



Mick Antoniw AM
Chair,
Constitutional and Legislative Affairs Committee
Mick.Antoniw@assembly.wales

11 November 2019

Dear Mick,

UK regulations relating to exiting the European Union

Thank you for your letter dated 18 October regarding EU Exit statutory instruments and points raised by the Committee, which are addressed below.

I can confirm that all disputes over devolved matters with the UK Government, continue to be addressed in the same way. In all instances the Minister for Environment, Energy and Rural Affairs has written to Defra Ministers setting out our concerns with discussions ongoing. In terms of the two statutory instruments you have cited, I can assure you they do in fact achieve our overarching policy objectives of securing and maintaining the effective functioning of agricultural markets in the UK.

You have also requested additional information on the impact on legislative and executive competence in relation to two statutory instruments. This information will be provided to the Clerk of your Committee by officials as soon as possible.

In relation the final point in your letter, it is correct that where SIs have created concurrent and/or so called "concurrent plus" functions, there is a potential impact on the legislative competence of the Assembly. This is because there is a risk that the removal of such functions in an Assembly Act could engage the consent requirements in Schedule 7B to the Government of Wales Act 2006. In consequence of the identified risk we have engaged with the UK Government and reached an agreement in principle that the issue will be addressed by way of amendments to legislative competence in a s.109 Order; specifically, amendments to the consent requirements in paragraphs 8 and 11 of Schedule 7B. The agreement for the carve out is stated to be an agreement in principle because it now comes with the caveat that this agreement is subject to the views of any new Ministers in light of the scheduled election.

Prior to the dissolution of Parliament the Office of the Secretary of State for Wales shared a draft of the Order with us and we have provided our detailed comments on that draft. It

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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.

included a carve out from the consent requirements as agreed although we await their response to the specific points we have raised.

Finally, on the issue of timing, we do not currently have a clear indication of when this Order will be made as certain articles within it are contingent on when the UK exits the EU and under what circumstances. Until the position on this becomes clear, there will be no settled time table for this Order. A s.109 Order is an Order in Council and pursuant to the provisions of s.109, must be approved by each House of Parliament and the Assembly before a recommendation is made to the Queen to make the Order. Furthermore, Standing Order 25 requires that a proposed Order is laid before the Assembly to allow for an appropriate committee to report on it before the draft Order is then laid for approval. There will therefore, be opportunities for scrutiny of this Order by the Assembly before it is made.

I am copying this letter to the Counsel General and Brexit Minister.

Yours sincerely,

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

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