

SCHEDULES

SCHEDULE 1

Section 10

EXCLUSIONS FROM MARKET ACCESS PRINCIPLES

Threats to human, animal or plant health

- 1 (1) The United Kingdom market access principles do not apply to (and sections 2(3) and 5(3) do not affect the operation of) legislation so far as it satisfies the conditions set out in this paragraph.
 - (2) The first condition is that the aim of the legislation is to prevent or reduce the movement of a pest or disease into the part of the United Kingdom in which the legislation applies (“the restricting part”) from another part of the United Kingdom (“the affected part”).
 - (3) The second condition is that it is reasonable to believe that the pest or disease—
 - (a) is present in the affected part, and
 - (b) is not present, or is significantly less prevalent, in the restricting part.
 - (4) The third condition is that the potential movement of that pest or disease into the restricting part from the affected part poses (or would in the absence of the legislation pose) a serious threat to the health of humans, animals or plants in the restricting part.
 - (5) The fourth condition is that the responsible administration has provided to the other administrations an assessment of the available evidence in relation to—
 - (a) the threat referred to in sub-paragraph (4), and
 - (b) the likely effectiveness of the legislation in addressing that threat.
 - (6) The fifth condition is that the legislation can reasonably be justified as necessary in order to address the threat referred to in sub-paragraph (4).
 - (7) In determining whether the fifth condition is met the following consideration is to be taken into account: whether the legislation, taken together with any similar legislation applying in the restricting part, imposes measures of similar severity arising from the potential movement of the pest or disease into, or within, the restricting part (wherever those threats originate).
 - (8) In this paragraph “pest or disease” includes any organism or agent that is liable to cause a disease or other harm to the health of humans, animals or plants.
- 2 (1) The mutual recognition principle for goods does not apply to (and section 2(3) does not affect the operation of) legislation so far as it satisfies the conditions set out in this paragraph.
 - (2) The first condition is that the aim of the legislation is to prevent or reduce the movement of unsafe food or feed into the part of the United Kingdom in which the legislation applies (“the restricting part”) from another part of the United Kingdom (“the affected part”).

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- (3) The second condition is that it is reasonable to believe that the food or feed affected by the legislation is, is likely to be, or is at particular risk of being unsafe in a particular respect.
- (4) The third condition is the potential movement of food or feed that is unsafe in that respect into the restricting part from the affected part poses (or would in the absence of the legislation pose) a serious threat to the health of humans or animals in the restricting part.
- (5) The fourth condition is that the responsible administration has provided to the other administrations an assessment of the available evidence in relation to—
- (a) the threat referred to in sub-paragraph (4), and
 - (b) the likely effectiveness of the legislation in addressing that threat.
- (6) The fifth condition is that the legislation can reasonably be justified as necessary in order to address the threat referred to in sub-paragraph (4).
- (7) In this paragraph—
- “food” and “feed” have the same meaning as in Regulation (EC) No 178/2002 (see Articles 2 and 3);
- “unsafe”—
- (a) in relation to food, has the same meaning as in Article 14 of Regulation (EC) No 178/2002;
 - (b) in relation to feed, means “unsafe for its intended use” within the meaning given by Article 15(2) of Regulation (EC) No 178/2002;
- “Regulation (EC) No 178/2002” means Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law (etc), as it forms part of retained EU law on IP completion day.
- 3 Where a decision is taken to exercise powers conferred by legislation in a particular way for the purpose referred to in paragraph 1(2) or 2(2), references to “legislation” in paragraph 1 or 2 (except in paragraph 1(1) or 2(1)) are to be read as references to the use of the legislation in that way.
- 4 (1) In paragraphs 1 and 2, “responsible administration” is to be interpreted in accordance with sub-paragraphs (2) to (5).
- (2) The responsible administration is the Scottish Ministers if—
- (a) the restricting part is Scotland, and
 - (b) the provision contained in the legislation in question, so far as it applies in Scotland—
 - (i) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament, or
 - (ii) is provision which could be made in subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone.
- (3) The responsible administration is the Welsh Ministers if—
- (a) the restricting part is Wales, and
 - (b) the provision contained in the legislation in question, so far as it applies in Wales—

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- (i) would be within the legislative competence of Senedd Cymru if contained in an Act of Senedd Cymru (assuming that any consent by a Minister of the Crown were given), or
 - (ii) is provision which could be made in subordinate legislation by the Welsh Ministers acting alone.
- (4) The responsible administration is a Northern Ireland department if—
 - (a) the restricting part is Northern Ireland, and
 - (b) the provision contained in the legislation in question, so far as it applies in Northern Ireland—
 - (i) would be within the legislative competence of the Northern Ireland Assembly, and would not require the consent of the Secretary of State, if contained in an Act of that Assembly,
 - (ii) is contained in, or was made under, Northern Ireland legislation, and would be within the legislative competence of the Northern Ireland Assembly, and would require the consent of the Secretary of State, if contained in an Act of that Assembly,
 - (iii) is provision which could be made in subordinate legislation by the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department.
- (5) In any other case the responsible administration is the Secretary of State.
- (6) In paragraphs 1 and 2, “the other administrations” means each of the Scottish Ministers, the Welsh Ministers, a Northern Ireland department and the Secretary of State, other than the responsible administration.
- 5 (1) A relevant requirement is not to be taken to directly discriminate against incoming goods for the purposes of section 7 to the extent that it can reasonably be justified as a response to a public health emergency.
- (2) In this paragraph—
 - “public health emergency” means an event or a situation that is reasonably considered to pose an extraordinary threat to human health in the destination part;
 - “relevant requirement”, “incoming goods” and “destination part” have the meanings they have in relation to the non-discrimination principle for goods (see sections 5 and 6).

Chemicals

- 6 An authorisation under Chapter 2 of Title 7 of the REACH Regulation is to be disregarded in determining (for the purposes of the mutual recognition principle for goods) whether goods can be sold as mentioned in section 2(1)(b).
- 7 The mutual recognition principle for goods does not apply to (and section 2(3) does not affect the operation of)—
 - (a) Article 67 of the REACH Regulation, or
 - (b) a restriction imposed in accordance with Article 129 of that Regulation.
- 8 In paragraphs 6 and 7, “the REACH Regulation” means Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006

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concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (etc), as it forms part of retained EU law.

Fertilisers and pesticides

- 9 The mutual recognition principle for goods does not apply to (and section 2(3) does not affect the operation of) any of the following—
- (a) a prohibition or condition imposed in accordance with Article 15(1) of Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers, as it forms part of retained EU law;
 - (b) regulations under section 74A(1) of the Agriculture Act 1970, to the extent that such regulations can reasonably be justified as a response to a risk to—
 - (i) the health or safety of humans, animals or plants, or
 - (ii) the environment.
- 10 The mutual recognition principle for goods does not apply to (and section 2(3) does not affect the operation of) any of the following—
- (a) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market (etc), as it forms part of retained EU law;
 - (b) the Plant Protection Products Regulations 2011 (S.I. 2011/2131);
 - (c) the Plant Protection Products Regulations (Northern Ireland) 2011 (S.R. (N.I.) 2011 No. 295).

Taxation

- 11 The United Kingdom market access principles do not apply to (and sections 2(3) and 5(3) do not affect the operation of) any legislation so far as it imposes, or relates to the imposition of, any tax, rate, duty or similar charge.

Provision having effect in more than one part of the United Kingdom

- 12 (1) A relevant requirement is not to be taken indirectly to discriminate against goods for the purposes of section 8 if—
- (a) it is statutory provision contained in, or in subordinate legislation made under, an Act of Parliament,
 - (b) the same, or substantially the same, statutory provision applies in the originating part,
 - (c) the statutory provision that applies in the originating part is also contained in, or in subordinate legislation made under, an Act of Parliament, and
 - (d) no substantive change to the statutory provision has come into force—
 - (i) in the destination part but not the originating part, or
 - (ii) in the originating part but not the destination part.
- (2) In sub-paragraph (1), “relevant requirement”, “statutory provision”, “originating part” and “destination part” have the meanings they have in relation to the non-discrimination principle for goods (see sections 5 and 6).

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SCHEDULE 2

Section 18

SERVICES EXCLUSIONS

PART 1

SERVICES TO WHICH SECTION 19 (MUTUAL RECOGNITION) DOES NOT APPLY

<i>Services</i>	<i>(examples of those services)</i>
Audiovisual services	terrestrial, cable or satellite television, video on demand, film services, radio services, video sharing services, video recording services, video games services
Debt collection services	services of bailiffs, messengers-at-arms and sheriff officers
Electronic communications services and networks, and associated facilities and services	
Financial services	banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice
Gambling services	accepting bets, operating a lottery or providing facilities for gambling
Healthcare services	healthcare services provided in hospitals, other healthcare facilities or at other places, xenotransplantation, human genetics, human fertilisation, embryology, services in connection with surrogacy
Legal services	provision of legal advice, litigation services
Notarial services	
Private security services	
Services of temporary work agencies	services of employment businesses within the meaning given by section 13(3) of the Employment Agencies Act 1973
Services provided by a person exercising functions of a public nature or by a person acting on behalf of such a person in connection with the exercise of functions of a public nature	
Social services relating to social housing, childcare, adult social care and support of families and persons permanently or temporarily in need	

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<i>Services</i>	<i>(examples of those services)</i>
Transport services	railways, operation of ports, air transport, air traffic services, road transport of goods and passengers, ancillary services

PART 2

SERVICES TO WHICH SECTIONS 20 AND 21 (NON-DISCRIMINATION) DO NOT APPLY

<i>Services</i>	<i>(examples of those services)</i>
Audiovisual services	terrestrial, cable or satellite television, video on demand, film services, radio services, video sharing services, video recording services, video games services
Debt collection services	services of bailiffs, messengers-at-arms and sheriff officers
Electronic communications services and networks, and associated facilities and services	
Financial services	banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice
Gambling services	accepting bets, operating a lottery or providing facilities for gambling
Healthcare services	healthcare services provided in hospitals, other healthcare facilities or at other places, xenotransplantation, human genetics, human fertilisation, embryology, services in connection with surrogacy
Notarial services	
Postal services	delivery of letters and parcels by post, sorting and collection of letters and parcels for delivery by post
Private security services	
Services connected with the supply of natural gas through pipelines or production or storage of natural gas	transportation of gas, retail supply, operation of a gas interconnector
Services connected with the supply or production of electricity	distribution or transmission of electricity, retail supply, operation of an electricity interconnector
Services of a statutory auditor within the meaning of Part 42 of the Companies Act 2006	
Services of temporary work agencies	services of employment businesses within the meaning given by section 13(3) of the Employment Agencies Act 1973

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<i>Services</i>	<i>(examples of those services)</i>
Services provided by a person exercising functions of a public nature or by a person acting on behalf of such a person in connection with the exercise of functions of a public nature	
Social Services relating to social housing, childcare, adult social care and support of families and persons permanently or temporarily in need	
Transport services	railways, operation of ports, air transport, air traffic services, road transport of goods and passengers, ancillary services
Waste services	disposal of waste, importation or exportation of waste, waste processing
Water supply and sewerage services	

PART 3

AUTHORISATION REQUIREMENTS TO WHICH
SECTION 19 (MUTUAL RECOGNITION) DOES NOT APPLY

Any authorisation requirement in connection with taxation

PART 4

REGULATORY REQUIREMENTS TO WHICH SECTIONS
20 AND 21 (NON-DISCRIMINATION) DO NOT APPLY

Any regulatory requirement in connection with taxation

SCHEDULE 3

Section 32

CONSTITUTION ETC OF OFFICE FOR THE INTERNAL MARKET PANEL AND TASK GROUPS

- 1 Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Competition and Markets Authority) is amended as follows.
- 2 (1) Paragraph 1 is amended as follows.
 - (2) In sub-paragraph (1)(b)—
 - (a) in the words before paragraph (i), for “to membership of” substitute “as follows”;
 - (b) in paragraph (i), at the beginning insert “persons appointed to membership of”;

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- (c) in paragraph (ii), at the beginning insert “persons appointed to membership of”;
- (d) in paragraph (iii), at the beginning insert “persons appointed to membership of”;
- (e) after paragraph (iii) insert—
 - “(iv) a person (the “OIM panel chair”) appointed to chair the Office for the Internal Market panel and to membership of the CMA Board;
 - (v) other persons appointed to membership of the Office for the Internal Market panel (“the OIM panel”) (see Part 3A).”

(3) After sub-paragraph (2) insert—

“(2A) In making appointments under paragraphs (iv) and (v) of sub-paragraph (1)(b), the Secretary of State must have regard to the desirability of securing that—

- (a) a variety of skills, knowledge and experience is available among the members of the OIM panel, and
- (b) there is an appropriate balance among the members of that panel of persons who have skills, knowledge or experience relating to the operation of the United Kingdom internal market in different parts of the United Kingdom.

(2B) Before making an appointment under paragraph (iv) or (v) of sub-paragraph (1)(b), the Secretary of State must seek the consent of—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, and
- (c) the Department for the Economy in Northern Ireland.

(2C) Sub-paragraph (2D) applies if consent to an appointment 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.

(2D) In that event the Secretary of State—

- (a) may make the appointment without the consent of the authority or authorities concerned, and
- (b) must, if the appointment is made, inform each authority which did not give consent of the reasons for the decision to proceed with the appointment.”

3 (1) Paragraph 3 is amended as follows.

(2) After sub-paragraph (2), insert—

“(2A) Appointment to membership of the OIM panel under paragraph 1(1)(b) is to be for a term of not more than eight years.”

(3) At the end insert—

“(4) Where at the beginning of a person’s term of appointment to membership of the CMA panel the person has already begun (and continues) to hold office as a member of the OIM panel, the term of the person’s appointment to membership of the CMA panel is to be treated for the purposes of

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sub-paragraph (2) as beginning when the person's term of appointment to membership of the OIM panel began.

(5) Where at the beginning of a person's term of appointment to membership of the OIM panel the person has already begun (and continues) to hold office as a member of the CMA panel, the term of the person's appointment to membership of the OIM panel is to be treated for the purposes of sub-paragraph (2A) as beginning when the person's term of appointment to membership of the CMA panel began."

4 (1) Paragraph 4 is amended as follows.

(2) After sub-paragraph (1), insert—

“(1A) A person who has been appointed to membership of the OIM panel may be re-appointed to membership of the OIM panel only for the purpose of continuing to act as a member of a group constituted under paragraph 58B before the expiry of the person's term of office.”

(3) In sub-paragraph (2), for “sub-paragraph (1)” substitute “sub-paragraphs (1) and (1A)”.

5 (1) Paragraph 6 is amended as follows.

(2) In sub-paragraph (2), for “of either the CMA Board or the CMA panel (but not of both)” substitute “of one, but not more than one, of the CMA Board, the CMA panel and the OIM panel,”.

(3) In sub-paragraph (3)—

(a) in the words before paragraph (a), after “panel” insert “or both the CMA panel and the OIM panel”;

(b) for paragraph (a) substitute—

“(a) resign from one of those memberships (without resigning from the other), or”.

(4) After sub-paragraph (3) insert—

“(4) The OIM panel chair may at any time resign from membership of the CMA by giving written notice to this effect to the Secretary of State (and may not resign from the OIM panel, or any other office to which the person is appointed by virtue of paragraph 1(1)(b)(iv), except in accordance with this sub-paragraph).”

6 In paragraph 9(2)—

(a) omit “or” at the end of paragraph (a);

(b) after paragraph (b) insert “, or

(c) a member of the OIM panel.”

7 In paragraph 10(2)(b), at the end insert “or the OIM panel”.

8 After Part 3 insert—

“PART 3A

THE OIM PANEL

The OIM panel

- 58A (1) The OIM panel is a panel of persons available for selection as members of a group constituted in accordance with this Part of this Schedule.
- (2) The OIM panel is to consist of—
- (a) the OIM panel chair appointed under paragraph 1(1)(b)(iv), and
 - (b) the other members of the panel appointed under paragraph 1(1)(b)(v).

Constitution of OIM task groups

- 58B (1) The OIM panel chair may at any time constitute a group in accordance with this Part of this Schedule for the purpose of carrying out on the CMA’s behalf functions of the CMA under Part 4 of the United Kingdom Internal Market Act 2020.
- (2) A group constituted as mentioned in sub-paragraph (1) is to be known as an Office for the Internal Market task group (or “OIM task group”).

Membership of OIM task groups

- 58C (1) The members of an OIM task group are to be selected by the OIM panel chair.
- (2) Each OIM task group is to consist of at least three members of the OIM panel.
- (3) The OIM panel chair must appoint one of the members of an OIM task group to chair the group (“the task group chair”).
- 58D The validity of anything done by an OIM task group is not affected by—
- (a) a vacancy;
 - (b) a defective appointment.

Termination of person’s membership of an OIM task group

- 58E A member of the OIM panel may at any time resign from an OIM task group by giving written notice to this effect to the OIM panel chair.
- 58F (1) Sub-paragraph (2) applies if the OIM panel chair considers that—
- (a) a member of an OIM task group will be unable, for a substantial period, to perform their duties as a member of the group, or
 - (b) because of a particular interest of a member of an OIM task group, it is inappropriate for that person to remain a member of the group.

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(2) The OIM panel chair may remove the person in question from membership of the task group.

58G A person ceases to be a member of an OIM task group on ceasing to be a member of the OIM panel.

Replacement of a member of an OIM task group

58H (1) Sub-paragraph (2) applies if a person ceases to be a member of an OIM task group, whether by being removed under paragraph 58F, or otherwise.

(2) The OIM panel chair may select a replacement member of the group from the OIM panel.

Continuity on removal or replacement

58I (1) A person's ceasing to be a member of an OIM task group, whether by being removed under paragraph 58F, or otherwise, does not prevent—

- (a) the group from continuing with anything begun before the person ceased to be a member of it;
- (b) any decision made or direction given by the person while a member of the group from having effect after they have ceased to be a member of the group.

(2) Sub-paragraph (1) applies whether or not a replacement member of the group is selected under paragraph 58H.

Powers of chair pending group's constitution and first meeting

58J (1) While an OIM task group is being constituted, the OIM panel chair may take such steps as the OIM panel chair considers appropriate to facilitate the work of the group once it has been constituted.

(2) The steps taken must be steps that it would be within the power of the group to take, had it already been constituted.

Independence of OIM task groups

58K (1) In exercising functions which they are authorised to exercise by virtue of any enactment, OIM task groups must act independently of the CMA Board.

(2) Nothing in sub-paragraph (1) prevents—

- (a) the CMA Board giving information in its possession to an OIM task group, or
- (b) an OIM task group giving information in its possession to the CMA Board.

Casting votes

58L If an OIM task group's vote on any decision is tied, the task group chair is to have a casting vote.

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Procedure of OIM task groups

- 58M (1) An OIM task group may determine its own procedure (including determining its quorum).
- (2) In determining its procedure under sub-paragraph (1), an OIM task group must have regard to any guidance issued by the CMA Board.”