

## Constitution, External Affairs and Culture Committee

**5th Meeting, 2025 (Session 6), Thursday, 6  
February**

## UK Internal Market Act 2020 – Consultation and Review

### Purpose

The UK Government has announced a review of parts of the UK Internal Market Act 2020. As part of that review the UK Government is consulting stakeholders on the operation of the Act to date. The [review consultation was launched on Friday 23 January 2025 and closes on 3 April 2025](#). It is understood that the review will be complete by summer 2025.

This paper provides the Committee with brief background on the UK Internal Market Act 2020, the statutory basis of the review, and the approach being taken by the UK Government. The paper is provided to the Committee to help it to consider its approach to the review and any response it may wish to submit to the review consultation.

### Background

Key provisions of the UK Internal Market Act 2020 (“UKIMA”) came into force at 11pm on 31 December 2020. UKIMA was passed without the consent of the Scottish Parliament.

UKIMA governs the trading relationship between the different parts of the UK for goods and services. The Act establishes two market access principles - mutual recognition and non-discrimination. The market access principles are intended to facilitate trade, the provision of services and recognition of professional qualifications across the UK. The Market Access Principles are explained in more detail at **Annexe A**.

On 13 September 2021 the Committee [issued a call for views](#) for an inquiry about how UKIMA affects Scotland. The [Committee reported on 22 February 2022](#). In that

report the Committee identified “*three significant and interrelated tensions arising from and/or exacerbated by the UK leaving the European Union (EU)*”. These are:

- tension between open trade and regulatory divergence
- tension within the devolution settlement
- tension in the balance of relations between the Executive and the Legislature.

The report acknowledged that UKIMA seeks to address the tension between open trade and regulatory divergence and noted “*the economic benefits for businesses and consumers in ensuring open trade across the UK*”. The Committee’s view was that UKIMA “*places more emphasis on open trade than regulatory autonomy compared to the EU Single Market.*”

The Committee also noted that the Joint Ministerial Committee (EU Negotiations) had, when agreeing common framework principles, stated that the programme would provide “*as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules.*”

The Committee has commented on UKIMA in its reports ‘[The Impact of Brexit on Devolution](#)’ (22 September 2022) and ‘[How Devolution is Changing Post-EU](#)’ (24 October 2023).

The Office for the Internal Market (OIM)<sup>1</sup> has given evidence to the Committee on two occasions ([7 September 2023](#) and [16 May 2024](#)) following publication of OIM reports<sup>2</sup>.

## Statutory review of UK Internal Market Act 2020

A statutory review of three aspects of UKIMA is required by the Act itself. The review duties in UKIMA are:

- the duty to review any use that has been made of the Part 1 amendment powers (powers to change what is excluded from the market access principles for goods) under section 13
- the duty to review any use that has been made of the Part 2 amendment powers (powers to change what is excluded from the market access principles for services) under section 22
- the duty to review arrangements for carrying out Part 4 functions (this relates, in particular, to the effectiveness of using Office for the Internal Market task groups to carry out the Competition and Markets Authority’s functions under

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<sup>1</sup> OIM is part of the [Competition and Markets Authority](#) which is a [non-ministerial department of the UK Government](#). OIM’s functions are set out in UKIMA. OIM’s objective is “*to support the effective operation of the UK Internal Market*”. It does this by providing “[expert, technical and independent advice](#)” on the UK internal market to the UK Government and the other devolved authorities. OIM is required to publish an annual report and also report on the state of the UK internal market every five years.

<sup>2</sup> A SPICe blog is available for each of the annual reports: [2022-2023](#) and [2023-2024](#)

Part 4 of giving independent advice on and monitoring of the internal market) under section 44.

The review must be carried out within the permitted period which began on the third anniversary of the passing of UKIMA (16 December 2023) and ends on the fifth anniversary (16 December 2025).<sup>3</sup>

As part of that review, Scottish Ministers (and the other devolved authorities) must be consulted. It is unknown whether the Scottish Government plans to consult the Scottish Parliament prior to submitting its views to the review.

The statutory requirements for the level of involvement of the devolved administrations and legislatures differ between the reviews of Parts 1 and 2, on the one hand, and Part 4 on the other.

- For the review of the Part 1 and Part 2 powers there is no obligation on the UK Government to share the draft report and consider representations. The report is to be laid before the UK Parliament (only).
- In relation to the Part 4 arrangements review (only), before finalising the report the UK Government must send a draft of it to the Scottish Government and the other devolved administrations, must consider any representations they make on its content. Once finalised, this review must be laid before the devolved legislatures as well as the UK Parliament.

## UK Government approach to the review

The UK Government has indicated that its review will go further than the review required by statute and will also consider the operation more generally of:

- Part 1 (UK market access: goods)
- Part 2 (UK market access: services)
- Part 3 (UK market access: professional qualifications and regulation) and
- Part 4 (independent advice on and monitoring of the internal market) of UKIMA.

The consultation consists of 20 questions; these are provided at **Annexe B**.

The UK Government set out its approach [in a Ministerial statement](#) on 12 December 2024 made by Douglas Alexander, Minister for Trade Policy and Economic Security. The Minister stated that the review would also include “... *inviting views on the process for considering exclusions from the Act, and the role and functions carried out by the Office for the Internal Market*”.

The review of UKIMA being wider than that required by law would appear to be part of the UK Government’s ‘reset of relations’ with the devolved nations. Making a

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<sup>3</sup> The permitted period for the review of the Part 4 functions is slightly later, it ends on 30 December 2025.

statement on 12 December 2024, Mr Alexander, Minister for Trade Policy and Economic Security stated:

*“...we recognise that the operation of the UK Internal Market Act can be improved, including more certainty and clarity when considering proposals which remove areas of regulation from the scope of the market access principles. We believe that the UK Internal Market Act should complement Common Frameworks and support collaborative policy-making.*

*To improve the management of the UK internal market, the Government will deliver an initial package of measures to demonstrate a more pragmatic approach. This includes:*

*A recommitment to the principles for Common Frameworks agreed at the Joint Ministerial Committee (EU Negotiations) in October 2017 between the previous Government and Devolved Governments. This recommitment includes:*

- developing closer working relationships and increased transparency between the Government and the Devolved Governments on UK internal market matters that impact significantly on devolved responsibilities within Common Frameworks;*
- acknowledging the benefits of policy innovation and shared learning on policy development and implementation, while enabling the smooth functioning of the UK internal market;*
- Aiming to finalise the Common Frameworks programme by Easter 2025 ensuring the necessary structures exist for joined up inter-governmental discussions around regulatory divergence and implications for the performance of the UK internal market; and*
- Agreeing an exclusion from the UK Internal Market Act’s market access principles regarding the sale of rodent glue traps, in response to the Scottish Government’s previous proposal, as this Government recognises this proposal has a minimal economic impact on trade within the UK.”*

## **Areas not covered by the review**

Although the review is wider than required under UKIMA, the UK Government has stated that the review will not consider the following<sup>4</sup>:

- Whether to repeal UKIMA or any part of it. The UK Government notes this is because “The UK Internal Market Act provides important protections that can, when necessary, facilitate the free movement and trade in goods, provision of services and practice of professions across the UK. It also contains important protections for Northern Ireland’s place in the UK internal market and customs union.”*

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<sup>4</sup> Review of the UK Internal Market Act, [‘What the review does not cover’](#) [paragraphs 27 & 28]

- Part 5 – Northern Ireland and the Windsor Framework
- Part 6 –UK Government power to provide financial assistance throughout the UK
- Part 7 – Subsidy control
- Part 8 – Final provisions

As regards the market access principles, the Consultation documents also set out that the UK Government’s *“starting point is that we do not believe the protections that flow from the principles should be weakened, but we do want to ensure that the processes around their application are appropriate and transparent.”*<sup>5</sup>

## Areas covered by the review linked to previous concerns of the Committee

In its previous reports on the UK Internal Market and devolution, and in its ongoing work to monitor the overall direction of the common frameworks programme and UKIMA, the Committee has made the following observations.

- There is a need for more transparency on UKIMA, as well as on common frameworks and the link to the process for considering exclusions from UKIMA’s market access principles<sup>6</sup>. The process for considering exclusions is detailed at **Annexe C**.
- That there should be a process by which the Parliament receives information on UKIMA exclusion requests made by the Scottish Government<sup>7</sup>.
- There is a need for clarity on the role of business and other stakeholders in the frameworks process and in the process for considering exclusions from the market access principles.
- Reporting mechanisms both in relation to the operation of frameworks and the process for considering exclusions to the market access principles.
- There is a risk to effective parliamentary scrutiny where there is not consensus at an intergovernmental level on key issues. For example, around the transparency and the timing and level of information provided to Parliament. Where there is consensus at an intergovernmental level there

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<sup>5</sup> [Review of the UK Internal Market Act 2020](#), paragraph 29

<sup>6</sup> The Scottish Parliament and the Scottish Government have agreed the provision of some information on UKIMA where legislation (a Bill, SSI, or LCM) is considered by the Parliament in a relevant area. This agreement is explained in the [Committee’s guidance to subject committee’s September 2023](#) and the agreement is available at [EU Law Tracker Guidance to Subject Committees of the Scottish Parliament on Post EU Scrutiny](#).

<sup>7</sup> This was addressed in the [Cabinet Secretary’s letter to the Committee](#) (26 June 2024) on the work of the Scottish Parliament-Scottish Government Officials’ Joint Working Group on Post-Brexit Scrutiny Issues.

remains a risk that the Scottish Parliament's core functions are diluted. The increased significance of intergovernmental relations within a shared governance space raises substantial challenges for parliamentary scrutiny.

- That there is a need for clarity on how devolution operates outside of the EU given developments such as UKIMA. The Committee suggested a new Memorandum of Understanding and supplementary agreements between the UK Government and the Devolved Governments, accompanied by new Devolution Guidance notes and other operational guidance notes.

## Next steps

The Committee is invited to consider its approach to responding to the review consultation.

As stated above, the deadline for submitting evidence to the review is 3 April 2025.

**Sarah McKay, Senior Researcher, SPICe Research**  
**27 January 2025**

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP [www.parliament.scot](http://www.parliament.scot)

## Annexe A: The Market Access Principles

- The **mutual recognition principle for goods** is the principle that goods which have been produced in, or imported into, one part of the United Kingdom, and can lawfully be sold there, should be able to be sold in any other part of the United Kingdom. Any different requirements that would otherwise apply to the sale in the other part of the UK are disapplied.
- The **mutual recognition principle for services** is that a person authorised to provide services in one part of the UK is not required to meet additional authorisation requirements to provide those services in another part of the UK.
- The **non-discrimination principle for goods** is the principle that the sale of goods in one part of the United Kingdom should not be affected by relevant requirements that directly or indirectly discriminate against goods that have a relevant connection with another part of the United Kingdom.
- The **non-discrimination principle for services** is that a regulatory requirement will be of no effect in relation to an incoming service provider where it discriminates against that provider directly or indirectly.
- UKIMA also contains provisions to ensure a system for the **mutual recognition of professional qualifications** across the UK internal market. This allows professionals qualified in one of the four parts of the UK to access the same profession in a different part without needing to requalify.

## **Annexe B: Summary of UK Government consultation questions**

Question 1: What are your views on how the UK internal market for goods is best supported using the UK Internal Market Act?

Question 2: What are your views on whether differing regulations that have effect later in the supply process are more straightforward for businesses to address?

Question 3: What is the right balance between the potential for local regulatory innovations in sectors and UK-wide alignment?

Question 4: What are your views on the operation of the market access principles for goods to date?

Question 5: What are your views on the use that has been made of the Part 1 amendment powers – for example the exclusion for single-use plastics? *In particular, we would welcome views on whether the changes have had or will have a positive or negative impact and whether they have been effective.*

Question 6: What are your views on how the UK internal market for services is best supported using the UK Internal Market Act?

Question 7: What is the right balance between the potential for local regulatory innovations in services and UK-wide alignment?

Question 8: What are your views on the operation of the market access principles for services to date?

Question 9: What are your views on the use that has been made of the Part 2 amendment powers – for example, removing exclusions for certain services? *In particular, we would welcome views on whether the changes have had or will have a positive or negative impact and whether they have been effective.*

Question 10: What are your views on how the UK internal market for professions is best supported using the UK Internal Market Act?

Question 11: What is the right balance between the potential for local regulatory innovations in professions and UK-wide alignment?

Question 12: What are your views on the operation of the system for recognising professional qualifications to date?

Question 13: How can the Office for the Internal Market best support the UK internal market through its role in providing independent monitoring and advice?



Question 14: What are your views on whether the current arrangements in Part 4 relating to the use of the Office for the Internal Market task groups are appropriate for securing the most effective and efficient performance of the CMA's Part 4 functions? *We would welcome views in particular on any advantages or disadvantages of continuing with the current arrangements as compared with other possible ways of carrying out the Part 4 functions.*

Question 15: What improvements could be introduced to facilitate more pragmatic management of the UK Internal Market Act's exclusions process?

Question 16: How should we ensure proportionate engagement with interested parties in relation to potential exclusions?

Question 17: 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)?

Question 18: 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?

Question 19: What do you think constitutes a potentially significant economic impact?

Question 20: Is there anything else you want to tell us about the operation of the UK Internal Market Act?

# Annexe C: Process for considering exclusions to the UKIMA Market Access Principles

The market access principles set out in UKIMA apply unless there is an exclusion provided for in the Act.

- a. Exclusions for goods are listed in Schedule 1 of the Act. Existing regulations (i.e., those in force on 30 December 2020) are broadly excluded<sup>8</sup>.
- b. Exclusions for services are listed in Schedule 2 of the Act. Existing regulations (i.e., those in force on 30th December 2020) which have not been substantively changed are broadly excluded from the market access principles for services.

Only UK Ministers have the power to create new exclusions/change the exclusions provided for in UKIMA.

As such, the UK Government and devolved administrations have agreed [a process for considering exclusions to the market access principles](#) of UKIMA.

The process requires that if a government wishes to seek an exclusion to the market access principles, it must set out the scope and rationale for this. The proposed exclusion is then considered by the appropriate common framework forum.

If the exclusion is agreed, it is for UK Ministers to introduce a draft instrument to the UK Parliament to give effect to the exclusion. The UK Parliament will then consider the draft instrument.

The Scottish Parliament will receive an SI notification under [Statutory Instrument Protocol 2](#) (SIP2). This allows the Parliament to scrutinise the decision of Scottish Ministers to consent to the SI being made. However, the scope of the exclusion will already have been agreed between the four UK governments by the time the Scottish Parliament is notified under SIP2.

The Scottish Government has committed to provide information on whether an exclusion to the market access principles of UKIMA is thought necessary and if one has been discussed when the Parliament is asked to consider relevant primary legislation, Scottish secondary legislation and legislative consent memorandums. This is any legislation which affects goods, services and professional qualifications<sup>9</sup>.

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<sup>8</sup> However, the mutual recognition principle for goods does apply to a pre-30 December 2020 regulation unless it was already unique to one part of the UK (UKIMA s. 4(2)(b)).

<sup>9</sup> See [Guidance to subject committees of the Scottish Parliament on post-EU scrutiny](#), September 2023, Annexe C and [EU Law Tracker Guidance to Subject Committees of the Scottish Parliament on Post EU Scrutiny](#).