



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 1

UK MARKET ACCESS: GOODS

Supplementary

11 Modifications in connection with the Northern Ireland Protocol

- (1) The United Kingdom market access principles for goods apply, in relation to the sale of goods in a part of the United Kingdom other than Northern Ireland, with the following modifications.

(For provision affecting the application of those principles in relation to the sale of goods in Northern Ireland, see, in particular, the Northern Ireland Protocol and sections 7A, 7C and 8C of the European Union (Withdrawal) Act 2018.)
- (2) The mutual recognition principle for goods applies in relation to all qualifying Northern Ireland goods as if they were produced in, or imported into, Northern Ireland.
- (3) That principle does not apply in relation to goods produced in, or imported into, Northern Ireland that are not qualifying Northern Ireland goods, unless subsection (4) applies.
- (4) If goods falling within subsection (3) are moved in a way that would, but for the fact that Northern Ireland is a part of the United Kingdom, amount for the purposes of the mutual recognition principle for goods to the importation of the goods into England, Scotland or Wales, the goods are to be regarded for the purposes of that principle as having been so imported.
- (5) Goods that are not qualifying Northern Ireland goods do not have a relevant connection with Northern Ireland for the purposes of the non-discrimination principle for goods (despite section 5(4)).

- (6) Subsection (7) applies for the purposes of paragraph 1 of Schedule 1 in a case where Northern Ireland is the “affected part” within the meaning of sub-paragraph (2) of that paragraph.
- (7) In determining whether the condition in sub-paragraph (3) of that paragraph is met, a pest or disease is to be taken to be present in Northern Ireland if it is, or may be, present in qualifying Northern Ireland goods (including when the goods are in Great Britain).
- (8) In this section “qualifying Northern Ireland goods” has the same meaning as in section 47.

12 Guidance relating to Part 1

- (1) The Secretary of State may issue guidance on any matter relating to—
 - (a) the practical operation of the United Kingdom market access principles, or
 - (b) the effect of any provision of this Part.
- (2) Guidance may be directed towards the public generally or towards any description of persons (such as traders, persons with enforcement functions or a class of such traders or persons).
- (3) In subsection (2) “enforcement function” means a function relating to the enforcement of anything which is (or is capable of being) a relevant requirement for the purposes of either of the market access principles for goods.
- (4) The power of the Secretary of State under subsection (1) includes power to revise or withdraw (in whole or part) any guidance previously issued.
- (5) Before issuing, revising or withdrawing guidance under subsection (1), the Secretary of State must consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (6) The Secretary of State must arrange for the publication of—
 - (a) any guidance that has been issued, as revised from time to time;
 - (b) any revisions made under subsection (4);
 - (c) notice of the withdrawal of any guidance under subsection (4).
- (7) In this section “guidance” means guidance under subsection (1).

13 Duty to review the use of Part 1 amendment powers

- (1) In this section “the Part 1 amendment powers” are the powers conferred by sections 6(5), 8(7) and 10(2) (powers to amend certain provisions of Part 1).
- (2) The Secretary of State must, during the permitted period—
 - (a) carry out a review of any use that has been made of the Part 1 amendment powers,
 - (b) prepare a report of the review, and
 - (c) lay a copy of the report before Parliament.
- (3) In carrying out the review the Secretary of State must—
 - (a) consult the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland,

- (b) consider any relevant reports made, or advice given, by the Competition and Markets Authority under Part 4, and
 - (c) assess the impact and effectiveness of any changes made under the Part 1 amendment powers.
- (4) The permitted period is the period beginning with the third anniversary of the passing of this Act and ending with the fifth anniversary.
- (5) If any Part 1 amendment power has not been used by the time the review is carried out, this section has effect—
 - (a) as if the report required by subsection (2), so far as relating to that power, is a report containing—
 - (i) a statement to the effect that the power has not been used since it came into force, and
 - (ii) such other information relating to that statement as the Secretary of State considers it appropriate to give, and
 - (b) as if the requirements of subsection (3) did not apply in relation to that power.

14 Sale of goods complying with local law

Nothing in this Part prevents goods produced in or imported into a part of the United Kingdom from being sold in another part of the United Kingdom if (apart from this Part) the sale complies with any requirements applicable in that other part of the United Kingdom (or there are no such requirements).

15 Interpretation of references to “sale” in Part 1

- (1) This section explains the meaning in this Part of references to the sale of goods (however expressed).
- (2) “Sale” does not include a sale which—
 - (a) is not made in the course of a business, or
 - (b) is made in the course of a business but only for the purpose of performing a function of a public nature.
- (3) Subsection (2)(b) does not exclude a sale which is—
 - (a) made by a public body or authority for commercial purposes, and
 - (b) not made for the purpose of performing a function of a public nature (other than a function relating to the carrying on of commercial activities).
- (4) “Sale” includes—
 - (a) agreement to sell,
 - (b) offering or exposing for sale, or
 - (c) having in possession or holding for sale.
- (5) This Part applies in relation to a supply of goods other than a sale as it applies in relation to a sale (and any reference to “sale”, outside this subsection, is to be read accordingly).
- (6) For this purpose “supply of goods” means the transfer of possession or property in goods (whether or not under or by virtue of a contract), and includes, for example, supply by way of—

- (a) barter or exchange,
- (b) the leasing or hiring out of goods, hire-purchase, or bailment of goods, or
- (c) gift (or anything else done free of charge).

16 Interpretation of other expressions used in Part 1

- (1) This section applies for the purposes of this Part.
- (2) “Goods” means any tangible movable, or corporeal moveable, thing (including any packaging or label), but not water or gas that is not offered for sale in a limited volume or set quantity.
- (3) Goods are to be regarded as “produced in” a part of the United Kingdom (if not wholly produced there) if the most recent significant production step which is a regulated step has occurred there.
- (4) A production step occurring in a part of the United Kingdom is “regulated” for the purposes of subsection (3) if —
 - (a) it is the subject of any statutory requirement in that part of the United Kingdom, or
 - (b) it is a step that could materially affect a person’s ability to sell the goods without contravening—
 - (i) any relevant requirement for the purposes of the mutual recognition principle for goods, or
 - (ii) any statutory requirement that is excluded from being a relevant requirement by section 4(1),
 that would be applicable to a sale of the goods in that part of the United Kingdom (being a sale of a kind for which the goods are being produced).
- (5) A production step is “significant” for the purposes of subsection (3) if it is significant in terms of the character of the goods being produced and the purposes for which they are to be sold or used (but see subsections (6) and (7)).
- (6) A production step falling within any of the following descriptions is not significant (whether or not it is regulated)—
 - (a) activities carried out specifically to ensure goods do not deteriorate before being sold (such as maintaining them at or below a particular temperature);
 - (b) activities carried out solely for purposes relevant to their presentation for sale (such as cleaning or pressing fabrics or sorting different coloured items for packaging together);
 - (c) activities involving a communication of any kind with a regulatory or trade body (such as registering the goods or notifying the goods or anything connected with them or their production);
 - (d) activities carried out for the purpose of testing or assessing any characteristic of the goods (such as batch testing a pharmaceutical product).
- (7) A production step involving the packaging, labelling or marking of goods is not significant (whether or not it is regulated) unless the step is fundamental to the character of the goods and the purposes for which they are to be sold or used.
- (8) Goods are “imported into” a part of the United Kingdom only if they are imported into that part from outside the United Kingdom.

For this purpose the Isle of Man is outside the United Kingdom.

- (9) Goods are to be regarded as imported—
- (a) for goods brought by sea, when the ship carrying them enters the limits of the port at which they are discharged;
 - (b) for goods brought by air, when they are unloaded;
 - (c) for goods brought by land, when they enter the United Kingdom.

In this subsection “port” and “ship” have the same meaning as in the Customs and Excise Management Act 1979 (see section 1 of that Act).

- (10) Goods produced in, or imported into, a part of the United Kingdom (“the original part of the United Kingdom”) which are—
- (a) exported to a place outside the United Kingdom, and
 - (b) re-imported back into any other part of the United Kingdom,
- are, despite the re-importation, to continue to be regarded as goods produced in, or imported into, the original part of the United Kingdom.
- (11) A reference (however expressed) to the production of anything includes—
- (a) cultivation, harvesting and similar activities (in relation to plants or fungi) and
 - (b) rearing, keeping, handling, killing and similar activities (in relation to livestock or other animals).
- (12) A reference (however expressed) to law in a part of the United Kingdom is a reference to—
- (a) the law of England and Wales as it applies in (or in relation to) England,
 - (b) the law of England and Wales as it applies in (or in relation to) Wales,
 - (c) the law of Scotland, or
 - (d) the law of Northern Ireland.
- (13) “Contravening” includes failing to comply.
- (14) “Statutory requirement” has the meaning given by section 3(8).