



The Scottish Parliament  
Pàrlamaid na h-Alba

## Rural Affairs, Islands and Natural Environment Committee

Cabinet Secretary for  
Rural Affairs and Islands

c/o Clerk to the Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

[rural.committee@parliament.scot](mailto:rural.committee@parliament.scot)

***By email only***

6 October 2022

Dear Cabinet Secretary,

### **THE AFRICAN SWINE FEVER (IMPORT CONTROLS) (ENGLAND AND SCOTLAND) ORDER 2022**

Thank you for your letter, dated 8 September 2022, relating to the above UK SI.

I note the Scottish Government “did not consider that the SI fell under any of the categories of instrument listed in paragraph 16 (a) to (d) of the [SI] Protocol” and that “due to the degree of urgency, it was not possible to discuss with the Parliament whether the protocol should apply to the powers in this legislation in terms of paragraph 16(e)”.

I also note the Scottish Government would be happy to discuss with the Parliament whether the Protocol should apply in future to the use of these powers.

I have asked parliamentary officials to discuss with their counterparts in the Scottish Government whether this power is technically caught by the scope of the protocol – “*secondary legislation to be made by UK Ministers that include provisions that are within devolved competence and relate to matters within the competence of the EU until immediately before IP completion day*” (paragraph 15) and should, therefore, be included in Annex A.

I have also asked parliamentary officials to discuss whether there may be any other powers which are within the scope of the protocol but not listed in Annex A. This should help avoid any more of the Scottish Parliament’s powers being included in UK SIs without the Scottish Parliament being notified in advance.

In addition, it would be helpful if you could provide further information about why the Scottish Government considered the most appropriate approach was for provision to be made in a UK SI, and to create “one piece of legislation creating a consistent

prohibition across both Scotland and England”, rather than following the Welsh Government’s approach of making provision via domestic secondary legislation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Finlay Carson', with a long horizontal flourish extending to the right.

**Finlay Carson MSP**

Convener

Rural Affairs, Island and Natural Environment Committee