

Jeremy Miles AM
Counsel General and Brexit Minister
Welsh Government

6 February 2019

Dear Jeremy

The State Aid (EU Exit) Regulations 2019

The Constitutional and Legislative Affairs Committee considered the Welsh Government written statement issued under Standing Order 30C for the above named regulations and your letter dated 25 January 2019 at its meeting on 4 February 2019.

We noted that you state:

“The Welsh Government’s position is that State aid is a devolved matter and not a reserved matter under any heading of the Reserved Matters Schedule in the Government of Wales Act 2006. However, the UK Government do not consider it as such (as was noted in the Intergovernmental Agreement) and therefore they have not requested Welsh Ministerial consent. The Welsh Government has requested from the UK Government, an explanation of their legal position but there has been no response.”

We are of the view that functions are being transferred to a non-devolved public authority in a way that affects the National Assembly’s legislative competence without the consent of the Assembly being sought.

It appears to be a breach of paragraph 8 of the Intergovernmental agreement on the European Union (Withdrawal) Bill, which notes that powers will not be used to enact new policy in devolved areas and that the primary purpose of using such powers will be administrative efficiency.

As such, we endorse the views set out in your letter and written statement. We further note that the Welsh Ministers do not intend on granting to the UK Government unilateral consent for these Regulations.



We would be grateful if you would provide an update to the Committee, in relation to the ongoing discussions with the Secretary of State for Business, Energy and Industrial Strategy, as soon as you are in a position to do so.

Given the significant effect of these Regulations, we will be drawing this matter to the attention of the House of Lords Secondary Legislation Scrutiny Committee, the House of Lords Constitution Committee, and the House of Commons Public Administration and Constitutional Affairs Committee.

I would also like to take this opportunity to commend the Welsh Government for the approach taken with these Regulations. The full explanation of the Welsh Government's position facilitates our work and the understanding of our members.

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.

