

T: 0300 244 4000  
E: scottish.ministers@gov.scot

Finlay Carson MSP  
Convener  
Rural Affairs and Islands Committee  
Scottish Parliament  
EDINBURGH  
EH99 1SP

23 February 2023

Dear Finlay

**EU Exit Legislation Protocol 2 with Scottish Parliament  
The Plant Health and Trade in Animals and Related Products (Amendment)  
Regulations 2022<sup>1</sup> – “PH/045”**

I refer to your letter of 30 November 2022, where you agreed to the Scottish Government’s decision to consent to the provisions set out in the notification being included in UK, rather than Scottish, subordinate legislation.

PH/045 was subject to affirmative procedures and made on 19 November 2022 under the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

When consent was granted the original title of the SI was The Plant Health (Amendment) (EU Exit) Regulations 2022. The title was then amended to reflect the following changes to the draft SI which were made after notification:

- a) The SI as originally notified made provision for Competent Authorities in each territory of Great Britain to designate a demarcated area based on the findings of a pest within the territory of another competent authority (for example, where a pest is found in an area adjacent to a border between those territories). Following notification, further amendments were made to PH 045 to ensure these provisions also applied where a provisional quarantine plant pest was found;
- b) Additional amendments were made to Articles 11(2), 12(1), 14(3), 15(1), 16 and 17(3) of retained EU Regulation 2016/2031 so that measures which apply to GB quarantine

---

<sup>1</sup> S.I. 2022 No. 1367

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

pests (such as notification requirements) are also extended to provisional GB quarantine pests; and

- c) Corrections were required to be made to the retained Commission Implementing Decision (EU) 2019/1614 (“Decision 2019/1614”) to ensure this piece of legislation can operate effectively i.e. that potatoes, other than potatoes for planting, originating in certain regions of Lebanon meet stringent import entry requirements; and
- d) Corrections were also made to the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 (“TARP (ALF)”)<sup>2</sup>, to confer functions on the appropriate authority relating to the establishment of special import conditions and other rules under Article 12 of Council Directive 2009/156/EC (on animal health conditions governing the movement and importation from third countries of equidae).

These were necessary operational amendments to ensure the continued functioning of phytosanitary controls within GB and between relevant third countries. The amendment to TARP (ALF) was made in order to insert a provision that had been included in the notification to the Scottish Parliament for this instrument which was considered and agreed by the Rural Affairs, Island and Natural Environment Committee at its meeting on 9 November 2022, but which had been omitted from the final draft of the instrument in error. It is against that background that I can now confirm that this SI was consistent with the consent granted.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee and Cabinet Secretary for Rural Affairs and Islands.

Kind regards



**LORNA SLATER**

---

<sup>2</sup> S.I 2022 No. 1322

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