

*These notes refer to the Regulatory Reform Act 2001
(c.6) which received Royal Assent on 10th April 2001*

REGULATORY REFORM ACT 2001

EXPLANATORY NOTES

ANNEX A: STANDING ORDERS RELATING TO REGULATORY REFORM ORDERS

Note: paragraphs 8, 16 and 17 of the Explanatory Notes refer.

STANDING ORDERS OF THE HOUSE OF COMMONS

(NOTE: It is likely that the following Standing Orders will need to be revised once the final tranche of deregulation orders has been dealt with, as described at [paragraph 10](#) above)

“18 Consideration of draft deregulation orders, etc

- (1) If the Deregulation and Regulatory Reform Committee has reported under paragraph (3) of Standing Order N^o. 141 (Deregulation and Regulatory Reform Committee) that a draft order laid before the House under section 1 of the Deregulation and Contracting Out Act 1994 or under section 1 of the Regulatory Reform Act 2001 should be approved and a motion is made by a Minister of the Crown to that effect, the question thereon shall-
 - (a) if the committee's recommendation was agreed without a division, be put forthwith;
 - (b) if the committee's recommendation was agreed after a division, be put not later than one and a half hours after the commencement of proceedings on the motion.
- (2) If the committee has reported that a draft order should not be approved, no motion to approve the draft order shall be made unless the House has previously resolved to disagree with the committee's report; the questions necessary to dispose of proceedings on the motion for such a resolution to disagree shall be put not later than three hours after their commencement; and the question shall be put forthwith on any motion thereafter made by a Minister of the Crown that such a draft order be approved.
- (3) Motions to which this order applies may be proceeded with, though opposed, until any hour.

“141 Deregulation and Regulatory Reform Committee

- (1) There shall be a select committee, called the Deregulation and Regulatory Reform Committee, to examine--
 - (i) every document containing proposals laid before the House under section 3 of the Deregulation and Contracting Out Act 1994 (the 1994 Act) or under section 6 of the Regulatory Reform Act 2001 (the 2001 Act);
 - (ii) every draft order proposed to be made under section 1 of the 1994 Act or section 1 of the 2001 Act; and
 - (iii) every subordinate provisions order or draft of such an order made or proposed to be made under sections 1 and 4 of the 2001 Act.
- (2) The committee shall report to the House, in relation to every proposals document referred to in paragraph 1(i) of this order, either
 - (a) that a draft order in the same terms as the proposals should be laid before the House; or
 - (b) that the proposals should be amended before a draft order is laid before the House; or
 - (c) that the order-making power should not be used in respect of the proposals.
- (3) The committee shall report to the House, in relation to every draft order referred to in paragraph 1(ii) of this order, its recommendation whether the draft order should be approved.

- (4) The committee may draw the special attention of the House to any subordinate provisions order or draft order referred to in paragraph 1(iii) of this order, and may report its opinion whether or not the order or draft order should be approved or, as the case may be, annulled.
- (5) The committee may report to the House on any matter arising from its consideration of the said proposals, draft orders or subordinate provisions orders.
- (6) (A) In its consideration of proposals the committee shall consider in each case whether the proposals
 - (a) appear to make an inappropriate use of delegated legislation;
 - (b) remove or reduce a burden or the authorisation or requirement of a burden;
 - (c) continue any necessary protection;
 - (d) have been the subject of, and take appropriate account of, adequate consultation;
 - (e) impose a charge on the public revenues or contain provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribe the amount of any such charge or payment;
 - (f) purport to have retrospective effect;
 - (g) give rise to doubts whether they are *intra vires*;
 - (h) require elucidation, are not written in plain English or appear to be defectively drafted;
 - (i) appear to be incompatible with any obligation resulting from membership of the European Union.(B) In the case of proposals presented under the 2001 Act, the committee shall also consider whether the proposals:
 - (j) prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
 - (k) satisfy the conditions of proportionality between burdens and benefits set out in sections 1 and 3 of the Act;
 - (l) satisfy the test of desirability set out in section 3(2)(b) of the Act;
 - (m) have been the subject of, and take appropriate account of, estimates of increases or reductions in costs or other benefits which may result from their implementation; or
 - (n) include provisions to be designated in the draft order as subordinate provisions;

and in the case of the latter consideration the committee shall report its opinion whether such a designation should be made, and to what parliamentary proceedings any subordinate provisions orders should be subject.

- (7) In its consideration of draft orders, the committee shall consider in each case all such matters set out in paragraph (6) of this order as are relevant and the extent to which the Minister concerned has had regard to any resolution or report of the Committee or to any other representations made during the period for parliamentary consideration.
- (8) In its consideration of any subordinate provisions order the committee shall in each case consider whether the special attention of the House should be drawn to it on any of the grounds on which (in accordance with paragraph 1(B) of Standing Order N^o. 151 (Statutory Instruments (Joint Committee)) the Select Committee on Statutory Instruments may draw the attention of the House to a statutory instrument; and if the committee is of the opinion that any such order or draft order should be annulled, or, as the case may be, should not be approved, they shall report that opinion to the House.

- (9) The committee shall consist of eighteen members.
- (10) Unless the House otherwise orders, each Member nominated to the committee shall continue to be a member of it for the remainder of the Parliament.
- (11) The committee shall have power--
 - (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place within the United Kingdom, and to report from time to time;
 - (b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference;
 - (c) to appoint a sub-committee, of which the quorum shall be two, which shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, and to adjourn from place to place within the United Kingdom;
 - (d) to communicate its evidence and any other documents relating to matters of common interest to any committee appointed by this House and to any committee appointed by the Lords to examine deregulation and regulatory reform proposals and draft orders.
- (12) The committee and the sub-committee shall have leave to meet concurrently with any select committee appointed by the Lords to examine deregulation and regulatory reform proposals and draft orders and any sub-committee thereof.
- (13) The committee and the sub-committee shall have the assistance of the Counsel to the Speaker and, if their Lordships think fit, the Counsel to the Lord Chairman of Committees.
- (14) The committee and the sub-committee shall have power to invite Members of the House who are not members of the committee to attend meetings at which witnesses are being examined and such Members may, at the discretion of the chairman, ask questions of those witnesses; but no Member not being of the committee shall otherwise take part in the proceedings of the committee or sub-committee, or be counted in the quorum.
- (15) It shall be an instruction to the committee that before reporting either
 - (a) that any proposal should be amended before the draft order is laid before the House, or
 - (b) that the order-making power should not be used in respect of any proposal, or
 - (c) that any draft order should not be approved,it shall afford to any government department concerned an opportunity of furnishing orally or in writing to it or to the sub-committee appointed by it such explanations as the department think fit.
- (16) It shall be an instruction to the committee that it report on every draft order (not being a subordinate provisions order) not more than fifteen sitting days after the draft order was laid before the House, indicating in the case of draft orders which it recommends should be approved whether its recommendation was agreed without a division.

STANDING ORDERS OF THE HOUSE OF LORDS

(NOTE: at the time of printing, the House of Lords had not yet considered what changes might be needed to the Standing Orders set out below which apply to the consideration of proposals for deregulation orders)

- “40** Notices shall be entered in the Order Paper in the order in which they are received at the Table, provided that:
- (1) Starred Questions shall be entered before other business.

- (2) Notices relating to Private Business may be entered before Public Business. At the discretion of the Chairman of Committees they may also be entered later in the Order Paper.
- (3) Notices relating to the Business of the House and to the Chairman of Committees' Business, if he so desires, shall have priority over other Public Business except Starred Questions.
- (4) On all sitting days except Wednesdays, notices and orders relating to Public Bills, Measures, Affirmative Instruments and reports from Select Committees of the House shall have precedence over other notices and orders save the foregoing.
- (5) On Wednesdays, notices of Motions shall have precedence over notices and orders relating to Public Bills, Measures and delegated legislation.
- (6) Any motion relating to a report from the Delegated Powers and Regulatory Reform Committee on a draft order laid under section 1 of the Deregulation and Contracting Out Act 1994 or on a draft order laid under the Regulatory Reform Act 2001 shall be entered before a motion to approve that draft order.
- (7) Subject to paragraphs (4), (5) and (6) the precedence of notices and orders relating to Public Bills, Measures, Affirmative Instruments and reports from Select Committees of the House may be varied on any day, if the convenience of the House so requires.
- (8) Unstarred Questions shall be entered last.
- “721) No Motion for a resolution of the House to approve an Affirmative Instrument shall be moved until:
 - (a) except in the case of any Order in Council or draft Order in Council made or proposed to be made under paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, or a draft order proposed to be made under section 1 of the Deregulation and Contracting Out Act 1994, or a draft remedial order or remedial order laid under Schedule 2 to the Human Rights Act 1998, or a draft order proposed to be made under section 1 of the Regulatory Reform Act 2001, there has been laid before the House the report thereon of the Joint Committee on Statutory Instruments;
 - (b) in the case of a draft order proposed to be made under section 1 of the Deregulation and Contracting Out Act 1994, or a draft order proposed to be made under section 1 of the Regulatory Reform Act 2001, there has been laid before the House the report thereon of the Delegated Powers and Regulatory Reform Committee; and
 - (c) in the case of a draft remedial order or remedial order laid under Schedule 2 to the Human Rights Act 1998, there has been laid before the House the report thereon of the Joint Committee on Human Rights:

Provided that the report is laid

 - (i) in the case of a draft remedial order, within 60 days of the laying of the draft order or
 - (ii) in the case of an order not approved in draft, within 119 days of the making of the original order,such periods to be calculated in the manner prescribed by Schedule 2 to the Act; and
 - (d) in the case of a Hybrid Instrument, the proceedings under Private Business Standing Order 216 or 216A have been terminated.
- (2) In this Standing Order "Affirmative Instrument" means an Order in Council, departmental order, rules, regulations, scheme or other similar instrument presented to or laid or laid in draft before the House where an affirmative resolution is required before it, or any part of it, becomes effective, or is made, or is a condition of its

continuance in operation: but the expression does not include a Measure laid before the House under the Church of England Assembly (Powers) Act 1919 nor regulations made under the Emergency Powers Act 1920.

- (3) An Order in Council that may not be made except in response to an address by the House to Her Majesty is an Affirmative Instrument within the meaning of this Standing Order, and a Motion for an address to Her Majesty praying that an order be made is a Motion to approve the order.
- (4) An order, rules, regulations, scheme or instrument laid in draft before the House for the purpose of being approved by resolution of the House is an Affirmative Instrument within the meaning of this Standing Order notwithstanding that, if the draft is not approved, that instrument is subject to annulment in pursuance of a resolution of either House.