

Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair of Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

16 October 2018

Dear Mick,

Changes to Standing Order relating to section 116C Orders in Council

Thank you for your letter of 8 October. As I set out in the debate on the revisions to Standing Orders on 10 October, section 116C orders in Council are subordinate legislation subject to the affirmative procedure. As Dai Lloyd AM, on behalf of your committee, noted during the debate Standing Order 27 is the relevant Standing Order for scrutiny of subordinate legislation. It already provides for most of the procedure necessary to scrutinise s116C Orders. We agree the way in which the Assembly operates, through its procedures, needs to be accessible to the public. However, we consider incorporating the procedure in Standing Order 27 is the most appropriate approach, as it consolidates the Standing Orders for subordinate legislation and avoids duplication of procedures in different Standing Orders, thus helping with accessibility and transparency. Last week, the Assembly agreed the same approach to Standing Order 27 with regard to statutory instruments made by Welsh Ministers relating to EU exit.

Standing Order 25 was established to deal with section 109 Orders, as they existed under the pre-2011 devolution settlement—the old legislative competence Orders or LCOs of the third Assembly. Section 116C Orders, whilst relating to devolving new tax-making powers to the Assembly, are different from LCOs; they will only come forward after a period of negotiation and consultation and on the basis of consensus between the Welsh and UK Governments. The two-step process of the LCO, where proposed and draft Orders are scrutinised, is not appropriate in this situation.

The Government has made a number of commitments regarding the information that will be provided to the Assembly during the negotiating phase in advance of a section 116C being brought forward. These are set out in the Business Committee's report, and include providing briefings to you on behalf of the Committee. However, in light of the comments in your letter and during the debate, the Cabinet Secretary for Finance would be happy to consider other options to keep the committee as a whole updated, if they would find that helpful. This will of course be governed by the context of inter-governmental confidentiality and relationships.

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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.

There are ongoing discussions between our respective officials about future arrangements for keeping the Assembly committees informed about the operation of the inter-governmental relations machinery. The Government is very open to establishing appropriate arrangements. We can include the Joint Exchequer Committee in that process.

Finally, as Dai Lloyd AM said in his closing remarks, the process established by section 116C of the Government of Wales Act is new. I can confirm the commitment I made in the debate that the Government will review the process of devolving a new tax to Wales in the light of experience.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Julie', with a large, sweeping initial 'J'.

Julie James AC/AM

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