



Chair  
Mick Antoniw AM  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff  
CF99 1NA

15 November 2017

Dear Mick

I have laid a Statutory Instrument Consent Memorandum ('the memorandum') in relation to the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, which were laid in Parliament on 13 November 2017, by the Secretary of State for Transport. These Regulations cover England and Wales, and parts also cover Scotland. They come into force on 5 December 2017. These Regulations make amendments to the Harbours Act 1964 and the Highways Act 1980 in order to transpose Directive 2014/52/EU (The Environmental Impact Assessment Directive, or EIA Directive) as it applies to transport legislation.

The Directive:

- Confirms the inter-relationships between the EIA Directive and other environmental directives (e.g. Habitat Directive).
- Requires additional information to be included in the environmental statement (also referred to as the environmental impact assessment report), such as information about the impact on climate change, and population and human health.
- Increases the requirement for transparency within the EIA process, particularly in terms of the role of the Overseeing Organisation.
- Strengthens the requirements of the determination and screening processes.

These provisions are technical in nature, covering the procedural requirements of an EIA and clarifying elements of the existing regime. They do not amend the underlying policy behind the EIA, only the requirements for how EIAs are carried out. The amendments to primary legislation are set out in the memorandum.

I have laid the memorandum in accordance with the requirement under Standing Order 30A for 'a member of the Welsh Government...[to]...lay a memorandum (a statutory instrument consent memorandum) in relation to any relevant statutory instrument laid before the UK Parliament by UK Ministers'. I consider the Regulations to be a relevant statutory instrument as they make provision in relation to Wales amending primary legislation within the National Assembly's legislative competence, and are not matters which are incidental or

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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.

consequential to matters which are outside of the National Assembly's legislative competence. However, I do not intend to table a Statutory Instrument Consent Motion for debate.

The Regulations have been made by negative procedure. They were made before they were laid, and providing no Member of Parliament 'prays' against them they will come into force 21 days after being laid. It is for you to decide as a Committee whether to consider and report on the memorandum, as the responsible Committee referred to under Standing Order 30A. I have considered carefully whether to table a Statutory Instrument Consent Motion under SO 30A, to be debated after the 35 days allowed for scrutiny by the responsible Committee has elapsed. There is no requirement for the Welsh Government to do so, but normally we would table a motion to debate so that the Assembly can give its consent, or not, to the relevant provisions before the statutory instrument is made.

As the outcome of such a debate would not have practical effect, I have decided not to table a Statutory Instrument Consent Motion for a debate. Each case must be decided on its merits, and these amendments, though numerous, are all technical and operational in nature. They do not make amendments to policy in Wales, only how the EIAs are to be carried out. I do not think there is merit in holding a debate where the changes are technical in nature and where the outcome of the debate is unlikely to have a practical effect. It is of course still open to any Assembly Member to table their own memorandum and motion for a debate if they feel strongly that this should be debated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Skates', with a long, sweeping flourish extending upwards and to the right.

**Ken Skates AC/AM**

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth  
Cabinet Secretary for Economy and Transport