Draft Regulations laid before Parliament under paragraphs 1(1) and 8F(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No.0000

EXITING THE EUROPEAN UNION

TRADE

CUSTOMS

The Common Rules for Exports (EU Exit) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) and 8C(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**).

In accordance with paragraphs 1(1) and 8F(1) of Schedule 7 to that Act, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the Common Rules for Exports (EU Exit) Regulations 2020.

(2) They come into force on IP completion day.

(3) The amendments made by Part 2 of these Regulations apply to the export of products from Great Britain only.

(**a**) 2018 c. 16. *See* section 20 of the European Union (Withdrawal) Act 2018 for the meaning given to "exit day". Section 20 was amended by regulation 2 of S.I. 2019/718, regulations 1 and 2(2) of S.I. 2019/859 and regulation 2 of S.I. 2019/1423.

PART 2

Amendment of retained direct EU legislation

Amendment of Regulation (EU) 2015/479 of the European Parliament and the Council on common rules for exports

2.—(1) Regulation (EU) 2015/479 of the European Parliament and the Council on common rules for exports is amended as follows.

(2) In Article 1, for "Union to third countries", substitute "Great Britain".

(3) Omit Chapter 2.

(4) For Article 5, substitute—

"Article 5

1. The Secretary of State may, in order to prevent a critical situation arising on account of a shortage of essential products or to remedy such a situation, make regulations which provide for the export of a product to be subject to the production of an export authorisation, the granting of which is subject to such limits as the regulations may prescribe, having regard to the nature of the product or other particular features of the transaction in question.

2. Regulations under paragraph 1—

(a) may provide for any measures imposed by them to be limited to exports to certain countries or to exports from certain regions of Great Britain;

(b) must provide that any measures imposed by them do not apply to products already on the way to the United Kingdom border for the purposes of export at the time when those regulations come into force.

3. Regulations under paragraph 1 must also provide that they are to cease to have effect at whichever is the earlier of —

(a) the end of the period of six weeks beginning with the date on which those regulations come into force; or

(b) the date on which regulations under Article 6 come into force in respect of the same shortage of essential products.".

(5) For Article 6, substitute—

"Article 6

1. The Secretary of State may, where the interests of the United Kingdom so require, make regulations providing for measures to—

(a) prevent a critical situation from arising owing to a shortage of essential products or to remedy such a situation; or

(b) allow international undertakings entered into by the United Kingdom to be fulfilled, in particular relating to trade in primary products.

2. Regulations under paragraph 1—

(a) may make provision which is limited in its effect to exports to certain countries or to exports from certain regions of Great Britain;

(b) must not contain any provision which applies to products which are already on their way to the United Kingdom border for the purposes of export at the time when those regulations come into force.

3. When making regulations under paragraph 1 which introduce quantitative restrictions on exports, the Secretary of State must take account of—

(a) the volume of goods exported under contracts concluded on normal terms and conditions before the entry into force of the protective measure; and

(b) the need to avoid jeopardising the achievement of the aim pursued in introducing quantitative restrictions.

4. In paragraph 1, "primary products" include unprocessed agricultural products and raw materials.".

(6) In Article 7—

(a) in paragraph 1—

(i) in the words before point (a)—

(aa) for "any measure referred to in Articles 5 and 6", substitute "any measure imposed by regulations under Articles 5 and 6";

(bb) for "the Commission may", substitute "the Secretary of State must";

(cc) omit ", either at the request of a Member State or on its own initiative";

(ii) omit the sentence after point (b);

(b) omit paragraph 2.

(7) After Article 7, insert—

"Article 7A

1. Regulations made under Article 5 or 6 must be contained in a statutory instrument.

2. Regulations made under Article 5 or 6 may make—

(a) different provision with respect to different cases or descriptions of case, including different provision for different areas;

(b) incidental, supplementary or consequential provision;

(c) transitional, transitory or saving provision.

3. A statutory instrument containing regulations under Article 5 is subject to annulment in pursuance of a resolution of either House of Parliament.

4. A statutory instrument containing regulations under Article 6—

(a) must be laid before Parliament after being made;

(b) if not approved by resolution of each House of Parliament before the end of the period of 40 days beginning with the date on which it is made, ceases to have effect at the end of that period (but without affecting anything done under the regulations or the power to make new regulations).

5. In calculating the period of 40 days for the purposes of paragraph 4(b), no account is to be taken of any time during which Parliament is dissolved or during which both Houses are adjourned for more than four days.".

(8) Omit Articles 8 and 9.

(9) In Article 10—

(a) for "Without prejudice to other Union provisions, this Regulation", substitute "This Regulation";

(b) omit "by a Member State".

(10) In Article 11—

(a) in the first paragraph, omit ", or of the special instruments adopted under Article 352 of the Treaty for processed agricultural products";

(b) in the second paragraph—

(i) for "Union", substitute "United Kingdom";

(ii) for "trade with third countries", substitute "international trade";

(iii) omit from the words "Article 4" to the end.

(11) In Article 12, omit the second paragraph.

(12) After Article 13, omit the words from "This Regulation shall" to "all Member States.".

(13) Omit Annexes 1, 2 and 3.

Signed by authority of the Secretary of State

Name
Title
Department for International Trade

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) ("the Act") (in particular under section 8(2)(a), (b), (c), (d), (e) and (g)) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. These Regulations are also made under section 8C(1) of the Act in order to implement the Protocol on Ireland/Northern Ireland to the EU Withdrawal Agreement ("the Protocol"). They make amendments to the retained domestic version of Regulation (EU) 2015/479 of the European Parliament and of the Council dated 11th March 2015 ("the EU Regulation"), which applies in Great Britain after IP completion day. Regulation (EU) 2015/479 is EU legislation listed in Annex 2 of the Protocol which, by virtue of section 7A of the Act and Annex 2 of the Protocol, continues to be directly applicable in Northern Ireland after IP completion day.

Part 2 of the Regulations make amendments to the retained domestic version of Regulation, (EU) 2015/479, as it applies in Great Britain after IP completion day. The amendments relate to export prohibition or restriction measures which may be applied to exports from Great Britain so as to prevent or remedy critical situations arising due to shortages of essential products. Part 2 also confers powers on the Secretary of State to make regulations providing for the application of such export prohibition or restriction measures.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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