

Mick Antoniw AS/MS

**Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution**

Our ref: CG/PO/339/2023



**Llywodraeth Cymru
Welsh Government**

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@Senedd.Wales

12th October 2023

Dear Huw,

Thank you for your letter of 22nd September 2023 seeking responses to questions in relation to the Retained EU Law (Revocation and Reform) Act. My answers are set out in the following Annex.

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style and is underlined with a single horizontal line.

Mick Antoniw AS/MS

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Counsel General and Minister for the Constitution**

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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.

Annex

1. ...please would you:

i. confirm and provide details of the consent process which has been agreed between the UK Government and the Devolved Governments,

No mechanism has been agreed between UK Government and the Devolved Governments about how consent should be obtained in relation to UK Ministers making regulations using powers in the REUL Act in an area of devolved competence in Wales. We are about to write again at Ministerial level on this issue to emphasise a clear process is needed to respect the devolution process for both governments and legislatures.

ii. confirm that the consent process “protects and respects the devolution settlement”, and

As above, we will need further input from UK Government in order to finalise this.

iii. provide a copy of the relevant intergovernmental agreement to Senedd Committees.

I will be happy to provide this to the Committees as and when anything is agreed.

2. ...What advice and guidance has been provided to individual departments in the Welsh Government about the work they must undertake to ensure they are confident that the retained EU law listed in the Schedule to the REUL Act is no longer needed?

Welsh Government officials in the central team dealing with post-Brexit matters worked with individual policy teams to ensure that the contents of the Schedule for revocation were fit for purpose when it was constructed in the latter Parliamentary stages at Westminster. Those policy teams have also worked with UK Departments to ensure that all necessary measures are retained.

3. ...Please can you confirm the nature and details of this engagement, and what analysis the Welsh Government has undertaken on the 93 pieces of retained EU law which are included in Schedule 2 to these Regulations.

The large majority of those 93 pieces are matters of reserved competence as regards Wales. On those few which did touch on devolved competence in Wales, there was contact by UK Departments to Welsh Government counterparts in the preparation of the Regulations. In that context, Welsh Government analysis has been proportionate and appropriate.

4. ...What mechanisms, if any, exist within the Welsh Government to monitor changes to retained EU law in reserved areas that may impact Wales, including its impact in devolved areas up to June 2026?

It is a priority for Welsh Government to focus on issues of devolved competence in Wales arising from the implementation of the REUL Act. We have not established a universal mechanism to address instruments covering matters of reserved competence in Wales. We will keep any such instruments under review and address any implications for matters that are the responsibility of the Welsh Government accordingly.

5. ...Please would you confirm that this is the position across all Welsh Government departments.

Yes, this is the position across the whole of the Welsh Government.

6. The two items that are the subject of the aforementioned correspondence from the Minister for Climate Change show that for one set of Regulations (relating to fluorinated greenhouse gases) the relevant common framework was used but not for another (relating to National Emissions Ceiling Regulations).

i. Please would you explain why this was the case?

As the Committee will be aware through its oversight of the Common Frameworks programme, there are varying levels of engagement between the UK Government and the devolved governments depending on the relevant Framework area. In policy areas where Frameworks processes are well embedded, information on policy and legislative proposals are shared constructively and in a timely manner with the Welsh Government.

ii. You have previously told us that you did not have sight of Schedule 1 to the REUL Act prior to its addition to the Bill during the amending stages in the UK Parliament. Can you confirm whether the decision to include any of the retained EU law listed on Schedule 1 to the REUL Act went through the corresponding common framework?

We would expect that discussions would have taken place via the relevant Common Framework. This follows a commitment by the UK Government to the proper use of Common Frameworks and that they would not seek to make changes to REUL within Common Frameworks without following the ministerially-agreed processes outlined in the documents.