



EXPLANATORY NOTES

United Kingdom Internal Market Act 2020

Chapter 27

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UNITED KINGDOM INTERNAL MARKET ACT 2020

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the United Kingdom Internal Market Act 2020 (c. 27) which received Royal Assent on 17 December 2020.

- These Explanatory Notes have been prepared by the Department for Business, Energy and Industrial Strategy in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The purpose of the United Kingdom Internal Market Act is to preserve the United Kingdom's (UK's) internal market as powers previously exercised at European Union (EU) level return to the UK, providing continued certainty for people and businesses that they can work and trade freely across the whole of the UK.

Policy background

- 2 In January 2020 the UK left the EU. Following the end of the Transition Period this year, the way we regulate labour, capital, goods and services in the UK will no longer be decided by the EU. Instead, we in the UK will be able to regulate our trade in goods and services in a tailored manner, specifically designed to benefit our businesses, workers and consumers, while maintaining our high regulatory standards.
- 3 To ensure businesses can continue to trade freely across the UK as they do now, the Government set out on 16 July 2020, in the UK Internal Market White Paper (<https://www.gov.uk/government/publications/uk-internal-market>), its intention to establish a market access commitment in legislation - to preserve the UK internal market.
- 4 As outlined within the White Paper, proposals for the UK internal market are driven by three overarching policy objectives:
 - a. to continue to secure economic opportunities across the UK;
 - b. to continue to increase competitiveness and enable citizens across the UK to be in an environment that is the best place in the world to do business; and
 - c. to continue to provide for the general welfare, prosperity, and economic security of all UK citizens.
- 5 The Government ran a consultation on the proposals between 16 July and 13 August, inviting views on key questions related to the non-discrimination principle and independent monitoring and advice functions. Businesses showed support for the measures in order to avoid trade barriers and provide certainty for firms.
- 6 Additionally, respondents raised concerns on the need to: protect regulatory autonomy; protect Northern Ireland's place in the UK internal market; and provide an independent insight into the UK internal market's functioning.
- 7 The measures in this Act are therefore designed to create a coherent approach to market access and support for the UK internal market.
 - a. The principles of mutual recognition and non-discrimination of goods and services form the market access principles. These allow people and businesses to trade as they do now, without additional barriers based on which nation they are in.
 - b. The market access principles will give effect to providing unfettered access of qualifying goods from Northern Ireland to Great Britain.
 - c. The measures on the recognition of professional qualifications allow professionals qualified in one of the four parts of the UK to access the same profession in a different part without needing to requalify if new qualification or experience requirements are introduced, or existing ones are changed, in any part of the UK.
 - d. The Office for the Internal Market (OIM) within the Competition and Markets Authority (CMA) will monitor the health of the internal market and advise and report

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on proposals and regulations and their potential or actual impact on the UK internal market.

- e. The provisions ensure a uniform approach across the UK to the application of EU State aid law under Article 10 of the Northern Ireland Protocol.
 - f. The power to provide financial assistance allows the UK Government to provide financial assistance for a number of priority purposes across the whole of the UK.
 - g. The reservation of subsidy control allows the UK Government to regulate the effects of distortive or harmful subsidies, whether that is in relation to international trade or the UK internal market.
- 8 As part of its vision for the UK internal market, the Government is also engaging in a process to agree a common approach to regulatory alignment with the devolved administrations. The Common Frameworks Programme aims to protect the UK internal market by providing high levels of regulatory coherence in specific policy areas through close collaboration with devolved administrations.
- 9 The Act is a key part of the Government's coronavirus recovery plan. It provides important regulatory stability for businesses and consumers as the UK responds to and recovers from the pandemic.

Mutual recognition for goods

- 10 The Act introduces a principle of mutual recognition to underpin the operation of the UK internal market for goods.
- 11 Mutual recognition means that any good that meets relevant regulatory requirements relating to sale in the part of the UK it is produced in or imported into, can be sold in any other part of the UK without having to adhere to additional relevant regulatory requirements in that other part. For example, a bag of flour made in one part of the UK that met the relevant requirements in that part (for example on the composition of the flour) can be sold in any other part of the UK without having to meet any other relevant requirements that apply there.
- 12 The UK government and the devolved administrations retain the capacity to enforce their own requirements on goods produced in that part of the UK or imported into that part of the UK from outside the UK, within their areas of legislative competence. This means that local producers must comply with local regulation.
- 13 Requirements are "relevant requirements" for the purposes of the mutual recognition principle if they prohibit a good being sold or prohibit a good being sold if not complied with, and if they are in scope of the types of requirements listed in section 3(3). Requirements in scope of section 3(3) include those relating to the production, characteristics and presentation of goods, and requirements relating to the assessment, authorisation and documentation of goods, among others.
- 14 Regulatory requirements not in scope of the mutual recognition principle may instead be covered by the principle of non-discrimination. The requirements covered by non-discrimination are set out below.
- 15 Requirements in areas where there is existing regulatory difference across UK (the day before the relevant provisions entered into force) are not retrospectively subject to mutual recognition. A substantive change to such existing requirements will bring them into scope.
- 16 The definition of "sale" for the purposes of mutual recognition and non-discrimination (section 15) excludes sales that are not made in the course of a business, and sales which are

made in the course of a business but only for the purpose of performing a public function. Sales by public bodies will be excluded from the definition of sale unless they are made for purely commercial purposes. For example, the supply of medication by the NHS to a patient through a prescription would not be covered as it is a sale made by a public authority fulfilling a public function.

- 17 Additionally, there are requirements that are explicitly excluded from the application of the mutual recognition principle. These are set out in the section of the policy background on exclusions.

Non-discrimination for goods

- 18 The non-discrimination principle means direct or indirect discrimination based on differential treatment of local and incoming goods is prohibited.
- 19 Direct discrimination is where an incoming good is disadvantaged compared to a local good because it originates from another part of the UK. For example, a requirement that incoming produce must be chilled but local produce does not.
- 20 An incoming good is a good that is either produced in, produced by a business based in, or that comes from or passes through a part of the UK (the “originating part”) that is not the “destination part” of the UK where they are to be sold.
- 21 Indirect discrimination is where incoming goods are not directly discriminated against, but where regulation disadvantages incoming goods and has an adverse market effect.
- 22 Indirect discrimination can be justified if it is necessary to achieve a legitimate aim:
 - a. the protection of the life or health of humans, animals or plants, or
 - b. the protection of public safety or security.
- 23 The non-discrimination principle for goods applies to certain types of statutory provision (“relevant requirements”).
- 24 This includes requirements on the manner of sale of good (e.g. when, by whom, to whom or the terms on which they may be sold). Non-discrimination also covers certain other requirements, to the extent that they do not constitute requirements that need to be complied with to lawfully sell a good. This includes: requirements on the transportation, storage, handling or display of goods; requirements relating to the inspection, assessment, registration, certification, approval or authorisation of the goods; and, the conduct or regulation of businesses that engage in the sale of certain goods or types of goods.
- 25 Relevant requirements that exist on the day before the day on which the non-discrimination principle came into force are not be subject to the principle. A substantive change to an existing requirement after this point will bring it into scope.

Exclusions from mutual recognition and non-discrimination for goods

- 26 There are certain specific exclusions from mutual recognition and non-discrimination for goods. An exclusion is a policy area, area of regulation or type of relevant requirement that is not subject to the principles. The Act provides the Secretary of State with a power to amend these exclusions to retain flexibility for the internal market system in response to changes in market conditions. There is a requirement on the Secretary of State to seek the consent of the devolved administrations before exercising this power. If consent is not given by any of the

devolved administrations within a month, the Secretary of State may still exercise the power, however, before doing so, the Secretary of State must publish an explanation for proceeding in the absence of consent.

- 27 Tax, rates, duties and similar charges are explicitly excluded from the market access principles.
- 28 There are certain other areas which will be excluded from the scope of mutual recognition but included within the scope of non-discrimination. These are:
 - a. Chemicals in relation to authorisations and restrictions under the UK Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regime;
 - b. Legislation aimed to prevent or reduce the movement of unsafe food or feed that poses a serious threat to the health of humans or animals;
 - c. Pesticides in relation to the authorisation for sale of products and approval of active substances; and
 - d. Fertilisers in relation to safeguarding measures taken by each administration.
- 29 Certain sanitary and phytosanitary (SPS) measures relating to animal and plant health serious threats are excluded from mutual recognition and non-discrimination. This ensures that the sanitary and phytosanitary measures can be implemented, effectively taking account of differences in pest and disease prevalence across the UK, and in a way that prevents the spread of pest and disease in practice. Any measure falling under this exclusion needs to be supported by a risk assessment demonstrating the measure was reasonable and justified.
- 30 A relevant requirement made by an Act of Parliament, or under an Act of Parliament, which has effect in more than one part of the UK is excluded from the principle of indirect discrimination where the place of origin and place of destination are both covered by the relevant requirement. For example, a relevant requirement under Act of Parliament that applies to both England and Wales will be excluded from indirect discrimination if the good originated in England and was destined for Wales, or vice versa.
- 31 See Schedule 1 for the full list of goods exclusions.

Services

- 32 The Act establishes two UK market access principles to protect the flow of services in the UK: the principle of mutual recognition, and the principle of non-discrimination.
- 33 A service provider for the purposes of the Act is a person that provides, or intends to provide, a service in the course of their business and who has a permanent establishment in the UK, through which the business is wholly or partly carried on.
- 34 The mutual recognition principle provides that a person authorised to provide services in one part of the UK is not required to meet additional authorisation requirements to provide those services in another part of the UK. An authorisation requirement is a legislative requirement (a requirement imposed by, or by virtue of, legislation) that a service provider must have the permission of a regulator to provide services.
- 35 This mutual recognition principle ensures that a service provider who has been authorised to access or exercise a service activity by a regulator whose functions relate only to a part of the UK, is able to exercise that service activity throughout the whole of the UK. The principle of mutual recognition will not apply to the extent that can reasonably be justified in response to a public health emergency. It also does not apply to authorisations that are only issued in relation to a particular premises, place, or piece of infrastructure.

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- 36 The principle of non-discrimination provides that a regulatory requirement will be of no effect in relation to an incoming service provider where it discriminates against that provider directly or indirectly. The non-discrimination principle applies to regulatory requirements. A regulatory requirement is a legislative requirement (made by, or by virtue of, legislation) that would, if not satisfied prevent a service provider from providing services.
- 37 The non-discrimination principle applies to both direct and indirect discrimination. Direct discrimination is only permitted to the extent it is a reasonably justified response to a public health emergency and indirect discrimination is only justified if can be reasonably considered a necessary means of achieving a “legitimate aim”.
- 38 Both the mutual recognition principle and non-discrimination principle do not apply to relevant requirements for the purposes of the mutual recognition principle for goods in Part 1 of the Act (section 3) or to provisions of the sort described in section 24(1) and 28(1) in Part 3 of the Act in relation to Professional Qualifications. They do not apply to requirements that apply to both service providers and non-service providers. Notwithstanding the principles, regulators may also still require that service providers notify or register with them.
- 39 Existing requirements are excluded from the scope of the principles of mutual recognition and non-discrimination for services. This means that any requirements in force (or otherwise having effect) before the entry into force of the relevant provisions of the Act are not within scope of the principles, provided they are not later substantively changed. Similarly, provisions that come into force after the Act but simply re-enact or replicate pre-existing requirements without substantive change, will not be brought within scope of the Act.
- 40 The principles will apply to all new or substantively changed requirements.
- 41 For mutual recognition, if a corresponding authorisation requirement in another part of the UK is substantively changed, that will also bring an existing provision into scope of the Act.
- 42 Some services sectors and requirements will, by virtue of being listed in Schedule 2 to the Act, be outside either or both of the principles in the Act. The Secretary of State may, by regulations subject to the affirmative resolution procedure, amend Schedule 2 of the Act.

Professional qualifications

- 43 The Act introduces a system for the recognition of professional qualifications across the UK internal market. This will allow professionals qualified in one of the four parts of the UK to access the same profession in a different part without needing to requalify. These provisions will only apply in relation to professions for which new qualification or experience requirements are introduced, or existing ones changed, in any part of the UK.
- 44 This Part of the Act is concerned with access to professions that are regulated in law. This is where access to a profession, including undertaking certain activities or using a specific professional title, is limited by legislation to individuals who hold specific qualifications or experience.
- 45 Often, access to a profession or occupation will require specific professional qualifications (such as a degree, diploma or award) attesting that an individual has attained a certain level of competence, training or knowledge relevant to that profession. Examples include a Bachelor of Medicine degree or a Postgraduate Certificate in Education. There may also be requirements to hold more general qualifications to a certain level (such as a requirement to have a certain number of A levels), or to have undertaken certain types of experience.
- 46 Although beyond the scope of this part of the Act, in addition to professionals regulated in law, some professions are voluntarily regulated by professional bodies without underpinning

legislation. Such professions include those regulated through voluntary membership of a professional body, including chartered professional bodies, which often require compliance with certain requirements and qualification standards, but do not restrict access to the profession generally.

- 47 There is currently no overarching system or consistent approach for the recognition of professional qualifications between the four parts making up the UK internal market. Therefore, if professional divergence increases across the UK, professionals could have greater limitations on their ability to practise across the UK than exists currently.
- 48 Accordingly, the main objective of this part of the Act is to avoid new barriers to the movement of professionals within the UK internal market, by making provision for an overarching system of mutual recognition of professional qualifications that applies across the UK.
- 49 This part of the Act establishes that an individual who is qualified to practise a profession in one of the four UK nations will be automatically recognised in respect of the equivalent profession in another part of the UK, without needing to requalify. This principle will only apply to a profession when a new provision in respect of qualifications or experience is introduced, or when there is a change made to existing qualification or experience requirements for a profession which results in a limit to the access to a profession in a part of the UK.
- 50 This Part of the Act also allows for the disapplication of the automatic recognition process, provided that an alternative process for recognition is instituted that complies with specific principles set out in the Act. The process will have to have legislative backing and will be administered by the relevant professional regulator (or, if there is not one, whichever of the UK Government or devolved administrations is responsible for the profession).
- 51 The principles that must be complied with for the alternative process include that: for the purposes of accessing a profession, qualifications or experience obtained in another part of the UK have to be taken into account and are to be treated the same as 'like' qualifications or experience obtained in the relevant part (where the individual is seeking recognition). If the qualifications or experience do not meet the required standard, an assessment should be offered to allow the professional the opportunity to demonstrate the required knowledge and skills. If the knowledge and skills required can be demonstrated either by qualifications or experience or the assessment, the individual must be recognised and permitted to practise that profession in the relevant part of the UK.
- 52 Professionals also benefit from provisions ensuring equal treatment in respect of the ongoing practice of a profession under this part of the Act. Professionals qualified in another part of the UK cannot be treated less favourably in respect of ongoing practice requirements than those qualified in the relevant part, based on where in the UK their qualifications or experience were obtained or the type of qualifications they have (unless this is justified). This means that professionals cannot be required to meet higher ongoing requirements than locally qualified professionals as part of their ongoing practise, such as continuing professional development or insurance requirements.

Independent monitoring and functions of the CMA

- 53 To ensure that there are independent arrangements to support the smooth operation of the UK internal market on an ongoing basis, this Act provides for a set of reporting, advisory and monitoring functions supported by information gathering powers.

- 54 The Competition and Markets Authority (“CMA”) was chosen by UK Government Ministers as the most appropriate body to operate these new UK internal market functions. The Office for the Internal Market (“OIM”) will be established within the CMA to carry out these responsibilities, ensuring that necessary functions are carried out with sufficient independence, impartiality, and visibility.
- 55 The CMA was established in 2013 by the Enterprise and Regulatory Reform Act (“ERRA”) as a non-Ministerial department which performs its functions on behalf of the Crown. Competition law functions were transferred to the CMA on 1 April 2014. Under section 25(3) of ERRA the CMA has a statutory duty to seek to promote competition, both within and outside the UK, for the benefit of consumers.
- 56 The Act will confer new functions on the newly established OIM within the CMA to cover monitoring of the ‘health of the market’, as well as the reporting and advice on the economic impact of proposals and regulations on the UK internal market, including their impact on intra-UK trade, investment, and competition. The exercise of these functions will provide all administrations, legislatures, and external stakeholders with published reporting on developments and trends in the UK internal market. The CMA’s existing information gathering powers in section 174 of the Enterprise Act 2002 have been modified to apply to UK internal market functions.
- 57 The Act will establish an Office for the Internal Market panel and task groups to carry out the CMA’s independent functions. The Secretary of State will appoint an OIM panel Chair and panel members following a fair and open recruitment process, with the panel Chair also being a member of the CMA Board. The Secretary of State will be required to obtain the consent of the devolved administrations prior to making appointments to the OIM panel. If consent is not received from one or all administrations to one or all appointments following a one-month consent period, the Secretary of State can proceed with the appointment with a requirement to give the administrations which did not give consent the reasons for doing so.

Northern Ireland Protocol

Northern Ireland’s place in the UK internal market and custom territory

- 58 The UK left the European Union (“EU”) on 31 January 2020 following the conclusion of an agreement (“the Withdrawal Agreement”) under Article 50 of the Treaty on European Union (TEU). The Withdrawal Agreement included the Protocol on Ireland/Northern Ireland (“the Northern Ireland Protocol”).
- 59 The Northern Ireland Protocol provides that certain EU customs legislation applies to and in the UK in respect of Northern Ireland, not including the territorial waters of the UK. This includes administrative requirements in relation to the movement of goods between Great Britain and Northern Ireland.
- 60 Section 46 will streamline the movement of goods between Great Britain and Northern Ireland by placing a duty on all UK authorities, including relevant devolved authorities, administering the Protocol to have the highest possible regard to: (i) Northern Ireland’s integral place in the UK’s internal market as set out in Article 6(2) of the Protocol; (ii) Northern Ireland’s place in the UK customs territory; and (iii) the need to facilitate the free flow of goods between Great Britain and Northern Ireland. It thus seeks to support the streamlining of trade in line with the obligations set out in the Protocol.

- 61 Article 6(2) of the Northern Ireland Protocol provides that “[h]aving regard to Northern Ireland’s integral place in the UK’s internal market, the Union and the UK shall use their best endeavours to facilitate the trade between Northern Ireland and other parts of the UK, in accordance with the applicable legislation and taking into account their respective regulatory regimes as well as the implementation thereof”.

Unfettered access

- 62 Section 47 requires appropriate authorities not to exercise their functions in a way that would result in a new check, control or administrative process on the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. Additionally, an exercise of function should not result in an existing check, control or administrative process being used for the first time, or for a new purpose or to a new extent.

State Aid and the Northern Ireland Protocol

- 63 Article 10 of the Northern Ireland Protocol provides that EU State aid rules will apply in relation to trade in goods and electricity between Northern Ireland and the EU. Such EU State aid law will apply in domestic law via section 7A of the European Union (Withdrawal) Act 2018. Section 48 provides that the Secretary of State must publish guidance on the practical application of Article 10. Public authorities will be required to have regard to the guidance, helping to ensure a consistent and uniform application of Article 10. Finally, section 49 stipulates that only the Secretary of State may give the European Commission a notification or information related to aid where Article 10 applies. EU State aid law requires notification or information relating to aid to be provided to the European Commission. At present, this function is performed by the Secretary of State for Foreign, Commonwealth and Development Affairs via the UK Mission in Brussels.

Power to provide financial assistance

- 64 The general power to provide financial assistance within this Act provides the UK Government with the ability to provide financial assistance for the purposes of economic development, culture, sporting activities, infrastructure, domestic educational and training activities and exchanges, and international educational and training activities and exchanges.
- 65 The power to provide financial assistance in this Act is intended to enable the UK Government to provide funding to local authorities, sectoral organisations, community groups, educational institutions and other bodies and persons in order to support and promote these policy areas across the UK.
- 66 The UK Government has a number of existing statutory powers to provide financial assistance in various policy areas. For example, the Industrial Development Act 1982 allows the Secretary of State to provide financial assistance to industry in relevant circumstances. The powers under the Industrial Development Act 1982 may be used by UK Ministers to provide funding in any part of the UK (the powers are also exercisable concurrently with UK Ministers by Scottish and Welsh Ministers by virtue of the devolution settlements in Wales and Scotland).
- 67 Other existing statutory powers to provide financial assistance extend to some but not all of the UK, for example section 31 of the Local Government Act 2003 which only extends to England and Wales, or section 126 of the Housing Grants, Construction and Regeneration Act 1996 which does not extend to Northern Ireland.
- 68 UK Ministers have general common law powers to provide financial assistance, which are exercised by Ministers in accordance with the 1932 Public Accounts Committee Concordat and HM Treasury guidelines. Common law powers, however, are subject to HM Treasury

limits. In addition, under the devolution settlements, common law powers in devolved areas have been transferred to the devolved administrations (although in Wales many of these powers are exercisable concurrently with UK Ministers).

- 69 The general power to provide financial assistance in the Act is exercisable alongside the existing statutory and common law powers currently available to UK Ministers. The purpose of the power in the Act is to provide UK Ministers with a single, comprehensive power to provide financial assistance in all parts of the UK across a range of policy areas.

Subsidy Control

- 70 This Act reserves to the UK Parliament the exclusive ability to legislate for a UK subsidy control regime once the UK ceases to follow EU State aid rules at the end of the Transition Period.
- 71 This legislation means the UK Parliament can legislate for a UK wide regime to regulate the effects of distortive or harmful subsidies, whether that is in relation to international trade or the UK internal market. Any future regime will be subject to Article 10 of the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement whilst it applies to the UK.
- 72 The areas that have been and will be exclusively reserved to the UK Parliament in respect of each of the devolved nations are set out in three main pieces of devolution legislation. These are the Scotland Act 1998 (see Schedule 5 'Reserved Matters'), the Northern Ireland Act 1998 (see Schedule 2 'Excepted matters') and the Government of Wales Act 2006 (see Schedule 7A 'Reserved Matters').

Constitutional embedding and devolved competence

- 73 Parts 1 to 3 of the Act operate so that any requirements created after its entry in force that would impede the operation of the UK internal market will have no effect. It will therefore no longer be possible to enforce requirements that would interfere with the operation of the principles outlined in the Act.
- 74 The devolved administrations were restricted in their ability to legislate by the UK's membership of the European Union single market. Leaving the single market removes those restraints and sees new powers flow to the devolved administrations. But there do need to be rules that govern how all the legislatures of the UK legislate to ensure the UK's internal market is not disrupted. Those rules the Act puts in place are only those required for the effective functioning of the internal market.
- 75 This affects legislation in areas of devolved competence made by the Scottish Government, Welsh Government or Northern Ireland Executive, or passed by the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly. In this way, the Act's provisions create a new limit on the effect of legislation made in exercise of devolved legislative or executive competence. For example, section 2(1) disapplies any legislative requirements that do not comply with the mutual recognition principle.
- 76 The same is true of secondary legislation made by UK ministers after the Act's entry in force.
- 77 It remains possible for a future Act of the UK Parliament to expressly disapply the operation of the Act in future.
- 78 Part 4 of the Act confers on the CMA, acting through the Office for the Internal Market task groups, advisory, reporting, monitoring and intelligence-gathering functions to assist with the effective operation of the UK internal market. These sections provide that the Scottish Ministers, Welsh Ministers and Northern Ireland departments may request that the CMA

exercise its functions in relation to a particular matter, just as the UK Government may do so. Where the CMA provides a report at the request of one of the devolved administrations on the impacts of a regulation implemented by another administration, there is a duty on the administration to make a statement before its legislature.

- 79 Part 5 requires public authorities, including the devolved administrations, to have regard to the need to maintain Northern Ireland's integral place in the UK internal market, when dealing with matters arising from the Northern Ireland Protocol. It also prohibits such authorities from imposing new checks, controls or administrative processes on goods from Northern Ireland. It prohibits any public authority other than the Secretary of State from making a State aid notification to the European Commission under Article 10 of the Protocol.
- 80 Part 6 grants power to a UK Minister of the Crown to provide funding across the following range of purposes: economic development, infrastructure, culture, sporting activities, and international educational and training activities and exchanges. These purposes fall within wholly or partly devolved areas under the Scotland Act 1998, Government of Wales Act 2006 and Northern Ireland Act 1998. The new powers sit alongside the existing powers by which the UK Government can fund in relation to devolved matters across the devolved nations, in particular the Industrial Development Act 1982. This creates a means for the UK Government to provide funding across a range of largely devolved areas that would sit alongside any funding provided by the devolved administrations in those areas.
- 81 Part 7 amends the Scotland Act 1998, Government of Wales Act 2006 and Northern Ireland Act 1998 in order to make clear that the regulation of distortive or harmful subsidies is a reserved matter. The scope of the new reservation will regulate the effects of distortive or harmful subsidies, whether that is in relation to international trade or the UK internal market.
- 82 The Act will be a protected enactment under the Scotland Act 1998 and the Government of Wales Act 2006. It will be an entrenched enactment under the Northern Ireland Act 1998. This means that it cannot be modified by the Devolved Legislatures, and so it will not be open to those legislatures to disapply the provisions of the Act or modify their effect.

Legal background

- 83 The relevant legal background is explained in the policy background section of these notes.

Territorial extent and application

- 84 The Act extends to England, Wales, Scotland and Northern Ireland and forms part of the law of all four parts of the UK.
- 85 The Act contains provisions which cover reserved and devolved subject areas. It also makes amendments to the Scotland Act 1998, the Northern Ireland Act 1998 and the Government of Wales Act 2006, which restrict the legislative competence of the devolved legislatures.
- 86 There is a convention that the UK Government will not normally legislate with regard to matters that affect or are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned.
- 87 The Government sought legislative consent for the sections contained in this Act, and published a Written Ministerial Statement on the final outcome. The link to the Statement can be found in the “Related Documents” section of these Notes.
- 88 See the table in Annex A for a summary of the position regarding territorial extent and application in the UK.

Commentary on provisions of Act

Part 1: UK Market Access: Goods

Introductory

Section 1: Purpose of the Act

- 89 This section sets out the purpose of Part 1 of the Act, which is to promote the continued functioning of the UK internal market for goods in the UK by establishing two new market access principles in UK law.
- 90 These principles are the mutual recognition principle for goods (set out in sections 2 to 4) and the non-discrimination principle for goods (set out in sections 5 to 9).
- 91 Subsection (3) provides that these principles have no direct legal effect except as provided by Part 1 of the Act.

Mutual recognition: goods

Section 2: The mutual recognition principle for goods

- 92 This section sets out the principle of mutual recognition for goods, including the effect of mutual recognition.
- 93 Subsection (1) sets out that a good that can be lawfully sold in the part of the UK in which it has been produced or imported into may be sold in any other part of the UK without needing to comply with any relevant requirements applying to the sale in that other part of the UK.
- 94 In cases where there are no relevant requirements that would apply to the sale of a good in the part of the UK it was produced in or imported into, mutual recognition still permits the good to be sold in other parts of the UK without complying with the relevant requirements that apply in those other parts. The relevant requirements for the purposes of mutual recognition are set out in section 3.
- 95 The definitions of “goods”, “sale”, “production”, “importation” and other key terms are provided in sections 13 and 14.
- 96 Subsection (2) provides that the effect of mutual recognition is limited by reference to the particular types of sale that a good is lawfully permitted to undergo in the part of the UK where it was produced in or imported into.
- 97 Subsection (3) provides that when a good is being sold in a part of the UK and the conditions in subsection (1) are met, the relevant requirements that apply in that part have no application in relation to the sale. This complements subsection (1) which provides that a good can be sold free from relevant requirements in the place it is sold if the relevant conditions are met.

Section 3: Relevant requirement for the purposes of section 2

- 98 This section defines “relevant requirement” for the purposes of the mutual recognition principle for goods as it applies to a particular sale.
- 99 Subsection (2) provides that relevant requirements for the purposes of mutual recognition are statutory requirements that prohibit the sale of the goods or result in their sale being prohibited if not complied with, are within scope of the mutual recognition principle (as set out in subsection (3)) and are not otherwise excluded (see section 4, section 10 and Schedule 1).

- 100 Subsection (3) provides the types of statutory requirements that are in scope of the mutual recognition principle. This includes any statutory requirement which relates to the characteristics, presentation or production of goods; the identification or tracing of an animal; the inspection, assessment, authorisation of goods or any similar dealing with them; and the documentation that must be produced, kept or accompany that goods or be submitted to an authority. Subsection (4)(g) also provides that any requirement not falling within the listed categories that apply to or in relation to the goods before they are allowed to be sold are within scope.
- 101 Subsection (4) clarifies that manner of sale requirements are not in scope of the mutual recognition principle unless subsection (6) applies.
- 102 Subsection (5) clarifies that manner of sale requirements covers any aspect of the circumstances or matter in which goods are sold. Therefore, it includes pricing requirements, for example Minimum Unit Alcohol Pricing or plastic bag charges. The effect of this is that these matter of sale requirements are not in scope of the mutual recognition principle unless subsection (6) applies.
- 103 Subsection (6) clarifies that mutual recognition will only apply to a manner of sale requirement if it appears to have been artificially designed to avoid the operation of the mutual recognition principle. This provision captures artificially restrictive requirements that disguise, in practice, a total ban on a good being sold or a ban on a good being sold unless it complies with the requirement.
- 104 Subsection (7) provides that statutory requirements which require the person selling or acquiring a good to keep or submit, after the sale of the good takes place, any documentation or information that required to be produced or recorded beforehand in order to buy or sell the good, is treated as a “relevant requirement”. This means that the mutual recognition principle will apply to these requirements.
- 105 Subsection (8) sets out that “statutory requirements” are obligations, conditions, or prohibitions imposed by legislation, including legislation imposing mandatory terms into contracts for the sale of goods.

Section 4: Exclusion of certain requirements existing before commencement

- 106 This section excludes certain existing requirements from being relevant requirements for the purposes of the mutual recognition principle where different regulatory requirements existed in different parts of the UK.
- 107 Subsection (1) sets out that a statutory requirement which applies in relation to a particular sale of goods in a part of the UK and would otherwise be classified as a relevant requirement under section 3 should not be so classified in relation to that sale if it meets the conditions set out in subsection (2) below. In effect this means that statutory requirements meeting these conditions will be excluded from the scope of mutual recognition and remain unaffected by it.
- 108 Subsection (2) sets out the conditions referenced in subsection (1). Subsection (2)(a) sets the condition that the same statutory requirement would have applied to the sale had it taken place on the relevant day (the day before the day on which this section came into force). Subsection 2(b) sets the condition that there was no corresponding requirement in force in each of the other three parts of the UK on that day.
- 109 Subsection (3) provides that “the relevant day” is the day before the day on which this section came into force.
- 110 Subsection (4) provides that the re-enactment of a statutory requirement, without substantive change, does not affect its continuity for the purposes of subsection (2)(a), meaning that these

re-enactments will also be excluded from the principle of mutual recognition as existing requirements.

111 Subsection (5) defines “corresponding requirement” for the purposes of subsection (2)(b). This is a statutory requirement that would have the same effect in another part of the UK as the statutory requirement that applies in the relevant part of the UK on the day before the day when this section comes into force.

112 Subsection (6) provides that, for the purposes of subsections (2) and (5), a statutory requirement is only regarded as the same as (or having the same effect as) another statutory requirement if any differences between them are not substantive.

Non-discrimination: goods

Section 5: The non-discrimination principle for goods

113 This section sets out the principle of non-discrimination for goods. This principle states that the sale of goods in one part of the UK should not be affected by directly or indirectly discriminatory relevant requirements towards goods that have a relevant connection with another part of the UK. The non-discrimination principle will cover both direct discrimination (section 7) and indirect discrimination (section 8).

114 Subsection (2) provides the meaning of “destination part”, “incoming goods” and “originating part”. These are important concepts in the operation of the principle of non-discrimination.

115 Subsection (3) provides that, to the extent it directly or indirectly discriminates against incoming goods, a relevant requirement will have no effect in the ‘destination part of the UK’. The ‘destination part’ is the part of the UK where the goods are sold. In other words, while legislation might have a discriminatory effect, it will not be able to be enforced to the extent that it has such an effect.

116 Subsection (4) provides for when a good has a relevant connection with a part of the UK (if it is produced in, produced by a business based in, comes from or passes through that part of the UK before reaching the destination part of the UK). These are the matters on the basis of which discrimination is not permitted.

117 Subsection (5) provides the meanings of “components” and a business being “based” in a part of the UK, for the purposes of Part 1 of the Act.

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

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

119 Subsection (2) sets the criteria for a statutory provision to be a relevant requirement. A relevant requirement is one which applies to, or relation to, goods sold in that part of the UK and is within scope of the non-discrimination principle.

120 Subsection (3) states that statutory provisions in scope of non-discrimination are those relating to: the circumstances or manner in which the goods are sold; transportation, storage, handling, or display of goods; inspection, assessment, registration, certification, approval or authorisation of the goods, or any similar process dealing with them; the conduct or regulation of businesses that engage in the sale of certain goods or certain types of good.

121 Subsection (4) sets out which statutory provisions are not relevant requirements and therefore not in scope of non-discrimination. These are requirements defined as “relevant requirements” for the purpose of mutual recognition for goods (as defined in section 3) and certain existing provision covered in section 9.

- 122 Subsection (5) provides that the Secretary of State may, by regulations, amend the list of statutory provisions within scope of the non-discrimination principle in subsection (3). Subsection (6) provides that the power must be exercised by affirmative resolution procedure.
- 123 Subsection (7) provides that power may not be exercised before consent has been sought from all devolved administrations. If that consent is not given within one month then subsection (8) provides that the Secretary of State may make the regulations without that consent. In the event that the Secretary of State proceeds in the absence of consent under subsection (8), subsection (9) stipulates that the Secretary of State must publish a statement explaining the reasons for proceeding without consent.
- 124 Subsection (10) provides the definition of “statutory provision” for the purpose of this section.

Section 7: The non-discrimination principle: direct discrimination

- 125 This section explains what direct discrimination is for the purposes of section 5. It explains that direct discrimination is where relevant requirements apply to incoming goods in a way that they do not apply, or would not apply, to local goods and that puts the incoming goods at a disadvantage compared to local goods.
- 126 Subsection (2) provides that an incoming good would be put at a disadvantage if it is more difficult or less attractive to sell the goods or buy the goods or do anything in connection with their sale.
- 127 Subsection (3) defines “local goods” for the purposes of direct discrimination. It provides that local goods are those that are the materially the same as the incoming good and share the material circumstances of the incoming good but are not produced in, or produced by a business based in, the originating part of the UK and do not come from, or pass through the originating part of the UK before reaching the destination part of the UK. These local comparator goods can be actual or hypothetical.
- 128 Subsection (4) further explains the definition of local goods in subsection (3) by providing the ways in which they are deemed to lack the relevant connection to the originating part of the UK that the incoming goods have. This differs depending on the way in which the incoming goods have a relevant connection to the originating part of the UK.
- 129 Subsection (4)(a) provides that if the incoming good was produced in the originating part, the local good is produced in the destination part. Subsection (4)(b) provides that if the incoming goods are produced by a business based in the originating part, the local goods are produced by a business based in the destination part. Subsection (4)(c) provides that if the incoming goods come from or pass through the originating part before reaching the destination part, the local goods have come from the destination part and did not pass through anywhere outside that part.

Section 8: The non-discrimination principle: indirect discrimination

- 130 This section provides for the principle of indirect discrimination.
- 131 Subsection (1) provides that a relevant requirement will indirectly discriminate against incoming goods where the requirement does not directly discriminate but applies to, or in relation to the incoming good in a way that puts it at a disadvantage, and has an adverse market effect and cannot be reasonably considered a necessary means of achieving a legitimate aim. Subsection (2) provides the circumstances in which a good will be put at a disadvantage.
- 132 Subsection (3) provides that a requirement has an adverse market effect if it puts incoming goods at a disadvantage but does not put comparable goods with a relevant connection to the

destination part (and no other part of the UK) at that disadvantage and as a result, it causes a significant adverse effect on competition of those goods in the UK.

- 133 Subsection (4) provides the meaning of “comparable goods” as “like goods” or “interchangeable goods”. “Like goods”, and “interchangeable goods” are then defined further.
- 134 Subsection (5) provides that the test for whether a requirement has an adverse market effect in subsection (3) must have regard to the content of a requirement and the way it operates, or is administered, in practice.
- 135 Subsections (6) lists the ‘legitimate aims’ for the purposes of the test for indirect discrimination in subsection (1).
- 136 Subsection (7) provides a power to the Secretary of State to add to, vary or remove an aim from the list of legitimate aims by regulations. Subsection (8) provides that the power in subsection (7) must be exercised by the affirmative resolution procedure.
- 137 Subsection (9) provides that before the power is exercised, consent must be sought from all devolved administrations. If that consent is not given within one month then subsection (10) provides that the Secretary of State may make the regulations without that consent. In the event that the Secretary of State proceeds in the absence of consent under subsection (10), subsection (11) stipulates that the Secretary of State must publish a statement explaining the reasons for proceeding without consent.
- 138 Subsection (12) provides that in considering whether a relevant requirement cannot be reasonably considered a necessary means of achieving a legitimate aim for the purposes of subsection (1)(d), regard must be had to the effects of the requirement in all the circumstances and the availability of alternative means to achieving the legitimate aim.

Section 9: Exclusion of certain provision existing before commencement

- 139 This section provides that certain existing provisions will not be relevant requirements for the purpose of the non-discrimination principle for goods.
- 140 Subsection (1) provides that statutory provisions in force in the part of the UK concerned on the day before the day on which this section came into force are not relevant requirements for the purposes of the non-discrimination principle.
- 141 Subsection (2) provides if a statutory provision is re-enacted, without substantive change, it will be treated as an existing requirement within subsection (1).
- 142 Subsection (3) provides that provision that has not been substantively changed will be treated as an existing requirement within subsection (1).
- 143 Subsection (4) provides that “statutory provision” has the same meaning as in section 6.

Exclusions from market access principles

Section 10: Further exclusions from market access principles

- 144 Section 10 provides that exclusions from the application of mutual recognition and non-discrimination for goods are set out in Schedule 1.
- 145 Subsection (2) provides that the Secretary of State may amend Schedule 1 by regulations (which are subject to the affirmative procedure – see subsection (8)).
- 146 Subsection (3) (together with the definition of “common framework agreement” in subsection (4)) makes clear that the power to amend Schedule 1 includes, for example, the power to give

effect to a consensus reached between a Minister of the Crown and one or more of the devolved administrations that certain things should be excluded from the application of the market access principles. In relation to such a consensus, the things that may be excluded are cases, matters, requirements or provisions dealing with the regulation of devolved or transferred matters previously governed by EU law.

- 147 Subsections (5) and (6) make provisions relating to the interpretation and determination of devolved or transferred matters for the purposes of this section.
- 148 Subsection 7 requires the Secretary of State, in making (any) regulations under subsection (2), to have regard to the importance of facilitating the access to the market within Great Britain of qualifying Northern Ireland goods.
- 149 Subsection (8) provides that regulations by the Secretary of State under subsection (2) to amend Schedule 1 are subject to the affirmative resolution procedure.
- 150 Subsections (9), (10) and (11) provide that before making any regulations under subsection (2), the Secretary of State must seek the consent of the devolved administrations. If consent is not provided within one month of its being requested, the Secretary of State may proceed to make the regulations without consent. If the Secretary of State does so, the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without that consent.
- 151 Subsection (12) defines certain terms used in this section.

Supplementary

Section 11: Modifications in connection with the Northern Ireland Protocol

- 152 This section sets out modifications to the market access principles for goods in relation to the sale of goods in parts of Great Britain.
- 153 Subsections (2) and (3) state that the mutual recognition principle applies to all qualifying Northern Ireland goods (but not other goods originating in Northern Ireland unless subsection (4) applies).
- 154 Subsection (4) enables goods falling within subsection (3) (to which mutual recognition would not otherwise apply) to benefit from mutual recognition if they move from Northern Ireland into England, Scotland or Wales, in the same way as goods imported into those places from outside the UK.
- 155 Subsection (5) provides that goods that are not qualifying Northern Ireland goods do not have a “relevant connection” with Northern Ireland for the purposes of the non-discrimination principle for goods.
- 156 Subsections (6) and (7) provide that in respect of Northern Ireland, the second condition in paragraph 1 of Schedule 1 (that a pest or disease is present in Northern Ireland) is met even if the pest or disease was merely present in qualifying Northern Ireland goods but not present in Northern Ireland more widely.
- 157 Subsection (8) provides that the “qualifying Northern Ireland goods” in section 11 has the same meaning as in section 47.

Section 12: Guidance to Part 1

- 158 This section provides the Secretary of State with a power to issue statutory guidance about the practical operation and effect of the market access principles of mutual recognition and non-discrimination for goods. This could include guidance on enforcement, for market surveillance authorities and UK traders.

159 The UKIM Act will not directly introduce any new enforcement bodies, powers or penalties, relying instead on enforcement provisions in existing goods regulation to ensure compliance with the requirements of the mutual recognition principle.

160 Subsection (2) provides for guidance to be addressed to any description of persons. Guidance will be needed to explain how the existing enforcement framework will work to give effect to the new market access principles, including how this affects the roles and responsibilities of regulators and what it means for traders in terms of regulatory compliance.

161 Subsection (4) provides for the Secretary of State to revise guidance from time to time, and withdraw it, as appropriate.

Section 13: Duty to review the use of Part 1 amendment powers

162 This section places a requirement on the Secretary of State to carry out a review of any use of the powers in Part 1 of the Act. The powers in Part 1 of the Act are the power to amend the relevant requirements for non-discrimination in section 6(5), the power to amend the list of legitimate aims in section 8(7) and the power in section 10(2) to amend Schedule 1.

163 Subsection (2) requires that within three to five years of the passing of the Act, the Secretary of State must conduct a review of the use of the powers, and produce a report of that review, a copy of which must be laid before Parliament.

164 Subsection (3)(a) requires that the devolved administrations must be consulted as part of the review. Subsection (3)(b) provides that any relevant reports or advice issued by the Competition and Markets Authority must be considered by the Secretary of State in carrying out the review. Subsection (3)(c) requires the Secretary of State, in carrying out the review, to assess the impact and effectiveness of any changes made under the Part 1 amendment powers.

165 Subsection (5) sets out that in the event that the powers to amend have not been used by the time of the review, the Secretary of State must prepare a report containing a statement to the effect that the power has not been used since its entry into force and containing such other information relating to that statement that the Secretary of State considers appropriate. In relation to that power that has not been used, subsection 5(b) provides that the requirements in subsection (3), namely, to consult with the devolved administrations, to consider any relevant reports or advice from the CMA and to assess the impact and effectiveness of any changes made under that power, do not apply.

Section 14: Sale of goods complying with local law

166 This section sets out that nothing contained in Part 1 of the Act prevents goods produced in or imported into a part of the UK being sold in another part of the UK if the sale complies with any requirements applicable in that part (or if there are no such requirements). So, for example, where goods do not meet the criteria for mutual recognition, or where traders do not wish to make use of the principle for their goods, these goods can continue to be sold in a particular part of the UK by complying with the requirements relating to sale that apply there.

Section 15: Interpretation of references to “sale” in Part 1

167 This section supplies the meaning of “sale of goods” for the purposes of Part 1 of the Act.

168 Subsections (2) and (3) provide that “sale” excludes sales which are not made in the course of a business or are made in the course of a business but only for the purpose of performing a public function. Therefore, “sale” will generally exclude sales made by public bodies or authorities, except where these sales are made for commercial purposes and not for the purpose of performing a public function (other than a function related to the carrying on of commercial activities). For example, the supply of medication by the NHS to a patient through

a prescription would not be covered as it is a sale made by a public authority fulfilling a public function. Sales by public bodies or authorities which are carried out for purely commercial purposes would be captured. For example, if a public body were to set up a gift shop selling merchandise, this would be captured as 'sale' for the purposes of this part as it would be commercial activity not directly related to its public functions.

169 Subsection (4) provides that "sale" includes some earlier actions with a view to sale, namely an agreement to sell, offering or exposing for sale or having in possession or holding for sale.

170 Subsection (5) provides that other types of supply-related activities should also be treated as "sales" for the purposes of this Part. These other types of supply are listed in subsection (6) and include things like the leasing or hiring out of goods, or the gifting of goods where no consideration is given in exchange. Earlier actions with a view to these types of supply would also be covered e.g. an agreement to hire.

171 Relevant regulatory requirements for the purposes of mutual recognition and non-discrimination for goods will therefore include any requirements relating to these activities. However as set out in section 2, the effect of mutual recognition will be limited by reference to the particular type of sale that is taking place in the nation where a good is being sold.

Section 16: Interpretation of other expressions used in Part 1

172 This section sets out the definition of terms used for the purposes of this Part.

173 Subsection (2) defines "goods" for the purposes of this Part. "Goods" means any tangible movable or corporeal moveable thing (including its packaging or label), with the exception of water or gas that is not offered for sale in a limited volume or set quantity. This will therefore not cover water or gas that is piped directly into buildings as a utility but will cover bottled water or canisters of gas. This definition does cover agricultural goods, including live animals, germinal products and animal by-products.

174 Subsection (3) defines "produced in" for the purposes of this Part. If the good is not wholly produced or made within one part of the UK, it can still be classed as "produced in" a relevant part of the UK if the most recent significant production has taken place in that part, so long as it is regulation in that part.

175 Subsection (4) defines "regulated" as part of the wider definition of "produced in". A significant step is regulated if it is covered by any statutory requirement in the part where it takes place or could materially affect a person's ability to lawfully sell the good in that part.

176 Subsections (5), (6) and (7) define what is meant by "significant" for the purposes of the wider definition of "produced in". Subsection (5) sets out that a production step is significant if it is significant in terms of the character and purpose of the goods. Subsection (6) specifies steps that are not to be considered significant, even if they are regulated. Subsection (7) further specifies that packaging, labelling or marking of goods is not significant unless fundamental to the character of the good.

177 Subsections (8) and (9) define "imported into" for the purposes of this part. Goods brought by sea are imported when the ship carrying them enters the limits of the port at which they are discharged. Goods brought by air are imported when they are unloaded. Goods brought by land are imported when they enter the UK. For the purposes of the definition of "imported into", goods that arrive in the UK from the Isle of Man are to be treated in the same way as any other imported goods.

178 Subsection (10) states that where a good is "produced in" or "imported into" in one part of the UK (the original part), and is then exported outside of the UK before being re-imported back into the UK, the good should still be regarded as having been produced in or imported into the original part of the UK.

- 179 If a good was imported into one part of the UK and then underwent a significant regulated production step in a different part, the good would be treated as having been produced in that other part.
- 180 Subsection (11) clarifies that the references to “production” in section 3 subsection (4)(c) should be taken to include specified production processes associated with agricultural products and livestock or other animals. This reflects the fact that the definition of “goods” in section 14 includes agricultural products.
- 181 Subsections (12), (13) and (14) provide definitions for terms used in this section.

Part 2: UK Market Access: Services

UK Market Access: Services

Section 17: Services overview

- 182 This section sets out the scope of the provisions on the regulation of services in this Part by making provision that limits the application and effect of authorisation requirements for mutual recognition in section 19, and regulatory requirements for non-discrimination in section 20 and section 21.
- 183 Subsection (3) provides a definition for authorisation requirement for the purposes of the mutual recognition principle in section 19.
- 184 Subsection (4) provides a definition for regulatory requirement for the purposes of direct discrimination in section 20 and indirect discrimination in section 21.
- 185 Subsection (5) sets out provisions that are neither an authorisation requirement for the purposes of section 19, nor a regulatory requirement for the purposes of section 20 and 21, meaning that they are not within scope of the principles of mutual recognition and non-discrimination in Part 2.
- 186 Subsection (5)(a) establishes relevant requirements for the purpose of the mutual recognition principle for goods (defined in section 3) are not authorisation requirements or regulatory requirements, for the purpose of Part 2.
- 187 Subsection (5)(b) establishes that provision of the sort described in section 24(1) and 28(1) (professional qualifications and regulation), to the extent it has the effect described in those subsections, is not an authorisation requirement or regulatory requirement for the purposes of Part 2.
- 188 Subsection (5)(c) excludes existing requirements. Subsection (5)(c)(i) provides that legislative requirements in force, or otherwise in effect, the day before the day on which section 17 comes into force are not authorisation requirements or regulatory requirements. Subsection (5)(c)(ii) provides that a requirement that comes into force or otherwise takes effect on or after the day on which section 17 comes into force is not an authorisation requirement or regulatory requirement to the extent that it re-enacts or replicates (without substantive change) a provision that was in force immediately before that day.
- 189 Subsection (5)(d) provides that requirements applying to both service providers and persons that do not provide services are not authorisation requirements or regulatory requirements.
- 190 Subsection (5)(e) provides that a requirement to notify or register with a regulator is not an authorisation requirement or regulatory requirement, for the purpose of Part 2.

- 191 Subsection (5)(f) provides that a requirement to provide evidence of being authorised to provide services in a part of the UK, other than the part in which the requirement applies, is not an authorisation requirement or regulatory requirement for the purposes of Part 2.
- 192 Subsections (6) and (7) provide that subsection 5(c) does not apply if a corresponding authorisation requirement in another part of the UK is substantively changed on or after the day on which section 17 comes into force. This means that an authorisation requirement will be subject to the mutual recognition principle under section 19 where it has not changed but where a corresponding authorisation requirement in another part of the UK has substantively changed.
- 193 Subsection (8) provides that an authorisation requirement will be substantially changed if a legislative requirement that would, if not satisfied, prevent the grant of the authorisation is substantively changed. This means that changing the conditions subject to which authorisation may be granted, may bring the authorisation requirement itself into scope of Part 2.
- 194 Subsection (9) defines “service provider” and “permanent establishment” for the purpose of Part 2. Together they ensure that a service provider will only be within scope of the Part if it is a person that provides services in the course of its own business (i.e., not employees), and has a permanent establishment in the UK.

Section 18: Services exclusions

- 195 This section provides that services or requirement listed in Schedule 2 are excluded from either, or both of the market access principles in Part 2.
- 196 Subsection (1) introduces Schedule 2. It provides: that services in the first column of the table in Part 1 of Schedule 2 are excluded from the principle of mutual recognition in section 19; services in the first column of the table in Part 2 of Schedule 2 are excluded from the principle of non-discrimination in sections 20 and 21; authorisation requirements listed in Part 3 of Schedule 2 are excluded from the principle of mutual recognition in section 19; and, regulatory requirements listed in Part 4 of Schedule 2 are excluded from the principle of non-discrimination in sections 20 and 21.
- 197 Subsection (2) requires the Secretary of State to keep Schedule 2 under review and provides the Secretary of State with a power to add, amend or remove entries from Schedule 2 by regulations. These regulations are subject to the affirmative resolution procedure – see subsection (7).
- 198 Subsection (3) (together with the definition of “common framework agreement” in subsection (4)), makes clear that the power to amend Schedule 2 includes, for example, the power to give effect to a consensus reached between a Minister of the Crown and one or more of the devolved administrations that certain things should be excluded from the application of Part 2 of the Act. In relation to such a consensus, the things that may be excluded are cases, matters, requirements or provisions dealing with the regulation of devolved or transferred matters previously governed by EU law.
- 199 Subsections (5) and (6) make provisions relating to the interpretation of devolved or transferred matters for the purposes of section 18.
- 200 Subsections (8), (9) and (10) provide that before making any regulations under subsection (2), the Secretary of State must seek the consent of the devolved administrations. If consent is not provided within one month of it being requested, the Secretary of State may proceed to make the regulations without that consent. If making the regulations in the absence of consent, the Secretary of State must first publish a statement explaining why they chose to proceed.

Section 19: Services: mutual recognition of authorisation requirements

- 201 This section establishes a principle of mutual recognition authorisation to requirements in relation to the provision of services.
- 202 Subsection (1) provides that an authorisation requirement, that is required to be met to carry out a business of providing certain services in one part of the UK (Scotland, Wales, Northern Ireland, England), does not apply if the service provider has been authorised to carry out that business providing that service in another part of the UK.
- 203 The definition of service provider in 17(9) provides that a service provider must be providing services in the course of its own business. As such, section 19 will not apply to employees.
- 204 Subsection (2) sets out that for the purposes of the principle of mutual recognition in subsection (1), a person is authorised to provide services if they have the permission of a regulator, where that regulator has functions that extend to, at least, the whole of a part of the UK. It does not, therefore, apply to authorisations, related to less than the whole of a part of the UK, for example to carry out services in a particular local authority's area.
- 205 Subsection (3) provides that a person is not authorised to provide services, and therefore the mutual recognition principle does not apply, if the authorisation only allows a service provider to provide their services in relation to a particular premises, location or piece of infrastructure. This would mean, for example, that a licence to provide a certain service from a particular shop premises would not permit that person to provide the service from any shop premises.
- 206 Subsection (4) allows a derogation from the general principle in subsection (1), to the extent that the authorisation requirement in question can reasonably be justified as a response to a public health emergency.

Section 20: Direct discrimination in the regulation of services

- 207 This section sets out provision for direct discrimination in the regulation of services.
- 208 Subsection (1) sets out that any regulatory requirement that directly discriminates against a service provider will be of no effect in relation to that service provider.
- 209 Subsection (2) provides the test for when a regulatory requirement will directly discriminate against a service provider for the purposes of this section. It will be discriminatory if it treats, or has the effect of treating, the service provider less favourably because the service provider has a relevant connection, or lacks a relevant connection, to a part of the UK.
- 210 Subsection (3) provides that a regulatory requirement will not directly discriminate against a service provider to the extent that it can be reasonably justified in response to a public health emergency.
- 211 Subsection (4) provides the circumstances under which a services provider is considered to have a relevant connection to a part of the UK, for the purposes of section 20. These are:
- a. a registered office, place of business or residence in the part of the UK;
 - b. that it provides services from that part of the UK; or
 - c. that it has members, partners, officers or staff with a registered office, place of business or residence in that part of the UK.

Section 21: Indirect discrimination in the regulation of services

- 212 This section sets out provisions for indirect discrimination in the regulation of services.

- 213 Subsection (1) sets out that any regulatory requirement that indirectly discriminates against an incoming service provider will be of no effect in relation to that incoming service provider.
- 214 Subsection (2) provides the test for when a regulatory requirement will indirectly discriminate against an incoming service provider for the purposes of section 21. A requirement will indirectly discriminate if:
- a. it does not directly discriminate against the incoming service provider (section 20);
 - b. it puts the incoming service provider at a relevant disadvantage;
 - c. it has an adverse market effect; and
 - d. it cannot be reasonably considered a necessary means of achieving a legitimate aim.
- 215 Subsection (3) provides for the purposes of subsection (2), what constitutes a relevant disadvantage towards an incoming service provider. This is if it puts an incoming service provider at a disadvantage in the part of the UK in which the requirement applies but does not put local service providers at the same disadvantage.
- 216 Subsection (4) provides what constitutes a disadvantage for subsection (3). A disadvantage will make it in any way more difficult, or less attractive, for the service provider to provide services in that part of the UK.
- 217 Subsection (5) sets out the meaning of adverse market effect is for the purpose of the test for indirect discrimination under subsection (2). A requirement will have an adverse market effect if it puts an incoming service provider at a relevant disadvantage, and it causes a significant adverse effect on competition in the market for the particular service in the UK.
- 218 Subsection (6) sets out the meaning of “incoming service provider,” “local service provider” and “relevant connection” for the purposes of section 21.
- 219 Subsection (6)(a) sets out that an “incoming service provider” provides services in the part of the UK in which the regulatory requirement applies but does not have a relevant connection to that part of the UK.
- 220 Subsection (6)(b) sets out that a “local service provider” provides services in the part of the UK where the regulatory requirement applies, has a relevant connection to that part of the UK, and does not have a relevant connection to another part of the UK.
- 221 Subsection (6)(c) sets the circumstances under which a services provider is considered to have a “relevant connection” to a part of the UK, for the purposes of section 21. These are that it either has:
- a. a registered office, place of business or residence in that part of the UK; or
 - b. that it provides services from that part of the UK.
- 222 Subsection (7) provides a list of public policy objectives that could be considered a “legitimate aim” for the purposes of the test for indirect discrimination in subsection (2). These are the protection of the life or health of humans, animals or plants, the protection of public safety or security and the efficient administration of justice.
- 223 Subsection (8) contains a power enabling the Secretary of State by regulations to add to, remove from or vary the list of legitimate aims in subsection (7). Subsection (9) states that regulations are subject to the affirmative resolution procedure.
- 224 Subsections (10), (11) and (12) set out that, before making any regulations under subsection (8), the Secretary of State must seek the consent of the devolved administrations. However, if

consent is not provided within one month of it being requested, the Secretary of State can proceed to use the power without consent. Before exercising the power in the absence of consent, the Secretary of State must first publish a statement explaining why they have proceeded to use the power.

- 225 Subsection (13) provides that, in considering whether a regulatory requirement can be reasonably considered a necessary means to achieving a legitimate aim under subsection (2)(d), particular consideration has to be given to the effects of the requirement in all circumstances, and to the availability of alternative means of achieving that aim.

Section 22: Duty to review the use of Part 2 amendment powers

- 226 This section places a requirement on the Secretary of State to carry out a review of any use of the powers in Part 2 of the Act. The powers in Part 2 of the Act are the power to amend Schedule 2 in section 18(2) and the power to amend the list of legitimate aims in section 21(8).
- 227 Subsection (2) requires that within three to five years of the passing of the Act, the Secretary of State must conduct a review of the use of the powers, and produce a report of that review, a copy of which must be laid before Parliament.
- 228 Subsection (3)(a) requires that the devolved administrations must be consulted as part of the review. Subsection (3)(b) provides that any relevant reports or advice issued by the Competition and Markets Authority must be considered by the Secretary of State in carrying out the review. Subsection (3)(c) requires the Secretary of State, in carrying out the review, to assess the impact and effectiveness of any changes made under the Part 2 amendment powers.
- 229 Subsection (5) sets out that in the event that the powers to amend have not been used by the time of the review, the Secretary of State must prepare a report containing a statement to that effect, and containing other relevant information that the Secretary of State considers appropriate. Subsection 5(b) provides that the requirements in subsection (3), namely to consult with the devolved administrations, consider any relevant reports or advice from the CMA and to assess the impact and effectiveness of any changes made under the power, do not apply in the event that the power has not been used.

Section 23: Interpretation of Part 2

- 230 Subsection (1) of this section contains definitions of terms contained within Part 2 of the Act, including “authorisation requirement,” “legislative requirement,” “public health emergency,” “regulator” and “regulatory requirement.”
- 231 The definition of “legislative requirement” provides that it is a requirement imposed by, or by virtue of legislation. This therefore includes requirements imposed in the exercise of statutory functions, in addition to those contained in legislation.
- 232 The definition of “regulator” provides that it is a person exercising regulatory functions, and includes a Minister of the Crown, the Scottish Ministers, the Welsh Ministers, and a Northern Ireland department.
- 233 Subsection (2) provides that if a function conferred on a regulator by legislation can only be exercised in a way that would directly or indirectly discriminate against a service provider under section 20 (1) or 21(1), the function of the regulator is to be treated as though it was a regulatory requirement for the purposes of those non-discrimination sections. Such a function would therefore be of no effect if it can only be exercised in a way that would directly or indirectly discriminate against a service provider. This is to prevent regulators being required to impose a discriminatory requirement in circumstances where such a requirement would be rendered of no effect by operation of sections 20 or 21.

234 Subsection (3) states that subsection (2) does not affect the continuation in force, or continuing effect, of existing requirements as provided for under subsection 17(5)(c) and not preserved by section 17(6). This means that subsection (2) will not operate to disapply existing requirements made under a function that would, following commencement of the Part, fall within subsection (2).

235 Subsection (4) provides that any effect of the direct and indirect discrimination provisions for goods (in section 5) and services (in sections 20 and 21) is to be disregarded when considering whether a person is authorised to provide services in another part of the UK for the purposes of mutual recognition for services in section 19. So, for example, a person may rely on the satisfaction of a discriminatory authorisation requirement for the purposes of mutual recognition (noting that the authorisation requirement may be a regulatory requirement or otherwise require the satisfaction of regulatory requirements).

Part 3: Professional Qualifications and Regulations

UK Market Access: Professional qualifications and regulation

Section 24: Access to professions on grounds of qualifications or experience

236 This section sets out when a professional qualified in one part of the UK is automatically treated as qualified in respect of that profession in another part of the UK (the automatic recognition principle). This section also explains the situations where the automatic recognition principle does not apply.

237 Subsections (1) and (2) introduce the automatic recognition principle. They provide that where a provision (defined in section 29) limits access to a profession in the relevant part of the UK to those that have certain qualifications or experience, UK residents who are “qualified” in another part of the UK (as explained in section 25) will be treated as if they were qualified to practise that profession in the relevant part.

238 Subsection (3) excludes provisions relating to ongoing professional requirements, such as continuous professional development, from the automatic recognition principle. UK residents will still need to comply with such requirements when working in another part of the UK.

239 Subsection (4) provides that subsection (1) and (2) are to be read subject to sections 26 and 27.

Section 25: Meaning of “qualified” UK resident

240 This section sets out when an individual is considered a “qualified” UK resident for the purposes of being able to rely on automatic recognition principle.

241 Subsection (1) and (2) define “qualified” (in relation to UK residents) as meaning qualified (in accordance with subsection (3) to (5)) in any part of the UK other than the one in which recognition is being sought, to undertake the full range of activities which comprise the practice of the profession for which recognition is being sought.

242 Subsection (3) to (5) explain what it means to be “qualified” in relation to those activities. To the extent that the relevant activities fall within a corresponding regulated profession in the other part, an individual must be qualified to access that profession (subsection (3)). Otherwise, an individual must meet any specific qualification requirements attaching to specific activities (subsection (4)). To the extent that the activities are unregulated in the other part, any UK resident is qualified (subsection (5)).

243 Subsection (6) provides for the operation of subsection (3) in certain cases. Where there are corresponding regulated professions in the two parts of the UK, an individual cannot rely on

the ability to undertake the activities outside of a regulated profession in the 'other part' (subsection (6)(a)); and where there are overlapping professions in the 'other part', only qualifications to access the profession closest to the one for which recognition is being sought count (subsection (6)(b)).

244 Subsection (7) provides that only qualifications obtained in the UK, and experience obtained mainly in the UK can be relied on for the purposes of this section. How to determine where a qualification is obtained is explained in section 29(6).

Section 26: Exception from section 24 where individual assessment offered

245 This section sets out an exception to the application of the automatic recognition principle in section 24.

246 Subsection (1) provides that the automatic recognition principle will not apply where a process which complies with the section enables a UK resident to seek recognition of their professional qualifications or experience in order to practise the profession concerned. This does not affect the position of any individual who has practised the profession before the process was available (who will still be able to rely on automatic recognition).

247 Subsection (2) provides that the process must allow the relevant regulatory body to be able to grant access to the profession following an application by a UK resident.

248 Subsection (3) provides that any process engaging this section must comply with the principles set out in subsection (4).

249 The principles in subsection (4) include qualifications or experience obtained in one part of the UK should be treated equally to like qualifications or experience obtained in the part where recognition is sought and should be able to be relied on to demonstrate the necessary knowledge and skills required to access the profession.

250 Subsection (4) also provides that where an applicant cannot in reliance on qualifications and experience alone demonstrate the necessary knowledge and skills required to access a specific profession, the process should allow the applicant to undertake a test or assessment in order to be able to demonstrate that they do in fact have the knowledge and skills that are not demonstrated by their qualifications or experience.

251 Subsection (4) further provides that if the applicant can demonstrate the necessary knowledge and skills, either on the basis of the qualifications or experience they can evidence, or through the test or assessment, the regulatory body should recognise the applicant and allow them to practise the profession in that part of the UK.

252 Subsection (5) and (6) set out a situation where a regulatory body does not have to offer an assessment in accordance with subsection (4) before declining an application. In effect, this is where the gaps in the applicant's knowledge and skills are such that an individual assessment would be just as demanding as doing whatever would be needed for the applicant to obtain the qualifications or experience that are normally needed to access the profession.

253 Subsection (7) and (8) provide that a decision on an application under the process must be made within reasonable time and sets out the consequences if that is not done (namely that automatic recognition can be relied on once the failure is established).

254 Subsection (9) provides that the regulatory body must publish information about the procedure for making an application under the process, including providing information on how the process satisfies the principles it must comply with.

255 Subsection (10) defines terms used in this section. In the event that there is no specific

regulatory body responsible for a profession, it provides that the responsibility for administering a process complying with the clause will rest on relevant minister or department.

Section 27: Other exceptions from section 24

- 256 Subsection (1) provides that the automatic recognition principle does not apply to existing provision except as provided for in subsection (3).
- 257 Subsection (2) describes an “existing provision” as a provision in force on the date that this Act is passed (or a provision made after that date if it simply re-enacts or replicates such provision already in force at the date the Act is passed).
- 258 Subsection (3) sets out the circumstances where the automatic recognition principle will apply to an existing provision. This is when, after the Act is passed, that part or a different part of the UK makes provision that affect the circumstances in which individuals are qualified in respect of the profession concerned.
- 259 Subsection (4) defines “relevant part” and “qualified” for the purpose of this section.
- 260 Subsection (5) and (6) exclude certain legal professions from the scope of section 24(2). This means that the automatic recognition system will not apply to these professions.
- 261 Subsection (7) excludes the profession of school teaching from the scope of section 24(2). This means that the automatic recognition system will not apply to this profession.

Section 28: Professional regulation not within section 24: equal treatment

- 262 This section provides that a UK resident practising a profession in a part of the UK with qualifications or experience obtained in another part of the UK, must be treated on the same basis, in respect of ongoing professional requirements, as a locally qualified professional. This includes those who have been recognised through the automatic recognition principle or through a process complying with section 26 but also applies to other UK residents with qualifications or experience obtained in the UK.
- 263 A professional who holds qualifications or experience from outside the part of the UK in which they are practising must be treated as if their qualifications or experience were the same as the qualifications or experience held by a locally qualified professional. If the qualifications or experience are different in type and cannot be obtained in the relevant area, the applicant should be treated on the same basis unless more onerous requirements can be justified due the differences in the qualifications or experience.

Section 29: Interpretation of Part 3

- 264 This section defines certain terms used in this Part of the Act (or provides for them to be read in certain ways in certain cases).
- 265 Subsection (1) provides that the ability to practise a profession includes being able to undertake the activities that make up a profession, use a professional title or be registered where this is required.
- 266 Subsection (2) ensures that, where a qualification attaches to a particular professional activity, that requirement only falls within the scope of section 26 if it is essential to the practice of the profession generally.
- 267 Subsections (3) to (5) deal with cases where there are two or more routes to practise and none of them complies with section 26. For the purposes of the automatic recognition principle, a qualified UK resident gets the benefit of the least demanding route. For example, if those with qualification A were allowed to practise the profession without further individual assessment

and those with qualification B were allowed to practise the profession only after a further individual assessment, a qualified UK resident would be automatically recognised without having to undergo the individual assessment.

268 Subsection (6) provides that where a qualification is to be treated as “obtained” depends on where the body that issues it is based. That in turn is to depend on where the registered office, head office or principal place of operation of the body is.

269 Subsection (7) avoids circularity by ensuring that, when the Part describes the sorts of provision that it affects, the effect of the Part on those provisions is to be disregarded.

270 Subsection (8) defines various other key terms in this Part.

Part 4: Independent Advice on and Monitoring of UK Internal Market

General provision about functions under Part 4

Section 30: Functions of the CMA under Part 4: general provisions

271 This section defines a regulatory provision for the purposes of the CMA’s UK internal market reporting, advisory, and monitoring functions, to be undertaken by the Office for the Internal Market task groups within the CMA as set out in section 32 and Schedule 3. As well as stating which of these regulatory provisions are within scope. A regulatory provision is defined to cover relevant requirements for trade in goods and services, as well as the recognition of professional qualifications within the UK internal market.

272 Regulatory provisions are in scope, under subsection (1) if they meet the conditions in subsections (2) and (4).

273 Subsection (2) defines regulatory provisions by reference to the mutual recognition and non-discrimination principles for goods and services, as defined in sections 3, 6 and 17 and for access to professions or professional regulation under section 24(1) or 28.

274 Subsection (4) sets out that a regulatory provision applies to one or more of England, Scotland, Wales and Northern Ireland, but does not apply to the whole of the UK. For example, a regulation in Wales that only applies within Wales but not in any other part of the UK would fall within scope.

275 Subsections (8) and (9) define “regulatory provision” to include legislation as defined in section 58 covering primary and subordinate legislation, retained EU legislation and provision made under legislation, but not anything to give effect to the Northern Ireland Protocol.

276 Subsection (10) states that “the CMA” refers to the Competition and Markets Authority throughout this Part.

Section 31: Objective and general function

277 Subsection (2) sets out the CMA’s objective in carrying out its functions under Part 4 as being to support the effective operation of the UK internal market with particular reference to the purposes of Parts 1, 2 and 3.

278 Subsection (3) states that the objective includes supporting the operation of the internal market for consumer interests and interests of all parts of the UK. Subsection (4) states that the CMA (acting as the OIM), when carrying out its functions under Part 4, must have regard to the need to act even-handedly in relation to the relevant national authorities, which comprise the UK Government and all devolved administrations.

Section 32: Office for the Internal Market panel and task groups

279 This section gives the CMA the power to authorise an OIM task group constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, to carry out anything that has been required or authorised by the CMA. Provisions regarding the OIM panel and task groups can be found in Schedule 3.

Reporting, advisory and monitoring functions

Section 33: Monitoring and reporting on the operation of the UK internal market

280 This section establishes the wider market and system monitoring that the CMA may undertake in relation to the internal market. The CMA may undertake reviews of the matters in subsection (1) on an ad hoc basis. These include matters, whether about particular sets of regulations, sectors or regions, that either are relevant to the continuing effectiveness of an integrated internal market or relate to concerns about this effectiveness and extend to the provisions of Parts 1 to 3. The areas this monitoring may consider include but are not limited to cross-border competition, cross-border investment, nature and levels of trade between different parts of the UK and access to goods and services.

281 As per subsections (2) and (3), the CMA may undertake pieces of research of its own volition or be requested to do so by other parties, including the UK government, all devolved administrations and legislatures and publish it.

282 Subsections (5) to (8) set out the two categories of reporting the CMA must undertake to give shape to ongoing monitoring.

283 Firstly, subsection (5) requires an annual health of the market assessment which will set out broad trends and developments in the UK internal market, including levels of integration across different sectors, regions and nations.

284 Secondly, subsection (6) requires that at least every five years the CMA will produce a review of the impact of the effectiveness and impact of the measures to protect and manage the internal market as set out in Parts 1 to 3 of the Act. This will be expected to include an assessment of the effectiveness of and levels of familiarity with the mutual recognition and non-discrimination principles, including whether improvements may be necessary. This will also be expected to consider the views of all relevant stakeholders to present an overview of how well the internal market is serving interested parties across the UK. The multi-year report will also review any interaction between the operation of Parts 1 to 3 of the Act and common framework agreements, and the impact of common framework agreements on the operation and development of the internal market in the UK. “Common framework agreements” are defined in section 10.

285 The annual and multi-year reports will be published by the CMA and subsection (7) provides that copies will be laid before both Houses of Parliament and all the devolved legislatures.

286 Subsection (9) defines a “relevant 12-month period” and a “relevant 5-year period” for the purposes of this section and provides a sign-post to the meaning of “common frameworks agreements” in section 10.

Section 34: Advising etc on proposed regulatory provisions on request

287 This section sets out the provision for the CMA to advise on a regulatory proposal prior to it being passed or made in law. If the administration of one part of the UK wishes to do so, it may request non-binding advice from the CMA on an approach to regulation it or any other person proposes to make in the relevant part of the UK.

288 Subsection (3) sets out the conditions as to when an authority may make this request. An authority comprises the UK Government, Scottish Government, Welsh Government and Northern Ireland Executive. Subsection (5) states that this request can be made solely by the Minister in the UK Government or any devolved administration or jointly by two or more.

289 Subsection (4) sets out that the advice or report will examine the potential economic impact of the proposal on the functioning of the UK internal market. This could include the proposal's economic impact on competition or trade distortions, indirect or cumulative effects or impacts on prices, the quality of goods and services or choice for consumers. Subsection (7) states that the CMA may decline to provide a report but must give reasons for doing so.

290 Subsections (8) and (9) state that no more than 15 days after the advice or report is shared with the authority who made the original request, it will be shared with all other national authorities who did not make the request and the CMA must publish the report. If the request was made by two or more authorities, advice, reasons, or a report must be provided to them simultaneously.

291 Subsection (11) defines "relevant part of the UK" for the purpose of this section.

Section 35: Provision of report on request after regulatory provision is passed or made

292 The preceding section sets out the provision for the CMA to advise on a proposed regulatory provision prior to it taking effect. This section details the CMA's reporting procedure on regulatory provisions which have already been passed or made in law.

293 Under subsections (1) to (3), the regulatory provision and the part(s) of the UK to which it applies to must be specified in the request made by the relevant national authority. Any UK Government or devolved Minister, either solely or jointly, can make a request to the CMA about a regulatory provision once it has been passed or made. The requesting administration must consider whether any other person or body is able to provide an independent report in the first instance before the request to the CMA is made.

294 Subsection (5) sets out that if the CMA declines a request to provide a report it must set out its reasons for doing so and publish the notice. Subsection (6) states that joint requests must be provided to all administrations who made the request simultaneously and the CMA must publish the report soon after.

295 Subsection (7) defines "relevant part of the UK" for the purpose of this section.

Section 36: Report on request on provision considered to have detrimental effects

296 This section describes the reporting procedure for enacted regulatory provisions which are considered to have detrimental effects on the UK internal market.

297 Subsections (1) to (5) set out that the CMA may undertake a report on the economic impact of a regulatory provision which has been passed or made into law, provided it falls within scope of Part 4 and is considered to be having an actual or anticipated detrimental impact on the functioning of the UK internal market. The CMA may do this only at the request of a Minister in the UK government or any devolved administration, rather than a third party. The requesting administration(s) must first consider whether any other person is able to provide an independent report. Subsection (6) provides that the CMA may decline such requests but must give reasons if it does so and must publish the notice.

298 Subsection (7) states that where the CMA does provide a report, it must provide copies to all other administrations in other parts of the UK who did not request the report. For example, if the Welsh government made the request for a report, then England, Scotland and Northern Ireland administrations would also receive copies of the report.

299 Subsections (8) to (10) set out that as soon as practicable after being informed that no further time for consideration by administrations is needed, and no later than 6 months after provision of the report to the UK government and all devolved administrations, the CMA must lay the report before each House of Parliament and all devolved legislatures. After this the report will be published by the CMA.

Section 37: Statements on reports under section 36

300 This section sets out the process the CMA, UK Government and devolved administrations must follow once a report has been produced by the CMA and laid before the legislatures under section 36.

301 Subsection (2) requires the national authority responsible for implementing the regulatory measure that was the subject of the CMA's report to then make a written statement in the relevant legislature. For example, if the impacts of a Welsh Government regulation had been reported on, Welsh Ministers would need to make a written statement in the Senedd Cymru. In the case of Northern Ireland, the First Minister and deputy First Minister must make a joint statement. Subsection (3) defines "Parliament". In addition the national authority which requested the report must make a written statement to the relevant legislature.

302 Subsection (4) sets out that in relation to Westminster this duty is to be fulfilled by laying a copy of a written statement before each House of Parliament.

303 Subsections (5) to (9) provide definitions for terms used for the purpose of this section.

Section 38: Reports under Part 4

304 This section allows the CMA to exclude particular categories of information from its reporting on impacts on the internal market. The categories are information the CMA believes it is contrary to the public interest to disclose, commercial information that will significantly harm the business interests of another person, or information about the private affairs of another person.

Section 39: General advice and information with regard to exercise of functions

305 This section sets out that the CMA must publish guidance about how it expects to approach the exercise of its monitoring, advisory and reporting functions. This advice or information may include factors the CMA may take into account when considering whether to carry out its functions.

306 Subsections (3) and (4) state that the CMA may publish revised or new advice or information at any time and that this must be published in such a manner it considers appropriate.

Section 40: Laying of annual documents before devolved legislatures

307 This section requires the CMA to lay its annual plan, proposals for the annual plan and its annual report on its activities and performance report before both the UK Parliament and devolved legislatures.

Section 41: Information-gathering powers

308 This section sets out the powers the CMA will have to gather information in support of its functions in this Part.

309 As provided in subsections (2) and (3), the CMA will be able to give an information notice or require the production of a document by an individual, business or public authority. The notice must describe the type of information required, as well as when and how it is expected to be relayed. Under subsection (6) the notice must make clear which precise function of the CMA is relevant as well the legal and financial consequences of non-compliance.

310 Subsection (8) sets out that no information can be requested if it cannot be compelled to be given in the course of civil judicial proceedings before the court, and that a notice may not require a person to go more than 10 miles from their residence without having their travelling expenses paid or offered to them.

311 Subsection (9) provides a definition of “the court” to include the High Court or Scotland’s Court of Session.

Section 42: Enforcement

312 This section establishes what action the CMA is able to take in response to non-compliance with the information requests described in the previous section.

313 Subsections (4) and (5) set out the conditions where financial penalties may not be imposed because more than 4 weeks have expired since the CMA exercised its relevant functions.

314 Subsection (6) requires the CMA to publish its policy approach in relation to subsequent action should it decide that a request for information has not been adequately fulfilled. Subsection (7) states that this policy approach must make clear what factors the CMA will use to decide the nature and amount of any financial penalty imposed. Subsection (8) states that this approach can be revised, and revisions must also be publicised. Subsection (9) requires the CMA to consult each relevant national authority and such other persons as it sees fit in the process of putting together or revising the policy approach.

315 The CMA can use its own discretion to decide whether the request for information has been complied with or not, though it must explicitly account for this approach. In making this decision, the CMA may also make reference to any obstruction or delay in the fulfilling of a request to produce documents. If it decides that a person has not fulfilled the request or has obstructed the production of documents, it is able to impose a financial penalty as described under subsection (1).

Section 43: Penalties

316 This section sets out how the CMA will decide on appropriate financial penalties in cases of non-compliance with a notice. This provision directly mirrors section 174 of the Enterprise Act 2002, ensuring consistency across the CMA’s functions. The CMA will be able to choose between a range of possible types of penalties and fix appropriate amounts having regard to their statement of policy on penalties and the facts of the case. The CMA will not be able to compel or levy a financial penalty against the UK Government, Scottish Government, Welsh Government or Northern Ireland Executive.

317 Subsections (2) to (4) state that the penalty can be a single, fixed amount, a daily rate or both. In any of these cases, the Secretary of State must specify maximum amounts through secondary legislation not exceeding £30,000 for a fixed amount and £15,000 for the daily rate. As stated in subsection (8), the Secretary of State must consult the CMA, each other relevant national authority and any other relevant persons before deciding on the maximum amounts and daily rates.

318 Subsections (9) and (10) state that the calculation of the daily rate must not include any days before the CMA served a penalty notice concerning failure to provide information on the person in question. The penalty stops accumulating on the day that the requirements under the information request are satisfied or the day the CMA has concluded the exercise of the relevant function. The CMA can specify an earlier date for the rate to stop accumulating should it wish, whether before or after the penalty imposed.

319 Subsection (11) applies provisions in sections 112 to 115 of the Enterprise Act 2002, which set out procedural requirements and provide for appeals to the Competition Appeal Tribunal

should a person wish to appeal a penalty decision made by the CMA to decisions of the CMA under section 42.

Section 44: Duty to review arrangements for carrying out Part 4 functions

320 Subsection (1) requires the Secretary of State to carry out a review of and report on the provision made to achieve the most effective and efficient performance of the Part 4 functions and to lay a copy of the report before Parliament and the devolved legislatures. Under subsection (2) the review must assess the way that Part 4 functions have been carried out by the CMA through OIM task groups and any advantages or disadvantages of continuing with the arrangements in comparison with other approaches including possible arrangements not involving the CMA. Subsection (6) provides that the review period would begin on the third anniversary of section 32 coming into force and end with the fifth anniversary. While carrying out this review, subsections (3) to (5) require that the Secretary of State consults with the other relevant national authorities including on the draft report, and considers their representations on it.

Section 45: Interpretation of Part 4

321 This section sets out key definitions for the purpose of this Part. This includes a definition of the CMA itself and clarity about how broadly the “operation of the internal market in the UK” should be understood. This includes specific areas or regions within the internal market, not just cross-cutting trends across the market as a whole.

322 Subsections (4) to (6) provide definitions of “regulatory provision”, “relevant legislative competence” and “relevant national authority”. The latter covers the UK Government and the three devolved administrations: the Scottish Government, Welsh Government and Northern Ireland Executive.

Part 5: Northern Ireland Protocol

Northern Ireland’s place in the UK internal market and customs territory

Section 46: Northern Ireland’s place in the UK internal market and customs territory

323 This section provides that an appropriate authority must have special regard to a number of matters when exercising functions related to the implementation of the Northern Ireland Protocol or relating to the movement of goods within the UK.

324 The matters listed in subsection (1) are:

- a. the need to maintain Northern Ireland’s integral place in the UK’s internal market;
- b. the need to respect Northern Ireland’s place as a part of the UK’s customs territory; and
- c. the need to facilitate the flow of goods between Great Britain and Northern Ireland.

325 Subsection (3) sets out the meaning of “appropriate authority”.

Unfettered Access

Section 47: Unfettered access to UK internal market for Northern Ireland goods

326 This section supports the delivery of the UK Government’s commitment to unfettered access for Northern Ireland goods moving from Northern Ireland to Great Britain. It does so by precluding new checks, controls or administrative processes on qualifying goods as they

move from Northern Ireland to Great Britain. It similarly precludes the use of existing checks, controls or processes being used for the first time, or for a new purpose or to a new extent.

327 In this way it supports that the application of the Northern Ireland Protocol in Northern Ireland does not lead to new barriers for trade for Northern Ireland businesses. The section provides for exceptions where such checks, controls or administrative processes are necessary for either administrating arrangements which facilitate access for qualifying Northern Ireland goods to the internal market in the UK; or in order to secure compliance with, or give effect to, international agreements or arrangements that the UK is, or will be, a party to; or is necessary where goods have been declared for a voluntary customs procedure.

328 This section applies to checks, controls or administrative processes applicable to the direct movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. A Minister of the Crown may, by regulations, amend the type of movement to which this section applies.

329 Subsection (7) sets out the meaning of appropriate authority.

Section 48: Guidance on Article 10 of the Northern Ireland Protocol

330 Subsection (1) requires the Secretary of State to publish guidance on the practical application of Article 10 of the Northern Ireland Protocol. Article 10 relates to the application of EU State aid law to the UK under the EU Withdrawal Agreement.

331 Subsection (2) provides that the guidance explaining Article 10 should reflect relevant decisions and recommendations of the EU – UK Joint Committee as well as a declaration that either party to the Joint Committee makes, of which the other party takes note.

332 Subsection (3) requires the guidance to be published within one month of section 48 coming into force.

333 Subsection (4) requires any person with public functions, such as a public authority granting financial assistance or other subsidies, to have regard to the guidance when implementing such functions.

334 Subsection (5) allows the Secretary of State to revise, replace or withdraw the guidance if it is no longer necessary.

335 Subsection (6) clarifies that the "Joint Committee" means the committee established by Article 164(1) of the EU Withdrawal Agreement

Notifications under Article 10 of the Northern Ireland Protocol

Section 49: Notification of State aid for the purposes of the Northern Ireland Protocol

336 This section applies when the UK may be required, due to Article 10 of the Northern Ireland Protocol, to give the European Commission of a notification or information relating to aid.

337 It provides a statutory requirement that no one apart from the Secretary of State may notify or inform the European Commission of State aid, or proposed State aid, where required under Article 10. This does not prevent others doing so on behalf of the Secretary of State where they are authorised to do so. This reflects the status quo, namely that this function is presently performed by the Secretary of State for Foreign, Commonwealth and Development Affairs via the UK Mission in Brussels. The Secretary of State will be subject to Regulations made under section 43(1) when interpreting Article 10.

Part 6: Financial Assistance Powers

Financial Assistance Powers

Section 50: Powers to provide financial assistance powers for economic development etc

338 This section is a general power to provide financial assistance for a number of specified purposes. Those purposes are economic development, infrastructure, culture, sporting activities, domestic educational and training activities and exchanges, and international education and training activities and exchanges.

339 For the purpose of this section, subsection (2) makes provision about the interpretation of certain terms.

Section 51: Financial assistance: supplementary

340 This section makes supplementary provision in connection with the power to provide financial assistance in section 50.

341 Subsection (2) makes clear that the power does not affect the operation of existing statutory or common law powers available to UK Ministers to provide financial assistance.

Part 7: Subsidy Control

Subsidy Control

Section 52: Regulation of distortive or harmful subsidies

342 This section reserves to the UK Parliament the exclusive ability to legislate for a subsidy control regime once the UK ceases to follow EU State aid rules. This can address the effects of distortive or harmful subsidies, whether that is in relation to international trade or the UK internal market.

343 For this purpose, the section provides interpretations of “subsidy”, a “distortive or harmful” subsidy and a “public authority”.

344 This section amends Schedule 5 to the Scotland Act 1998 and Schedule 7A to the Government of Wales Act 2006 for Scotland and Wales respectively to make the regulation of distortive or harmful subsidies a ‘reserved matter’. In respect of Northern Ireland, the provision amends Schedule 2 to the Northern Ireland Act 1998 to make regulation in this area an ‘excepted matter’. The effect of these amendments is that the devolved legislatures cannot legislate in this area as it will be an exclusive competence of the UK Parliament.

Section 53: UK subsidy control consultation engagement with the devolved authorities on the Government response

345 Section 53 commits the UK Government to engagement with the devolved authorities on the Government’s response to the forthcoming UK subsidy control consultation.

346 This section will ensure that the Secretary of State will provide a draft of the proposed response to the consultation to the devolved authorities, inviting them to make representations within a period specified. The Secretary of State will then consider any representations and determine whether to alter the final report in light of that consideration.

347 For the purpose of this section, “the UK subsidy control consultation” is the forthcoming consultation committed to by the Secretary of State for Business, Energy and Industrial

Strategy in a written Ministerial statement made in the House of Commons on 9 September 2020 (consultation on whether the UK should go further than its existing international commitments in relation to subsidy control, including whether legislation is necessary). This section is limited to this consultation.

348 This consultation requirement is in addition to any engagement with the devolved authorities in the course of the forthcoming UK subsidy control consultation.

Part 8: Final Provisions

Final provisions

Section 54: Protection of Act against modification

349 This section inserts references to the UK Internal Market Act into the Scotland Act 1998, the Government of Wales Act 2006 and the Northern Ireland Act 1998, so that the Act is treated as a protected or entrenched enactment under each. This means that the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly may not pass legislation that amends the Act or modifies its application.

Section 55: Further provision in connection with the Northern Ireland Protocol

350 This section confirms that when Articles 5 to 10 of the Northern Ireland Protocol cease to apply, sections 11, part 5 and section 8C(5A) of the European Union (Withdrawal) Act 2018 will cease to have effect.

351 This section states that nothing in the Act limits the power to make provision under section 8C of the European Union (Withdrawal) Act 2018, or the effect of such regulations, except for regulations under section 8C(1) which modify the operation of section 47, subject to some exceptions.

Section 56: Regulation: general

352 This section makes provision in relation to powers conferred by the Act on Ministers to make regulations. It provides that regulations made under the powers are to be made by statutory instrument. The powers may be used to amend, repeal or modify the effect of legislation, including Acts of Parliament. When exercised for their stated purpose, the powers may also be used to make supplementary, incidental, consequential, transitional, transitory or saving provision.

Section 57: Regulations: references to parliamentary procedures

353 This section prescribes the parliamentary procedures which apply in relation to powers conferred by the Act on Ministers to make regulations. It sets out the procedure that applies where a power is exercisable by affirmative resolution procedure, made affirmative procedure, or negative resolution procedure. Where a power provides for regulations to be made by negative resolution procedure, this section permits the provisions of such regulations to be included in regulations made by affirmative resolution procedure.

Section 58: Interpretation: general

354 This section sets out definitions of a number of terms used in this Act. Definitions that are specific to Parts 1, 2 3 and 4 of the Act respectively are set out in sections 15, 16, 23, 29 and 45.

Section 59: Extent, commencement and short title

355 This section provides that the whole of the Act extends to the whole of the UK. It provides a power for the Secretary of State to make regulations in order to commence provisions of the Act. Section 59 came into force on Royal Assent.

These Explanatory Notes relate to the United Kingdom Internal Market Act 2020 (c. 27) which received Royal Assent on 17 December 2020

Schedules

Schedule 1: Exclusions from market access principles

- 356 This schedule sets out what requirements are excluded from the market access principles in Part 1.
- 357 Paragraph 1 sets out the circumstances for when the market access principles will not apply to legislation aimed at preventing or reducing the movement of a pest or disease into a part of the UK where it poses, or would pose, a serious threat to the health of humans, animals or plants.
- 358 Subparagraphs (2) to (7) set out the conditions which the part of the UK relying on the exclusion must satisfy.
- 359 Subparagraph (8) defines “pest or disease” as it is referred to in paragraph 1.
- 360 Paragraph 2 sets out the circumstances when the mutual recognition principle for goods will not apply to legislation aimed at preventing or reducing the movement of unsafe food or feed that poses a serious threat to the health of humans or animals.
- 361 Subparagraphs (2) to (6) set out the conditions which the legislation is required to meet to allow for the exclusion to be implemented.
- 362 Paragraph 2, subparagraph (7) defines “food and feed” as it is referred to in paragraph 2.
- 363 Paragraph 3 provides that references to “legislation” in paragraphs 1 and 2 of Schedule 1 also includes the exercise of powers provided for in legislation for the purposes set out in paragraphs 1(2) or 2(2).
- 364 Paragraph 4 sets out the meaning of “responsible administration” for the purpose of paragraphs 1 and 2.
- 365 Paragraph 5 sets out that if a relevant requirement can be reasonably justified in response to a public health emergency, it will not directly discriminate. Subparagraph (2) of paragraph 5 further defines “public health emergency”, “relevant requirement”, “incoming goods” and “destination part”.
- 366 Paragraphs 6 to 8 sets out the narrow exclusion from mutual recognition that will apply to certain chemicals authorisations under Chapter 2 of Title 7 of the REACH regulation.
- 367 Paragraphs 9 and 10 set out the narrow exclusion for fertilisers and pesticides from mutual recognition.
- 368 Paragraph 11 defines the exclusions from both mutual recognition and non-discrimination provisions for any legislation that imposes, or relates to the imposition of, any tax, rate, duty or charge.
- 369 Paragraph 12 provides that indirect discrimination does not apply to requirements made by, or under, Acts of Parliament where these requirements apply both to goods in the originating and destination parts.

Schedule 2: Services Exclusions

- 370 This schedule is divided into four parts. Services listed in the first column of the table in Part 1 are not subject to the mutual recognition principle in section 19. Services listed in the first column of the table in Part 2 are not subject to the non-discrimination principle in section 20 and section 21. If a service is listed in both Part 1 and Part 2 of the Schedule, then neither of the principles in Part 2 of the Act apply to regulation of that service.

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371 Requirements listed in Part 3 are not subject to the mutual recognition principle in section 19. Requirements listed in Part 4 are not subject to the non-discrimination principle in section 20 and section 21.

Schedule 3: Constitution etc of Office for the Internal Market panel and task groups

372 This Schedule sets out the constitution of the OIM panel and task groups. The Part 4 functions of the CMA may be delegated to task groups. It provides for the appointment by the Secretary of State of an OIM panel Chair, who will also be a member of the CMA Board, as well as appointments to the OIM panel.

373 Paragraph 2 amends Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to provide for the appointment of the OIM panel chair (who will also be a member of the CMA board) and the OIM panel members. In making appointments, the Secretary of State must have regard to the desirability of securing a variety of skills, knowledge and experience and an appropriate balance of such skills on the operation of the internal market in different parts of the UK. Before making an appointment to the OIM panel (including the OIM panel chair) the Secretary of State must seek the consent of the Scottish and Welsh Ministers and the Department for the Economy in Northern Ireland. If consent is not given within one month of being sought the Secretary of State may make the appointments to the OIM panel but must inform the devolved administration(s) which did not give consent the reasons for the decision to proceed without consent.

374 Paragraphs 3 to 7 define the length of time a person can sit on the OIM panel, as well as making provision for concurrent panel appointments, limited re-appointments and resignations.

375 Part 3A inserted in Schedule 4 to the 2013 Act sets out further governance arrangements for members of the OIM panel, and the constitution and membership of the OIM task groups set up by the OIM panel Chair, to allow OIM panel members to undertake work to carry out the CMA's functions in Part 4 of this Act.

Commencement

376 This Act provides the Secretary of State with powers to make regulations to commence its provisions. Section 59 of the Act will commence on Royal Assent. The other provisions will commence on the day or days appointed by regulations.

Related documents

377 The following documents are relevant to the Act and can be read at the stated locations:

- The Government's UK Internal Market White Paper:
<https://www.gov.uk/government/publications/uk-internal-market>
- The Government's UK internal market policy options proposals: government response:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/929306/ukim-consultation-government-response.pdf
- The Government's Written Ministerial Statement on Legislative Consent Motions: <https://questions-statements.parliament.uk/written-statements/detail/2020-12-17/hcws665>
- Impact Assessment on the UK internal market:
<https://publications.parliament.uk/pa/bills/cbill/58-01/0177/UK%20Internal%20Market%20Bill%20Impact%20Assessment%2008092020.pdf>
- Joint Ministerial Committee communique:
<https://www.gov.uk/government/publications/joint-ministerial-committee-communique-16-october-2017>
- The Government's Human Right Memorandum:
<https://publications.parliament.uk/pa/bills/cbill/58-01/0185/ECHR%20MEMO%20UKIM%20V%20FINAL.pdf>

Annex A - Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Part 1: UK MARKET ACCESS: GOODS	Yes	Yes	Yes	Yes
Part 2: UK MARKET ACCESS: SERVICES	Yes	Yes	Yes	Yes
Part 3: PROFESSIONAL QUALIFICATIONS AND REGULATION	Yes	Yes	Yes	Yes
Part 4: INDEPENDENT ADVICE ON AND MONITORING OF UK INTERNAL MARKET	Yes	Yes	Yes	Yes
Part 5: NORTHERN IRELAND PROTOCOL	Yes	Yes	Yes	Yes

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Annex B - Hansard References

378 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	09 September 2020	Volume 679 Col. 620
Second Reading	14 September 2020	Volume 680 Col. 41
Committee	15 September 2020	First sitting Volume 680 Col. 205
	16 September 2020	Second sitting Volume 680 Col. 339
	21 September 2020	Third sitting Volume 680 Col. 642
	22 September 2020	Fourth sitting Volume 680 Col. 829
Report and Third Reading	29 September 2020	Volume 681 Col. 183
<i>House of Lords</i>		
Introduction	30 September 2020	Volume 806 Col. 275
Second Reading	19 October 2020	First sitting Volume 806 Col. 1282
	20 October 2020	Second sitting Volume 806 Col. 1418
Committee	26 October 2020	First sitting Volume 807 Col. 16
	28 October 2020	Second sitting Volume 807 Col. 231
	02 November 2020	Third sitting Volume 807 Col. 500
	04 November 2020	Fourth sitting Volume 807 Col. 716
	09 November 2020	Fifth sitting Volume 807 Col. 856
Report	18 November 2020	First sitting Volume 807 Col. 1432
	23 November 2020	Second sitting Volume 808 Col. 34
	25 November 2020	Third sitting Volume 808 Col. 259
Third Reading	02 December 2020	Volume 808 Col. 760
Commons Consideration of Lords Amendments	07 December 2020	Volume 685 Col. 599
Lords Consideration of Commons Reasons and Amendments	09 December 2020	Volume 808 Col. 1246
Commons Consideration of Lords message	10 December 2020	Volume 685 Col. 1037
Lords Consideration of Commons Reasons and Amendments	14 December 2020	Volume 808 Col. 1443
Commons Consideration of Lords message	15 December 2020	Volume 686 Col. 169
Lords Considerations of Commons Reasons and Amendments	15 December 2020	Volume 808 Col. 1627
Commons Consideration of Lords message	16 December 2020	Volume 686 Col. 338
Royal Assent	17 December 2020	House of Lords Vol. 808 Col. 1769

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Annex C - Progress of Bill Table

379 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 3
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 4
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 5
Section 5	Clause 5	Clause 5	Clause 5	Clause 5	Clause 6
Section 6	Clause 6	Clause 6	Clause 6	Clause 6	Clause 7
Section 7	Clause 7	Clause 7	Clause 7	Clause 7	Clause 8
Section 8	Clause 8	Clause 8	Clause 8	Clause 8	Clause 9
Section 9	Clause 9	Clause 9	Clause 9	Clause 9	Clause 10
Section 10	Clause 10	Clause 10	Clause 10	Clause 10	Clause 11
Section 11	Clause 11	Clause 11	Clause 11	Clause 11	Clause 12
Section 12		Clause 12	Clause 12	Clause 12	Clause 13
Section 13					Clause 14
Section 14	Clause 12	Clause 13	Clause 13	Section 13	Clause 15
Section 15	Clause 13	Clause 14	Clause 14	Clause 14	Clause 16
Section 16	Clause 14	Clause 15	Clause 15	Clause 15	Clause 17
Section 17	Clause 15	Clause 16	Clause 16	Clause 16	Clause 18
Section 18	Clause 16	Clause 17	Clause 17	Clause 17	Clause 19
Section 19	Clause 17	Clause 18	Clause 18	Clause 18	Clause 20
Section 20	Clause 18	Clause 19	Clause 19	Clause 19	Clause 22
Section 21	Clause 19	Clause 20	Clause 20	Clause 20	Clause 23
Section 22					Clause 24
Section 23	Clause 21	Clause 21	Clause 21	Clause 21	Clause 25
Section 24	Clause 22	Clause 22	Clause 22	Clause 22	Clause 26
Section 25	Clause 23	Clause 23	Clause 23	Clause 23	Clause 27
Section 26	Clause 24	Clause 24	Clause 24	Clause 24	Clause 28
Section 27	Clause 25	Clause 25	Clause 25	Clause 25	Clause 29
Section 28	Clause 26	Clause 26	Clause 26	Clause 26	Clause 30
Section 29	Clause 27	Clause 27	Clause 27	Clause 27	Clause 31
Section 30	Clause 28	Clause 28	Clause 28	Clause 28	Clause 32
Section 31			Clause 29	Clause 29	Clause 33
Section 32			Clause 30	Clause 30	Clause 34
Section 33	Clause 29	Clause 29	Clause 31	Clause 31	Clause 35
Section 34	Clause 30	Clause 30	Clause 32	Clause 32	Clause 36

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Section 35	Clause 31	Clause 31	Clause 33	Clause 33	Clause 37
Section 36	Clause 32	Clause 32	Clause 34	Clause 34	Clause 38
Section 37	Clause 33	Clause 33	Clause 35	Clause 35	Clause 39
Section 38	Clause 34	Clause 34	Clause 36	Clause 36	Clause 40
Section 39	Clause 35	Clause 35	Clause 37	Clause 37	Clause 41
Section 40					Clause 42
Section 41	Clause 36	Clause 36	Clause 38	Clause 38	Clause 43
Section 42	Clause 37	Clause 37	Clause 39	Clause 39	Clause 44
Section 43	Clause 38	Clause 38	Clause 40	Clause 40	Clause 45
Section 44					
Section 45	Clause 39	Clause 39	Clause 41	Clause 41	Clause 46
Section 46	Clause 40	Clause 40	Clause 42		
Section 47	Clause 41	Clause 41	Clause 43		
Section 48	Clause 43	Clause 43	Clause 45		
Section 49	Clause 44	Clause 44	Clause 46		
Section 50	Clause 46	Clause 46	Clause 48	Clause 42	
Section 51	Clause 47	Clause 47	Clause 49	Clause 43	
Section 52	Clause 48	Clause 48	Clause 50	Clause 44	
Section 53					
Section 54	Clause 49	Clause 49	Clause 51	Clause 45	Clause 48
Section 55	Clause 50	Clause 50	Clause 52	Clause 46	Clause 49
Section 56	Clause 51	Clause 51	Clause 53	Clause 47	Clause 50
Section 57	Clause 52	Clause 52	Clause 54	Clause 48	Clause 51
Section 58	Clause 53	Clause 53	Clause 55	Clause 49	Clause 52
Section 59	Clause 54	Clause 54	Clause 56	Clause 50	Clause 53
Schedule 1					
Schedule 2	Schedule 1	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3			Schedule 3	Schedule 3	Schedule 3

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