

Elin Jones AM  
Llywydd  
Chair, Business Committee

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Annwyl Lywydd,

### **Statutory Instruments made by UK Ministers requiring Assembly consent**

At our meeting on 17 September we discussed the current arrangements in respect of statutory instruments made by UK Ministers that require the consent of the National Assembly.

You will be aware that Standing Order 30A states that a member of the government must lay a Statutory Instrument Consent Memorandum (SICM) in relation to any statutory instrument laid before the UK Parliament by UK Ministers which amends primary legislation within the legislative competence of the National Assembly. The SICM should be laid before the Assembly normally no later than three days after the relevant statutory instrument is laid before the UK Parliament.

Statutory Instruments made under the *European Union (Withdrawal) Act 2018* by UK Ministers who are acting in devolved areas will trigger the process set out in Standing Order 30A.

Recommendation 7 of our report *Scrutiny of regulations made under the European Union (Withdrawal) Act 2018: operational matters* said:

“We recommend that the National Assembly’s Standing Orders require that, where UK Ministers acting alone in devolved areas lay before the UK Parliament regulations in areas within the legislative competence of the National Assembly or the executive competence of the Welsh Ministers, and where the Welsh Ministers are required to give their consent to the making of those regulations:



- the Welsh Ministers notify the National Assembly within one working day of the regulations being laid; and
- such notification is accompanied by an explanatory memorandum summarising the purpose and impact of the regulations and explaining why the Welsh Ministers have given their consent.”

The Welsh Government, in its **response** to our report, has agreed that notification to the Assembly should be accompanied by an explanation of the purpose and impact of the regulations.

For that reason, laying a separate Memorandum under the Standing Order 30A SICM process may be unnecessary. We believe it should be possible to make provision in Standing Orders for a Welsh Government Explanatory Memorandum related to a Brexit-related statutory instrument made by UK Ministers in a devolved areas to constitute a SICM for the purpose of Standing Order 30A. Amending Standing Orders in this way would prevent a duplication of explanatory memorandums.

As the Committee responsible for the functions specified in Standing Order 21.7, SICMs may be considered by the Constitutional and Legislative Affairs Committee (Standing Order 30A.6). Current practice involves the Welsh Government writing directly to us when a SICM is laid. For that reason, we believe it is appropriate to draw this matter to the attention of the Business Committee.

Yours sincerely,



**Mick Antoniw**

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.

