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Dear Bill

Thank you for your letter of 6 May following the Delegated Powers and Law Reform Committee's consideration of the Legislative Consent Memorandum for the UK Agriculture Bill.

As you are aware I am attending the Rural Economy and Connectivity Committee on 13 May to give evidence on the memorandum. I offer the following in response to the points raised by the Committee:-

**Clause 32(1): Amendment of the Natural Environment and Rural Communities Act 2006:**

The powers relate to a Board, the Agriculture and Horticulture Development Board (AHDB) that will operate a system for tracing animals in England that will form part of a UK system that will trace and identify animals. AHDB have been granted funding by Defra to develop these systems and both will require Scottish data to operate.

The amendment that we anticipate will be brought forward at a later stage of the Bill will require approval by Scottish Ministers for an Order assigning functions to AHDB Board made under the NERC Act. When such an Order comes forward the Scottish Government will write to the Scottish Parliament.

**Clause 36: Powers to make provision relating to organic certification, the import and export of organic products, and the enforcement of organics regulation**

The UK Government is the competent authority for the entire UK, with the agreement of the devolved administrations. Having a UK-wide approach to organics is in the best interests of the sector and ensures optimum trading conditions. It is therefore appropriate, with UK-wide

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agreement on organics policy, for UK Ministers to exercise these powers, including on organics matters which are devolved.

But equally, we do not wish to diverge from EU regulations and standards in these areas [and note that for Northern Ireland the Protocol limits the extent to which there can be divergence from EU law]. Should the UK Government opt to diverge from EU regulations when implementing new organics regulation 2018/848, Scottish Ministers may opt to exercise clause 36 powers where the Scottish Government wishes to remain aligned with EU organics regulations. We are keen, with UK-wide agreement and co-operation, to not diverge from a UK-wide approach in the interests of domestic and overseas trade in organic products.

The UK Government and devolved administration policy officials work closely to form a UK-wide policy approach, during which Scottish Ministerial agreement to the policy proposals will be obtained.

#### **Clause 40: Power to secure compliance with the WTO Agreement on Agriculture**

The Scottish Government's position, as set out in the Legislative Consent Memorandum, is that clauses 40 to 42 as currently drafted are unacceptable. There is no guarantee that either the Scottish Ministers or the Scottish Parliament would have any meaningful involvement in contributing to and scrutinising regulations made by the Secretary of State. That is why the Scottish Government has proposed to the UK Government a number of amendments. These would introduce a requirement for the consent of the Scottish Ministers to regulations that extend to Scotland, and remove the unnecessary requirement for the Scottish Ministers to provide information to the Secretary of State.

We will continue to press this with the UK Government and, now that the UK Government has changed its position on the need for consent of the Scottish Parliament, we hope that changes will be made to the clauses. Once the clauses are finalised we will be in a better position to comment on the role of the Scottish Ministers and Scottish Parliament in relation to regulations.

I hope you find this information helpful.



**FERGUS EWING**

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