



T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Gillian Martin MSP  
Convener of the Environment, Climate Change &  
Land Reform Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

24 March 2021

Dear Gillian,

## EU EXIT LEGISLATION

### The Air Quality (Legislative Functions) (Amendment) Regulations 2021

I am replying to your letter dated 9 March. I am grateful for the Committee's consent to the above mentioned SI.

You asked about how in the event of divergence in policy or standards, how such developments would impact the Scottish Government's commitment to 'keeping pace' with EU legislation and what thought has been given to such a scenario.

I understand the Committee's interest in the possibility of a divergence in policy or standards if we are maintaining a UK-wide approach on air quality. As the Committee is aware, Ministers wish to maintain alignment with EU law when it is appropriate and practicable to do so. At the moment there is no divergence in standards, but in the event of a divergence arising in the future Ministers would need to consider their approach in relation to air quality bearing in mind the facts and circumstances at the time.

In the event of the possibility of standards diverging, an evidenced based assessment of potential impacts will support Ministers to consider the relative benefits of a four nations approach toward air quality legislation and Scotland's interest in preserving the high standards achieved through continued EU alignment.

You will recall at the recent ECCLR committee session on EU Exit and environment I said it will be essential that the Scottish Government and the Scottish Parliament are recognised as equals alongside the UK Government and Westminster in their respective areas of competence. That will be absolutely fundamental. Scottish Government and Scottish Parliament should therefore be meaningfully engaged in developing new structures and processes.

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The overall structure of the UK-EU partnership is in place, but there is no doubt that the implementation will have a major impact on our devolved responsibilities and interests, including those that relate to future environmental standards and to the Scottish Government's ambition to tackle climate change. We are seeking meaningful involvement and representation within the governance structures and their underlying co-ordination and decision-making processes. It is important that our involvement takes account not only of Scotland's devolved responsibilities and separate legal jurisdiction, but of the reserved areas that touch on our responsibilities or that significantly relate to the territory of Scotland.



**Roseanna Cunningham**

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St Andrew's House, Regent Road, Edinburgh EH1 3DG  
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