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13th December 2016

Ref: 509 SUB 16



Wales Bill: Clause 60 Consequential Provision

I am writing in regard to the powers at clause 60 of the Wales Bill which enable the Secretary of State to make regulations amending primary or secondary legislation which the Secretary of State considers appropriate in consequence of any provision in the Bill.

The power allows the Secretary of State to amend, repeal, revoke or otherwise modify primary or secondary legislation made both by Parliament and the Assembly. It is needed in practice to enable the Secretary of State to make the consequential provision needed to implement Wales Bill provisions, in particular those relating to the new reserved powers model. The power is the same as that conferred on the Secretary of State in the Scotland Act 2016.

The power to amend Assembly legislation is mirrored by similar powers in a number of Acts of the Assembly that enable Welsh Ministers to modify parliamentary legislation in consequence of Assembly Act provisions without recourse to Parliament.

Clause 60 has attracted a great deal of scrutiny during the Wales Bill's passage in the House of Lords, with some Peers critical that it allows the Secretary of State to amend legislation made by the Assembly and Welsh Ministers without need for the Assembly to approve the change.

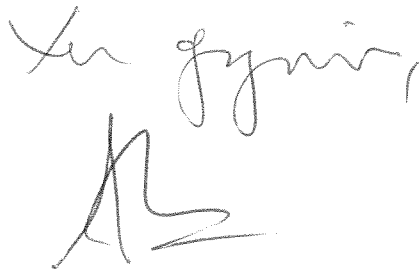
I would like to assure you that the power is necessary in order to ensure the smooth implementation of the provisions in the Wales Bill. The power can be exercised only in the context of making consequential provision in relation to the Bill itself, and in practice the vast majority of such provision will be minor.

Nevertheless I understand the concerns expressed by some Peers, and therefore I would like to offer two further reassurances in terms of how the power would be exercised. Firstly, any intention to exercise the power in respect to legislation made by either the Assembly or Welsh Ministers would be discussed between our officials well in advance of regulations being laid.

Secondly, I would write to you formally informing you of any intention to make regulations which affect legislation made by the Assembly or Welsh Ministers. I would do so at the earliest possible stage before regulations are laid.

I hope you would agree that the close working I have outlined should enable us to resolve any concerns you may have about the exercise of this power well before the relevant regulations need to be laid.

I am writing in similar terms to the First Minister of Wales and copying this letter to him and to the Chair of the Assembly's Constitutional and Legislative Affairs Committee. I am also placing a copy of this letter in the Library of both Houses of Parliament.

A handwritten signature in black ink, appearing to read 'Alun Cairns', with a stylized flourish below it.

Rt Hon Alun Cairns MP
Secretary of State for Wales