



The Scottish Parliament
Pàrlamaid na h-Alba

Roseanna Cunningham MSP,
Cabinet Secretary for Environment,
Climate Change and Land Reform

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
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By email only

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Dear Cabinet Secretary,

EU EXIT AND THE ENVIRONMENT

Thank you for agreeing to give evidence to the Committee on Tuesday 29 October 2019.

Ahead of your appearance, it would be helpful if you could provide further information about the Scottish Government's preparations in your portfolio area for the UK's exit from the EU, especially in relation to a 'no deal' exit.

PREPARATIONS FOR EXITING THE EU

The Committee has considered 34 notifications for consent to 37 UK statutory instruments to be made by the UK Government in relation to devolved policy areas and 8 Scottish statutory instruments, all intended to address legal deficiencies arising from withdrawal from the EU. Can you confirm that you are confident that all the necessary measures have been put in place to ensure the full legal framework will be 'day one ready' following exit? Can you also confirm the requirement for any additional or outstanding measures?

When you gave evidence in April, you stated "we [Scottish Ministers] will need to look again at some of the solutions [made by way of SIs] to decide whether they are fit for the longer term or whether they really are only interim solutions that will need to be put away when we are looking at the much longer-term scenario". Can you advise if you have undertaken this review, when you expect it to be concluded and when will you be able to share its conclusions with us?

We have previously asked you about NDPBs' and agencies' planning ahead of exit and their operational readiness to take on the additional functions and responsibilities which will arise from withdrawal. Can you provide information on the action the Scottish Government has taken to ensure NDPBs and agencies are well placed to support a smooth transition from the EU, especially in a no deal situation? The Committee has, in particular, highlighted concerns about the loss of access NDPBs and agencies will have to advisory committees and networks following withdrawal. Can you reassure the Committee in this

regard and provide detailed information on how Scottish NDPBs and agencies will be able to access specialist advisory committees and networks following withdrawal and provide detail on the information and networks they will not have access to?

We have previously discussed with you the implications of leaving the EU's single market and customs union without a deal. On 4 December 2018, you highlighted possible issues in relation to the export of waste shipments, with the "implications of that waste backing up here quite quickly" and chemicals e.g. the chemicals required to treat water. There will, of course, be a much wider range of goods imported into and exported from Scotland which will be affected by a possible no deal exit from the single market. Can you detail what assistance the Scottish Government is giving to businesses and public bodies which may be affected by any delays, additional processes or other possible disruptions, such as price rises? The Committee seeks a clear reassurance from you that the Scottish Government is doing as much as it can to anticipate and mitigate any problems. It would be helpful if you could provide detailed information on this.

GOVERNANCE ARRANGEMENTS FOLLOWING EXIT FROM THE EU

Thank you for providing further information on the prioritised common frameworks in your portfolio on 26 June 2019—

- In relation to the chemicals regulation and pesticides framework, it would be helpful if you could update the Committee on the expected timescale for when the framework outline agreement will move into phase three. As you are aware, the Committee has shown a particular interest in the post-exit chemicals and UK REACH policy; the Committee expects to consider the proposed framework in some detail.
- In relation to the ETS framework, it would be helpful if you could update the Committee on the outcome of the joint consultation on the approach to UK carbon pricing.
- In relation to the waste packaging and product regulations framework, it would be helpful if you could provide an update on how this relates to the Circular Economy Bill proposed in this year's programme for government.

We recognise the agreement of common frameworks, with the commitment to maintain a consistent approach in policy areas within devolved competence, represents one aspect of the changing intergovernmental relations following EU exit. We would appreciate further information about how you expect to work with your counterparts in the UK Government and devolved administrations, both as common frameworks are being agreed and as they are being implemented and delivered.

As you are aware, we have a strong interest in the proposed 'keeping pace' powers and we intend to consider these when the proposed Continuity Bill is introduced. It would be helpful if you could provide us with any further information about these provisions, and the likely date for the Bill's introduction, as the Committee is keen to discuss this further with you on 29 October.

We have had a number of exchanges with you in the past about the need for measures to ensure that environmental standards can be maintained after withdrawal. It would be helpful if you could set out how the Scottish

Government envisages its environmental standards being reflected in international trade agreements negotiated by the UK Government. How is the Scottish Government making representations in this respect to the UK Government?

Looking beyond this, we intend to explore with you how the Scottish Government envisages policy divergence within a policy area covered by a common framework or trade agreement.

ENVIRONMENTAL PRINCIPLES AND GOVERNANCE

We note the commitment to include provisions relating to environmental principles and governance in the proposed Continuity Bill and it would be helpful if you could provide further information on this. How does the Scottish Government see its environmental principles working alongside any set out in legislation by the UK Parliament? What discussions has the Scottish Government had with the UK Government about the UK Government's proposals regarding environmental governance mechanisms? The Committee understands that the Scottish Government has been consulting on the frameworks for environmental governance and would welcome an update on this work and plans to ensure we have an effective governance and enforcement framework to ensure we maintain our natural assets and natural capital post EU Exit.

The Committee would also welcome an update on the Scottish Government's consultation on an environmental strategy and how this ties in with the protection of environmental standards following withdrawal.

REPLACEMENT FUNDING

The Committee is keen to pursue with you the latest position with regards to replacement funding for EU funds and schemes which Scotland will cease to be part of following withdrawal. We note the First Ministers' request for the UK Government to "provide full financial compensation for the consequences of EU exit" in the Programme for Government. Members have previously discussed particular concerns in regard to funding to support environmental objectives, including biodiversity, the marine environment, access to research networks/relationships and funding for research and development, as well as the extent to which the shared prosperity fund will address this issue. It would be helpful if you could provide an update on this to aid discussion on 29 October.

I would be grateful if you could provide a response by Friday 18 October to allow us to discuss these issues in more detail when you give evidence on 29 October.

Yours sincerely,



Gillian Martin MSP
Convener
Environment, Climate Change and Land Reform Committee