

Submissions on the Postal Packets (Miscellaneous Amendments) Regulations 2023 and response from HM Treasury

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Submission from the DUP on the Postal Packets (Miscellaneous Amendments) Regulations 2023

Dear Lord Hunt and Members of the Secondary Legislation Scrutiny Committee,

Re: Postal Packets (Miscellaneous Amendments) Regulations 2023

We wish to draw your attention to the Postal Packets (Miscellaneous Amendments) Regulations 2023 mindful of a number of the following provisions in your terms of reference:

4 (a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

These regulations are politically important because they directly contradict what the Prime Minister stated when introducing the Windsor Framework on 27 February, namely that the Framework ‘removed any sense of Border in the Irish Sea.’¹

The impact of these regulations is to deepen the reality of the border down the Irish Sea rather than to remove it.

The first regulation replaces subsection 1 of Section 105 of the Postal Services Act 2000 for the purposes of giving new and deeper effect to the border in the Irish sea than exists legally at the moment.

At the moment the Postal Service Act upholds the reality of the Union in Subsection 1 of Section 105. It no more seeks to treat Northern Ireland as if it separated from the rest of the union by a customs border than it does, England, Scotland or Wales. The constitutional standing of the union thus remains in place.

105 Application of customs and excise enactments to certain postal packets.

(1) Subject as follows, the enactments for the time being in force in relation to customs or excise shall apply in relation to goods contained in postal packets to which this section applies which are brought into or sent out of the United Kingdom by post from or to any place outside the United Kingdom as they apply in relation to goods otherwise imported, exported or removed into or out of the United Kingdom from or to any such place.

The Regulations replace this with new text which give effect for postal purposes to a customs border down the Irish Sea that does not exist at the present time, separating Northern Ireland from the rest of the United Kingdom and treating it the same as a foreign country.

The new text says:

“(1) Subject as follows, the enactments for the time being in force in relation to customs or excise apply in relation to—

(a) relevant goods brought into the United Kingdom from a place outside the United Kingdom by post as they apply in relation to goods otherwise imported into, or removed to, the United Kingdom;
(b) relevant goods sent from the United Kingdom to a place outside the United Kingdom by post as they apply in relation to goods otherwise exported or removed from the United Kingdom;
(c) relevant goods brought into Northern Ireland from Great Britain by post as they apply to goods otherwise removed to Northern Ireland from Great Britain.”.

1 https://www.irishnews.com/news/brexit/2023/02/27/news/live_video_rishi_sunak_and_ursula_von_der_leyen_announce_northern_ireland_protocol_deal-3093295/

It also sets a new 3A to the 2000 Act in order to give effect to this division.

(3A) The following are relevant duties—

- (a) any duty (whether of customs or excise) charged on imported goods;
- (b) customs duty charged under section 40A of the Taxation (Cross-border Trade) Act 2018(3) (customs duty on removal of goods to Northern Ireland from Great Britain);
- (c) excise duty charged as a result of section 4 of the Taxation (Post-transition Period) Act 2020(4) (excise duty on the removal of goods to Northern Ireland from Great Britain)."

Regulation 3, meanwhile, amends the Postal Packets (Revenue and Customs) Regulations 2011 with the similar constitutional effect of placing Northern Ireland outside the same single market as Great Britain for the new relevant postal purposes covered by these regulations.

These amendments include cementing this division by changing the definition of exporter and importer to include those initiating movements between Great Britain and Northern Ireland that are currently understood by the 2011 Regulations, which recognised Northern Ireland's place within the same single market as GB for postal purposes, granting unfettered movement between GB and NI such that the terms importer and exporter do not apply because the movements are internal movements within the same single market.

See:

(b) after the definitions of "exporter" and "importer" (but before the full stop) insert—
"; and

"GB-NI postal packet" means any postal packet that is posted in Great Britain and is—

- (a) sent to a place in Northern Ireland, or
- (b) in transit through Northern Ireland to a place in Great Britain".

The amendments also repeatedly change the law so that movements from GB to NI are no longer considered on the same domestic terms as movements between England, Wales and Scotland, but are in fact uniquely placed alongside "foreign postal packets."

(3) In regulation 5, after "foreign postal packets" insert "and all GB-NI postal packets".

(4) In regulation 6, after "foreign postal packets" insert "and GB-NI postal packets".

(6) In regulation 9, after "foreign postal packets" insert "or GB-NI postal packets".

(9) In regulation 15, after "foreign postal packet" insert "or GB-NI postal packet".

(11) In regulation 20(1), after "foreign postal packet", in each place it occurs, insert "or an GB-NI postal packet".

(12) In regulation 21, after "foreign postal packet" insert "or GB-NI postal packet".

The act of placing Northern Ireland outside the same single market as the rest of the United Kingdom also necessitates replacing the effective definition of that single market for relevant postal purposes from United Kingdom, as in the law as it stands today, to Great Britain, as the Government would have it stand from 31 August 2023.

These changes are deeply controversial because they violate the Belfast Good Friday Agreement and consequently international law.

In this respect it is important to have regard to the Supreme Court Judgement of 8 February Allister/Peebles cases. It notes at para 30:

*'30. The prerogative power embraces the making of treaties but that power under our dualist system does not extend to altering the laws, or conferring rights upon individuals, or depriving individuals of rights which they enjoy in domestic law, without the intervention of Parliament. The dualist system is based on the proposition that international law and domestic law operate in independent spheres. The prerogative power is to make and unmake treaties, but it does not extend to altering the law of the land.'*²

This means that the Good Friday Agreement as a Treaty, while constituting international law, only absolutely constrains legislation to the extent that its provisions are implemented by domestic legislation.

At the heart of the treaty is the following commitment:

*'(iii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;'*³ **(Bold added)**

The text could have simply said 'and that it would be wrong for Northern Ireland to be removed from the United Kingdom and become part of the Republic of Ireland save with the consent of a majority of its people.'

The text, however, is very clear not only that the change in constitutional status arising from moving from one country to another country, i.e. fully leaving the UK to fully join the Republic, must be preceded by the consent of a majority of its (Northern Ireland's) people BUT crucially:

'that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;'

The Postal Packets (Miscellaneous Amendments) Regulations 2023 plainly change the status of Northern Ireland, such that it is to be treated as foreign with respect to the rest of the United Kingdom, for some customs purposes.

The Supreme Court Judgement makes it plain that the legal challenge in question failed because this commitment in the Belfast Agreement (namely: 'that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;') had not been translated into domestic law and even if it had that law would have been subjugated with Section 7A of the Withdrawal Agreement Act, assuming that the legislation in question predated it. That was the

² <https://www.supremecourt.uk/cases/docs/uksc-2022-0089-0093-judgment.pdf>

³ <https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/northernireland/good-friday-agreement.pdf>

end of the matter as far as the Court was concerned, but it is not the end of the matter as far as Parliament is concerned.

Far from suggesting that legislative changes of the kind affected by the Postal Packets (Miscellaneous Amendments) Regulations 2023 were consistent with our international legal obligations deriving from the Belfast Agreement, the Judgement merely observes that the court can only have regard for a matter in light of international law to the extent that Parliament has given it domestic effect.

Parliament needs to be clear that notwithstanding the huge importance attached to the Belfast Agreement, the twenty fifth anniversary of which was marked by events in April, it has not given effect to a key aspect of it.

Parliament has the option of effectively rendering the relevant part of the Agreement null and void by allowing it to be contradicted by these regulations or, given that no Parliament can bind its successors, it can reject these regulations and bring forward new legislation to give effect to the protections in the Belfast Agreement in domestic law.

Clearly the provision of the Belfast Agreement has been pivotal to the maintenance of peace in Northern Ireland in a context where it was believed (until the Supreme Court Judgement in february) that the Agreement was upheld in domestic law.

In freely contradicting the key Good Friday Agreement Treaty protection ‘that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;’ the Postal Packets (Miscellaneous Amendments) Regulations 2023, trade upon what the Supreme Court Judgement reveals, namely that this key protection of the Good Friday Agreement has not been translated into domestic law such that these regulations (and other pieces of legislation) can freely contradict the commitment in international law that is this protection in the treaty.

Parliament needs to reflect on whether or not it is content to pass legislation that violates international law, as set out in the Belfast Good Friday Agreement, notwithstanding the fact that the Supreme Court has shown that the relevant provisions have not been translated into domestic law.

Some might seek to justify ignoring the Belfast Good Friday Agreement in this regard by asserting a contrary international legal obligation emanating from another treaty, and one that has been made directly effective in UK law, namely the Northern Ireland Protocol/Windsor Framework. There are two difficulties with suggesting that this enables the Protocol/Windsor Framework to trump the Belfast Good Friday Agreement.

In the first instance, the Belfast Good Friday Agreement is just as much a treaty, and international law, as the Protocol and indeed it is a rather more celebrated treaty.

In the second instance, Articles 1 and 2 of the Protocol subject the Protocol to the Belfast Good Friday Agreement, which means, according to Article 30 (2) of the Vienna Convention of the Law of the Treaties that if ever provisions of the later treaty contradict the earlier treaty, it is those of the earlier treaty – in this case the Belfast Good Friday Agreement - that must prevail.⁴

⁴ Article 30 (2) of the Vienna Convention on the Law of Treaties states:

‘When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.’

4 (b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

The regulations are inappropriate given changes that have taken place since the passing of the parent legislation in 2018.

On 27 February 2023 the Prime Minister announced the Windsor Framework (referenced in the explanatory notes to these regulations) saying that through it the UK Government and EU had ‘removed any sense of border in the Irish Sea.’⁵

These regulations have the diametrically opposite effect of giving deeper effect to the border in the Irish Sea, dividing Northern Ireland off from the rest of the United Kingdom by placing a customs border between them and changing UK legislation to treat Northern Ireland in the same way as a foreign country for postal purposes.

On 17 May the Deputy Prime Minister also explained that the Government’s work in this area (the Windsor Framework) was such that they had secured ‘unfettered access’ to movements between Great Britain and Northern Ireland, restoring Northern Ireland’s place in the UK internal market. Speaking on 17 May:

‘We have already shown a willingness to legislate to protect Northern Ireland’s place within the Union, and we are committed to providing exactly the protections to which the right hon. Gentleman has referred in respect of its unfettered access to the whole United Kingdom market. I can give those assurances, and of course we stand ready to work with the right hon. Gentleman and representatives across Unionism to reflect the further steps that are required to strengthen our precious Union.’

An internal market or single market is defined as a space within which goods services and all factors of production can move freely without customs barriers.

In this context the benefit of becoming part of a larger single market is being able to move goods, services and all factors of production across the larger market areas without encountering any kind of customs barrier.

That is what unfettered access is. (It does not relate to the ability to legally move goods from one place to another, subject to customs barriers. We would not say that GB has unfettered access to Japan or the USA just because it is legal to trade with those economies, subject to the need to negotiation customs barriers. Unfettered access is what you enjoy if you are part of the same market which GB is not vis-à-vis Japan or the USA.)

In that context, far from securing Northern Ireland unfettered access within the same internal market as the rest of the country, the effect of the Postal Packets (Miscellaneous Amendments) Regulations 2023 is to introduce a new fettering by changing existing laws that currently to not impose customs barriers within the UK so that from the end of August they will.

As such these regulations have a wholly inappropriate effect given the changed circumstances since the passing of the parent Act, set out in the Government’s change of policy from February this year, namely removing any sense of border down the Irish Sea and providing the conditions for the

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https://www.irishnews.com/news/brexit/2023/02/27/news/live_video_rishi_sunak_and_ursula_von_der_leye_n_announce_northern_ireland_protocol_deal-3093295/

recreation of the UK single market for goods, namely the unfettered movement of goods within the UK single market.

4 (e) that there appear to be inadequacies in the consultation process which relates to the instrument;

There does not appear to have been any public consultation on bringing forward these regulations.

This failure is particularly stark given their constitutional implications, in placing Northern Ireland outside the same internal market as the rest of the UK in relation to postal services and the way in which this violates international law as set out in a key provision of the British Irish Treaty, the Belfast Agreement.

6 July 2023

From: Geoff Potter
To: HL Secondary Legislation Scrutiny Committee
Subject: Postal Packets (Miscellaneous Amendments) Regulations 2023
Date: 10 July 2023 18:51:17

Dear Lord Hunt,

I write to you and all the members of the Secondary Legislative Scrutiny Committee to express my deep concern about the Postal Packets (Miscellaneous Amendments) Regulations 2023.

These regulations seem to call the Windsor Framework into question. The Prime Minister said that through the Windsor Framework he had 'removed any sense of border down the Irish Sea'. However, these regulations will have the opposite effect, since they will introduce the border to legislation where it does not currently exist. Therefore, instead of taking away the border it actually enforces it by treating movements in packages between GB and NI as movements between different countries, and thereby subject to EU bureaucracy and customs duties. Rather than protecting Northern Ireland's position within the UK single market, this will lead to further alienation.

These regulations will reduce the incentive for GB companies to provide relevant goods to Northern Ireland. In light of these obstacles and the fact NI is only a market of 1.9 million, NI consumers will be forced to absorb:

- Increased cost from reduced competition
- Increased costs of unnecessary EU bureaucracy
- Customs duties

These will make products more expensive in NI and exacerbate the current economic hardship.

Even though this is exactly the kind of legislation we were told we no longer needed to be concerned about because of the Windsor Framework, there has been no consultation on the regulations.

To make matters worse the explanatory notes state that there has been no impact assessment.

Like many in Northern Ireland, I would wish to convey a growing sense of exasperation at the unfolding reality of the Windsor Framework. Simply put, it is not as the Prime Minister promised and I look forward to an urgent and honest appraisal by your committee.

Your sincerely

Geoff Potter

Geoff Potter
Managing Director Gray & Adams (Ireland) Ltd

10 July 2023

From: [Paul Jackson](#)
To: [HL Secondary Legislation Scrutiny Committee](#)
Cc: paul@mcburneytransportgroup.com
Subject: Draft Postal Packets (Miscellaneous Amendments) Regulations 2023
Date: 11 July 2023 07:56:24

Dear Lord Hunt

Regulation: Draft Postal Packets (Miscellaneous Amendments) Regulations 2023

Points to the Committee need to be made in terms of their terms of reference which are:

(4) The grounds on which an instrument, draft or proposal may be drawn to the special attention of the House are—

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may imperfectly achieve its policy objectives;

(d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(e) that there appear to be inadequacies in the consultation process which relates to the instrument;

(f) that the instrument appears to deal inappropriately with deficiencies in retained EU law.

Other points may occur to you to make given their terms of reference, the below seem particularly important:

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

These regulations are politically and legally important because their effect is to divide the country. They propose changing existing legislation that currently does not divide the country, so it does through the imposition of a postal customs border between Great Britain and Northern Ireland. This denies unfettered movement within the UK single market and in that sense for some purposes replaces it with a GB single market and an EU single market.

The regulations will place barriers between those in NI wanting to buy and those in GB wanting to sell to NI, who may not be prepared to bother with the costs of negotiating the new border given that we are a market of less than 2 million.

This would result in a reduction of choice for people in NI, deprived unfettered access to the greater part of their own single market.

If businesses do carry on trading with NI, they will have to pass the costs of the customs duties/border on to NI consumers, making products more expensive in NI than in the rest of the UK, the last thing we need in a cost of living crisis.

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

The Prime Minister told the country on 27 Feb at Windsor that he had, through the Windsor Framework, removed any sense of border in the Irish Sea. This constitutes a really important development since the Act containing the regulation making power was passed. But these regulations have quite the opposite effect. Far from removing any sense of border in the Irish Sea, they make changes to legislation to give the border even greater effect.

(e) that there appear to be inadequacies in the consultation process which relates to the instrument;

There has been no consultation, which is particularly inappropriate given the constitutionally divisive and economically destructive implications of these regulations.

What's more the UK Government has not even bothered with an Impact Assessment.

Yours sincerely

Paul Jackson
Group Commercial Director
McBurney Transport

11 July 2023

From: Paul C Jackson
To: HL Secondary Legislation Scrutiny Committee
Cc: "Paul Jackson"
Subject: Draft Postal Packets (Miscellaneous Amendments) Regulations 2023
Date: 11 July 2023 07:42:12

Dear Lord Hunt

Regulation: Draft Postal Packets (Miscellaneous Amendments) Regulations 2023

Points to the Committee need to be made in terms of their terms of reference which are:

(4) The grounds on which an instrument, draft or proposal may be drawn to the special attention of the House are—

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may imperfectly achieve its policy objectives;

(d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(e) that there appear to be inadequacies in the consultation process which relates to the instrument;

(f) that the instrument appears to deal inappropriately with deficiencies in retained EU law.

Other points may occur to you to make given their terms of reference, the below seem particularly important:

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

These regulations are politically and legally important because their effect is to divide the country. They propose changing existing legislation that currently does not divide the country, so it does through the imposition of a postal customs border between Great Britain and Northern Ireland. This denies unfettered movement within the UK single market and in that sense for some purposes replaces it with a GB single market and an EU single market.

The regulations will place barriers between those in NI wanting to buy and those in GB wanting to sell to NI, who may not be prepared to bother with the costs of negotiating the new border given that we are a market of less than 2 million.

This would result in a reduction of choice for people in NI, deprived unfettered access to the greater part of their own single market.

If businesses do carry on trading with NI, they will have to pass the costs of the customs duties/border on to NI consumers, making products more expensive in NI than in the rest of the UK, the last thing we need in a cost of living crisis.

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

The Prime Minister told the country on 27 Feb at Windsor that he had, through the Windsor Framework, removed any sense of border in the Irish Sea. This constitutes a really important development since the Act containing the regulation making power was passed. But these regulations have quite the opposite effect. Far from removing any sense of border in the Irish Sea, they make changes to legislation to give the border even greater effect.

(e) that there appear to be inadequacies in the consultation process which relates to the instrument;

There has been no consultation, which is particularly inappropriate given the constitutionally divisive and economically destructive implications of these regulations.

What's more the UK Government has not even bothered with an Impact Assessment.

The wider civic points can also be made in the sense that placing a customs border across a country, and thereby placing some citizens the other side of the customs border, undermines citizenship by attaching NI to a legal regime imposed on it from outside in 300 areas of law. This is destructive of citizenship because the border is there to protect the "integrity" of a legal regime imposed on us. It is therefore not just an economic border, but a civic border, the border of our disenfranchisement.

Paul C Jackson
Managing Director
Palyn Ltd
Transport Management Consultants

11 July 2023

Submission from the Road Haulage Association on the Postal Packets (Miscellaneous Amendments) Regulations 2023

To whom it may concern.

Re: Proposed Postal Packets (Miscellaneous Amendments) Regulations 2023

We wish to raise a few points regarding the above proposed regulations and draw on the provisions within your terms of reference as follows:

4 (a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House.

These regulations are politically and legally important due to them appearing to contradict what the Prime Minister and the Secretary of State for Northern Ireland indicated to the business community within NI when introducing the Windsor Framework on 27 February, namely that the Framework removed any sense of Border in the Irish Sea and it would be as easy to move goods from Birmingham to Belfast as it would be to move goods from Birmingham to the Isle of Wight

The impact of these proposed regulations is to add additional obstacles, bureaucracy, and costs to the movement of everyday goods that consumers and businesses depend upon with the result that it restricts trade, increases costs and results in trade divergence.

Regulation one replaces subsection 1 of Section 105 of the Postal Services Act 2000 for the purposes of giving new and deeper effect to the border in the Irish sea than exists legally at the moment.

At the moment the UK is treated as one country with regards to the movement of postal articles.

105 Application of customs and excise enactments to certain postal packets.

(1) Subject as follows, the enactments for the time being in force in relation to customs or excise shall apply in relation to goods contained in postal packets to which this section applies which are brought into or sent out of the United Kingdom by post from or to any place outside the United Kingdom as they apply in relation to goods otherwise imported, exported or removed into or out of the United Kingdom from or to any such place.

The proposed regulations intend to replace this with revised text that gives effect for the purposes of postal articles postal to a customs border between GB and Northern Ireland as a direct consequence of the Windsor Framework treating the region as if it's a foreign country.

The proposed provisions state:

“(1) Subject as follows, the enactments for the time being in force in relation to customs or excise apply in relation to—

(a) relevant goods brought into the United Kingdom from a place outside the United Kingdom by post as they apply in relation to goods otherwise imported into, or removed to, the United Kingdom;

(b) relevant goods sent from the United Kingdom to a place outside the United Kingdom by post as they apply in relation to goods otherwise exported or removed from the United Kingdom;

(c) relevant goods brought into Northern Ireland from Great Britain by post as they apply to goods otherwise removed to Northern Ireland from Great Britain.”.

The proposals also set out a new provisions at 3A to the 2000 Act in order to order to give effect to this division.

(3A) The following are relevant duties—

(a) any duty (whether of customs or excise) charged on imported goods;

(b) customs duty charged under section 40A of the Taxation (Cross-border Trade) Act 2018(3) (customs duty on removal of goods to Northern Ireland from Great Britain);

(c) excise duty charged as a result of section 4 of the Taxation (Post-transition Period) Act 2020(4) (excise duty on the removal of goods to Northern Ireland from Great Britain).”.

It is also noted regulation 3, amends the Postal Packets (Revenue and Customs) Regulations 2011 with the similar provisions that give effect to Northern Ireland being excluded from the UK and in essence placing Northern Ireland as a foreign country for the purposes of postal articles.

The proposed provisions appear to be providing a legislative that separates Northern Ireland from GB and splits the UK into two distinct and separate areas for the purposes of postal articles and tax. This does not align with the public commitments made by the Government when the Windsor Framework was announced and certainly restricts and hinders trade between GB and NI and will result in trade diversion and reduced market access for NI consumers and businesses.

Some of the pertinent proposals that illustrate that include:

(b) after the definitions of “exporter” and “importer” (but before the full stop) insert—

“; and

“GB-NI postal packet” means any postal packet that is posted in Great Britain and is—

(a) sent to a place in Northern Ireland, or

(b) in transit through Northern Ireland to a place in Great Britain”.

The proposed amendments that separate the UK into two distinct postal areas for the purposes of tax etc are numerous and clear so that movements from GB to NI are no longer considered on the same domestic terms as movements between England, Wales and Scotland, but are in fact uniquely placed alongside “foreign postal packets.”

(3) In regulation 5, after “foreign postal packets” insert “and all GB-NI postal packets”.

(4) In regulation 6, after “foreign postal packets” insert “and GB-NI postal packets”.

(6) In regulation 9, after “foreign postal packets” insert “or GB-NI postal packets”.

(9) In regulation 15, after “foreign postal packet” insert “or GB-NI postal packet”.

(11) In regulation 20(1), after “foreign postal packet”, in each place it occurs, insert “or an GB-NI postal packet”.

(12) In regulation 21, after “foreign postal packet” insert “or GB-NI postal packet”.

The act of placing Northern outside the same single market as the rest of the United Kingdom also necessitates replacing the effective definition of that single market for relevant postal purposes from United Kingdom, as in the law as it stands today, to Great Britain, as the Government would have it stand from 31 August 2023.

The regulations are inappropriate given changes that have taken place since the passing of the parent legislation in 2018.

On 27 February 2023 the Prime Minister announced the Windsor Framework (referenced in the explanatory notes to these regulations) saying that through it the UK Government and EU had ‘removed any sense of border in the Irish Sea.

It would appear that these proposed regulations have an inappropriate effect given the changed circumstances since the passing of the parent Act, set out in the Government’s change of policy from February this year, namely removing any sense of border down the

Irish Sea and providing the conditions for the recreation of the UK single market for goods, namely the unfettered movement of goods within the UK single market.

In addition, its noted that the Government has not consulted on these proposals despite them being of significant importance nor has there been a regulatory impact assessment.

7 July 2023

From: Jack Steele
To: HL Secondary Legislation Scrutiny Committee
Subject: Draft Postal Packets (Miscellaneous Amendments) Regulations 2023.
Date: 11 July 2023 13:16:01

Dear Lord Hunt,

I write to the committee today with grave concern over the Draft Postal Packets (Miscellaneous Amendments) Regulations 2023 and the significant impact which they will have in Northern Ireland

With great allusion to your terms of reference, 4a states, 'that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;'

These regulations are of unquestionable political and legal significance, precisely because the ramifications threaten to impede upon the Union and separate Northern Ireland from Great Britain. Essentially, these regulations propose to alter the current set of trading arrangements and implement a postal customs border between Northern Ireland and Great Britain. This is a refutation of unfettered trade, something which is guaranteed within the UK single market. Effectively, these regulations would override the UK single market by dividing it into two, with a GB single market and an EU single market for Northern Ireland.

If imposed, these regulations will enforce economic barriers between consumers in NI seeking to purchase from GB based companies, and those respective companies in GB who want to sell products to NI. Due to the fact that the Windsor Framework relegates NI to a separate market of its own, in tandem with the possibility of postal duties and additional checks, many GB based companies will simply dismiss the immense effort required to ship products to NI and this will result in a dramatic decline in choice and opportunity. Thus, consumers and producers alike will be losing out from customers, profit and diversity of choice, thereby interring the historical policy of unfettered access to NI's own single market.

These egregious set of circumstances threaten my own generation more than ever. I am 18 years old, and although my parents and grandparents have enjoyed unfettered access to the UK single market, especially being able to purchase commodities with ease, as well as a diverse range of products at affordable prices, it is my own generation that will have to suffer the consequences of these regulations, subsequent to the Windsor Framework. The upcoming generation will be at a significant disadvantage. Reduced of

choice, removed from the greater part of our own single market and burdened with such regulations as these, many young people will see very little reasons to remain in Northern Ireland, due to the overbearing economic detriment. Concerningly, if business do opt out of trading in Northern Ireland due to onerous regulations, they will have to bestow the custom duties unto the people of Northern Ireland. The economic manacling of Northern Ireland for the forthcoming generation of young people will undoubtedly prove disastrous and of significant detriment to my ability to prosper within my own country.

Including this, it seems entirely neglectful and callous to bestow additional economic duties unto the people of Northern Ireland during a cost-of-living crisis. For many people, particularly families, it is a struggle merely going from day to day, and to enforce even more economic regulations upon these people would engender the situation.

Moreover, there exists a larger issue present to these regulations. They are corroborating the existence of a customs border between NI and GB. The Windsor Framework consigns Northern Ireland to a foreign legal regime, imposed upon the Northern Irish people from outside our country and contains laws in 300 different legal areas. This is a direct undermining of my citizenship, as the border is intended to protect the integrity of a legal regime, which has been imposed upon our heads. Hence, this is not merely a question of economic rights, but also citizenship rights. As a young person, and a citizen of Northern Ireland, I have exclusively protected rights within the Good Friday Agreement under section “Rights, Safeguards and Equalities” which enable me to have fair representation which consults my needs and requirements. Currently, my rights as a British citizen have been distorted and I am no longer one equal footing to my counterparts in Great Britain. Thus, these regulations serve to erode my rights as a citizen of Northern Ireland by depriving me of my equal citizenship.

Furthermore, I write in relation to your terms of reference, 4(b) states that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

After the announcement of the Windsor Framework on 27th February, the concerned people of Northern Ireland were honestly informed by the Prime Minister that the Framework provided the resolution to Irish Sea Border by removing it. In hindsight however, these regulations do no such thing; in fact, they actively build upon the Irish Sea Border by altering the legislation to corroborate the existence of the border. Full customs formalities will

remain for many NI businesses attempting to transport goods to Northern Ireland. These regulations will merely add to the complicated nature of trading with NI, an environment which the Windsor Framework has created.

I am immensely concerned about this because it appears to me, as a young person, that His Majesty's Government, under the Prime Minister, are actively seeking to partition NI and subject it to a different legal regime. The ramifications of this for my own generation will be widespread, both for economic and social reasons, depriving of us of a larger trading market but also our right to identify as a British citizen, fully and equally. It is preposterous that any UK Prime Minister could confidently propose regulations for legislation such as these, which retain a completely and utterly detrimental impact for the people, especially the younger generation, of Northern Ireland.

Additionally, I write with association to your terms of reference 4(e) that there appear to be inadequacies in the consultation process which relates to the instrument;

Ultimately, there has been no consultation process. The undeniably important process of consent has been annihilated, first with the Protocol and now with the imposition of a legal regime intended to divide NI from GB. This demonstrates a contempt for the people of NI. We deserve to have a say in the future of our country and our voices ought to be listened to. My own voice, that of an 18 year old, should be taken into account. I want consensus to be restored and Northern Ireland given a say in these matters. Alas, I witness the perpetual invalidation of consent. The contempt for Northern Ireland was evinced through the government's failure to conduct an Impact Assessment to discern whether or not these regulations would retain a detrimental impact upon the economic situation within Northern Ireland.

It's my desire to see Northern Ireland work and to make a difference. As an 18 year old, I still have a life to live. However, I do not want my life in Northern Ireland to be lesser than those citizens in GB. I have a right to be treated equally under the Act of Union. My opportunities as a young person, to prosper and succeed, should not be stifled by regulations such as these.

It is for that reason that I would ask the Committee to take my comments into account as draw these matters to the attention of the House

Jack Steele
Bangor
Northern Ireland

11 July 2023

Government Response to Submissions on the Postal Packets (Miscellaneous Amendments) Regulations 2023 [09/07/2023]

This instrument laid on 29 June 2023, the Postal Packets (Miscellaneous Amendments) Regulation 2023, amends the Postal Services Act 2000 and the Postal Packets (Revenue and Customs) Regulations 2011 (S.I. 2011/3036) and will provide United Kingdom authorities with powers in relation to parcels ('postal packets') moving from Great Britain (GB) to Northern Ireland (NI), where these are required for the purposes of the Windsor Framework – in particular in order to ensure the integrity of the green lane. The Windsor Framework was agreed between the United Kingdom (UK) and European Union (EU) on 27 February 2023, with the international law instruments giving it legal effect adopted on 24 March 2023.

This instrument enables Border Force and HMRC to exercise enforcement powers as part of the UK Government's commitment to ensuring that the arrangements in the Windsor Framework guarantee Northern Ireland's integral place in the UK's internal market while avoiding risks to the EU market. To secure the integrity of the system, the UK Government is ensuring that Border Force and HMRC have powers to detain, inspect, and seize goods moved illicitly in parcels from GB to NI. These powers are also needed under existing arrangements currently in place to better manage any risks of smuggling.

Neither the Windsor Framework, nor this instrument change the constitutional status of Northern Ireland. Northern Ireland remains an integral part of the UK. The arrangements under the Windsor Framework address, in a definitive manner, the challenges in the operation of the Northern Ireland Protocol on Ireland/Northern Ireland over the last 2 years and the everyday issues faced by people and businesses in Northern Ireland. The arrangements support and protect the Good Friday or Belfast Agreement in all its parts and protect the integrity of the European Union's Single Market and Northern Ireland's place in the United Kingdom's internal market.

Under the Windsor Framework, the arrangements for sending parcels from GB to NI are significantly improved and streamlined when compared to the requirements under the old Northern Ireland Protocol. Had it been fully implemented, the old Northern Ireland Protocol would have required customs declarations for all parcel movements from GB to NI. Under the Windsor Framework, from 30 September 2024 there will be new arrangements in place for the movement of parcels between Great Britain and Northern Ireland, with a new set of data-sharing requirements to ensure that customs declarations are not needed for deliveries to consumers. There will be no customs declarations, tariffs, pre-notification or presentation of goods to customs authorities when parcels are sent by or to consumers in NI. There will also be no routine checks or controls applied to consignments, with interventions only on the basis of a risk-based, intelligence-led approach. This will mean consumers in Northern Ireland will be able to receive parcels from Great Britain without burdens.

The Windsor Framework also enables movements of parcels between GB and NI businesses to use the new green lane, subject to the same conditions as freight movements. This will ensure that goods will no longer be required to move on the basis of international customs requirements. Movements to the EU, via the red lane, will face the full customs processes required by the EU.

In summary, the abilities provided to Border Force and HMRC to detain, inspect and seize illicit parcels by this instrument are a key element of the government meeting its international commitments under the Windsor Framework agreement and will help and secure readiness for the new arrangements for parcels from 30 September 2024. This instrument will ensure the parcels provisions under the Windsor Framework, which are significantly more positive when compared to the requirements under the Northern Ireland Protocol, can be implemented effectively.

9 July 2023