Dear Cabinet Secretary,

The Chemicals (Health and Safety) and Genetically Modified Organisms (Amendment of Retained EU Law) (EU Exit) Regulations 2018

Thank you for your letter, dated 7 December 2018, attaching the consent notification for the above proposed SI and your subsequent letter, dated 10 January 2019, providing the additional information sought by the Committee.

At its meeting yesterday, the Committee considered the notification and agreed it was content for the Scottish Government to give its consent for UK ministers to lay the SI in the UK Parliament.

During its consideration, however, the Committee agreed to raise the following points and ask for the following information—

**IT/database systems**
In your letter dated 10 January, you describe the IT systems required to replace ECHA systems as being "currently under development" and state that "further information will be provided to businesses on how to submit data and applications to HSE from exit day in the coming weeks".

The Committee would appreciate an update on the readiness of the IT/database systems.

**Stakeholder engagement**
While the letter dated 10 January notes that ECHA Committee structures are not primarily about stakeholder engagement, stakeholders have raised the loss of the committee structures as a concern in terms of their ability to influence and participate in decisions.
The Committee asks for further information about how the Scottish Government will ensure there are appropriate mechanisms in place for engagement with stakeholders.

**CLP regulation**
The Committee remains unsure why, under some chemicals regimes, it would be appropriate for legislation to require HSE to ‘have regard to’ decisions of the ECHA whereas, under the REACH legislation, this would not be appropriate. Members note that both the Scottish and UK governments, as well as stakeholders, have all emphasised the importance and benefits of maintaining close alignment with EU REACH. As a result, the Committee is of the view that this legislative ‘link’ to the ECHA would also be appropriate for the REACH legislation.

The Committee would appreciate further information from the Scottish Government about its view of this matter

**Costs**
The Committee notes the notification does not provide much information relating to the cost of implementing the legislation in Scotland and asks for further information relating to this.

**GMO Regulations and policy divergence**
The Committee remains concerned about the scope for policy divergence, post-EU exit, and will keep a watching brief on this issue.

**Transfer of scrutiny functions**
The notification and your letter of 10 January refers to functions that will be transferred to the Scottish Ministers in devolved areas but it does not seem to be clear whether the functions will be purely administrative, will be exercised by means of subordinate legislation (regulations) or a combination of both.

Where regulations are to be made by the Secretary of State with Scottish Ministers’ consent, the Scottish Parliament’s scrutiny role is not clear. This is an issue which has arisen in relation to a number of proposed SIs and the Committee is considering how to follow up this issue.

It would be helpful if a list could be provided of where Scottish Ministers’ functions would be regulatory and where administrative, given the complexity of the various functions transferred.

**Genetically modified (GM) crops**
In relation to GM crops, the Committee notes the proposed SI will ensure the status quo and does not represent a policy change from Scotland’s GM-free status. The Committee is of the view that any change to this should only be made following debate in, and the agreement of, the Scottish Parliament.

Yours sincerely,

Gillian Martin MSP
Convener, Environment, Climate Change and Land Reform Committee