

House of Commons
Regulatory Reform Committee

**THE HANDLING OF
REGULATORY REFORM
ORDERS (III)**

Third Special Report of Session
2001–02

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*Report, together with
Proceedings of the Committee*

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REGULATORY REFORM COMMITTEE

The Regulatory Reform Committee (previously the Deregulation and Regulatory Reform Committee) is appointed to consider and report to the House on proposals for regulatory reform orders under the Regulatory Reform Act 2001 and, subsequently, any ensuing draft regulatory reform order. It will also consider any “subordinate provisions order” made under the same Act.

Current membership

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 Mr Russell Brown (*Labour, Dumfries*)
 Mr Brian Cotter (*Liberal Democrat, Weston-Super-Mare*)
 Mrs Claire Curtis-Thomas (*Labour, Crosby*)
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Powers

The full constitution and powers of the Committee are set out in House of Commons Standing Order No 141, available on the Internet via www.parliament.uk.

Publications

The reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the http://www.parliament.uk/parliamentary_committees/regulatory_reform_committee.cfm

A list of reports of the Committee in the current Parliament may be found at the back of this report.

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TABLE OF CONTENTS

	<i>Page</i>
REPORT	
THE HANDLING OF REGULATORY REFORM ORDERS (III)	
Introduction	5
The operation of the Act in the first year	5
Presentations from Departmental officials	6
Timetabling	6
Background	6
Effect of timetabling regulatory reform items	6
Suggested arrangements	7
Outstanding issues	7
Adverse Reports	8
Standing Order procedures in the case of disagreement	9
Scrutiny arrangements	10
Regulatory reform and the National Assembly for Wales	11
Disapplication of section 1(4) of the Regulatory Reform Act	11
Generating proposals for regulatory reform orders	13
Summary of recommendations and conclusions	14
Proceedings of the Committee relating to the report	16
List of Committee reports published in the current Parliament	17

THIRD SPECIAL REPORT

The Regulatory Reform Committee has agreed to the following Special Report:—

THE HANDLING OF REGULATORY REFORM ORDERS (III)

Introduction

1. On 16th May this year, the Government submitted to us a “Memorandum of Response on Regulatory Reform Order-Making”. The Memorandum contained both a reply to our First Special Report of this Session (*Further Report on the Handling of Regulatory Reform Orders*, HC 389) and an overview of the first year’s operation of the Regulatory Reform Act 2001.

2. On 2nd July, the Minister for Regulatory Reform, Rt Hon Lord Macdonald of Tradeston, appeared before us to discuss the Government’s memorandum. The Minister was accompanied by Rt Hon John Spellar, MP, Minister of State at the Department for Transport, and officials from the respective departments. Both the Government’s Memorandum and the transcript of that session were published later that month in our Second Special Report of this Session.¹

3. Following that Memorandum and the oral evidence session which followed it, we understand that a settled view has now, for the time being at least, been reached between the Government and ourselves concerning the handling of regulatory reform orders. The first part of this Report comments on the operation of the Act in the first year, and deals with the particular matter of the timetabling of orders. In the remainder of the Report we comment on other matters still outstanding.

The operation of the Act in the first year

4. We welcome the Government’s decision to comment on the first year’s operation of the Regulatory Reform Act 2001, notwithstanding its earlier commitment to make its first report on the operation of the Act after three years. Already some important lessons have been learnt, and these were fully discussed in the Government’s memorandum and during the Ministers’ appearance before us in July.

5. The new Act has already proved its worth. Although progress in the first year may not have been as substantial as we might have wished, nevertheless some significant and helpful legislative changes have been made. We note particularly here the regulatory reform orders making changes to the regulations governing premises-related work at voluntary aided schools,² and to the provision by local authorities of assistance for private sector housing renewal.³ These orders could not have been made under the old Deregulation and Contracting Out Act 1994,⁴ and may not have been capable of introduction were it not for the regulatory reform procedure.

¹ *The Operation of the Regulatory Reform Act: Government Response to the Committee’s First Special Report of Session 2001-02*, HC 1029.

² The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 (SI 2002/906). See our Fourth and Seventh Reports of this Session (HC 583 and HC 677).

³ The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (SI 2002/1860). See our Sixth and Tenth Reports of this Session (HC 663 and HC 807).

⁴ 1994, c.40.

6. The publication in February of the Government's "Regulatory Reform Action Plan"⁵ offered the hope that many more useful changes might be made by way of the Act. We look forward to seeing proposals for those changes brought forward, and to ensuring that they receive the necessary degree of Parliamentary scrutiny.

Presentations from Departmental officials

7. The regulatory reform proposals brought forward so far been both significant and useful. They have also been in several cases considerably more complex than the majority of proposals brought forward under the old Deregulation and Contracting Out Act. As a result, we have on a number of occasions invited Departmental officials to come before us in informal session shortly after the laying of proposals before Parliament to give short presentations on the proposals. These presentations have proved very useful, and as a result **we have indicated to the Government our desire to hear presentations from officials as a matter of routine at the Committee meeting immediately following the laying of a proposal before Parliament.**

8. Given the potential significance of some of these proposals, we believe that there may be occasions when other Members of the House may wish to be present to hear such a presentation. **Any Member of the House would be welcome, by prior arrangement with the Committee office, to attend any presentation on any regulatory reform order which the Government may bring forward.**

Timetabling

Background

9. In its fourth and final Report of the 2001–02 Session, our predecessor Deregulation Committee expressed a wish that the Government "aim towards an even flow of regulatory reform business and so far as possible towards the objective that no more than one proposal for a Regulatory Reform Order or one draft Order will in normal circumstances be laid before Parliament in any one sitting week."⁶ In its response to that Report, the Government expressed concern about the potential limitations which such a requirement could place on the number of regulatory reform orders which could be made in any one session.⁷ In our subsequent response, we suggested that the Government's concern was premature.⁸ Nevertheless in its most recent memorandum, the Government continued to maintain that a requirement ordinarily to lay no more than one item in any one week might cause a 'logjam' in its programme for regulatory reform.⁹

Effect of timetabling regulatory reform items

10. The arguments on the subject are by now well-rehearsed. We have consistently made clear that we are keen to see full and appropriate use of the regulatory reform procedure. However, we are equally concerned to ensure that proposals for reform of primary legislation receive the requisite degree of Parliamentary scrutiny. This was clearly Parliament's intention in passing the Regulatory Reform Act. In particular, in order to ensure that we are able properly to undertake the task with which the House has charged us, we wish to avoid the situation whereby we are required to consider large numbers of

⁵ *Regulatory Reform: The Government's Action Plan*, Cabinet Office, February 2002 (<http://www.cabinet-office.gov.uk/regulation/actionplan/index.htm>).

⁶ HC 450, para 2.

⁷ *Government Response on Regulatory Reform Order-Making* (published as an Appendix to our First Special Report of this Session, *Further Report on the Handling of Regulatory Reform Orders* (HC 389)), paras 9 and 10.

⁸ First Special Report, *op cit*, para 8.

⁹ *op cit*, para 2.14.

potentially significant proposals in a relatively short space of time, followed by long periods with little or no business to conduct.

11. Our intention has never been to restrict the number of proposals which the Government could bring forward. In the light of the potentially large increase in the number of regulatory reform proposals coming before Parliament following the publication of the Regulatory Reform Action Plan and subsequent work by the Government, we have recognised that the requirement ordinarily to lay no more than one regulatory reform proposal or draft order in any sitting week may represent, in practice, an undesirable restriction on the number of orders which might eventually be made. In the light of our experience of conducting second-stage scrutiny of regulatory reform orders, which has generally been straightforward, and of a modest increase in the staff resources available to the Committee, we have therefore made the following proposal to the Government for the timetabling of regulatory reform proposals and draft orders.

Suggested arrangements

12. We expect the Government to ensure that there is a regular and even flow of proposals and draft orders coming before the Committee, so that we can conduct the most efficient and effective scrutiny of those items on behalf of the House. **So long as that is the case, we consider that we should have no difficulty in dealing with up to two items laid in any sitting week, provided that at least one of those is a draft order, at “second-stage” scrutiny. We also suggest that it may, alternatively, be possible for us to deal with the laying before Parliament of up to two of the less complex proposals at “first-stage” scrutiny.**

13. We expect that, with proper planning by Departments of regulatory reform business, these arrangements will prove adequate to enable the Government to bring forward all appropriate proposals. We recognise, however, that short-term blockages may occur, and we are happy to repeat the assurance made in our First Special Report that we would be prepared to entertain occasional requests for more items to be laid before the House in any given week, should that prove necessary.

14. We also recognise that, if the process “takes off” in the way the Government hopes, even these arrangements may conceivably prove insufficient to cope with the volume of proposals coming forward. In those circumstances, as we noted in our previous Special Report, we and the House would have to consider how best to proceed.

Outstanding issues

15. We now consider the other issues outstanding following the Government’s memorandum, and the appearance of the Minister before us. Those issues are:

- procedures in the case of adverse reports from the Committee (paras 16 to 21)
- Standing Order procedures in the case of disagreement (paras 22 to 26)
- the appropriateness of the current scrutiny arrangements (paras 27 to 29)
- regulatory reform procedures in respect of the National Assembly for Wales (paras 30 to 31)
- disapplication of section 1(4) of the Regulatory Reform Act (paras 32 to 38)
- generating proposals for regulatory reform orders (paras 39 to 41).

Adverse Reports

16. The Government remarks, “The Standing Orders do not appear to make provision for what should happen if, as a result of its 2nd stage scrutiny, the Committee were minded to report approving a draft order, but subject to the Department making certain changes or to some other recommendation. The Government is concerned that, if one or other Committee reported adversely at 2nd stage scrutiny but made recommendations as to the ways in which the proposal could be made acceptable, the Department concerned may need to re-start the scrutiny process, whether at 1st or 2nd stage. This could cause additional and unwelcome delay. The Government would appreciate the Committee’s views on the options.”¹⁰

17. We are happy to clarify the position as we see it in respect of cases where we may wish to recommend approval of a draft order only if (further) amendments are made to it. Should such a situation arise, we would in the first instance be obliged by Standing Orders to “afford to any government department concerned an opportunity of furnishing orally or in writing ... such explanations as the department think fit”.¹¹ The Government would therefore always be well aware of the Committee’s thinking in any particular case.

18. On receipt of our request for such explanations, two options would be open to the Government. The first option would be for it to withdraw the draft order immediately, with a view to re-laying, for further “second-stage” scrutiny, an amended version which met the Committee’s objections. The Committee would not then be obliged to produce any report on the original draft order, but would proceed to consider and report upon the amended version. This is what happened in the case of the draft Deregulation (Correction of Birth and Death Entries in Registers or Other Records) Order 2001 earlier this year.¹²

19. If the Government does not wish to withdraw the draft order, it would presumably attempt to convince the Committee of the case for preserving the draft order in its original form. If the Committee is convinced, it will report accordingly and the order will proceed as normal. If it is not, it would make a formal report to the House recommending that the draft order not be approved, but would in its substantive report indicate that it would be likely to report differently to the House on an amended draft.

20. Following such a report, the Government would face three options:

- abandoning its proposal altogether
- at the other extreme, attempting to proceed with the original draft notwithstanding the Committee’s report, under the provisions of Standing Order No. 18 (2)¹³
- withdrawing the draft order and re-laying an amended version.

If an amended version is laid, the Committee would then proceed to consider and report upon that version, as in para 18 above.

21. There is only one circumstance in which the concern expressed by the Government, that the procedure would have to start again at “first-stage” scrutiny, would be realised. That would be where a draft order was so far changed from the original proposal that it could not be said to be giving effect to the proposals contained within the document laid

¹⁰ Para 2.18.

¹¹ S.O. No. 141 (14).

¹² See our Ninth Report of this Session (HC 708). Although this was one of the remaining orders brought forward under the old Deregulation and Contracting Out Act, the same procedures applied.

¹³ See paras 22 to 26 below.

at first-stage scrutiny (section 8(1) of the Regulatory Reform Act). We would expect such a circumstance to occur only very rarely, if ever.

Standing Order procedures in the case of disagreement

22. Standing Order No. 18 (Consideration of draft regulatory reform orders) provides a mechanism for debate in the House to decide cases in which agreement between the Committees¹⁴ and the Government cannot be reached. This mechanism was not required to be used in respect of any draft deregulation order brought forward under the old Deregulation and Contracting Out Act. The Government's response to the final report of our predecessor Deregulation Committee reaffirmed that the Government would continue to aspire to unanimity with the Committees on particular regulatory reform proposals.¹⁵ However, it nevertheless went on to argue that there may occasionally be cases where the Government disagreed with a particular recommendation by the Committee and, after failing to negotiate a mutually acceptable solution, considered that the matter should be put to the House for debate and decision under Standing Order No. 18(2).

23. In our First Special Report of this Session, we acknowledged that the House, by way of Standing Order No. 18, had provided for procedures to be used in the event of disagreement, and that there might be cases where it was appropriate that they be invoked.¹⁶ However, given the Government's undertaking "not to force orders through in the face of opposition from the Committee",¹⁷ we recommended that the Government provide for a free vote in such circumstances, arguing "that way the arguments could be tested and the House come to a decision without any suggestion that the Government was forcing an Order through by using its Parliamentary majority."¹⁸

24. In its most recent memorandum, the Government appears to moderate its earlier position. The memorandum states "the Government was of the opinion that the Standing Order procedure could usefully have been used to resolve impasse. But the prospect seems so unlikely as not to be worth providing for."¹⁹ Later, it says "the Government is happy to pledge that these procedures would only be used in the most extreme circumstances."²⁰

25. We are surprised that the Government has taken this view, given the acknowledgement in our First Special Report that the procedures existed and might well need to be used. We would of course prefer that disagreements between ourselves and the Government should occur only very rarely, and preferably not at all, and we welcome the Government's commitment to attempting to resolve any disagreement which might arise.²¹ Nevertheless, as the Government notes, if disagreements are not resolved, a beneficial reform may be sacrificed,²² and in certain circumstances the best way to resolve any disagreement might be to go to the House as a whole.

26. Notwithstanding the Government's assurance that the procedures would be used only in the most exceptional of circumstances, **we are disappointed that our recommendation that the Government pledge to allow a free vote on any motion under Standing Order No. 18(2) was rejected. We continue to believe that a free vote would be appropriate in these circumstances. At the very least, the freedom of Committee members not to vote against their own recommendation should be preserved.** Nevertheless we welcome

¹⁴ That is, this Committee and our counterparts in the House of Lords, the Delegated Powers and Regulatory Reform Committee.

¹⁵ HC 389, Appendix, para 37.

¹⁶ HC 389, para 20.

¹⁷ HC 389, Appendix, para 37 and footnote.

¹⁸ HC 389, para 21.

¹⁹ Para 2.32.

²⁰ Para 2.33.

²¹ Second Special Report, *op cit*, Q1, Q28.

²² *ibid*, para 2.32.

the Government's undertaking to provide the House with a document setting out its reasons for disagreeing with an aspect of the Committee's report so that Members could begin to consider the arguments before the debate itself.²³

Scrutiny arrangements

27. The Government memorandum comments:

The Government notes that the Act adopts a one-size-fits-all approach. This was clearly right for deregulation orders that tended to be relatively small and limited in scope. In developing the Bill, the Government hoped that the superaffirmative procedure could be used for both small and large proposals. However, the Government considers that there may be circumstances where the procedures, taken as a whole, are too burdensome. For example, it may be that an expedited procedure would be appropriate for those that are simple, uncomplicated and command widespread support. It is our experience that some Departments are put off using RROs because of the time-scales and bureaucracy involved.

The Government fully accepts that the Committees have to work within the framework provided by the Act, and that any such changes to the Act would need to be taken forward by way of a Bill. The Government will keep under review whether this rigorous and protracted scrutiny is appropriate for all proposals. It may be that the Committees have their own ideas as to the ways in which the process and the legislation could be improved, and the Government would welcome the opportunity of debating them with the Committee.²⁴

28. We begin from the position that what the Government describes as “rigorous and protracted scrutiny” leads to better legislation, and we believe that experience of the scrutiny of regulatory reform orders, and of deregulation orders before them, bears out this view. We note that the issue of the appropriate length of time which should be allowed for Parliamentary scrutiny of proposals was discussed in some detail during consultation on the future of the deregulation procedure.²⁵ The conclusion which was reached was that the original period of 60 days, as was originally provided in the Deregulation and Contracting Out Act 1994, was appropriate. We have seen no evidence that a period of less than 60 days would be appropriate. In our experience, even the simplest and most widely supported regulatory reform proposals have not required any less a degree of scrutiny than did the proposals brought forward under the old Act.

29. We believe that it is too early in the life of the new Act, and that too few proposals have been taken through the procedure, for it to be appropriate to begin to suggest how the procedure might be altered. We suggest that any significant change in the current scrutiny arrangements would be impractical, because of the practical problems inherent in having to decide case-by-case on the appropriate procedures to be followed in the case of any particular regulatory reform proposal. Nevertheless, if in due course the Government comes up with any practical suggestions, we would be pleased to consider them. In the meantime, we believe that the regulatory reform procedure should pose few difficulties to those Government Departments ready to prepare and plan properly for the changes they wish to implement.

Regulatory reform and the National Assembly for Wales

30. The Government's memorandum draws attention to the requirement for the National Assembly for Wales to indicate its consent to a regulatory reform order which removes or modifies any of its functions before the order can be made.²⁶ The emerging procedural

²³ *ibid*, para 2.34.

²⁴ Paras 4.16–4.17.

²⁵ First Special Report of the Deregulation Committee, Session 1998–9 (HC 324), *The Future of the Deregulation Procedure*, paras 50–52; First Special Report of the Deregulation Committee, Session 1999–2000, *Government Response to the Deregulation Committee's First Special Report, Session 1998-1999, on The Future of the Deregulation Procedure* (HC 177), paras 49–51.

²⁶ Regulatory Reform Act, section 1(5).

arrangement is that the Assembly indicates its consent, where needed, before a draft order is laid for second stage scrutiny. However, the Government memorandum discusses the possibility that, after the Committees have reported on a proposal, the Assembly plenary session could withhold its consent, or attach conditions to its consent. If that were to happen, the memorandum says, the Government would need to consider carefully whether it could proceed with the RRO. It might need either to re-consult or to re-table the order or, at worst, to drop it or confine it to England only. “That raises the prospect,” continues the memorandum, “of disappointment for consultees whose expectations had been raised and of criticism from the Committees whose time and energies would have been fruitless.”²⁷

31. The current arrangements for requesting the Assembly’s consent appear to us to be sensible. We are also pleased to note that the Government suggests that “the Welsh Assembly Government will have been consulted on the detail at much earlier stages of policy development.”²⁸ We expect that such consultation will generally prove sufficient to resolve any differences there may be between the approach which the Department concerned wishes to take in any particular instance, and that which the Welsh Assembly may wish to take in respect of Wales. Nevertheless, in the spirit of the Act and of the wider devolution settlement, we acknowledge the possibility that the Assembly may express a different view at a later stage, and that we may be required to reconsider a proposal as a consequence. The appropriate way forward in any such circumstances is probably best determined on an *ad hoc* basis, as and when the situation arises.

Disapplication of section 1(4) of the Regulatory Reform Act

32. The Government memorandum drew particular attention to clause 2(8) of the Education Bill, which purported to enable the Secretary of State to use the regulatory reform procedure to extend pilot projects or experiments begun under powers contained elsewhere in clause 2 of the Bill.²⁹ It would do so by disapplying section 1(4) of the Regulatory Reform Act, which prevents the reform by means of an RRO of any provision of an Act which has been substantively amended within the previous two years. The effect of clause 2(8) was that the Government could put in place a temporary scheme, and subsequently use the Regulatory Reform Act procedure to prolong it, or make it permanent, within two years. Without this provision, the Government would, if it were not prepared to wait for two years, have no option but to proceed by way of primary legislation.

33. The memorandum notes that “the Government considers that disapplication [of section 1(4)] is only appropriate in special circumstances – for example, the justification in this instance is that the ‘power to innovate’:

- acts as a pilot for the follow-on RRO which would otherwise not be able to be [made] for 2 years; and
- is subject to the safeguard of a sunset clause”.³⁰

²⁷ Para 4.26.

²⁸ *ibid.*

²⁹ Para 4.46. Clause 2(8) of the Bill is now section 2(9) of the Education Act 2002, which reads as follows:

“(9) The effect of an order under this section is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (c. 6) (power by order to make provision reforming law which imposes burdens) whether any provision of an Act falls within subsection (4)(b) of that section (provisions amended by subordinate legislation within previous two years).”

³⁰ Para 4.47.

The memorandum continues, “Any proposal for disapplication will, of course, require careful co-ordination in order to ensure that the disapplication is framed appropriately.”³¹

34. Our counterparts on the House of Lords Delegated Powers and Regulatory Reform Committee, who have the task of considering all delegated powers in Bills, did not object to this particular provision, but said in their Report, “we would not envisage that such derogations should be a regular feature of legislation.”³²

35. For our part, bearing in mind the conclusions and recommendations of two Reports of the Procedure Committee on Delegated Legislation,³³ **we suggest that the Government might more appropriately consider incorporating more widespread use of the “superaffirmative” procedure³⁴ into legislation in such circumstances, rather than bending the regulatory reform procedure to uses for which it was not originally intended.** The House could then consider whether any proposals brought forward might most appropriately be considered by ourselves, by the relevant departmental select committee, by an *ad hoc* Committee, or by some combination of the three.

36. We have more sympathy, however, with the Government’s aims in respect of legislation which may have to be amended whilst a regulatory reform proposal is still in the planning stages.³⁵ The problem the Government faces is that necessary amendments may have to be made to Acts of Parliament which are intended to be the subject of future, more wide-ranging reform by means of a regulatory reform order. Such amendments may mean that the proposed RRO falls foul of section 1(4) of the Regulatory Reform Act, thereby potentially delaying its introduction for two years.

37. Disapplication of section 1(4) of the Regulatory Reform Act would be one way to solve this problem. The Government memorandum notes that it “considers ... that disapplication may prove attractive [as a means of] drawing a ‘bright line’ in related Bills around the subject-matter of a proposed RRO so that there was no doubt on that count that the RRO could proceed,” continuing “this may prove to be particularly the case with the larger reforms such as reform of the Civil Registration Service or of fire safety legislation.”³⁶

38. As rehearsed in our First Report of this Session, in the context of the proposal for the Regulatory Reform (Special Occasions Licencing) Order 2001, it appears to us that Parliament’s purpose in passing section 1(4) was to prevent what the Minister described as “a ‘knee-jerk’ reaction to amend legislation newly placed on the statute book.”³⁷ **We do not believe, therefore, that disapplication in the circumstances described above would necessarily offend against the spirit of the Regulatory Reform Act; it may in fact help ensure the speediest possible introduction of some useful reforms.** We welcome, however, the Government’s undertaking to inform us if such a disapplication was contemplated, and we will consider with interest the Government’s arguments, and especially the comments of our counterparts on the Lords Committee, in any such case.

³¹ Para 4.48.

³² Fourteenth Report of the Delegated Powers and Regulatory Reform Committee, HL 91, para 6 (cited in Government memorandum, para 4.46).

³³ First Report, Session 1999–2000 (HC 48), para 57; Fourth Report, Session 1995–96 (HC 152), para 9.

³⁴ The term “superaffirmative” refers to the procedure whereby Parliament has the opportunity to comment on a proposal for a statutory instrument before the instrument itself is brought forward for Parliamentary approval. The regulatory reform procedure is a particular form of the superaffirmative procedure.

³⁵ Para 4.48.

³⁶ *ibid.*

³⁷ HC 265, para 55.

Generating proposals for regulatory reform orders

39. The Government's memorandum, noting the relationships that Members of Parliament have with their constituents and with representative bodies, including trades unions, businesses, local authority groupings, charities and other interest groups, suggests that "there may be scope to involve MPs fruitfully in the generation of suggestions" for further regulatory reform orders.³⁸

40. We believe that the primary responsibility for identifying potential regulatory reform orders must remain with the Government. Nevertheless we agree that, as the memorandum notes, the Government does not have a monopoly on suggestions for reform.³⁹ Ultimately, of course, it is a Minister who must take responsibility for consulting formally, drafting the instrument and explanatory material and laying before Parliament the necessary documents. However, there is certainly scope for the promotion by MPs of regulatory reform orders, just as Members of Parliament may bring forward primary legislation in the form of Private Members Bills.

41. We would strongly encourage any of our colleagues who thinks that he or she has identified a reform which might be suitable for implementation by means of a regulatory reform order to act as the Government has suggested, in gathering the initial evidence and lobbying the responsible Minister for action. As the regulatory reform procedure becomes established, we look forward to seeing many more proposals generated, not only by Government and Members of Parliament (including select committees) but also by those outside interest groups who so often criticise the effect of overly burdensome legislation.⁴⁰

³⁸ Para 4.49.

³⁹ *ibid.*

⁴⁰ Second Special Report, *op cit*, Q1, Q10, Q11.

Summary of recommendations and conclusions

Presentations from Departmental officials

- (a) We have indicated to the Government our desire to hear presentations from officials as a matter of routine at the Committee meeting immediately following the laying of a proposal before Parliament (paragraph 7).
- (b) Any Member of the House would be welcome, by prior arrangement with the Committee office, to attend any presentation on any regulatory reform order which the Government may bring forward (paragraph 8).

Timetabling

- (c) So long as there is a regular and even flow of proposals and draft orders coming before the Committee, we consider that we should have no difficulty in dealing with up to two items laid in any sitting week, provided that at least one of those is a draft order, at “second-stage” scrutiny. We also suggest that it may, alternatively, be possible for us to deal with the laying before Parliament of up to two of the less complex proposals at “first-stage” scrutiny (paragraph 12).

Standing order procedures in the case of disagreement

- (d) We are disappointed that our recommendation that the Government pledge to allow a free vote on any motion under Standing Order No. 18(2) was rejected. We continue to believe that a free vote would be appropriate in these circumstances. At the very least, the freedom of Committee members not to vote against their own recommendation should be preserved (paragraph 26).

Scrutiny arrangements

- (e) We believe that it is too early in the life of the new Act, and that too few proposals have been taken through the procedure, for it to be appropriate to begin to suggest how the procedure might be altered. We suggest that any significant change in the current scrutiny arrangements would be impractical, because of the practical problems inherent in having to decide case-by-case on the appropriate procedures to be followed in the case of any particular regulatory reform proposal. Nevertheless, if in due course the Government comes up with any practical suggestions, we would be pleased to consider them (paragraph 29).

Regulatory reform and the National Assembly for Wales

- (f) The current arrangements for requesting the Assembly’s consent appear to us to be sensible (paragraph 31).

Disapplication of section 1(4) of the Regulatory Reform Act

- (g) We suggest that the Government might more appropriately consider incorporating more widespread use of the “superaffirmative” procedure into legislation, rather than bending the regulatory reform procedure to uses for which it was not originally intended (paragraph 35).
- (h) We do not believe, [however], that disapplication [where necessary amendments have to be made to Acts of Parliament which are intended to be the subject of future, more wide-ranging reform by means of a regulatory

reform order] would necessarily offend against the spirit of the Regulatory Reform Act; it may in fact help ensure the speediest possible introduction of some useful reforms (paragraph 38).

Generating proposal for regulatory reform orders

- (i) We would strongly encourage any of our colleagues who thinks that he or she has identified a reform which might be suitable for implementation by means of a regulatory reform order to act as the Government has suggested, in gathering the initial evidence and lobbying the responsible Minister for action (paragraph 41).**

PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

TUESDAY 29 OCTOBER 2002

Mr Peter Pike, in the Chair

Mr Dai Havard
Mr Mark Lazarowicz

Mr Chris Mole
Mr Brian White

The Committee deliberated.

Draft Special Report, proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.—(*The Chairman.*)

Paragraphs 1 to 41 read and agreed to.

Resolved, That the Report be the Third Special Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

[Adjourned till Tuesday 5 November at half past Nine o'clock.]

**LIST OF COMMITTEE REPORTS PUBLISHED IN THE
CURRENT PARLIAMENT**

The following reports were published during this Parliament by the Regulatory Reform Committee under its previous name, the Deregulation and Regulatory Reform Committee. All reports are available from The Stationery Office.

Session 2001–02

Report	Title	HC number
First	Proposal for the Regulatory Reform (Special Occasions Licensing) Order 2001	265
Second	The draft Regulatory Reform (Special Occasions Licensing) Order 2001	388
Third	The draft Deregulation (Disposals of Dwelling-Houses By Local Authorities) Order 2001	449
Fourth	Proposal for the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002	583
Fifth	The draft Deregulation (Restaurant Licensing Hours) Order 2002 The draft Deregulation (Bingo and other Gaming) Order 2002 Proposal for the Regulatory Reform (Golden Jubilee Licensing) Order 2002	599
Sixth	Proposal for the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002	663
Seventh	The draft Regulatory Reform (Golden Jubilee Licensing) Order 2002 The draft Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002	677
Eighth	Proposal for the Regulatory Reform (Carer's Allowance) Order 2002	691
Ninth	The draft Deregulation (Correction of Birth and Death Entries in Registers or Other Records) Order 2002 Proposal for the Regulatory Reform (Vaccine Damage Payments Act 1979) Order 2002	708
Tenth	The Draft Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 The Draft Regulatory Reform (Carer's Allowance) Order 2002	807
First Special Report	Further report on the Handling of Regulatory Reform Orders	389

The following Reports have been published by the Regulatory Reform Committee during this Parliament under its current name. All reports are available from The Stationery Office.

Session 2001–02

Report	Title	HC number
Eleventh	The Draft Regulatory Reform (Vaccine Damage Payments Act 1979) Order 2002	867
Twelfth	Proposal for the Regulatory Reform (Removal of the 20 Member Limit) Order 2002	1104
Thirteenth	The Proposal for the Regulatory Reform (Sugar Beet Research and Education) Order 2003	1247
Second Special Report	The Operation of the Regulatory Reform Act: Government Response to the Committee's First Special Report of Session 2001-02	1029