

Rebecca Evans AM
Minister for Finance and Trefnydd
Welsh Government

14 January 2019

Dear Rebecca

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

I refer to the letter from the former Leader of the House and Chief Whip on 10 December 2018.

We are grateful for the update provided in response to the questions we raised in our letter of 15 November 2018. In that letter, we also said that it would be helpful if written statements could state the relevant provisions for which consent is being given.

The Welsh Government's response states that the Welsh Ministers consider and consent to the statutory instrument (SI) as a whole, rather than confine their consideration to the devolved areas. While that may be the case, we are unclear why the written statement cannot detail the specific provisions for which consent is being given, i.e. which parts of each SI make provision in devolved areas.

For that reason, we would be grateful if you could confirm that the specific provisions for which consent is being given are identified before the Welsh Ministers make a decision to give that consent to the UK Ministers. In our view this would be necessary to ensure compliance with the intergovernmental agreement relating to the use of concurrent powers.

This issue has become even more important following our meeting this week, in which we noted that the decision of the Welsh Ministers to give consent to the



Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2018 has the effect of permitting the UK Government to make a negative resolution statutory instrument restricting the legislative competence of the National Assembly for Wales, without the Assembly having any role.

We would also be grateful if you could confirm, as part of your process for making decisions about giving consent, whether the Welsh Government provides material for inclusion in explanatory memorandums on concurrent SIs that are to be scrutinised by the UK Parliament.

We would also be grateful for the reasons why the Welsh Government will not be making any amendments to directly applicable EU law. Are we correct to say that the original EU (Withdrawal) Bill did not contain a power for the Welsh Ministers to amend directly applicable EU law, and that such a power was subsequently included at the request of the Welsh Government?

Finally, with regard to the need for Welsh legislation "often" to wait for UK legislation to be made first, can you confirm how many Welsh Government SIs have not been dependent on UK legislation being made first, and the reason for the delay of such SIs?

Yours sincerely



Mick Antoniw

Chair

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

