



Eich cyf/Your ref
Ein cyf/Our ref: RE/368/2023

Llywodraeth Cymru
Welsh Government

Mark Isherwood MS
Chair
Public Accounts and Public Administration Committee
Senedd Cymru
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01 November 2023

Dear Mark,

Thank you for your letter on behalf of the committee in relation to the Legislative Consent Memorandum (LCM) on the Economic Activity of Public Bodies (Overseas Matters) Bill. I set out my response to your questions below:

With regards to your first point, it is the view of the Welsh Government that consent is not required for Clauses 12 and 13. This is because both clauses apply to local government workers pensions which is reserved under paragraph 134 of Schedule 7A to the Government of Wales Act 2006 and the provisions do not have regard to devolved matters. There are a limited number of occupational pensions which fall within the exception to the reservation in paragraph 134 (e.g., pensions for members of local authorities) however these are not relevant to clauses 12 or 13. Further, clause 13(3) amends an instrument which only applies in relation to Northern Ireland, which would be outside of the Senedd's competence.

In answer to your second point, Clause 15(3)(a) provides the Secretary of State with a regulation making power to be able to disapply s.17(5)(f) of the Local Government Act 1988 (the 1988 Act). Clause 115(2) of the Procurement Act provides a power for Welsh Ministers (or a Minister of the Crown) to disapply the duty under section 17(1) of the 1988 Act so far as it relates to a relevant authority. Such regulations can include disapplying the duty in s.17(1) of the 1988 Act as it relates to "all non-commercial matters (see section 17(5) of the 1988 Act) or those that are specified" (clause 115(3)(d) applies). The Senedd has legislative competence in relation to any provision of the Procurement Act which confers functions on contracting authorities which are devolved Welsh authorities or which confers a power to make regulations or issue guidance in relation to contracting authorities which are devolved Welsh authorities. Therefore, clause 15(3)(a) of the Bill arguably modifies the ability of the Welsh Ministers to exercise the power in clause 115(2) of the Procurement Act. However, the

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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.

modified power will continue to allow Welsh Ministers to make regulations to disapply provisions of section 17(1) of the 1988 Act for relevant Welsh contracting authorities as they see fit.

I hope these clarifications are satisfactory.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS

Y Gweinidog Cyllid a Llywodraeth Leol
Minister for Finance and Local Government