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Jim Fairlie MSP
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Finlay Carson MSP
Convener of the Rural Affairs and Islands
Committee
Scottish Parliament
Edinburgh
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11 March 2025

Dear Convener,

The Fair Dealing Obligations (Pigs) Regulations 2025

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I now write to confirm the details of the above Statutory Instrument (“SI”) which the UK Government intend to lay before Parliament around the 13 March 2025 without seeking consent from the Scottish Ministers. The attached SI shadow notification and summary set out the details of the SI.

The UK Government’s position is that this SI relates to reserved matters and so they did not write to request the consent of Scottish Ministers to The Fair Dealing Obligations (Pig) Regulations 2025. The UK Government take the view that the SI relates to the competition law reservation in Schedule 5, Part 2, section C3 of the Scotland Act 1998. This position is disputed by Scottish Ministers, who consider that the SI relates to devolved matters, namely the regulation of unfair contractual terms in commercial contracts by agricultural producers in Scotland, and so their consent should be sought to make the regulations.

Scottish Government officials have advised colleagues in the UK Government’s Department for the Environment, Food and Rural Affairs (Defra) of this view.

The SI requires business purchasers to use written purchase contracts to comply with the regulations when purchasing pigs from a producer, setting out the terms that must be included. This includes items relating to the duration of the contract, the permitted pricing modelling, variable price contracts, and rules around any dispute resolutions.

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The SI, as agreed with industry, provides a clause whereby the producer can give notice in writing to the business purchaser that the regulations should not apply.

The Committee may wish to note that the pig sector in Scotland is in favour of this legislation and has been involved in regular discussion with officials in Defra and the Scottish Government to agree on the detail of the regulations, ensuring consistency across the UK.

The effect of the SI is consistent with the Scottish Government's policy. However, it is the Scottish Government's position that our consent should have been sought to these regulations as they relate to devolved matters.

It is crucial that we ensure devolved interests are respected therefore I will also be writing to the UK Government Minister for Food, Security and Rural Affairs, Daniel Zeichner MP to highlight my concerns on this matter.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I would be grateful if the Committee could note the notification accompanying this letter.

Yours sincerely,



JIM FAIRLIE

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