



Department
for Environment
Food & Rural Affairs

Seacole Building
2 Marsham Street
London SW1P 4DF

T 03459 335577
defra.helpline@defra.gsi.gov.uk
www.gov.uk/defra

Neil Parish MP
Chair of the Environment, Food and Rural Affairs Committee
House of Commons
London SW1A 0PW

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From Clare Moriarty
Permanent Secretary

Dear Neil

Update on Defra SI Programme

Thank you for your letter of 20 December 2018 following our meeting of 13 December to discuss Defra's 'no deal' preparations. Defra continues to build on the work it has already undertaken to prepare for no deal and is taking practical steps to ensure minimal disruption to businesses and members of the public should this scenario arise.

In response to your request for reassurances regarding progress on Defra's statutory instrument (SI) programme, by the end of 2018 we had laid 62 EU Exit SIs, of which 13 were affirmative and 49 negative. In addition to this, by the end of 2018 we had laid 18 EU Exit SIs on behalf of the Northern Ireland Civil Service, of which 2 were affirmative and 16 negative.

Current consenting arrangements for affirmative SIs require that Government departments wait until after the Scottish Parliament has agreed to a proposal to consent to a particular affirmative UK SIs before they are laid. This can take up to 28 calendar days, excluding recess periods beyond 14 calendar days. This explains why we were not able to lay a number of EU Exit SIs under the draft affirmative procedure as early as we would have liked, but numbers have increased in recent weeks.

Of the draft SIs laid for sifting, 14 are now being upgraded to the affirmative procedure following recommendations from the sifting committees. The reason for these recommendations is often because the committees felt that there would be sufficient interest to warrant a debate in parliament, rather than as a result of inappropriate or excessive use of powers. In light of this feedback, we are now considering voluntarily upgrading an additional 9 EU Exit SIs in our programme to the affirmative procedure.

As of 14 January, there were 41 Defra EU Exit SIs remaining to be laid before exit, of which 29 are affirmative and 12 negative. In addition to this, there were 6 EU Exit SIs remaining to be laid on behalf of the Northern Ireland Civil Service, of which 1 are affirmative and 5 negative. This includes those SIs where the sifting committees have made recommendations to upgrade the procedure from negative to affirmative.

All of Defra's SIs which correct retained EU law are on track to be laid before the end of February. We are working closely with officials in DExEU, PBL and the Whips office in recognition of shared concerns regarding limited parliamentary time and the need to ensure meaningful parliamentary scrutiny.

I will write to you by the end of the month with an update on progress made on testing our IT systems and look forward to welcoming the Committee on 7 February 2019 to a 'Show and Tell' event to demonstrate the new IT services and testing approach.

Yours

Clare

CLARE MORIARTY