



Department for International Trade

Rt Hon Greg Hands MP

Department for International Trade
King Charles Street
Whitehall
London
SW1A 2AH

T +44 (0) 20 7215 5000
E enquiries@trade.gsi.gov.uk
W www.gov.uk

Barry Gardiner MP
House of Commons
London SW1A 0AA

GH January 2018

Dear Barry,

TIMESCALES FOR THE MAKING OF STATUTORY INSTRUMENTS

During the Commons Committee stage consideration of the Trade Bill on Tuesday 30 January, you raised the question of whether the 60 day timescale for countries seceding from the Government Procurement Agreement means that the Government will not be able to fulfil the guidelines for statutory instruments as recommended in the guidance on drafting statutory instruments issued by the Government Legal Service (GLS). I pledged to write to you on this point.

In particular, you stated that the guidance “recommends allowing an absolute minimum of 22 weeks for the very simplest of negative instruments”.

The GLS Statutory Instrument Drafting Guidance 2015 (the Guidance) is general guidance for GLS lawyers on the drafting of statutory instruments. It contains advice on the process of producing instruments as well as good drafting practice.

Paragraph 2.1.1 of the Guidance explains that many departments now have standard form timetables and checklists for completing statutory instruments. Examples of these are provided at Annexes 2 and 3 of the Guidance. The 22 week timetable you referred to comes from a specimen timetable which one department produced for negative and affirmative instruments, and which is set out in Annex 3 to the Guidance. It is that department’s attempt to guide its drafting lawyers on how they might plan for producing a negative resolution procedure statutory instrument, starting with when they receive policy instructions.

I should emphasise that the Guidance does not state that good practice requires a minimum 22 week period for negative resolution procedure statutory instruments.

It is a matter for departments to decide on a case by case basis how long is needed to draft, lay and make a particular statutory instrument, taking account of all the circumstances of the case. This is recognised in the Guidance. For example, the heading of Annex 3 to the Guidance setting out the “Usual length of the stage and date when the stage ends” is qualified by the statement that “It may be possible for certain stages to be processed more quickly in which case time is gained . . .”

If speed is required, a negative statutory instrument could be produced using a significantly shorter timescale than 22 weeks, and departments have frequently done so in the past.

I trust this response addresses your concern.

I am copying this letter to other members of the Trade Bill Committee and the Chairman who presided during the session in which you asked this question (Philip Davies). I will also place a copy of this letter in the House Library.

Yours,


RT HON GREG HANDS MP

Minister of State for Trade Policy, Department for International Trade