Dear Alun

I am writing in response to your letter of 16 March 2018 about changes to the European Union (Withdrawal) Bill. I note the summary of the changes you intend to make to the Bill at Lords Report, and the progress in respect of other matters, including the correction of within competence deficiencies in the Government of Wales Act 2006, the correction to the technical standards reservation, and your proposal in respect of enhanced explanatory material.

You raise a specific question in respect of the ‘sifting committee’ provisions, with reference to the recommendation of the Constitutional and Legislative Affairs Committee that the provisions should apply to instruments laid before the Assembly, and that the sifting committee’s recommendation on the appropriate procedure should be binding. The Welsh Government’s view is that it would be appropriate for the sifting committee provisions as set out in the Bill to apply to instruments laid before the Assembly.

However, we are not persuaded that the recommendation made by the sifting committee should be binding. It is right that the exercise of delegated powers should be subject to appropriate and proportionate scrutiny and I expect that in the vast majority of cases Welsh Ministers will accept the recommendation of the sifting committee. However, there may be situations where – for reasons of urgency – Welsh Ministers will need to act more quickly than the affirmative procedure provides for, and it is essential the government retains the flexibility to do so, notwithstanding the recommendations of the sifting committee. We also believe there is a strong case for maintaining consistent arrangements between the National Assembly and the UK Parliament.

I can also confirm that we have no other proposed changes to the scrutiny arrangements for the Welsh Ministers’ powers.

I am copying this letter to the Presiding Officer and to the Chair of the Assembly’s Constitutional and Legislative Affairs Committee.

Yours sincerely

CARWYN JONES

29th March 2018