

STATUTORY INSTRUMENTS

2020 No. 1454

EXITING THE EUROPEAN UNION

**The Definition of Qualifying Northern
Ireland Goods (EU Exit) Regulations 2020**

Made - - - - *4th December 2020*

Coming into force - - *5th December 2020*

The Minister makes these Regulations in exercise of the powers conferred by section 8C(6) of the European Union (Withdrawal) Act 2018(1).

In accordance with paragraph 8F(4) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement **U.K.**

1.—(1) These Regulations may be cited as the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020.

(2) These Regulations shall come into force on the day after the day they are made.

Commencement Information

I1 Reg. 1 in force at 5.12.2020, see [reg. 1\(2\)](#)

Interpretation **U.K.**

2. In these Regulations, “Northern Ireland” does not include any part of the territorial waters of the United Kingdom.

Commencement Information

I2 Reg. 2 in force at 5.12.2020, see [reg. 1\(2\)](#)

(1) [2018 c. 16](#); section 8C was inserted by section 21 of the European Union (Withdrawal Agreement) Act 2020 ([c. 1](#)) (“the 2020 Act”) and paragraph 8F of Schedule 7 was inserted by section 41(4) of, and paragraph 51 of Schedule 5, to the 2020 Act.

Definition of qualifying Northern Ireland goods **U.K.**

3.—(1) For the purposes of the European Union (Withdrawal) Act 2018, “qualifying Northern Ireland goods” means goods which—

- (a) meet or have met the condition at paragraph (2), or
- (b) are NI processed products.

(2) The condition is that the goods are present in Northern Ireland and are not subject to any customs supervision, restriction or control which does not arise from the goods being taken out of the territory of Northern Ireland or the European Union.

[^{F1}(2A) By way of exception to paragraph (1)—

- (a) goods are not qualifying Northern Ireland goods for any purposes if—
 - (i) they, or related goods, have been moved into Northern Ireland from outside the United Kingdom and the main purpose of that movement, or one of the main purposes, is so that the goods would have the status of qualifying Northern Ireland goods during any subsequent movement to Great Britain or when the goods are in Great Britain, or
 - (ii) immediately before being removed from Northern Ireland, the goods were loaded for export outside Northern Ireland, entered Northern Ireland and were not unloaded there before subsequently being removed from Northern Ireland to Great Britain through the Republic of Ireland;
- (b) goods that are food or feed are not qualifying Northern Ireland goods for the purposes of—
 - (i) the market access principles in Part 1 of the United Kingdom Internal Market Act 2020, or
 - (ii) relevant checks, controls or administrative processes.

(2B) Paragraph (2A)(b)(i) does not apply if the food or feed is or has been despatched for movement to Great Britain from an NI food establishment or an NI feed establishment.

(2C) Paragraph (2A)(b)(ii) does not apply if the food or feed—

- (i) is or has been despatched for movement to Great Britain from an NI food establishment or an NI feed establishment,
- (ii) forms part of passengers’ personal luggage and is intended for personal use or consumption, or
- (iii) is, or forms part of, a non-commercial consignment sent to an individual and which is not intended to be placed on the market.

(2D) Paragraph (2A) does not apply to goods which, immediately before that paragraph came into force—

- (a) were qualifying Northern Ireland goods, and
- (b) either—
 - (i) were in Great Britain, or
 - (ii) had left a port or airport in Northern Ireland or the Republic of Ireland for the purposes of movement to Great Britain, but had not yet arrived in Great Britain.]

(3) For the purposes of this regulation—

[^{F2}“feed” means feed as defined in Article 3(4) of Regulation (EC) No 178/2002;

“food” means food as defined in Article 2 of Regulation (EC) No 178/2002;

“movement to Great Britain”, except in paragraph (2D), includes movement in which a good merely passes through the Republic of Ireland on the way to Great Britain;

“NI feed establishment” means an establishment within the meaning of Regulation (EC) 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene which is registered with, or approved by, the competent authority in Northern Ireland in accordance with Article 9 or 10 of that Regulation;

“NI food establishment” means an establishment within the meaning of Article 2(1)(c) of Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs which is registered with, or approved by, the competent authority in Northern Ireland in accordance with Article 6 of that Regulation;]

“NI processed products” are goods which—

- (a) have undergone processing operations carried out in Northern Ireland only, and
- (b) incorporate only goods which—
 - (i) were not at the time of processing under any form of customs supervision, restriction or control, or
 - (ii) have been domestic goods within the meaning of section 33 of the Taxation (Cross-border Trade) Act 2018(2);

[^{F3}“placed on the market” means, in relation to food or feed, the holding of food or feed for the purposes of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves.]

“processing operations” means any of the following carried out under customs supervision—

- (a) the working of goods, including erecting or assembling them or fitting them to other goods;
- (b) the processing of goods;
- (c) the destruction of goods;
- (d) the repair of goods, including restoring them and putting them in order;
- (e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process;
- (f) the usual forms of handling intended to preserve the goods, improve their appearance or marketable quality or otherwise prepare them for distribution or resale; and
- (g) any operation on goods intended to ensure their compliance with technical requirements for their release for free circulation in the United Kingdom.

[^{F4}“Regulation (EC) No 178/2002” means Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety;

“Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;

“related goods”, in relation to any particular goods, means goods from which the particular goods have been produced as a result of processing in Northern Ireland, in circumstances where the particular goods and the other goods would be considered to be different goods;

“relevant checks, controls or administrative processes” means any checks, controls or administrative processes applicable to the movement to Great Britain of food or feed from Northern Ireland required by—

- (a) Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein;
- (b) Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing;
- (c) Regulation (EU) 2017/625; or
- (d) the rules referred to in Article 1(2) of Regulation (EU) 2017/625, for the verification of, or to facilitate the verification of, compliance with those rules, whether or not carried out at the border control post of first arrival in Great Britain;

and the references to legislation in paragraphs (a) to (c) include references to any assimilated direct legislation or subordinate legislation which has been made under it, or subordinate legislation made to implement or enable the implementation of it under section 2(2) of the European Communities Act 1972.]

Textual Amendments

- F1** Reg. 3(2A)-(2D) inserted (20.2.2024) by The Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024 (S.I. 2024/163), regs. 1(2), **3(2)**
- F2** Words in reg. 3(3) inserted (20.2.2024) by The Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024 (S.I. 2024/163), regs. 1(2), **3(3)(a)**
- F3** Words in reg. 3(3) inserted (20.2.2024) by The Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024 (S.I. 2024/163), regs. 1(2), **3(3)(b)**
- F4** Words in reg. 3(3) inserted (20.2.2024) by The Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024 (S.I. 2024/163), regs. 1(2), **3(3)(c)**

Commencement Information

- I3** Reg. 3 in force at 5.12.2020, see **reg. 1(2)**

4th December 2020

Michael Gove
Minister for the Cabinet Office
Cabinet Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the definition of “qualifying Northern Ireland goods” under section 8C(6) of the European Union (Withdrawal) Act 2018 (c. 16) which provides that a Minister of the Crown may define “qualifying Northern Ireland goods” by regulations.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sectors is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020.