

2020 No. 276

EXITING THE EUROPEAN UNION

HARBOURS

**The Port Services (Amendment) (EU Exit) Regulations
(Northern Ireland) 2020**

Made - - - - *20th November 2020*

Coming into operation - *31st December 2020*

The Department for Infrastructure(a) makes these Regulations in exercise of the powers conferred by section 11 of, and paragraph 1(1) of Schedule 2 to, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(b).

Citation and commencement

1. These Regulations may be cited as the Port Services (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 and come into operation on 31st December 2020.

Amendment of Regulation (EU) 2017/352 of the European Parliament and of the Council

2. Regulation (EU) 2017/352 of the European Parliament and of the Council of 15th February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports is amended as follows.

3. In Article 1 —

- (a) in paragraph 4, after “all” insert “Northern Ireland”;
- (b) omit paragraphs 5 and 6;
- (c) in paragraph 7, for “Directives 2014/23/EU and 2014/24/EU of the European Parliament and of the Council and Directive 2014/25/EU” substitute “the Concession Contracts Regulations 2016(c), the Public Contracts Regulations 2015(d) and the Utilities Contracts Regulations 2016(e)”.

4. In Article 2 —

- (a) in paragraph (2), for “Member State” substitute “relevant authority”;

(a) 2016 c.5 (N.I.) section 1

(b) 2018 c. 16

(c) S.I. 2016/273, amended by S.I. 2019/624 and prospectively amended by S.I. 2019/489 and S.I. 2019/560

(d) S.I. 2015/102, amended by S.I. 2015/1472, S.I. 2016/275, S.I. 2016/696, S.I. 2017/701, S.I. 2018/285 and S.I. 2019/624 and prospectively amended by S.I. 2019/560

(e) S.I. 2016/274, amended by S.I. 2016/696 and S.I. 2019/624 and prospectively amended by S.I. 2019/489 and S.I. 2019/560

- (b) in paragraph (10), for “Directive 2000/59/EC of the European Parliament and of the Council” substitute “regulation 2(1) of the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003(a)”;
- (c) after paragraph (14) insert, “(14A) ‘relevant authority’ means the Department for Infrastructure;”.

5. In Article 3(2), for “Member States may decide by national law” substitute “The relevant authority may decide”.

6. In Article 4 —

- (a) in paragraph 2 —
 - (i) in point (f), omit “, Union”;
 - (ii) in point (g), for “the Member State of the port concerned” substitute “Northern Ireland”;
- (b) omit paragraph 3;
- (c) in paragraph 6, omit “and the procedure for the granting of the right to provide port services under those requirements by 24 March 2019 or, in the case of minimum requirements that are to apply after that date,”.

7. In Article 6 —

- (a) in paragraph 1(e) —
 - (i) for “Article 35 of the Directive 2014/25/EU” substitute “regulation 35 of the Utilities Contracts Regulations 2016”;
 - (ii) for “a Member State” substitute “Northern Ireland”;
 - (iii) for “Article 34 of that Directive” substitute “regulation 34 of the Utilities Contracts Regulations 2016”;
- (b) in paragraph 5, for “and in paragraph 7 of this Article and in Article 8” substitute “, regulation 4 of the Port Services Regulations 2019(b) and Article 8”;
- (c) in paragraph 6, for “Member State concerned” substitute “relevant authority”;
- (d) omit paragraph 7.

8. In Article 7 —

- (a) in paragraph 1, for “Member States” substitute “The relevant authority”;
- (b) in paragraph 2, omit “, and shall guarantee equality of access to all providers of port services established in the Union”;
- (c) omit paragraph 3.

9. In Article 9 —

- (a) in paragraph 1, for “the Member States” substitute “Northern Ireland”;
- (b) in paragraph 2 —
 - (i) omit “Union and”;
 - (ii) omit “Union law,”;
- (c) in paragraph 3, for “Directive 2001/23/EC” substitute “the Transfer of Undertaking (Protection of Employment) Regulations 2006(c)”.

10. Omit Article 10(2).

11. In Article 11 —

(a) S.I. 2003/1809, amended by S.I. 2009/1176, S.I. 2016/1211 and S.I. 2018/68 and prospectively amended by S.I. 2018/1221
(b) S.I. 2019/575
(c) S.I. 2006/246, amended by S.R. 2006 No. 177, S.I. 2009/592, S.I. 2010/93, S.I. 2014/16, S.I. 2014/386 and S.I. 2014/853

- (a) in paragraph 5 —
 - (i) omit “in the Member State concerned”;
 - (ii) omit “Such information shall be made available to the Commission by the relevant authority upon request.”;
- (b) omit paragraph 8.

12. In Article 12(3), omit “in the Member State concerned”.

13. In Article 13 —

- (a) in paragraph 1, for “Member States shall ensure that a port infrastructure charge is levied. This” substitute “The charging of a port infrastructure charge”;
- (b) in paragraph 3, for “Member State concerned” substitute “relevant authority”;
- (c) in paragraph 6 —
 - (i) omit “of the Member State concerned”;
 - (ii) omit “That authority shall make the information available to the Commission upon request.”.

14. In Article 16 —

- (a) in paragraph 1, for “Each Member State” substitute “The relevant authority”;
- (b) in paragraph 2, for “Member States” substitute “The relevant authority”;
- (c) in paragraph 3 —
 - (i) for “in the Member State of” substitute “with the relevant authority for”;
 - (ii) after “origin” insert “in accordance with Part 3 of the Port Services Regulations 2019(a)”;
 - (iii) for “Member States” substitute “The relevant authority”;
- (d) omit paragraph 4;
- (e) omit paragraph 7;
- (f) omit paragraph 8.

15. Omit Articles 17, 19 and 20.

16. In the text immediately after Article 22, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Sealed with the Official Seal of the Department for Infrastructure on 20th November 2020



Bernie Rooney
A senior officer of the
Department for Infrastructure

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in exercise of the powers in section 11 of, and Schedule 2 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failure of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (“Regulation (EU) 2017/352”).

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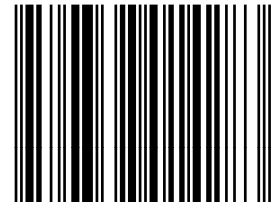
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