



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

An Act to make provision in connection with the internal market for goods and services in the United Kingdom (including provision about the recognition of professional and other qualifications); to make provision in connection with provisions of the Northern Ireland Protocol relating to trade and state aid; to authorise the provision of financial assistance by Ministers of the Crown in connection with economic development, infrastructure, culture, sport and educational or training activities and exchanges; to make regulation of the provision of distortive or harmful subsidies a reserved or excepted matter; and for connected purposes. [17th December 2020]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PROSPECTIVE

PART 1

UK MARKET ACCESS: GOODS

Introductory

1 Purpose of Part 1

- (1) This Part promotes the continued functioning of the internal market for goods in the United Kingdom by establishing the United Kingdom market access principles.
- (2) The United Kingdom market access principles are—
 - (a) the mutual recognition principle for goods (see sections 2 to 4), and
 - (b) the non-discrimination principle for goods (see sections 5 to 9).

Status: This version of this Act contains provisions that are prospective.

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- (3) Those principles have no direct legal effect except as provided by this Part.

Mutual recognition: goods

2 The mutual recognition principle for goods

- (1) The mutual recognition principle for goods is the principle that goods which—
- (a) have been produced in, or imported into, one part of the United Kingdom (“the originating part”), and
 - (b) can be sold there without contravening any relevant requirements that would apply to their sale,
- should be able to be sold in any other part of the United Kingdom, free from any relevant requirements that would otherwise apply to the sale.
- (2) Where goods are to be sold in a particular way in the other part of the United Kingdom, the condition in subsection (1)(b) has effect as if the reference to “their sale” were a reference to their sale in that particular way.
- So, for example, if goods are to be sold by auction, the condition is met if (and only if) they can be sold by auction in the originating part without contravening any applicable relevant requirements there.
- (3) Where the principle applies in relation to a sale of goods in a part of the United Kingdom because the conditions in subsection (1)(a) and (b) are met, any relevant requirements there do not apply in relation to the sale.

3 Relevant requirements for the purposes of section 2

- (1) This section defines “relevant requirement” for the purposes of the mutual recognition principle for goods as it applies in relation to a particular sale of goods in a part of the United Kingdom.
- (2) A statutory requirement in the part of the United Kingdom concerned which—
- (a) prohibits the sale of the goods or, in the case of an obligation or condition, results in their sale being prohibited if it is not complied with, and
 - (b) is within the scope of the mutual recognition principle,
- is a relevant requirement in relation to the sale unless excluded from being a relevant requirement by any provision of this Part.
- (3) A statutory requirement is within the scope of the mutual recognition principle if it relates to any one or more of the following—
- (a) characteristics of the goods themselves (such as their nature, composition, age, quality or performance);
 - (b) any matter connected with the presentation of the goods (such as the name or description applied to them or their packaging, labelling, lot-marking or date-stamping);
 - (c) any matter connected with the production of the goods or anything from which they are made or is involved in their production, including the place at which, or the circumstances in which, production or any step in production took place;

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- (d) any matter relating to the identification or tracing of an animal (such as marking, tagging or micro-chipping or the keeping of particular records);
 - (e) the inspection, assessment, registration, certification, approval or, authorisation of the goods or any other similar dealing with them;
 - (f) documentation or information that must be produced or recorded, kept, accompany the goods or be submitted to an authority;
 - (g) anything not falling within paragraphs (a) to (f) which must (or must not) be done to, or in relation to, the goods before they are allowed to be sold.
- (4) A manner of sale requirement is not within the scope of the mutual recognition principle unless subsection (6) applies.
- (5) For this purpose a “manner of sale requirement” is a statutory requirement that governs any aspect of the circumstances or manner in which the goods are sold (such as where, when, by whom, to whom, or the price or other terms on which they may be sold).
- (6) A statutory requirement that—
- (a) is worded as a manner of sale requirement, but
 - (b) appears to be designed artificially to avoid the operation of the mutual recognition principle in relation to what would otherwise be a requirement within the scope of that principle,
- is to be regarded as a relevant requirement, despite subsection (4).
- This subsection would apply, for example, where a manner of sale requirement involves an unusually restrictive condition such that it would be impossible to comply with the condition and have a practical chance of selling the goods.
- (7) A statutory requirement which requires the person selling or acquiring the goods to keep or submit, after the sale takes place, any documentation or information required to be produced or recorded beforehand is to be treated as a relevant requirement relating to the sale.
- (8) In this Part “statutory requirement” means an obligation, a condition or a prohibition (however described) imposed by legislation (including legislation imposing mandatory terms into contracts for the sale of goods).

4 Exclusion of certain requirements existing before commencement

- (1) A statutory requirement in a part of the United Kingdom (“the relevant part”) which—
- (a) applies in relation to a particular sale of goods in that part of the United Kingdom, and
 - (b) would otherwise fall within section 3 as a relevant requirement,
- is not a relevant requirement (so far as relating to the sale) for the purposes of the mutual recognition principle where the conditions in subsection (2) are met.
- (2) The conditions are that, on the relevant day —
- (a) the same statutory requirement would have applied in relation to the sale if it had taken place on that day, and
 - (b) there was no corresponding requirement in force in each of the other three parts of the United Kingdom.
- (3) For the purposes of subsection (2) “the relevant day” is the day before the day on which this section comes into force.

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- (4) The re-enactment (without substantive change) of a statutory requirement does not affect its continuity for the purposes of subsection (2)(a).
- (5) For the purposes of subsection (2)(b) “corresponding requirement”, in relation to the statutory requirement in the relevant part of the United Kingdom, means a statutory requirement in another part of the United Kingdom that would have had the same effect in relation to the sale (if it had taken place there on the relevant day).
- (6) For the purposes of subsections (2) and (5) a statutory requirement is to be regarded as the same as another statutory requirement, or having the same effect, if any differences between them are not substantive.

Non-discrimination: goods

5 The non-discrimination principle for goods

- (1) The non-discrimination principle for goods is the principle that the sale of goods in one part of the United Kingdom should not be affected by relevant requirements that directly or indirectly discriminate against goods that have a relevant connection with another part of the United Kingdom.
- (2) For the purposes of the application of that principle in any given case—
 - (a) the part of the United Kingdom where sale should not be affected is referred to as the “destination part”;
 - (b) the goods that have a relevant connection with another part of the United Kingdom are referred to as the “incoming goods”;
 - (c) that other part is referred to as the “originating part”.
- (3) A relevant requirement (see section 6) is of no effect in the destination part if, and to the extent that, it directly or indirectly discriminates against the incoming goods (see sections 7 and 8).
- (4) Goods have a relevant connection with a part of the United Kingdom if they or any of their components—
 - (a) are produced in that part,
 - (b) are produced by a business based in that part, or
 - (c) come from, or pass through, that part before reaching the destination part.
- (5) For the purposes of this Part—
 - (a) “components” includes parts, ingredients and constituent materials;
 - (b) a business is “based”—
 - (i) where its registered office is,
 - (ii) if it does not have a registered office, where its head office is, or
 - (iii) if it has neither a registered office nor a head office, where its principal place of business is.

6 Relevant requirements for the purposes of the non-discrimination principle

- (1) This section defines “relevant requirement” for the purposes of the non-discrimination principle for goods.

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- (2) A relevant requirement, for the purposes of the principle as it has effect in relation to a part of the United Kingdom, is a statutory provision that—
 - (a) applies in that part of the United Kingdom to, or in relation to, goods sold in that part, and
 - (b) is within the scope of the non-discrimination principle.
- (3) A statutory provision is within the scope of the non-discrimination principle if it relates to any one or more of the following—
 - (a) the circumstances or manner in which goods are sold (such as where, when, by whom, to whom, or the price or other terms on which they may be sold);
 - (b) the transportation, storage, handling or display of goods;
 - (c) the inspection, assessment, registration, certification, approval or authorisation of the goods or any similar dealing with them;
 - (d) the conduct or regulation of businesses that engage in the sale of certain goods or types of goods.
- (4) A statutory provision is not a relevant requirement—
 - (a) to the extent that it is a relevant requirement for the purposes of the mutual recognition principle for goods (see section 3), or
 - (b) if section 9 (exclusion of certain existing provisions) so provides.
- (5) The Secretary of State may by regulations amend subsection (3) so as to add, vary or remove a paragraph of that subsection.
- (6) Regulations under subsection (5) are subject to affirmative resolution procedure.
- (7) Before making regulations under subsection (5) the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (8) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.
- (9) If regulations are made in reliance on subsection (8), the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned.
- (10) In this section “statutory provision” means provision contained in legislation.

7 The non-discrimination principle: direct discrimination

- (1) A relevant requirement directly discriminates against incoming goods if, for the reason that the goods have the relevant connection with the originating part, the requirement applies to, or in relation to, the incoming goods in a way—
 - (a) in which it does not or would not apply to local goods, and
 - (b) that puts the incoming goods at a disadvantage compared to local goods.
- (2) Goods are put at a disadvantage if it is made in any way more difficult, or less attractive, to sell or buy the goods or do anything in connection with their sale.
- (3) “Local goods”, for the purposes of this section, are actual or hypothetical goods that—