

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



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Tŷ Hywel
Cardiff Bay
Cardiff
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23 July 2019

The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019

Dear Mick,

Thank you for your letter regarding the Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019 (2019 Regulations).

I note your concerns that the Written Statement is not specific enough to ascertain the impact that the Regulations may have on the Assembly's legislative competence. I hope therefore that the analysis set out below proves helpful.

In relation to the Marine Strategy provisions, as set out in the Written Statement, the National Assembly for Wales has some legislative competence within the marine area in relation to Wales, subject to reservations such as shipping, oil and gas. As a result, prior to making regulations under the new Part 6 of the Marine Strategy Regulations 2010, the Secretary of State must obtain the consent of the Welsh Ministers where regulations apply in relation to Wales (as defined in section 158(1) of the Government of Wales Act 2006 (GoWA 2006)). Functions transferred to the Secretary of State constitute functions of a Minister of the Crown for the purposes of Schedule 7B to GoWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.

The National Assembly for Wales has legislative competence in relation to air quality, water and environmental noise, subject to the reservations in Schedule 7A to the Government of Wales Act 2006 (for example, Section C15 (water and sewerage)). There are no specific impacts as a result of this SI on the Assembly's legislative competence in these areas, beyond the issues noted in the written statement surrounding the application of Schedule 7B restrictions to potential concurrent functions.

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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.

I can confirm that the Welsh Government is working with the Wales Office to address the unforeseen legislative competence issue which is a product of the concurrent powers created during the EU exit SI correction programme. The Wales Office agrees that this issue needs to be fixed and we are working with them on the detail of the s109 Order which will address it.

I will keep you informed of developments.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Rebecca Evans AC/AM

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