

Ref: 020MISC21

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**Mick Antoniw MS**

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16 February 2021

Dear Mick,

**The Sewel Convention**

Thank you for your letter of 21 January regarding the application of the Sewel Convention to the United Kingdom Internal Market Bill (the Bill).

As set out in the Minister of State for Small Business, Consumers and Labour Markets' written statement of 17 December 2020, it was the UK Government's intention from the very outset of the process to legislate for the Bill with the consent of all devolved legislatures. As with every UK Government Bill that engages the legislative consent process, we followed the associated practices and procedures for seeking consent from the devolved administrations. We therefore wrote to all three devolved administrations in advance of introduction of the Bill seeking consent.

In this respect I disagree with your assertion that the 'not normal' circumstances of the Bill meant that the Sewel Convention did not apply. The convention applies in all circumstances where Parliament seeks to legislate on devolved matters and the UK government seeks consent on this basis. The convention recognises however that there are circumstances in which it may be necessary for Parliament to legislate irrespective of whether or not consent is obtained. The inclusion of the words 'not normal' within the convention acknowledges that Parliament is sovereign and therefore it is ultimately for Parliament whether to use its power to legislate in any such circumstances.

Our work with the Welsh Government alongside the Bill's parliamentary passage sought to clarify the concerns that they had raised with us with the hope of reaching a point at which the Welsh Government could recommend that the Senedd granted consent to the Bill. I was pleased that as a result of this engagement we were able to bring forward amendments to the Bill to directly address a number of issues.

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This included providing a mechanism that would enable divergence under Common Frameworks to be excluded from the Market Access Principles where there is agreement between all four parts of the UK, as well as ensuring that the Secretary of State is obliged to seek the consent of the devolved administrations when panel appointments are made to the Office of the Internal Market. The UK Government deeply regrets that, despite efforts to find common ground, both the Senedd and the Scottish Parliament refused consent for the Bill. However, we sought consent in good faith and are confident that the legislation is more robust and more attuned to Welsh Government concerns in particular as a result.

The Bill, now Act, is vital in ensuring that businesses in Wales and across the UK can continue to trade freely within our internal market now that the Transition Period has ended. Our consultation highlighted the real concerns that businesses, including those in Wales, had about the potential for regulatory divergence between parts of the UK to create new internal barriers to trade. It is the Government's view that legislation of this kind must be in place across the whole UK in order to provide businesses and consumers from all parts of our country with the same legal protections and advantages. Taking all of this into account, we made the difficult decision at the end of the process that it was necessary to proceed with the Bill without consent and to bring key parts of the Act into force before the end of the Transition Period on 31 December 2020. This is not a decision that was taken lightly, however as I have made clear, it was in line with the convention.

The Government remains firmly committed to the Sewel Convention and its associated practices. The convention continues to work well and it remains the case that the vast majority of UK Parliamentary Bills that intersect with devolved competence are passed with the consent of the devolved legislatures. This has enabled provisions to be made in parliamentary primary legislation which are of great benefit to Wales and ensured that the Senedd has the necessary time and capacity to deliver its distinct programme of legislation. The information provided in explanatory notes which accompany UK primary legislation provide transparency on the provisions for which consent is being sought.

It is a matter for Parliament to consider the role that it should play in respect of the Sewel Convention. I am sure that your Committee will be aware of the implementation of a new procedure in the House of Lords, proposed by the Procedure and Privileges Committee and which the UK Government adopted for the first time in the course of the UKIM Bill's passage. Under this procedure the UK Government is expected to provide peers with a statement to the House outlining the reasons why legislative consent has been refused or not yet granted by the relevant devolved legislatures prior to the commencement of Third Reading.

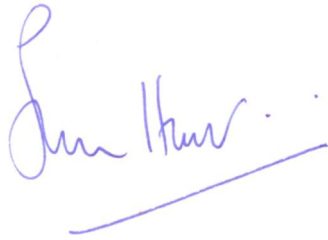
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Letters from the Clerks of each of the relevant devolved legislatures detailing the outcome of LCMs are also made available on the Parliament website. The UK Government will engage constructively with Parliament and its committees on any ongoing improvements to the legislative consent process.

I am copying this letter to the Secretary of State for Business, Energy and Industrial Strategy, the Minister for Small Business, Consumers and Labour Markets, the Minister of State for the Constitution and Devolution, the Chairs of the External Affairs and Additional Legislation Committee, Finance and Constitution Committee, Committee for the Executive Office, the Welsh Affairs Committee, the Public Administration and Constitutional Affairs Committee, and the Lords Constitution Committee.

Yours sincerely,



**Rt Hon Simon Hart MP**  
Secretary of State for Wales  
Ysgrifennydd Gwladol Cymru