



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Angela Constance MSP
Cabinet Secretary for Justice and Home Affairs

21 January 2026

Dear Cabinet Secretary

Crime and Policing Bill - third supplementary LCM

The Delegated Powers and Law Reform Committee considered the above LCM and powers to make subordinate legislation within devolved competence in the above Bill at its meeting on 20 January 2026 and agreed to write to the Scottish and UK Governments to ask further questions.

The Committee's questions focus on clauses which confer powers on UK Ministers and which may be exercised within devolved competence. The Committee's position in relation to such powers is that, in general:

- (a) The Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence.
- (b) Where such powers are exercised by the Secretary of State in devolved areas, there is no formal means by which the Scottish Parliament can scrutinise such regulations or be notified that they had been laid before the UK Parliament.
- (c) If such powers contain a requirement for the Scottish Ministers' consent when exercised within devolved competence, the Scottish Parliament can scrutinise the Scottish Ministers' consent decision.

The Committee will scrutinise powers conferred on UK Ministers not subject to a requirement for Scottish Ministers' consent and may suggest matters for the lead committee to consider.

- (d) As a minimum, powers when exercised by the Secretary of State in devolved areas should be subject to the process set out in the [SI Protocol 2](#) where the powers is within the scope of that protocol.

In relation to:

- Clause 36: Power to make provision about the reporting of remote sales of knives etc. in bulk (inserting new section 141D(1) in the Criminal Justice Act 1988);

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- Clause 36: Power to amend definition of a reportable sale of bladed articles (inserting new section 141D(15) in the Criminal Justice Act 1988)
- New clause: “Obscenity etc offences: technology testing defence” (after clause 84) – Subsection (1): Power to authorise technology to be tested for prohibited material, without offences being committed in the course of the testing; and
- New clause: “Technology testing defence: Meaning of relevant offence” (after clause 84) – Subsection (1): Power to amend the meaning of “relevant offence”.

in light of the Committee’s general position on the conferral of devolved delegated powers on UK Government Ministers, the Committee asks the Scottish Government:

1) Why it is considered appropriate for the powers to be exercisable by the Secretary of State within legislative competence, and not by the Scottish Ministers?

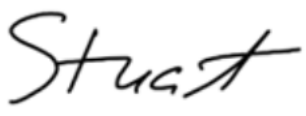
2) What consideration has been given to:

- (i) Conferring the powers on the Scottish Ministers (solely or concurrently), or**
- (ii) Requiring the consent of the Scottish Ministers, instead of a consultation requirement, before the powers may be exercised by the Secretary of State within legislative competence?**

3) How it intends to facilitate scrutiny by the Scottish Parliament of exercise of the powers within legislative competence by the Secretary of State?

The Committee seeks a response to its questions by **Friday, 30 January 2026**.

Yours sincerely



Stuart McMillan MSP
Convener