

Pete Wishart MP
Chair
Scottish Affairs Committee
House of Commons
London
SW1A 0AA

7 November 2018

Dear Pete,

During my evidence session with the Committee on 30 October, I set out the position on the legal basis for continued farm support payments after the EU's exit from the EU, as informed by legal advice. In particular I was keen to emphasise that the legal basis for continued farm support payments after March 2019 does not rely on the Agriculture Bill currently passing through Westminster.

I have written to the Rural Economy and Connectivity Committee of the Scottish Parliament on the same issue, following an evidence session with them the following day. For the avoidance of any doubt and to reassure the members of your committee on this point, I am pleased to enclose a copy of that letter.

I hope the Committee finds this useful.

Yours sincerely,



FERGUS EWING

Edward Mountain MSP
Convenor
Rural Economy and Connectivity Committee
The Scottish Parliament
Edinburgh
EH99 1SP

7 November 2018

Dear Edward,

In my evidence session with the Committee on 31 October, I undertook to write to set out the position on the basis for continued farm support payments after 29 March 2019, as informed by legal advice.

By virtue of sections 2 and 3 of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) as it currently stands and, subject to the outcome of the Supreme Court case, sections 2 and 3 of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, the existing CAP rules (as set out in direct EU legislation, including Regulation (EU) Nos 1306/2013 and 1307/2013 and as those have been implemented in relation to Scotland), will continue to apply. They will on and after the date of the UK’s withdrawal from the EU form part of Scots domestic law as retained EU law.

In conjunction with the rest of the UK, we are currently considering appropriate adjustments to the relevant CAP rules to deal with deficiencies arising from withdrawal using the powers available under that legislation (see, for example, section 8 of, and paragraph 1 of schedule 2 to, the 2018 Act). This is to ensure that those rules will continue to operate effectively as retained EU law as from the date on which the UK exits the EU (“exit day” as per section 20(1) of the 2018 Act) with or without any withdrawal agreement. As I believe you are already aware, this exercise must be done across the whole body of EU law, and secondary legislation for this purpose will be coming to the Scottish Parliament throughout this autumn.

Just as is the case with the rest of the UK, this process will provide a clear and robust continuing legal basis for payments and the application of current CAP scheme rules as retained EU law as from exit day. As I hope the above explanation makes clear, such continuity does not rely on the Agriculture Bill currently passing through Westminster.

Separately and looking further ahead in time, following the Scottish Government's "Stability and Simplicity" consultation earlier this year, we are of course continuing to explore all the necessary adjustments and any other options for creating new legal powers which Scotland will need to amend, improve and, in due course, replace the current schemes at a suitable point after exit day. This is of course just as relevant provisions in the UK Agriculture Bill are seeking to do in relation to other parts of the UK and taking into account the very different circumstances arising there (see for example, Parts 1 and 2 in relation to England, Schedule 3, Parts 1 and 2 in relation to Wales, and Schedule 4, Part 1 in relation to Northern Ireland).

I hope the Committee finds this useful.

Yours sincerely,

A handwritten signature in black ink that reads "Fergus Ewing". The signature is written in a cursive style with a large loop at the end of the last name.

FERGUS EWING

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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