January 2019

Dear Convener,

THE LAW ENFORCEMENT AND SECURITY (AMENDMENT) (EU Exit) Regulations 2019

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I wrote in October 2018 regarding The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 due to be laid in the UK Parliament in preparation for a scenario in which the United Kingdom leaves the European Union without a deal being reached.

The Scottish Parliament gave their consent that this Statutory Instrument (SI) should include Scottish devolved matters, as set out in the notification to the Parliament.

The SI was laid in the UK Parliament on 15 January, and although I can now confirm that this SI does vary in some respects from the original proposal, the variation is not so significant as to need any further process.

The variances are as follows:

1. Europol: Regulation 40, concerning saving provisions, has been extended to ensure consistency on data handling across the piece.

2. Joint Investigation Teams: Regulation 72 has been added to maintain the legal basis under EU legislation for Joint Investigation Teams started prior to exit day involving cross border surveillance.

3. Mutual legal assistance in criminal matters: Part 18: A series of saving provisions are now included to allow various requests in place before exit day to be actioned.

revoked. The SI which has been laid retains some provisions in the Council Decision and amends them to reflect the fact that the UK is no longer an EU member state. Articles 2 and 5 to 8 of the Council Decision are still revoked in line with the notification. The revised approach is to retain and amend certain aspects of the minimum requirements provisions.


If you require any clarification, please contact my officials, Claire Macmillan ([Claire.Macmillan@gov.scot](mailto:Claire.Macmillan@gov.scot)), or Carolyn Magill ([Carolyn.magill@gov.scot](mailto:Carolyn.magill@gov.scot)).

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

HUMZA YOUSAF