

House of Commons
LONDON
SW1A 0AA

5 July 2016

To: All Welsh Members of Parliament

Dear Colleague

Wales Bill – proposed amendments for 11 July

Further to my letter last week, I would like to advise you of the further amendments I have published today relating to clauses in the Wales Bill to be debated on Monday 11 July. As previously, I have also written to the Secretary of State and I hope that these proposals will contribute to the important debate on the future of Wales' constitutional settlement.

The amendments I have published today are focused on ensuring the legislative competence of the Assembly is clear, workable and does not roll back on the current settlement.

My biggest concern in respect of the proposed model for competence is the absolute prohibition the Bill now places for the Assembly to legislate on any way that 'relates to' a reserved matter. This will lead to some loss of competence as compared to the current settlement in the following two ways.

First, the current settlement includes an ability for the Assembly to legislate in an "ancillary" way on exceptions from competence (the equivalent to reservations under the proposed settlement). The Bill does not include that "ancillary" latitude for the Assembly.

Secondly, the Supreme Court made clear in the *Agricultural Sector (Wales) Bill* case that the Assembly can currently legislate for "dual purpose" matters – where its legislation is aimed both at matters expressly set out as within competence,

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English



and matters that are not mentioned at all in the Government of Wales Act – the so-called silent subjects. Again, the Bill would remove that latitude.

The key changes I am proposing aim to:

- Partly restore the Assembly's competence, by enabling it to legislate in an ancillary way in relation to reserved matters;
- Remove the necessity test in relation to the law on reserved matters and where the Assembly's legislation touches on England;
- Revise the criminal law restriction so that is in line with the restriction for private law so that the Assembly can modify criminal law where that modification is for a devolved purpose.

The attached documents contain a detailed description of the changes I am suggesting, alongside the draft amendments. The text of the draft amendments is also included as an annex.

I will continue to discuss with the Secretary of State other matters which require further consideration at later stages in the passage of the Bill such the provisions on UK Government consent.

I would be pleased to discuss any aspect with you further if you wish to contact my office.

Yours sincerely



Elin Jones AM
Llywydd

Enc

