



Ein cyf/Our ref: MA/FM/0135/20

Mick Antoniw AM  
Chair of Constitutional Affairs and Legislation Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

30 January 2020

Dear Mick

I am writing to keep you informed of developments in the EU Exit SI programme, now that the European Union (Withdrawal Agreement) Act 2020 (the 2020 Act) has become law.

In preparation for a no deal exit, the UK government and the devolved administrations made a large number of correcting SIs to ensure that the UK statute book would be operable once the UK ceased to be a member of the EU and EU law ceased to apply to, and within, the UK. These SIs were mainly made under the EU (Withdrawal) Act 2018 powers, though a handful were made under other powers where the EU (Withdrawal) Act powers would not achieve the outcome sought. These SIs are due to come into force on exit day.

The 2020 Act, among other things, provides that most EU law will continue to apply in the UK until the end of the transition period. Therefore the EU exit SIs will need to be deferred until the end of the transition period, to avoid a situation where the UK's statute books would be out of step with the requirements of EU law as applied by virtue of the Withdrawal Agreement.

This deferral will be achieved by paragraph 1 of Schedule 5 to the 2020 Act. It has the effect of non-textually amending the coming into force date for these SIs from immediately before exit day, on exit day, or any time after exit day to immediately before the end of the implementation period, the end of the implementation period, or any time after, as the case may be. The coming into force of all EU Exit SIs, regardless of the powers under which they are made, will be deferred unless they are exempt in regulations.

The Withdrawal Agreement provides that most, but not all, EU law will continue to apply in the UK until the end of transition. The UK will no longer be represented politically at the EU level and this means that some EU Exit SIs will, for example, need to come into force on exit day because there will no longer be MEPs representing the UK.

This will be achieved, for Wales, by regulations specifying which provisions of EU Exit SIs will be exempt from the deferral and will come into force on exit day. Therefore, using powers under the 2020 Act, I have made the European Union (Withdrawal Agreement) Act 2020 (Disapplication of the Deferral of Subordinate Legislation) (Wales) (EU Exit) Regulations 2020. This SI exempts the Elections (Wales) (Amendment) (EU Exit) Regulations 2019 from the mass deferral provided for by paragraph 1 of Schedule 5 to the 2020 Act.

The 2020 Act makes provision so that EU law will be retained as it stands at the end of the transition period. The EU Exit SIs are drafted to reflect EU law at exit day. It is likely that there will be developments in EU law between now and the end of transition. In which case, there will be further SIs made during the transition to ensure that the UK's statute book accurately reflects retained EU law on 31 December 2020. We are not anticipating a significant number of SIs to achieve this, and we will continue to keep you informed of progress in this area.

The UK Government has announced a number of Bills for the transition period, which would establish new approaches for the UK outside of the EU on matters such as immigration. These Bills, and the outcome of the negotiations for a future relationship between the UK and the EU could have the effect of superseding EU Exit SIs in these areas, and therefore the relevant SIs would be revoked or amended before they came into force.

Best Wishes

A handwritten signature in black ink that reads "Mark". The letters are cursive and slightly slanted to the right.

**MARK DRAKEFOD**