



# Trade Act 2021

## 2021 CHAPTER 10

### PART 1

#### INTERNATIONAL TRADE AGREEMENTS

#### **1 Implementation of the Agreement on Government Procurement**

- (1) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) for the purpose of implementing the Agreement on Government Procurement signed at Marrakesh on 15 April 1994, as amended on or before the United Kingdom's accession (“the GPA”), or
  - (b) in consequence of—
    - (i) the accession of another party to, or the withdrawal of a party from, the GPA,
    - (ii) a dispute between the United Kingdom and another party to the GPA,
    - (iii) a modification of another party's Appendix I to the GPA, or
    - (iv) a modification of the list of central government entities in Annex 1 to the United Kingdom's Appendix I to the GPA.
- (2) Regulations under subsection (1) may not come into force before—
  - (a) in the case of regulations under subsection (1)(a), the day the United Kingdom accedes to the GPA;
  - (b) in the case of regulations under subsection (1)(b)(i), the day the other party accedes to or, as the case may be, withdraws from, the GPA;
  - (c) in the case of regulations under subsection (1)(b)(iii) or (iv), the day the modification becomes effective.
- (3) Regulations under subsection (1) may make provision modifying [<sup>F1</sup>assimilated direct principal] legislation.
- (4) In this section, a “dispute” means a matter in respect of which the United Kingdom or another party is entitled to have recourse to the Understanding on Rules and Procedures Governing the Settlement of Disputes under Article XX of the GPA.

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*Changes to legislation: There are currently no known outstanding effects for the Trade Act 2021, PART 1. (See end of Document for details)*

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### Textual Amendments

- F1** Words in s. 1(3) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), [Sch. para. 98\(2\)](#)

### Commencement Information

- II** [S. 1](#) in force at 6.5.2021 by [S.I. 2021/550](#), [reg. 2\(a\)](#)

## 2 Implementation of international trade agreements

- (1) An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing an international trade agreement to which the United Kingdom is a signatory.
- (2) An “international trade agreement” means—
  - (a) a free trade agreement, or
  - (b) an international agreement that mainly relates to trade, other than a free trade agreement.
- (3) Regulations under subsection (1) may make provision for the purpose of implementing a free trade agreement only if the other signatory (or each other signatory) and the European Union were signatories to a free trade agreement immediately before exit day.
- (4) Regulations under subsection (1) may make provision for the purpose of implementing an international trade agreement other than a free trade agreement only if the other signatory (or each other signatory) and the European Union were signatories to an international trade agreement immediately before exit day.
- (5) If regulations under subsection (1) contain provision about healthcare services, the provision must be consistent with maintaining UK publicly-funded clinical healthcare services.
- (6) If regulations under subsection (1) contain provision in any of the areas listed in subsection (7), the provision must be consistent with maintaining UK levels of statutory protection in that area.
- (7) The areas referred to in subsection (6) are—
  - (a) the protection of human, animal or plant life or health;
  - (b) animal welfare;
  - (c) environmental protection;
  - (d) employment and labour;
  - (e) data protection;
  - (f) the protection of children and vulnerable adults online.
- (8) Regulations under subsection (1) may not make provision that could be made by regulations under section 9 of the Taxation (Cross-border Trade) Act 2018.
- (9) Regulations under subsection (1) may, among other things, make provision—
  - (a) modifying [<sup>F2</sup>assimilated direct principal] legislation or primary legislation that is [<sup>F3</sup>assimilated] law;

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- (b) conferring functions on the Secretary of State or any other person, including conferring a discretion but not including a power to make subordinate legislation;
  - (c) for the delegation of functions;
  - (d) for civil penalties for failing to comply with the regulations.
- (10) No regulations may be made under subsection (1) after the end of—
- (a) the period of five years beginning with IP completion day (“the initial five year period”), or
  - (b) such other period or periods as are specified in regulations made by the Secretary of State in accordance with subsection (11).
- (11) Regulations under subsection (10)(b) may not extend the initial five year period, or a further period specified in regulations under that subsection, by more than five years.
- (12) In this section—
- “UK publicly-funded clinical healthcare services” means publicly-funded clinical healthcare services provided in the United Kingdom, or in the part of the United Kingdom in which the regulations have effect, on the date on which a draft of the regulations is laid;
- “UK levels of statutory protection” means levels of protection provided by or under—
- (a) primary legislation,
  - (b) subordinate legislation, or
  - (c) [<sup>F4</sup>assimilated direct] legislation,
- which has effect in the United Kingdom, or in the part of the United Kingdom in which the regulations have effect, on the date on which a draft of the regulations is laid.

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#### Textual Amendments

- F2** Words in s. 2(9) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 98(3)(a)**
- F3** Word in s. 2(9) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 98(3)(b)**
- F4** Words in s. 2(12) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 98(3)(c)**

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#### Commencement Information

- I2** S. 2 in force at 6.5.2021 by [S.I. 2021/550](#), **reg. 2(b)**

### 3 Free trade agreements and genocide

- (1) Subsection (2) applies if the responsible committee of the House of Commons publishes a report which—
- (a) states that there exist credible reports of genocide in the territory of a prospective FTA counter-party, and
  - (b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.

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- (2) If, after receiving a response from the Secretary of State, the committee publishes a report which—
- (a) includes a statement to the effect that the committee is not satisfied by the Secretary of State's response, and
  - (b) sets out the wording of a motion to be moved in the House of Commons in accordance with subsection (3),
- subsection (3) applies.
- (3) A Minister of the Crown must make arrangements for the motion mentioned in subsection (2)(b) to be debated and voted on by the House of Commons.
- (4) Subsection (5) applies if the responsible committee of the House of Lords publishes a report which—
- (a) states there exist credible reports of genocide in the territory of a prospective FTA counter-party, and
  - (b) confirms that, in preparing the report, the committee has taken such evidence as it considers appropriate.
- (5) If, after receiving a response from the Secretary of State, the committee publishes a statement to the effect that—
- (a) it is not satisfied by the Secretary of State's response, and
  - (b) it seeks a debate on the report,
- subsection (6) applies.
- (6) A Minister of the Crown must make arrangements for a motion for the House of Lords to take note of the report and the Secretary of State's response to be moved in that House by a Minister of the Crown.
- (7) References in this section to genocide are references to genocide occurring, or continuing, after this section comes into force.
- (8) In this section—
- “genocide” has the same meaning as in the Convention on the Prevention and Punishment of the Crime of Genocide (see Article 2 of the Convention);
- “prospective FTA counter-party” means a state with which the United Kingdom is engaged in formal negotiations for a bilateral free trade agreement;
- “the responsible committee of the House of Commons” means the select committee of the House of Commons charged with responsibility for this section;
- “the responsible committee of the House of Lords” means the select committee of the House of Lords charged with responsibility for this section.

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**Commencement Information**

**I3** S. 3 in force at 30.6.2021 by S.I. 2021/550, reg. 4(a)

**4 Regulations: devolved authorities and general provision**

- (1) Regulations under section 1(1) or 2(1) may—
- (a) make different provision for different purposes or areas;

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- (b) make provision generally or only in relation to specified cases;
  - (c) make incidental, supplementary or consequential provision;
  - (d) make transitional, transitory or saving provision.
- (2) Schedule 1 contains restrictions on the exercise of the powers in sections 1(1) and 2(1) by devolved authorities.
- (3) Schedule 2 contains provision about the making of regulations under sections 1(1) and 2.
- (4) Schedule 3 contains exceptions to restrictions in the devolution settlements for regulations made under section 1(1) or 2(1).

**Commencement Information**

**I4** S. 4 in force at 6.5.2021 by [S.I. 2021/550](#), [reg. 2\(c\)](#)

## 5 Interpretation of Part 1

- (1) In this Part—
- “appropriate authority” means—
    - (a) a Minister of the Crown, or
    - (b) a devolved authority;
  - “devolved authority” means—
    - (a) the Scottish Ministers,
    - (b) the Welsh Ministers, or
    - (c) a Northern Ireland department;
  - “free trade agreement” means an agreement that is or was notifiable under—
    - (a) paragraph 7(a) of Article XXIV of GATT, or
    - (b) paragraph 7(a) of Article V of GATS;
  - “GATS” means the General Agreement on Trade in Services, part of Annex 1B to the WTO Agreement (as modified from time to time);
  - “GATT” means the General Agreement on Tariffs and Trade, part of Annex 1A to the WTO Agreement (as modified from time to time);
  - “primary legislation” means—
    - (a) an Act of Parliament,
    - (b) an Act of the Scottish Parliament,
    - (c) a Measure or Act of Senedd Cymru, or
    - (d) Northern Ireland legislation;
  - “subordinate legislation” has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018;
  - “the WTO Agreement” means the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.
- (2) In this Part a reference to being a signatory to an international trade agreement includes a reference to—
- (a) exchanging instruments, where the exchange constitutes the agreement;
  - (b) acceding to the agreement.

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- (3) In this Part a reference to a draft of regulations being laid is a reference to a draft of the regulations, or a draft of the instrument containing the regulations, being laid before—
  - (a) each House of Parliament, in the case of regulations to which paragraph 4(1) or 5 of Schedule 2 applies;
  - (b) the Scottish Parliament, in the case of regulations to which paragraph 4(2) of Schedule 2 applies;
  - (c) Senedd Cymru, in the case of regulations to which paragraph 4(3) of Schedule 2 applies;
  - (d) the Northern Ireland Assembly, in the case of regulations to which paragraph 4(4) of Schedule 2 applies.

<sup>F5</sup>(4) .....

- (5) In this section, “domestic law” means the law of England and Wales, Scotland or Northern Ireland.

**Textual Amendments**

**F5** Words in s. 5(4) omitted (1.1.2024) by virtue of [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 98(4)**

**Commencement Information**

**I5** S. 5 in force at 6.5.2021 by [S.I. 2021/550](#), **reg. 2(d)**

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Act 2021, PART 1.