

2024 No. 163

UNITED KINGDOM INTERNAL MARKET

**The Windsor Framework (UK Internal Market and Unfettered
Access) Regulations 2024**

Made - - - - *19th February 2024*

Coming into force - - *20th February 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8C(1) and (6) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a) and section 47(9) of the United Kingdom Internal Market Act 2020^(b).

In making these Regulations, the Secretary of State has had special regard to the matters listed in section 46(1) of the United Kingdom Internal Market Act 2020.

In accordance with paragraph 8F(1) and (4) of Schedule 7^(c) to the European Union (Withdrawal) Act 2018, and section 47(10) of the United Kingdom Internal Market Act 2020, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Windsor Framework (UK Internal Market and Unfettered Access) Regulations 2024.

(2) They come into force on the day after the day on which they are made.

(3) They extend to England and Wales, Scotland and Northern Ireland.

Amendment of the United Kingdom Internal Market Act 2020

2.—(1) The United Kingdom Internal Market Act 2020 is amended as follows.

(2) Before section 46 insert—

**“45A Ongoing guarantee of UK internal market access for qualifying Northern
Ireland goods**

(1) Article 6(1) of the Windsor Framework provides that nothing in the Framework prevents the United Kingdom from ensuring unfettered access for goods moving from Northern Ireland to other parts of the United Kingdom’s internal market.

(a) 2018 c. 16, section 8C was inserted by the European Union (Withdrawal Agreement) Act 2020 (c. 1) and amended by the United Kingdom Internal Market Act 2020 (c. 27). Paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020.

(b) 2020 c 27.

(c) Paragraph 8F of Schedule 7 was inserted by paragraph 51 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

- (2) Accordingly, this Act—
- (a) prohibits the application of export procedures to goods removed from Northern Ireland to Great Britain, in accordance with and subject to section 47; and
 - (b) makes other provision for the purpose of giving permanent unfettered access (as mentioned in Article 6(1)) for qualifying Northern Ireland goods to the whole of the internal market of the United Kingdom.
- (3) In particular, that permanent unfettered access is achieved in relation to qualifying Northern Ireland goods through (among other things)—
- (a) the mutual recognition principle for goods securing that qualifying Northern Ireland goods which can be sold in Northern Ireland without contravening any relevant requirements that apply to their sale can also be sold in England and Wales and Scotland, in accordance with and subject to the provisions of Part 1;
 - (b) the non-discrimination principle for goods securing that qualifying Northern Ireland goods can be sold in England and Wales and Scotland without the sale being affected by relevant requirements that directly or indirectly discriminate against goods that have a relevant connection with a part of the United Kingdom other than the part in which they are sold, in accordance with and subject to the provisions of Part 1; and
 - (c) each of the appropriate authorities in the United Kingdom being prohibited, in accordance with and subject to the provisions of section 47, from exercising any function in a way which would result—
 - (i) in an existing kind of NI-GB check, control or administrative process from being used for the first time, or for a new purpose or to a new extent, or
 - (ii) in a new kind of NI-GB check, control or administrative process being introduced or being used.
- (4) The provisions referred to in subsections (2) and (3) are to continue to have effect notwithstanding any divergence between—
- (a) the laws which affect the sale of goods in Northern Ireland; and
 - (b) the laws which affect the sale of goods in England and Wales or Scotland.

45B Goods moved from Northern Ireland: position in relation to export procedures

(1) In the United Kingdom unilateral declaration on export procedures, the United Kingdom has confirmed that export procedures will not apply to goods moving from Northern Ireland to other parts of the United Kingdom’s internal market unless the goods fall into one of the categories listed in points (1) to (5) of the declaration.

(2) Accordingly, no export procedures apply to any goods moved from Northern Ireland to Great Britain unless the goods fall into one of those categories.

(3) In this section—

- (a) “United Kingdom unilateral declaration on export procedures” means the Unilateral Declaration by the United Kingdom in the Joint Committee established by the EU withdrawal agreement, on export procedures for goods moving from Northern Ireland to other parts of the United Kingdom, dated 24 March 2023^(a);
- (b) references to export procedures are to the export procedures to which that declaration applies.

(a) Available electronically at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1145715/Unilateral_Declarations_by_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_and_the_European_Union_in_the_Withdrawal_Agreement_Joint_Committee_on_export_procedures.pdf A person unable to access the document electronically can arrange access to a hard copy by inspection free of charge at the Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 2AH.

45C Further protections in respect of Northern Ireland’s place in the UK internal market

(1) Article 6 of the Windsor Framework makes provision about the facilitation of trade between Northern Ireland and the rest of the United Kingdom.

(2) Accordingly, in addition to the provisions mentioned in sections 45A and 45B, this Act makes provision for the purpose of facilitating that trade through (among other things)—

- (a) the mutual recognition principle for goods and the non-discrimination principle for goods applying to the sale of goods in Northern Ireland in accordance with and subject to the provisions of Part 1, including provisions affecting the application of those principles mentioned in the words in brackets in section 11(1);
- (b) section 46 setting out the matters to which appropriate authorities must have special regard when exercising a function for a relevant purpose, including the need to maintain Northern Ireland’s integral place in the United Kingdom’s internal market and the need to facilitate the free flow of goods between Great Britain and Northern Ireland with the aims mentioned in section 46(1)(c); and
- (c) section 46A making provision conferring power on the Secretary of State to issue guidance to assist the appropriate authorities in the exercise of their duty under section 46(1).

(3) In subsection (2)(a), the reference to the sale of goods in Northern Ireland includes the sale in Northern Ireland of goods which are subject to provisions of Part 2 of the Windsor Framework (Retail Movement Scheme: Public Health, Marketing, Organic Product Standards and Miscellaneous Provisions) Regulations 2023, which applies to the extent that any provision listed in Annex 1 to the SPS Regulation does not apply by virtue of Article 1(2) and Chapter 2 of the SPS Regulation.

(4) In subsection (3), “SPS Regulation” has the same meaning as in those Regulations.”

(3) After section 46 insert—

“46A Guidance relating to section 46

(1) The Secretary of State may issue guidance to assist appropriate authorities in the exercise of the duty in section 46(1).

(2) The Secretary of State may revise or revoke (in whole or in part) any guidance issued under this section.

(3) An appropriate authority must have regard to guidance issued under this section when exercising any function for a relevant purpose.

(4) In this section “appropriate authority” and “relevant purpose” have the same meaning as in section 46.”

(4) In section 47(8) (unfettered access to the UK internal market for Northern Ireland goods), for sub-paragraph (a) substitute—

“(a) an “NI-GB” check, control or administrative process is one applicable to the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain which—

- (i) is direct movement, or
- (ii) would be direct movement but for the fact the goods merely pass through the Republic of Ireland (and only the Republic of Ireland) in making that movement;”.

(5) In section 58 (interpretation: general) at the end insert—

““Windsor Framework” means the part of the EU withdrawal agreement known as the Windsor Framework by virtue of Joint Declaration No. 1/2023 of 24 March 2023 made

by the European Union and the United Kingdom in the Joint Committee established by the EU withdrawal agreement.”(a)

Amendment to the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020

3.—(1) Regulation 3 of the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020(b) (definition of qualifying Northern Ireland goods) is amended as follows.

(2) After paragraph (2) insert—

“(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) In paragraph (3)—

(a) Available electronically at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1145699/Joint_Declaration_by_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_and_the_European_Union_in_the_Withdrawal_Agreement_Joint_Committee_on_the_Windsor_Framework.pdf A person unable to access the document electronically can arrange access to a hard copy by inspection free of charge at the Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 2AH.

(b) S.I. 2020/1454.

- (a) before the definition of “NI processed products” insert—
- ““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(a) 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(b) which is registered with, or approved by, the competent authority in Northern Ireland in accordance with Article 6 of that Regulation;”;
- (b) before the definition of “processing operations” insert—
- ““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.”;
- (c) after the definition of “processing operations” insert—
- ““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(c);
- “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(d);
- “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(e);
- (b) Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing(f);
- (c) Regulation (EU) 2017/625; or

(a) OJ L 35, 8.2.2005, p. 1, as modified by Regulation (EU) 2019/1243 (OJ L 198, 25.7.2019, p. 241) and other legislation not relevant to these Regulations.

(b) OJ L 139, 30.4.2004, p.1, as modified by Regulation (EC) 219/2009 (OJ L 87, 31.3.2009, p. 109) and other legislation not relevant to these Regulations.

(c) OJ L 31, 1.2.2002, p. 1, as modified by Regulation (EU) 2017/745 (OJ L 117, 5.5.2017, p. 1) and other legislation not relevant to these Regulations.

(d) EUR 2017/625, as amended by S.I. 2020/1481, S.I. 2021/136, S.I. 2021/429, S.I. 2021/809, S.I. 2021/1096, S.I. 2021/1443, S.I. 2022/621, S.I. 2022/846, S.I. 2022/1315 and S.I. 2023/959.

(e) EUR 97/338, as amended by S.I. 2020/1395, S.I. 2020/1668, S.I. 2021/54, S.I. 2021/645 and S.I. 2023/106.

(f) EUR 2008/1005, as amended by S.I. 2019/739, S.I. 2019/753, S.I. 2019/1312 and S.I. 2020/1599.

(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(a).”.

Steve Baker
Minister of State
Cabinet Office

19th February 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the United Kingdom Internal Market Act 2020 and the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020.

Regulation 2 inserts four new sections into the United Kingdom Internal Market Act 2020.

New section 45A describes how provisions of the Act provide for unfettered access for qualifying Northern Ireland goods to the rest of the internal market of the United Kingdom.

New section 45B describes the position in relation to export procedures for goods moving from Northern Ireland to other parts of the United Kingdom’s internal market as set out in the Unilateral Declaration by the United Kingdom of Great Britain and Northern Ireland in the Withdrawal Agreement Joint Committee on export procedures for goods moving from Northern Ireland to other parts of the United Kingdom, dated 24 March 2023.

New section 45C describes how provisions of the Act make provision for the purpose of facilitating trade between Northern Ireland and the rest of the United Kingdom.

New section 46A provides that the Secretary of State may issue guidance to assist appropriate authorities in the exercise of the duty in section 46(1) of the Act.

Regulation 2 also replaces the meaning of an “NI-GB” check, control or administrative process set out in section 47(8) of the United Kingdom Internal Market Act 2020 and inserts a definition of “Windsor Framework” into section 58 of that Act.

Regulation 3 makes a number of amendments to the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020, which established the definition of “qualifying Northern Ireland goods” under section 8C(6) of the European Union (Withdrawal) Act 2018.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An explanatory memorandum has been published alongside this instrument at www.legislation.gov.uk.

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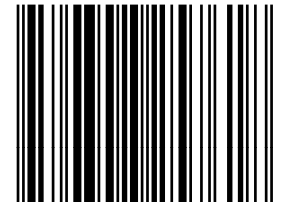
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(a) 1972 c 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018.

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