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BELFAST  
BT4 3XX

20 January 2020

**Dear Ms Casey,**

**European Union (Withdrawal Agreement) Bill**

Please find copies of deposited papers in relation to the EU Withdrawal Agreement Bill for depositing in the Assembly Library.

Yours sincerely,



**The Rt Hon Arlene Foster MLA**  
**First Minister**



**Michelle O'Neill MLA**  
**deputy First Minister**

## EU Withdrawal Agreement Bill

### Motion on Legislative Consent, 20 January 2020

*That the Assembly notes the request from the Secretary of State for Exiting the European Union for the consent of the Assembly for the provisions of the European Union (Withdrawal Agreement) Bill which affect its competence; and affirms that the Assembly does not agree to give its consent.*

The following information may be of interest to Members:

<b>Item</b>	<b>Location</b>
Letter from Secretary of State for Exiting the EU	Annex A
Clauses associated with letter from Secretary of State for exiting the European Union	Annex B
Parliamentary Website containing Bill and outlining its passage	<a href="https://services.parliament.uk/Bills/2019-20/europeanunionwithdrawalagreement/documents.htm">https://services.parliament.uk/Bills/2019-20/europeanunionwithdrawalagreement/documents.htm</a> ↓



Department  
for Exiting the  
European Union

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Michelle O'Neill MLA  
deputy First Minister  
The NI Executive  
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13 January 2020

Dear Arlene and Michelle,

As you will be aware, the European Union (Withdrawal Agreement) Bill ('the Bill') was introduced to the House of Commons on 19 December 2019. The Bill does what is necessary in domestic law to meet the international obligations set out in the EU Withdrawal Agreement, the separation agreement we have concluded with EEA EFTA states, and the agreement on citizens' rights with Switzerland. In addition, the Bill also contains measures, not directly related to the implementation of the Withdrawal Agreement, which provide additional assurances regarding the UK's exit from the EU.

**Because parts of the Bill will affect the competence of devolved institutions and will legislate in devolved areas, I am writing today to seek the consent of the Northern Ireland Assembly.** I have set out in the Annex to this letter the clauses for which the UK Government is seeking legislative consent.

In December, I wrote in similar terms to Jeremy Miles AM, Counsel General and Brexit Minister in the Welsh Government and Michael Russell MSP, Cabinet Secretary for Government Business and Constitutional Relations in the Scottish Government. The Permanent Secretary of the Department for Exiting the European Union also wrote to David Sterling, Head of the Northern Ireland Civil Service in December in the absence of a Northern Ireland Executive.

Following the Sewel Convention and associated practices, the UK Government is seeking the consent of the Northern Ireland Assembly for those provisions in this Bill which legislate with regard to devolved matters or alter the competence of the devolved institutions.

You have my assurance that the UK Government remains committed to fully engaging with the Northern Ireland Assembly and supporting its inquiries on the Bill.

UK Government officials have engaged at length on a technical basis with the Northern Ireland Civil Service on the development of this legislation from the summer of 2018, and I would like to pay tribute to the diligence of NICS colleagues throughout this period.

I hope you will be able to support this request seeking legislative consent from the Northern Ireland Assembly and that you will be able to recommend that the Northern Ireland Assembly gives its consent. I look forward to continuing to work with you as this essential Bill continues its parliamentary passage.

I am copying this letter to the Secretary of State for Northern Ireland, the Minister for the Cabinet Office and the Chancellor of the Duchy of Lancaster.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Barclay', written in a cursive style.

**RT HON STEVE BARCLAY MP**  
**SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION**

## ANNEX

### LCM Analysis

The UK Government is seeking legislative consent for the following provisions of the Bill:

- The clause giving effect to the implementation period and related provisions, as this will alter the competence of the Northern Ireland Executive and the Northern Ireland Assembly;
- The conferral on UK Ministers of supplementary powers to make provision in connection with the implementation period as this legislates in areas of the Northern Ireland Assembly's legislative competence;
- The conferral on NI Executive Ministers of supplementary powers to make provision in connection with the implementation period within devolved competence (as defined in the Bill), and amendments to the powers exercisable by NI Executive Ministers in Part 1 of Schedule 2 and Part 1 of Schedule 4 to the EU (Withdrawal) Act, as these will alter the competence of NI Executive Ministers;
- Clauses 5 and 6 (general implementation of the remainder of the Withdrawal Agreement and of related EEA EFTA separation agreements) as these alter the competence of the NI Executive Ministers and the Northern Ireland Assembly;
- In relation to the citizens' rights provisions in the Bill, the conferral on the UK Ministers and NI Executive Ministers of powers to make provision within devolved competence (as defined in the Bill) in relation to social security coordination, mutual recognition of professional qualifications and equal treatment, as these will legislate in areas of the Northern Ireland Assembly's competence and alter the competence of NI Executive Ministers;
- The clauses establishing the Independent Monitoring Authority (IMA), as these legislate in areas of the Northern Ireland Assembly's legislative competence and alter the competence of NI Executive Ministers;
- The conferral on UK Ministers of a power to implement the other separation issues as this legislates in areas of the Northern Ireland Assembly's legislative competence;
- The conferral on NI Executive Ministers of a power to implement the other separation issues so far as that is within devolved competence (as defined in the Bill), as this will alter the competence of NI Executive Ministers;
- The financial provision in clause 20 as this modifies the competence of NI Executive Ministers;
- The conferral on UK Ministers of a power to implement the Protocol on Ireland/Northern Ireland as this legislates in some areas of the Northern Ireland Assembly's legislative competence; the conferral on NI Executive Ministers of a power to implement the Protocol on Ireland/Northern Ireland, as this will alter the competence of NI Executive Ministers;
- Provisions in Clause 23 and Schedule 3 as these modify the competence of the NI Executive Ministers;
- The conferral on NI Executive Ministers of ancillary fee charging powers as these will alter the competence of the NI Executive Ministers;
- Provisions in Schedule 5 including:

- giving effect to the mass deferral of statutory instruments which come into force by reference to exit day, and conferring on NI Executive Ministers the power to disapply or make different provision in particular cases. These provisions will alter the competence of NI Executive Ministers; and
- The provision dealing with the entrenched enactment status of amendments to the EU (Withdrawal) Act, as this will modify the competence of the Northern Ireland Assembly.

## Annex B

Summary of clauses associated with letter from Secretary of State for Exiting the European Union seeking legislative consent for provisions in the [EU \(Withdrawal Agreement\) Bill](#) which affect the legislative competence of the NI Assembly.

Clause / Schedule	Summary of provisions for which UKG is seeking legislative consent
Clauses 1 & 2	The clause giving effect to the implementation period and related provisions, as this will alter the competence of the Northern Ireland Executive and the Northern Ireland Assembly.
Clause 3	The conferral on UK Ministers of supplementary powers to make provision in connection with the implementation period as this legislates in areas of the Northern Ireland Assembly's legislative competence.
Clause 4	The conferral on NI Executive Ministers of supplementary powers to make provision in connection with the implementation period within devolved competence (as defined in the Bill), and amendments to the powers exercisable by NI Executive Ministers in Part 1 of Schedule 2 and Part 1 of Schedule 4 to the EU (Withdrawal) Act, as these will alter the competence of NI Executive Ministers.
Clauses 5 & 6	Clauses 5 and 6 (general implementation of the remainder of the Withdrawal Agreement and of related EEA EFTA separation agreements) as these alter the competence of the NI Executive Ministers and the Northern Ireland Assembly.
Clauses 12–14; & 16 and Sch. 1	In relation to the citizens' rights provisions in the Bill, the conferral on the UK Ministers and NI Executive Ministers of powers to make provision within devolved competence (as defined in the Bill) in relation to social security coordination, mutual recognition of professional qualifications and equal treatment, as these will legislate in areas of the Northern Ireland Assembly's competence and alter the competence of NI Executive Ministers.
Clause 15; and Sch. 2	The clauses establishing the Independent Monitoring Authority (IMA), as these legislate in areas of the Northern Ireland Assembly's legislative competence and alter the competence of NI Executive Ministers.
Clause 18	The conferral on UK Ministers of a power to implement the other separation issues as this legislates in areas of the Northern Ireland Assembly's legislative competence.
Clause 19	The conferral on NI Executive Ministers of a power to implement the other separation issues so far as that is within devolved competence (as defined in the Bill), as this will alter the competence of NI Executive Ministers.
Clause 20	The financial provision in clause 20 as this modifies the competence of NI Executive Ministers.
Clauses 21 & 22	The conferral on UK Ministers of a power to implement the Protocol on Ireland/Northern Ireland as this legislates in some areas of the Northern Ireland Assembly's legislative competence; the conferral on NI Executive

	Ministers of a power to implement the Protocol on Ireland/Northern Ireland, as this will alter the competence of NI Executive Ministers.
Clause 23; and Sch. 3	Provisions in Clause 23 and Schedule 3 as these modify the competence of the NI Executive Ministers.
Clause 28	The conferral on NI Executive Ministers of ancillary fee charging powers as these will alter the competence of the NI Executive Ministers.
Clause 40 and Sch. 4	Provision about regulations made under the Bill.
Clause 41 and Sch. 5	Provisions in Schedule 5 including: <ul style="list-style-type: none"> <li>– giving effect to the mass deferral of statutory instruments which come into force by reference to exit day, and conferring on NI Executive Ministers the power to disapply or make different provision in particular cases. These provisions will alter the competence of NI Executive Ministers; and</li> <li>– The provision dealing with the entrenched enactment status of amendments to the EU (Withdrawal) Act, as this will modify the competence of the Northern Ireland Assembly.</li> </ul>
Clause 42	Extent and commencement of provisions in Bill.

<b>Clause / Schedule</b>	<b>Additional provisions that TEO officials consider as requiring legislative consent</b>
Clause 17	This clause provides definitions for terms used in Part 3 (Citizens' rights) of the Bill. One of the definitions is used in clause 14 and provisions in that clause associated with a devolved authority.
Clause 26	This clause amends Section 6 of the EU Withdrawal Agreement (interpretation or retained EU law) to replace Exit Day for Implementation Period (IP) completion day and makes other provision about the interpretation of retained EU Law including defining "relevant separation agreement law". It also allows for a UKG Minister acting after consultation to provide regulation on how UK courts can interpret retained EU law and may also set the test that it is to be applied in deciding whether to depart from such EU case law.
Clause 36	Clause 36 provides for the repeal of unnecessary or spent enactments passed in the previous Parliament in relation to the UK's exit from the EU. Specifically this clause repeals Part 2 of Schedule 2 of the European Union (Withdrawal) Act 2012 which provides a power to devolved authorities to implement the Withdrawal Agreement. This power expires on exit day.
Clause 39	This clause provides interpretation on certain terms used throughout the Bill.