Edward Mountain MSP  
Convener, Rural Economy and Connectivity Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

03 May 2017

Dear Convener,

I write regarding the Seat Belts on School Transport (Scotland) Bill which is currently before the Rural Economy and Connectivity Committee in the name of Gillian Martin MSP.

Firstly I would just like to thank the committee for the effective and diligent work it has been doing over the course of the Stage 1 process and members’ useful observations and suggestions as the Bill moves forward.

The Scottish Government has been giving consideration to whether the Bill contains draft technical measures that should be notified to the European Commission under EU Directive 2015/1535 (Technical Standards and Regulations).

As you will know, that Directive is in place to promote the freedom to provide services and to prohibit quantitative restrictions on the movement of goods between member states, in order to support the smooth functioning of the single market. It aims to deliver transparency in respect of national initiatives for the establishment of new technical standards or regulations, in order to prevent the creation of undue barriers to trade within the EU.

Member states proposing policies or legislation that may create such barriers are required to notify the Commission of their intentions and gain approval before proceeding. Failure to notify the Commission of draft technical measures in breach of the Directive renders such measures unenforceable.

Having carefully considered this matter, and in particular having taken into account the recent ruling by the Court of Justice of the European Union in case C-144/16 Municipality of Palmela, the Scottish Government has concluded that the Bill should be notified to the Commission as a draft technical measure.

The notification process takes three months and that can be extended for a further three months should the Commission choose to lodge a detailed opinion in response. During this period, the relevant legislative measures must be placed in a standstill and not progress past the stage of possible amendment.

5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU  
www.gov.scot
This Bill was previously scheduled to progress over the course of this year, with Stage 3 in late 2017. However, Parliament and Scottish Government officials negotiated an accelerated timetable given the narrow and single-issue nature of the Bill and the forthcoming work programme of your committee, with a view to Stage 3 being completed before summer recess.

Unfortunately, it will not be possible to keep to that timetable now. Scottish Government officials will look to engage with your officials on potential timetabling, but I would generally consider that it would be suitable for the Bill to continue through both Stage 1 and Stage 2 consideration before notification. This would allow the Committee to largely keep to its previous workplan, with only Stage 3 remaining post-recess.

In addition, if notification took place only after Stage 1 and there were then any amendments at Stage 2 which significantly altered the measures in the Bill, this could create the risk that we would have to re-notify the Commission (given that it would have previously ruled on different provisions), further delaying the Bill’s progress.

In terms of the process, notification is done by the UK Government, as the EU member state, and the Scottish Government will take forward arrangements with them as necessary.

Given that the Welsh Government notified the Commission when bringing in primary legislation on school bus safety, with a Bill that had a wider scope than Ms Martin’s which is solely focussed on seat belts and this was approved, there would seem every likelihood of a positive response from the Commission.

I am copying this letter to Gillian Martin MSP and will instruct my officials to take this matter forward in conjunction with her and the REC Committee to ascertain the most appropriate revised timetable for Bill consideration.

Best Wishes,

H. Yousaf

HUMZA YOUSAFA