



Ein cyf / Our ref: MA-L/VG/0239/19

Chairs of Constitutional and Legislative Affairs Committee  
and Health, Social Care and Sport Committees  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

11 March 2019

Dear Chairs,

Following the tabling of the Supplementary Legislative Consent Memorandum for the Healthcare (International Arrangements) Bill, the UK Government has tabled an amendment which removes the consequential Henry VIII power in the Bill in Clause 5(3).

The Bill as introduced provided a regulation making power which allowed the Secretary of State to amend, repeal or revoke primary legislation. This would include a Measure or Act of the National Assembly. I had written to UK Government to express my concerns about this regulation making power. If the Government amendment is accepted the Bill will no longer allow the Secretary of State to amend, repeal or revoke Welsh Primary Legislation. This is a positive outcome which reflects the pressure placed on UK Government in relation to this excessive power.

The UK Government has also tabled an amendment which sunsets the regulation-making powers in clause 2(1)(a) and 2(1)(b) so they can be exercised for a stated period of five years only. These clauses are necessary in the short term to mitigate any detrimental effects of a sudden change in healthcare for UK nationals living in the EU as a result of a no deal Exit as they allow the UK Government to make unilateral provision. This amendment is a welcome limiting of the scope of the Bill. The Bill could continue to be used to give effect to healthcare agreements beyond this five year period.

I do not consider that these amendments require a further Supplementary Legislative Consent Memorandum as they either limit or remove powers which were set out in the existing memoranda. They do not make relevant provision for the first time.

A further UK Government amendment relating to financial reporting of payments under clause 1 has been tabled. As the National Assembly could make an equivalent provision in an Assembly Bill in relation to payments for pre-authorised treatment abroad funded by the NHS in Wales, this provision would under normal circumstances require a further

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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.

Supplementary Legislative Consent Memorandum. There is now not sufficient time to prepare and lay such an LCM but I wanted to bring this welcome amendment to the attention of Members.

These amendments would improve the Bill further, and I continue to recommend consent to the Bill through the LCM.

I am copying this letter to all Assembly Members for reference ahead of the debate.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

**Vaughan Gething AC/AM**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services