

NOTIFICATION TO THE SCOTTISH PARLIAMENT

Name of the SI(s) (if known) or a title describing the policy area

The United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles) Regulations 2022 (“the SI”).

Is the notification Type 1 or Type 2

Type 1.

Details of the provisions that Scottish Ministers are being asked to consent to.

The SI amends the United Kingdom Internal Market Act 2020, and does not itself contain provision within the Scottish Parliament’s legislative competence. The SI is to be made by the Secretary of State under section 10(2) of the United Kingdom Internal Market Act 2020. Section 10(9) requires the UK Government to seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland before making the SI.

Section 10(10) provides that if consent to the making of the SI is not given by any of those authorities within one month of the request, the SI may be made without that consent.

The SI is being made to amend Schedule 1 of the United Kingdom Internal Market Act 2020. The SI will create an exclusion from the market access principles under Part 1 of that Act for legislation prohibiting or restricting the supply of the following items made of single-use plastic-

- straws
- stirrers
- cotton buds
- plates,
- bowls and trays, unless they are considered to be packaging
- cutlery, including chopsticks,
- balloon sticks, and
- single-use expanded and extruded polystyrene food and drinks containers, including cups.

[The Environmental Protection \(Single-use Plastic Products\) \(Scotland\) Regulations 2021](#) (the “Single-use Plastic Products Regulations”) prohibit the supply of certain of those items in Scotland, and will come into force on 1 June 2022. Without the SI, the market access principles will apply to the Single Use Plastic Products

Regulations, and they would not function as intended until legislation to the same effect had been introduced in all four UK nations.

Summary of the proposals

The SI excludes legislation prohibiting or restricting the supply of single-use plastic straws, stirrers, cotton buds, plates, bowls and trays (unless they are packaging), cutlery (including chopsticks), balloon sticks and single-use expanded and extruded polystyrene food and drinks containers (including cups) from the application of the market access principles of the UK Internal Market Act 2020.

The Scottish Government made the Single-use Plastic Products Regulations, which prohibit the supply of certain of those single-use plastic items in Scotland.

Until the SI comes into force, the Single-Use Plastic Products Regulations will be subject to the impact of the market access principles of the United Kingdom Internal Market Act 2020. In particular, the mutual recognition principle for goods under that Act provides that goods which have been produced in or imported into one part of the UK, and which can be sold or supplied there without contravening any relevant requirement, can be sold or supplied in any other part of the UK, free from any relevant requirements which would otherwise apply.

The application of the mutual recognition principle to the prohibition of supply of the listed single-use plastic products in the Single-use Plastic Products Regulations means that the prohibition would not apply to any products which are produced or first imported into another part of the UK, and which can be lawfully supplied in that part of the UK. Therefore, until the SI comes into force, the Single-use Plastic Products Regulations will not be fully effective.

Currently the supply of the products listed in the Single-use Plastic Products Regulations is not restricted in Wales or Northern Ireland. The Welsh Government is intending to make similar regulations to the Single-use Plastic Products Regulations at a later date in 2022. Under the Northern Ireland Protocol, the supply of single-use plastic plates, cutlery, balloon sticks, drink stirrers, cotton bud sticks, and expanded polystyrene food and drinks containers (including cups) is required to be banned in Northern Ireland, to align with Article 5 of Directive (EU) 2019/904 on the reduction of certain plastic products on the environment.

The UK Government has made the Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020 restricting the supply of certain products in England, and has announced its intention to ban the supply of single-use plastic plates, balloon sticks and expanded and extruded polystyrene food and drinks containers (including cups), in England at a later date.

The SI also lists some single-use plastic items which the Single-Use Plastic Products Regulations do not apply to. Plastic-stemmed cotton buds were banned

in Scotland prior to the passing of the United Kingdom Internal Market Act 2020 by the Environmental Protection (Cotton Buds) (Scotland) Regulations 2019.

Therefore, the market access principles do not apply to the prohibition of those cotton buds in Scotland. There are also some items, such as single-use plastic bowls and trays, which are not currently prohibited in Scotland. The SI means that if the Scottish Government, or any of the other UK nations, made legislation in future prohibiting the supply of those items, then the market access principles would not impact on that legislation. However, the SI itself does not put restrictions on the items.

The SI is subject to the affirmative procedure, and is expected to be laid in draft before the UK Parliament on 8 June. It will be made and come into force once the UK Parliamentary procedures are completed, anticipated to be July 2022.

Does the SI relate to a common framework or other scheme?

The SI relates to the Resources and Waste Common Framework. The scope of the exclusion from the market access principles of the United Kingdom Internal Market Act 2020 has been agreed through the appropriate framework channels.

Summary of stakeholder engagement/consultation

No stakeholder engagement undertaken.

The SI will in effect exclude the Single-use Plastic Products Regulations from the application of the market access principles of the United Kingdom Internal Market Act 2020. Extensive stakeholder engagement was conducted in advance of the Regulations being made. When engaging with stakeholders, and preparing guidance and other communications for the Single-use Plastic Products Regulations, the impact of the United Kingdom Internal Market Act 2020 has been made clear. Therefore, the guidance will be updated, and further engagement will be carried out, so that stakeholders are aware of the exclusion.

A note of other impact assessments, (if available)

No other impact assessments conducted.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The SI will ensure that the effectiveness of the Single-use Plastic Products Regulations is not limited by the impact of the United Kingdom Internal Market Act 2020. This will help the Scottish Government achieve its aim of reducing the impact of single-use plastic products on the Scottish environment.

Intended laying date (if known) of instruments likely to arise

8 June 2022.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

N/A.

Information about any time dependency associated with the proposal

N/A.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

No governance issues noted.

The Single-use Plastic Products Regulations align with some of the requirements of the European Union's Directive 2019/904 on the reduction of the impact of certain plastic products on the environment. Excluding the application of the United Kingdom Internal Market Act 2020 to those Regulations, so that they are fully effective, is necessary to achieve alignment in practice.

Any significant financial implications?

N/A.

SUMMARY NOTIFICATION TO THE SCOTTISH PARLIAMENT

SI NOTIFICATION: SUMMARY

Title of Instrument
The United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles) Regulations 2022.
Proposed laying date at Westminster
8 June 2022
Date by which Committee has been asked to respond
3 June 2022
Power(s) under which SI is to be made
Section 10(2) of the United Kingdom Internal Market Act 2020.
Categorisation under SI Protocol
Category 1.
Purpose
<p>This instrument is being made to amend the United Kingdom Internal Market Act 2020, to create an exclusion from the market access principles under Part 1 of that Act, for legislation prohibiting the supply of single-use plastic straws, stirrers, cotton buds, plates, bowls, trays, cutlery (including chopsticks), balloon sticks and single-use expanded and extruded polystyrene food and drinks containers, including cups.</p> <p>Without an exclusion to the market access principles, legislation prohibiting the supply of these items in Scotland would not function as intended until legislation to the same effect had been introduced in all four UK nations.</p>
Other information
N/A.
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