

How EU law is made

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When politicians explain that laws are made in Westminster they are only giving you a half truth, so please ask them to explain what I am about to show you below, and then ask them whether they understand the UK relationship with the EU, and how the UK is governed.

Following the ratification of the Lisbon Treaty, the first pillar of EU law has been satisfied, subsumed into the Treaty on the EU (TEU) and into the renamed Treaty on the Functioning of the EU (TFEU). Such treaties provide primary law within all 27 member states.

As the Lisbon Treaty as subsumed allows for self amendment, there will be no more treaties of this kind, only International Agreements that will now be negotiated and sealed by the EU, and former National treaties that will be adopted and form part of the TEU and TFEU, an example of which can be found [here](#).

All other law, in the parlance of the EU, is called Secondary Legislation, and it is derived in the following ways, and I outline the three most important elements of secondary legislation, Regulations, Directives and Decisions. (and I take this from the EUR-LEX database [direct](#)).

1.3.1. Introduction

The 'secondary legislation' is the third major source of Community law after the treaties (primary legislation) and international agreements. It can be defined as the totality of the legislative instruments adopted by the European institutions pursuant to the provisions of the treaties. Secondary legislation comprises the binding legal instruments (regulations, directives and decisions) and non-binding instruments (resolutions, opinions) provided for in the EC

Treaty, together with a whole series of other instruments such as the institutions' internal regulations and Community action programmes.

1.3.2. Regulation

Adopted by the Council in conjunction with the European Parliament or by the Commission alone, a regulation is a general measure that is binding in all its parts. Unlike directives, which are addressed to the Member States, and decisions, which are for specified recipients, regulations are addressed to everyone.

A regulation is directly applicable, which means that it creates law which takes immediate effect in all the Member States in the same way as a national instrument, without any further action on the part of the national authorities.

1.3.3. Directive

Adopted by the Council in conjunction with the European Parliament or by the Commission alone, a directive is addressed to the Member States. Its main purpose is to align national legislation.

A directive is binding on the Member States as to the result to be achieved but leaves them the choice of the form and method they adopt to realise the Community objectives within the framework of their internal legal order.

If a directive has not been transposed into national legislation in a Member State, if it has been transposed incompletely or if there is a delay in transposing it, citizens can directly invoke the directive in question before the national courts.

1.3.4. Decision

Adopted either by the Council, by the Council in conjunction with the European Parliament or by the Commission, a decision is the instrument by which the Community institutions give a ruling on a particular matter. By means of a decision, the institutions can require a Member State or a citizen of the Union to take or refrain from taking a particular action, or confer rights or impose obligations on a Member State or a citizen.

A decision is:

- an individual measure, and the persons to whom it is addressed must be specified individually, which distinguishes a decision from a regulation,
- binding in its entirety.

It is important to note that the European Commission, an unelected body, has the power to make law using the methods above without recourse to either the European Parliament or the Council of Ministers. The UK Parliament, our MP's, now only create on their own initiative something in the region of 15% of the laws that pass through Westminster. All other laws and Statutory Instruments are in furtherance of laws that have been made in Brussels using the 3 methods above.

If you go to the EUR-LEX database directly, you can see the other types of instruments that are used to formulate, or coerce National Governments to introduce legislation 'voluntarily' with the veiled threat that a directive will follow unless they do. These are Recommendations, Opinions and Joint Actions.

The Smoking Ban is one such example, where the EU Commission has only ever given an Opinion that National governments were encouraged to follow, with explicit threats of EU legislation if they did not.

Historical laws and regulations are all on the various EU databases. All you have to do is find them, trouble is they keep moving them.

You don't think they are trying to hide anything! Do you?