8 November 2018

Dear Gillian,

IONISING RADIATION
EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

In September, I sent you a notification under 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. That notification covered two statutory instruments:

- The Ionising Radiation (Basic Safety Standards) (Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2018; and
- The Justification Decision Powers (EU Exit) Regulations 2018

In your Committee’s report of 2 October, you indicated you were content for the Scottish Government to give consent with respect to these instruments, and raised some further questions about arrangements following a UK exit from the EU and the Euratom Community. These two instruments have not yet been laid in the Westminster Parliament, and are expected to be laid in mid-November. My officials will continue to monitor the progress of these instruments, and the Committee will be updated when the SI has been laid, in line with the protocol.
This letter serves two purposes:

- to provide responses to the questions that you raised concerning future environmental governance in your report on the first notification covering radioactive substances;

- to present a further notification on an additional draft Statutory Instrument that has recently been shared with me by the UK Government, that will make further minor changes to the Justification of Practices Involving Ionising Radiation Regulations 2004.

**Future environmental governance**

The Committee sought clarification on proposed arrangements for environmental governance (including enforcement), and for ensuring the adequacy of national plans and Ministerial actions, following the UK withdrawal from the EU and the Euratom Community. Subject to the exact terms of a future relationship between the UK and the EU, the Scottish Government anticipates that the EU will continue to expect strong compliance with high environmental standards in the UK as part of a level playing field. While it is still unclear what oversight structures will be put in place, we can expect that these structures will include mechanisms for on-going monitoring in relation to these standards. We would welcome continuing close cooperation, dialogue and challenge between the UK and the EU, to deliver ambitious environmental protection in the future.

Furthermore, we have committed to maintaining Scotland’s distinctive approach to environmental protection and will seek to maintain equivalence with EU environmental standards. We expect that the Scottish Parliament will continue to hold government to account for meeting its ambitions and complying with internationally set standards. Later this year, we will also consult on the governance gaps that will be created once the UK leaves the EU, with a view to bringing proposals back to the Scottish Parliament on environmental governance arrangements once the future relationship is clear. This will include proposals for future monitoring and enforcement.

There are particular considerations for governance where draft regulations introduce shared UK arrangements. Following finalisation of the draft SIs, the Scottish Government will work with the UK Government and other devolved administrations to put in place sound governance arrangements to ensure transparency and accountability for decision making.

**Additional notification on ionising radiation regulations**

I attach a notification which sets out the details of an additional SI that the UK Government proposes to make in order to fix further deficiencies in one of the sets of regulations covering ionising radiation that was already considered in the first notification. The notification sets out the reasons that I am content for Scottish devolved matters to be included in this SIs. The Committee will recall that the context for this is the letter that the Cabinet Secretary for Government Business and Constituional Relations 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 am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

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

Yours,

ROSEANNA CUNNINGHAM