

Eluned Morgan AS/MS
Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh
Language



Llywodraeth Cymru
Welsh Government

The Rt Hon the Lord Fowler, Lord Speaker
House of Lords
London
SW1A 0PW

11 September 2020

Dear Lord Speaker,

Following the completion of consideration by the House of Commons, the Trade Bill 2019-21 is now before the House of Lords. I understand that the second reading will take place on 8 September with further stages yet to be timetabled.

I think it important that peers intending to participate in consideration of the Bill should be aware of the Welsh Government's concerns about some of its provisions.

Let me be clear, first of all, that there is much in the Trade Bill which we would prefer was amended. However, within this letter I have restricted my comments to provisions within the Bill that have been deemed to require legislative consent.

I agree that legislation is required to provide stability and continuity as the UK withdraws from the European Union, but the Bill must work with, not against, the devolution settlement. The purpose of this letter is to make clear that, in my view, the Bill, and in particular clause 2 as currently drafted, needs amendment to ensure it does not undermine that settlement.

Clause 2(1) confers powers on a Minister of the Crown and Ministers from the devolved governments to implement international trade agreements. Clause 2(6) sets out examples of the provision which may be made by regulations, which can include amendments to primary legislation. The UK Government has previously indicated that it is not minded to exercise the clause 2 powers to make amendments to the Government of Wales Act 2006 (GoWA). Indeed, the UK Government has made commitments at the despatch box that it will not normally do so, and we do not envisage a situation when this action would ever be required. Nevertheless, there remains a low, but real risk that UK Ministers could use these powers. We believe that it is in principle problematic to provide Ministers with delegated powers to amend the fundamental devolution statutes without full scrutiny by Parliament.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Eluned.Morgan@llyw.cymru
Correspondence.Eluned.Morgan@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

We were very disappointed that amendments to require the UK Government to formally engage with the devolved nations on this matter, were rejected in the Commons. We would therefore hope that peers would bring forward amendments to have the effect of preventing the regulation making powers from being exercised by UK Ministers to make amendments to the GoWA (or equivalent legislation in the case of Scotland and Northern Ireland).

I am copying this letter to the Leader of the House; the Shadow Leader; the Convenor of the Crossbench Peers; Lord Grimstone of Boscobel Kt, Minister for Investment, UK Government; Viscount Younger of Leckie, Lord in Waiting (Government Whip), UK Government; Ivan Mckee MSP, Minister for Trade, Investment and Innovation, Scottish Government; and Diane Dodds MLA, Minister for the Economy, Northern Ireland Executive.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Gweinidog y Gymraeg a Chysylltiadau Rhyngwladol
Minister for International Relations and the Welsh Language