

LEGISLATIVE AND REGULATORY REFORM ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Order-Making Powers

Procedure

Section 17: Affirmative resolution procedure

103. This section sets out the procedure which will apply where an order is to be made under the affirmative resolution procedure. The Minister may make an order in the terms of the draft (allowing for any non-material drafting changes) only if, after 40 days of the draft order being laid before Parliament, the draft order is approved by a resolution of each House of Parliament. Non-material drafting changes might be necessary as a result of any change of procedure the order was subject to (under the provisions in section 15).
104. When the draft order is laid before Parliament, it is scrutinised simultaneously by a committee of each House charged with reporting to the House on the order. Subsection (3) provides that the relevant committee of either House can, at any time after the expiry of the period of 30 days beginning on the day the draft order was laid before Parliament and before the expiry of the period of 40 days beginning on the day the draft order was laid before Parliament, require that no further proceedings be taken on the draft by making a recommendation in those terms. This recommendation may be made on any grounds and, in the event that a committee makes such a recommendation, no further proceedings may be taken in relation to the draft order unless the recommendation is overturned by a resolution of the relevant House in the same Parliamentary session. Thus, unless overturned, the committee's recommendation will mean that the House will not proceed to an affirmative resolution and the Minister will therefore be unable to make the order. A committee of either House is thus able to prevent an order from being made.
105. Subsection (7) makes the same provision as section 16(8).