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STATUTORY INSTRUMENTS

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**2024 No. 163**

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

**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<sup>(1)</sup> (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) 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<sup>(2)</sup> 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<sup>(3)</sup> 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<sup>(4)</sup>;
    - “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<sup>(5)</sup>;
    - “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;

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(2) 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.

(3) 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.

(4) 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.

(5) 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.

“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<sup>(6)</sup>;
- (b) Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing<sup>(7)</sup>;
- (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<sup>(8)</sup>..”.

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<sup>(6)</sup> 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.

<sup>(7)</sup> EUR 2008/1005, as amended by S.I. 2019/739, S.I. 2019/753, S.I. 2019/1312 and S.I. 2020/1599.

<sup>(8)</sup> 1972 c 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018.