



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Angus Robertson MSP,
Cabinet Secretary for Constitution, External Affairs and Culture

19 December 2024

Dear Cabinet Secretary,

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

The Delegated Powers and Law Reform Committee (“the Committee”) today 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 you from the Constitution, Europe, External Affairs and Culture \(“CEEAC”\) Committee](#). The Committees’ joint questions focused on the scope of Statutory Instrument Protocol 2 (“SIP2”). 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.

In [response to that letter](#) on 26 June 2024, you stated:

“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.

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.

“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...”

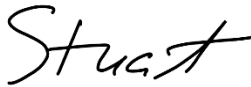
As such, the Committee agreed to seek an update in relation to your engagement with the UK Government on UK Ministers’ powers in devolved areas, specifically **what progress has been made on discussions between the UK and Scottish Governments in relation to facilitating scrutiny of secondary legislation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

The Committee agreed to write in similar terms to the UK 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 2025.**

Yours sincerely,

A handwritten signature in black ink that reads "Stuart". The letters are cursive and fluid.

Stuart McMillan MSP
Convener