

The Office of the First Minister and Deputy First Minister

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From: Anne M O'Boyle
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Date: 25 September 2001

To: David Walker
Road Safety Branch, DOE

David

VEHICLE LICENSING: NUMBER PLATES DISPLAY OF NATIONAL FLAGS

1. Thank you for your minute of 24 September 2001.
2. I fully agree that the identification of a matter as excepted, reserved or transferred is necessary to determine whether or not it falls within the legislative competence of the Assembly. Also that, under the terms of section 5(6) of the Northern Ireland Act 1998, the legislative competence of the Assembly does not affect the power of the Westminster Parliament to make laws for Northern Ireland.
3. It is not, however, accurate to say that since the UK Government chose to legislate for NI on vehicle licensing some years ago, it should not now be regarded as a devolved matter. There are a number of instances where legislation on transferred matters was made during direct rule by way of an UK wide Act.
3. However, it is for DOE to decide the status of vehicle licensing and whether or not it relates to a transfer matter. My main purpose in getting in touch with you (and questioning the status of vehicle licensing) arose mainly because of the terms of paragraph 13 of the Memorandum of Understanding (Command Paper 4806), which states that "the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature". Also, under Devolution Guidance Note 8 (prepared by the Cabinet Office for Whitehall Departments) there is a procedure set out for seeking such agreement from the devolved administration.

4. You suggest that there is no role for the Assembly or the Executive as this is an excepted matter. But even if vehicle licensing falls into the excepted matters category it would be normal practice for Northern Ireland to provide views to the NIO and DVTA on the subject. (This is provided for both in the Memorandum of Understanding and the Concordat between the NIO and the NI Executive. It might also be reflected in your Department's Concordat with DTLR/DVTA?). So our advice would be that you bring the matter to the attention of your Minister and get his endorsement of your Departmental recommended approach and/or views. That way your Minister will have knowledge of, and if he so wishes can input to, the discussion and this will put officials in a stronger position should questions be asked in the Assembly on this sensitive subject.

Anne O'Boyle

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