

Government of Jersey
Union Street | St Helier | Jersey | JE2 3DN

Deputy Catherine Curtis
Chair
Children, Education and Home Affairs Scrutiny Panel

By email only

19 December 2025

Dear Deputy Curtis,

Draft Jersey Gas Company Amendment Law 202-

Thank you for your letter dated 12 December 2025 regarding the review of the Draft Jersey Gas Company Amendment Law 202- (the 'Amendment Law'). We acknowledge your request and are pleased to provide responses to the questions outlined below to assist with your review. We note that this response will be published.

- 1. With regards to the proposed Article 89B (2), can you provide further details of when the direction that sets out reporting requirements will be prepared and published, and how the Jersey Gas Company (trading as Island Energy) (the 'Company') will be consulted as part of this process?**

The direction is at an early stage of preparation. On the assumption that the Draft Amendment Law is passed by the States Assembly on 20 January and given the need for Privy Council consent and the election, it is likely that the Draft Law and the direction will come into force in Q3 of 2026.

Officers from Justice and Home Affairs and Infrastructure and Environment intend to work with IEG to develop the direction and, as part of that process, will formally consult with IEG by writing to obtain formal written comments from IEG on a draft direction.

- a. Can you provide any details of what the Government will want to see included in that direction related to Article 89B (2) (a) to (e), and will it be available publicly?**

As per Article 89B(2) the direction may include details of:

- (a) the thresholds for notification, including situations in which notification is not required; or different notification requirements are to apply;
- (b) the time when the Company must make the notification;
- (c) whom the Company must notify;
- (d) how the Company must make the notification; and
- (e) what information must be provided with the notification.

The direction is likely to include content on each of these aspects, covering both more day-to-day issues and operational issues (in an appropriately proportionate way), and longer-term issues about the strategic commitments and safety aspects of IEG's undertaking.

As per Article 89B(2) the Minister must publish the direction (i.e. it will be available publicly). It is likely to be published on gov.je.

2. Article 89C references that the Minister for Justice and Home Affairs can request the Company provide information to another person, when directed to by the Minister. Could you clarify which other persons that could be delegated to? Additionally, would this constitute a formal delegation of powers, or be exercised through another mechanism?

This will be further developed as the work on the direction continues. It may be that for some, or part, of the information requested, the Minister directs that it should in the first instance be shared with an officer on his or her behalf for initial consideration and advice. This would be in the normal course of arrangements for supporting Ministers and the initial view is that it would not need a formal delegation.

3. Article 89D references that the Company will not have to provide any information if it is "subject to legal privilege or is otherwise privileged from disclosure in civil proceedings". Could you confirm whether this provision extends to emergency situations in which a police investigation is already in progress, or is reasonably expected to be initiated?

New Part 14A, to be inserted to the Law by the draft Amendment Law, sets out requirements for the provision by the Company of information to the Minister or another person as directed or authorised by the Minister (new Article 89B, 89C and 89G). New Article 89D sets out a list of exclusions that would apply to information within the scope of those requirements. The effect of Article 89D is that, if an exclusion applies to information, the Company is not then legally obliged under the provisions of new Part 14A to provide the information to the Minister, though the Company may still disclose the requested information voluntarily.

In the case of Article 89D(a) specifically, its effect is that the Company is not legally obliged by the provisions in new Part 14A to provide information to the Minister if the information is subject to legal privilege or is otherwise privileged from disclosure in civil proceedings. The exclusory provision in Article 89D(a) is absolute – it is not qualified by reference to any circumstantial or other factors. As such it should make no difference in the application of the exclusory provision if the prevailing circumstances happened to involve a gas emergency or where there is, or could be, a police investigation involving the Company.

4. With reference to Article 89D (c), please could you confirm which other enactments could prohibit disclosure of information to the Minister for Justice and Home Affairs and the scenarios that these might be applicable in?

A situation in which Article 89D(c) might technically apply, and which might be used to illustrate its effect, is where the Company is the subject of a criminal investigation for the commission of a serious offence, for instance certain offences under the Proceeds of Crime (Jersey) Law 1999. The Police Procedures and Criminal Evidence (Jersey) Law 2003 (the "2003 Law") makes provisions, among other things, concerning documentary evidence in criminal proceedings. Article 70A of the 2003 Law allows the court to make a preservation order where it considers it is in the

interests of justice that certain data be preserved pending a criminal investigation. The court may make a preservation order if it is satisfied there are reasonable grounds for believing that a serious offence has been committed. Where an order is made for preservation of data under Article 70A of the 2003 Law, Article 70B makes it an offence to disclose any data subject to that order. The exclusion provision at Article 89D(c) would encompass this type of scenario.

5. Article 89H details the offences applicable to the new articles. Could you confirm the process by which these have been independently evaluated for their suitability?

The offence and penalty provisions in the draft Amendment Law were reviewed and approved by the Law Officers following a penalty review. A penalty review is performed as a matter of practice on all draft Laws and subordinate legislation in which new or amended offence and penalty provisions are proposed. The review ensures that statutory offences are appropriate and are consistent with the level of penalty imposed for similar offences elsewhere in statute. The Law Officers role in approving penalties in this way reflects the Attorney General's customary function as *Partie Publique* when providing conclusions for sentence before the courts.

The Panel notes that the Amendment Law largely introduces new articles and definitions but has not made any further updates to the Jersey Gas Company (Jersey) Law 1989 (the '1989 Law'). In relation to this context, please could you advise:

6. Has the Government considered revising Article 13 of the 1989 Law (relating to the inspection of the Company's shareholder registers) to enhance accessibility through electronic formats? If not, why not.

This issue has been raised by IEG and has been considered. As per the Report, the purpose of the Draft Amendment Law is to provide the Minister for Justice and Home Affairs with necessary and appropriate powers to be able to gather information from the Gas Company in a timely and proactive way. The information gathered is intended to support the JHA Minister and other's functions in respect of public safety and the security and continued supply of gas in Jersey, for example, the JHA Minister's functions as the competent authority pursuant to the Emergency Powers and Planning (Jersey) Law 1990 (the "Emergency Powers Law").

As this issue is unrelated to the limited purpose of the Draft Amendment Law it will be considered as part of the Energy Strategy work lead by the Minister for the Environment in accordance with the timetable set by P.11/2025. To do otherwise would risk further delaying the Draft Amendment Law.

This approach has been communicated to IEG on several occasions.

7. Has the Government given any consideration to updating Article 20, to allow shareholders to suspend the requirement to hold an annual general meeting? If not, why not.

As per 6. above.

8. Has the Government given any consideration to updating Article 29, to reduce the minimum number of directors required from five to two? If not, why not.

As per 6. above.

9. Could you explain whether the updated 1989 Law will be subject to further review to assess its suitability for future application?

As per above, the 1989 Law will be considered as part of the Energy Strategy work led by the Minister for the Environment by the end of 2026 in accordance with the timetable set by P.11/2025.

Please let us know if you require any additional information or clarification.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'M. R. Le Hegarat', with a stylized flourish at the end.

**Deputy Mary Le Hegarat
Minister for Justice and Home Affairs**