



Eich cyf/Your ref
Ein cyf/Our ref

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

04 April 2019

Dear Mick,

Thank you for your letter regarding the Welsh Government's approach to amending statutory instruments (SIs) where technical issues have been identified. When this occurs there are options open to the Welsh Government, including

- making an amending SI to specifically address the issue,
- making the necessary amendments the next time the principal SI is amended, or
- using another SI in a related area as the vehicle to make the amendments.

The choice between these options is influenced by a number of factors, including the legal significance of the issue, the urgency with which it needs to be addressed, its priority in relation to other planned legislation, and the availability of an appropriate legislative vehicle by which to make the amendments. For example, some SIs are updated on a regular basis, thus affording a ready-made opportunity for non-urgent amendments, whilst others may not be due for review for some years, in which case another approach would be appropriate to ensure the statute book is corrected.

Your letter highlighted two SIs you had considered recently where the Government responses to your reports differed. These illustrate very well the different situations and choices. You note an SI amending the Sea Fishing (Penalty Notices) (Wales) Order 2019 would be made **“as soon as possible.”** Here, the issue was such that if not addressed the SI would be *ultra vires* when it came into force. An amending SI had to be made to correct this position immediately. In the case of the Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019, however, our response to one Committee reporting point indicated an amendment will be made **“at the next available opportunity.”** The issue there was that the SI revoked a provision which had already been revoked. This matter, whilst needing to be addressed for accuracy, is not of the same order as the issue in the Sea Fishing SI. As a consequence the Welsh Government has acknowledged the amendments required

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

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.

and will identify the next available appropriate legislative vehicle in which they can be incorporated.

I hope this helps illustrate the factors which are taken into account in these matters.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans." The signature is written in a cursive, flowing style.

Rebecca Evans AC/AM

Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd