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David TC Davies MP
Chair, Welsh Affairs Committee
House of Commons
SW1A 0AA

Ref: 481SUB 15

5th November 2015

Dear David,

DRAFT WALES BILL

During my appearance before the Committee last week I promised to write on a number of points.

Firstly, I enclose the Wales Office's response to the question of how many Assembly Acts could have been made under the new model. The table of Assembly Acts attached in the First Minister's 7 September letter to me provides the basis for this response. The First Minister has subsequently published this correspondence.

Our analysis has determined that 20 of the 25 Assembly Acts the First Minister has identified as being blocked by the new model could in fact have been made in exactly the same way – that is, either without any requirement for UK Government consent or with the same consents being required as now.

The remaining five include the need for UK Government consent for the Assembly to modify the functions of a reserved body. I strongly believe that the new reserved powers model should be underpinned by the principle of a clear separation between devolved and reserved powers.

It is right that the UK Government consents to any changes in the functions of reserved bodies that the Welsh Government wishes to make, just as the UK Government seeks the consent of the Assembly (through a Legislative Consent Motion) if Parliament seeks to legislate in devolved areas.

As requested I have also enclosed my correspondence to the First Minister on the draft Bill from June onwards. I have not formally responded to the First Minister's letters of the 7th or 22nd September as these issues are subject to ongoing discussions.

Carolyn Harris asked me about the definition of reserved body. The draft Bill defines a reserved authority¹ as a Minister of the Crown or (UK) government department or any other public authority, apart from a Welsh public authority. It further defines a Welsh public authority as one whose functions are exercisable only in relation to Wales and are wholly or mainly functions that do not relate to reserved matters. This definition ensures that bodies which are currently devolved, such as local authorities, continue to be under the new model.

In response to a question from Carolyn Harris, I also committed to providing some examples of reserved authorities. They would include: Police Forces, Competition and Markets Authority, Civil Aviation Authority, Driver and Vehicle Licensing Agency and the Pensions Regulator

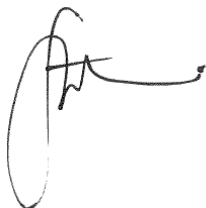
You asked whether the Welsh Government could set a different strike price for projects below 350MW following devolution of energy consents in the Wales Bill. The UK Government is responsible for Contract for Difference (CfD) policy in Great Britain. Contracts for Difference are allocated through a competitive, GB-wide process and the costs associated with them are socialised across all GB consumers. For these reasons, administrative strike prices will continue to be set at a GB level.

The Committee also sought clarification about how Wales Office commissioned Whitehall Departments to develop the reserved powers model. Departments were asked initially to map out the existing legislative competence that has been conferred on the National Assembly for Wales. Then, considering appropriate reservations to capture this within the model, departments were also invited to consider issues such as the terms of any equivalent reservation in the Scotland Act 1998, whether the Assembly has legislated in a subject area in which Departments were considering reservations, whether the UK Government has transferred powers to Welsh Ministers via a Transfer of Functions or Designation Order, and any Legislative Consent Motions tabled in the Assembly. This formed a starting point for an iterative process between the Wales Office, government departments and Parliamentary Counsel to develop the reservations.

I wish the Committee well in its forthcoming evidence sessions and look forward to providing additional oral evidence if and when required.

For the convenience of all Members and Peers I will place this letter and its attachments in the libraries of both Houses.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S Crabb', written in a cursive style.

Rt Hon Stephen Crabb MP
Secretary of State for Wales

¹ In paragraph 8(2) of new Schedule 7B (schedule 2 to the Bill).