Dear Lewis,

European Union (Withdrawal) Act 2018

Thank you for your letter in relation to the EU Exit regulations on organs, tissues and cells and blood that the UK Government intends to lay under powers in the European Union (Withdrawal) Act 2018.

The Scottish Government received copies of the updated draft instruments for organs and tissues and cells on 22 October. Final legal checks are currently being undertaken by the Department of Health and Social Care and there will be some technical modifications to those drafts, but these deal with technical issues and are not policy changes. The amended draft instrument for blood was shared on 29 October.

In all instruments, EU Commission powers under the relevant EU Directives have been conferred to appropriate authorities. I can confirm that in each SI the drafting states that in relation to Scotland the “appropriate authority” means:

“(i) the Scottish Ministers; or
(ii) the Secretary of State acting with the consent of the Scottish Ministers;”

The regulations also make provision for the Secretary of State to make regulations for the whole of the United Kingdom, “acting with the consent of the Welsh Ministers, the Scottish Ministers and the Department of Health in Northern Ireland.”
I have been advised that the latest version of the statutory instruments will be sent to the Scottish Government by 2 November. This version of the SIs will be submitted for pre-legislative scrutiny to the Joint Committee on Statutory Instruments.

JACKIE DOYLE-PRICE