

HOUSE OF LORDS

Delegated Powers and Regulatory Reform
Committee

18th Report of Session 2017–19

**Unpaid Work Experience
(Prohibition) Bill [HL]**
**Draft Legislative Reform
(Constitution of the Council of
the Royal College of Veterinary
Surgeons) Order 2018**
**Draft Legislative Reform
(Regulator of Social Housing)
(England) Order 2018**

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The Delegated Powers and Regulatory Reform Committee

The Committee is appointed by the House of Lords each session and has the following terms of reference:

- (i) To report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny;
- (ii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) sections 14 and 18 of the Legislative and Regulatory Reform Act 2006,
 - (b) section 7(2) or section 19 of the Localism Act 2011, or
 - (c) section 5E(2) of the Fire and Rescue Services Act 2004;

and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments; and

- (iii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) section 85 of the Northern Ireland Act 1998,
 - (b) section 17 of the Local Government Act 1999,
 - (c) section 9 of the Local Government Act 2000,
 - (d) section 98 of the Local Government Act 2003, or
 - (e) section 102 of the Local Transport Act 2008.

Membership

The members of the Delegated Powers and Regulatory Reform Committee who agreed this report are:

[Lord Blencathra](#) (Chairman)

[Lord Flight](#)

[Lord Jones](#)

[Lord Lisvane](#)

[Lord Moynihan](#)

[Lord Rowlands](#)

[Lord Thomas of Gresford](#)

[Lord Thurlow](#)

[Lord Tyler](#)

Registered Interests

Committee 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 Parliamentary Archives.

Publications

The Committee's reports are published by Order of the House in hard copy and on the internet at www.parliament.uk/hldprcpublications.

General Information

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at <http://www.parliament.uk/business/lords/>.

Contacts for the Delegated Powers and Regulatory Reform Committee

Any query about the Committee or its work should be directed to the Clerk of Delegated Legislation, Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020 7219 3103 and the fax number is 020 7219 2571. The Committee's email address is hlddelegatedpowers@parliament.uk.

Historical Note

In February 1992, the Select Committee on the Committee work of the House, under the chairmanship of Earl Jellicoe, noted that "in recent years there has been considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion" (Session 1991–92, HL Paper 35-I, paragraph 133). The Committee recommended the establishment of a delegated powers scrutiny committee which would, it suggested, "be well suited to the revising function of the House". As a result, the Select Committee on the Scrutiny of Delegated Powers was appointed experimentally in the following session. It was established as a sessional committee from the beginning of Session 1994–95. The Committee also has responsibility for scrutinising legislative reform orders under the Legislative and Regulatory Reform Act 2006 and certain instruments made under other Acts specified in the Committee's terms of reference.

Eighteenth Report

UNPAID WORK EXPERIENCE (PROHIBITION) BILL [HL]

1. There is nothing in this Bill which we would wish to draw to the attention of the House.

LEGISLATIVE REFORM ORDERS

2. In this report, the Committee sets out its conclusions in relation to two draft Legislative Reform Orders (LROs). The Committee's role is described in its first Report on an LRO: "When considering an LRO, our role is not to consider in depth the policy in the draft order, but to consider whether it is 'appropriate' to be made under the 2006 Act; if so, whether it meets the tests in the 2006 Act; and to consider the matters considered for other instruments by the Joint Committee on Statutory Instruments."¹

DRAFT LEGISLATIVE REFORM (CONSTITUTION OF THE COUNCIL OF THE ROYAL COLLEGE OF VETERINARY SURGEONS) ORDER 2018

Introduction

3. This draft Legislative Reform Order (LRO) has been laid by the Department for Environment, Food and Rural Affairs (Defra) with an Explanatory Document (ED). It is proposed to be made under sections 1 and 2 of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"), which allows a Minister to make provision by order for removing or reducing any burden resulting directly or indirectly from legislation, or for promoting regulatory principles. It is also proposed to be subject to the affirmative resolution procedure.

Proposed changes

4. Defra states that the purpose of the draft LRO is to amend the Veterinary Surgeons Act 1966, which makes provision relating to the constitution of the governing body of the Royal College of Veterinary Surgeons (RCVS), the RCVS Council ("the Council"). The changes proposed in the draft LRO affect the composition, membership, size and structure of the Council. The LRO proposes that:
 - the Council, which currently has 42 members, should in future consist of 24 members (made up of elected veterinary surgeons; appointed veterinary nurses; Council members with educational expertise appointed jointly on behalf of the UK university veterinary schools; and independently appointed lay persons);
 - terms of office should remain at four years but a maximum limit of three consecutive terms should be introduced: a mandatory two-year break would be required before a person could stand for membership of the Council again; and

1 Delegated Powers and Regulatory Reform Committee, (1st Report, Session 2007–08, [HL Paper 11](#)), para 39.

- there should be a mechanism by which Council members may be removed for issues relating to poor conduct or behaviour.

Conclusion

5. **We are satisfied, on the basis of the explanations provided in the ED, that the draft Order meets the tests set out in the 2006 Act and is appropriate for the Legislative Reform Order procedure; and that the affirmative procedure which Defra has proposed is also appropriate.**

Explanatory Document

6. We commend Defra on a well-presented and informative Explanatory Document, and on its inclusion of helpful Keeling Schedules.

DRAFT LEGISLATIVE REFORM (REGULATOR OF SOCIAL HOUSING) (ENGLAND) ORDER 2018

Introduction

7. This draft Legislative Reform Order (LRO) was laid on 28 February 2018 by the Ministry of Housing, Communities and Local Government (MHCLG), together with an Explanatory Document (ED). It is proposed to be made under section 2 of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”) which allows a Minister to make provision by order to promote principles of better regulation.

Proposed changes

8. The draft LRO would amend the Housing and Regeneration Act 2008 to transfer the function for social housing regulation from the Regulation Committee of the Homes and Communities Agency (HCA) to a new, separate “Regulator of Social Housing” (which is established by the LRO). This is to avoid a potential conflict of interest between the regulatory and the investment activities of the HCA. The HCA is responsible for providing investment to support social housing providers’ delivery by March 2021 of housing supply in areas of acute pressure. The HCA’s Regulation Committee is responsible for assessing more than 1,600 registered providers of social housing against a set of standards, covering issues such as financial viability, rent and the quality of homes.
9. The draft Order implements one of the recommendations of the Tailored Review of the HCA,² which proposed (in November 2016) that responsibility for social housing regulation should be separated formally from the HCA. While the Tailored Review made clear that the HCA’s governance arrangements and an operational ‘ethical wall’ had ensured that information had not been inappropriately exchanged between the two divisions, it also found that these arrangements had not been tested, and recommended a formal separation of the regulatory function was advisable. MHCLG states that the proposed reform is purely administrative and does not make any policy or operational changes to the exercise of existing regulatory powers. The draft LRO does, however, allow the HCA to share back office functions such as human resources staff, with the new regulator, to maximise efficiencies.

2 The report of the Tailored Review can be found at <https://www.gov.uk/government/publications/tailored-review-of-the-homes-and-communities-agency> [accessed 22 March 2018]

Consultation

10. During consultation on the draft LRO to which there were 41 responses, 88% agreed that the proposal to split the regulatory function from the HCA was compliant with better regulation principles, and 93% agreed that the proposed reform would address the risk of potential conflict of interest. Some respondents expressed concern about the potential cost of setting up a stand-alone regulator, and that this may impact on the fees currently charged to private registered providers. MHCLG has provided reassurance that the proposed reform will not impact on the level of fees charged.

Conclusion

11. **We are satisfied, on the basis of the explanations provided in the ED, that the Order meets the tests set out in the 2006 Act and is appropriate for the Legislative Reform Order procedure; and that the affirmative resolution procedure proposed by MHCLG is also appropriate.**

APPENDIX 1: MEMBERS AND DECLARATIONS OF INTERESTS

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 21 March 2018, Members declared no interests.

Attendance

The meeting on the 21 March 2018 was attended by Lord Flight, Lord Jones, Lord Lisvane, Lord Moynihan, Lord Rowlands, Lord Thomas of Gresford, Lord Thurlow and Lord Tyler.