for the purpose of implementing any obligation of Malta, or enabling any such obligations to be implemented, or of enabling any rights enjoyed or to be enjoyed by Malta under or by virtue of the Treaty to be exercised; or

(*b*) for the purpose of dealing with matters arising out of or related to any such obligation or rights or the coming into force, or the operation from time to time,

of subarticle (1);

and in the exercise of any power or duty under any law, including any power to give directions or to legislate by means of orders, rules, regulations or other subordinate instrument, the person entrusted with the power or duty may have regard to the objects of the European Union and of the Communities and to any such obligation or rights as aforesaid:

Provided that with regard to treaties and international conventions which Malta may accede to as Member State of the European Union, and treaties and international conventions which Malta is bound to ratify in its own name or on behalf of the European Community by virtue of its membership within the European Union, these shall come into force one month following their being submitted in order to be discussed by the Standing Committee on Foreign and European Affairs.

In this subarticle "designated Minister or Authority" means such Minister or government authority as may from time to time be designated by order of the Prime Minister in relation to any matter or for any purpose, but subject to such restrictions or conditions (if any) as may be specified in the order.

(3) The provision that may be made under subarticle (2) includes, subject to subarticle (4), any such provision (of any such extent) as might be made by Act of Parliament.

(4) The powers conferred by this article to make provisions for the purposes mentioned in subarticle (2) shall not include power -

(*a*) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision; or

(*b*) to create any new criminal offence punishable with imprisonment for more than two years or with a fine of more than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) (if not calculated on a daily basis) or with a fine of more than two hundred and thirty-two euro and ninety-four cents (232.94) a day.

(5) There shall be charged on and issued out of the Consolidated Fund or, if so determined by the Minister responsible for Finance, such fund as so determined, the amounts required to meet any obligation to make payments arising out of or under the Treaty and, except as otherwise provided by or under any enactment, any sums received under or by virtue of the Treaty or this Act by any Minister or Authority, save for such sums as may be required for disbursements permitted by any other enactment, shall be paid into the Consolidated Fund or such fund as may be determined by the Minister responsible for Finance.

Decision on, and proof of, Treaties and instruments arising therefrom, etc.

5. (1) For the purposes of any proceedings before any court or other adjudicating authority, any question as to the meaning or effect of the Treaty, or as to the validity, meaning or effect of any instruments arising therefrom or thereunder, shall be treated as a question of law and if not referred to the Court of Justice of the

European Communities, be for determination as such in accordance with the principles laid down by, and any relevant decision of, the Court of Justice of the European Communities or any court attached thereto.

(2) Judicial notice shall be taken of the Treaty, of the Official Journal of the European Union and of any decision of, or expression of opinion by, the Court of Justice of the European Communities or any court attached thereto on any such question as aforesaid, and the Official Journal shall be admissible as evidence of any instrument or any other act thereby communicated of any of the Communities or of any institution of the European Union.

(3) Evidence of any instrument issued by an institution of the European Union, including any judgement or order of the Court of Justice of the European Union or any court attached thereto, or of any document in the custody of an institution of the European Union, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(4) Evidence of any instrument issued by an institution or organ of the European Union may also be given in any proceeding before a court or other adjudicating authority -

(*a*) by the production of a copy purporting to be printed by or on behalf of the Government Printing Press;

(*b*) where the instrument is in the custody of a Government department by production of a copy certified on behalf of the department to be a true copy by an officer of the department generally or specially authorised so to do;

and any document purporting to be such a copy as is mentioned in paragraph (*b*) of an instrument in the custody of a department shall be received in evidence without proof of the official position or handwriting of the person signing the certificate, or of his authority to do so, or of the documents being in the custody of the department.

Ratification of Treaty. Cap 304.

6. For the purposes of the Ratification of Treaties Act the Government of Malta is hereby authorised to ratify the Treaty.