

Mark Drakeford AM
First Minister

11 July 2019

Dear Mark

The Electronic Commerce Directive (Adoption and Children) (Amendment etc.) (EU Exit) Regulations 2019

We considered the statutory instrument consent memorandum (SICM) in respect of the above regulations at our meeting on 8 July 2019.

In her letter of 26 June 2019 to us about the SICM, the Deputy Minister for Health and Social Services said that she would not be seeking to table a statutory instrument consent motion (motion) to debate the regulations given the volume of legislation that the National Assembly is considering.

Aside from our view that the volume of legislation currently before the National Assembly would not prevent a debate taking place on the regulations, it is our position that the Welsh Government should table a motion for debate for every SICM that it lays before the Assembly.

In March this year we sought the views of the Llywydd on her interpretation of Standing Order 30A. In her response of 7 May 2019, she said:

While neither Standing Order 29 nor 30A require a member of the government, nor anyone else, to table a consent motion in relation to relevant provisions in any UK Bill or Statutory Instrument, the tabling and passing of such a motion is the only way that the Assembly's consent to such provisions can be sought and given. If no such motion has been considered – let alone passed - by the Assembly in relation to a relevant provision in a UK Bill or Statutory Instrument, the Assembly cannot be said to have given its consent to that provision. I would be concerned if the UK Parliament were proceeding to legislate in those



circumstances, as it would seem to me to breach the convention of only legislating with the Assembly's express consent.

On your final point, the provision for a Member other than a member of the government to table a consent motion was introduced in 2013 alongside removing the requirement for the government to table a motion in relation to each and every memorandum laid. The procedure was designed to be used in circumstances where the government's memorandum indicated that the government does not consider it appropriate for consent to be given, and enables other Members then to make the opposite case and to table a consent motion to that effect. It was not anticipated it would be needed in situations where the government supports the proposed UK legislation, as in those circumstances the expectation is that government would table their own motion seeking the Assembly's consent for the legislation to proceed."

The Llywydd's comments reinforce our view that the Welsh Government should table a motion in respect of every SICM it lays before the National Assembly. Tabling such a motion, followed by a debate and a vote, is the only way that the Assembly can provide its consent for the UK government to legislate on its behalf.

I would therefore be grateful if the Welsh Government would reconsider its position in respect of these regulations as soon as possible and also, would you now provide a commitment to lay a motion for debate in respect of every SICM the Welsh Government lays before the Assembly.

I am copying this letter to the Counsel General and the Deputy Minister for Health and Social Services.

Yours sincerely



Mick Antoniw AM
Chair

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

