

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Kathy O'Hanlon
Clerk to the Justice Committee
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast BT4 3XX

13 February 2025
Our ref: JCP\25\34

Dear Kathy,

JUSTICE BILL PART 4 (ADMINISTRATION OF JUSTICE)

Thank you for your letter of 5 February 2025 in relation to Part 4 of the Justice Bill. Please find below the additional information as requested.

CLAUSE 25

You enquired regarding engagement with relevant professions on the changes caused by Clause 25 (Death of a child of vulnerable adult: limitation of power to "No Bill" alternative charge). Officials wrote to the Law Society and Bar of NI on 4 October 2024 to draw their attention to Clause 25 of the Bill. No comments or concerns were received back from either organisation. The Department plans to make further contact with both organisations to further discuss the clause, along with the Department's plans to consult on increasing the penalty of causing or allowing a child or vulnerable adult to die or suffer serious harm.

CLAUSE 27

The Committee sought detail on how concerns raised by the Law Society during consultation regarding Clause 27 (Legal aid changes to be registerable in the statutory charges register) have or will be addressed.

The comments from the Law Society centred around three issues. The first queried whether the proposal brought any additional transparency to the process. The new procedure will ensure that all interested parties know where the charges should be registered and will be able to check in one place for the existence of a charge. That, in combination with the additional communications regarding the introduction of the new process, should ensure some degree of additional transparency for the statutory charge. In addition, an early indication of the Foundational Review of Civil Legal Aid, in relation to the reform of the Statutory Charge is that a wider and greater understanding of the need for, and the rules and regulations pertaining to, the statutory charge could be significantly enhanced by the provision of information sessions and additional training for the profession and wider interested parties.

The second suggested that there may be unintended consequences for conveyancing practices, and stated it was important that the proposals were widely communicated and publicised in advance. The Department is conscious of the potential for these reforms to affect the work of conveyancing solicitors. As suggested by the Law Society, the introduction of the proposals will be preceded by a communications process that will ensure that all affected parties are aware of the change.

The last comment was in relation to joint owners, and that the placement of the charge could be of detriment to joint owners, even the possibility of automatically severing the joint tenancy. The Department has noted the point made by the Law Society in respect of the potential impact of the proposals on joint owners of properties. It will seek to mitigate any such impact in the design of the operational arrangement to give effect to the new legislative provisions.

CLAUSE 28

The Committee sought an update on the work undertaken to ensure changes brought about by Clause 28 (restriction on the ordering of taxation of legal aid costs) will not adversely impact access to justice for people. Further detail was sought on new systems that are being developed in relation to this Clause to ensure that the remuneration will appropriately recognise the skills of the legal profession and whether any proposed new systems will include a review mechanism.

It is not anticipated that changes caused by Clause 28 and wider legal aid taxation reform will negatively impact access to justice for citizens. The reform will not impact upon the scope of legal aid, the merits of the application, nor the eligibility of the assisted person. Instead, it seeks to ensure that value for money is being achieved in legal aid services and that clear and transparent governance processes are in place.

Clause 28 and the restriction on the ordering of taxation of legal aid costs will only commence when alternative remuneration orders (secondary legislation) are in place, with the Department initially taking forward the development of proposals in respect of High Court bail, Judicial Review and Criminal Court of Appeal legal aid remuneration. The Committee will have an opportunity to scrutinise any draft legislation.

Before any new remuneration system is introduced, the usual statutorily required consultation processes will be undertaken and all proposals will be subject to impact screening and/or assessment. The consultation processes will consider all relevant views and available evidence to ensure that any new arrangements are fully compliant with statutory criteria and the representative bodies will be consulted throughout the process of reform.

The Department remains cognisant of its duty when introducing an alternative system of payment to have regard to the statutory criteria as set down in Access to Justice (NI) Order 2003. This sets out that when making any remuneration orders the Department shall have regard to-

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- (a) the time and skill which the provision of services of the description to which the order relates requires;*
- (b) the number and general level of competence of persons providing those services;*
- (c) the cost to public funds of any provision made by the regulations; and*
- (d) the need to secure value for money.*

In addition, any legal aid rates introduced must be compliant with the right to a fair trial under Article 6 of the European Convention. These statutory and Convention safeguards will ensure rates of pay will be fair and reasonable.

With regards a review mechanism for any new remuneration framework, the Department anticipates that The Taxing Master will have an adjudication role in respect of requests for redetermination of decisions made under the framework as is currently the case with regards to criminal remuneration in the Crown Court.

The Minister of Justice trusts that the Committee finds this additional information useful as it reviews and takes evidence on the Bill.



**DAVID GRAHAM
DALO**



**Northern Ireland Assembly
Committee for Justice**

David Graham
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5 February 2025

Justice Bill: Part 4 — Administration of Justice

Dear David

At its meeting on 30 January 2025, the Committee for Justice received a briefing from the Assembly's Research and Information Service on the administration of justice provisions in the Justice Bill.

The Committee agreed to ask the Department to provide:

- details of the engagement that has taken place with the relevant professions regarding the proposed changes that will be brought about by clause 25 (Death of a child or vulnerable adult: limitation of power to "No Bill" alternative charge);
- clarification of how the Department has or will address the concerns that were raised by the Law Society of Northern Ireland during the consultation in relation to clause 27 (Legal aid charges to be registerable in the statutory charges register)
- an update on any work that has been done to ensure that the proposed change that will be brought about by clause 28 (Restriction on ordering taxation of legal aid costs) will not adversely impact access to justice for people; and

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- details of new systems are being developed in relation to clause 28 (Restriction on ordering taxation of legal aid costs) to ensure that remuneration will appropriately recognise the skill of the legal profession and whether any such new systems will include a review mechanism.

I would appreciate a response by 19 February 2025.

Yours sincerely

Kathy O'Hanlon

Kathy O'Hanlon
Clerk to the Committee for Justice