



House of Commons  
Regulatory Reform Committee

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**Draft Regulatory  
Reform (Fire Safety)  
(Custodial Premises)  
Subordinate Provisions  
Order 2018**

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**First Report of Session 2017–19**

*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons  
to be printed 28 February 2018*

## Regulatory Reform Committee

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on draft Legislative Reform Orders under the Legislative and Regulatory Reform Act 2006. Its full remit is set out in S.O. No. 141, which was approved on 4 July 2007.

### Current membership

[Stephen McPartland MP](#) (*Conservative, Stevenage*) (Chair)

[Bim Afolami MP](#) (*Conservative, Hitchin and Harpenden*)

[Andrew Bridgen MP](#) (*Conservative, North West Leicestershire*)

[Douglas Chapman MP](#) (*Scottish National Party, Dunfermline and West Fife*)

[Mr Simon Clarke MP](#) (*Conservative, Middlesbrough South and East Cleveland*)

[Julie Elliott MP](#) (*Labour, Sunderland Central*)

[Kirstene Hair MP](#) (*Conservative, Angus*)

[Simon Hoare MP](#) (*Conservative, North Dorset*)

[Graham P Jones MP](#) (*Labour, Hyndburn*)

[Helen Jones MP](#) (*Labour, Warrington North*)

[Mr Kevan Jones MP](#) (*Labour, North Durham*)

[Conor McGinn MP](#) (*Labour, St Helens North*)

[Jeremy Quin MP](#) (*Conservative, Horsham*)

[Karl Turner MP](#) (*Labour, Kingston upon Hull East*)

### Criteria against which the Committee considers each draft legislative reform order

Paragraph (9) of Standing Order No.141 requires us to consider any draft regulatory reform order against the following criteria:

whether the special attention of the House should be drawn to it on any of the grounds laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)); 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.

### Publications

Committee reports are published on the publications page of the Committee's website and in print by Order of the House. All publications of the Committee (including press notices) are on the internet at [www.parliament.uk/regrefcom](http://www.parliament.uk/regrefcom).

### Committee staff

The current staff of the Committee are Ben Sneddon (Clerk), and Jonathan Olivier-Wright (Senior Committee Assistant).

### Contacts

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5777; the Committee's email address is: [deregcom@parliament.uk](mailto:deregcom@parliament.uk)

## Summary

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The draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018 was laid before the House under the terms of the Regulatory Reform Act 2001. It seeks to remove a barrier to the effective operation of the Regulatory Reform (Fire Safety) Order 2005, which unintentionally prevents Crown inspections of fire safety at certain custodial premises leased or run by private providers.

The draft Order has been subject to a suitable degree of consultation and is an effective and appropriate way to achieve its aims.

# 1 Role of the Committee

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1. The Regulatory Reform Act 2001<sup>1</sup> has largely been repealed and replaced by the Legislative Reform Act 2006.<sup>2</sup> However, there remains a residual power to allow instruments to be amended by the procedures set out in the 2001 Act.
2. The Standing Orders of the House require the Regulatory Reform Committee to examine and report on any subordinate provisions order or draft of such an order made or proposed to be made under sections 1 and 4 of the Regulatory Reform Act 2001 (except those not made by a Minister of the Crown).<sup>3</sup>
3. The Committee is required to consider whether such orders or draft orders should be drawn to the special attention of the House (in the same terms that the Joint Committee on Statutory Instruments considers instruments<sup>4</sup>) and if the Committee is of the opinion that any such order or draft order should be annulled or not approved, to report that opinion to the House.<sup>5</sup>

# 2 Description of the draft Order

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4. The draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018<sup>6</sup> (“the draft Order”) was laid before the House by the Home Office under section 4 (2) of the Regulatory Reform Act 2001 and is subject to approval by resolution of the House. It was accompanied by an explanatory memorandum<sup>7</sup> and an impact assessment,<sup>8</sup> from which we have drawn heavily for this report. The draft Order is also subject to the approval by resolution of the House of Lords and has been scrutinised by the House of Lords Delegated Powers and Regulatory Reform Committee.<sup>9</sup>
5. The draft Order amends the Regulatory Reform (Fire Safety) Order 2005<sup>10</sup> (“the 2005 Order”) to remove an unintended regulatory barrier that requires enforcement of compliance with the 2005 Order in certain custodial premises to be undertaken by fire and rescue authorities rather than the intended Crown inspectors. The policy intent of the 2005 Order was that there should be a single enforcing agency for custodial premises to maintain a consistent approach to enforcement.
6. Statutory guidance issued in 2007 indicated that all government-owned custodial premises, including civilian prisons, young offender institutions, immigration detention, holding or removal centres, court custody suites, customs and excise detention areas, are the responsibility of Crown inspectors, whether operated by Government or contracted

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1 Regulatory Reform Act 2001, [section 4](#)

2 [Legislative Reform Act 2006](#)

3 Standing Orders of the House of Commons - Public Business 2017, [SO No. 141 \(1\)](#)

4 Standing Orders of the House of Commons - Public Business 2017, [SO No. 151 \(1\)](#)

5 Standing Orders of the House of Commons - Public Business 2017, [SO No. 141 \(9\)](#)

6 [Draft Regulatory Reform \(Fire Safety\) \(Custodial Premises\) Subordinate Provisions Order 2018](#)

7 [Draft Impact Assessment for the draft Regulatory Reform \(Fire Safety\) \(Custodial Premises\) Subordinate Provisions Order 2018](#)

8 [Draft Explanatory Memorandum for the draft Regulatory Reform \(Fire Safety\) \(Custodial Premises\) Subordinate Provisions Order 2018](#)

9 House of Lords, Draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018,

Fourteenth Report of the Delegated Powers and Regulatory Reform Committee, Session 2017–19, [HL Paper 81](#)

10 Regulatory Reform (Fire Safety) Order 2005 ([SI 2005/1541](#))

out.<sup>11</sup> The Government has indicated that currently 7% of custodial premises are leased at a low or zero market rent. These premises are not deemed government-owned for the purposes of the 2005 Order and are subject to inspection by local fire and rescue authorities and not the intended Crown inspectors. The 2005 Order also does not explicitly include Secure Training Centres and Approved Premises within the remit of Crown inspectors.

7. The draft Order is intended to enable Crown inspections across the custodial estate and to provide flexibility so any subsequent changes to the custodial estate do not require further legislation on this issue. In its supporting documents for the draft Order, the Government have noted that interim arrangements have been made to enable Crown inspectors to continue to inspect those custodial premises that are not currently included by virtue of the 2005 Order, but that enforcement would be required to be taken by local fire and rescue authorities. The draft Order would remedy this and could therefore reduce burdens on local fire and rescue authorities.

8. The 2005 Order and the draft Order extend to England and Wales. The Government have confirmed that the Welsh Government are content for the Home Office to amend the 2005 Order in respect of both England and Wales.

### 3 Assessment of the draft Order

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9. **We find no cause to recommend that the special attention of the House be drawn to the draft Order or that it be not approved.**

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<sup>11</sup> Department for Communities and Local Government, [Regulatory Reform \(Fire Safety\) Order 2005 Guidance Note No. 1: Enforcement](#), October 2007

# Formal Minutes

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**Wednesday 28 February 2018**

Members present:

Stephen McPartland, in the Chair

Douglas Chapman      Kirstene Hair  
Mr Simon Clarke      Mr Kevan Jones  
Julie Elliott

Draft Report (*Draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 9 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the First Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned to a date and time to be fixed by the Chair