

Minister for Public Health, Sport
Mairi Gougeon MSP

Lewis Macdonald MSP, Convenor of Health and
Sport Committee,
Scottish Parliament
Edinburgh
EH99 1SP

23 December 2020

Dear Lewis

THE FOOD AND DRINK (AMENDMENT) (EU EXIT) REGULATIONS 2021

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

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 MSP, wrote to the Conveners of the Finance and Constitution and the Delegated Powers and Legislative Reform Committees on 11 September 2018 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 a notification which sets out the details of the above 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 SI.

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.

The policy rationale for the proposed changes that the above SI will make is to ensure the continuation of important elements of the current EU regime for food

information, country of origin information and wine marketing standards and labelling requirements. This includes making the necessary consequential technical corrections to what will become retained EU law to ensure that there is a functioning statute book which will continue to underpin the UK's regulatory system for these areas.

The above SI will make the necessary technical amendments to what will become retained direct EU law in a number of specific areas including law relating to the name and address of the food business responsible for food information on labels, the provision of country of origin information for pork, lamb, goat and poultry meat; country of origin for ingredients in food and the transfer of functions with regard to wine standards. The amendments in this SI are necessary to make legally workable arrangements and to set out devolved responsibilities in future. There are no changes to the overall policy intent of the EU law and this will maintain the high standards in this area from which we currently benefit.

The above SI will not modify the key rules on what constitutes mandatory food information and the circumstances in which it applies. These key elements will be retained at the point of exit and the Parliament has already scrutinised and approved the relevant fixing instruments making the necessary modifications to the vast majority of the relevant food information law. However, this SI does make the necessary outstanding modifications to the existing EU law in this area to delete obsolete references to EU institutions and also contains some transfer of powers in the area of wine standards to allow future amendment to parts of the EU law where such modifications are currently permitted. The amendments are necessary to finalise preparations for the UK statute book shortly after the end of the Implementation Period.

The Department for the Environment, Food and Rural Affairs is the lead UK department for this negative SI which is due to be laid in the UK Parliament on 4 January 2021. While the Scottish Parliament has the full 28-day period in which to consider the notification, it would be helpful if the Committee could give its view at the earliest opportunity.

I am copying this letter to the Conveners of the Rural Economy and Connectivity Committee and the Delegated Powers and Law Reform Committee.

I look forward to hearing from you in due course.

MAIRI GOUGEON