

Rt Hon Carwyn Jones AM
First Minister

17 April 2018

Dear First Minister

Scrutiny of regulations made under the European Union (Withdrawal) Bill

I am writing in relation to the Constitutional and Legislative Affairs Committee's recent report ("the report") on the **Scrutiny of regulations made under the European Union (Withdrawal) Bill** ("the Bill").

In particular, I would like to raise with you matters relating to your letter to the Secretary of State dated 5 February, the plenary debate on the report held on 7 March, the formal response to the report from the Leader of the House and Chief Whip dated 27 March, and your 29 March letter to the Secretary of State for Wales that relates both to the report on the Bill and its sifting committee provisions.

You will be aware that our inquiry and subsequent report considered the appropriateness of the scope and nature of delegated powers provided in the Bill to UK and Welsh Ministers, and the procedures to be used to scrutinise that delegated legislation. Given the Bill's passage through the House of Lords, the report focused on amendments we believed should be made to the Bill, and addressed questions which were raised by the Secretary of State in a letter to the Llywydd on 16 January.

Our report made seven recommendations, four of which recommended amendments to the Bill. For that reason, we believed it appropriate to seek the National Assembly's views on those recommendations, and the motion asking the National Assembly to note the committee report also requested that it endorse recommendations 1, 2, 4 and 7.



On 7 March, the motion was agreed without objection and the National Assembly offered unanimous support for those recommendations. Consequently, on 22 March, the Llywydd wrote to the Secretary of State for Wales drawing his attention to those recommendations and asking that he receive the letter as formal notification of the National Assembly for Wales's position on what amendments should be made to the Bill in respect of procedures for the scrutiny of subordinate legislation made under its provisions.

In light of the events and correspondence I refer to above, I would like to seek clarification from you on the reasons for the approach the Welsh Government has adopted. In particular I would be grateful if you could explain why, having advised in your letter to the Secretary of State of 5 February that matters relating to the sifting committee were for the National Assembly to determine, you subsequently wrote to the Secretary of State for Wales on 29 March rejecting a recommendation endorsed by the National Assembly about the operation of that sifting committee. That endorsement by the National Assembly was unanimous and included support from the Welsh Government.

I recognise that during the plenary debate the Leader of the House told the National Assembly that the Welsh Government was reserving its position on recommendation 2 pending thorough consideration. However, the Leader of the House had not sought to amend the motion to reflect that position, which, as previously stated, was then unanimously endorsed.

Without prejudicing the will of any Government, the National Assembly for Wales should not find itself in a position where it expresses a formal, all party position which is then subsequently, and very soon after, called into question within correspondence of which the Assembly is not aware. As I am sure you will appreciate, as a committee, we are concerned generally at the transfer of power from legislatures to executives. The approach the Welsh Government has adopted on these matters undermines the prerogative of the legislature.

I look forward to hearing from you at the earliest opportunity. I am writing to the Llywydd separately on this matter.



This letter is copied to Julie James AM, Leader of the House and Chief Whip.

Yours sincerely,

A handwritten signature in black ink that reads "Mick Antoniw". The signature is written in a cursive style with a horizontal line underneath the name.

Mick Antoniw

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

