Dear Gillian,

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

The Animals and Food (Transfer of Functions) (EU Exit) Regulations 2018
(please note that the sections regarding animal welfare and zootechnics 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 Convenors 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 Animals and Food (Transfer of Functions) (EU Exit) Regulations 2018) is being made using powers under the European Union

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(Withdrawal) Act 2018 in order to correct deficiencies in what will become retained EU law. The effect of the proposed amendments will be, in most cases, to transfer particular legislative functions currently exercisable at an EU level so that these are instead exercisable by the 'appropriate authority', in most cases by regulations. The 'appropriate authority' is defined in the case of Scotland as the Scottish Ministers or the Secretary of State with consent from Scottish Ministers.

The legislation that will be amended by the Proposed SI is listed in Annex 1, Part A of the notification, however, for the committee's interests I would highlight:

- Regulation (EU) 2016/1012 of the European Parliament and of the Council on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof


- Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing

The Rural Economy and Connectivity Committee, has 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.

On this occasion the Scottish Parliament does not have the full 28 days to consider this proposal to consent. The reason for this is that agreement on a number of policy areas has only been achieved very recently due to the complexity of the instrument. The Scottish Parliament is respectfully asked to consider and respond to this notification by no later than 14 January 2019.

MAIRI GOUGEON

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