

March 2025

“ green
alliance...

Improving the UK Internal Market Act 2020



What has happened since Brexit?

Before the UK left the European Union, the UK government and devolved administrations were aligned behind a common baseline of minimum EU standards. This baseline was kept high in part due to the requirement for environmental protection measures to aim at a high level of protection.¹ EU law also provided scope to go above and beyond these standards in certain circumstances, to protect the environment and human health.

Environmental matters generally fall within devolved competence. There have been examples from the devolved administrations of innovative policies that deliver legitimate public policy objectives and, specifically, progressive environmental rules and regulations. For example, Wales was the first country in the UK to introduce a charge on single use carrier bags.²

However, the market access principles of mutual recognition and non-discrimination, set out in the post-Brexit legislative framework of the UK Internal Market Act 2020, combined with the lack of fully functioning common frameworks, has impacted the ability of governments to innovate and push environmental standards and regulation upward in the past few years.

Definitions:

- **Mutual recognition:** “a good, which complies with regulation permitting its sale in the part of the UK it is produced in or imported into, can be sold in other parts of the UK, without complying with equivalent regulation there”.³
- **Non-discrimination:** “regulatory requirements that discriminate against a good from another part of the UK, whether directly or indirectly, will not be enforceable”.⁴
- **Common frameworks:** areas of devolved policy competence where the UK and devolved governments have agreed to work together to establish common approaches, including how this work will be operated and governed.⁵

Impact on devolved policy making

During the parliamentary passage of the UK Internal Market Bill, the then minister for small business, consumers and labour markets stated that “we want to make sure that we get the balance right between having the benefits of the UK internal market and having legitimate aims on an environmental basis, on public health or on any number of other areas.”⁶

However, this balance was not struck, with only one exemption agreed since the introduction of the act on the banning of certain single use plastic items in Scotland.⁷

The Scottish government’s plans to introduce a deposit return scheme (DRS) for drinks containers ahead of England was blocked by the UK government in May 2023 using powers in the UK Internal Market Act, unless it excluded glass.⁸

Environmental organisations highlighted the act’s “unintended negative consequences for policy making across the UK, especially with regard to goods with environmental impact” and particularly the “lack of clarity around the point at which the devolved institutions should seek an exclusion on environmental or public health issues, even where the common frameworks processes are meant to apply”.⁹

Similar problems have been experienced by the Welsh government, with Huw Irranca-Davies MS, deputy first minister and cabinet secretary for climate change and rural affairs, recently confirming that Wales would not be proceeding with a joint DRS, as “in the time available it has not been possible to address the issues to the operation of devolution caused by the United Kingdom Internal Market Act 2020, inherited by the UK Government from the previous administration.”¹⁰

Improvements needed

The common framework exclusions process is unclear

Whilst the UK government and devolved administrations did agree a mechanism for considering exclusions to the market access principles in the act at the end of 2021, this was only for areas covered by a common framework.¹¹ The process for agreeing an exclusion continues to be unclear, for example, in terms of timescales and evidence required.¹² Questions also remain as to what process would be followed for areas on which there is either no framework or where the framework is yet to be formally agreed.

A more expansive approach to exclusions is needed to support innovation and ambitious approaches across the UK, allowing an individual jurisdiction to introduce proportionate measures that deliver legitimate public policy objectives, and specifically on the grounds of measures to protect the environment.

Using the opportunity of the statutory review

The UK government's confirmation that it would launch the statutory review of the UK Internal Market Act in January 2025, and that it would seek the views of a wide range of public stakeholders was welcome.¹³

When it was launched, the consultation included an initial package of commitments on cross government working and recognised the potential of local policy innovation which, if successful, might be rolled out across the rest of the UK.¹⁴

This review must fully explore how to improve the act and its accompanying processes so that it sets a framework which ensures that all four nations of the UK can legislate ambitiously, progressively and effectively to protect the environment.

Our recommendations to the UK government:

1. **Use the statutory review of the UK Internal Market Act 2020** to ensure it does not impede proportionate environmental protection measures.
2. **Clarify the common framework exclusion process**, particularly in relation to timelines and information required.

Endnotes

- ¹ Consolidated version of the Treaty on European Union, 2008, OJ C115/13, [article 191](#)
- ² National Assembly for Wales Research Service, August 2016, '[Carrier bag charges: frequently asked questions](#)'
- ³ Department for Business, Energy and Industrial Strategy, 2021, [An introduction to the UK Internal Market Act](#)
- ⁴ Ibid
- ⁵ Joint Ministerial Committee (EU Negotiations), 16 October 2017, '[Communique](#)'
- ⁶ House of Commons Hansard, 22 September 2020, [United Kingdom Internal Market Bill](#)
- ⁷ The United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) '[Regulations](#)' 2022
- ⁸ *ENDS Report*, 30 May 2023, '[Blatant attack on democracy: UK government blocks glass from Scotland's DRS](#)'
- ⁹ [Joint letter](#) from UK Environment NGOs on the Internal Market Act, 27 October 2023
- ¹⁰ Welsh government, cabinet statement, 18 November 2024, '[Written statement: the development of a deposit return scheme for Wales](#)'
- ¹¹ Ministry of Housing, Communities and Local Government, Cabinet Office & Department for Levelling Up, Housing and Communities, 10 December 2021, '[Process for considering UK Internal Market Act exclusions in Common Framework areas](#)'
- ¹² J Mackenzie, for Scottish Environment LINK, January 2025, [The Internal Market Act: a challenge to devolution](#)
- ¹³ Statement UIN HCWS299, 12 December 2024, '[The review of the United Kingdom Internal Market Act 2020](#)'
- ¹⁴ Department for Business and Trade, 24 January 2025, '[UK Internal Market Act 2020: review and consultation relating to Parts 1, 2, 3 and 4](#)'

Green Alliance
18th Floor
Millbank Tower
21-24 Millbank
London SW1P 4QP
020 7233 7433
ga@green-alliance.org.uk
www.green-alliance.org.uk
@GreenAllianceUK
blog: www.greenallianceblog.org.uk

Improving the UK Internal Market Act 2020

Author

Sarah Williams

Legislation and Governance Unit

This unit, run by Green Alliance, is a unique hub, offering expert knowledge sharing and detailed analysis of legislative and policy changes relevant to the environment. It monitors and influences environmental legislation, regulation and governance and provides detailed advice and responses to parliamentarians, government officials and the environment sector.

The unit is funded by the Esmée Fairbairn Foundation, Samworth Foundation and Waterloo Foundation.

Green Alliance

Green Alliance is an independent think tank and charity focused on ambitious leadership for the environment. Since 1979, we have been working with the most influential leaders in business, NGOs and politics to accelerate political action and create transformative policy for a green and prosperous UK.

The Green Alliance Trust

Registered charity no 1045395
Company limited by guarantee
(England and Wales) no. 3037633

Published by Green Alliance
March 2025

© Green Alliance, March 2025

The text and original graphics in this work are licensed under the Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International licence. To view a copy, visit <http://creativecommons.org/licenses/by-nc-nd/4.0/>. Any use of this content should credit Green Alliance as the original author and source. Photographic images are subject to separate copyright and are not covered by this licence.

