

Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
SeneddCLA@assembly.wales

04 April 2019

Dear Mick,

Thank you for your letter regarding the written statements under Standing Order 30C and the impact on the National Assembly's legislative competence.

As you are already aware and as has been confirmed in the First Minister's letter to you of 11 March, Welsh Government officials are in contact with the Wales Office and there has been an exchange of Ministerial correspondence about a section 109 Order. The Governments are looking at how concurrent functions created by Brexit-related legislation exercisable by both Welsh Ministers and UK Ministers can be repealed by the Assembly without the need for UK Ministers' consent. Both Governments agree that the current restrictions requiring such consent should be looked at to ensure post-Brexit arrangements work as smoothly as possible, with a view to including changes in a forthcoming Order in Council made under section 109. The Welsh Government will keep the Assembly, including the Constitutional and Legislative Affairs Committee, informed about the progress of these discussions.

I can assure you that 'would' and 'could' have functionally the same meaning in the context in which they appear in the SO30C written statements. Clearly, any expansion or reduction of the Assembly's legislative competence would not have practical effect until the point where the Assembly sought to legislate. Therefore this section of the SO30C statements is drafted in a hypothetical context whereby the Assembly is indeed seeking to legislate in regards to these functions. When drafting written statements, some officials have taken the theoretical position of the Assembly considering this hypothetical legislation in the very near future, which **would** require the consent of (or consultation with, as the case may be) the Secretary of State (as the "appropriate Minister"¹). Other officials have factored the ongoing work with the Wales Office into account when expressing the impact on the Assembly's

¹ "appropriate Minister" is defined in paragraph 8(5) of Schedule 7B

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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.

ability to legislate, when the consent of (or consultation with, as the case may be) the Secretary of State **could** be required *if* this hypothetical bill were to be laid for consideration before this ongoing piece of work was concluded.

In this context, the use of the word “could” in the example set out in your letter does not reflect a lack of clarity as to whether the functions transferred to the Secretary of State are Minister of the Crown functions falling within paragraph 11(2) of Schedule 7B. It is simply indicating that whether a future Assembly Bill seeking to remove or modify these functions will trigger a requirement to consult the Secretary of State depends on the outcome of the discussions with the Wales Office.

I trust this will provide the clarity which you have requested.

Yours sincerely,

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

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