



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 5

NORTHERN IRELAND PROTOCOL

Northern Ireland's place in the UK internal market and customs territory

46 Northern Ireland's place in the UK internal market and customs territory

- (1) An appropriate authority must have special regard to the following matters when exercising any function for a relevant purpose—
 - (a) the need to maintain Northern Ireland's integral place in the United Kingdom's internal market;
 - (b) the need to respect Northern Ireland's place as part of the customs territory of the United Kingdom; and
 - (c) the need to facilitate the free flow of goods between Great Britain and Northern Ireland with the aim of—
 - (i) streamlining trade between Great Britain and Northern Ireland, and
 - (ii) maintaining and strengthening the integrity and smooth operation of the internal market in the United Kingdom.
- (2) A function is exercised for “a relevant purpose” if it is exercised for—
 - (a) the purpose of—
 - (i) implementing, or
 - (ii) otherwise dealing with matters arising out of, or related to, the Northern Ireland Protocol,
 - (b) the purpose of enabling or facilitating a purpose described in paragraph (a) to be achieved, or
 - (c) a purpose relating to movement of goods within the United Kingdom (including movement that involves movement in a country or territory outside the United Kingdom).

- (3) In this section “appropriate authority” means—
- (a) a Minister of the Crown;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers;
 - (d) the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;
 - (e) any other person who exercises functions of a public nature.

Unfettered access

47 Unfettered access to UK internal market for Northern Ireland goods

- (1) On or after IP completion day, an appropriate authority must not exercise any function in a way that would—
- (a) result in an existing kind of NI-GB check, control or administrative process being used—
 - (i) for the first time, or
 - (ii) for a new purpose or to a new extent; or
 - (b) result in a new kind of NI-GB check, control or administrative process—
 - (i) being introduced, or
 - (ii) being used.
- (2) This section does not prevent the exercise of a function if the exercise—
- (a) is necessary for the administration of arrangements which have the purpose of facilitating access for qualifying Northern Ireland goods to the internal market in the United Kingdom,
 - (b) is necessary to secure compliance with, or to give effect to, any international obligation or arrangement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it),
 - (c) is necessary where goods have been declared for a voluntary customs procedure,
 - (d) is necessary for the purposes of VAT or excise duty in consequence of the Northern Ireland Protocol,
 - (e) is necessary for the purpose of dealing with a threat to biosecurity in Great Britain, or
 - (f) is necessary for the purpose of dealing with a threat to food or feed safety in Great Britain.
- (3) Subsection (2)(b) authorises (in particular) the exercise of a function in relation to a check, control or administrative process if the exercise is necessary to secure compliance with, or to give effect to, Article 6(1) of the Northern Ireland Protocol.
- (4) For the purposes of this section the exercise of a function “is necessary for the purposes of VAT or excise duty in consequence of the Northern Ireland Protocol” if—
- (a) the appropriate authority exercising the functions is the Treasury, the Commissioners for Her Majesty’s Revenue and Customs, or the Director of Border Revenue,

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- (b) the function is exercised for the purposes of VAT or excise duty (including for the purposes of preventing double taxation, partial or complete non-taxation, or evasion), and
 - (c) the appropriate authority exercising the function considers that the exercise is necessary in consequence of the Northern Ireland Protocol.
- (5) For the purposes of this section the exercise of a function “is necessary for the purpose of dealing with a threat to biosecurity in Great Britain” if the exercise of the function consists of—
 - (a) the making, or operation, of legislation which satisfies the conditions set out in paragraph 1 of Schedule 1, or
 - (b) any other activity which satisfies the conditions set out in paragraph 1(2), (3), (4) and (6) of Schedule 1 (reading any reference in those conditions to “legislation” as a reference to the activity in question).
- (6) In determining for the purposes of subsection (5)(b) whether the condition in paragraph 1(3) of Schedule 1 is met, a pest or disease is to be taken to be present in Northern Ireland if it is, or may be, present in qualifying Northern Ireland goods (including when the goods are in Great Britain).
- (7) For the purposes of this section the exercise of a function “is necessary for the purpose of dealing with a threat to food or feed safety in Great Britain” if the exercise of the function consists of—
 - (a) the making, or operation, of legislation which satisfies the conditions set out in paragraph 2 of Schedule 1, or
 - (b) any other activity which satisfies the conditions set out in paragraph 2(2), (3), (4) and (6) of Schedule 1 (reading any reference in those conditions to “legislation” as a reference to the activity in question).
- (8) For the purposes of this section—
 - (a) an “NI-GB” check, control or administrative process is one applicable to the direct movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain;
 - (b) an “existing kind” of NI-GB check, control or administrative process is one that—
 - (i) was in use or available for use immediately before IP completion day, or
 - (ii) is the same as, or substantially similar to, one that was in use or available for use immediately before IP completion day (the “predecessor”);
 - (c) a “new kind of” NI-GB check, control or administrative process is one that is not of an existing kind;
 - (d) where an NI-GB check, control or administrative process is of an existing kind because of paragraph (b)(ii), that check, control or administrative process and the predecessor are to be treated as a single function for the purpose of determining whether subsection (1)(a) prevents its exercise;
 - (e) the purpose for which, or extent to which, a function would be used is “new” if the function has not been used for that purpose, or to that extent, before IP completion day.
- (9) A Minister of the Crown may by regulations amend this section so that it applies to a type of movement instead of, or in addition to, a type of movement to which it

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already applies (whether that type of movement is direct movement or another type of movement provided for by regulations under this subsection).

(10) Regulations under subsection (9) are subject to affirmative resolution procedure.

(11) In this section—

“appropriate authority” means—

- (a) a Minister of the Crown;
- (b) the Scottish Ministers;
- (c) the Welsh Ministers;
- (d) the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;
- (e) any other person who exercises functions of a public nature;

“declared for a voluntary customs procedure” means declared, in accordance with the Taxation (Cross-border Trade) Act 2018, for a special Customs procedure or temporary storage;

“direct movement” means movement that does not involve movement by land in a country or territory other than the United Kingdom;

“excise duty” means any excise duty under—

- (a) the Alcoholic Liquor Duties Act 1979,
- (b) the Hydrocarbon Oil Duties Act 1979, or
- (c) the Tobacco Products Duty Act 1979;

“qualifying Northern Ireland goods”—

- (a) has the same meaning that it has in the European Union (Withdrawal) Act 2018, including any meaning defined for the purposes of that Act from time to time by regulations made under the power conferred by section 8C(6) of that Act (and, if those regulations provide for different meanings to be defined for different purposes of that Act, regulations under section 8C(6) may make provision about the meaning or meanings that are to apply for the purposes of this section);
- (b) is to be taken to have had, immediately before IP completion day, the same meaning that it has (under paragraph (a)) at the time when this section comes into force.

State aid

48 Guidance on Article 10 of the Northern Ireland Protocol

(1) The Secretary of State must publish guidance on the practical application of Article 10 of the Northern Ireland Protocol (state aid).

(2) For that purpose Article 10 is to be read in the light of—

- (a) any relevant decision or recommendation of the Joint Committee, and
- (b) any relevant declaration that is made in the Joint Committee by either party, of which the other party takes note.

(3) The guidance must be published before the end of the period of one month beginning with the day on which this section comes into force.

- (4) A person with public functions relating to the implementation of Article 10 (including functions involving the provision of financial assistance or other subsidies) must have regard to the guidance when exercising such functions.
- (5) The Secretary of State may—
 - (a) revise or replace the guidance;
 - (b) if satisfied it is no longer necessary, withdraw the guidance.
- (6) In this section “Joint Committee” means the committee established by Article 164(1) of the EU withdrawal agreement.

49 Notification of state aid for the purposes of the Northern Ireland Protocol

- (1) No public authority apart from the Secretary of State may comply with a requirement of a provision of EU law applied to the United Kingdom by Article 10 of the Northern Ireland Protocol (state aid) to give the European Commission a notification or information relating to aid.
- (2) In subsection (1), “public authority” means a person who exercises functions of a public nature.