



The Rt Hon. Jacob Rees-Mogg MP
Secretary of State for Business, Energy and Industrial Strategy
1 Victoria Street
London
SW1H 0ET

20 September 2022

Dear Mr Rees-Mogg,

I would like to congratulate you on your new appointment, and I look forward to continuing constructive engagement, where possible, on matters which affect devolved areas.

We were due to speak on the afternoon of 6 September to discuss the Retained EU Law (Reform and Revocation) Bill, though the meeting was shelved due to the activities on the day. In that context, it is regrettable that work has continued on the Bill without consultation at the Ministerial level with the Welsh Government. I have refrained from writing to you till today out of respect for the period of national mourning. However, I look forward to our discussion on Thursday.

I welcomed your assurance to me, in your letter of 29 July, that the UK Government remained committed to respecting devolution and honouring the Sewel convention and my expectation is that that will continue.

In my letter to you of 11 August, I outlined fundamental points of concern regarding the Bill which, based on the latest draft we saw on 2 September, still need to be addressed before it is introduced. I now understand this is planned for later this week. It is critical that we work together on these matters and of the utmost importance to the Welsh Government and to the Senedd that our constitutional integrity and our devolution settlement are respected and preserved.

I have previously made the point, and this has been reiterated by officials, that the starting point should be that any powers to amend retained EU law (REUL) in areas of devolved competence should reside with the Welsh Ministers, with any powers held concurrently in such areas to be drafted to include a requirement for Ministers of the Crown to obtain the consent of the Welsh Ministers before they are exercised. I would welcome a response on how you intend to deal with this before the Bill is introduced.

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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.

Any power that could see the UK Government legislating in devolved areas without the consent of the Welsh Ministers would be entirely unacceptable, both to the Welsh Government and to the Senedd.

The latest draft of the Bill did not have text on the sunseting or normalisation (which we understand has changed to the 'assimilation') of REUL. However, I understand that, in a write round process, sunseting is the option being presented, along with a date of 31 December 2023.

On sunseting itself, the UK Government must not seek to sunset legislation made by the Senedd. I also want to highlight the very considerable concerns we have regarding a sunseting date of the end of 2023. This will place an entirely unnecessary and enormous burden on Devolved Governments to revisit this body of law at a time when the focus should be on far more important issues. Our preference, as has been conveyed previously, if anything is to be done regarding REUL, is for normalisation/assimilation of REUL over a long timeline rather than sunseting. Moreover, if there is to be a power in the Bill to extend the sunseting date this must be exercisable by the Welsh Ministers in devolved areas.

It is vital that these outstanding issues and other concerns are resolved before the Bill is introduced in Parliament.

On the Law Officer reference and intervention powers in the Bill, the Welsh Government has expressed some concerns to your officials on the current proposals, mainly that (i) devolved Law Officers need intervention rights on a par with UK Government Law Officers to intervene in matters which on first sight may not be in non-reserved areas, given the potential impact on non-reserved areas, and (ii) any commitments made by UK Government Law Officers not to interfere in devolved areas should be on the face of the Bill, not in a statement during the passage of the Bill.

I am copying this letter to Angus Robertson MSP, Cabinet Secretary for the Constitution, External Affairs and Culture, and Jayne Brady, Head of the Civil Service in Northern Ireland.

Yours sincerely,

A handwritten signature in blue ink, reading "Mick Antoniw". The signature is written in a cursive style and is positioned above a short horizontal line.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution