

Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref MAL/CG/0113/18

Mr M. Antoniw AM
Chair of the Constitutional and Legislative Affairs Committee
National Assembly for Wales

Mick.Antoniw@assembly.wales

7 March 2018

Dear Mick

I wrote to you in January about the use of subordinate legislation-making powers included in the UK Government's European Union (Withdrawal) Bill (*the Bill*). In that letter I said that I would provide an update in relation to the scope and scale of subordinate legislation that may be required.

Officials have been continuing to work on bringing forward subordinate legislation under the powers conferred on the Welsh Ministers by Schedule 2 to the Bill. There is now a clearer picture of the number of pieces of secondary legislation that will be required to allow Welsh Ministers to correct deficiencies in EU-derived domestic legislation within Welsh devolved competence. That work has proceeded without prejudice to the Welsh Government's position on the devolution provisions in the Bill, about which – as you know – there remains significant disagreement between the devolved administrations and the UK Government.

In my previous letter, I said that over 600 EU-derived legislative instruments that fall within Welsh devolved competence had been identified. Further analysis (which is ongoing) has reduced this to around 400 instruments that contain deficiencies which are likely to need to be addressed. It is currently estimated that close to 20 of these would each need to be dealt with by way of a specific 'standalone' correcting instrument, with around 380 capable of being addressed by way of provisions within amalgamated correcting instruments.

It is important to note, in addition, that some deficient instruments may well be dealt with by or under new primary legislation, either because they cannot sensibly be corrected or they form part of a new legislative framework (potentially at a GB or UK level). This could create new sets of subordinate legislation-making powers. You will be aware that discussions about these issues are ongoing between the devolved administrations and the UK Government.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@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.

You will see from the figures above that the majority of the deficient EU-derived instruments can be dealt with as part of amalgamated correcting instruments. It is still to be determined how many such instruments will be required, though the figure will become clearer as the work progresses. The number required is likely to change based on the number of deficiencies identified within each legislative instrument, the nature of those deficiencies and the complexity of the solutions necessary in order to correct them.

Officials are continuing to interrogate the deficiencies and to establish how best to take forward the work on corrections. I will provide a further update once we have a clearer picture of the number of amalgamated SIs that are required.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip