



Our ref: RE/204/2024

Baroness Drake CBE
Chair, Constitution Committee
House of Lords
London
SW1A 0PW

31 July 2024

Dear Baroness Drake CBE

Thank you for the opportunity to give evidence to the House of Lords Constitution Committee's inquiry into the Governance of the Union: Consultation, Cooperation and Legislative Consent.

During the session Lord Anderson of Ipswich asked for specific examples of areas where the UK Parliament has taken powers to alter the Acts of the Senedd (Q115). I wanted to follow up in a letter to provide these examples.

A Henry VIII power is a power to make subordinate legislation which amends primary legislation. Our general position is that these powers should not be given to UK Ministers in relation to devolved matters.

Where they do exist and UK ministers propose to exercise them in relation to primary legislation which is within the legislative competence of the Senedd, [the Senedd's Standing Orders](#) (SO 30A) set out a procedure which gives the Senedd the opportunity to consider the proposed legislation and express a view before it is finalised. This is the Statutory Instrument Consent Motion – or 'SICM' – process.

In the last 12 months, there have been three Statutory Instrument Consent Memoranda laid by the Welsh Government:

1. In October 2023, the Welsh Government laid the [SICM on the Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023](#) before the Senedd. The SICM was debated in a motion on 12 December 2023 and consent was given.
2. In January 2024, the Welsh Government laid the [SICM on the Social Housing \(Regulation\) Act 2023 \(Consequential and Miscellaneous Amendments\) Regulations](#)

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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.

[2024](#) before the Senedd. The SICM was debated in a motion on 27 February 2024 and consent was given.

3. In May 2024, the Welsh Government laid the SICM on the [Energy Act 2023 \(Consequential Amendments\) Regulations 2024](#) before the Senedd. However, as part of the expedited consideration of legislation by the UK Parliament due to the calling of the General Election, also known as 'wash-up', the Energy Act 2023 (Consequential Amendments) Regulations 2024 were debated and approved by both houses on Friday 24 May. It is regrettable that the expedited passage of the UKSI meant that it was approved without the opportunity for the Senedd to consider legislative consent.

As I noted in the evidence session, whilst the SICM procedure has no legal effect on UK Government's ability to legislate, the process is recognised in Devolution Guidance Notes and expected to be respected.

It is vital that the UK Government respects the SICM process, and makes adequate time in its legislative scheduling to enable the devolved legislature to genuinely scrutinise any use of Henry VIII powers in devolved spaces. Timetabling needs to include time for the Senedd to fully consider and give their views, before the statutory instrument is considered by the UK Parliament and finalised.

Yours sincerely,



Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet
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