



NI Protocol: The UK's solution

The Government has set out the range of issues caused by the Northern Ireland Protocol. These include trade disruption and diversion, significant costs and bureaucracy for traders and areas where people in Northern Ireland have not been able to benefit fully from the same advantages as those in the rest of the United

Kingdom. This has contributed to a deep sense of concern that the links between Great Britain and Northern Ireland have been undermined. This document outlines the UK's solution—fixing the problems so that Northern Ireland can move forward, while protecting the UK and EU markets so that no-one loses out.

The UK Approach

Our preference is to negotiate solutions to the problems being faced by businesses, citizens and communities. Unfortunately, after eighteen months of talks we have not so far been able to agree on an outcome that provides a sustainable basis for operating the Protocol.

But we have made clear and comprehensive proposals which would deliver that sustainability, address the full range of issues raised by the Protocol and restore the balance of the Belfast (Good Friday) Agreement. This document outlines those proposals. In short they would:

- Establish a **new “green channel” arrangements** for goods staying in the UK—fixing the burdens and bureaucracy caused by the application of EU customs and SPS rules to all goods at present;
- Establish a **new “dual regulatory” model** to provide flexibility to choose between UK or EU rules—removing barriers to trade and managing risks of future divergence between UK and EU rules;
- Ensure the **Government can set UK-wide policies on subsidy control and VAT**—overcoming constraints that have meant NI has not benefited from the same support as other parts of the UK;
- **Deal with the Protocol’s unequal governance**, removing the role of the CJEU in dispute settlement and providing the means for UK authorities and courts to set out the arrangements which apply in Northern Ireland

We have also been clear that there are elements of the Protocol which are operating well and which should be preserved—such as on the Common Travel Area and North-South Cooperation.

Given the urgency and seriousness of the problems in Northern Ireland, we will be bringing forward legislation that will enable the sustainable operation of the Protocol in line with these proposals. In parallel we will seek proactively to achieve the same objectives through a negotiated settlement. Our legislation allows us to implement a negotiated agreement. In all scenarios we will remain committed to avoiding a hard border on the island of Ireland, and to respecting the EU’s legitimate interest to see its Single Market protected.

1. Trade: Customs & Agrifood

What is the problem

The UK has always accepted that special arrangements are necessary for the unique situation of Northern Ireland. But NI's place in the UK internal market is being undermined due to the unnecessary checks and paperwork imposed by the Protocol.

The Protocol confirms Northern Ireland's place in the UK's customs territory and internal market.

But it imposes burdensome bureaucracy and paperwork, including full customs processes and onerous SPS import requirements, even for goods staying in the UK and not going to the EU.

- Only a sixth of goods that move into Northern Ireland are determined to be at risk of entering the EU's market—and yet the Protocol subjects them all to the full range of processes. This is disproportionate and unsustainable.
- East-West trade links are critical to the economic success of Northern Ireland. The value of NI goods purchased from GB was more than four times that from Ireland—with GB an essential supplier to businesses and consumers in Northern Ireland.

This has had impacts on costs for businesses and availability for consumers—with the prospect of further disruption for key sectors if existing grace periods are removed.

- Goods relied on for generations, like seed potatoes and other native British plants and trees, can no longer reach NI growers.
- Business surveys note that hundreds of GB retailers have stopped serving customers in Northern Ireland, with warnings that sales volumes would fall by up to a third without grace periods.
- These effects are felt through critical parts of the supply chain, from haulage firms and small businesses through to large retailers.

Why we need to change the Protocol

The Protocol treats goods going from Great Britain to Northern Ireland as if they were going to another country.

Full international trade processes apply no matter where the goods are destined.

Articles 5(3) and (4) of the Protocol apply full EU customs, and animal and plant health rules as goods move into Northern Ireland—with only very limited tariff easements for goods 'not at risk' of going into the EU under Article 5(2).

Businesses in Northern Ireland agree that this framework does not work for internal UK movements and needs to change. The EU has made proposals in October 2021 for an 'express lane' which were a response to the very significant challenges faced by businesses and consumers. But the conditions and limitations around these 'non-paper' proposals mean that they do not go far enough to make the Protocol sustainable for the future, still leaving:

- customs declarations for every journey irrespective of destination or risk—including finding a specific commodity code, from over 7000 items, for every item shipped.
- a system of SPS import requirements with an official process needed for all items on a lorry, and a minimum requirement to physically check a significant proportion of all products, whatever their destination. This is regardless of the stringent traceability rules already in force in the UK which provide a high level of assurance;
- complete bans on the movements of a range of plants, seeds and trees into Northern Ireland.

- new and unnecessary process requirements on pets—with the prospect of around £250 in certificates and treatments for each movement; and
- declarations on millions of consumer parcels, disrupting day-to-day lives.

These are only the most visible and burdensome requirements, there are many others which individually and collectively have a chilling effect on trade, and affect the viability of East-West trade.

UK solution

A new green and red lane approach backed by commercial data and a trusted trader scheme—removing burdens on internal UK trade while avoiding a border on the island of Ireland, protecting both markets and vastly reducing burdens for people and businesses.

Green lane for UK goods

Goods staying in the UK would be freed of unnecessary paperwork, checks and duties, with only ordinary commercial information required rather than customs processes or complex certification requirements for agrifood products

This reduces checks on agri-food goods; removes tariffs on UK trade; and lifts unnecessary bans on goods.

Red lane for EU goods

Goods going to the EU, or moved by traders not in the new trusted trader scheme, would be subject to full checks and controls and full customs procedures—protecting the EU Single Market.

Trusted trader scheme overseen by UK authorities

The green lane would be reserved for those in a new, trusted trader scheme covering all goods movements. Traders will provide detailed information on their operations and supply chains to support robust audit and compliance work. Non-commercial goods, such as post and parcels, will automatically go through the green lane without the need for registration.

Strict and substantial penalties

Traders who abuse the new system will face robust penalties, including civil and criminal charges—and would not be able to use the green lane in the event of non-compliance.

Robust data-sharing

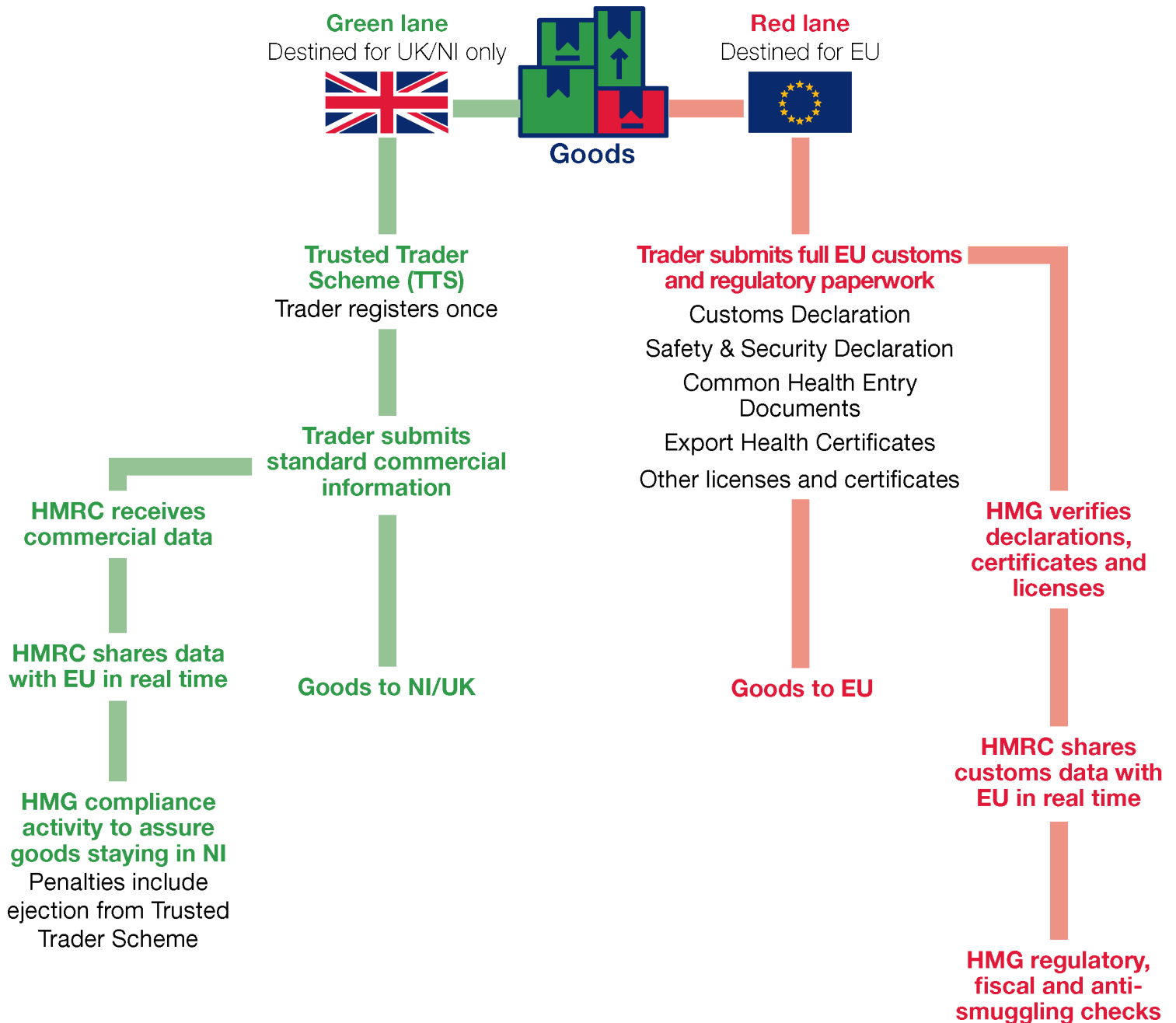
The UK is already providing more than a million rows of data per week with the EU. In the new model we would continue to share with the EU data assured by the UK government on the operation of the trusted trader scheme and on all goods moving between GB and NI—to monitor the risk of abuse and to allow for risk-led, intelligence sharing and co-operation.

- **Purpose-built IT:** This would be delivered through a purpose-built IT system with information available in real time and well within the time taken to cross the Irish Sea.
- **Green lane:** Sharing standard commercial data provided by traders
- **Red lane:** Sharing more than 110 fields of data collected through customs declarations as per the EU Customs Code.

Rapid risk management

Where a different order of risk is posed, we will continue to apply controls—just as we did before the UK's departure from the EU (as on live animals). UK and EU authorities would work together, under a new bespoke biosecurity assurance framework, to manage arrangements for goods that pose a different order of risk.

UK solution: A new green and red lane approach backed by commercial data and a trusted trader scheme—removing burdens on internal UK trade while avoiding a border on the island of Ireland, protecting both markets and vastly reducing burdens for people and businesses.



2. Regulations

What is the problem

The rules applied by the Protocol place barriers between Great Britain and Northern Ireland—barriers which will only increase as UK and EU rules change over time.

Regulated goods need to comply with EU rules to be placed on the market in Northern Ireland, even when they will never enter the EU single market.

These rules create significant burdens for businesses, especially those trading exclusively within the UK: they require firms to complete new paperwork and processes, or comply with specific product requirements—risking entire product lines being withdrawn or discontinued as EU regulations change

- The EU is reviewing front of package ('traffic light') food labelling—risking the discontinuation of thousands of product lines and the withdrawal of popular and important products, which will not be replaced by supply chains in the Republic of Ireland or EU.
- Appointing new representatives in NI could cost businesses £330-£1,400 per year; new tests could cost businesses from £500 to as much as £10,000 per product range; and new product markings could add £1,000 to £10,000 in costs.

This serves to deter companies from supplying customers in Northern Ireland—risking limitations on access to critical goods which cannot be sourced from elsewhere.

- Despite progress on human medicines, gaps remain and there are still critical risks for veterinary medicines from the end of the year—with potentially half of all veterinary medicines for a variety of animals and livestock facing discontinuation.

With an estimated one-fifth of UK businesses selling manufactured goods in NI trading exclusively within the UK, particularly SMEs, NI traders will find it costly and increasingly difficult to receive goods from their existing GB suppliers.

Why we need change

The Protocol insists that most goods meet EU rules to be put on the Northern Ireland market—with no room for flexibility.

Goods made in Great Britain but sold exclusively in Northern Ireland are treated as 'imports'—and face burdensome paperwork and processes – even though they never leave the UK.

There is no mechanism to adapt or tailor goods rules for the Northern Ireland context—relying solely on unilateral EU changes, regardless of their impact on UK internal trade.

There is no durable framework for safeguarding Northern Ireland's place in the UK market—despite the commitments in the Protocol to that effect, risks will only increase as rules change.

UK solution

A dual-regulatory regime that gives choice to NI business and can deal flexibly and durably with any barriers within the UK internal market, alongside robust commitments to protect the EU single market.

A flexible choice for businesses and consumers—we propose:

- Goods can be placed on the market in NI if they meet either UK rules, EU rules, or both—ensuring that consumers can access the products they want, and avoiding gaps on supermarket shelves.
- Goods marked for the EU need to meet all relevant EU standards—in the same way that they currently need to.
- Goods could be marked with either a CE or UKCA marking or both if they meet the relevant rules.
- Approval could be granted by UK or EU bodies respectively.
- This approach has been tried and tested in Great Britain—operating since January 2021 given the unfettered access we have guaranteed for NI goods.

Unfettered access for NI goods in all scenarios

Whichever choice NI businesses make, they would be able to access the GB market with no barriers.

Bespoke approaches where required

We have been clear we would also work with industry to identify required modifications for specific sectors—ensuring at all times that we can address supply barriers.

Robust protections for the EU market

There would be a robust set of safeguards to avoid UK goods moving onto the EU market.

- Importers, manufacturers and producers will remain liable for placing goods on the market in accordance with the correct rules—goods being placed on the market in Ireland would need to meet EU rules, just as they do now. Stringent penalties will apply for traders found to have broken these rules.
- Agrifood goods could move from Great Britain into NI only in line with our Trusted Trader Scheme—with robust penalties applied for violations. The EU has already accepted that it is possible to demonstrate that goods can enter and remain in NI under the existing scheme for goods sold in supermarkets.
- Market surveillance authorities will continue to have powers to enforce product safety within the UK internal market—to enter premises, seize goods and pursue legal action for criminal offences all of which would continue to be risk-based and intelligence-led. These efforts would be intensified, alongside cooperation between authorities in the UK, the Republic of Ireland and the EU to support compliance activity and parallel operations.

3. Tax and spend

What is the problem

The Protocol stops Northern Ireland businesses and people from enjoying the same freedoms as counterparts elsewhere in the UK—despite there being minimal risk to the EU single market.

Though the UK-EU Trade and Cooperation Agreement agreed clear principles for open and fair competition on a zero-tariff and zero quota basis, EU state aid rules still apply in relation to trade between NI and the EU—limiting the level of support that may be granted in NI (or limit who is eligible, as with the COVID-19 Recovery Loan Scheme) without approval from the EU, creating significant uncertainty and a two-tiered system in the UK.

- This is despite the UK's track record as a low-subsidy area—often significantly lower than comparable Member States. The EU's own 2020 scorecard shows the UK gave fewer non-agricultural subsidies as a percentage of GDP than 17 of 27 EU Member States—yet this low risk profile is not reflected in arrangements under the Protocol.
- Northern Ireland is part of the UK's VAT and excise territory. However, as EU rules still apply on goods, people and businesses in NI are not guaranteed to benefit from UK VAT and excise reforms or reductions.

- This has prevented access to recently announced reliefs on energy-saving materials—costing families in NI up to £300 in VAT relief on a typical solar panel installation—and new alcohol duty structures.
- This is despite the UK operating its tax system fully in line with OECD best practice, and working with EU partners to continue work to raise standards (such as on global minimum tax rates).

Why we need change

The Protocol restricts the UK from providing the same tax and spend policies in NI as the rest of the UK—with little room for flexibility.

The Protocol applies EU state aid rules regardless of developments since – Despite the robust subsidy control commitments agreed by the UK and EU in the Trade and Cooperation Agreement, which we have built on in the Subsidy Control Act 2022, the Protocol applies EU state aid rules with no means to adapt to the new context or the real risk posed—with aid schemes in the UK heavily constrained by EU regulations and processes

The Protocol does not allow for VAT and excise rules to be adapted for the unique context in Northern Ireland—EU rules limit the UK's government ability to responsively set VAT and excise rates and reliefs in Northern Ireland, even if the changes would have no impact on the EU.

UK solution

New freedoms that allow the Government to provide support to companies and citizens across the UK—without any risks to the EU market.

Managing subsidy control on a whole UK basis

Relying on the binding commitments made by both sides in the UK-EU Trade and Cooperation Agreement—using the Subsidy Control Act 2022 to manage subsidies in the UK.

Freedoms to set VAT and excise rates, reliefs and structures for the whole UK

We would maintain the existing arrangements in the Protocol on VAT and excise to support trade on the island of Ireland. But we would provide freedom for Ministers to adapt or disapply rules so that people in NI can benefit from the same policies as those elsewhere in the UK.

Bespoke mechanisms for dialogue

Alongside existing structures for disputes and remedies in the Trade and Cooperation Agreement, the Withdrawal Agreement structures would also be used to provide rapid consultation and cooperation.

4. Governance

What is the problem

A democratic deficit as rules are made and imposed on Northern Ireland without ongoing democratic consent, and disputes are settled by EU institutions rather than normal international processes.

Unlike ordinary international treaties, disputes under the Protocol can be taken to, and settled by, the Court of Justice of the European Union—a court of one of the parties.

- While disputes are settled by arbitration in both the UK-EU Trade and Cooperation Agreement, and the rest of the Withdrawal Agreement, the EU insists on European courts as the final arbiter for the Protocol.

Rules applying under the Protocol also take effect automatically once passed by EU bodies—with no say for NI representatives and no means to adapt them for the NI context.

- Already, we have been informed by the EU of over 4,000 adopted measures within the scope of the Protocol since January 2021.
- In some cases these have uniquely disadvantaged Northern Ireland—as when EU legislation unilaterally withdrew Northern Ireland's access to Tariff Rate Quotas, restricting NI imports including steel and New Zealand lamb—and yet have not been subject to any dialogue beforehand.

This state of affairs has—and continues to—undermine political stability, with a fundamental sense of unfairness and feeling of separation from the rest of the UK in Northern Ireland.

Why we need change

The Protocol bakes in those inequalities with no means of redress.

There are no structures for UK or NI representatives to have a say in EU rules—rules are simply automatically applied in most cases.

There is no barrier to limit access to unequal dispute structures—not only is this contrary to ordinary international norms, there are no mechanisms to preclude the CJEU being the first port of call for the EU when issues arise.

UK solution

Fair and balanced governance arrangements to resolve disputes and new freedoms for businesses and consumers in Northern Ireland.

Ordinary international dispute settlement—with more balanced arrangements that look to manage issues through dialogue, and then through independent arbitration.

New flexibilities and freedoms—Our proposals, such as on dual regulation and the green channel, will give businesses and consumers new freedoms and choices which ensure they are not bound to follow rules over which they have had no say.

Northern Ireland Protocol Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Foreign, Commonwealth & Development Office, are published separately as Bill 12-EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Elizabeth Truss has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Northern Ireland Protocol Bill are compatible with the Convention rights.

Northern Ireland Protocol Bill

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Make provision about the effect in domestic law of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, about other domestic law in subject areas dealt with by the Protocol and for connected purposes.

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

Introduction

1 Overview of main provisions

This Act—

- | | |
|--|----|
| (a) provides that certain specified provision of the Northern Ireland Protocol does not have effect in the United Kingdom; | 5 |
| (b) gives Ministers of the Crown powers to provide that other provision of the Northern Ireland Protocol does not have effect in the United Kingdom; | |
| (c) provides that enactments, including the Union with Ireland Act 1800 and the Act of Union (Ireland) 1800, are not to be affected by provision of the Northern Ireland Protocol that does not have effect in the United Kingdom; | 10 |
| (d) gives Ministers of the Crown powers to make new law in connection with the Northern Ireland Protocol (including where provision of the Protocol does not have effect in the United Kingdom). | 15 |

Limitation of effect of Protocol etc

2 Limitation of general implementation of the Northern Ireland Protocol

- | | |
|--|----|
| (1) Section 7A(2) of the European Union (Withdrawal) Act 2018 (effect of law relating to the EU withdrawal agreement) does not apply to— | |
| (a) any rights, powers, liabilities, obligations or restrictions from time to time created or arising by or under excluded provision of— | 20 |

- (i) the Northern Ireland Protocol, or
 - (ii) any other part of the EU withdrawal agreement, or
 - (b) any remedies or procedures from time to time provided for by or under excluded provision of –
 - (i) the Northern Ireland Protocol, or 5
 - (ii) any other part of the EU withdrawal agreement.
 - (2) Accordingly –
 - (a) the rights, powers, liabilities, obligations, restrictions, remedies and procedures concerned are not to be –
 - (i) recognised or available in domestic law, or 10
 - (ii) enforced, allowed or followed accordingly; and
 - (b) no enactment, whenever passed or made, is to be read or is to have effect subject to section 7A(2) of that Act so far as those rights, powers, liabilities, obligations, restrictions, remedies and procedures are concerned. 15
 - (3) In section 7A of the European Union (Withdrawal) Act 2018 –
 - (a) after subsection (3) insert –
 - “(3A) This section is subject to the Northern Ireland Protocol Act 2022 (limitation of effect of the Northern Ireland Protocol).”;
 - (b) in subsection (5) – 20
 - (i) omit the “and” at the end of paragraph (e);
 - (ii) at the end of paragraph (f) insert “, and
 - (g) regulations made under the Northern Ireland Protocol Act 2022 (regulations etc. relating to the subject-matter of the Protocol which take priority over this section so far as they are incompatible with it).” 25
- 3 Other limitations in interpretation of law**
- (1) Section 7C of the European Union (Withdrawal) Act 2018 (interpretation of relevant separation agreement law) does not apply so far as it would require any question as to the validity, meaning or effect of any relevant separation agreement law (including this Act and any regulations made under it) to be decided in a way which is incompatible with – 30
 - (a) any provision made by or under this Act, or
 - (b) any conduct under section 18(1). 35
 - (2) In section 7C of the European Union (Withdrawal) Act 2018 (interpretation of relevant separation agreement law), after subsection (2), insert –
 - “(2A) But also see the Northern Ireland Protocol Act 2022 (under which this section does not apply so far as it would require any question as to the validity, meaning or effect of any relevant separation agreement law to be decided in a way which is incompatible with that Act or regulations or conduct under it).” 40

*Goods: movement and customs***4 Movement of goods (including customs): excluded Protocol provision**

- (1) The first and second subparagraphs of Article 5(1), and Article 5(2), of the Northern Ireland Protocol (no customs duties on goods moved to Northern Ireland, unless they are at risk of subsequently being moved to the EU) are excluded provision. 5
- (2) The following provision of the Northern Ireland Protocol is excluded provision so far as it relates to qualifying movements of UK or non-EU destined goods –
- (a) Article 5(3) (customs legislation applicable to and in the United Kingdom in respect of Northern Ireland); 10
 - (b) Article 5(4) and Annex 2 (provisions of EU law that are applicable to and in the United Kingdom in respect of Northern Ireland).
- (3) A Minister of the Crown may, by regulations, make provision for subsection (2) to apply to prescribed descriptions of qualifying movements of UK or non-EU destined goods. 15
- (4) A prescribed description of qualifying movements of UK or non-EU destined goods may (in particular) relate to any of the following matters –
- (a) the purpose for which the goods are being moved (including whether the goods are being moved for commercial or non-commercial purposes); 20
 - (b) the manner in which the goods are being moved;
 - (c) the person or service being used to move the goods;
 - (d) whether or not the movement is a direct movement from one place to another;
 - (e) the place where the goods are being moved from or to; 25
 - (f) the place where the goods are destined to remain or move to after a qualifying movement;
 - (g) the nature of the goods.
- (5) A Minister of the Crown may, by regulations, make provision about the meaning of “UK or non-EU destined” in this Act; and any such regulations may, in particular – 30
- (a) provide that goods are UK or non-EU destined if prescribed conditions or other criteria are met, including where a trader or other person registered in accordance with a prescribed scheme states in accordance with the scheme that the goods are UK or non-EU destined; 35
 - (b) provide for goods to be treated as UK or non-EU destined;
 - (c) provide for the question of whether goods are UK or non-EU destined to be determined by reference to circumstances after a qualifying movement of the goods.
- (6) In this section – 40
- “qualifying movement” means –
- (a) movement to Northern Ireland from –
 - (i) Great Britain,
 - (ii) the Isle of Man,
 - (iii) any of the Channel Islands, 45
 - (iv) any other place that is outside the EU;

- (b) in the case of goods that originate from the sea, movement of the goods from the sea to a port or other place in Northern Ireland;
 - (c) movement from Northern Ireland to—
 - (i) Great Britain,
 - (ii) the Isle of Man, 5
 - (iii) any of the Channel Islands, or
 - (iv) any other place that is outside the EU; or
 - (d) movement within the United Kingdom;
- “sea” means—
- (a) the territorial sea, or exclusive economic zone, of the United Kingdom or any other country or territory, and 10
 - (b) the high seas.

5 Movement of goods: new law about matters other than customs

- (1) A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with any provision of the Northern Ireland Protocol to which section 4 relates. 15
- (2) But no provision about customs matters may be made under subsection (1) (see instead section 6).
- (3) Regulations under this section may, in particular—
 - (a) provide for checks, controls and administrative processes (whether applicable before or after a movement of goods), including powers of search, examination and entry; 20
 - (b) restrict or prohibit the movement of UK or non-EU destined goods into the EU;
 - (c) make provision about the treatment of goods which cease to be, or become, UK or non-EU destined goods. 25

6 Customs matters: new law

- (1) The Treasury or HMRC may, by regulations, make any provision about customs matters which they consider appropriate in connection with the Northern Ireland Protocol. 30
- (2) Regulations under this section may, in particular—
 - (a) impose or vary the incidence of any customs duty;
 - (b) provide for checks, controls and administrative processes (whether applicable before or after a movement of goods), including powers of search, examination and entry; 35
 - (c) restrict or prohibit the movement of UK or non-EU destined goods into the EU;
 - (d) make provision about the treatment of goods which cease to be, or become, UK or non-EU destined goods.

Regulation of goods

- 7 Regulation of goods: option to choose between dual routes**
- (1) This section allows for the option to choose compliance with a UK regulatory route or the EU regulatory route (or both) as respects regulated classes of goods (which include manufactured goods, medicines and agri-food). 5
- (2) As respects a regulated class of goods—
- (a) a UK regulatory route,
 - (b) the EU regulatory route, or
 - (c) both of those regulatory routes,
- must be complied with in relation to Northern Ireland; and it is for the person complying to choose which regulatory route or routes are to be complied with. 10
- (3) For the purposes of this section a class of goods is “regulated” if any provision of Annex 2 to the Northern Ireland Protocol (provisions of EU law that are applicable to and in the United Kingdom in respect of Northern Ireland) applies to regulation of goods of that class. 15
- (4) In this section, as respects a regulated class of goods—
- (a) “UK regulatory route” means domestic law that applies to regulation of that class of goods;
 - (b) “EU regulatory route” means relevant separation agreement law that applies to regulation of that class of goods. 20
- 8 Regulation of goods: excluded Protocol provision**
- Article 5(4) of, and Annex 2 to, the Northern Ireland Protocol (provisions of EU law that are applicable to and in the United Kingdom in respect of Northern Ireland) is excluded provision so far as it prevents section 7 from having effect.
- 9 Regulation of goods: new law** 25
- (1) A Minister of the Crown may, by regulations, make any provision about regulation of goods which the Minister considers appropriate in connection with the Northern Ireland Protocol.
- (2) The regulations may, in particular—
- (a) make any provision which the Minister of the Crown considers appropriate in connection with a UK regulatory route being available in accordance with section 7(2)(a) or (c) (including provision modifying that UK regulatory route or the EU regulatory route); 30
 - (b) amend section 7 or 8.
- 10 Meaning of “regulation of goods”** 35
- (1) References in this Act to regulation of goods are references to regulation of—
- (a) making goods available on the market,
 - (b) putting goods into service,
 - (c) the production of goods (whether by manufacture or any other process), and 40
 - (d) use and import of goods;

and the references include any matter that is relevant to regulation of goods, which may include matters that occur before or after goods are made available on the market, put into service or produced.

- (2) Those matters may include –
- (a) placing on the market, supply, marketing and sale; 5
 - (b) advertising;
 - (c) dealing with or possession of goods (including after they have been placed on the market or put into service);
 - (d) provision of information;
 - (e) packaging; 10
 - (f) application of marks or markings (including to packaging);
 - (g) licensing (including licensing of persons);
 - (h) notifications;
 - (i) testing, trials, inspection and conformity assessment;
 - (j) transport or storage; 15
 - (k) market surveillance;
 - (l) compliance and enforcement.
- (3) In the case of making goods available on the market or putting goods into service, those matters may also include production of goods (whether by manufacture or any other process). 20
- (4) A Minister of the Crown may, by regulations, make provision about the meaning of references in this Act to regulation of goods (including provision that changes the effect of any other provision of this section, whether by amending it or otherwise).

11 Regulation of goods: supplementary provision 25

- (1) A Minister of the Crown may, by regulations –
- (a) provide for section 7 to apply in relation to –
 - (i) regulated classes of goods that are prescribed;
 - (ii) regulatory routes that are prescribed;
 - (b) provide for exceptions from the application of section 7; 30
 - (c) modify the effect which section 7(2) has as respects a regulated class of goods to which it applies.
- (2) A modification in regulations under subsection (1)(c) may relate to –
- (a) all or some of a regulatory route;
 - (b) all or some of the regulated class of goods. 35
- (3) In this section “regulatory route” means –
- (a) a UK regulatory route (within the meaning of section 7), or
 - (b) the EU regulatory route (within the meaning of section 7).

Other excluded Protocol provision

12 Subsidy control 40

- (1) Article 10 of, and Annexes 5 and 6 to, the Northern Ireland Protocol (state aid) are excluded provision.

- (2) The Subsidy Control Act 2022 is amended as follows –
- (a) in section 42(8) (meaning of minimal assistance etc), for paragraph (d) substitute –
- “(d) under any of the Regulations mentioned in paragraph (c) by virtue of the Northern Ireland Protocol after IP completion day and before the coming into force of section 12(2) of the Northern Ireland Protocol Act 2022, or”;
- (b) in section 48(3) (disapplication of subsidy controls), omit paragraph (a).
- (3) A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with any provision of the Northern Ireland Protocol to which this section relates.

13 Implementation, application, supervision and enforcement of the Protocol

- (1) Any provision of the Northern Ireland Protocol, or of any other part of the EU withdrawal agreement, is excluded provision so far as it confers jurisdiction on the European Court in relation to –
- (a) the Northern Ireland Protocol, or
- (b) related provision of the EU withdrawal agreement, (whether the jurisdiction relates to excluded provision or any other matter).
- (2) The following provision of Article 12 of the Northern Ireland Protocol is excluded provision –
- (a) paragraph 2 (presence and powers of EU representatives etc);
- (b) paragraph 3 (practical working arrangements relating to the exercise of rights of EU representatives).
- (3) Other provision relating to the implementation, application, supervision and enforcement of the Protocol is excluded under section 14.
- (4) A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with any provision of the Northern Ireland Protocol to which this section relates.
- (5) Regulations under subsection (4) may, in particular, make provision about arrangements with the EU relating to the operation of the Northern Ireland Protocol, including provision about –
- (a) supervision of its operation, or
- (b) information sharing,
- under such arrangements.

14 Provision of the Protocol etc applying to other exclusions

- (1) Any provision of –
- (a) the Northern Ireland Protocol, or
- (b) any other part of the EU withdrawal agreement,
- is excluded provision so far as it applies in relation to any other excluded provision (whether of the Northern Ireland Protocol or any other part of the EU withdrawal agreement).
- (2) The provision to which this section applies includes –

- | | | |
|-----|--|----|
| (a) | Article 12 of the Northern Ireland Protocol (implementation, application, supervision and enforcement), apart from paragraphs 2, 3 and 4; | |
| (b) | Article 13 of the Northern Ireland Protocol (common provisions); | |
| (c) | Article 4 of the EU withdrawal agreement (methods and principles relating to the effect, the implementation and the application of the agreement); | 5 |
| (d) | Article 6 of the EU withdrawal agreement (references to EU law); | |
| (e) | Articles 170 to 181 of the EU withdrawal agreement (resolution of disputes by the arbitration panel); | 10 |
| (f) | provision of any Article of the Northern Ireland Protocol so far as it applies in relation to provision of an Annex to the Protocol that is excluded provision. | |
| (3) | Accordingly, the matters to which this section applies include – | |
| (a) | the responsibility of the authorities of the United Kingdom for implementing and applying provisions of EU law; | 15 |
| (b) | the requirement for provisions of the Northern Ireland Protocol and the other parts of the EU withdrawal agreement to be interpreted and applied in accordance with the methods and general principles of EU law and in conformity with the relevant case law of the European Court. | 20 |
| (4) | A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with any provision of the Northern Ireland Protocol and other parts of the EU withdrawal agreement to which this section relates. | 25 |

Excluded Protocol provision: changes & exceptions

15 Changes to, and exceptions from, excluded provision

- | | | |
|------|---|----|
| (1) | In this section “permitted purposes” means – | |
| (a) | safeguarding social or economic stability in Northern Ireland; | |
| (b) | ensuring the effective flow of trade between – | 30 |
| (i) | Northern Ireland and another part of the United Kingdom, or | |
| (ii) | a part of the United Kingdom and anywhere outside the United Kingdom; | |
| (c) | safeguarding the territorial or constitutional integrity of the United Kingdom; | 35 |
| (d) | safeguarding the functioning of the Belfast Agreement; | |
| (e) | safeguarding animal, plant or human welfare or health; | |
| (f) | safeguarding biosecurity or the environment; | |
| (g) | safeguarding the integrity of the EU single market; | |
| (h) | lessening, eliminating or avoiding difference between tax or customs duties in Northern Ireland and Great Britain; | 40 |
| (i) | securing compliance with, or giving effect to, any international obligation or agreement to which the United Kingdom is a party (whenever the United Kingdom becomes a party to it), except for – | |
| (i) | the Northern Ireland Protocol or any other part of the EU withdrawal agreement, or | 45 |
| (ii) | any obligation under them. | |

- (2) A Minister of the Crown may, by regulations, provide for any provision of the Northern Ireland Protocol or any related provision of the EU withdrawal agreement –
- (a) to become excluded provision wholly or to any other extent,
 - (b) to be excluded provision to any greater extent, 5
 - (c) to be excluded provision to any lesser extent,
 - (d) to cease to be excluded provision,
- if the Minister considers that it is necessary to do so for, or in connection with, one or more of the permitted purposes.
- (3) But a Minister of the Crown may not exercise the power conferred by subsection (2) to provide for any of the following articles of the Northern Ireland Protocol to cease to have effect in the United Kingdom to any extent – 10
- (a) Article 2 (rights of individuals);
 - (b) Article 3 (common travel area);
 - (c) Article 11 (other areas of North-South co-operation). 15
- (4) A Minister of the Crown may, by regulations, provide for exceptions from any exclusion.

16 Additional excluded provision: new law

- (1) A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with additional excluded provision. 20
- (2) The provision that may be made under this section is not limited by any other power conferred by this Act on a Minister of the Crown to make provision in connection with provision of the Northern Ireland Protocol or the other parts of the EU withdrawal agreement. 25
- (3) In this section “additional excluded provision” means provision of the Northern Ireland Protocol or any other part of the EU withdrawal agreement which becomes excluded provision wholly or to any other extent by virtue of regulations under section 15(2)(a) (including where it is subsequently excluded provision to any greater or lesser extent by virtue of regulations under section 15(2)(b) or (c)). 30

VAT and excise duties

17 Value added tax, excise duties and other taxes: new law

- (1) The Treasury may, by regulations, make any provision about – 35
- (a) value added tax (including imposing or varying the incidence of the tax),
 - (b) any excise duty (including imposing or varying the incidence of any excise duty), or
 - (c) any other tax (including imposing or varying the incidence of any tax),
- which they consider appropriate in connection with the Northern Ireland Protocol. 40
- (2) The regulations may, in particular, make any provision which the Treasury considers appropriate to lessen, eliminate or avoid difference between –

- (a) value added tax in Northern Ireland and Great Britain (including difference in the incidence of the tax),
- (b) any excise duty in Northern Ireland and Great Britain (including difference in the incidence of the duty), or
- (c) any other tax in Northern Ireland and Great Britain (including difference in the incidence of the tax). 5

Other powers

18 Other Ministerial powers

- (1) A Minister of the Crown may engage in conduct in relation to any matter dealt with in the Northern Ireland Protocol (where that conduct is not otherwise authorised by this Act) if the Minister of the Crown considers it appropriate to do so in connection with one or more of the purposes of this Act. 10
- (2) Nothing in this Act affects any power of a Minister of the Crown arising otherwise than under this Act (including any power by virtue of Her Majesty’s prerogative and any power to make subordinate legislation). 15

19 New agreements amending or replacing the Northern Ireland Protocol

- (1) A Minister of the Crown may, by regulations, make such provision as the Minister considers appropriate—
 - (a) to implement any relevant agreement, or
 - (b) otherwise for the purposes of dealing with matters arising out of, or related to, any relevant agreement. 20
- (2) In this section “relevant agreement” means an agreement made between the United Kingdom and the EU that modifies, supplements or replaces the whole or any part of the Northern Ireland Protocol.

The European Court 25

20 Role of the European Court in court and tribunal proceedings

- (1) This section applies to proceedings so far as they relate to—
 - (a) the Northern Ireland Protocol,
 - (b) related provision of the EU withdrawal agreement, or
 - (c) domestic law relating to— 30
 - (i) the Northern Ireland Protocol, or
 - (ii) related provision of the EU withdrawal agreement.
- (2) In the proceedings, a court or tribunal—
 - (a) is not bound by any principles laid down, or any decisions made, on or after the day on which this section comes into force by the European Court; and
 - (b) cannot refer any matter to the European Court. 35
- (3) A Minister of the Crown may, by regulations, make any provision which the Minister considers appropriate in connection with subsection (2).

- (4) The regulations may, in particular, provide for a procedure under which a court or tribunal may refer a question of interpretation of EU law to the European Court where –
- (a) the question arises in proceedings before the court or tribunal, and
 - (b) the court or tribunal considers that it is necessary for the European Court to deal with that question before the court or tribunal can conclude the proceedings.

Final provisions

21 Preparatory expenditure

A Minister of the Crown, government department or devolved authority may incur expenditure, for the purpose of, or in connection with, preparing for anything about which regulations under this Act may make provision before any such provision is made. 10

22 Regulations

- (1) Regulations under this Act may make any provision that could be made by an Act of Parliament (including provision modifying this Act). 15
- (2) Regulations under this Act may, in particular –
- (a) make provision notwithstanding that it is not compatible with the Northern Ireland Protocol or any other part of the EU withdrawal agreement; 20
 - (b) suspend or repeal, or make alternative provision to, domestic law so far as it gives effect to the Northern Ireland Protocol or any other part of the EU withdrawal agreement;
 - (c) make provision for any EU law to form part of domestic law (with or without modifications), including provision corresponding to sections 3 to 6 of, and Schedule 1 to, the European Union (Withdrawal) Act 2018; 25
 - (d) make provision restating or modifying the effect which any EU law has by virtue of section 7A of the European Union (Withdrawal) Act 2018;
 - (e) make –
 - (i) different provision for different purposes or areas; 30
 - (ii) incidental, supplementary or consequential provision;
 - (iii) transitional or transitory provision or savings.
- (3) Regulations under this Act may not create or facilitate border arrangements between Northern Ireland and the Republic of Ireland which feature at the border – 35
- (a) physical infrastructure (including border posts), or
 - (b) checks and controls,
- which did not exist before exit day.
- (4) Any power under this Act for a Minister of the Crown to make, by regulations, provision which the Minister considers appropriate in connection with any provision of the Northern Ireland Protocol to which any section of this Act relates – 40
- (a) continues to be exercisable in connection with any provision of the Protocol to which that section relates by virtue of regulations under section 15(2)(b) or (c); 45

- (b) is also exercisable in connection with any provision of the Protocol to which that section ceases to relate by virtue of regulations under section 15(2)(d).
- (5) If an instrument, or a draft of an instrument, containing regulations under this Act would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument. 5
- (6) A Minister of the Crown may, by regulations –
- (a) provide for any other power to make regulations conferred by this Act to be exercisable to any extent by a devolved authority – 10
- (i) instead of by a Minister of the Crown, or
- (ii) concurrently or jointly with a Minister of the Crown or any other devolved authority;
- (b) provide for scrutiny of regulations that are to be made, or have been made, by a devolved authority. 15
- (7) Subsection (2)(e) does not apply to regulations under section 26(3) (but see section 26(4) and (5)).

23 Making regulations under this Act: general provisions

- (1) This section applies to regulations made under this Act.
- (2) But this section does not apply – 20
- (a) to tax or customs regulations (see section 24), or
- (b) to other regulations if the only provision under this Act which they contain is made under section 26.
- (3) The regulations are to be made by statutory instrument.
- (4) A statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament, unless the regulations make – 25
- (a) provision which amends an Act of Parliament, or
- (b) retrospective provision.
- (5) If the regulations make provision which amends an Act of Parliament or retrospective provision (whether alone or with other provision), the statutory instrument containing them is subject – 30
- (a) to draft affirmative procedure, or
- (b) if the instrument contains a declaration that the Minister of the Crown making the instrument is of the opinion that, by reason of urgency, it is necessary to make it without it being subject to draft affirmative procedure, to made affirmative procedure. 35
- (6) A statutory instrument that is subject to “draft affirmative procedure” may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 40
- (7) A statutory instrument that is subject to “made affirmative procedure” –
- (a) must be laid before Parliament after being made;
- (b) ceases to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament. 45

- (8) In calculating the period of 28 days, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (9) If regulations cease to have effect as a result of subsection (7)(b), that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.

24 Regulations relating to tax or customs matters

- (1) Only the Treasury may exercise a relevant power to make provision that relates to tax. 10
- (2) Only the Treasury or HMRC may exercise a relevant power to make provision that relates to customs matters.
- (3) Tax or customs regulations are to be made by statutory instrument.
- (4) A statutory instrument containing tax or customs regulations (whether alone or with provision made otherwise than under this Act) is subject to annulment in pursuance of a resolution of the House of Commons, unless—
- (a) any of the tax or customs provision—
 - (i) amends an Act of Parliament, or
 - (ii) is retrospective provision, (in which case see subsections (5) to (9)); or
 - (b) this section is disapplied by subsection (10). 20
- (5) If tax or customs regulations make tax or customs provision which amends an Act of Parliament or which is retrospective provision (whether alone, with other tax or customs provision, or with provision made otherwise than under this Act), the statutory instrument containing them is subject—
- (a) to House of Commons draft affirmative procedure, or
 - (b) if the instrument contains a declaration that the person making the instrument is of the opinion that, by reason of urgency, it is necessary to make it without it being subject to House of Commons draft affirmative procedure, to House of Commons made affirmative procedure. 25
- (6) A statutory instrument that is subject to “House of Commons draft affirmative procedure” may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons. 35
- (7) A statutory instrument that is subject to “House of Commons made affirmative procedure”—
- (a) must be laid before the House of Commons after being made;
 - (b) ceases to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of the House of Commons. 40
- (8) In calculating the period of 28 days, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) the House of Commons is adjourned for more than four days. 45

- (9) If tax or customs regulations cease to have effect as a result of subsection (7)(b), that does not –
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations. 5
- (10) Subsection (4) to (9) do not apply if –
- (a) tax or customs regulations contain provision made otherwise than under this Act, and
 - (b) the statutory instrument containing the regulations, or a draft of it, has been approved by a resolution of – 10
 - (i) the House of Commons, or
 - (ii) each House of Parliament,
 in accordance with the procedure applicable to the making of regulations containing the provision made under the other Act.
- (11) In this section – 15
- “relevant power” means any power to make regulations conferred by this Act, except the powers conferred by –
- (a) section 6 or 17, or
 - (b) section 26(3);
- “tax or customs provision” means provision that – 20
- (a) is made under section 6 or 17,
 - (b) relates to tax and is made by the Treasury under a relevant power, or
 - (c) relates to customs matters and is made by the Treasury or HMRC under a relevant power; 25
- “tax or customs regulations” means regulations which –
- (a) contain tax or customs provision, but
 - (b) do not contain any other provision made under this Act, (whether or not they also contain provision made otherwise than under this Act). 30

25 Interpretation

- (1) In this Act –
- “Belfast Agreement” has the same meaning as in the Northern Ireland Act 1998 (see section 98(1) of that Act);
- “customs matters” includes any of the subject matter of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code; 35
- “devolved authority” means –
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, or 40
 - (c) a Northern Ireland department;
- “domestic law” means the law of England and Wales, Scotland or Northern Ireland;
- “excluded provision” means provision of –
- (a) the Northern Ireland Protocol, or 45
 - (b) any other part of the EU withdrawal agreement,

- so far as it is excluded provision by virtue of this Act (including any regulations made under this Act);
- “exclusion” means the effect which arises by virtue of provision of the Northern Ireland Protocol or of any other part of the EU withdrawal agreement being excluded provision; 5
- “goods” includes animals;
- “HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes HMRC; 10
- “Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
- “prescribed” means prescribed in regulations made by a Minister of the Crown;
- “regulation of goods” is to be read in accordance with section 10; 15
- “related provision of the EU withdrawal agreement” means any provision of the EU withdrawal agreement – other than provision of the Northern Ireland Protocol – so far as it applies in relation to the Northern Ireland Protocol;
- “relevant separation agreement law” has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 7C of that Act); 20
- “retrospective provision”, in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made;
- “tax” means – 25
- (a) value added tax,
 - (b) excise duties, or
 - (c) any other tax;
- “UK or non-EU destined” is to be read in accordance with section 4(6).
- (2) A reference in this Act – 30
- (a) to provision of the Northern Ireland Protocol that does not have effect in the United Kingdom is a reference to provision of the Protocol –
 - (i) becoming excluded provision wholly or to any other extent, or
 - (ii) being excluded provision to any greater extent;
 - (b) to an enactment being affected by provision of the Northern Ireland Protocol is a reference to the enactment being required (by section 7A(3) of the European Union (Withdrawal) Act 2018) to be read and to have effect subject to section 7A(2) of that Act as respects that provision of the Protocol. 35
- 26 Extent, commencement and short title** 40
- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
 - (2) This section and sections 21 to 25 come into force on the day on which this Act is passed.
 - (3) The other provisions of this Act come into force on such day or days as a Minister of the Crown may, by regulations, appoint. 45
 - (4) A Minister of the Crown may, by regulations, make –
 - (a) incidental, supplementary or consequential provision, or

- (b) transitional or transitory provision or savings,
in connection with the coming into force of any provision of this Act.
- (5) Regulations under this section –
 - (a) are to be made by statutory instrument;
 - (b) may make different provision for different purposes or areas. 5
- (6) This Act may be cited as the Northern Ireland Protocol Act 2022.

Northern Ireland Protocol Bill

A

B I L L

To make provision about the effect in domestic law of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement, about other domestic law in subject areas dealt with by the Protocol and for connected purposes.

*Presented by Secretary Elizabeth Truss
supported by The Prime Minister, Secretary
Dominic Raab,
Steve Barclay, the Chancellor of the Exchequer,
Secretary Priti Patel, Secretary Sajid Javid,
Secretary Kwasi Kwarteng, Secretary George
Eustice, Secretary Brandon Lewis,
Michael Ellis and the Attorney General.*

*Ordered, by The House of Commons,
to be Printed, 13th June 2022.*

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