Lord Sharkey
House of Lords
London
SW1A 0PW

Our ref: LHOL/PEER029

27th March 2018

Dear Lord Sharkey

EUROPEAN UNION (WITHDRAWAL) BILL

Thank you for your contributions to the debate on the EU (Withdrawal) Bill so far. On Day 8 of Committee I promised to write in response to a question you raised:

"On the urgent procedures, why in the Taxation (Cross-border Trade) Bill is there a 60-day period, whereas for SIs generated urgently by this Bill there is a 28-day period? The Minister has talked about the necessity for speed. I do not understand why one Bill has 60 days and the other has 28."

Approval within 28 days of an instrument being made is the standard time given for approving made affirmative statutory instruments. This timeframe is provided for in the EU (Withdrawal) Bill and the Taxation (Cross-border Trade) Bill. The Government anticipates making very few SIs subject to this procedure under the EU (Withdrawal) Bill.

The Taxation (Cross-border Trade) Bill also provides an alternative procedure where an SI subject to the made affirmative procedure contains a commencement provision under clause 52. In such cases, the period for approval is extended to 60 days from the date any part of it comes into force.

Clause 52 provides that, where the person making subordinate legislation relating to VAT, customs or excise considers it appropriate to do so in consequence of, or otherwise in connection with, EU withdrawal, that subordinate legislation may come into force on a day appointed in regulations by the Treasury.
The purpose of this clause is to allow the legislation for VAT, customs or excise to be made and laid prior to the conclusion of negotiations and well before exit day and to allow secondary legislation to be prepared on a contingency basis and scrutinised appropriately. Once the outcome to negotiations is clear, a day can be appointed for the appropriate legislation to come into force.

For the convenience of other members who took part in the debate, I will place a copy of this letter in the Library of the House.

Yours sincerely,

EVANS OF BOWES PARK