June 2018

Thank you for your letter of 21 June 2018 in connection with the Rural Economy and Connectivity Committee’s consideration of The Tuberculosis (Miscellaneous Amendments) (Scotland) Order 2018 (“the 2018 Order”) on 20 June 2018.

Further to Sheila Voas’ letter to the Committee dated 20 June, an instrument revoking the 2018 Order was made and laid on 22 June 2018 pending further consideration of the matters which your Committee has helpfully drawn to the Scottish Government’s attention.

Moreover, as explained in the letter to the Presiding Officer dated 22 June accompanying the revoking instrument, regrettably due to an oversight the 2018 Order was laid under the incorrect procedure (namely laid no procedure as defined in section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010 (“the 2010 Act”)). This overlooked the fact that one of the enabling powers relied on for the instrument (section 32(3) of the Animal Health Act 1981) was specifically subject to negative procedure (by virtue of express provision to that effect in section 32(3)) and hence the instrument as a whole required to be subject to such procedure, in accordance with section 33 of the 2010 Act. However, in light of section 31(2) of the 2010 Act this did not affect the underlying validity of the 2018 Order and, in any event, the 2018 Order respected in practice the requirements of section 28(2) of the 2010 Act.

In response to the concerns raised by Committee Members about possible systemic issues with the Scottish Government’s ‘Citizen Space’ consultation interface it may help if I clarify matters. The consultation responses from the NFUS and British Veterinary Association (BVA) were not submitted via Citizen Space. Both these responses were sent to a temporary, dedicated mailbox set up outwith Citizen Space as an alternative method of response. Consultees also had the option to submit responses by post. This is normal practice to encourage maximum participation in consultations. The 15 responses that were...
received to the consultation on proposed changes to our TB policy were all received through Citizen Space without issue. I would like to reassure Members that the reliability of the Citizen Space software was not affected by nor related to the separate issue with the dedicated mailbox.

The mailbox set up for this particular consultation was tested prior to launch date and it tested fine. It was checked periodically throughout the period of consultation, but no responses were received. At the close of the consultation (30 November 2017) it was checked again but still no responses were received. The fact that these two consultation responses hadn’t been received and therefore not considered by the Scottish Government only came to light on 8 June when the NFUS contacted officials. It was around this time that a further check of the mailbox revealed both responses.

As the Committee is aware, despite both responses being submitted on time, officials had, unfortunately, already concluded their analysis of responses and published the consultation summary report. Unfortunately, IT officials have not been able to identify why these particular responses failed to show in the consultation mailbox at the time of sending. Policy officials continue to engage with IT personnel to see if the underlying cause can be identified, however they are confident that this has been an isolated problem.

I would take this opportunity to comment briefly on the representations made to the Committee by the Scottish Beef Association (SBA). The SBA submitted two responses to our consultation, both through Citizen Space. In the first response, received on 21 October 2017, the SBA stated, in response to the question on a compensation cap, that “owners of cattle worth over £5000 have the option of insurance” and that “if our TB status is well protected then insurance premiums should be less”. In their second response, received 26 October 2017, SBA indicated they didn’t support the cap after all as “some pedigree cattle will be worth more”. I should also point out that the initial response the SBA also commented that “the consultation was very easy to follow”, so I am unclear on why the SBA are critical of the consultation undertaken. Officials will follow-up with the SBA in due course.

I can confirm to the Committee that the Scottish Government fully intends to bring forward a new Order that will further enhance our bovine TB control and compensation policy as soon as practically possible after the summer recess. As part of that process my officials will be actively engaging with the NFUS and other valued stakeholders on the issue of capping compensation payments for high-value animals culled for disease control purposes.

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