

# Government Powers (Limitation) Bill

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**B I L L**

TO

amend the law in relation to the permitted number of Ministers of the Crown; to limit the powers of Ministers to make certain appointments; to make provision with respect to the parliamentary scrutiny of European Union proposals and other subordinate legislation; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Ministers of the Crown*

**1 Ministers of the Crown**

- (1) There shall be not more than 82 Ministers of the Crown at any one time, of whom not more than 63 shall be Ministers of State or Parliamentary Secretaries.
- (2) The Secretary of State may by order amend a maximum permitted number in subsection (1). 5
- (3) A Minister's appointment shall lapse after a period of three months unless it has been approved by the relevant select committee of the House of Commons.

*Appointments by Ministers*

**2 Appointment of special advisers** 10

- (1) There shall be not more than 38 special advisers at any one time, of whom not more than 8 shall be expert advisers.
- (2) The Secretary of State may by order amend a maximum permitted number in subsection (1).
- (3) A proposed appointment of a special adviser shall be approved by the relevant select committee of the House of Commons before it is made. 15

- (4) No Minister shall appoint a special adviser after the passing of this Act until both Houses of Parliament have approved a code of conduct for special advisers.

### 3 Appointments to non-departmental public bodies

- (1) There shall be not more than 1,000 non-departmental public bodies at any one time to which appointments may be made by Ministers. 5
- (2) A proposed appointment by a Minister to a non-departmental public body shall be approved by the House of Commons before it is made.
- (3) Approval under subsection (2) may be given by the relevant select committee of the House of Commons where the House so decides. 10
- (4) An appointment by a Minister to a non-departmental public body ---  
 (a) shall expire after a period of two years if it has not previously ended;  
 (b) if renewed shall be treated for the purposes of this section as if it were a new appointment.
- (5) The Prime Minister shall --- 15  
 (a) lay a report before Parliament; and  
 (b) make a statement in the House of Commons  
 on the exercise of Ministers' powers to make appointments to non-departmental public bodies in respect of each calendar year not later than 31st March in the following year. 20

### 4 Appointments to task forces

- (1) There shall be not more than 44 task forces at any one time to which appointments may be made by Ministers.
- (2) A proposed appointment by a Minister to a task force shall be approved by the House of Commons before it is made. 25
- (3) Approval under subsection (2) may be given by the relevant select committee of the House of Commons where the House so decides.
- (4) An appointment by a Minister to a task force —  
 (a) shall expire after a period of two years if it has not previously ended;  
 (b) shall not be renewed after it has expired. 30
- (5) The Prime Minister shall —  
 (a) lay a report before Parliament; and  
 (b) make a statement in the House of Commons  
 on the exercise of Ministers' powers to make appointments to task forces in respect of each six-month period ending 30th June or 31st December not later than the following 30th September or 31st March respectively. 35

### 5 Political balance of appointments

- (1) This section and section 6 apply to appointments to a non-departmental public body or to a task force.
- (2) A Minister making an appointment which is within this section shall — 40

- 
- (a) require from the person whom it is proposed to appoint a declaration of any political affiliation which that person may have; and
- (b) ensure that the proportion of those persons appointed to the body to which the appointment is proposed to be made who have made a declaration under paragraph (a) that they have a political affiliation to the party which commands a majority in the House of Commons does not exceed the proportional representation of that party in the House of Commons as then constituted. 5
- (3) It shall be an offence for a person who has a political affiliation and who is required to declare it under subsection 2(a) not to declare that affiliation. 10
- (4) In this section "political affiliation" means –
- (a) membership of, or
- (b) active participation in the affairs of a political party or of an organisation which is affiliated to a political party at any time in the period of five years preceding the date of the proposed appointment. 15
- 6 Expenditure consequences of appointments**
- (1) Where a Minister –
- (a) proposes to make an appointment which is within this section; and
- (b) has reason to believe that that appointment will lead to an increase in real terms in expenditure out of the consolidated fund in the current financial year over the previous financial year
- he shall lay a report to that effect before the House of Commons. 20
- (2) A proposed appointment which is the subject of a report under subsection (1) shall not be made unless the report has been approved by resolution of the House of Commons. 25
- 7 Appointment of press officers**
- No Minister shall appoint as a press officer in the public service a person who is not a civil servant.
- 8 Other appointments by Ministers** 30
- Any proposed appointment by a Minister of a person who is not a civil servant to a position in the public service which is not covered by the provisions of section 2, 3, 4 or 7 shall be approved by the relevant select committee of the House of Commons before it is made.
- 9 Liaison Committee** 35
- The Liaison Committee of the House of Commons shall decide which is the relevant committee for the purposes of section 1(3), 2(3), 3(3), 4(3) and 8; and if the Liaison Committee decides that more than one committee is relevant the approval of each such committee shall be required.

*Subordinate legislation***10 Passage of subordinate legislation**

- (1) Where by any Act it is provided that a statutory instrument may not be made or shall not come into force unless it has been approved by resolution of either House of Parliament, such a resolution shall be deemed to be disagreed to if in any division on the question on a motion for such a resolution, fewer than two thirds of those voting vote in the affirmative. 5
- (2) Where by any Act it is provided that a statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament, such a resolution shall be deemed to be agreed to if in any division on the question on a motion for such a resolution, not fewer than one third of those voting vote in the affirmative. 10
- (3) Where an enforceable Community right within the meaning of section 2 of the European Communities Act 1972 (c. 68) ---
- (a) has direct legislative effect within any part of the United Kingdom; and 15
- (b) is not otherwise subject to approval by either House of Parliament then notwithstanding anything to the contrary in any Treaty or in any other enactment that proposal shall not have effect unless it is first approved by resolution of both Houses of Parliament.
- (4) A resolution under subsection (3) shall be deemed to be disagreed to if in any division on the question on a motion for such a resolution, fewer than two thirds of those voting vote in the affirmative. 20

*General***11 Orders**

The power to make an order under this Act is exercisable by statutory instrument; but no such order is to be made unless a draft has been laid before and approved by resolution of each House of Parliament. 25

**12 Interpretation**

In this Act –

- “civil servant” has the same meaning as in section 68 of the Superannuation Act 1965 (c. 74); 30
- “expert adviser” means a special adviser who is not a political adviser;
- “Minister” means a Minister of the Crown;
- “Minister of State” and “Parliamentary Secretary” have the same meanings as in the House of Commons Disqualification Act 1975 (c. 24); 35
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
- “non-departmental body” means a publicly-funded body –
- (a) which is not a government department; and 40
- (b) to which appointments are made directly by a Minister;
- “public service” has the same meaning as in the Civil Service Order in Council 1995;

“special adviser” means a person appointed by a Minister –

(a) to a situation in Her Majesty’s Home Civil Service under the exemption applied by Article 3(2) of the Civil Service Order 1995 as amended; or

(b) to an equivalent situation in another public service; 5

“task force” means a publicly-funded non-statutory body –

(a) which is composed partly of persons who are Crown servants and partly of persons who are not Crown servants; and

(b) to which appointments are made directly by a Minister or subject to a Minister’s approval. 10

**13 Short title**

This Act may be cited as the Government Powers (Limitations) Act 2003.

# Government Powers (Limitation) Bill

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## B I L L

To amend the law in relation to the permitted number of Ministers of the Crown; to limit the powers of Ministers to make certain appointments; to make provision with respect to the parliamentary scrutiny of European Union proposals and other subordinate legislation; and for connected purposes.

*Presented by  
Mr John Bercow.*

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to be Printed, 11th December 2002.*

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