December 2018

Dear Gillian,

EU EXIT LEGISLATION - PROTOCOL WITH SCOTTISH PARLIAMENT
POLICY AREA: ANIMAL HEALTH

The Import and Trade of Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2018 (please note that the section regarding the non-commercial movement of pet animals and equines will be of interest to the ECCLR committee)

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, the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell wrote to the Conveners of the Finance & Constitution and the Delegated Powers & 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 one notification (as detailed in the heading above) which sets out the details of the SI which the UK Government proposes to make and the reasons why I am content that Scottish devolved matters are to be included in this instrument. This is part of a series of such notifications that myself and Ministerial colleagues will be sending to Parliamentary committees over the coming weeks. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether it is in keeping with the terms of this notification.
This particular notification and Instrument, The Import and Trade of Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2018, is being made using powers under the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law relating to trade in animals and animal products and the non-commercial movement of pet animals and equines.

Rural Economy and Connectivity Committee have been sent a copy of this notification for their interests. I am copying this letter to Graham Simpson MSP, Convener of the Delegated Powers and Law Reform Committee.

As mentioned in the notification, on this occasion the Scottish Parliament is being asked to forego the full 28 days in which to consider whether or not to consent to this proposal. I should emphasise that this is for reasons outwith the Scottish Government's control. The UK Government had indicated to us that it intended to deal with this SI under the negative procedure, but at the last minute decided to subject the proposed SI to the affirmative procedure in the Westminster Parliament. This has, in turn, had implications for the timing of the SI and the consent process. This is clearly unsatisfactory, and I appreciate the difficulties that this change may cause the Committee. However, given the importance of ensuring that both the UK and Scotland are as ready as they can be for exiting the EU, I would be grateful if a reply could be provided by no later than 14 January 2019.

MAIRI GOUGEON