



European Union (Future Relationship) Act 2020

2020 CHAPTER 29

PART 2

TRADE AND OTHER MATTERS

Information about non-food product safety

14 Disclosure of non-food product safety information within UK

- (1) This section applies to information which relates to the safety of non-food products and is supplied by the European Commission, or such person as the Commission may specify by written notice to the Secretary of State, to a relevant authority for the purpose of giving effect to a provision of—
 - (a) Article TBT.9 of the Trade and Cooperation Agreement (including any annex to that Article), or
 - (b) a non-food product safety annex.
- (2) A relevant authority may disclose that information for a permitted purpose.
- (3) The following are the “permitted purposes” for the purpose of subsection (2)—
 - (a) to ensure health and safety,
 - (b) to ensure the protection of consumers, and
 - (c) to ensure the protection of the environment.
- (4) A person who receives information as a result of subsection (2) may not—
 - (a) use the information for a purpose other than a permitted purpose, or
 - (b) further disclose that information except with the consent of the relevant authority who disclosed the information.

15 Disclosure of non-food product safety information to Commission

- (1) This section applies to information held by a relevant authority which relates to the safety of non-food products.
- (2) A relevant authority may disclose information to the European Commission, or such person as the Commission may specify by written notice to the Secretary of State, for the purpose of giving effect to a provision of—
 - (a) Article TBT.9 of the Trade and Cooperation Agreement (including any annex to that Article), or
 - (b) a non-food product safety annex.

16 Offence relating to disclosure under section 14(4)(b)

- (1) A person commits an offence if the person, in contravention of section 14(4)(b), discloses information which relates to a person whose identity—
 - (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (2) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
 - (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public.
- (3) A prosecution for an offence under this section—
 - (a) may be brought in England and Wales only with the consent of the Director of Public Prosecutions;
 - (b) may be brought in Northern Ireland only with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (5) In relation to an offence committed before the commencement of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (4)(b)(i) to 12 months is to be read as a reference to 6 months.

17 General provisions about disclosure of non-food product safety information

- (1) Nothing in section 14 or 15 limits the circumstances in which information may be disclosed under any other enactment or rule of law.
- (2) A disclosure under section 14 or 15 does not breach—
 - (a) any obligation of confidence owed by the relevant authority, or

- (b) any other restriction on the disclosure of information (however imposed).
- (3) Nothing in this section, or in section 14 or 15, authorises a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, the powers conferred by sections 14(2) and 15(2) are to be taken into account).

18 Interpretation of sections 14 to 17

- (1) In sections 14 to 17 and this section—
 - “market surveillance” means any activity conducted or measure taken for the purpose of ensuring that a product complies with relevant legal requirements;
 - “market surveillance authority” means—
 - (a) a person in the United Kingdom with any function of carrying out market surveillance that is conferred by an enactment or rule of law, and
 - (b) a person in any other country or territory with any corresponding function;
 - “non-food product safety annex” means one of the following annexes to the Trade and Cooperation Agreement—
 - (a) TBT-1: Motor vehicles and equipment and parts thereof, or
 - (b) TBT-3: Chemicals;
 - “permitted purpose” has the meaning given by section 14(3);
 - “relevant authority” means—
 - (a) a Minister of the Crown, or
 - (b) the Health and Safety Executive;
 - “relevant legal requirements” means such requirements of the law relating to a product as apply in the territory in which the product is made available on the market, put into service or put into use.
- (2) For the purposes of sections 14 and 15 and this section, information which relates to the safety of non-food products includes—
 - (a) information about whether, and the extent to which, a non-food product complies, or may comply, with any—
 - (i) relevant legal requirement, or
 - (ii) other assessment that relates to product safety,
 - (b) information about developments, or potential developments, in the field of safety of non-food products, and
 - (c) the exercise of functions by market surveillance authorities in relation to non-food products.

Use of relevant international standards

19 Use of relevant international standards

Schedule 4 contains amendments about the use of international standards.

*Customs and tax***20 Disclosure of information and co-operation with other customs services**

(1) In the Customs and Excise Management Act 1979, after section 8 insert—

“8A Disclosure of customs information

- (1) HMRC (or anyone acting on their behalf) may disclose to any person information held by them in connection with HMRC’s customs functions if the disclosure is made for purposes that are connected with those functions.
- (2) In this section “HMRC’s customs functions” means HMRC’s functions in their capacity as a customs service and includes in particular their functions relating to—
 - (a) the movement of goods or cash into or out of the United Kingdom, and
 - (b) the imposition, enforcement or other regulation of import duty.
- (3) A person who receives information as a result of this section—
 - (a) may use it only for the purposes for which it was disclosed, and
 - (b) may not further disclose it without the consent of the Commissioners (which may be general or specific).
- (4) If—
 - (a) a person discloses information in contravention of subsection (3)(b), and
 - (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,
 section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to the disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.
- (5) Nothing in this section authorises a disclosure of information if the disclosure would contravene the data protection legislation or would be prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the power conferred by subsection (1) is to be taken into account).
- (6) In subsection (5)—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (7) Nothing in this section—
 - (a) applies to a disclosure made in the exercise of the power conferred by section 8B(1) or (2) of this Act (co-operation with other customs services);
 - (b) limits the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

(8) In this section—

“cash” means—

- (a) notes and coins in any currency, and
- (b) any bearer-negotiable or other monetary instrument;

“HMRC” means Her Majesty’s Revenue and Customs.

8B Co-operation with other customs services

(1) HMRC (or anyone acting on their behalf) may co-operate with any other customs service (whether by exchanging information or otherwise) on matters of mutual concern with a view to securing—

- (a) the administration of the import duty system,
- (b) the prevention or detection of evasion or other fraud relating to import duty, and
- (c) the prevention, reduction or elimination of avoidance of a liability to import duty.

(2) HMRC (or anyone acting on their behalf) may co-operate with any other customs service (whether by exchanging information or otherwise) for the purposes of implementing any international obligation of the United Kingdom.

(3) A person who receives information as a result of this section—

- (a) may use it only for the purposes of HMRC’s customs functions or the functions of the other customs service in question, and
- (b) may not further disclose it without the consent of the Commissioners (which may be general or specific).

(4) If—

- (a) a person discloses information in contravention of subsection (3)(b), and
- (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,

section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to the disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.

(5) Nothing in this section authorises a disclosure of information if the disclosure would contravene the data protection legislation or would be prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the powers conferred by subsections (1) and (2) are to be taken into account).

(6) In subsection (5)—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

(7) Nothing in this section limits the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

(8) In this section—

“HMRC’s customs functions” and “HMRC” have the same meaning as in section 8A;

“international obligation of the United Kingdom” includes any obligation of the United Kingdom that arises under an international agreement or arrangement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it).”

(2) In section 10 of that Act (disclosure by Commissioners of certain information as to imported goods), omit subsection (A1).

(3) In the Taxation (Cross-border Trade) Act 2018—

- (a) omit section 25 (disclosure of information);
- (b) omit section 26 (co-operation with other customs services);
- (c) (in consequence of the amendment made by subsection (2)), in Schedule 7 (consequential amendments) omit paragraph 8(2).

21 Powers to make regulations about movement of goods

(1) The Customs and Excise Management Act 1979 is amended as follows.

(2) After section 166 insert—

“Powers to make regulations about movement of goods

166A Regulations about movement of goods

(1) The Commissioners may by regulations make provision for the purpose of monitoring, or controlling, the movement of goods that pose, or might pose, a risk to—

- (a) public health or public safety,
- (b) national security, or
- (c) the environment (including the health of animals or plants).

(2) The Commissioners may by regulations make provision for the purpose of implementing any international obligation of the United Kingdom relating to the movement of goods.

(3) Regulations under subsection (1) or (2) may, in particular, include provision—

- (a) requiring records to be kept or information to be provided,
- (b) requiring declarations to be made,
- (c) requiring or authorising persons or vehicles to be searched,
- (d) requiring or authorising samples of goods to be taken,
- (e) requiring or authorising goods to be examined, sealed, locked, marked, seized, detained or disposed of, or
- (f) otherwise imposing restrictions or prohibitions with respect to the movement of goods.

(4) A reference in this section to the movement of goods is to their movement into or out of the United Kingdom or within the United Kingdom, and includes a reference to their loading or unloading.

- (5) In this section “international obligation of the United Kingdom” includes any obligation of the United Kingdom that arises under an international agreement or arrangement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it).
- (6) The power to make regulations under subsection (2) in relation to an international obligation arising under an international agreement or arrangement is capable of being exercised before the international agreement or arrangement comes into effect.

166B Authorised economic operators

- (1) Regulations under section 166A may include provision—
 - (a) disapplying or simplifying specified requirements imposed by the relevant legislation in relation to things required or authorised to be done by authorised economic operators, or
 - (b) requiring the Commissioners or the Treasury to have regard to the status of a person as an authorised economic operator when considering whether or not, or how, to exercise any power or other function for the purposes of the relevant legislation.
- (2) In this section—
 - “authorised economic operators” means persons authorised as such in accordance with provision made by the relevant legislation;
 - “the relevant legislation” means—
 - (a) this Act and subordinate legislation made under it, and
 - (b) provisions contained in “customs legislation” within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation).
- (3) Regulations made by virtue of this section may, in particular—
 - (a) specify the criteria to be applied in determining whether or not any person should be an authorised economic operator;
 - (b) specify those criteria by reference to professional standards of competence (as set by any specified person) or by reference to anything else (including the judgment of any person as to suitability);
 - (c) make provision for a person’s status as an authorised economic operator to be subject to compliance with conditions specified in the regulations or in the authorisation;
 - (d) establish different classes of authorised economic operator.

166C Regulations under sections 166A: further provision

- (1) Regulations under section 166A may—
 - (a) confer a discretion;
 - (b) authorise fees to be charged in respect of the exercise of a function of the Commissioners, the Treasury or another public body;
 - (c) make provision for enforcement, including provision about civil sanctions;

Status: This is the original version (as it was originally enacted).

- (d) make provision for reviews or appeals in relation to decisions made in the exercise of a function of the Commissioners, the Treasury or another public body;
 - (e) make different provision for different cases or circumstances or for different areas;
 - (f) make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) Regulations under section 166A may provide for requirements of an administrative nature relating to—
 - (a) any requirement or condition imposed by the regulations, or
 - (b) any declaration or application for which provision is made by the regulations,
 to be specified by a public notice.
- (3) The requirements that may be specified by virtue of subsection (2) include—
 - (a) requirements about keeping records and other evidence;
 - (b) requirements about the submission of evidence;
 - (c) requirements about the form and content of anything that must or may be provided;
 - (d) requirements about the manner in which, and the time within which, any such thing is to be provided.
- (4) Regulations under section 166A may not—
 - (a) impose or vary the amount of any duty or other form of taxation, or
 - (b) establish a public authority.
- (5) Regulations under section 166A may not include—
 - (a) provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament,
 - (b) provision that would be within the legislative competence of Senedd Cymru if it were included in an Act of Senedd Cymru, or
 - (c) provision that would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly,
 unless the provision is merely incidental to, or consequential on, provision that would be outside that legislative competence.
- (6) A power to make regulations under section 166A may be exercised by modifying any enactment.
- (7) In this section—
 - “enactment” has the same meaning as in the European Union (Future Relationship) Act 2020;
 - “modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);
 - “public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998.”
- (3) In section 172 (regulations)—
 - (a) in subsection (2), for “subsection (3)” substitute “subsections (3) and (4)”;

(b) after subsection (3) insert—

“(4) A statutory instrument containing (whether alone or with other provision) regulations under section 166A that amend (or repeal or revoke)—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) an Act or Measure of Senedd Cymru, or
- (d) Northern Ireland legislation,

may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.”

22 Administrative co-operation on VAT and mutual assistance on tax debts

- (1) The arrangements contained in the Protocol have effect (and do so in spite of anything in any enactment).
- (2) The Commissioners for Her Majesty’s Revenue and Customs are the competent authority in the United Kingdom responsible for the application of the Protocol.
- (3) A reference in any enactment to arrangements having effect by virtue of, or by virtue of an Order in Council under, section 173 of the Finance Act 2006 (international tax enforcement arrangements) includes a reference to arrangements having effect by virtue of this section.
- (4) In this section “the Protocol” means—
 - (a) the protocol, contained in the Trade and Cooperation Agreement, on administrative co-operation and combating fraud in the field of Value Added Tax and on mutual assistance for the recovery of claims relating to taxes and duties, and
 - (b) any decision or recommendation adopted by the Specialised Committee in accordance with that protocol.
- (5) In subsection (4)—
 - (a) a reference to the Trade and Cooperation Agreement or to any provision of it is to that agreement or provision as it has effect at the relevant time;
 - (b) a reference to a decision or recommendation adopted by the Specialised Committee in accordance with any provision is to a decision or recommendation so adopted at or before the relevant time.
- (6) In subsection (5) “the relevant time” means the time at which the protocol mentioned in subsection (4)(a) comes into effect (or, if it comes into effect at different times for different purposes, the earliest such time).
- (7) The Commissioners for Her Majesty’s Revenue and Customs may by regulations amend subsection (6) so as to substitute a later time for that for the time being specified there.

*Transport***23 Licences for access to the international road haulage market**

In Regulation (EC) No. 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market, for the model licence set out in Annex 2 (UK licence for the Community model) substitute the model licence set out in Part B of Appendix Road.A.1.3 to Annex Road-1 to the Trade and Cooperation Agreement.

24 International road haulage

- (1) The 2009 Regulation is amended in accordance with this section.
- (2) In Article 2(2) (meaning of “international carriage”), as amended by regulation 13(3) (b) of the 2019 regulations—
 - (a) in point (e), omit “or”;
 - (b) at the end of point (f), insert “; or
 - (g) a laden journey undertaken by a vehicle from the United Kingdom between two Member States which follows a journey referred to in point (a).”
- (3) In Article 8 (general principle of cabotage), as amended by regulation 13(9) of the 2019 regulations, in paragraph 2, for “three cabotage operations”, in each place it appears, substitute “two cabotage operations”.
- (4) In this section—

“the 2009 Regulation” means Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market;

“the 2019 regulations” means the Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/708).

25 Disclosure of data relating to drivers’ cards for tachographs

- (1) The Secretary of State may disclose data from the GB electronic register in accordance with—
 - (a) Article 13(2) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (interconnection and accessibility of electronic registers of data relating to drivers’ cards for tachographs), or
 - (b) Article 13(4) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (access for control officers to electronic registers of data relating to drivers’ cards for tachographs).
- (2) The Department for Infrastructure may disclose data from the NI electronic register in accordance with—
 - (a) Article 13(2) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (interconnection and accessibility of electronic registers of data relating to drivers’ cards for tachographs), or
 - (b) Article 13(4) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (access for control officers to electronic registers of data relating to drivers’ cards for tachographs).

- (3) A disclosure under this section does not breach—
 - (a) any obligation of confidence owed by the Secretary of State or the Department for Infrastructure, or
 - (b) any other restriction on the disclosure of data (however imposed).
- (4) Nothing in this section authorises the making of a disclosure which contravenes the data protection legislation (save that the power conferred by this section is to be taken into account in determining whether any disclosure contravenes that legislation).
- (5) Nothing in this section limits the circumstances in which data may be disclosed under any other enactment or rule of law.
- (6) In this section—
 - “GB electronic register” means any electronic register maintained by the Secretary of State in accordance with Article 13(1) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (maintenance of electronic registers of data relating to drivers’ cards for tachographs);
 - “NI electronic register” means any electronic register maintained by the Department for Infrastructure in accordance with Article 13(1) of Section 2 of Appendix Road.C.1.1 to the Trade and Cooperation Agreement (maintenance of electronic registers of data relating to drivers’ cards for tachographs).

Social security

26 Social security co-ordination

- (1) The following provisions of the Trade and Cooperation Agreement, in its English language version, form part of domestic law on and after the relevant day—
 - (a) the SSC Protocol;
 - (b) Title I of Heading 4 of Part 2 (Trade);
 - (c) Articles COMPROV.17 and FINPROV.2, so far as applying to the SSC Protocol.
- (2) Any enactment has effect on and after the relevant day with such modifications as—
 - (a) are required in consequence of subsection (1) or otherwise for the purposes of implementing the provisions mentioned in that subsection, and
 - (b) are capable of being ascertained from those provisions or otherwise from the Trade and Cooperation Agreement.
- (3) Subsections (1) and (2)—
 - (a) are subject to any equivalent or other provision—
 - (i) which (whether before, on or after the relevant day) is made by or under this Act or any other enactment or otherwise forms part of domestic law, and
 - (ii) which is for the purposes of (or has the effect of) implementing to any extent the Trade and Cooperation Agreement or any other future relationship agreement, and
 - (b) do not limit the scope of any power which is capable of being exercised to make any such provision.
- (4) The references to the Trade and Cooperation Agreement in—

- (a) subsections (1) and (2), and
 - (b) the definition of “the SSC Protocol” in subsection (5),
- are (except as provided in that definition) references to the agreement as it has effect on the relevant day.

(5) In this section—

“domestic law” means—

- (a) in subsection (1), the law of England and Wales, Scotland and Northern Ireland, and
- (b) in subsection (3)(a)(i), the law of England and Wales, Scotland or Northern Ireland;

“relevant day”, in relation to any provision mentioned in subsection (1) or any aspect of it, means—

- (a) so far as the provision or aspect concerned is provisionally applied before it comes into force, the time and day from which the provisional application applies, and
- (b) so far as the provision or aspect concerned is not provisionally applied before it comes into force, the time and day when it comes into force;

“the SSC Protocol” means the Protocol on Social Security Coordination contained in the Trade and Cooperation Agreement, as that protocol is modified or supplemented from time to time in accordance with Article SSC.11(6), Article SSC.11(8) or Article SSC.68 of that protocol;

and references to the purposes of (or having the effect of) implementing an agreement (or any provision of an agreement) include references to the purposes of (or having the effect of) making provision consequential on any such implementation.

Privileges and immunities

27 The EU and Euratom and related organisations and bodies

(1) Section 4B of the International Organisations Act 1968 (bodies established under the Treaty on European Union) is amended in accordance with this section.

(2) For the title substitute “The EU and Euratom and related organisations and bodies”.

(3) For subsection (1) substitute—

“(1) This section applies to—

- (a) the European Union,
- (b) Euratom, or
- (c) any EU or Euratom organisation or body,

if the United Kingdom, or Her Majesty’s Government in the United Kingdom, has obligations in relation to it by virtue of any agreement to which the United Kingdom, or Her Majesty’s Government in the United Kingdom, is a party (whether made with another sovereign Power or the Government of such a Power or not).”

(4) In subsection (2)—

- (a) in the words before paragraph (a), for “a specified body to which this section applies” substitute “the European Union, Euratom or an EU or Euratom organisation or body if this section applies to it and it is specified”;

- (b) in paragraph (a), and in paragraph (b) (in both places), for “body” substitute “it”;
 - (c) in paragraph (b), for “subsection (1)(b)” substitute “subsection (1)”.
- (5) In subsection (3)—
- (a) in paragraph (a), for “body’s officers or staff” substitute “officers or staff of the European Union, Euratom or the EU or Euratom organisation or body”;
 - (b) in paragraph (b), for “the body” substitute “it”.
- (6) After subsection (3) insert—
- “(3A) The power conferred by subsection (2) includes power to make such provision (including provision amending any retained EU law) as Her Majesty in Council considers appropriate in consequence of any provision of the kind referred to in subsection (2)(a) to (c).”
- (7) In subsection (4), for “section, “specified”” substitute “section—
- “body” includes a delegation or office;
 - “EU or Euratom organisation or body” means—
- (a) an organisation or body which is established by or on behalf of the EU or Euratom (or by or on behalf of them jointly), or
 - (b) any other organisation or body in relation to which the United Kingdom, or Her Majesty’s Government in the United Kingdom, had obligations immediately before IP completion day by virtue of the United Kingdom’s relationship with the EU or Euratom (or with both of them);
- “specified””.

Energy

28 Nuclear Cooperation Agreement

- (1) In regulation 3 of the Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2019 ([S.I. 2019/195](#)) (relevant international agreements)—
- (a) after paragraph (g) insert—
 - “(h) the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the European Atomic Energy Community for cooperation on the safe and peaceful uses of nuclear energy;”, and
 - (b) in the words after the paragraphs, for “(g)” substitute “(h)”.
- (2) In regulation 49 of the Nuclear Safeguards (EU Exit) Regulations 2019 ([S.I. 2019/196](#)) (interpretation of Part 13), in the definition of “specified international agreement”, for “paragraphs (c) to (f)” substitute “any of paragraphs (c) to (f) and (h)”.