



European Union (Future Relationship) Act 2020

2020 CHAPTER 29

PART 2

TRADE AND OTHER MATTERS

Customs and tax

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,

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- (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;
 - (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—

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“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.”