



Department  
for Environment  
Food & Rural Affairs

**The Rt Hon Theresa Villiers MP**  
From the Secretary of State for Environment,  
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Graham Simpson MSP  
Convener, Delegated Powers and Law Reform Committee  
Room T1.01, Chamber Office, Edinburgh  
EH99 1SP

21 January 2020

Dear Graham,

Thank you for your letter of 14 January about the Scottish Parliament's Delegated Powers and Law Reform Committee's consideration of the Direct Payments to Farmers (Legislative Continuity) Bill. I would like to express my appreciation to the Committee for considering the Bill under an expedited process.

Article 137 of the Withdrawal Agreement disapplies Regulation (EU) No 1307/2013 for the 2020 scheme year. This is the regulation which allows us to make Direct Payments to farmers in each part of the UK. Primary legislation therefore needs to be in place by 31 January in order to reapply the Regulation and that connected to its implementation, allowing farmers to be paid in each part of the UK for the 2020 scheme year. As the need to reapply the Regulation does not arise until the Withdrawal Agreement comes into force, the Bill could not be introduced to the UK Parliament before the Withdrawal Agreement had made sufficient progress in the House of Commons.

I am aware that this has resulted in the Scottish Parliament only being given a short time to consider the Legislative Consent Memorandum for this Bill. I would like to reassure you that my officials have been in close contact with the Scottish Government about the Bill, with draft clauses first being shared in July 2019. The Cabinet Secretary for the Rural Economy, Fergus Ewing MSP, has also agreed, in principle, that the UK Government should legislate on behalf of the Scottish Ministers in the Bill.

I can confirm that the powers in clause 3(1)(a) and 3(3)(a) of the Bill are limited to making amendments to the relevant retained EU law to correct deficiencies and inoperabilities. The powers simply allow the UK Government to make sure that the law works in a domestic context and does not permit substantive policy change.

In your letter, you ask about the division of responsibilities between the UK Government and Devolved Ministers with regards to the deficiency correcting powers in clause 3 and the powers to make consequential and transitional provision in clause 6. I am planning to lay two Statutory Instruments (SIs) under the Bill to make the required operability changes by exit day. The SIs will apply UK wide and will be made only with the consent of the devolved administrations. The scrutiny of consent for these SIs is a matter between the Scottish Government and the Scottish Parliament. I can reassure you that my officials have been in close contact with the Scottish Government during the SI drafting process and will continue to share drafts as they are finalised. If the need for any further SIs in connection with the Bill arises, my officials will discuss this with officials from the devolved administrations on a case

by case basis, to establish whether they would wish for these regulations to also be made on a UK-wide basis.

I would like to extend my thanks again to the Committee for considering the Bill.

I am copying this letter to the Cabinet Secretary for the Rural Economy, Fergus Ewing MSP.

Regards,

A handwritten signature in black ink, appearing to read 'Theresa Villiers', written in a cursive style.

**Theresa Villiers**