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Gordon Lindhurst MSP
Convener

By email

2 August 2019

Dear Gordon

Thank you for your letter of 26 June. The Committee has asked for an indication of the timescales for the common frameworks that fall within my portfolio, in order to appropriately plan its forward work programme.

Overview

The Scottish Government remains committed to working collaboratively with the UK Government and other devolved administrations to develop common frameworks, where required after EU Exit, in specific policy areas. This work is being developed in line with the framework principles agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017. The Scottish Government is clear that these arrangements, in whatever form they take, will not alter or constrain devolution in any way and will not prevent the Scottish Parliament from making alternative arrangements in these areas should they judge that to be necessary in the future.

JMC (EN) has agreed that work to develop and establish common frameworks should follow five broad phases. The first phase took place between October 2017 and March 2018 and focused on determining whether common frameworks may be required in different policy areas and the high level purposes using the principles agreed by JMC (EN). The majority of frameworks are currently in phase 2 of their development, with work focussing on policy development at official level. The next phase will provide a period of review, consultation and more detailed policy development on governance arrangements, dispute resolution mechanisms, and the approach to the internal market across the UK. Noting the new Prime Minister and his renewed commitment to leaving the EU on October 31 2019, the overarching planning assumption across administrations has to date been, that any required common frameworks would be in place by the end of any implementation period after leaving the EU, if agreed. In all circumstances, progress of these frameworks is heavily reliant on the yet to be seen approach, that will be taken by the new UK Government administration.

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The guidance provided to policy teams makes it clear that the timings set out for the phased approach to frameworks development are indicative. The intention is to provide sufficient flexibility for policy teams in different areas to move through the phases at different speeds depending on the dependencies and circumstances of particular policy areas. In reality the development of frameworks is emerging as a complex ongoing intergovernmental process with significant impacts and interdependencies, including the outcome of negotiations with the EU.

The Scottish Government recognises the crucial role parliamentary scrutiny will play in the development, implementation and oversight of any future common frameworks. As the Committee will be aware, there are six framework areas that fall within my portfolio and indeed the Committee will recall that it has been involved with Brexit SIs in a number of policy areas covered by these, these have included Services and MRPQ statutory instruments.. An individual update on the progress of these follows, noting that the pace of development for each will be different depending on the specific needs of individual policy area, and where committee involvement is expected.

The Committee should be aware that the UK Government has in July published a further [update on common frameworks](#), that gives an overview of the phases for development and delivery process, and provides a copy of the Hazardous Substances Planning draft framework outline agreement as an example of the development and detail of a framework. However, I would re-iterate the fact that the scope and timelines of all frameworks will be specific to the needs of the individual policy area.

MRPQ

The Committee will recall its consideration of The Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2018 on 18 December 2018. Work is now underway to correct some minor drafting errors in an EU Exit UK Statutory instrument , taking advantage of the opportunity to rectify a minor infraction notified by the Commission and to address further regulatory regulations that have come into force in the interim.

A series of official level round tables were held with the Department for Business, Energy and Industrial Strategy (BEIS) on 17 July, which included discussion on considering the potential future shape of recognition arrangements under all potential scenarios. Scottish Government officials stressed the importance of greater involvement of the devolved administrations in the upstream work for negotiations, which was received positively.

Public procurement

Work continues at official level to develop a new agreement on ways of working between the four administrations of the UK, with officials agreeing that such a framework should be a non-legislative framework.

Completing work on a public procurement framework is dependent on progress being made on the agreement of a concordat on international trade agreements, which will set out, amongst other things, the role of the devolved administrations in developing the UK's negotiating positions. Scottish Government is keen to continue work on that concordat continues, but progress has stalled due to shifting priorities of engagement within UK Government.

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Late payment (commercial transactions)

The aim is to have Ministerial agreement on the Late Payment framework by end December 2019.

Recognition of insolvency proceedings in EU Member States

Recognition of insolvency proceedings in EU Member States: as outlined to the Committee in the notification and SSI, planning for “No Deal” has been progressed through statutory instruments laid in both the UK and Scottish Parliaments dealing with deficiencies and the introduction of appropriate jurisdiction tests within domestic legislation.

In a “Deal” scenario, the future relationship to be agreed with the EU is expected to deal with these issues, and continue to provide a common set of rules on cross-border insolvency. There is an existing UK framework in the reservation of various matters connected with insolvency, and the administrations have worked together as demonstrated in this area most recently on common working on the corporate insolvency rules, and on cross-border insolvency. We anticipate that in any event continued cooperation in this area will be straightforward and by agreement.

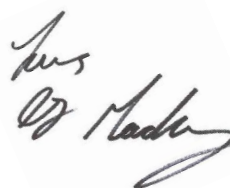
Services

The Committee has previously expressed it was content with Ministers’ proposal to consent to the provisions set out in the Provision of Services (Amendment etc.) (EU Exit) Regulations 2018 UK statutory instrument, laid on 12 December 2018, to be enacted on ‘exit day’. The Scottish Government believes that these regulations establish the framework for services, if the UK is to leave the EU. Scottish Government continues to work with UK Government positively in this area, noting concern that any further development of a common framework for services might impinge on devolved competence, for example the ability of Scottish regulators to set regulations.

Statistics

The framework for Statistics is expected to begin phase 2 development in December 2019. This timeframe is in line with the decision made by the Inter-Administration Committee to wait until the outcomes of EU exit are clearer before conducting a full review of the existing statistics concordat.

I trust that the Committee finds this update on the frameworks in my portfolio helpful, and we are committed to providing Parliament with further updates on their progress as they move through the next phases of development.



DEREK MACKAY

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