

CONVENTION OF THE HIGHLANDS AND ISLANDS

Scotland's place in Europe Update

In December 2017, the UK and EU reached an agreement which enabled the European Council to say that sufficient progress had been made to progress to the second phase of the negotiations – the UK's future relationship with the EU.

The Scottish Government continues to do all that it can to ensure that Scotland's interests are protected and limit the damage of Brexit.

Scotland's Place in Europe: People, Jobs and Investment, published in January, sets out the Scottish Government's latest analysis of the implications of Brexit. It demonstrates the benefit of Single Market membership has delivered and could deliver in the future, and the adverse consequences of a hard Brexit. It recognises some of the particular issues which affect rural areas, and that the interests of all of Scotland, including rural communities, are served best by Scotland remaining with the EU.

The fundamental and significant role played by EU membership in the environmental, social and economic well-being of rural Scotland was also made clear in the interim report of the National Council of Rural Advisers. This independent report on the implications for rural Scotland of the UK leaving the EU also makes clear the scale of the challenge and the enormity of the threat posed by Brexit to Scotland's rural economy.

It is essential all the UK's Governments are fully involved in meaningful discussions on the negotiations on the UK's future relationship with Europe. The Minister for UK Negotiations on Scotland's Place in Europe attended the recent meeting of the Joint Ministerial Committee on EU Negotiations providing an opportunity for further discussion between EU Government and Devolved Administrations, and to emphasise the importance of the European Single Market and Customs Union to Scotland's future economic and social prosperity.

Migration

The importance of migration in meeting Scotland's demographic and economic needs is felt in particular in our rural communities.

Scotland's population needs and migration policy, a discussion paper on evidence, policy and powers for the Scottish Parliament was published on 7 February. It shows migration is crucial to Scotland's future prosperity. All of Scotland's population growth is projected to come from migration, there will be more deaths than births in Scotland each year going forward. Economic modelling published in the paper suggests the negative impact on Scottish GDP as a consequence of reduced migration will be proportionally worse than in the rest of the UK. In the principal projection, Scotland will lose almost £5 billion a year from GDP by 2040, 4.5% of GDP compared to 3.7% for the rest of the UK. In a scenario where net migration to the UK was reduced to 'the tens of thousands' in line with the UK Government target, Scotland would lose over £10 billion per year in GDP by 2040.

The contribution of migration to Scotland's economy and demographic profile is crucial, and relatively more important than it is to other parts of the UK. But the contribution of migration is not found just in economic models and population statistics. Scotland has a long history of both welcoming people from overseas who choose or need to come to Scotland, and of Scots being migrants themselves. Migrants in our communities help make Scotland a more open and inclusive country. Migration also helps support rural Scotland, as even small numbers of migrants can have a large impact on the sustainability of communities, public services, and businesses in the rural economy.

The paper explores how a tailored migration system for Scotland could work. This could include devolving some aspects of immigration policy to allow the Scottish Government, accountable to the Scottish Parliament, to set visa rules and criteria to meet Scotland's most acute needs. It could extend to rethinking the UK immigration system to design a new regional approach, with powers for the Scottish Parliament to meet Scotland's full range of needs. However, for future EU migration it is clear that continued free movement of people by the UK remaining in the European Single Market and Customs Union after Brexit, as set out in *Scotland's Place in Europe: People, Jobs and Investment*, is the least-bad outcome for Scotland.

EU funding

EU funding benefits Scotland significantly, supporting jobs, delivering infrastructure, sustaining rural communities, providing valuable support for the farming and fishing industries, and delivering research funding for universities. The current EU funding round is expected to benefit Scotland by around £5 billion over the life of the current EU budget round (2014-2020).

Brexit has created uncertainty for communities across Scotland who rely heavily on this investment and are unable to plan beyond the UK's departure from the EU.

Should it be formally agreed, the commitment in the UK/EU joint report on phase 1 of the negotiations that the UK will continue to participate in the EU's Multi-annual Financial Framework until 2020 is welcome news.

UK Government Funding Guarantees

The Scottish Government has confirmed that it will be passing on the current UK Government EU funding guarantees in full to Scottish stakeholders to provide stability and certainty for these key sectors of the Scottish economy (announced November 2016). This includes the guarantee covering applications for the Less-Favoured Areas Support Scheme up to and including the 2019 scheme year announced by the UK Government in August 2017.

We remain deeply concerned that the details of successor arrangements to replace current EU funding programmes have yet to be proposed by the UK Government. The devolved administrations must be fully engaged in decision-making on the establishment of future funding arrangements rather than being regarded as 'consultees'.

We will continue to press the UK Government to confirm how the funding guarantees will operate in practice and on what the replacement funding arrangements will be once the UK has left the EU.

Although EU exit was not Scotland's choice, we will work with the UK Government to mitigate the worst effects in Scotland. It is important that repatriated powers transfer to the Scottish Parliament, along with a sustainable funding package. This will ensure that decisions can be taken in the best interests of the Scottish economy and Scottish people.

Common Frameworks

As previously advised, at the October meeting of JMC(EN) Ministers agreed upon the principles which will underpin discussions on the common frameworks. Since then there have been a large number of in depth policy discussions on particular areas between the 4 administrations, covering issues such as Fisheries, Agriculture, etc. These discussions have been constructive and helpful in reaching a better shared understanding of the issues, including where legislative and non-legislative approaches may be appropriate. However, progress on these frameworks is being hampered by uncertainty around the EU (Withdrawal) Bill and the continued failure by UKG to guarantee repatriation of devolved powers. The Scottish Government position remains that we are not opposed to UK wide Frameworks and can clearly see the benefit these will bring in certain areas, but these arrangements must respect the devolution settlements and the role of the devolved administrations and legislatures. Notwithstanding this complexity and uncertainty, Scottish Government officials continue to cooperate and work with their UK Government counterparts to try to pursue the best options for Scotland post-EU exit.

The Minister for UK Negotiations on Scotland's Place in Europe has made clear that common frameworks will be subject to Parliamentary oversight and stakeholders involvement in due course.

CONTINUITY BILL

The UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, commonly referred to as 'the Continuity Bill', was introduced in the Scottish Parliament on Tuesday 27 February.

What is the Continuity Bill?

It is a Bill which prepares Scotland's devolved laws for the UK's withdrawal from the European Union. This means that EU laws currently in force will be retained after withdrawal, and the Scottish Government will be given the tools needed to make sure these laws keep working after withdrawal. It is a devolved version of the UK Government's EU (Withdrawal) Bill.

Why is the Scottish Government introducing the Continuity Bill?

The UK Government's proposed way of preparing for withdrawal is the EU (Withdrawal) Bill, but as it acknowledges, this needs the consent of the Scottish Parliament if it is to become law.

Neither the Scottish Government, the Welsh Government nor (on a unanimous, cross-party basis) the Scottish Parliament's Finance and Constitution Committee currently think that consent should be given, because the Bill allows the UK Government to take control of devolved powers without the agreement of the Scottish Parliament. That is why both the Scottish and Welsh Governments have called it a power grab. The Finance and Constitution Committee called it "incompatible with the devolution settlement in Scotland".

The UK Government's proposed changes to the EU (Withdrawal) Bill do not address this, and would retain the UK Government's ability to change the limits of devolution without the agreement of the Scottish Parliament.

The Scottish Government has always recognised that we need to prepare our laws for the UK's withdrawal from the European Union. While it is possible that consent will not be given to the EU (Withdrawal) Bill, a responsible government needs to prepare an alternative, as a back-up. The Continuity Bill is the Scottish Government's proposed alternative, in case consent is not given to the EU (Withdrawal) Bill.

Has the Scottish Government rejected the EU (Withdrawal) Bill?

No. The Scottish Government's preference is to be able to rely on the EU (Withdrawal) Bill. The Scottish and Welsh Governments continue to seek an agreement with the UK Government, which would allow the necessary consent to be given. In this scenario, the Scottish Government would seek to withdraw the Continuity Bill. However, the Continuity Bill has to be introduced now so that if legislative consent is not given to the Withdrawal Bill, Scotland's laws will still work properly.

How is the Continuity Bill different from the EU (Withdrawal) Bill?

The main difference is that the Continuity Bill gives the Scottish Parliament its full role in the preparation of Scotland's devolved laws for EU withdrawal. It also gives the Scottish Parliament an enhanced role in scrutinising proposals for changes to laws as a result of withdrawal and makes some different policy choices, including retaining in law the EU Charter of Fundamental Rights. It also contains a power to continue to keep pace with EU law, where appropriate, after the UK leaves the EU.

Is the Continuity Bill within the powers of the Scottish Parliament?

The Scottish Ministers are satisfied that the Continuity Bill is within the legislative competence of the Scottish Parliament. The Presiding Officer has expressed the view that the Bill is not within the legislative competence of the Scottish Parliament. The Lord Advocate disagrees and will make a statement to Parliament tomorrow and answer a written question on this matter later today. In addition the Welsh Government are introducing a similar bill and the Presiding Officer of the National Assembly has ruled that it is within competence. The PO's view does not prevent us from introducing or progressing this Bill.

<http://www.parliament.scot/parliamentarybusiness/Bills/107725.aspx>