

**Food and Drink Federation Internal Market Act response
Scottish Parliament Constitution, Europe, External Affairs and Culture
Committee**

What are your views on the UK Internal Market Act?

The Food and Drink Federation are strong supporters of the principle of the Internal Market Act. A clear and stable regulatory environment across the whole of the UK is critical to ensure that food and drink businesses can strategically and financially plan for the long term.

The Internal Market Act is also critical to international trade deals through ensuring clear shared standards across the UK. Trade deals are of importance to our exporting members.

However, the way the Act has been used to date has created uncertainty for businesses on devolved lawmaking. The Deposit Return System decision for Scotland meant businesses lost money and confidence; the ongoing lack of clarity on the introduction of Deposit Return in Wales adds to this. We therefore think that the future use of the Act by governments should be much earlier in the legislative process and/or with a much longer implementation period for business planning purposes. This would allow businesses to have long term clarity and build confidence in the legislative system.

We also believe that the Common Framework system – which includes a range of regulatory policy which directly affects the food and drink industry – could be improved. The frameworks are not transparent to business on what is being discussed, and there appears to be no direct way for businesses or their representatives to input into these discussions.

What are your views on the operation of the market access principles for goods to date?

FDF members have been directly affected by decisions, particularly the decision on the Deposit Return System for Scotland. This decision was made very late in the day, costing significant amounts of money to those who had invested in their compliance responsibilities under Scottish Parliament legislation. We therefore think that the future use of the Act by governments should be much earlier in the legislative process and/or with a much longer implementation period for business planning purposes. This would allow businesses to have long term clarity and build confidence in the legislative system.

What improvements could be introduced to facilitate more pragmatic management of the UK Internal Market Act's exclusions process?

Businesses need as transparent and clearly timetabled regulation across the four UK nations as possible to allow them to plan effectively. Early decisions and realistic implementation times are critical to this, ideally agreed in conjunction with affected industries and their representative groups.

How should we ensure proportionate engagement with interested parties in relation to potential exclusions?

We would like to see an expectation that clear business engagement has been evidenced before exclusions are considered. Ensuring business views are understood from individual businesses and their representative organisations should be critical all the way through the legislative process. Business and representative insight can be particularly important when considering the realities of practical implementation of legislation. This will of course vary for each potential exclusion, but we would expect any piece of legislation to have long term established mechanisms for business engagement.

What evidence should be provided in support of an exclusion proposal by the proposing government, so the proposal can be fully considered (for example, information on potential impacts on businesses' ability to trade within the UK and the policy implications of not having an exclusion)?

We would expect that business impact would be transparently considered. This should include a consideration of the impact on all sizes of business (so different impact on small, medium and large businesses). It should also cover cost to implement, monitor and report on any change, the ongoing cost of regulatory compliance, and any costs required to deliver the change (for example new software or physical infrastructure).

Should there be a different process to consider exclusions proposals which could lead to potentially significant economic impact, compared to those likely to lead to smaller economic impact?

From a business point of view, even 'small' decisions can have significant impact. We would expect governments to be able to clearly evidence the impact on businesses no matter their estimation of the size of the economic impact.

What do you think constitutes a potentially significant economic impact?

This will vary based on impact of regulation and business size. If the different impact on small, medium and large businesses is to be considered as part of the evidence required for an exclusion then this should give a reasonable measure of its economic significance.

Is there anything else you want to tell us about the operation of the UK Internal Market Act?

The Common Framework system could be improved to make it more transparent to business.

From a business perspective there is little insight or communication as to what potential upcoming legislation is being considered and on what is being discussed. There appears to be no direct way for businesses or their representatives to input into these discussions or provide their views. When issues do emerge out of these discussions, as is the case with the Deposit Return System, then it can appear

unclear why and what decision making and evidence has led to this outcome. In addition, with the example again of Deposit Return, this was very late in the implementation of the legal requirement. This does not build confidence, ensure business impact is taken into account, nor allow businesses to plan strategically.

We would therefore propose that the frameworks are clear in their communication to and engagement with businesses and representative organisations to ensure there is clarity for businesses on upcoming regulation, timing and exclusions.