

Agenda – External Affairs and Additional Legislation Committee

Meeting Venue:	For further information contact:
Committee Room 2 – Senedd	Alun Davidson
Meeting date: 13 January 2020	Committee Clerk
Meeting time: 14.00	0300 200 6565
	SeneddEAAL@assembly.wales

- 1 Introductions, apologies, substitutions and declarations of interest**
(14.00)
- 2 Paper(s) to note**
(14.00–14.05)
 - 2.1 Paper to note 1: Correspondence from the First Minister to the Chair regarding Brexit preparedness – 6 December 2019**
(Pages 1 – 3)
 - 2.2 Paper to note 2: Correspondence from the Home Office to the Chair regarding the Committee's report on changes to freedom of movement after Brexit – implications for Wales – 10 December 2019**
(Pages 4 – 6)
 - 2.3 Paper to note 3: Correspondence from the Counsel General and Brexit Minister to the Chair regarding Brexit preparedness – 7 January 2020**
(Pages 7 – 13)
 - 2.4 Paper to note 4: Correspondence from the First Minister to the Chair regarding the European Union (Withdrawal Agreement) Bill – 8 January 2020**
(Pages 14 – 31)
- 3 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of the meeting**
(14.05)



- 4 Consideration of draft report on the EU (Withdrawal Agreement)
Bill – legislative consent**
(14.05–14.35) (Pages 32 – 94)
- 5 Consideration of draft report on the Withdrawal Agreement**
(14.35–15.05) (Pages 95 – 122)
- 6 Consideration of international agreements**
(15.05–15.20) (Pages 123 – 150)

David Rees AM
Chair of the External Affairs and Additional Legislation Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

6 December 2019

Dear David,

I am writing in response to your letter, of 21 November, requesting an update on the Welsh Government's Brexit preparedness work since Parliament dissolved.

The risk of no deal at the end of January is much reduced but, as it remains the legal default and we cannot be completely reassured that it will not happen, proportionate no deal preparations have continued since the dissolution of Parliament on 6 November.

These have included consideration of whether any of our preparations need to be amended in light of a January exit date, continuing to engage with the UK Government on preparedness projects with a devolved interest and confirmation of the priority areas where we will want to engage with the UK Government in the event of a January No Deal Brexit scenario.

We remain clear that a no deal Brexit would be catastrophic for Wales, and while that outcome should be avoided, as a responsible government we will do all that we can to prepare and mitigate the consequences as far as possible.

Your letter also identified two particular areas where the Committee would appreciate an update; the current state of intergovernmental relations and progress on common frameworks, which are provided below.

Relations with the UK Government are variable and depend upon factors such as interpersonal relationships - which is why we have consistently called for reformed intergovernmental relations. There have continued to be some areas where constructive dialogue is possible and fruitful. However, in general terms, relations with the UK Government began to deteriorate after Boris Johnson became Prime Minister. Examples of this include reduced access to information about no deal planning and a lack of formal Ministerial engagement on the joint Intergovernmental Relations Review (despite greater progress at official level on the latter as a result of positive discussions with the previous Chancellor of the Duchy of Lancaster).

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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.

By contrast, relations with the Scottish Government have never been stronger. We also continue to welcome the work of the Northern Ireland Civil Service to represent their citizens' interests to the extent that they are able in the absence of a Northern Ireland Executive.

Multilateral relations have tended to be heavily influenced by the nature of our bilateral relationships, particularly with the UK Government. It is very unfortunate that no meeting of the Joint Ministerial Committee (Plenary) has taken place for almost a year so we have been unable to jointly assess the state of relations at head of government level.

There has been a very significant reduction in engagement at Ministerial and official level with the UK Government since the dissolution of the UK Parliament, with the notable exception of the meeting of the British-Irish Council.

In terms of the UK-wide Common Frameworks programme, the current timeline for Frameworks is that they should all be in place by December 2020 and this remains our expectation. We are anticipating around 40 Frameworks which relate to Welsh devolved competence, though this will depend on the potential merger of several policy areas and a small number of others which ultimately may not require a Framework.

For Wales, primary UK legislation will be required for the Frameworks for Fisheries management and support and for Agricultural support. Secondary legislation may also be required for some Frameworks. The most likely of these are currently Animal health, Food and feed safety and hygiene and Emissions Trading.

It is important to note that with non-legislative Frameworks areas, while they are still underpinned by legislation, the agreements themselves will not require legislation.

Since the Counsel General appeared before the Committee in November, the calling of a General Election has delayed the delivery of first outline draft agreements for the five Frameworks areas, which were due at the end of December 2019. Four of these areas (Emissions Trading, Radioactive Substances, Nutrition and Hazardous Substances) apply to Wales. Discussions between officials in these areas have continued during the pre-election period but have understandably slowed, and we are keen to see early progress in January and will be pressing for this.

Frameworks can only be finalised when our future relationship with the EU is clarified. However, good progress continues to be made on the building blocks of these Frameworks, including the deepening of official-level relationships on key policy areas. Extensive discussions of Frameworks policy development has continued between Welsh, Scottish and Northern Irish officials and we should recognise the progress being made in these areas. We are keen to progress discussions on a cross-UK approach to scrutiny by the UK's legislatures. A timely and transparent process for the scrutiny of the Frameworks will be vital for their success. We will share the elements of the scrutiny process agreed by UK, Welsh and Scottish Ministers with the Committee as soon as possible along with further comments on your October paper *UK-wide common policy frameworks: scrutiny of non-legislative framework agreements*. This will help us jointly develop a form of scrutiny appropriate to the issues the Framework programme presents to Wales.

The Counsel General will write to the Committee early in the New Year to update you on the delivery of the first Framework outline agreements.

I hope the Committee finds this a helpful update and I look forward to discussing the Welsh Government's preparations in more detail at your meeting on 6 January.

Best wishes,

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

MARK DRAKEFORD

Agenda Item 2.2

 Home Office

Direct Communications
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David Rees AM
National Assembly for Wales
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Reference: MIN/0017487/19

10 DEC 2019

Dear Mr Rees,

Thank you for your letter of 12 November on behalf of the External Affairs and Additional Legislation Committee at the National Assembly for Wales about your report 'Changes to freedom of movement after Brexit – the implications for Wales' which was published on 8 November. You are receiving a response from an official in accordance with procedures for handling correspondence during the pre-election period.

In respect of the first two points in your report's conclusions, the Government has commissioned the Independent Migration Advisory Committee (MAC) to review the Australian points-based immigration system and other international comparators, to advise what best practice can be used to strengthen our labour market. They have also been asked to advise on the appropriate level for salary thresholds. The MAC has conducted an extensive evidence gathering exercise and is expected to report in January 2020.

From January 2021, the Government intends to introduce a new immigration system that prioritises skills and what people can contribute to the UK – including to our public services – rather than where they came from. In accordance with the public sector equality duty under section 149 of the Equality Act 2010, the Government is obliged to have due regard to the impacts of its policies on those who share a protected characteristic. A policy equality statement, which sets out the Government's consideration of the impacts of the future immigration system on those who share such a characteristic, will be published when the details of the future system are finalised.

Regarding your third point, on the need for certainty about changes to the freedom of movement rules after Brexit: if the UK leaves the EU on the basis of the draft Withdrawal Agreement, the UK will continue to be bound by EU law for the duration of the implementation period, so free movement will continue throughout that time. Those EU citizens who are resident in the UK before the end of the implementation period on 31 December 2020 will be eligible to apply for the EU Settlement Scheme, which will allow

them to stay and continue their lives, with the same access to work, study and benefits and public services that they enjoy now. EU citizens will have until 30 June 2021 to apply. In the event that the UK leaves the EU without a deal, resident EU citizens will still be able to apply to the EU Settlement Scheme and will have until at least 31 December 2020 to do so. Their rights to claim benefits and access services in the UK will remain unchanged.

For those moving to the UK after a no-deal Brexit, the Government has been clear that free movement as it currently stands under EU law will be brought to an end. However, Parliament has provided that much of the free movement framework will remain in place under the European Union (Withdrawal) Act 2018 until Parliament passes primary legislation to repeal it. EU citizens and their close family members will continue to be able to come to the UK to live, work and study for a temporary period. If they wish to remain in the UK after the end of 2020, they will need to obtain UK immigration status. After a no deal Brexit, the Home Office will open a new voluntary immigration scheme – the European Temporary Leave to Remain (Euro TLR) Scheme – to provide a route to apply for this immigration status. Applications will be free of charge and involve a simple online process and identity, security and criminality checks. Successful applicants will be granted a period of 36 months' leave to remain in the UK, which will provide EU citizens and their employers with certainty during the transitional period before the new points-based immigration system is introduced from January 2021. More information about these arrangements is available here: www.gov.uk/government/publications/no-deal-immigration-arrangements-for-eu-citizens-moving-to-the-uk-after-brexit.

Regarding your fourth point, until the new points-based immigration system is introduced, EU citizens can continue to use their passport or national identity card to evidence their status in the UK. There is no requirement before then for EU citizens to start using their digital status under the EU Settlement Scheme or Euro TLR to evidence their entitlements, though they may choose to do so if they wish. The Home Office is not issuing a physical document to EU citizens granted status under the schemes, as physical documents expire, become invalid and can be lost, stolen or tampered with. Many people already use digital services to access banking, claim benefits or pay their taxes. Individuals are able to control who they wish to share their digital status with to demonstrate their UK immigration status and exercise their rights. Digital status is also easier to use for the visually impaired and allows more detailed information to be displayed to those who need it.

The Home Office is committed to enabling people to demonstrate their status and access the services they are eligible for in the simplest and most secure way possible. Where those services are provided by government, for example health and benefits, individuals should only need to present their identity, for government to confirm their eligibility. We are working closely with other government departments, notably the Department of Health and Social Care, the National Health Service, the Department for Work and Pensions and HM Revenue & Customs, as well as local authorities, to develop this.


On your final point, the Government wants to ensure that all resident EU citizens are able to apply to stay in the UK, so we regularly review the effectiveness of our advertising and engagement activities. Up until 31 October 2019, more than 2.4 million people had applied - with more than half a million applications in the month of October alone. Whilst the application rate is encouraging, we are not complacent. We ran a £3.75 million campaign earlier this year which supported the scheme's launch in March, including outdoor advertising in 6,000 locations across the UK, nationwide catch-up TV, radio (including European language stations) and social media. We launched a further wave of the campaign at the end of October to encourage EU citizens to apply. The campaign is currently paused in accordance with Cabinet Office guidance on advertising campaigns in a pre-election period.

To raise awareness further, at a local level, the Government has provided £9m of grant funding to 57 voluntary organisations and charities across the UK to help spread the word to those who are harder to reach and to support applications from vulnerable people. In addition, earlier this year the Home Office held a two-day engagement programme in Cardiff and Wrexham, meeting with community groups, employers and EU citizens. Over the summer the Home Office attended the Royal Welsh Show, which included a round table meeting with various key stakeholders across the agriculture industry. More recently we have held a series of pilot pop-up events in nine locations across the UK with caseworkers, engagement staff and the local grant funded organisations, sharing information and supporting EU citizens to apply to the scheme. Further local activations will be rolled out more widely in 2020, which will include pop-up events in Wales.

We meet regularly and share updates about the scheme with the Welsh Government and the Welsh Local Government Association to ensure information on EU Settlement Scheme reaches the 22 local authorities in Wales. We are also working closely with Ministry of Housing, Communities and Local Government to distribute information through their local authority channels and networks.

In addition, support is available to applicants, including from the EU Settlement Resolution Centre which can be contacted on 0300 123 7379, and at nearly 300 assisted digital locations across the UK. Further information is available at:
www.gov.uk/government/publications/eu-settlement-scheme-assisted-digital-service.

Yours sincerely,



Nicola Smith,
European Migration & Citizens' Rights Unit
Border, Immigration and Citizenship System Policy and International Group

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David Rees AM
Chair of the External Affairs and Legislation Committee
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7 January 2020

Dear David

I am writing in response to your letter of 4 December regarding the External Affairs and Additional Legislation Committee's follow up work on Brexit preparedness. I welcome the work the Committee has undertaken in this area, and the following information sets out the Welsh Government's work to date in relation to the Committee's views and conclusions outlined below.

With the progress of the Withdrawal Agreement Bill in Parliament, it seems clear that there will not be a no deal exit at the end of this month. However, the issues you raise still remain very pertinent, not least in the context of the possibility of exiting the Transition period without a trade deal concluded.

Ports and transport

"Our previous work found that there was a risk of cargo and freight bypassing Welsh ports via an open Irish land border combined with frictionless transit from Northern Ireland to Scotland or England. Our understanding, and that of the sector, is that the revised Withdrawal Agreement, may reduce this risk".

"Of more pressing concern is the assessment of the potential impact of the revised Withdrawal Agreement on Wales' major Ro-Ro ports – particularly the port of Holyhead. The Chancellor of the Duchy of Lancaster, Michael Gove, told us that no impact assessment had been made and that it was 'difficult' to have an impact assessment with 'so many variables in play'"

- 1. "We recommend that the Welsh Government outlines the ways in which it is pressing the UK Government to conduct a full impact assessment of the revised Withdrawal Agreement on Welsh ports".**

Response: Accept

Financial implications: None from updating the Committee.

As you set out in your letter, the UK Government has not conducted a full economic impact assessment of any kind on their proposed Withdrawal Agreement, and UK Government officials were not prepared to engage on the policy questions raised by their proposal during the recent pre-election period for the General Election.

One key question that has a fundamental bearing on Welsh ports is related to the interaction between the land border between the Republic of Ireland and Northern Ireland, and the 'Irish Sea border' the Protocol on Ireland/Northern Ireland would impose. Whilst UK Ministers were unable to answer questions about whether there would be checks on ferry crossings from Northern Ireland to Great Britain in the final scrutiny sessions of the last Parliament, they continue to insist both that there will be no hard border on the island of Ireland and that there will be no checks on goods crossing from Northern Ireland to Great Britain by ferry. In light of the above and pending the Joint Committee's view on how to manage the Protocol, it would not be reasonable for checks to be imposed on goods travelling from the Republic of Ireland to Wales.

In terms of traffic travelling from the UK to the Republic of Ireland, the election claims of the Prime Minister that no checks will be necessary are simply incompatible with the legal text of the Withdrawal Agreement. However, here too, it would seem logical given the free circulation of goods on the island of Ireland, that the sort of controls and checks needed will be the same for goods travelling from GB to the Republic as they are for goods travelling from GB to Northern Ireland.

We have commissioned a small study from the Trade Policy Observatory at the University of Sussex to help us better understand the implications for Wales. Their independent report will be published in January. Officials within the Welsh Government continue to review the evidence we have available to help us understand the traffic and trade flows through Welsh ports, and to make sure the UK Government understands the impacts its decisions will have in Wales.

The Welsh Government will continue to take every opportunity, at Ministerial and official level, to press the UK Government for clarity on their proposals and in particular, to assess the impact on Welsh ports. We anticipate that an early meeting of the JMC (EN) will provide an opportunity to raise this again.

We would also hope that the Committee could press UK Ministers on this point, in the context of the legislative consent process for the Withdrawal Agreement Bill.

"In terms of new infrastructure at Welsh ports, we heard that clarity is needed as soon as possible on the need for new infrastructure arising as a result of the revised Withdrawal Agreement on Welsh ports".

- 2. "We recommend that the Welsh Government update us on preparations for new infrastructure at Welsh ports (to accommodate potential customs and other checks), including details of the financing of such infrastructure".**

Response: Accept

Financial implications: None from updating the Committee. We expect UK Government to meet the need for any new border infrastructure that would arise as a result of their decisions in respect of changes to border policy.

It is not yet clear how the UK Government and the Joint Committee will propose to manage the UK's border with Ireland under the Protocol. Whether there will be a need for new infrastructure at Welsh ports, and the nature of that infrastructure, will depend greatly on this, and also on the outcome of trade negotiations with the EU. Until we have this information, we are unable to make assumptions about where any such infrastructure would need to be located.

Since borders, immigration and customs are the responsibility of the UK Government however, the Welsh Government would expect them to work constructively with Welsh port authorities, and with the Welsh Government, to ensure appropriate border infrastructure is in place to facilitate the smooth flow of traffic to and from the ports, and that appropriate funding is invested to deliver modern, fit-for-purpose border infrastructure.

“We note that the creation of new Free Ports is a stated objective of the current Secretary of State for International Trade. We are clear that the Welsh Government must ensure that it has a developed, evidence-based view of the advantages and disadvantage of creating new Free Ports in Wales and the impact that the creation of Free Ports elsewhere in the UK may have on Wales”.

3. “We recommend that the Welsh Government commissions further research on the potential advantages and disadvantages of Free Ports for Wales and the impact that the creation of Free Ports elsewhere in the UK may have on the Welsh economy, in order to inform how it engages with the UK’s work in this area, and shares this work with the Committee on completion”

Response: Accept

Financial Implications: None at present. Any additional costs will be assessed as UK Government direction is clarified.

The question of free ports is separate from Brexit preparedness, but the incoming UK Government appear firmly committed to the concept.

This is a tool that, to some extent, the UK Government has had at its disposal within the EU but has chosen not to employ. However, we should be clear that free ports are not normally just a customs tool. Free ports models usually bring together a variety of regulatory levers including planning, environmental and employment regulation and therefore any proposals to approve a free port in Wales could have significant implications on a wide range of issues within devolved competence. Similarly any proposals to approve free ports in England could have an impact on Welsh competitiveness and attractiveness as a location for investment.

The Welsh Government is clear that while it is not opposed to free ports as a matter of principle, they must not be used as a back door to undermining social, environmental and employment standards. Free ports, if implemented, must be used to facilitate genuine, additional growth and development rather than simply displacing jobs and employment to new locations with lower regulatory standards outside our customs boundaries.

There are a number of free port models across the world which use these levers in different ways and combinations and differ fundamentally in their objectives and implementation. Until now, there has been very little information on the policy design and direction from the UK Government, and given the breadth of possible scenarios, until this clarity is provided, we are unable to fully assess the advantages and disadvantages of free ports in general.

The Welsh Government is happy to accept the recommendation on the basis that, as a substantive policy direction begins to emerge from the UK Government we will continue to develop our evidence base, engage stakeholders and seek the best available information to underpin our engagement with the UK Government on this agenda. However, we know that free ports would require some level of devolved interaction, and the UK Government must significantly develop and share its own evidence base, and treat us as an equal partner in designing the policy and objectives in order for us to develop the best possible fit for Wales.

4. “We ask that the Welsh Government update us on any engagement it has had with the Free Ports Advisory Panel, and for its view on whether the panel is giving adequate consideration to Welsh ports.”

Response: Accept

Financial Implications: None from updating the Committee.

The Free Ports Advisory Panel has not engaged with the Welsh Government, or any other Devolved Government in the UK. We have made clear that this panel should have no role in assessing and awarding free port status based on bids from port authorities. More widely, this bidding approach raises concerns about whether wider social, economic and environmental objectives will be appropriately considered, and ultimately the capability of using the bids from ports to drive a strategic approach to the designation of free ports.

It remains vital that the UK Government engages meaningfully with us to ensure that if a free port model is developed, it is one which works for Wales. Indeed, given their reliance on regulation within devolved competence and clear impact on regional economic development, free ports can only properly be delivered in collaboration between the Welsh and UK Governments. We will continue to press UK Government to recognise that the Welsh Government absolutely must have a clear decision-making role in assessing which areas within Wales should become eligible for free port status.

Food and Farming

“We welcome the efforts to open new markets for the red meat sector, and recommended in our December 2018 report on the preparedness of the food and drinks sector in Wales that the Welsh Government’s new strategy for the food and drinks sector in Wales (expected in 2020) set out ‘clear and ambitious targets’ for increasing Wales’ access to new markets for the export of food and drink products”.

5. “We would welcome an update on the Welsh Government’s work in this area including the anticipated timescales for publication of the new food and drinks strategy”.

Response: Accept

Financial Implications: None from updating the Committee.

In July 2019, the Welsh Government published, in partnership with the Food and Drink Wales Industry Board, a consultation into proposals regarding the future direction and development of the food and drink industry in Wales. Our proposals were informed by extensive prior engagement with businesses and stakeholders. The proposals had the strategic aims to grow our businesses' scale, value, and productivity, to benefit our people and society, and to create and communicate a global reputation for Wales as a 'Food Nation'. The proposals were firmly rooted in Prosperity for All, the Well-Being of Future Generations Act (2015), and food being part of the foundational economy.

Responses were received from nearly 90 organisations and individuals, comprising a broad range of consultees with the majority from businesses and trade organisations. There was strong support for the proposals and the vision and mission we had proposed. The Welsh Government will be making a report summarising the responses received available on the Food and Drink Wales website shortly. We are now considering how to use this constructive feedback as we develop the strategic plan proposals further for publication in 2020.

"We note the significant concerns expressed to us by representatives of the farming industry particularly in relation to the impact of continued uncertainty; the lack of Wales-specific legislation; and more generally the development of future policy in this areas, after Brexit."

- 6. "We intend to draw these to the attention of the Climate Change, Environment and Rural Affairs Committee and hope that they will give them active consideration as part of their ongoing scrutiny of the Welsh Government and its policy work in this area"**

We welcome the Committee's ongoing interest in this area. A considerable amount of preparedness work relating to the farming industry has been undertaken by the Welsh Government. This has included working collaboratively with the industry, UK Government and other Devolved Administrations to assess the scale of the impact across all our agricultural sectors. The Welsh Government has also worked closely with Defra and Devolved Administrations to make the case for funding from HM Treasury to support the red meat sector in the event of a no deal exit. We have also worked closely with stakeholders in Wales to discuss the issues facing the red meat sector, share thinking and seek feedback on proposals.

In relation to Wales-specific legislation, we intend to bring forward a White Paper before the end of this Assembly term, setting out the context for the development of agriculture and forestry within Wales for the next 15 to 20 years. The White paper will lay the ground for the Agriculture (Wales) Bill which we intend to introduce as soon as practicable.

Regarding the development of future policy in this area, earlier this year, we published our consultation document, *Sustainable Farming and Our Land*, where we explained our proposals for a new sustainable land management scheme and sought views on how we intend to support farmers after the UK leaves the European Union. The main consultation closed on 30 October. We received over 500 substantive responses and 3000 campaign responses. We are currently considering all the responses received and will publish a summary of responses in due course.

Transition period and the risk of 'no deal'.

“We recognise the risks of ‘no deal’ at the end of the transition period as highlighted by stakeholders and continue to have deeply held concerns about such an outcome and its damaging implications for Wales”

- 7. “We recommend that the Welsh Government set out how it intends to ensure that the [agriculture] sector is sufficiently supported in the event of ‘no deal’ at the end of the transition period (i.e. ending the transition period without a free trade agreement in place) and to outline what lessons it has learned from preparations to the three previous Article 50 deadlines”.**

Response: Accept

Financial Implications: None from updating the Committee. There could be significant cost implications for supporting the agriculture sector in the event of leaving transition arrangements without a trade deal at the end of December 2020.

As referred to above and in your letter, the threat of leaving the transition arrangements without a trade deal at the end of December 2020 remains a real one, particularly given the UK Government’s unnecessary commitment not to seek an extension to the transition period that would allow for a future relationship that protects the interests of Wales and the UK as a whole. The Welsh Government will continue to prepare responsibly and appropriately for the future relationship with the EU.

In relation to the preparedness of the agriculture sector (referred to specifically in your letter), the Welsh Government will continue to engage closely with stakeholders to discuss the specific issues facing the industry, share our emerging thinking and seek feedback on proposals. In addition, the UK Agricultural Market Monitoring Group (UKAMMG) has been established under an arrangement between the UK Government and the other Devolved Administrations in order to coordinate analysis of market information from government, industry and other sources. The UKAMMG will monitor developments in the main agricultural industry and consider responses to adverse market developments and provide recommendations if any interventions are required. This will include assessing the impact of a “no trade deal” scenario at the end of the transition period, and the impact of WTO tariffs on the agricultural sectors.

In terms of lessons learned from preparations ahead of the three Article 50 deadlines, agriculture officials have worked hard to build relationships with Defra and other Devolved Administrations officials to strengthen communication and enable the collaborative working required to make a joint case for funding from HM Treasury to support the red meat sector in the event of exiting the transition period without a trade deal, with all the implications for tariff and non-tariff barriers that that would have.

More broadly, a key point we took from our experiences in preparing for the exit dates in the Spring and Autumn is the importance of the UK Government engaging meaningfully with us, which includes sharing information, and recognising the issues of critical importance to Wales.

The Welsh Government consistently said that a no deal Brexit would be a catastrophic outcome for Wales, and would have significant and far reaching implications. Exiting the transition period without a trade deal would have different, but nevertheless hugely damaging implications for Wales. Despite our clear opposition to such an outcome, the Welsh Government will continue to prepare for all possible future relationships with the EU. As recognised by the Auditor General for Wales in his September update to the Committee, our Brexit planning work constitutes “the most comprehensive example of cross-government working” the Wales Audit Office has seen the Welsh Government undertaken to date.

I hope the Committee finds this update on our preparedness work helpful, and I look forward to discussing these issues with you at a future meeting.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremy Miles', with a stylized, cursive flourish at the end.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair of EAAL Committee
SeneddEAAL@assembly.wales

8 January 2020

Dear David,

EUROPEAN UNION (WITHDRAWAL AGREEMENT) BILL

I am writing to inform you that I have written on behalf of the Welsh Government to the Lord Speaker of the House of Lords, inviting Peers to consider tabling amendments to the EU (Withdrawal Agreement) Bill which are intended to protect the interests of the devolved institutions.

I have attached a copy of the letter to the Lord Speaker and the text of the amendments.

Best wishes,

Mark

MARK DRAKEFORD

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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.

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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.



The Rt. Hon. The Lord Fowler
Lord Speaker of the House of Lords
House of Lords
Westminster
SW1A 0PW

8 January 2020

Deu hord Fowler,

EUROPEAN UNION (WITHDRAWAL AGREEMENT) BILL

I am writing on behalf of the Welsh Government to invite Peers to consider tabling amendments to the European Union (Withdrawal Agreement) Bill which are intended to protect the interests of the devolved institutions.

While these amendments focus on securing an appropriate role for the devolved institutions as we leave the EU, they also serve the purpose of entrenching the rights of Parliament in respect of oversight of the forthcoming negotiations, which the UK Government has sought to remove from earlier drafts of the Bill.

While the conduct of international relations is a reserved matter under the devolution settlements, we are responsible for implementing international agreements. The Future Economic Partnership with the EU will inevitably have very serious impacts on areas within devolved competence, such as agriculture and rural affairs, education, economic development, research and development, including requiring changes to devolved legislation. It is essential that the devolved institutions are fully engaged with these negotiations – and indeed the negotiation of other international trade agreements – in order to ensure that we are not required to make changes within our competence which are at odds with the values and interests of our nations.

In brief, the amendments aim to:

- Ensure that the very wide-ranging Henry VIII powers in respect of the Northern Ireland Protocol (Clauses 21 and 22) are limited in a way other such powers are in the Bill, and were in the EU (Withdrawal) Act. This includes a restriction on amending the Government of Wales Act and other enactments fundamental to the devolved settlements in Scotland and Northern Ireland.

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- Provide for appropriate transparency and scrutiny by Parliament and the devolved legislatures at all stages of the negotiations (New Clause 30B inserting sections 13C to 13G to the EU (Withdrawal) Act): this is based on the model proposed in the version of the Bill published in October, noting that in the current version any role for Parliament has been stripped out.
- Ensure that where the UK Government sets negotiation positions, and prior to ratification, the agreement of the devolved governments is normally obtained (New Clause 30B inserting section 13H to the EU (Withdrawal) Act).
- Remove the prohibition on the UK Government from agreeing to an extension to the transition period (remove Clause 33) and provide a process for requiring the Government to request an extension of the transition period if no agreement on the future relationship is likely to be in place by December 2020 (New clause 30A inserting section 13C to the EU (Withdrawal) Act).
- Amend the clause on Parliamentary sovereignty (amendment to Clause 38) to make clear that this makes no changes to the current devolved settlements.
- Amend clause 26 to ensure that the Welsh Ministers are consulted before any regulations under clause 26 relating to the interpretation of retained EU law are made.
- Amend the provisions for transferring the functions of the Independent Monitoring Authority (amendment to Schedule 2, paragraph 39), to make equivalent provision for the transferee to have knowledge of practice in Wales.

While these amendments have been prepared and are proposed by the Welsh Government, they are supported by the Scottish Government.

I hope that members of the House will be prepared to table and support these amendments.

I am copying this letter to the Leader of the House of Lords, the Shadow Leader of the House of Lords, the leader of the Liberal Democrats in the House of Lords, the Convenor of the Crossbench peers, and the First Minister of Scotland.

Yours sincerely,


MARK DRAKEFORD

European Union (Withdrawal Agreement) Bill

[DRAFT]

WELSH GOVERNMENT PROPOSED AMENDMENTS

Clause 21

Page 25, line 14, at end insert –

“(6) But regulations under subsection (1) may not –

- (a) impose or increase taxation or fees,
- (b) make retrospective provision,
- (c) create a relevant criminal offence,
- (d) establish a public authority,
- (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
- (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).”

Explanatory statement

The new section 8C to be inserted into the European Union (Withdrawal) Act 2018 by clause 21 confers power on a Minister of the Crown to make regulations relating to the Ireland/Northern Ireland Protocol in the withdrawal agreement. The new subsection (6) proposed provides that the regulations may not make provision of the form mentioned in paragraphs (a) to (f), including amending the Scotland Act 1998, the Government of Wales Act 2006, and the Northern Ireland Act 1998 (except in limited circumstances). This is identical to equivalent restrictions on the Minister of the Crown’s power to make regulations under the new section 8B of the European Union (Withdrawal) Act 2018 (proposed to be inserted by clause 18).

Clause 22

Page 26, line 25, at end insert –

“(7) But regulations under this Part may not –

- (a) impose or increase taxation or fees,

- (b) make retrospective provision,
- (c) create a relevant criminal offence,
- (d) establish a public authority,
- (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
- (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment)."

Explanatory statement

The new paragraph 11M to be inserted into Schedule 2 to the European Union (Withdrawal) Act 2018 by clause 22 confers power on the devolved authorities to make regulations relating to the Ireland/Northern Ireland Protocol in the withdrawal agreement. The new sub-paragraph (7) proposed provides that the regulations may not make provision of the form mentioned in paragraphs (a) to (f), including amending the Scotland Act 1998, the Government of Wales Act 2006, and the Northern Ireland Act 1998 (except in limited circumstances). This is identical to equivalent restrictions on the devolved authorities' power to make regulations under new paragraph 11G of Schedule 2 to the European Union (Withdrawal) Act 2018 (proposed to be inserted by clause 19).

Clause 26

Page 31, line 11 leave out "and" and at end insert –

- "(f) the Scottish Ministers,
- (g) the Welsh Ministers, and
- (h) the First Minister and deputy First Minister in Northern Ireland or the Executive Office in Northern Ireland, and"

Explanatory statement

The new subsection (5A) proposed to be inserted into section 6 of the European Union (Withdrawal) Act 2018 by clause 26(1)(d) confers power on the Minister of the Crown to make regulations relating to how courts in the UK are to apply, and be bound by, retained EU case law. Proposed new subsection (5C) provides that before making the regulations, the Minister of the Crown must consult particular persons. The new paragraphs (f) to (h) to be inserted by this amendment provide for consultation with the Scottish Ministers, the Welsh Ministers, and the First Minister and deputy First Minister in Northern Ireland or the Executive Office in Northern Ireland.

After Clause 30

Insert the following new clauses –

"Approval of extension of implementation period

After section 13B of the European Union (Withdrawal) Act 2018 (certain dispute procedures under withdrawal agreement) (for which see section 30 above) insert –

“13C Extension of implementation period

- 5 (1) This section applies where no statement that political agreement has been reached has been made by 13 June 2020.
- (2) A Minister of the Crown must –
- 10 (a) before 17 June 2020, submit a request to the Joint Committee asking for an extension of two years to the implementation period, and
- (b) seek to achieve an extension of that duration or, if an extension of that duration is not agreed, an extension of the longest duration than can be agreed.
- (3) But subsection (2) does not apply if, at any time before 17 June 2020, conditions 1 to 4 are met.
- 15 (4) Condition 1 is that a Minister of the Crown has prepared a statement (a “no extension statement”) –
- (a) providing that despite no statement that political agreement has been reached having been made, an extension to the implementation period should not be sought, and
- 20 (b) setting out reasons why an extension to the implementation period should not be sought.
- (5) Condition 2 is that a Minister of the Crown has –
- 25 (a) laid the no extension statement before each House of Parliament,
- (b) sent the no extension statement to the First Minister for Scotland, who must, within three days –
- 30 (i) lay it before the Scottish Parliament, and
- (ii) table a motion for the Parliament to take note of it,
- (c) sent the no extension statement to the First Minister for Wales, who must, within three days –
- 35 (i) lay it before the National Assembly for Wales and
- (ii) table a motion for the National Assembly to take note of it,
- (d) sent the no extension statement to the Executive Office in Northern Ireland, or to the First Minister and deputy First Minister in Northern Ireland who may, within three days –
- 40 (i) lay it before the Northern Ireland Assembly and

(ii) table a motion for the Assembly to take note of it.

(6) Condition 3 is that—

(a) the motion tabled by the First Minister for Scotland in accordance with subsection (5)(b)(ii)—

(i) has been debated by the Scottish Parliament, or

(ii) the Parliament has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled,

(b) the motion tabled by the First Minister for Wales in accordance with subsection (5)(c)(ii)—

(i) has been debated by the National Assembly for Wales, or

(ii) the National Assembly has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled, and

(c) if a motion has been tabled by the First Minister and deputy First Minister in Northern Ireland in accordance with subsection (5)(d)(ii), it—

(i) has been debated by the Northern Ireland Assembly, or

(ii) the Assembly has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled.

(7) Condition 4 is that after conditions 1 to 3 have been met—

(a) a motion for the House of Lords to take note of the no extension statement has been tabled in that House by a Minister of the Crown and—

(i) the House of Lords has debated the motion, or

(ii) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the motion is tabled, and

(b) the House of Commons has subsequently passed a motion in the form set out in subsection (8).

- (8) The form of motion mentioned in subsection (7)(b) is: “That this House, for the purposes of section 13C of the European Union (Withdrawal) Act 2018, agrees in accordance with the no extension statement laid before this House on [...] under section 13C(5) of that Act that no extension to the implementation period should be sought.”

Explanatory statement

This amendment proposes that a new section 13C be inserted into the European Union (Withdrawal) Act 2018 which provides that unless a Minister of the Crown has made a statement by 13 June 2020 that political agreement has been reached with the EU on a draft treaty on the future relationship of the UK with the EU, a Minister of the Crown must request a two year extension to the implementation period at the Joint Committee and must seek to achieve that extension.

This duty does not apply where conditions 1 to 4 in subsections (4) to (7) are met. The conditions require a Minister of the Crown to prepare a statement explaining why no extension should be sought. And both Houses of Parliament and the devolved administrations and legislatures must be given an opportunity to consider and debate the statement. The final condition is that the House of Commons must pass a motion agreeing that no extension should be sought to the implementation period.

Oversight of negotiations for future relationship

After section 13C of the European Union (Withdrawal) Act 2018 (approval of extension of implementation period) (for which see section 30A above) insert –

“13D Objectives for future relationship: statement

- (1) A Minister of the Crown must, before the end of the period of 30 Commons sitting days beginning with the day on which exit day falls, make a statement on objectives for the future relationship with the EU (an “objectives statement”).
- (2) Before making the initial objectives statement the Minister of the Crown must consult –
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the First Minister and deputy First Minister in Northern Ireland or the Executive Office in Northern Ireland.
- (3) A Minister of the Crown may, at any time after the initial objectives statement is made, make a revised objectives statement.
- (4) Before making a revised objectives statement the Minister of the Crown must consult –
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and

(c) the First Minister and deputy First Minister in Northern Ireland or the Executive Office in Northern Ireland.

(5) An objectives statement made under this section must contain an assessment of the impact a future relationship treaty that is consistent with those objectives would have on the economic, social and environmental well-being of the people of England, of Scotland, of Wales and of Northern Ireland.

13E Negotiations for future relationship: preconditions

(1) A Minister of the Crown may not engage in negotiations on the future relationship with the EU unless conditions 1 to 4 are met.

(2) Condition 1 is that an objectives statement has been laid before each House of Parliament.

(3) Condition 2 is that a Minister of the Crown has –

(a) sent the objectives statement to the First Minister for Scotland, who must, within three days –

(i) lay it before the Scottish Parliament, and

(ii) table a motion for the Parliament to take note of it,

(b) sent the objectives statement to the First Minister for Wales, who must, within three days –

(i) lay it before the National Assembly for Wales and

(ii) table a motion for the National Assembly to take note of it,

(c) sent the objectives statement to the Executive Office in Northern Ireland, or to the First Minister and deputy First Minister in Northern Ireland who may, within three days –

(i) lay it before the Northern Ireland Assembly and

(ii) table a motion for the Assembly to take note of it.

(4) Condition 3 is that –

(a) the motion tabled by the First Minister for Scotland in accordance with subsection (3)(a)(ii) –

(i) has been debated by the Parliament, or

(ii) the Parliament has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled,

- (b) the motion tabled by the First Minister for Wales in accordance with subsection (3)(b)(ii) –
- (i) has been debated by the National Assembly, or
 - (ii) the National Assembly has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled, and
- (c) if a motion has been tabled by the First Minister and deputy First Minister in Northern Ireland in accordance with subsection (3)(c)(ii), it –
- (i) has been debated by the Assembly, or
 - (ii) the Assembly has not concluded a debate on the motion before the end of the period of five sitting days beginning with the first sitting day after the day on which the motion is tabled.

(5) Condition 4 is that after conditions 1 to 3 have been met –

- (a) a motion for the House of Lords to take note of the objectives statement has been tabled in that House by a Minister of the Crown and –
- (i) the House of Lords has debated the motion, or
 - (ii) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the motion is tabled, and
- (b) the House of Commons has subsequently approved the objectives statement on a motion moved by a Minister of the Crown.

(6) In conducting negotiations on the future relationship with the EU, a Minister of the Crown must seek to achieve the objectives set out in the most recent objectives statement to have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.

13F Negotiations for future relationship: reporting on progress

- (1) After the end of each reporting period, a Minister of the Crown must –
- (a) lay before each House of Parliament a report on the progress made, by the end of the period, in negotiations on the future relationship with the EU, including –

- 5
- (i) the Minister's assessment of the extent to which the outcome of those negotiations is likely to reflect the most recent objectives statement to have been approved by the House of Commons, as mentioned in section 13E(5), and
- (ii) if the Minister's assessment is that the future relationship with the EU is, in any respect, not likely to reflect that statement, an explanation of why that is so,
- 10
- (b) send the report to the First Minister for Scotland, who must lay it before the Scottish Parliament,
- (c) send the report to the First Minister for Wales, who must lay it before the National Assembly for Wales, and
- 15
- (d) send the report to the Executive Office in Northern Ireland, or to the First Minister and deputy First Minister in Northern Ireland who may lay it before the Northern Ireland Assembly.
- (2) Subsections (3) and (4) relate to any of the objectives set out in the objectives statement and apply if 8 months before the end of the implementation period –
- 20
- (a) a Minister of the Crown makes a statement that no agreement in principle can be reached with the EU on the objective, or
- (b) there is no agreement in principle on the objective.
- 25
- (3) A Minister of the Crown must make a statement setting out how Her Majesty's Government proposes to proceed within the period of 14 days beginning with –
- (a) the day on which the statement mentioned in subsection (2) is made, or
- 30
- (b) (if no statement is made) the day that is 8 months before the end of the implementation period.
- (4) The Minister of the Crown must –
- (a) lay the statement made under subsection (3) before each House of Parliament,
- 35
- (b) send the statement to the First Minister for Scotland who must lay it before the Scottish Parliament and, within the period of seven sitting days beginning with the day on which the statement is made, move a motion for the Parliament to take note of it,

- 5
- (c) send the statement to the First Minister for Wales who must lay it before the National Assembly for Wales and, within the period of seven sitting days beginning with the day on which the statement is made, move a motion for the National Assembly to take note of it,
- 10
- (d) send the statement to the Executive Office in Northern Ireland, or the First Minister and deputy First Minister in Northern Ireland who may lay it before the Northern Ireland Assembly and, within the period of seven sitting days beginning with the day on which the statement is made, move a motion for the Assembly to take note of it, and
- 15
- (e) make arrangements for –
- (i) a motion, to the effect that the House of Commons has considered the statement, to be moved by a Minister of the Crown within the period of seven sitting days beginning with the day on which the statement is made, and
- 20
- (ii) a motion for the House of Lords to take note of the statement to be moved by a Minister of the Crown within the period of seven sitting days beginning with the day on which the statement is made.

13G Ratification of future relationship

- 25
- (1) This section applies if, in the opinion of a Minister of the Crown, an agreement in principle has been reached with the EU on a treaty the principal purpose of which is to deal with all or part of the future relationship with the EU.
- 30
- (2) A Minister of the Crown must lay before each House of Parliament –
- (a) a statement that political agreement has been reached, and
- (b) a copy of the negotiated future relationship treaty.
- 35
- (3) A Minister of the Crown must also send the documents mentioned in subsection (2) to –
- (a) the First Minister for Scotland, who must lay them before the Scottish Parliament and move a motion for the Parliament to take note of them,
- 40
- (b) the First Minister for Wales, who must lay them before the National Assembly for Wales and move a motion for the National Assembly to take note of them, and

- 5
- (c) the Executive Office in Northern Ireland, or to the First Minister and deputy First Minister in Northern Ireland who may lay them before the Northern Ireland Assembly and move a motion for the Assembly to take note of them.
- (4) A treaty in the same form, or to substantially the same effect, as the negotiated future relationship treaty may be ratified only if conditions 1, 2 and 3 have been met.
- (5) Condition 1 is that—
- 10
- (a) the motion mentioned in subsection (3)(a)—
- (i) has been debated by the Scottish Parliament, or
- (ii) the Parliament has not concluded a debate on the motion before the end of the period of 14 sitting days beginning with the first sitting day after the day on which the motion is tabled,
- 15
- (b) the motion mentioned in subsection (3)(b)—
- (i) has been debated by the National Assembly for Wales, or
- (ii) the National Assembly has not concluded a debate on the motion before the end of the period of 14 sitting days beginning with the first sitting day after the day on which the motion is tabled, and
- 20
- (c) if the motion mentioned in section (3)(c) has been tabled, it—
- (i) has been debated by the Northern Ireland Assembly, or
- (ii) the Assembly has not concluded a debate on the motion before the end of the period of 14 sitting days beginning with the first sitting day after the day on which the motion is tabled.
- 25
- (6) Condition 2 is that—
- (a) the House of Lords has not resolved, within the period of 21 Lords sitting days beginning with the day on which the negotiated future relationship treaty is laid before that House, that any treaty resulting from it should not be ratified, or
- 30
- (b) if the House of Lords has so resolved within that period, a Minister of the Crown has laid before each House of Parliament a statement indicating that the Minister is of the opinion that the treaty should nevertheless be ratified and explaining why.
- 35
- 40

- (7) Condition 3 is that the negotiated future relationship treaty has subsequently been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown.
- (8) Section 20 of the Constitutional Reform and Governance Act 2010 (treaties to be laid before Parliament before ratification) does not apply in relation to a treaty if this section applies in relation to the ratification of that treaty.

13H Consent of devolved authorities normally to be obtained

- (1) This section applies in relation to the functions of a Minister of the Crown—
- (a) to make an objectives statement in accordance with section 13D(1),
 - (b) to make a revised objectives statement (where applicable) in accordance with section 13D(3), and
 - (c) to lay a statement that political agreement has been reached with the EU on a treaty for the future relationship with the EU and to lay a copy of the negotiated future relationship treaty in accordance with section 13G(2).
- (2) It is recognised that before exercising those functions, the Minister of the Crown is expected to obtain the consent of—
- (a) the Scottish Ministers in relation to their impact on Scotland;
 - (b) the Welsh Ministers in relation to their impact on Wales;
 - (c) the First Minister and deputy First Minister in Northern Ireland in relation to their impact on Northern Ireland.
- (3) Where consent has not been obtained, the Minister of the Crown must, before exercising the function, lay before each House of Parliament—
- (a) where the Minister has not sought the consent of a person referred to in subsection (2), a statement explaining why consent was not sought, and
 - (b) where the Minister has sought the consent of a person referred to in subsection (2) and that consent has not been given, a statement—
 - (i) noting that consent has not been given, and
 - (ii) recording any reason provided by that person as to why consent has not been given.

13I Interpretation

In sections 13C to 13H—

“devolved legislature” means –

- (a) the Scottish Parliament,
- (b) the National Assembly for Wales, or
- (c) the Northern Ireland Assembly;

5 “future relationship with the EU” means the main arrangements which are designed to govern the security and economic aspects of the long-term relationship between the United Kingdom and the EU after IP completion day and to replace or modify the arrangements which apply during the implementation period, but does not include the withdrawal agreement;

10 “negotiated future relationship treaty” means a draft of a treaty identified in a statement that political agreement has been reached;

15 “negotiations” means negotiations the opening of which, on behalf of the EU, has been authorised under Article 218 of the Treaty on the Functioning of the European Union;

“no extension statement” means a statement made in accordance with section 13C(4);

20 “objectives statement” means a statement on objectives for the future relationship with the EU” –

- (a) made in writing by a Minister of the Crown setting out proposed objectives of Her Majesty’s Government in negotiations on the future relationship with the EU, and
- (b) published in such manner as the Minister making it considers appropriate;

“reporting period” means –

- (a) the period of three months beginning with the first day on which an objectives statement is approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown, and
- (b) each subsequent period of three months;

“sitting day” means –

- (a) in relation to the House of Commons, a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);
- (b) in relation to the House of Lords, a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);

(c) in relation to the Scottish Parliament, any working day falling within a week in which the Parliament sits in plenary;

5 (d) in relation to the National Assembly for Wales, any working day falling within a week in which the National Assembly sits in plenary;

(e) in relation to the Northern Ireland Assembly, any working day falling within a week in which the Assembly sits in plenary;

10 “statement that political agreement has been reached” means a statement made in writing by a Minister of the Crown which –

15 (a) states that, in the Minister’s opinion, an agreement in principle has been reached with the EU on a treaty the principal purpose of which is to deal with all or part of the future relationship with the EU, and

(b) identifies a draft of that treaty which, in the Minister’s opinion, reflects the agreement in principle;

20 “treaty” has the same meaning as in Part 2 of the Constitutional Reform and Governance Act 2010 (see section 25(1) and (2) of that Act);

“working day” means any day unless it is –

(a) a Saturday or a Sunday,

(b) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday,

25 (c) a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971, or

(d) a day appointed for public thanksgiving or mourning.””

Explanatory statement

30 *This amendment proposes that new sections be inserted into the European Union (Withdrawal) Act 2018 relating to parliamentary oversight of the negotiations and ratification of the future relationship with the EU.*

35 *Sections 13D and 13E require a Minister of the Crown to prepare a statement on objectives for the future relationship with the EU (referred to as an “objectives statement”). It must include an assessment of the impact a treaty complying with those objectives would have on the people of each of England, Scotland, Wales, and Northern Ireland. Both Houses of Parliament and the devolved administrations and legislatures must be given an opportunity to consider and debate the statement.*

40 *Section 13F relates to reporting on progress made in negotiations with the EU. In particular it provides that if no agreement in principle has been reached with the EU 8 months before the end of the implementation period, a Minister of the Crown is required to make a statement setting out how the UK Government proposes to proceed. The statement must be shared with the devolved administrations and legislatures.*

Section 13G provides a role for the UK Parliament and the devolved legislatures in the ratification of a future relationship treaty, once agreement in principle has been reached between the UK Government and the EU. Ultimately, the treaty may only be ratified if it is approved by a resolution of the House of Commons.

5 Section 13H provides that a Minister of the Crown is expected to seek the consent of the devolved administrations before making an objectives statement (or a revised statement), and before laying a draft future relationship treaty before the UK Parliament.

Clause 33

10 Leave out Clause 33.

Explanatory statement

15 *This amendment would omit clause 33 which proposes to insert a new section 15A into the European Union (Withdrawal) Act 2018 that prohibits a Minister of the Crown from agreeing to an extension of the implementation period in the Joint Committee .*

Clause 38

Page 37, line 39, at end insert—

- 20 “(4) But it is also recognised for the purposes of ratifying and implementing a negotiated future relationship treaty, that—
- (a) in accordance with section 28(8) of the Scotland Act 1998, the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament;
 - 25 (b) in accordance with section 107(6) of the Government of Wales Act 2006, the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the National Assembly for Wales.”

Explanatory statement

30 *This clause makes provision recognising that nothing in the Bill derogates from the sovereignty of the UK Parliament. This amendment provides that it is also recognised that in relation to ratifying and implementing a future relationship treaty with the EU (in accordance with the Scotland Act 1998 and the Government of Wales Act 2006), the UK Parliament will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament and the National Assembly for Wales.*

35

Schedule 2

Page 59, line 31, at end insert—

- 40 “(4) Sub-paragraph (5) applies for the purpose of ensuring that the transferee has knowledge of conditions relating to the relevant matters in—

- (a) Scotland,
- (b) Wales, and
- (c) Northern Ireland.

5 (5) Regulations under sub-paragraph (1) must, so far as possible, make provision equivalent to paragraphs 4 and 5 in respect of the transferee."

Explanatory statement

10 *Schedule 2 to the Bill makes further provision about the constitution and functions of the Independent Monitoring Authority (IMA). Paragraph 4(2) provides that the Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include members with knowledge about conditions in Scotland, Wales and Northern Ireland relating to the (defined) "relevant matters". Paragraph 5 gives each devolved authority a role in the appointment of the non-executive member.*

15 *Paragraph 39(1) allows the Secretary of State to make regulations to transfer the functions of the IMA to another relevant public authority (the "transferee"). This amendment provides that if the Secretary of State were to exercise the power under paragraph 39(1), the regulations made must, so far as possible, make provision equivalent to paragraphs 4 and 5 to ensure that the transferee has knowledge of conditions in all of*
20 *the devolved areas.*

Agenda Item 4

By virtue of paragraph(s) vi of Standing Order 17.42

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