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

14 September 2018

Dear Edward,

THE HEAVY GOODS VEHICLES (CHARGING FOR THE USE OF CERTAIN INFRASTRUCTURE ON THE TRANS-EUROPEAN ROAD NETWORK) (AMENDMENT) (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 SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. This is one of the first in a series of such notifications that
myself and Ministerial colleagues will be sending to Parliamentary committees over the coming weeks.

This SI includes technical changes aimed at ensuring the Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) Regulations 2009 continue to work as intended in the event of leaving the EU without a deal. It removes references, such as to the European Commission, that would no longer be appropriate — for example, removing obligations to report to and seek permission from the European Commission on tolls. It also converts various maximum amounts set for HGV charges and tolls from euros into pounds.

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.

MICHAEL MATHESON
NOTIFICATION TEMPLATE FOR THE HEAVY GOODS VEHICLES (CHARGING FOR THE USE OF CERTAIN INFRASTRUCTURE ON THE TRANS-EUROPEAN ROAD NETWORK) (AMENDMENT) (EU EXIT) REGULATIONS 2018

Name of the SI (if known) or a title describing the policy area:

The Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) (EU Exit) Regulations 2018

Brief explanation of law that the proposals amend:


They do not mandate road charging for HGVs, but set rules for charges and tolls where they exist, for example by prescribing the type of charging that can be used, and the maximum charge or toll levels. The 2018 Regulations also remove a redundant reference to the Directive in the County of Merseyside Act 1980.

Summary of the proposals and how these correct deficiencies:

The 2018 Regulations include technical changes to ensure that the 2009 Regulations continue to work as before. They remove references, such as to the European Commission, that would no longer be appropriate outside of the EU – for example, removing obligations to report to and seek permission from the European Commission on tolls. They convert various maximum amounts set for HGV charges and tolls from euros into pounds.

The 2009 Regulations build on the general principles of EU Law, for example by ensuring that HGV charges do not discriminate on the basis of nationality. The 2018 Regulations make no changes in this regard, having no practical impact on road users.

An explanation of why the change is considered necessary:

It is being changed to ensure that the regulations continue to work as before, to remove references to the European Commission that would no longer be appropriate outside of the EU.

Scottish Government categorisation of significance of proposals:

Category A - Minor and technical in detail and aimed at ensuring continuity of law

Impact on devolved areas:

The SI maintains the status quo by correcting deficiencies that would otherwise arise as a result of the UK exit from the EU.
Since Scotland has no road user charging schemes or tolls there will be no immediate impacts.

The 2018 EU Exit Regulations will have the effect that there will be no further inflationary increases for an external-cost add-on to an HGV toll, or to the maximum amount of a time-based user charge, since these are carried out by the European Commission. If needed, Scottish Ministers would be able to legislate to provide for such an increase.

**Summary of stakeholder engagement/consultation:**

Transport Scotland officials have met with UK counterparts to discuss the impacts, and reviewed the draft of the SI.

No stakeholder engagement/consultation has been undertaken with wider stakeholders, either by the UK or Scottish governments, since this SI does not make any changes which has an impact on users.

**A note of other impact assessments, (if available):**

The Scottish Government has not undertaken an impact assessment for this SI.

The UK government has also not undertaken any impact assessments on the basis that the SI maintains the status quo, meaning no expected impacts or costs on UK businesses.

**Summary of reasons for Scottish Ministers’ proposing to consent to UK Ministers legislation:**

Given the original 2009 Regulations being amended are made on a UK basis and the nature of the amendments are to provisions which deal with mixed competencies, it is more practical and efficient for the amendments which will cure the deficiencies to also be made on a UK wide basis.

**Intended laying date (if known) of SI/Sis:**

The SI has a planned laying date of 30th October.

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

The UK Government currently plan to lay this SI on 30 October, which should provide the Scottish Parliament with 28 days to scrutinise the proposal to consent.

**Information about any time dependency associated with the proposal:**

The UK Government believes that the deficiencies identified need to be fixed before EU exit day.
Any significant financial implications:

There are no financial implications.