2nd October 2019

Dear Edward,

THE PESTICIDES (AMENDMENT) REGULATIONS 2019

I am writing to inform you of a forthcoming UK Statutory Instrument: the Pesticides (Amendment) Regulations 2019. The UK Government is proposing to make these Regulations, under powers conferred by section 2(2) of the European Communities Act 1972, on a UK-wide basis. To this degree it extends and applies to Scotland relying on section 57(1) of the Scotland Act 1998.

The Regulations are being introduced to update references in UK legislation to Regulation (EU) 1107/2009 on the placing of plant protection products on the market, following amendment of that Regulation by Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products. Regulation 2019/1009 provides that products referred to as plant biostimulants should be excluded from the scope of Regulation 1107/2009 and that the latter should be amended accordingly. The amendments are technical updates required to ensure that the most recent EU legislation is referred to on the statute book.

The Regulations also updates the titles of regulatory bodies in England and Wales. In that regard, no amendments are required in relation to Scotland.

As you will be aware, under section 57(1) of the Scotland Act, UK Ministers may use their power to implement EU obligations in respect of Scotland, even if the subject matter is devolved. However the Memorandum of Understanding between our administrations sets out the mechanisms for handling EU business, including that it is for the devolved administrations to consider in consultation with the relevant Whitehall Department how the obligation should be implemented. My officials are engaged with counterparts in Defra to ensure that the relevant provisions in the regulations which relate to devolved areas are acceptable for Scottish interests.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
As such I have written to George Eustice, Minister of State, Department for Environment, Food and Rural Affairs, informing him that the Scottish Government is content in this case for the Secretary of State to exercise devolved functions using section 57(1) of the Scotland Act 1998.

MAIRI GOUGEON