

THE UNITED KINGDOM NORTHERN IRELAND PROTOCOL BILL

Elaine Campling, Chair of ESMA's Health, Safety and Environmental Protection Committee, reports on The Northern Ireland Protocol Bill which was introduced to Parliament in June of this year



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The Protocol itself was negotiated as part of the Brexit arrangements to avoid a hard border between Northern Ireland and Ireland. As such, Northern Ireland is retained as part of UK customs territory, but is regulated by the EU customs union and single-market regulations on manufactured and agricultural goods.

“The Bill aims to fix parts of the Northern Ireland Protocol, restore stability and protect the Belfast (Good Friday) Agreement”

However, the Protocol has been very emotive, particularly as checks must be made on some goods entering Northern Ireland from other parts of the UK. Problems with the Protocol also led to a Northern Ireland Assembly election in May.

FOUR KEY AREAS

The government highlights four key areas – onerous customs requirements, inflexible regulation, tax and spend discrepancies, and democratic governance issues – that the NI Protocol Bill seeks to address, believing it to be “...undermining all three strands of the Belfast (Good Friday) Agreement and have led to the collapse of the power-sharing agreements at Stormont.”

The government reports that just one-sixth of goods moving into Northern Ireland are considered to be of risk of entering the European Union (EU). However, the Protocol subjects them all to the full range of processes, which is disproportionate and

unsustainable. The result is a disruption to trade, significant cost and unnecessary bureaucracy for business.

A NEW REGULATORY SYSTEM

The solution from the government is the introduction of a dual regulatory system allowing companies to choose to apply either the EU or UK regulatory regime for goods, depending on whether the goods are intended for the EU or NI market.

Goods travelling from Great Britain to Northern Ireland without risk of onward movement into Ireland/the EU may follow the green lane, whilst goods intended for the EU will follow red channel rules.

Goods staying in the NI market would be freed of 'unnecessary' paperwork, checks and duties. According to the government, this would reduce checks on agri-food goods, remove tariffs on UK trade and abolish 'unnecessary' bans on goods.

TRUSTED TRADERS

A Trusted Trader Scheme is to be put in place that would be overseen by UK authorities. Traders wishing to use the green lane would

be required to provide comprehensive information on their operations and supply chains. They would also be subject to compliance checks and auditing.

Goods being supplied to the EU or moved by traders that are not in the new Trusted Trader Scheme, would be subject to full checks and controls as well as complete customs procedures via the red lane, protecting the EU Single Market.

PENALTIES INCURRED

The government states that it will ensure strict penalties are imposed on traders that abuse the new system, including civil and criminal charges. IT systems will be established to share data and other intelligence with EU authorities.

Northern Ireland will also be subject to the same tax and spending policies as the rest of the UK and disputes will no longer be subject to resolution by the European Court of Justice, resolving governance issues.

PASSAGE THROUGH PARLIAMENT

At the time of writing, the Bill is reported to have reached the second reading stage in the House of Lords.

INFRINGEMENT PROCEEDINGS

The EU has responded to the Bill by instigating new infringement proceedings against the UK for failing to implement aspects of the Protocol in a timely manner.

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Infringement action could eventually lead to fines being imposed by the Court of Justice of the European Union.

CONCLUSION

It is hoped that talks will resume between the UK and the EU, under the new UK Prime Minister, Rishi Sunak, and the President of the European Commission, Ursula von der Leyen, to find a solution to the issues identified. ■

Further Reading

<https://commonslibrary.parliament.uk/research-briefings/cbp-9548>
<https://www.gov.uk/government/publications/northern-ireland-protocol-the-uks-solution>
<https://www.gov.uk/government/publications/northern-ireland-protocol-bill-uk-government-legal-position>
https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1132
https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3676

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