



Wales Office
Swyddfa Cymru

Rt Hon Stephen Crabb MP
Secretary of State for Wales

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Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government
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Our Ref: 69SOS 15

2nd July 2015

Dear Carwyn -

Wales Bill

Thank you for your letters of 11 June and 24 June on the Wales Bill. I will reply to your 23 June letter on Ministers' powers separately.

We share a common goal of ensuring that that Wales' constitutional settlement is clear, robust and durable for the long term. Full engagement between the UK Government and Welsh Government on the new reserved powers model will be important as we prepare the Wales Bill to deliver this.

My aim is to publish the Bill in draft for Pre-Legislative Scrutiny (PLS) in the autumn, and to introduce the Bill into Parliament in early 2016.

I am also aiming to share an early draft of the reserved powers model with the Welsh Government in late July. This would enable us to discuss the draft during the summer, and for me to consider the Welsh Government's views before publishing the Bill in draft. Discussions between the UK and Welsh Governments could continue during the autumn, alongside the PLS process.

Turning to specific points in your 11 June letter, the UK Government is committed to implementing the St David's Day Agreement in full. The Wales Bill will implement those parts of the Agreement that require primary legislation. As you know, the Agreement was founded on political consensus and I have no plans to include in the Bill those Silk Commission recommendations which have no consensus.

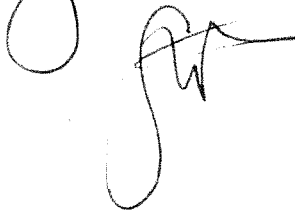
You will be aware that work on a revised Memorandum of Understanding is being taken forward by the four UK administrations under the auspices of the JMC. The case for establishing a Welsh Intergovernmental Committee, and several other Silk II recommendations relating to inter-governmental machinery, is being considered as part of that work.

Our analysis of the Smith Commission's non-fiscal recommendations is ongoing. You are right to point to the St David's Day Agreement as the basis for that work. As we made clear in that document, I will need to see a strong case for implementing any further Smith Commission recommendations for Wales. I would need to be satisfied that doing so is in the best interests of Wales and of the United Kingdom as a whole. I would welcome a discussion with you on Smith before we break for the summer.

Our analysis of Smith is not considering welfare or fiscal matters. The position in Wales on both issues is quite different to that in Scotland. We share the view that welfare devolution would not be in Wales's best interests at this time, and our expectation is that the Welsh Government will call an income tax referendum in light of the UK Government's commitment to introduce a funding floor at the Spending Review.

The UK Government's position on Air Passenger Duty has not changed since our St David's Day announcement. We committed to consider the case and options for devolving further powers to the Assembly over APD. We also said that in advance of this we would review the potential options to mitigate the impacts of APD devolution on regional airports. As part of this review, HM Treasury will publish a discussion paper later in the summer examining the devolution and variation of APD rates within England, and the provision of aid for regional airports, including Bristol Airport.

It would be useful for us to discuss the other issues raised in your letters at our next bilateral.

Kind regards,


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Secretary of State for Wales



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Ref: 78SOS 15

13th July 2015

Dear Carwyn,

Wales Bill

Thank you for your letter of 23 June, discussing Welsh Ministers' powers under the new reserved powers model. As you know our officials are having discussions on executive functions, and I hope to be able to share early draft clauses with you alongside the working draft of the reserved powers model at the end of this month.

The St David's Day Command Paper made clear that the current arrangements for pre-commencement Minister of the Crown functions should continue. The Assembly and Welsh Ministers may legislate to remove or modify any pre-commencement function of a Minister of the Crown in a devolved area only with the consent of the Secretary of State. Any requests made to the Secretary of State should be considered promptly, to deadlines agreed between the two Governments, and with a presumption in favour of consent.

I am committed to implementing the St David's Day package in full, including in relation to Minister of the Crown functions, and expect the Wales Bill to reflect this.

You also raised the issue of Ministerial responsibility for implementing European Directives. This is an issue we are yet to consider in detail, and will turn our attention to it over the summer.

I am copying this letter to the Assembly's Presiding Officer.

Yan.
Stephen Crabb

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Secretary of State for Wales



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Ref: 357SUB 15

31 July 2015

Dear Carwyn,

Implementing a reserved powers model is a key commitment in the St David's Day Agreement and the new model will form the centrepiece of the forthcoming Wales Bill.

We share the view that close working between the UK Government and the Welsh Government will be key to putting in place a stable and lasting devolution settlement for Wales, and I enclose an early draft of the new reserved powers model on which I would welcome the Welsh Government's comments.

The draft model provides a clearer, more complete devolution boundary than is currently in place. In developing the model to date we have applied three key principles:

- i. It reflects the current devolution boundary. It does not devolve or reserve powers inadvertently and identifies clearly where we believe the boundary lies in areas on which the current settlement is silent;
- ii. It uses the Scotland framework as the broad structure for the model, and departs from that framework only where bespoke provision needs to be made for Wales; and
- iii. It safeguards UK Government and Welsh Government interests, for example by providing a clear demarcation in terms of legislative competence between devolved and reserved bodies.

You will appreciate that this is a working draft. A significant number of changes will be made to it before the model is included in the draft Wales Bill, which will be published in October for pre-legislative scrutiny. This includes, for example, reflecting in the draft Schedule the commitments on further devolution made in the St David Day Agreement.

I am sharing our early thinking on a confidential basis. I am sure you will agree the importance of conducting our discussions in confidence on this early draft, and trust that you closely manage its circulation within the Welsh Government.

My officials are briefing Welsh Government and Assembly Commission colleagues next week on the content of the draft model. I look forward working with you over the summer and autumn to finalise the model, and to hearing your thoughts on the current draft when we next meet in September.

I am writing in similar terms to the Presiding Officer in the Assembly.

Yours,

A handwritten signature in black ink, appearing to read "Stephen Crabb". The signature is fluid and cursive, with a large initial 'S' and a trailing flourish.

Rt Hon Stephen Crabb MP
Secretary of State for Wales



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28 August 2015

Dear Carwyn,

The next few months will be an enormously important period as we seek to put in place a new, coherent and enduring devolution settlement for Wales. As you know, I am keen to deliver a settlement that allows us to move beyond debates about devolution and focus on issues which are important to people, such as a growing and prosperous Welsh economy.

As part of that, I am writing to all party leaders in the National Assembly to discuss the progress we have made to date and the work that lies ahead.

We are next meeting on 16 September, where I hope we can also continue our discussions on the new settlement, and how the three elements of a funding floor, income tax devolution, and a reserved powers model, can be taken forwards.

I am writing in similar terms to all party leaders in the National Assembly.

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Secretary of State for Wales



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Ref: 385SUB 15

3 September 2015

Dear Carwyn,

WALES BILL

I am writing in reply to your two letters of 7 August relating to the Wales Bill: one sets out your early views on the working draft of the reserved powers model and the other proposes matters arising from Smith Commission recommendations which you believe should be taken forward for Wales.

We share a commitment for a clearer, stronger and fairer devolution settlement for Wales. The discussions now underway between our Governments on the Wales Bill (including the new reserved powers model of Welsh devolution) form part of a wider package of reforms to deliver the new settlement, which also includes implementing a funding floor for Wales and taking forward income tax devolution.

In this context, I believe our discussions should encompass both Welsh Government comments on the draft reserved powers model and your proposals for further devolution (whether arising from Smith or elsewhere). Conversations with the Chief Secretary will of course be the right place to address any questions about fiscal issues. I note that in September you will be sending me your detailed comments on the working draft of the reserved powers model and a number of papers requesting further devolution in specific areas. We will both wish to see swift and early progress in our discussions from that point so that the Welsh Government is able to support the Wales Bill on its introduction in Parliament.

There is however unlikely to be sufficient time to reflect any progress in the draft Bill I intend to publish in October for pre-legislative scrutiny. I expect our discussions to continue alongside pre-legislative scrutiny, and to remain confidential. Clearly there will be a need to inform the relevant parliamentary committees that inter-governmental discussions are ongoing.

Turning to each letter in turn, I look forward to receiving your detailed comments on the working draft of the reserved powers model, and note your early views on aspects of the model we shared. I must say I am surprised by the response to the new *test of necessity*. I believe it is crucial that the new model sets a very clear boundary between what is devolved and what is reserved.

The test of necessity is a key aspect of that delineation, and ensures that ancillary provision made by the Assembly does no more than is necessary to give effect to the provision. This test has operated for the last sixteen years as part of the Scottish settlement without any significant issue. It will ensure a much sharper boundary than the current appropriateness test. I do not agree that it would lead to any curtailment of the Assembly's competence in practical terms; the implication of arguing that it would is that the Assembly would wish to do more than is necessary to enforce its legislation.

The provisions relating to 'pre-commencement' Minister of the Crown functions merely give legislative expression to the policy position set out in the St David's Day Command Paper. I do not recognise the 'triple lock' you see being introduced, and I have asked my officials to discuss your concern with Welsh Government colleagues and report back.

I note your acknowledgement that the partial devolution of income tax may be initiated without a referendum and I am aware of the arguments being made in Wales. As the Prime Minister said during his recent visit to the Royal Welsh Show, it is the outcome of having a strong and responsible Assembly that matters. I think we all want to see a funding floor for Wales and that should be accompanied by the devolution of income tax powers.

I am grateful for your confirmation that the Welsh Government does not wish to pursue the fiscal aspects of Smith. Your support for devolution of APD is already a matter of record, and we will be considering the responses to our discussion paper on supporting English regional airports from the impacts of APD devolution once the deadline for submissions passes early next month.

With regards to the devolution of Aggregates Levy, the Wales Act 2014 includes a mechanism to specify additional taxes as devolved taxes. I understand now that the European Commission has concluded its investigation into the levy's exemptions, the original legal challenges to the lawfulness of the levy can be heard. I have discussed with the Treasury and I know that Treasury Ministers will be happy to discuss taking the issue forward.

I note the Welsh Government's proposals for devolving some non-fiscal matters arising from Smith. To fulfil our *St David's Day* commitment UK Government Departments have been giving careful thought to Smith non-fiscal recommendations and your proposals form a useful basis for further discussion in September.

I share your view that it would be undesirable to generally re-open discussion on Silk recommendations around which there was no consensus. I will of course reply separately to Edwina, but I do not intend to revisit the question of devolving Network Rail funding given the discussions on the issue during the St David's Day process.

I am however prepared to give further consideration to the devolution of teachers pay and conditions. While I am not clear whether you will include this proposal in your September papers, I am content to consult colleagues on the matter.

Finally, I note your concerns that a discussion about the Silk recommendation on a Welsh Intergovernmental Committee has not taken place during official level work to review the Memorandum of Understanding. I can confirm that I am happy for the issue to be explored further if your officials wish to raise it with UK Government officials in future discussions.

A handwritten signature in black ink, appearing to read 'Stephen Crabb'.

Rt Hon Stephen Crabb MP
Secretary of State for Wales



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Ref: 457Sub 15

20th October 2015

Dear Carwyn.

DRAFT WALES BILL

I enclose a copy of the Draft Wales Bill Command Paper. This draft Bill sets out in detail how the UK Government plans to deliver the St David's Day commitments to create a stronger, clearer and fairer devolution settlement for Wales that will stand the test of time.

The draft Bill includes a reserved powers model, forming the basis of a new devolution settlement for Wales and providing a clear boundary between reserved and devolved powers. It also devolves further powers to the National Assembly over energy, transport and local government and Assembly elections. The draft Bill will now be subject to pre-legislative scrutiny by the House of Commons Welsh Affairs Committee.

We share the aim of establishing a strong and lasting devolution settlement for Wales. I welcome the positive discussions to date between our officials on the content of the reserved powers model, and look forward to these continuing alongside pre-legislative scrutiny. I am confident that these discussions, and the scrutiny provided by the Welsh Affairs Committee, will allow us to get the Bill ready for introduction early next year. It is vital that we get the Welsh devolution settlement right and build a settlement which keeps pace with the appetite for devolution in Wales.

Kind regards.

Rt Hon Stephen Crabb MP
Secretary of State for Wales

