

Mick Antoniw MS

Chair of the Legislation, Justice, and Constitution Committee

14 January 2021

Dear Mick,

European Union (Future Relationship) Act 2020

The Counsel General and Minister for European Transition (“the Counsel General”) appeared before the External Affairs and Additional Legislation Committee on Monday 11 January 2021.

During the course of the session, we sought further information about the use of powers available to UK Ministers to legislate in areas of devolved competence, under the European Union (Future Relationship) Act 2020.

The Counsel General responded in the following terms:

Our clear understanding is that there's no immediate need for any secondary legislation, so there isn't any immediate secondary legislation planned. That's partly by virtue of the operation of section 29 in the Act, which is a—what's the best way of putting this—an omnibus provision, I suppose would be the benign way of describing it, which effectively requires all domestic law to be interpreted in compliance or in conformity, rather, with the provisions of the agreement. That's highly unsatisfactory, obviously, for reasons that we will all be conscious of. But the one benefit of it is that it removes the immediate need for a whole raft of secondary legislation.

The UK Government has made a commitment in the delegated powers memorandum for the Act to mirror the provision that appears in other arrangements to not normally legislate without the agreement of the Welsh Government in Wales. Obviously, we have similar commitments in other parts of our constitutional and Brexit arrangements. We have seen that work in parts, but not in other parts, obviously. And I think in terms of the role of the Senedd, we'll probably envisage using something like the Standing Order 30 mechanism to notify the Senedd



Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN

✉ SeneddMADY@senedd.cymru

☎ 0300 200 6565

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN

✉ SeneddEAAL@senedd.wales

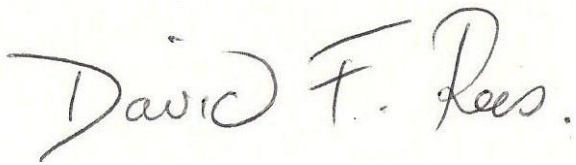
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where Welsh Ministers are consenting to the UK Government legislating, but that's very much a kind of evolving picture at the moment about how the Senedd can best be engaged in that, it seems to me.

Additionally, the Counsel General said that he would welcome a view from Senedd committees on how best to proceed with scrutiny arrangements.

We wanted to draw this to your attention, given the likely interest that the Legislation, Justice, and Constitution Committee would have in this matter.

Yours sincerely,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large initial 'D' and 'R'.

David Rees MS

Chair of the External Affairs and Additional Legislation Committee

