



Edward Mountain
Convener
Rural Economy and Connectivity Committee

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12 May 2020

Dear Edward,

UK SI NOTIFICATIONS – EU EXIT
The Direct Payments to Farmers (Legislative Continuity) Act (Consequential Amendments) Regulations 2020

Thank you for your letter of 20 April confirming that the Rural Economy and Connectivity Committee was content for Scottish Ministers to give their consent to the Direct Payments to Farmers (Legislative Continuity) Act (Consequential Amendments) Regulations 2020 including Scottish devolved matters, as set out in the notification to the Parliament.

I am now pleased to confirm the SI was made on the 27th, laid on 28th and came into force on 30th April all on terms in accordance with our notification.

I am now responding to address the broader policy issues that you raised in the Annex to your letter as follows.

1. Issue:

The Committee would like to ask whether the further emergency instrument referred to includes devolved matters and whether it will be also subject to a notification, and (if so) what time is likely to be available to the Scottish Parliament to consider it?

Answer:

The further emergency instrument (the Direct Payments to Farmers (Crop Diversification Derogation) (England) Regulations 2020 made and laid on the 30th April) does not include any devolved matters. It only applies to England as it was required to provide a derogation for farmers in England from the crop diversification requirements due to the recent adverse weather. There will therefore be no need for us to notify the Committee of this SI.

2. Issue:

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



The Committee would also be grateful if the Scottish Government could communicate the Committee's concerns to the UK Government regarding the increasing lack of adherence to the 28 day period for Scottish Parliament scrutiny. Any reduction in an already tight timescale creates further difficulties in ensuring effective parliamentary scrutiny.

Answer:

We are currently discussing with the UK Government their secondary legislation programme. Our position is that the Scottish Parliament should continue to have at least 28 days' notice of proposals to consent to UK SIs affecting devolved matters so they can scrutinise that legislation effectively, and we have made the UK Government well aware of this requirement. However, we share the Committee's concern that there may be an increasing number of cases in which the UK Government fails to adhere to the 28 day requirement. In particular we have identified 2 key risks to what seems an increasingly ambitious programme of UK legislation arising from the impact of the COVID-19 virus: (1) the reduced parliamentary time available to consider such legislation and (2) the diversion of officials in both the UK Government and the devolved administrations from working on legislation to COVID-related work. I attach a copy of the letter sent on 17 April by the Cabinet Secretary for the Environment and also on behalf of myself that details these concerns and asks if an extension of 6 months to the Implementation Period can be considered. I regret to tell you that we have not received to date any positive response from the UK Government to this request.

3. Issue:

The Committee also asks whether the instrument covered by this notification has any impact on the Agriculture (Retained EU Law and Data) (Scotland) Bill, currently progressing through the Scottish Parliament?

Answer:

I can confirm that the Direct Payments to Farmers (Legislative Continuity) Act (Consequential Amendments) Regulations 2020 has no impact on the Agriculture (Retained EU Law and Data) (Scotland) Bill.

I hope this information is helpful.

Yours sincerely



FERGUS EWING

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