16 April 2018

Dear [Name],

During the Committee Stage of the EU (Withdrawal) Bill on Wednesday 14 March, you raised a point regarding the principle of devolved agreement were a UK Minister to exercise the Withdrawal Agreement power in relation to a devolved matter. I am sorry that I was unable to respond to you at the time and I promised to write to you.

As we discussed in that debate, the Sewel Convention only applies to primary legislation and does not, therefore, expressly apply to the exercise of the power. You posed the question of whether the principle that underlies Sewel would apply to the exercise of the power by a UK minister within an area of devolved competence.

I can confirm that we have made such a commitment in relation to the exercise of this power, and the correcting power in clause 7 and international obligations power in clause 8. In each case we have stated that we will not normally use the power to amend domestic legislation in areas of devolved competence without the agreement of the relevant devolved administration. We have also committed to consult the relevant devolved administration before using the power to modify retained direct EU legislation (which under the bill as currently drafted falls outside of the scope of their powers in Schedule 2) in areas that are otherwise devolved.

Those commitments can be found in the Delegated Powers Memorandum, published alongside the Bill. They have also now been repeated by Ministers on the floor of both Houses.

I hope you find this letter helpful. I will also place a copy in the House library.

With kind regards,

Yours sincerely,

BARONESS GOLDIE

Lord Hope of Craighead
House of Lords