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Gordon Lindhurst MSP
Convener of the Economy, Jobs and Fair Work
Committee

26 October 2017

Dear Gordon,

The Scotland Act 1998 (Insolvency Functions) Order 2017

Thank you for your letter of 25 October.

In relation to any consent to be given by Scottish Ministers to UK Ministers exercising functions conferred by this Order, if made, I am happy to give the assurance sought in the particular circumstances of this Order that the Committee would be advised by Scottish Ministers in advance of such consent being given in time to allow the Committee to examine the matter before any subordinate legislation is made by UK Ministers. That is in acknowledgement of the complexities of the devolution settlement, which the Order seeks to address, in the narrowly defined, technical area of winding up and in the specific context of the new arrangements which it puts in place.

I would take this opportunity to stress again that we think, in the specific context within which it is being applied, the Order is a productive solution that allows the Scottish Government, subject to the scrutiny of the Scottish Parliament, to undertake the burden of the work in the new Scottish company insolvency rules project that seeks to update the rules on winding up – and, in this respect, covering both devolved aspects and reserved aspects.

This will help achieve the aim of producing rules on winding up that are intended to be as simple as can be achieved, for the benefit of stakeholders, and doing so within the current bounds of the devolution settlement. This is being facilitated by way of a reciprocal transfer of competence, subject to consent by the respective governments accountable to their respective Parliaments i.e. the Scottish Government in respect of the Scottish parliament and UK Government in respect of the Westminster Parliament.

Kindest regards


PAUL WHEELHOUSE

