



David Melding AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

14 October 2015

Dear David

At the Constitutional and Legislative Affairs Committee's evidence session in relation to the Tax Collection and Management (Wales) Bill, I committed to provide further information in relation to section 186, power to make consequential provision.

This power may only be used to make changes to legislation needed as a consequence of the provisions of this Bill. It is a very common legislative provision and it is good drafting practice to include such provision within the Bill as it enables the statute book to be kept in good order.

The power cannot be used to make new, substantive provision unconnected to the Bill, but rather provision that is needed to ensure that the provisions of the Bill work properly. Furthermore, it cannot be used to make fundamental changes to other legislation or to extend the scope of this Bill.

Given the limited scope and nature of the power, which can be used only in connection with the Bill that is being scrutinised by the Assembly, I consider that regulations under section 186 should be subject to the negative procedure.

I was also asked why I had chosen the particular version of words for the provision over alternative versions used in other Welsh Government Bills. Unlike equivalent powers in some other legislation (such as the Environment (Wales) Bill), section 186 does not permit the making of *transitional* or *savings* provision. Such provision is not necessary in these circumstances, as the Bill establishes an entirely new legal framework: there will be no transition from the equivalent UK legal framework (which will not apply in relation to devolved taxes) and no provisions that require saving.

During the evidence session you also raised a wider concern about a point of principle and set out your opinion that if you amend primary legislation by regulation, you should always use the affirmative procedure. I understand that you are intending to write to the First Minister about this and therefore I will not comment separately.

Finally, in looking at section 186 further we have realised that the Explanatory Memorandum contains certain inaccuracies regarding the regulation making power, in that it incorrectly describes the Assembly procedure as being affirmative in certain circumstances and incorrectly states that the regulations may make “transitional” or “saving” provisions, which is not the case. My apologies for this error, I will ensure that the Explanatory Memorandum is amended after stage 2.

I am copying this letter to the Chair of the Finance Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive, flowing style.

Jane Hutt AC / AM

Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business