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

1st November 2018

Dear Edward,

THE INTELLIGENT TRANSPORT SYSTEMS (EU EXIT) REGULATIONS 2018

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, Mike Russell wrote to the Conveners of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government’s views on EU withdrawal. That letter also said that we must respond to the UK Government’s preparations for a No-Deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach a notification which sets out the details of the Statutory Instrument (SI) which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in these SIs. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

The proposals aim to revoke EU laws that would become inoperable following the UK’s exit from the European Union. These laws relate to guidance on the reporting and provision of information on parking for trucks and commercial vehicles; provision of traffic information; standardising technology and the period for adopting delegated acts.
I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you within 28 days from the date of this letter.

[Signature]

MICHAEL MATHESON
The name of the instrument in question (if known) or a title describing the policy area:
The Intelligent Transport Systems (EU Exit) Regulations 2018

Brief explanation of law that the proposals amend
The proposals revoke EU laws which aim to facilitate the safe and efficient operation of the road network by the use of intelligent transport systems and the provision of information (which involves the sharing of data).

Summary of the proposals and how these correct deficiencies
The UK Government has undertaken an exercise to identify the possible legislative changes that may be required in relation to Intelligent Transport Systems EU Regulations and Decisions in order to ensure that UK domestic law works properly after EU exit. This exercise concluded that four EU Regulations relating to Intelligent Transport Systems, and three Decisions, should be revoked as they would become inoperable following EU Exit.

An explanation of why the change is considered necessary
The Intelligent Transport Systems EU Regulations:-
(i) have not been transposed into UK law. Without this legislation, the ITS direct EU legislation would remain in force but there would be no powers of enforcement
(ii) include technical deficiencies which need to be addressed;
(iii) can continue to be met by administrative measures; and
(iv) will have limited application because three out of the four Regulations only relate to the European designated TEN-T road network and cross EU-border interoperability.

Scottish Government categorisation of significance of proposals
Category A – lowest level of scrutiny as there is no policy change being made but a simple revocation.

Impact on devolved areas
There is expected to be little impact for Scotland of the proposed changes.

Summary of stakeholder engagement/consultation
The devolved administrations of Scotland and Wales have been engaged and the UK Government has begun consultation on administrative measures to take the place of the revoked regulations.

A note of other impact assessments, (if available)
Not Applicable.
Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation

The proposed changes are largely procedural and the extent to which those aspects touch on devolved interests is very limited. As such our view is that it would be disproportionately burdensome for Scotland to legislate separately on the areas Scotland has legislative competence.

Intended laying date (if known) of SI/Sis

29 November 2018

If the Scottish Parliament will not have 28 days to scrutinise Scottish Minister’s proposal to consent, why not?

Not Applicable

Information about any time dependency associated with the proposal

The deficiencies need to be fixed before EU exit day.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

The SI does not introduce further governance.

DfT have made assurances that administrative measures are in place to meet the requirements of the EU ITS Regulations. These include the current feasibility study regarding the national access point for data exchange, as required by the Regulations, to which the devolved administrations have contributed. DfT is preparing a terms of reference for the development of a sub-group of the STREETWISE, attended by Highways England and the other national road authorities, to ensure coordination and their compliance with the EU ITS Regulations.

Any significant financial implications

None