# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE**  | **Supreme Court Reference: UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill** |
| **DATE**  | **20 December 2018** |
| **BY**  | **Jeremy Miles AM, Counsel General Designate and Brexit Minister** |

As members will be aware, the Supreme Court has now handed down judgment in the Reference of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill.

I intervened in these proceedings to ensure Wales’ voice was heard and to seek clarity on an important constitutional principle, so I welcome the Court’s judgment and the clarity that it has brought to the scope of devolved powers across all devolution frameworks. I appreciate that the judgment concerns the specific question as to whether the provisions of the Scottish Bill are in competence, but it will have relevance to the powers of the Assembly going forward.

The Court’s acceptance of the arguments advanced on behalf of both the Scottish and Welsh Governments regarding the scope of the international relations reservation puts it now beyond doubt that legislating to regulate the domestic consequences of international agreements does not fall within the scope of that reservation.

It is however the case that the intervention of the passing of the EU (Withdrawal) Act has meant that provisions which would have been in competence are no longer within competence, making the Scottish Bill inoperable now (even if it would not have been at the time it was passed by the Parliament).

We have been clear throughout that intervention in these proceedings was not about our own Law Derived from the European Union (Wales) Act. The Welsh Government has always been clear in its position that our decision to bring forward the Law Derived from the European Union (Wales) Act was only ever a fall back option as our preferred course of action was for an EU (Withdrawal) Act which properly delivered for the whole of the UK.

Through the changes that were made to the EU (Withdrawal) Act and the accompanying Intergovernmental Agreement, we were able to secure the protection of devolution in Wales and make sure that laws and policy areas which are currently devolved remain devolved.

Had we not secured the Intergovernmental Agreement, our Bill too would have been before the Supreme Court alongside the Scottish Bill and in all likelihood subject to the same result - within competence when passed by the Assembly but many of its provisions now held to be outside competence due only to the impact of the subsequent enactment of the European Union (Withdrawal) Act. In other words, without the Inter-governmental agreement our Bill would not yet have been enacted and would now have been rendered inoperable.

It is now time to move on and focus on the bigger picture. The UK Government must put the country first and make sure we do not career headlong to a no deal Brexit, and secure an agreement that prioritises the economy and jobs.

This statement is being issued during recess in order to keep members informed. Should members wish me to make a further statement or to answer questions on this when the Assembly returns I would be happy to do so.