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Edward Mountain MSP  
Convener of the Rural Economy and Connectivity  
Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

27th February 2019

Dear Edward,

**THE LIVESTOCK (RECORDS, IDENTIFICATION AND MOVEMENT) (EU EXIT)  
(AMENDMENT) REGULATIONS 2019  
EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT**

The Scottish Parliament recommended on 22 November 2018 that The Livestock (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2018 should include Scottish devolved matters, as set out in the notification to the Parliament.

The Livestock (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019 was laid before the UK Parliament on 10 January.

This SI varies slightly to the original proposal outlined in the notification which indicated that the instrument was to be subject to negative procedure in the UK Parliament whereas it has since been laid as an affirmative instrument. However, this variation in the approval procedure to apply to the SI is not considered so significant as to need any further process. The change of procedure in relation to this SI does not impact on the substance of what the Scottish Parliament has already consented to as set out in the notification.

The Westminster sifting committees' recommended that the SI be subject to affirmative procedure in terms of paragraph 1(2)(b) of schedule 7 of the European Union (Withdrawal) Act 2018 on the basis that it contained an amendment to Article 9 of Regulation (EC) 1760/2000, which would allow respective Ministers (post EU exit) to charge for the operation of bovine controls (i.e. keepers being charged for the costs relating to the system for the identification and registration of bovine animals). They also believed that the SI conferred wide-ranging powers to legislate on Ministers which in terms of paragraph 1(2)(a) of Schedule 7 of the European Union (Withdrawal) Act 2018 is sufficient for the instrument to be considered under the affirmative procedure.

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Presently the Scottish Government do not charge a fee for bovine controls which are in place in relation to the valid requirements for disease control, prevention, eradication and the protection of public health as this is not current policy. The amendment to Article 9 of Regulation (EC) 1760/2000 simply clarifies that rather than this power resting with 'Member States' it will rest (as now) with 'the appropriate Minister' i.e. Scottish Ministers in Scotland.

Neither the Scottish Government nor DEFRA considers that the instrument confers new wide-ranging powers to legislate on Ministers. So far as powers to legislate are conferred on Ministers in the context of EU exit in relation to livestock records, identification and movement such provision is being made in the Animals (Legislative Functions) (EU Exit) Regulations 2019 which was separately notified to the Scottish Parliament (under its then proposed title of the Animals and Food (Transfer of Functions) (EU Exit) Regulations 2018).

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



**MAIRI GOUGEON**

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