



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Angela Constance MSP
Cabinet Secretary for Justice and Home
Affairs
By email

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6 March 2024

Dear Cabinet Secretary,

Criminal Justice Bill

At the meeting of the Delegated Powers and Law Reform Committee on Tuesday, 5 March, the Committee considered the delegated powers exercisable within devolved competence in the above Bill, as referred to in the [Legislative Consent Memorandum](#) (“the LCM”) lodged on 21 December 2023 and the [Supplementary Legislative Consent Memorandum](#) (“Supplementary LCM”) dated 13 February 2024.

Following the Committee’s consideration of the LCM and Supplementary LCM, it agreed to request further information in relation to the following clauses:

- Clause 2(3): Power to amend meaning of “relevant article”
- Clause 27(2) – New section 71(2) and (5) of the Criminal Justice and Court Services Act 2000: Duty to make driver information regulations
- Clause 27(2) – New section 71A(1) of the Criminal Justice and Court Services Act 2000: Code of practice about access to driver licence records

The Committee noted that these three clauses confer powers to make regulations on UK Ministers in devolved areas. There is a statutory duty on UK Ministers to consult with Scottish Government Ministers before making regulations or issuing the code of practice under these powers.

The Committee was content with all of the above powers being conferred on the Secretary of State, in principle, and with the relevant specified UK parliamentary procedures. However, it agreed to ask the Scottish Government **how it will facilitate Parliamentary scrutiny where consultation takes place between the Secretary of State and Scottish Ministers in fulfilment of these statutory requirements, prior to exercising the powers conferred by these clauses to make regulations or to issue a code of practice within devolved competence.**



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Finally, in relation to clauses 85(1), 88(1) and 88 (4), the Committee noted that these powers are not mentioned in the LCM or Supplementary LCM. **While the Committee is reporting on these powers to the lead committee, it would be helpful if the Scottish Government could clarify whether it is content with these powers so far as they might be exercised within devolved competence?**

I would be grateful if you could please email your response to the Committee's questions to dplr.committee@parliament.scot by **Thursday, 14 March**.

For your information, I have copied this letter to the lead committee on the Bill, the Criminal Justice Committee.

Yours sincerely
Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee