

Julie James AM
Leader of the House and Chief Whip
Welsh Government

15 November 2018

Dear Julie

Scrutiny of regulations arising from the European Union (Withdrawal) Act 2018

Further to our recent correspondence and meetings, I am writing to seek an update on the position regarding the scrutiny of regulations to correct deficiencies in UK law as a result of our exit from the European Union.

In a letter to the External Affairs and Additional Legislation Committee on 2 November, the First Minister indicated that the Welsh Government is currently anticipating around 55 exit regulations to be laid between November and February and around 150 regulations to be laid in Parliament to legislate in devolved areas (subject to any changing circumstances). It would be helpful if as well as confirming these figures, you could:

- confirm that delays in the Welsh Ministers laying any of the 55 are solely due to interdependencies with UK made legislation that is itself being delayed;
- indicate how many of the 150 regulations will be subject to the requirements of Standing Order 30A;
- whether you are able to provide a broad indication of the likely pressure points over the next few months for all 205 regulations, given that those laid before the UK Parliament are not subject to our recently agreed protocol (we would welcome the kind of information recently supplied by the Rt Hon Andrea Leadsom MP, Leader of the House of Commons to the House of Commons European Statutory Instruments Committee (ESIC) on 26 October and by Mr Chris Heaton-Harris MP, Parliamentary Under Secretary of State for



Exiting the European Union to House of Lords Secondary Legislation Scrutiny Committee on 25 October);

- give an indication of how many regulations the Welsh Ministers will need to make to correct deficiencies in directly applicable EU regulations and the timetable for making them, following on from your letter of 20 July and my request in plenary on 3 October;
- whether any instruments to correct deficiencies in directly applicable EU regulations will be made by the UK Government in devolved areas and if so, how many and the likely timetable for making them (and are these accounted for the in 150 regulations referred to by the First Minister).

While we appreciate the difficulties that exist in correcting the statute book, we remain concerned not only that the Welsh Ministers have not laid any exit regulations but the extent to which UK Ministers are acting in devolved areas.

In particular, it would be helpful to receive your assurance that the 150 regulations referred to by the First Minister will not change policy and will be restricted to making corrections to ensure the statute book functions effectively and for the purpose of administrative efficiency, as outlined in the intergovernmental agreement.

We would also welcome information about how decisions to allow UK Ministers to act in devolved areas are made, following on from the information provided to ESIC on 26 October by the UK Government. In particular, we would welcome information about whether the Welsh Government, as part of that process, provides material for inclusion in explanatory memorandums to facilitate scrutiny by the UK Parliament, not least given its unfamiliarity with the devolution settlement.

Finally, during our meeting this week we considered written statements prepared under Standing Order 30C. It was unclear which provisions of the regulations the Welsh Government had given their consent to (in particular relating to maritime and tobacco regulations). We believe that in the interest of legislative transparency, it would be appropriate for future written statements to state the relevant provisions to which the Welsh Government has given consent, in a way similar to the approach usually adopted on Legislative and Statutory Instrument Consent Memorandums.



I look forward to hearing from you as soon as possible.

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 AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

