



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 1

UK MARKET ACCESS: GOODS

Non-discrimination: goods

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—

Status: This is the original version (as it was originally enacted).

- (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.