

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

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19th Report of Session 2012-13

## **Special Report**

# **Public Bodies Act 2011: one year on**

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*Secondary Legislation Scrutiny Committee (formerly Merits of Statutory Instruments Committee)*

The Committee has the following terms of reference:

- (1) The Committee shall, with the exception of those instruments in paragraphs (3) and (4), scrutinise—
  - (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 (2).
- (2) 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.
- (3) 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.
- (4) The Committee shall report on draft orders and documents laid before Parliament under section 11(1) of the Public Bodies Act 2011 in accordance with the procedures set out in sections 11(5) and (6). The Committee may also consider and report on any material changes in a draft order laid under section 11(8) of the Act.
- (5) The Committee shall also consider such other general matters relating to the effective scrutiny of secondary legislation and arising from the performance of its functions under paragraphs (1) to (4) as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

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*Registered interests*

Information about interests of Committee Members can be found in the Appendix.

*Publications*

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*Information and Contacts*

If you have a query about the Committee or its work, including concerns or opinions on any new item of secondary legislation, please contact the Clerk of the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW; telephone 020-7219 8821; fax 020-7219 2571; email [seclegscrutiny@parliament.uk](mailto:seclegscrutiny@parliament.uk).

*Statutory instruments*

The National Archives publishes statutory instruments on the internet at <http://www.legislation.gov.uk/>, together with a plain English explanatory memorandum.

# Public Bodies Act 2011: one year on

## Introduction

1. The Public Bodies Act 2011 (the 2011 Act) received Royal Assent on 14 December 2011. The Act gives Ministers the power by order to abolish, merge or modify a number of public bodies and offices. All of the 285 bodies and offices listed in Schedules 1 to 5 to the Act were originally established in primary legislation and the 2011 Act allows their abolition, merger or modification by secondary legislation. The 2011 Act was part of a wider programme of Government reform of public bodies.
2. One year on from Royal Assent, this Special Report sets out how that scrutiny system has so far operated in the House of Lords. Only 19 draft orders (relating to 37 public bodies) have been laid before Parliament to date. In our reports on these orders, we have identified areas of good practice but we have had greater cause to raise concerns in a number of areas, namely:
  - The robustness of the Government's case for individual orders;
  - The evidence provided to show that the statutory tests in the 2011 Act have been met;
  - The Government's approach to consultation and ongoing engagement with stakeholders; and
  - The arrangements that the Government has put in place to ensure the future monitoring of reforms and in some cases continued assurances to Parliament.

Paragraphs 10 to 22 set out these concerns in more detail.

3. We have also reported on the progress made by the Government against its original timetable for the reform of public bodies under the Act which has been slower than originally anticipated. The Government has laid fewer than 50% of the orders it planned to lay in the first year after Royal Assent and further explanation of this is given in paragraphs 24 to 28. Although each individual order laid has contained some information on costs and savings, we have not yet been able to obtain a single figure for the net savings arising from public bodies orders in the first year (see paragraph 29).

## Background

4. The Public Bodies Bill was considered for six months by the House of Lords,<sup>1</sup> during which time a number amendments were made to the Bill, in particular:
  - Setting out new arrangements for Parliamentary scrutiny of orders made under the Act (section 11);

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<sup>1</sup> The Bill was introduced and given a First Reading on 28 October 2010 and was given a Third Reading and passed on 9 May 2011

- Inserting a number of statutory conditions that must be met before draft orders can be laid (section 8) together with a requirement on the Minister to consult before bringing forward a draft order (sections 10 and 11(3));
  - Removing the ability to amend (other than by primary legislation) any of the entries in Schedules 1 to 5 which list the bodies that may be abolished, merged or reformed; and
  - Inserting a sunset provision so that any entry in Schedules 1 to 5 ceases to have effect five years after the Act is brought into force.
5. The scrutiny arrangements in section 11 of the 2011 Act are set out in more detail in our first Special Report on public bodies orders.<sup>2</sup> In short it provides that:
- A draft public bodies order is laid before both Houses by the Minister, together with an Explanatory Document;
  - A 40 day scrutiny period is thereby initiated, after which the draft order can be put to both Houses for approval;
  - During the first 30 days of the scrutiny period, the nominated committee in each House, or either House itself, can trigger the 60 day “enhanced affirmative”<sup>3</sup> procedure;
  - If the 60 day enhanced affirmative procedure is triggered, the nominated committee in either House can make recommendations on the draft order, or either House can pass resolutions relating to the draft order; and the Minister has a statutory duty to have regard to those recommendations or resolutions;
  - Once the 60 day period is completed, the Minister may either submit the draft order in its original form for approval by resolution of each House of Parliament or, if he wishes to make material changes to the draft order, he may lay a revised draft before both Houses together with a statement summarising the changes proposed.

### Our approach to scrutiny

6. The Secondary Legislation Scrutiny Committee<sup>4</sup> is the Committee in the House of Lords charged with scrutinising public bodies orders.<sup>5</sup> In our first Special Report<sup>6</sup> we set out how we intended to approach this new scrutiny role. We have followed this approach and have looked, in respect of each draft public bodies order laid to date, at:
- Whether the statutory tests in section 8 of the 2011 Act have been met (see Box 1);

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<sup>2</sup> Scrutiny of Public Bodies Orders, 50th Report of the Merits of Statutory Instruments Committee, Session 2010-12, HL Paper 250

<sup>3</sup> The term “enhanced affirmative procedure” is used by the Government in paragraph 36 of the Explanatory Notes to the Act

<sup>4</sup> Formerly the Merits of Statutory Instruments Committee

<sup>5</sup> In the House of Commons, this role has been given to the departmental Select Committees

<sup>6</sup> Scrutiny of Public Bodies Orders, 50th Report of the Merits of Statutory Instruments Committee, Session 2010-12, HL Paper 250

- Whether the statutory consultation requirements in sections 10 and 11(3) have been met (see Box 2);
  - The effectiveness of the consultation;
  - The nature and outcome of debates during the passage of the Bill and how the draft order takes account of any Ministerial commitments made during debate;
  - Interest from Members of Parliament, the public or the media on the draft order;
  - Formal submissions we have received; and
  - Whether the draft order should be cleared under the 40 day standard procedure, or whether the 60 day enhanced affirmative procedure should apply.
7. To date, we have reported on 18 public bodies orders.<sup>7</sup> This represents fewer orders than we were anticipating in the first year. We return to the issue of the Government's progress against its original timetable in paragraphs 24 to 29.
8. For draft orders that have proceeded under the 40 day affirmative procedure, we have on average reported to the House within 10 working days (17 calendar days) from the date the order was laid. The 60 day enhanced affirmative procedure has so far been triggered only three times (each time by this Committee). For these orders, our reporting time was within 32 working days (57 calendar days) from the date of laying. We have only once called in the Minister to give oral evidence<sup>8</sup>, and on that occasion we made formal recommendations, which the Minister then had a statutory duty to have regard to under the 60 day enhanced affirmative procedure. On the remaining draft orders considered so far, the Committee has either made informal recommendations or comments, or cleared the draft order without substantial comment.

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<sup>7</sup> We have not yet reported on the Draft Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme and Modification of Enforcement Functions) Order 2013, laid on 12 December 2012

<sup>8</sup> We heard oral evidence from Richard Benyon MP on 24 April – see transcript at: [http://www.parliament.uk/documents/lords-committees/merits-statutory-instruments/Correct-Transcript-of-Merits-Committee-\(British-Waterways-Board\)-24-April-2012.pdf](http://www.parliament.uk/documents/lords-committees/merits-statutory-instruments/Correct-Transcript-of-Merits-Committee-(British-Waterways-Board)-24-April-2012.pdf)

### Box 1: the statutory tests

A public bodies order can only be made if the Minister considers that:

- The order serves the purpose of improving the exercise of public functions, having regard to –
  - a) efficiency,
  - b) effectiveness,
  - c) economy, and
  - d) securing appropriate accountability to Ministers.
- The order does not remove any necessary protection.
- The order does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

### Box 2: the consultation requirements

A Minister proposing to make a public bodies order must consult—

- a) the body or the holder of the office to which the proposal relates,
- b) such other persons as appear to the Minister to be representative of interests substantially affected by the proposal,
- c) the Scottish Ministers, if the proposal relates to any matter, so far as applying in or as regards Scotland, in relation to which the Scottish Ministers exercise functions (and where the consent of the Scottish Parliament is not required under section 9),
- d) a Northern Ireland department, if the proposal relates to any matter, so far as applying in or as regards Northern Ireland, in relation to which the department exercises functions (and where the consent of the Northern Ireland Assembly is not required under section 9),
- e) the Welsh Ministers, if the proposal relates to any matter, so far as applying in or as regards Wales, in relation to which the Welsh Ministers exercise functions (and where the consent of the National Assembly for Wales or the Welsh Ministers is not required under section 9),
- f) where the functions affected by the proposal relate to the administration of justice, the Lord Chief Justice, and
- g) such other persons as the Minister considers appropriate.

The Minister must also wait 12 weeks from the date the consultation starts before laying a draft order.

### Our recommendations and comments

9. Of the 18 draft public bodies orders we have considered in the first year, we have cleared only three without making comments or recommendations. In respect of the remaining orders, our comments and recommendations fall under four broad headings:

*Making the case for the reform*

10. The most common criticism we have made in our reports relates to insufficient evidence for the reform being presented in the Explanatory Document. Section 8 of the 2011 Act sets out the statutory tests the Minister must meet before making an order. The responsibility lies with the Minister to put a convincing case to Parliament (where possible with evidence) to show how the tests have been met; it is not sufficient for the Explanatory Document simply to assert that the tests have been met.
11. In one of our earliest reports on a public bodies order, the proposal to abolish Courts Boards,<sup>9</sup> we expressed concern about the lack of supporting evidence initially provided in the Explanatory Document. Our Report stated that “in our consideration of future draft public bodies orders we will expect the Government to present a properly argued case that all the tests in the 2011 Act have been satisfied, supported by objective evidence.”
12. The most significant example of an Explanatory Document lacking a persuasive explanation arose from the two draft orders relating to the British Waterways Board<sup>10</sup>. Having initially considered the case put forward in the Explanatory Document, we sought further written information from the Government but were still not persuaded that the Government had made the case for reform. We therefore triggered the 60 day enhanced affirmative procedure and called the Minister to give oral evidence in order to press him for a better explanation. During that oral evidence session, it became clear that a key part of the case for reform was the significant increase in volunteering which would result from the organisation transferring to charitable status. Had this been explained effectively in the original Explanatory Document, the draft order could have been cleared under the 40 day procedure.
13. We have subsequently had to raise a similar issue in respect of four further draft orders which each lacked sufficient supporting explanation.<sup>11</sup> However, there have been examples of good practice: the Explanatory Document accompanying the order abolishing the Child Maintenance Enforcement Commission contained a good explanation of the policy intention and how the statutory tests were met.

*Meeting the statutory tests*

14. As noted above, the responsibility lies with the Minister to demonstrate how the tests set out in the 2011 Act have been met in respect of each public bodies order. We have seen a number of instances of good practice where the Explanatory Document set out a persuasive explanation, in particular in the draft order proposing the abolition of the Railway Heritage Committee which set out clearly how the proposal would improve the exercise of public

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<sup>9</sup> Draft Public Bodies (Abolition of Courts Boards) Order 2012, 53rd Report of the Merits of Statutory Instruments Committee, Session 2010-12, HL Paper 262

<sup>10</sup> Draft British Waterways Board (Transfer of Functions) Order 2012 and Draft Inland Advisory Council (Abolition) Order 2012; 1st Report of 2012-13, HL Paper 5

<sup>11</sup> 13th Report (HL Paper 57) on the Draft Public Bodies (Water Supply and Water Quality Fees) Order 2012; 14th Report (HL Paper 63) on the Draft Public Bodies (Abolition of the Aircraft and Shipbuilding Industries Arbitration Tribunal) Order 2013; 15th Report (HL Paper 66) on the Draft Public Bodies (Abolition of Disability Living Allowance Advisory Board) Order 2013.

functions.<sup>12</sup> However, we have had cause to comment adversely in a number of our reports where the Explanatory Document has not demonstrated clearly how the tests have been met. For example, in our Report on the draft order proposing to abolish the Disability Living Allowance Advisory Board, we concluded that “the Explanatory Document lacked proper evidence to underpin the Government’s case.”<sup>13</sup>

15. Section 8(1)(a) and (b) requires the Minister to have regard to the **efficiency and effectiveness** of the proposed reform. In our first Report on a draft order, we commented that “given that the new governance arrangements will be central to NESTA’s effectiveness as a charity, the Committee would have expected to see a greater explanation of these arrangements”.<sup>14</sup> Similarly, our Report on the draft order relating to Water Supply and Water Quality Fees stated: “We are not, however, clear that the statement in the [Explanatory Document] about effectiveness applies with any greater force to the proposed charging scheme than to current arrangements ... We recommend that the Government give a clearer explanation of the ways in which they expect the [draft Order] to promote effectiveness and economy in the delivery of DWI’s functions”.<sup>15</sup>
16. Section 8(1)(c) requires the Minister to have regard to **economy**. For a number of the draft public bodies orders we have considered to date, the Government has quite justifiably decided that a full impact assessment would have been disproportionate. However, in these circumstances, the Government still has a responsibility to provide enough financial evidence to enable Parliament to judge whether the new arrangements will be more efficient or economic. That has not always happened. For example, our Report on the abolition of the Courts Boards concluded that Departments “should, as a minimum, include in the [Explanatory Document] a clear statement of the factors that have been included in their calculation of net savings. This should include any transitional costs and any costs from transferring duties ... which might offset the initial estimate of money saved.”<sup>16</sup>
17. Section 8(1)(d) requires the Minister to have regard to securing **appropriate accountability**. We have considered a number of public bodies orders where a body or the function it is carrying out have been taken into the relevant Department, enhancing accountability to Ministers. We have also considered a small number of orders which raise issues of independence as well as accountability. In our Report on the draft order proposing to abolish the Advisory Committee on Hazardous Substances and transfer its functions to a new committee within the department we recommended that “the Minister may wish to use the debate to set out exactly how the Government will ensure that the newly constituted committee will be able to, in the

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<sup>12</sup> 15th Report (HL Paper 66) on the Draft Public Bodies (Abolition of Railway Heritage Committee) Order 2013

<sup>13</sup> 15th Report (HL Paper 66) on the Draft Public Bodies (Abolition of Disability Living Allowance Advisory Board) Order 2013

<sup>14</sup> 51st Report of the Merits of Statutory Instruments Committee, Session 2010-12 (HL Paper 254) on the Draft Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012

<sup>15</sup> 13th Report (HL Paper 57) on the draft Public Bodies (Water Supply and Water Quality Fees) Order 2012

<sup>16</sup> 53rd Report of the Merits of Statutory Instruments Committee, Session 2010-12 (HL Paper 262) on the Draft Public Bodies (Abolition of Courts Boards) Order 2012

words, of the Code of Practice, “operate free of influence from the sponsor department officials or Ministers, and remain clear that their function is wider than simply providing evidence just to support departmental policy”.<sup>17</sup>

18. Section 8(2) ensures that a public bodies order cannot remove any necessary protections or prevent the exercise of a right or freedom (see Box 1). The draft order abolishing British Shipbuilders, the vehicle through which long-term industrial disease liabilities of former employees are managed, gave a number of specific assurances to allay concerns that the order might remove necessary protections, and we welcome this as an example of good practice.<sup>18</sup>

*The consultation requirement*

19. The House of Lords included on the face of the 2011 Act a requirement to consult and we have therefore taken a close interest in the consultation process for public bodies orders. There have been some examples of good practice, including the draft orders relating to the British Waterways Board on which Defra did a solid job of engaging stakeholders in the development of the new policy.<sup>19</sup> However this good practice is not universal. In our Report on the draft order abolishing the Aircraft and Shipbuilding Industries Arbitration Tribunal we noted that we expected the Government to allow “interested parties adequate time to comment”.<sup>20</sup>
20. The most difficult case we have had to consider to date was the consultation on the proposal to abolish the Disability Living Allowance Advisory Board. We had to press the Minister to explain why she had not consulted “such other persons as appear to the Minister to be representative of interests substantially affected by the proposal” as required by section 10(1)(b). As we noted in our Report, “the consultation provisions in the Public Bodies Act are statutory requirements: they are not “optional”.” Having received the Minister’s supplementary evidence, we reluctantly concluded that although it provided an explanation for why DWP considered it was not under a legal obligation to consult under section 10(1)(b), “we [did] not consider the Minister’s approach is necessarily in keeping with the spirit of the consultation requirement.”<sup>21</sup> This is an area where we will continue to take a keen interest.

*Monitoring and scrutiny of future arrangements*

21. Although there is no specific provision in the 2011 Act, we have sought to ensure that where a draft order transfers or merges functions there are appropriate mechanisms for future monitoring and scrutiny of the new arrangements. Our Report on the draft order abolishing the Courts Boards suggested that in the debate “the Minister may wish to give the House more specific assurances about what provision will remain to monitor and

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<sup>17</sup> 56th Report of the Merits of Statutory Instruments Committee, Session 2010-12 (HL Paper 274) on the Draft Advisory Committee on Hazardous Substances (Abolition) Order 2012

<sup>18</sup> 14th Report (HL Paper 63) on the Draft Public Bodies (Abolition of British Shipbuilders) Order 2013

<sup>19</sup> 1st Report (HL Paper 5) on the Draft British Waterways Board (Transfer of Functions) Order 2012

<sup>20</sup> 14th Report (HL Paper 63) on the Draft Public Bodies (Abolition of the Aircraft and Shipbuilding Industries Arbitration Tribunal) Order 2013

<sup>21</sup> 15th Report (HL Paper 66) on the Draft Public Bodies (Abolition of Disability Living Allowance Advisory Board) Order 2013

influence how court services are tailored to the needs of the local area.”<sup>22</sup> Similarly, in our Report on the draft order abolishing the Environmental Protection Advisory Committee we expressed surprise that the new arrangements were not intended to be subject to formal monitoring or evaluation, and we recommended that “the Government re-consider the need for formal monitoring and evaluation of the successor arrangements ... to enable interested parties to be engaged in the delivery of the Environment Agency’s objectives”.<sup>23</sup>

22. This ongoing monitoring requirement has, in some cases, included in our view a need for ongoing information or assurance to Parliament on the operation of the public body in its revised form. Our Report on the draft order relating to the British Waterways Board concluded that Parliament had a legitimate interest in the financial wellbeing of the new organisation given the level of public money involved in the funding arrangement and we recommended that “Defra provides Parliament with a Written Statement setting out the financial position of [Canal and River Trust] two years after the draft Order is made”.<sup>24</sup> The Government have agreed to do this.

*Government responses to our comments and recommendations*

23. We welcome the very positive response that Ministers have given to our reports on public bodies orders. For almost all of our recommendations or comments, the Government have agreed outright or agreed with the broad thrust of our recommendations.

**Progress against the timetable for reform**

24. In preparing this Report, we asked officials in the Cabinet Office to provide statistics on:
- The total number of public bodies or offices listed for reform or abolition in Schedules 1 to 5 of the 2011 Act,
  - The Government’s original estimate of the number of public bodies orders to be laid during the first year, together with the actual numbers laid, and
  - why some orders have not come through to the original timetable.

We are grateful to the Cabinet Office for providing this information which is reproduced in Appendix 1.

25. There are in total 285 bodies or offices listed for abolition or reform in Schedules 1 to 5 of the 2011 Act. The Government envisaged this would lead to a total of 58 draft orders. The difference between these two figures is explained by some draft orders dealing with more than one public body or office; for example, an order proposing to merge two or more bodies, or an order proposing to abolish a number of similar or related public bodies. We have considered a number of these joint or omnibus orders to date and,

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<sup>22</sup> 53rd Report of the Merits of Statutory Instruments Committee, Session 2010-12 (HL Paper 262) on the Draft Public Bodies (Abolition of Courts Boards) Order 2012

<sup>23</sup> 4th Report (HL Paper 14) on the Draft Public Bodies (Abolition of Environmental Protection Advisory Committee) Order 2012

<sup>24</sup> 1st Report (HL Paper 5) on the Draft British Waterways Board (Transfer of Functions) Order 2012

subject to the Explanatory Document providing a coherent explanation of the reforms to the bodies involved, this is a sensible and efficient approach.

26. The Government estimated that in the first year following Royal Assent 39 draft orders would be brought forward, reforming 60 public bodies. As of 13 December, only 19 orders have been laid, reforming 37 public bodies, with a further 2 intended to be laid before the Christmas recess (although we note there are now only 3 further sitting days on which orders can be laid). As fewer than 50% of the expected draft orders have been laid, we sought an explanation for why the remainder have not appeared. Not including those 2 orders that the Government planned to lay before the end of 2012, the reasons given were:
- 10 draft orders (25% of the original estimate for the first year) have been deferred to a future year,
  - 5 draft orders (13%) fall into the category of “policy and/or vehicle under consideration”, and
  - 3 draft orders (8%) fall into the category of “policy to be achieved by other means”, that is, provision made in the 2011 Act to reform or abolish the public body will not now be used.
27. A number of the draft orders scheduled for 2012 have been laid earlier than planned, and we commend those Departments who have worked hard to achieve this. It is perhaps not surprising that some of the proposed orders that have so far not materialised are those where the policy involved is more controversial, most obviously the proposed changes to the Administrative Justice and Tribunal Council which was scheduled to be laid in July.
28. More surprising perhaps is the number of planned orders – up to 8 (or 20%) – which one year on from Royal Assent it now appears may never be laid.

### Savings

29. The Impact Assessment accompanying the Bill as introduced stated that:
- “The Bill is intended to provide the statutory framework (where primary legislation is required) for affecting the changes agreed by the Government through the Public Bodies review process. It will enable the Government to reform the public bodies landscape by providing Secretaries of State with powers to make orders to abolish, merge or transfer the functions of bodies. **This will support the Government’s intention to reduce the costs associated with the public bodies landscape** and improve the transparency and accountability of bodies.”<sup>25</sup> (*emphasis added*)

Although each individual order laid has been accompanied by an Explanatory Document containing some information on costs and savings, we have not been able to obtain a single figure for the net savings arising from public bodies orders in the first year. As we noted in paragraph 16 above, we have not always received a clear statement of net savings and costs associated with each draft order. **We recommend that the Government provides a statement of the net savings arising from reforms to public bodies and offices under the Public Bodies Act 2011 one year on from Royal Assent.**

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<sup>25</sup> The Impact Assessment can be found at: <http://www.parliament.uk/documents/impact-assessments/IA10-136.pdf>

## Conclusions

30. The amendments made to the Public Bodies Bill during its passage in the House of Lords – to include specific statutory tests and requirements and to enhance the scrutiny arrangements – demonstrate the interest the House takes in the Government’s plans to reform public bodies and this in turn has underpinned our approach of carrying out robust scrutiny. Our scrutiny of the first 18 public bodies orders has revealed some areas of good practice but more serious areas of concern. In a few instances, the explanatory material provided with the draft order may have given rise to an impression that the Department concerned viewed the public bodies order process as a rubber stamping mechanism; and we have sought to challenge such assumptions.
31. In carrying out our scrutiny and reporting our findings to the House, we have been keen to ensure that the effects of the proposed changes to public bodies are properly evaluated. Given the emphasis the Government initially placed on the financial savings from public bodies reform, we have sought to ensure that the explanatory material makes clear how the proposed savings are being achieved, particularly when bodies are being merged. We have also sought to ensure that there is future transparency about the savings and other benefits arising from the reforms brought about by public bodies orders.

## APPENDIX 1: INFORMATION FROM THE CABINET OFFICE

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### Use of Public Bodies Act 2011, December 2011 – December 2012, as at 12 December 2012

The Secondary Legislation Scrutiny Committee has requested various data on the number of draft orders laid under the Public Bodies Act 2011. This is an update to the original information sent and takes into account orders laid as at 12 December 2012.

At Royal Assent, the potential number of orders in relation to bodies listed in Schedules 1 to 5 of the Act was **58**. This figure factors in likely omnibus orders. This relates to 285 bodies.

Early indications suggested that up to **41** orders could have been laid within a year of Royal Assent (14 December 2011 to 14 December 2012). At Royal Assent, reforms to both the RDAs and the Chief Coroner had been moved to the face of the Act, reducing the potential number of orders in the first year to **39** (60 bodies). Information on these is at Annex A.

The actual number of orders that the Government has brought forward in the first year

- a. Laid as at 12 December 2012 - 19 orders (37 bodies)
- b. To be laid before Christmas recess - 2 orders (3 bodies)

The following categorisation of orders that have not come through to the original timetable

- a. Draft order deferred to a future year - 10 orders (12 bodies)
- b. Policy to be achieved by other means (e.g. Primary Legislation) - 3 orders (3 bodies)
- c. Policy and/or vehicle is under consideration - 5 orders (5 bodies)

### *Annexes*

**Annex A** – Table - Use of Public Bodies Act 2011, December 2011 – December 2012, As at 12 December 2012

Annex A

<b>Use of Public Bodies Act 2011</b> <b>December 2011 – December 2012</b> <b>As at 28 November 2012</b>						
<b>Department</b>	<b>Public Body</b>	<b>Orders</b>	<b>Bodies / Offices</b>	<b>Proposed Reform</b>	<b>Estimate provided to the Committee in Summer 2011</b>	<b>Update</b>
<b>BIS</b>	Aircraft and Shipbuilding Industries Arbitration Tribunal	1	1	No longer an NDPB	Apr-2012	Already laid
<b>BIS</b>	British Shipbuilders	1	1	No longer a Public Corporation	Apr-2012	Already laid
<b>BIS</b>	Office of Fair Trading	1	1	Transfer of consumer and enforcement and information/education functions (followed by a merger of competition functions with the competition commission)	Oct-2012	Already laid
<b>BIS</b>	NESTA	1	1	No longer an NDPB	Apr-2012	Already laid

<b>Communities and Local Government</b>	Valuation Tribunal Service	1	1	No longer an NDPB	Apr-2012	Deferred
<b>Culture, Media and Sport (DCMS)</b>	Ofcom	1	1	Several Ofcom duties remain to be removed or modified (Merger with Postcomm completed in October 2011)	Jul-2012	Policy and/or vehicle under consideration
<b>DCMS</b>	English Tourist Board (Visit England)	1	1	Retain	Oct-2012	Policy and/or vehicle under consideration
<b>DCMS</b>	Gambling Commission / National Lottery Commission	1	2	Merge	Oct-2012	To be Laid
<b>DCMS</b>	Horserace Betting Levy Board	1	1	Retain	Oct-2012	Policy and/or vehicle under consideration
<b>DCMS</b>	Registrar of Public Lending Right	1	1	No longer an NDPB	Oct-2012	Deferred
<b>DCMS</b>	The Theatres Trust	1	1	Retain and substantially reform	Oct-2012	Policy and/or vehicle under consideration
<b>DCMS</b>	S4C	1	1	Retain	Oct-2012	Policy by other Means
<b>Environment, Food and Rural Affairs (DEFRA)</b>	Advisory Committee on Hazardous Substances	1	1	No longer an NDPB	Apr-2012	Already laid

<b>DEFRA</b>	Advisory Committee on Pesticides	1	1	No longer an NDPB	Oct-2012	Deferred
<b>DEFRA</b>	Drinking Water Inspectorate	1	1	-	Jan-2013	Already laid
<b>DEFRA</b>	British Waterways Board	1	1	No longer a Public Corporation	Apr-2012	Already laid
<b>DEFRA</b>	Commission for Rural Communities	1	1	No longer an NDPB	Oct-2012	Already laid
<b>DEFRA</b>	Environment Agency	1	1	Retain and substantially reform	Oct-2012	Policy and/or vehicle under consideration
<b>DEFRA</b>	Environment Protection Advisory Committee	1	1	-	Oct-2012	Already laid
<b>DEFRA</b>	Regional and Local Fisheries Advisory Committees	1	1	-	Oct-2012	Already laid
<b>DEFRA</b>	Home Grown Timber Advisory Committee	1	1	-	Apr-2012	Deferred
<b>DEFRA</b>	Inland Waterways Advisory Council	1	1	No longer an NDPB	Apr-2012	Already laid
<b>DEFRA</b>	Joint Nature Conservation Committee	1	1	Retain	Oct-2012	Deferred
<b>DEFRA</b>	Marine Management Organisation	1	1	Retain	Apr-2012	Deferred

<b>Transport (DfT)</b>	Disabled Persons' Transport Advisory Committee	1	1	No longer an NDPB	Dec-2012	Deferred
<b>DfT</b>	Passenger Focus/Passengers' Council	1	1	Retain and substantially reform	Nov-2012	Policy by other Means
<b>DfT</b>	Railway Heritage Committee	1	1	No longer an NDPB	Oct-2012	Already laid
<b>Dept for Work and Pensions (DWP)</b>	Child Maintenance and Enforcement Commission	1	1	No longer an NDPB	Jul-2012	Already laid
<b>DWP</b>	Disability Living Allowance / Advisory Board	1	1	No longer an NDPB	Apr-2012	Already laid
<b>Home Office (HO/GEO)</b>	Commission for Equality and Human Rights	1	1	Retain and substantially reform	Apr-2012	Policy by other Means
<b>Ministry of Justice (MoJ)</b>	Administrative Justice and Tribunal Council	1	1	No longer an NDPB	Jul-2012	To be Laid
<b>MoJ</b>	Advisory Council on Public Records / Advisory Council on National Records and Archives	1	2	Merge	Jul-2012	Deferred

<b>MoJ</b>	Courts Boards (x 19)	1	19	No longer an NDPB	Jul-2012	Already laid
<b>MoJ</b>	HM Inspectorate of Court Administration	1	1	No longer a statutory body	Jul-2012	Already laid
<b>MoJ</b>	Public Guardian Board	1	1	No longer a statutory body	Jul-2012	Already laid
<b>MoJ</b>	Crown Court Rule Committee	1	1	No longer an NDPB	Jul-2012	Already laid
<b>MoJ</b>	Magistrates' Courts Rule Committee	1	1	No longer a statutory body	Jul-2012	Already laid
<b>MoJ</b>	Victims' Advisory Panel	1	1	No longer an NDPB	Jul-2012	Deferred
<b>MoJ</b>	Director of Public Prosecutions Director of Revenue and Customs Prosecutions	1	2	Merge	Autumn 2012	Deferred

## APPENDIX 2: INTERESTS AND ATTENDANCE

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at [www.publications.parliament.uk/pa/ld/ldreg.htm](http://www.publications.parliament.uk/pa/ld/ldreg.htm). The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 11 December 2012 Members declared no interests.

### *Attendance:*

The meeting was attended by Lord Bichard, Lord Eames, Lord Goodlad, Lord Hart of Chilton, Lord Methuen, Baroness Morris of Yardley, Lord Norton of Louth and Lord Scott of Foscote.