

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

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Máinnystrie O tha Laa

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27 March 2025

Dear Kathy,

JUSTICE BILL: DELEGATED POWERS

Thank you for your letter dated 14 March 2025 in relation to the briefing from the Examiner of Statutory Rules on the delegated powers in the Justice Bill. Please see detailed responses below on the points raised.

Part 1: Biometric provisions

Article 63E(11)

The Department has reflected on the advice of the Examiner of Statutory Rules that the rule-making power within new Article 63E(11) should be subject to the draft affirmative resolution procedure.

The Department considers that the power in Art 63E(11) is extremely limited, being only a power to change the nomenclature of the disposals mentioned, in order to keep pace with any changes in the terminology for them.

This is necessary because the disposals mentioned in 63E(10) ("informed warning" and "restorative caution") are not statutory disposals (with fixed names) but more informal processes, the names of which might be changed in practice.



The provision at 63E(11) does not give power to change the substance or effect of Article 63E(10), for example by adding a new kind of disposal.

Any amendment made by the power would be of a minor, administrative nature and the Department therefore considers the negative resolution procedure to be an appropriate and proportionate control in this case.

Clause 3(10)

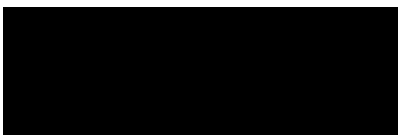
The Department has engaged further with OLC on the absence of an Assembly scrutiny procedure for the rule-making power in clause 3(10). A fix to the issue identified by the Examiner will be included as part of a 'remedial' provision to correct some small drafting issues that have been identified with the Bill since introduction (and as part of the Committee's subsequent consideration)

Planned amendments

Although it is not normal practice for a Delegated Powers Memorandum (DPM) to be produced for amendments to the Bill, the fact that the Department's proposed amendments have been drafted so far in advance of when they are to be tabled, and acknowledging that this would assist with Committee scrutiny of the additional provisions, the Minister has on this occasion agreed that Departmental officials shall prepare a DPM for the Departmental amendments for the Committee's benefit.

Given that this is unscheduled additional work that will have to be accommodated around existing commitments and competing priorities, it may be a number of weeks before we will be in a position to share the DPM with you, but we hope it will be of some assistance. I trust that this addresses all the points raised by the Examiner of Statutory Rules.

Yours sincerely,



**DAVID GRAHAM
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14 March 2025

Justice Bill — Delegated Powers

Dear David

At its meeting on 6 March 2025, the Committee for Justice received a briefing from the Examiner of Statutory Rules regarding the Department of Justice's revised delegated powers memorandum and the delegated powers in the proposed Live Links (Courts and Tribunals) amendments to the Justice Bill.

The advice of the Examiner of Statutory Rules is that the rule-making power within new Article 63E(11) should be subject to the draft affirmative resolution procedure. The Committee therefore agreed to ask the Department to consider amending the proposed Assembly procedure for the rule-making power within new Article 63(11) from negative resolution to the draft affirmative procedure.

The Committee also requested an update on progress to address the issue previously identified by the Examiner of Statutory Rules regarding the absence of an Assembly scrutiny procedure for the rule-making power in clause 3(10).

The Examiner of Statutory Rules also advised the Committee that, in the draft amendments, there are a number of powers under which delegated legislation may

be made, but it is not clear in the draft amendment text where the amendments are to be made to the Bill.

You will be aware that the Committee intends to scrutinise the draft amendments and has requested views on those as part of its call for evidence. The Committee also wishes to consider any regulation making powers within the proposed amendments. In that regard, a Delegated Powers Memorandum can be a valuable resource in explaining the purpose and intended use of a delegated power and plays a critical part in effective scrutiny. The Committee therefore agreed to ask the Department to provide a Delegated Powers Memorandum for each of the proposed amendments to the Bill that contain a rule-making power.

I should appreciate a response by 1 April 2025.

Yours sincerely

Kathy O'Hanlon

Kathy O'Hanlon
Clerk to the Committee for Justice