



Department for Business & Trade

Lord Offord of Garvel
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Department for Business and Trade

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By email: kat@aprs.scot

Dear Dr Jones,

Thank you for your letter of 26 October 2023 to the Prime Minister, regarding the UK Internal Market Act 2020 (UKIM Act). I have been asked to reply as the Minister responsible for the UK Internal Market at the Department for Business and Trade. I would also like to take the opportunity to address some of the concerns raised in your recently published blog as it presents an inaccurate account of how the UKIM Act impacts on the ability of Devolved Administrations to legislate and implement policy in areas of devolved competence. As you have placed your original letter on your published blog as an open letter to the Prime Minister, I would therefore request you similarly publish this response.

The UKIM Act ensures a robust and prosperous internal market for the UK, creating opportunity, maximising choice and reducing burdens on business. This means businesses and citizens have the certainty that their goods, services or professional qualifications will not be discriminated against based on their connection to a part of the UK, ensuring all parts of the UK level up together. This is especially important for communities in Scotland, Wales and Northern Ireland as the rest of the UK remains their most important trading partner.

The UK Government is committed to the principle of devolution and the UKIM Act is consistent with this approach. The environment and public health are good examples of how the UK Government and the Devolved Administrations can produce and deliver policies that account for the needs and priorities of each part of the UK, and areas where we can continue to innovate and learn from each other. The plastic carrier bag charge and smoking ban are great examples of this, but it is incorrect to state in your letter that the UKIM Act has unintended consequences that would restrict policy development or the ability to proceed with similar initiatives in areas of devolved competence. This is because the UKIM Act does not impact the effectiveness of regulation on how goods are used, including a ban on use. Instead, it is concerned with preventing barriers to how goods are sold, services are provided, or professional qualifications are recognised. In relation to environmental policies where a ban on use is being passed, the UKIM Act would not apply.

Furthermore, the UKIM Act ensures trade is not unduly hindering the functioning of the internal market while allowing flexibility for individual nations to pursue policy goals in line with their priorities. It is incorrect to state that minimum pricing policies, such as the minimum unit pricing for alcohol are in the scope of the mutual recognition principle, as these policies involve the regulation of the price of a specific product rather than a form of prohibition on sale. The UKIM Act does not prevent individual nations within the UK from implementing minimum pricing policies or other measures that address public health or

environmental concerns provided these do not discriminate against incoming goods from other parts of the UK.


In relation to the Scottish deposit return scheme (DRS), the UK Government offered a limited exclusion from the UKIM Act. This was to balance the interests of the individual nations with the overarching need for a cohesive UK-wide approach with good interoperability between schemes. The UK Government therefore welcomes the Scottish Government's decision to delay the introduction of their DRS to allow more time to address serious concerns raised by businesses and ensure they are ready for rollout. The UK Government is committed to working collaboratively with Devolved Administrations to address concerns and find solutions that benefit the entire UK.

Protecting the environment and public health is no less important than growing our economy, and there are a number of exclusions included when the Act was passed in 2020 which attest to that. For example, chemicals, fertilisers and pesticides along with threats to human, animal and plant health are excluded from part 1 of the Act; a comprehensive list of exclusions under the UKIM Act can be found on gov.uk.¹ Moreover, in 2022 the UK Government supported the Scottish Government's proposal for certain single-use plastic items to be excluded from the UKIM Act, recognising our shared ambition to tackle plastic pollution across the UK. Regarding the ban on the sale of horticultural peat in England, the independent Office for the Internal Market, who are required under the Act to monitor the health of the UK internal market, published a report to the UK Government and the Devolved Administrations which found that it would not have a major impact on intra-UK trade. This is further evidence of the UK Government and the Devolved Administrations being able to take forward their own comprehensive and individual environmental policies within the UKIM Act.

The UKIM Act's market access principles apply equally to the UK Government and Devolved Administrations. This, coupled with joint working through Common Frameworks, aims to ensure the effective management of any potential regulatory divergence across the different administrations. Through strategic collaboration and shared objectives, the UK Government and Devolved Administrations can collectively manage and align policies that might otherwise result in unmanaged regulatory divergence. Following the UK's departure from the EU, many powers returned to the Devolved Administrations, but the UK internal market has been operating successfully for centuries and the market access principles protect the prosperity of the internal market whilst at the same time allowing Devolved Administrations to regulate in devolved areas.

Regarding your point about reviewing the UKIM Act, the Act contains specified provisions for a review to be conducted in the two-year period starting at the end of 2023, and the UK Government will provide details in due course.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Offord', with a horizontal line underneath.

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¹ <https://www.legislation.gov.uk/ukpga/2020/27/schedule/1>