Dear Cabinet Secretary,

The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2018 and the Floods and Water (Amendments etc.) (EU Exit) Regulations 2018

Thank you for your letter, dated 5 November 2018, attaching the consent notification for the above SIs.

The Committee would appreciate some further information in relation to the following points. **It would be helpful if a response could be provided before close of play on Friday 16 November.**

**Amendment of regulation-making powers**

Paragraph 3(a)(iii) states,

“the Pollution Prevention and Control Act 1999 is amended...in relation to regulation-making powers, to set out the areas of retained EU law in which the regulation-making powers have been used in the past and will remain available to be exercised after exit. As the European Communities Act will be repealed, the restrictions contained in that Act are replicated here.”

The regulation-making powers of this Act of 1999 are therefore being amended by the addition of restrictions. Is this a reference to the restrictions in Schedule 2, paragraph 1 of the European Communities Act 1972? If not, we should be grateful if you would confirm the content of these restrictions.

If the regulation-making powers under the Pollution Prevention and Control Act 1999 have been exercised in relation to areas of EU law that will become areas of retained EU law, why is it necessary now to impose restrictions on these powers, imported from the European Communities Act 1972?
Does the Scottish Government agree that amendment of such a power to legislate means this notification falls within Category B of the protocol?

**Revocation of Decision No 1386/2013/EU relating to the European Environment Action Plan (EEAP)**

The notification states that Part 4 of the proposed Regulations will revoke of Decision No 1386/2013/EU) namely the 7th European Environment Action Plan (EEAP). The 7th environmental action programme runs to 2020 (as well as setting out an agreed environmental vision for 2050), and contains a detailed programme for action up to 2020, covering a range of policy areas including biodiversity, air quality, climate change and the circular economy.

Has the Scottish Government assessed the implications of the proposed revoking of Decision No 1386/2013/EU on environmental standards in Scotland? Can further information be provided on the UK Government’s reasoning for revoking this Decision and why it is required? Is the Scottish Government in agreement with this reasoning?

Please contact the clerk to the Committee if your officials have any questions.

Yours sincerely,

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