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Rt Hon Carwyn Jones AM
First Minister
Welsh Government
Cardiff Bay
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Ref: 453SUB 15

28 October 2015

Dear Carwyn,

Public Health (Wales) Bill

You wrote to me on 30 September 2015 seeking formal Secretary of State consent to remove Minister of the Crown functions in relation to sections 6(8), 7(6) and 8(7) of the Health Act 2006 and paragraphs 5 and 8 in Schedule 1 to the Act. Having sought the views of the affected departments I am content to provide consent for these provisions.

Since the Bill's introduction, our officials have engaged regularly to determine the impact of your legislation and to understand your wider policy intentions in greater detail. Whilst these discussions have been constructive I understand there remains some concern around your proposals to restrict the use of nicotine inhaling devices, particularly with regards to the Secure Estate and Ministry of Defence (MOD) premises.

The National Offender Management Service (NOMS) considers the availability of electronic cigarettes in prisons to be part of the operational running of safe, decent and secure prisons, not a health care measure. It would therefore expect that electronic cigarettes continue to be available in prison cells as part of its planned move to a smoke free custodial estate. Whilst the statement of policy intent for the Bill makes it clear that prisons will be classed as "exempt premises" in regulations made under section 10 of the Bill, I would welcome your assurance and commitment in this regard. Whilst there is no intention to offer electronic cigarettes to under 18s, I would expect that this exemption would also apply to Youth Offender Institutions (YOI) in Wales. This is to avoid any confusion now and in the future around prisons with a dual designation, such as HMP Parc, for offenders who are over 18 but sentenced to detention in a YOI.

NOMS will be implementing a phased approach to a smoke-free environment in all prisons in Wales (HMPs Cardiff, Swansea, Usk/Prescoed and Parc) from January 2016, with full implementation expected by May 2016. Officials in NOMS have been considering how to approach this difficult issue without risking the operational safety and security of prisons, which is the priority.

I would also welcome your assurance that MOD accommodation (messes and Service Single Living and Families Accommodation), and naval vessels in Welsh waters whilst they are in service, will be also classed as "exempt premises" in regulations made under section 10 of the Bill.

I know our respective officials, and those across Whitehall, have worked hard to resolve issues with the Bill and I am encouraged by the joint working that has taken place. Through further negotiation I am confident that our officials can reach a resolution to the remaining issues in the Bill which will allow you to meet your policy objectives.

I am copying this letter to the Lord Chancellor and Secretary of State for Justice.

A handwritten signature in black ink, reading "Stephen Crabb". The signature is written in a cursive style with a large initial 'S' and a trailing flourish.

Rt Hon Stephen Crabb MP
Secretary of State for Wales