



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 1

UK MARKET ACCESS: GOODS

Non-discrimination: goods

5 The non-discrimination principle for goods

- (1) The non-discrimination principle for goods is the principle that the sale of goods in one part of the United Kingdom should not be affected by relevant requirements that directly or indirectly discriminate against goods that have a relevant connection with another part of the United Kingdom.
- (2) For the purposes of the application of that principle in any given case—
 - (a) the part of the United Kingdom where sale should not be affected is referred to as the “destination part”;
 - (b) the goods that have a relevant connection with another part of the United Kingdom are referred to as the “incoming goods”;
 - (c) that other part is referred to as the “originating part”.
- (3) A relevant requirement (see section 6) is of no effect in the destination part if, and to the extent that, it directly or indirectly discriminates against the incoming goods (see sections 7 and 8).
- (4) Goods have a relevant connection with a part of the United Kingdom if they or any of their components—
 - (a) are produced in that part,
 - (b) are produced by a business based in that part, or
 - (c) come from, or pass through, that part before reaching the destination part.
- (5) For the purposes of this Part—
 - (a) “components” includes parts, ingredients and constituent materials;
 - (b) a business is “based”—

Status: This is the original version (as it was originally enacted).

- (i) where its registered office is,
- (ii) if it does not have a registered office, where its head office is, or
- (iii) if it has neither a registered office nor a head office, where its principal place of business is.

6 Relevant requirements for the purposes of the non-discrimination principle

- (1) This section defines “relevant requirement” for the purposes of the non-discrimination principle for goods.
- (2) A relevant requirement, for the purposes of the principle as it has effect in relation to a part of the United Kingdom, is a statutory provision that—
 - (a) applies in that part of the United Kingdom to, or in relation to, goods sold in that part, and
 - (b) is within the scope of the non-discrimination principle.
- (3) A statutory provision is within the scope of the non-discrimination principle if it relates to any one or more of the following—
 - (a) the circumstances or manner in which goods are sold (such as where, when, by whom, to whom, or the price or other terms on which they may be sold);
 - (b) the transportation, storage, handling or display of goods;
 - (c) the inspection, assessment, registration, certification, approval or authorisation of the goods or any similar dealing with them;
 - (d) the conduct or regulation of businesses that engage in the sale of certain goods or types of goods.
- (4) A statutory provision is not a relevant requirement—
 - (a) to the extent that it is a relevant requirement for the purposes of the mutual recognition principle for goods (see section 3), or
 - (b) if section 9 (exclusion of certain existing provisions) so provides.
- (5) The Secretary of State may by regulations amend subsection (3) so as to add, vary or remove a paragraph of that subsection.
- (6) Regulations under subsection (5) are subject to affirmative resolution procedure.
- (7) Before making regulations under subsection (5) the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (8) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.
- (9) If regulations are made in reliance on subsection (8), the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned.
- (10) In this section “statutory provision” means provision contained in legislation.

7 The non-discrimination principle: direct discrimination

- (1) A relevant requirement directly discriminates against incoming goods if, for the reason that the goods have the relevant connection with the originating part, the requirement applies to, or in relation to, the incoming goods in a way—
 - (a) in which it does not or would not apply to local goods, and
 - (b) that puts the incoming goods at a disadvantage compared to local goods.
- (2) Goods are put at a disadvantage if it is made in any way more difficult, or less attractive, to sell or buy the goods or do anything in connection with their sale.
- (3) “Local goods”, for the purposes of this section, are actual or hypothetical goods that—
 - (a) lack the relevant connection of the incoming goods with the originating part, but
 - (b) otherwise are materially the same as, and share the material circumstances of, the incoming goods.
- (4) Goods (“the other goods”) lack the relevant connection of the incoming goods with the originating part—
 - (a) where the incoming goods have a relevant connection within section 5(4)(a), if the other goods, or (as the case may be) their components, were produced in the destination part;
 - (b) where the incoming goods have a relevant connection within section 5(4)(b), if the other goods, or (as the case may be) their components, were produced by a business based in the destination part;
 - (c) where the incoming goods have a relevant connection within section 5(4)(c), if the other goods, or (as the case may be) their components, came from the destination part and did not pass through anywhere outside that part.

8 The non-discrimination principle: indirect discrimination

- (1) A relevant requirement indirectly discriminates against incoming goods if—
 - (a) it does not directly discriminate against the goods,
 - (b) it applies to, or in relation to, the incoming goods in a way that puts them at a disadvantage,
 - (c) it has an adverse market effect, and
 - (d) it cannot reasonably be considered a necessary means of achieving a legitimate aim.
- (2) Goods are put at a disadvantage if it is made in any way more difficult, or less attractive, to sell or buy the goods or do anything in connection with their sale than if the requirement did not apply.
- (3) A requirement has an adverse market effect if, because it—
 - (a) puts at a disadvantage the incoming goods (and any comparable goods that also have a relevant connection with the originating part and are also put at that disadvantage), but
 - (b) does not put at that disadvantage (at all or to the same extent) some or all comparable goods that have a relevant connection with the destination part and no other part of the United Kingdom,it causes a significant adverse effect on competition in the market for such goods in the United Kingdom.

- (4) “Comparable goods” means like goods or interchangeable goods; and—
- (a) “like goods” are goods that are alike the incoming goods in all respects, or otherwise have characteristics closely resembling those of the incoming goods;
 - (b) “interchangeable goods” are goods that, from the point of view of a purchaser of the goods, could reasonably be said to be interchangeable with the incoming goods.
- (5) The application of subsection (3) is to be determined with regard both to the content of the requirement and to the way in which it operates, or is administered, in practice (as a whole or in particular classes of case).
- (6) “Legitimate aim” means one, or a combination, of the following aims—
- (a) the protection of the life or health of humans, animals or plants;
 - (b) the protection of public safety or security.
- (7) The Secretary of State may by regulations amend subsection (6) so as to add, vary or remove an aim.
- (8) Regulations under subsection (7) are subject to affirmative resolution procedure.
- (9) Before making regulations under subsection (7), the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (10) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.
- (11) If regulations are made in reliance on subsection (10), the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned.
- (12) The application of subsection (1)(d) is to be determined with regard, in particular, to—
- (a) the effects of the requirement in all the circumstances, and
 - (b) the availability of alternative means of achieving the aim in question.

9 Exclusion of certain provision existing before commencement

- (1) Statutory provision is not a relevant requirement for the purposes of the non-discrimination principle for goods if the same provision was in force in the part of the United Kingdom concerned on the day before the day on which this section comes into force.
- (2) The re-enactment (without substantive change) of statutory provision does not affect its continuity for the purposes of subsection (1).
- (3) For the purposes of subsection (1) the same provision is to be regarded as in force on the day concerned if any differences are not substantive.
- (4) In this section “statutory provision” has the same meaning as in section 6.