

**Julie James AC/AM**  
**Y Gweinidog Tai a Llywodraeth Leol**  
**Minister for Housing and Local Government**



**Llywodraeth Cymru**  
**Welsh Government**

Mick Antoniw AM  
Chair, Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

2 May 2019

Dear Mick

I am writing in regards to an EU Exit SI laid in Parliament, The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019, to inform you of the reasons why the Welsh Ministers gave retrospective consent to this SI.

It came to my attention after the SI was laid that regulation 124 made an amendment of the Local Government (Miscellaneous Provisions) Act 1982, which we would consider to be within the legislative competence of the National Assembly for Wales. Therefore under the Intergovernmental Agreement the consent of the Welsh Ministers should have been sought for this SI. My officials discussed this SI with their counterparts in the Home Office, and have confirmed that the UK Government did not seek Welsh Ministers consent on the basis that the UK Government considers this SI to be reserved.

The provision in question made extremely minor amendments to paragraph 12(1)(c) and (d) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. Currently the Act provides that a licence for a sex establishment (sexual entertainment venues, sex cinemas and sex shops) can only be granted to a person resident, or a body corporate that has been incorporated, in an EEA state. The amended version will provide that a licence can only be granted to a person resident, or a body corporate that has been incorporated in the UK or in an EEA state. This is a continuation of the current policy, which is also the policy of the Welsh Government. The amendment is a sensible way to continue the existing licensing requirements beyond exit day.

For the avoidance of doubt, I wrote to Nick Hurd MP, Minister of State for Police and the Fire Service, to give the consent of the Welsh Ministers retrospectively to this SI.

The licensing of the provision of entertainment is reserved to the UK Parliament under the Government of Wales Act 2006. However, as the licensing of sex establishments is not governed by the Licensing Act 2003, I do not consider that the provision in regulation 124

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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.

would fall within this reservation. As a result, I consider that the consent of the Welsh Ministers should have been sought in respect of this provision.

We recognise the unprecedented pressures under which the EU Exit SIs were made, which did not allow for the usual time in considering more subjective elements of the devolution settlement. On that basis I am content that the UK Government has acted in good faith under the Intergovernmental Agreement and has abided by its own interpretation of the devolution settlement in this case. Consent was given without prejudice to our position on legislative competence and I do not intend to take further action at this stage.

As this SI amends primary legislation within a devolved area, I have laid a Statutory Instrument Consent Memorandum in the National Assembly for Wales as required by Standing Order 30A (SO30A). However, in light of the extremely minor nature of the correction I will not be laying a motion to debate the SICM. It remains open to any member to lay a motion for debate under SO30A, should any member feel that a debate is merited on this correction.

Yours sincerely



**Julie James AC/AM**

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