

Edward Mountain MSP
Convener
Rural Economy and Connectivity Committee
Scottish Parliament
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Dear Edward

UK GOVERNMENT EU EXIT STATUTORY INSTRUMENT PROGRAMME

I am writing to update you on our engagement with the Department for Environment, Food and Rural Affairs (Defra) on its Statutory Instrument programme for addressing legislative deficiencies arising from EU Exit, and the Scottish Government's approach to addressing these.

The Scottish Government opposes EU withdrawal. Nevertheless, in order to mitigate the effects of the UK's decision to leave the EU, our view is that remaining in the Single Market and the Customs Union is the only way for Scotland's interests to be protected. Contemplating leaving the EU in March 2019 without a deal would have significant economic and social consequences for Scotland, and for the whole of the UK, and we continue to urge the UK Government to take it off the table.

However, the UK Government has continued to step up its preparations for a possible 'no-deal' scenario, publishing a series of technical notices to citizens and businesses on 23 August, and on 13 and 24 September. A number of these notices covered implications for environmental, agriculture and marine issues under a 'no-deal' scenario, including on funding for UK LIFE projects, upholding environmental standards, and importing and export of plant products.

As the Cabinet Secretary for Government Business and Constitutional Relations set out in his statement to Parliament on 11 September, the Scottish Government is determined to ensure that the Scottish Parliament will be able to perform its vital role in scrutinising decisions by Scottish Ministers to cooperate over legislative preparations. We continue to impress that matter on the UK Government in our discussions. Scottish Ministers have committed to notify the Scottish Parliament of any proposal to consent to the UK Government using its powers in devolved areas. As you will know, under the protocol that has been agreed between the Scottish Government and Scottish Parliament, the Scottish

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Parliament is invited to scrutinise the decision to give consent to the UK Government using its power in devolved areas, rather than to scrutinise the content of the UK SI itself.

The UK Government is proceeding with making legislative arrangements for a possible 'no deal' scenario, through the exercise of powers under the European Union (Withdrawal) Act 2018. We understand that Defra intend to lay around 90 EU Exit Statutory Instruments in order to address deficiencies in legislation that will result from EU exit. To date, the Scottish Government has agreed in principle that over 50 of these proposed SIs are taken forward on either a wholly, or partly, UK-wide basis. We have been clear that we will not be able to provide our final agreement in principle on policy content until we have been reassured that all proposed solutions respect Scotland's interests. It is only at that point that we will be in a position to seek the consent of the Scottish Parliament.

There are a further set of SIs on which the view of Scottish Ministers is that a Scottish Statutory Instrument is the preferred approach for equivalent amendments. Finally, there is a handful of SIs where Scottish Ministers may be able to recommend agreement in principle to a UK-wide SI, pending further analysis and consideration. Scottish Government officials are continuing to work closely with Defra counterparts to consider these measures further.

Scottish Government officials have been engaging with both ECCLR and REC Committee clerks throughout the summer to ensure appropriate handling of EU Exit SIs and will continue to engage with your Committees throughout the notification process. Officials will also be taking steps to engage with stakeholders in order to support understanding of the process of fixing deficiencies. I would also be happy to discuss these matters with the committee, should that be helpful.

A letter to the Convener of the Environment, Climate Change and Land Reform Committee in similar terms has also been issued by the Cabinet Secretary for the Environment, Climate Change and Land Reform.

Yours,



FERGUS EWING

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