



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Rt. Hon. Ian Murray MP
Secretary of State for Scotland

19 December 2024

Dear Secretary of State,

Scrutiny of secondary legislation made by UK Ministers including provisions within devolved competence

The Scottish Parliament's Delegated Powers and Law Reform Committee ("the Committee") has agreed to write seeking an update in relation to scrutiny of secondary legislation made by UK Ministers that include provisions within devolved competence.

In May this year, the Committee signed up to a section of a [letter sent to the Scottish Government's Cabinet Secretary for Constitution, External Affairs and Culture from the Parliament's Constitution, Europe, External Affairs and Culture \("CEEAC"\) Committee](#).

The Committees' joint questions focused on the scope of [Statutory Instrument Protocol 2 \("SIP2"\)](#). SIP2 was agreed between the Scottish Parliament and Scottish Government following the UK's departure from the European Union.

It facilitates the Scottish Parliament's scrutiny of Scottish Ministers for their consent decisions in relation to secondary legislation to be made by UK Ministers that include provisions that are within devolved competence and relate to matters which were within the competence of the EU as at 31 December 2020.

These questions included asking whether the Scottish Government agreed:

- that as a matter of principle the protocol should be extended to non-former EU areas;
- that they would be willing to do so in the event that the present or a future UK Government administration agrees to facilitate this; and
- to take up this matter again with whichever UK Government administration is formed after the upcoming general election.

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email DPLR.Committee@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

In [response to that letter](#) on 26 June 2024, the Cabinet Secretary stated [with **emphasis added**]:

“The Scottish Government is clear that, as a matter of principle, the Scottish Parliament should have oversight of the use by UK Ministers of delegated powers in devolved areas. This recognises the Scottish Parliament’s responsibility for these matters in Scotland.

“The current protocol (SIP2) shows the potential for non-legislative arrangements to provide the Parliament with the opportunity to scrutinise such secondary legislation. However, to be effective, the protocol, and any extended arrangements beyond its current scope, require the agreement and the cooperation of the UK Government.

“The Scottish Government intends to engage with the new UK Government on the issue of UK Ministers’ powers in devolved areas, to continue to try to ensure that their use respects devolved responsibilities and provides the Parliament with appropriate levels of transparency and scrutiny. The Scottish Government will keep the Parliament informed about this engagement...”

As such, the Committee agreed to seek an update in relation to your engagement with the Scottish Government on UK Ministers’ powers in devolved areas, specifically **what progress has been made on discussions between the UK and Scottish Governments in relation to facilitating scrutiny of secondary legislation made by UK Ministers that include provisions within devolved competence.**

The Committee agreed to write in similar terms to the Scottish Government. This will allow it to be better appraised of the current situation when it considers powers conferred on UK Ministers to make subordinate legislation within devolved competence, as happens from time to time as it considers LCMs.

The Committee seeks a response to this letter **by Friday 24 January.**

Yours sincerely,



Stuart McMillan MSP
Convener