



Brussels, 26 June 2020  
REV1 – replaces the notice dated  
8 February 2018

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF EU ECOLABEL

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.<sup>1</sup> The Withdrawal Agreement<sup>2</sup> provides for a transition period ending on 31 December 2020.<sup>3</sup> Until that date, EU law in its entirety applies to and in the United Kingdom.<sup>4</sup>

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,<sup>5</sup> in the EU Customs Union, and in the VAT and excise duty area.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation applicable after the end of the transition period (Part A below). This notice also explains certain relevant separation provisions of the Withdrawal Agreement (Part B below), as well as the rules applicable in Northern Ireland after the end of the transition period (Part C below).

#### **Advice to stakeholders:**

- <sup>1</sup> A third country is a country not member of the EU.
- <sup>2</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).
- <sup>3</sup> The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.
- <sup>4</sup> Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.
- <sup>5</sup> In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

To address the consequences set out in this notice, where economic operators hold an EU Ecolabel contract issued by the UK EU Ecolabel competent body prior to the end of the transition period, and plan to continue using the EU Ecolabel when placing the product concerned on the EU market after the end of the transition period, they are advised to consider one of the two following options:

- Applying for a new contract with the EU Ecolabel competent body of an EU Member State;<sup>6</sup> or
- Arranging for a transfer – on the basis of a contractual arrangement between the holder of the EU Ecolabel, the UK EU Ecolabel competent body, and the EU Ecolabel competent body of an EU Member State - of the file and the corresponding contract from the UK EU Ecolabel competent body to the EU Ecolabel competent body of an EU Member State.

## **A. LEGAL SITUATION AFTER THE END OF THE TRANSITION PERIOD**

After the end of the transition period, Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel<sup>7</sup> will no longer apply to the United Kingdom.<sup>8</sup> This has in particular the following consequences:

### **1. COMPETENT BODY**

After the end of the transition period, the EU Ecolabel competent body designated by the United Kingdom according to Article 4 of Regulation (EC) No 66/2010 will lose its status. It will not be in the position to carry out the tasks described in Regulation (EC) No 66/2010. It will therefore be removed from the list of EU Ecolabel competent bodies on the EU Ecolabel website and its right to access the Ecolabel catalogue (ECAT) database will be removed.

### **2. AWARD OF THE EU ECOLABEL**

EU Ecolabels awarded by the EU Ecolabel competent body designated by the United Kingdom can no longer be used on products after the end of the transition period, and on associated promotional material.<sup>9</sup>

Therefore, economic operators who hold an EU Ecolabel contract issued by the UK EU Ecolabel competent body prior to the end of the transition period, and plan to continue using the EU Ecolabel when placing the product concerned on the EU market after the end of the transition period, are advised to consider one of the two following options:

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<sup>6</sup> <https://ec.europa.eu/environment/ecolabel/competent-bodies.html>

<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0066>

<sup>8</sup> Regarding the applicability of Regulation (EC) No 66/2010 to Northern Ireland, see Part C of this notice.

<sup>9</sup> Article 9(11) of the EU Ecolabel Regulation

- Applying for a new contract with the EU Ecolabel competent body of an EU Member State<sup>10</sup> or
- Arranging for a transfer – on the basis of a contractual arrangement between the holder of the EU Ecolabel, the UK EU Ecolabel competent body, and the EU Ecolabel competent body of an EU Member State - of the file and the corresponding contract from the UK EU Ecolabel competent body to the EU Ecolabel competent body of an EU Member State.

## **B. RELEVANT SEPARATION PROVISIONS OF THE WITHDRAWAL AGREEMENT**

Article 41(1) of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user, or be put into service in the EU or in the United Kingdom in accordance with the applicable provisions of EU law.

The economic operator relying on that provision bears the burden of proof of demonstrating on the basis of any relevant document that the good was placed on the market in the EU or the United Kingdom before the end of the transition period.<sup>11</sup>

For the purposes of that provision, “placing on the market” means the first supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge.<sup>12</sup> “Supply of a good for distribution, consumption or use” means that “an existing and individually identifiable good, after the stage of manufacturing has taken place, is the subject matter of a written or verbal agreement between two or more legal or natural persons for the transfer of ownership, any other property right, or possession concerning the good in question, or is the subject matter of an offer to a legal or natural person or persons to conclude such an agreement.”<sup>13</sup>

**Example:** A product to which the competent body established in the United Kingdom has awarded an EU Ecolabel, and which is sold by a UK-based producer before the end of the transition period to a UK-based wholesaler can still be distributed further into the EU on the basis of that award.

## **C. APPLICABLE RULES IN NORTHERN IRELAND AFTER THE END OF THE TRANSITION PERIOD**

After the end of the transition period, the Protocol on Ireland/Northern Ireland (“IE/Ni Protocol”) applies.<sup>14</sup> The IE/Ni Protocol is subject to periodic consent of the Northern

<sup>10</sup> <https://ec.europa.eu/environment/ecolabel/competent-bodies.html>

<sup>11</sup> Article 42 of the Withdrawal Agreement.

<sup>12</sup> Article 40(a) and (b) of the Withdrawal Agreement.

<sup>13</sup> Article 40(c) of the Withdrawal Agreement.

<sup>14</sup> Article 185 of the Withdrawal Agreement.

Ireland Legislative Assembly, the initial period of application extending to 4 years after the end of the transition period.<sup>15</sup>

The IE/Ni Protocol makes certain provisions of EU law applicable also to and in the United Kingdom in respect of Northern Ireland. In the IE/Ni Protocol, the EU and the United Kingdom have furthermore agreed that insofar as EU rules apply to and in the United Kingdom in respect of Northern Ireland, Northern Ireland is treated as if it were a Member State.<sup>16</sup>

The IE/Ni Protocol provides that Regulation (EC) No 66/2010 applies to and in the United Kingdom in respect of Northern Ireland.<sup>17</sup>

This means that references to the EU in Parts A and B of this notice have to be understood as including Northern Ireland, whereas references to the United Kingdom have to be understood as referring only to Great Britain.

More specifically, this means *inter alia* the following:

- Regulation (EC) No 66/2010 applies in Northern Ireland and products placed on the market in Northern Ireland availing themselves of the EU Ecolabel have to comply with that Regulation.
- An EU Ecolabel competent body must be designated in respect of Northern Ireland.

However, the IE/Ni Protocol excludes the possibility for the United Kingdom in respect of Northern Ireland to

- participate in the decision-making and decision-shaping of the Union;<sup>18</sup>
- invoke the country of origin principle or mutual recognition,<sup>19</sup> subject to exceptions.

More specifically, this means *inter alia* the following:

- The EU Ecolabel body in Northern Ireland may award EU Ecolabels, but these are valid only in Northern Ireland. Thus, products may not be placed on the EU market with the EU Ecolabel, if the EU Ecolabel is awarded by the EU Ecolabel competent body designated in respect of Northern Ireland. These products may be placed on the market of Northern Ireland only.
- Where a product is awarded with the EU Ecolabel by EU Ecolabel competent body designated in respect of Northern Ireland, the indication “UK(NI)” must be

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<sup>15</sup> Article 18 of the IE/Ni Protocol.

<sup>16</sup> Article 7(1) of the Withdrawal Agreement in conjunction with Article 13(1) of the IE/Ni Protocol.

<sup>17</sup> Article 5(4) of the IE/Ni Protocol and section 26 of annex 2 to that Protocol.

<sup>18</sup> Where an information exchange or mutual consultation is necessary, this will take place in the joint consultative working group established by Article 15 of the IE/Ni Protocol.

<sup>19</sup> First subparagraph of Article 7(3) of the IE/Ni Protocol.

affixed next to the EU Ecolabel.<sup>20</sup> This distinct marking allows the identification of products bearing the EU Ecolabel which can be legally placed on the market in Northern Ireland, but not in the EU.

- Products awarded with the EU Ecolabel by EU Ecolabel competent body designated by an EU Member State may be placed on the market of Northern Ireland.

The website of the Commission on the EU Ecolabel ([www.ecolabel.eu](http://www.ecolabel.eu)) provides for general information concerning Union legislation applicable to the EU Ecolabel. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General Environment

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<sup>20</sup> Fourth subparagraph of Article 7(3) of the IE/NI Protocol.