



Ein cyf/Our ref: MA-L/FM/5178/16

Rt Hon Alun Cairns MP
Secretary of State for Wales
Wales Office
Gwydyr House
London

30th August 2016

Dear Alun

Wales Bill: Amendments for Report Stage

I understand that Report Stage and Third Reading are taking place on 12 September. This letter sets out a small number of amendments that the Welsh Government would wish to see considered on Report.

The context for this is that our officials are continuing to have useful discussions about the detail of the Bill. I am expecting these to lead to a number of UK Government amendments being brought forward in due course, but Report stage has been timetabled too early for that. So many of the matters arising from those discussions will need to be for consideration at Committee stage in the Lords; the amendments I am proposing here are for separate consideration at Commons Report stage.

Three of the amendments arise from the work of the Smith Commission, which brought forward recommendations early in 2015 for enhanced devolution for Scotland. I wrote to your predecessor on 7 August 2015 with proposals for amendments to the Wales Bill, drawing on some of the Smith recommendations. On 4 April 2016, shortly after taking up office, you wrote to say that you wanted to review the work that had been undertaken in response to this request, and would be in touch again in due course. But no further letter followed, and I think we must now move matters forward.

The three Smith-related amendments the Welsh Government is proposing are as follows:

1. Public sector bodies should be able to operate rail franchises in Wales

Further powers over rail transport will ensure decision making is fully aligned with local needs and priorities in Wales. To maximise the effectiveness and efficiency of the public transport network in Wales, we must ensure alternative models are fully considered and opportunities are taken advantage of as they arise. Furthermore, it has long been the ambition of the Welsh Government for the Wales and Borders franchise to operate under a not for dividend model.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Allowing public sector bodies to bid for the franchise contracts, something which is currently not possible within the provisions of the Railways Act 1993, would enhance the Welsh Government's ability to deliver on these objectives. Additional powers for Scotland suggested by the Smith Commission, agreed by the UK Government and now legislated for in s. 57 of the Scotland Act 2016 provide a mechanism to address this, and the Welsh Government wish to see equivalent provision for Wales.

2. Welsh Ministers to be consulted on relevant activities of Maritime and Coastguard Agency

The UK Government accepted the Smith Commission recommendations for a formal consultative role for the Scottish Government in setting strategic priorities for the Marine and Coastguard Agency. Provision for this is now made by s.56 of the Scotland Act 2016. In Wales, powers around fisheries, marine planning and (for the inshore area) marine licensing and conservation are already devolved. Furthermore, agreement has been reached for ports to be devolved and for further devolution in respect of marine licensing and conservation and energy consenting, including energy developments in the marine area. There is therefore an opportunity to promote joined-up and cross-government engagement at an early stage by ensuring that the Welsh Ministers are, by inserting equivalent provision in the Wales Bill, also placed on this formal, consultative footing. This will help keep relevant bodies informed of the issues on a devolved, national and international scale.

3. Powers to regulate Gaming Machines

On 18 March 2015, a backbench motion was brought forward by Members from all four parties then represented in the Assembly noting the growth of gambling in Wales, expressing concern about the social consequences of this, and calling on the Welsh Government to "engage with the UK Government to discuss the devolution of greater powers over the licensing of gaming machines". The motion was approved nem con.

Following a Smith Commission recommendation, s.52 of the Scotland Act 2016 provides legislative competence for the Scottish Parliament to regulate the number of gaming machines authorised by a betting premises licence in Scotland. The Welsh Government would wish equivalent powers to be devolved to the National Assembly. For the avoidance of doubt, we are not seeking general legislative competence in respect of the subject-matter of the Gambling Act 2005, but as the Assembly itself recognised in its Debate, there are strong policy grounds for the devolved institutions in Wales being able to address this particular social problem, on the same basis as will be open to the Scottish institutions as the Scotland Act comes into force.

4. Community Infrastructure Levy

Finally, the Welsh Government proposes an amendment to delete reservation 184 from the Wales Bill, on the Community Infrastructure Levy. My letter of 22 September 2015 to your predecessor included a paper making the case for this. A proposal for devolution of competence for the Community Infrastructure Levy was included in the Welsh Government's evidence to the Silk Commission in 2013, but this was not made the subject of a recommendation and thus did not feature in your predecessor's St David's Day document. But CIL is inextricably linked with the delivery of our existing responsibilities for planning, and no case has been made for reserving this in the Wales Bill. The reservation should be deleted.

I enclose with this letter the texts of the amendments the Welsh Government would wish to see considered on Report. Should you be willing to take any of them up, I would be content with that, but be that as it may, I do strongly suggest that the UK Government ought to be able to agree to all four of them.

I am copying this letter to Paul Flynn MP; Hywel Williams MP; and Mark Williams MP, and will be writing separately to Carolyn Harris MP (chair of the All-party Parliamentary Group on FOBTs) about the proposed amendment on Fixed Odds Betting Terminals. Copies also go to the Presiding Officer; to Huw Irranca-Davies, chair of the Assembly's Constitutional and Legislative Affairs Committee; and to Leanne Wood AM, Lord Elis-Thomas AM, Kirsty Williams AM, and Neil Hamilton AM.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

CARWYN JONES