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Daniel Johnson MSP
Convener
Economy and Fair Work Committee
The Scottish Parliament
By email to:
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1 October 2025

Dear Daniel,

Extension to Section 2 of the Trade Act 2021

I am writing to inform the Committee of the UK Government's intention to make regulations under section 2(10)(b) of the Trade Act 2021 to extend the powers within section 2(1) for a further period of five years.

Section 2(1) of the Trade Act 2021 enables UK Ministers or the Scottish Ministers, Welsh Ministers or a Northern Ireland department to make regulations to implement free trade agreements or international agreements to which the United Kingdom is a signatory and the European Union, and other parties were signatories before the United Kingdom left the European Union.

The draft Statutory Instrument to implement this extension was laid before the UK Parliament on 16 September 2025. This can be found [here](#).

The Trade Act 2021 does not require the Scottish Ministers' consent to such an extension, nor does it contain a statutory obligation on the UK Government to consult the Scottish Ministers. However, in line with the commitment to consult the Scottish Ministers given by the previous UK Government during the original passage of the Trade Act 2021, the former Minister of State for Trade and Economic Security Douglas Alexander MP did consult with the Scottish Government on the extension of this power through a letter to me on 11 August 2025.

I have since responded to Mr Alexander's successor, Sir Chris Byrant MP, noting that the Scottish Government has no objection to this proposed extension.

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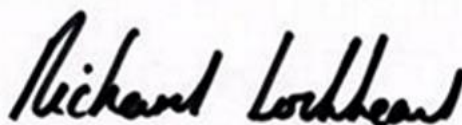
I have also made clear to Minister Bryant that as section 2 of the Trade Act 2021 applies to powers held by both UK and Scottish Ministers, the Scottish Government is required to inform the Scottish Parliament of their extension.

The section 2(10)(b) power under which the regulations are being made is listed in Annex A of the Protocol on the scrutiny by the Scottish Parliament of consent by Scottish Ministers to UK secondary legislation in devolved areas arising from EU Exit. However, as the Act does not include a consent requirement, nor is there any statutory consultation obligation, and the power to make regulations under section 2(10)(b) is not concurrent, the UK Government has not sought the consent of Scottish Ministers but has instead consulted Scottish Ministers. I am therefore writing to inform you of these developments.

I am aware that during the legislative consent process for the original Trade Act 2021 the potential scope of the use of these powers was a concern of the Parliament. I have therefore sought reassurance from Minister Bryant that these powers will only ever be used to implement international trade agreements that the UK Government signs with countries which also had an international trade agreement with the European Union before 31 January 2020. I have also asked for clarity around why the UK Government believes it is necessary to extend these powers.

I will provide a further update once I have a response from Minister Bryant on the scope and intentions of the use of powers in this area. I also welcome any feedback or questions from the Committee on this issue.

Sincerely



RICHARD LOCHHEAD

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