HOUSE OF LORDS

Merits of Statutory Instruments Committee

32nd Report of Session 2006-07

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The Select Committee on the Merits of Statutory Instruments

The Committee has the following terms of reference:

(1) The Committee shall, subject to the exceptions in paragraph (2), consider—

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in paragraph (3).

(2) The exceptions are—

(a) remedial orders, and draft remedial orders, under section 10 of the Human Rights Act 1998;

(b) draft orders under sections 14 and 18 of the Legislative and Regulatory Reform Act 2006, and subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001;

(c) Measures under the Church of England Assembly (Powers) Act 1919 and instruments made, and drafts of instruments to be made, under them.

(3) The grounds on which an instrument, draft or proposal may be drawn to the special attention of the House are—

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may inappropriately implement European Union legislation;

(d) that it may imperfectly achieve its policy objectives.

(4) The Committee shall also consider such other general matters relating to the effective scrutiny of the merits of statutory instruments and arising from the performance of its functions under paragraphs (1) to (3) as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Current Membership

The Members of the Committee are:

Baroness Adams of Craigielea
Lord Armstrong of Ilminster
Viscount Colville of Culross
Baroness Deech
Baroness Thomas of Winchester
Baroness Maddock
Viscount Eccles
Lord Filkin (Chairman)
Lord James of Blackheath
Lord Tunnicliffe
Lord Jopling

Registered Interests

Members’ registered interests may be examined in the online Register of Lords’ Interests at www.publications.parliament.uk/pa/ld/ldreg.htm. The Register may also be inspected in the House of Lords Record Office and is available for purchase from the Stationery Office.

Publications

The Committee’s Reports are published by the Stationery Office by Order of the House. All publications of the Committee are on the internet at: www.parliament.uk/parliamentary_committees/merits.cfm

Contacts

If you have a query about the Committee and its work, please contact the Clerk of the Merits of Statutory Instruments Committee, Delegated Legislation Office, House of Lords, London SW1A 0PW; telephone 020-7219 8821; facsimile 020-7219 2571; email merits@parliament.uk. The Committee’s website, www.parliament.uk, has guidance for the public on how to contact the Committee if you have a concern or opinion about any new item of secondary legislation.
Thirty-second Report

INSTRUMENTS OF INTEREST

1. The draft Criminal Proceedings etc (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order extends the role of District and Justice of the Peace Courts in Scotland to allow them to impose disqualification from driving and to deal with offences which involve obligatory endorsement of driving licences. The Summary Justice Review Committee report in 2004 had recommended the abolition of the office of Justice of the Peace in Scotland, because of the reduced level of business which the lay courts would see once the Committee’s other recommendations had come into force. Although there was widespread support for many of the Committee’s recommendations, public consultation revealed considerable opposition to the abolition of JPs. In consequence the Scottish Ministers decided to improve the recruitment, appointment and training of lay justices to equip them to play an enhanced role within the summary justice system, extending the range of cases they can hear, in order to reduce the pressure on the Sheriff Courts. We commend this as a demonstration of Ministers making good use of the outcome of public consultation in formulating public policy.

2. The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 (SI 2007/2868) have been laid with three other instruments1 which extend the Local Housing Allowance (LHA) scheme to the whole of Great Britain. It has been piloted in nine areas and revised on the basis of that experience. The LHA is a reform of the housing benefit scheme which provides for a simplified method of calculating benefit entitlement for cases in the deregulated private rented sector based on the number, gender and age of occupiers and location. In general, LHA benefits will be paid directly to claimants rather than to landlords which was the previous practice. Extensive evaluation of the pilots has taken place2 before this national roll-out, although the Explanatory Memorandum does not give sufficient information about this. Nor is data yet available about the anticipated budget for the LHA or the number of people affected. We note the provisions designed to protect the vulnerable and DWP’s commitment to review the operation of the rolled-out scheme after two years of operation (i.e. around April 2010), but are concerned that adequate information on the new system should be provided to claimants.

3. Following changes made by section 19 of the Offender Management Act 2007, the Young Offender Institution (Amendment) Rules 2007 (SI 2007/2953) and the Prison (Amendment) Rules 2007 (SI 2007/2954) both extend the powers of the Director of a private sector prison to align them more closely with those of a public sector prison Governor. These

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1 Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 (SI 2007/2869), Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007 (SI 2007/2870), Rent Officers (Housing Benefit Functions) Amendment Order 2007 (SI 2007/2871).

2 The evaluation findings are largely positive and all reports are published on the DWP website at: http://www.dwp.gov.uk/housingbenefit/lha/evaluation/
instruments allow the Director to conduct certain disciplinary hearings relating to prisoners and to take specified measures relating to the segregation and restraint of prisoners, whether or not the need for those measures is urgent.

INSTRUMENTS NOT REPORTED

The Committee has considered the instruments set out below and has determined that the special attention of the House need not be drawn to them.

Draft Instruments requiring affirmative approval

Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007
Special Immigration Appeals Commission (Procedure) (Amendment No. 2) Rules 2007

Instruments subject to annulment

SI 2007/2868 Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007
SI 2007/2869 Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007
SI 2007/2870 Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007
SI 2007/2871 Rent Officers (Housing Benefit Functions) Amendment Order 2007
SI 2007/2911 Social Security (Claims and Information) Regulations 2007
SI 2007/2912 Social Fund Cold Weather Payments (General) Amendment Regulations 2007
SI 2007/2914 Transfer of Functions (Equality) Order 2007
SI 2007/2921 Toot Hill School (School Day and School Year Regulations) Order 2007
SI 2007/2936 Criminal Defence Service (General) (No. 2) (Amendment No. 2) Regulations 2007
SI 2007/2937 Criminal Defence Service (Financial Eligibility) (Amendment No. 2) Regulations 2007
SI 2007/2951 Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007
SI 2007/2952 Control of Trade in Endangered Species (Enforcement) (Amendment) Regulations 2007
SI 2007/2953 Young Offender Institution (Amendment) Rules 2007
SI 2007/2970 Import and Export Restrictions (Foot-And-Mouth Disease) (No. 4) Regulations 2007
SI 2007/2984 Import and Export Restrictions (Foot-And-Mouth Disease) (No. 5) Regulations 2007