

House of Commons  
Regulatory Reform Committee

**DRAFT REGULATORY  
REFORM (REMOVAL OF  
20 MEMBER LIMIT IN  
PARTNERSHIPS ETC.)  
ORDER 2002**

Fourteenth Report of Session 2001–02



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Regulatory Reform Committee

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Fourteenth Report of Session 2001–02

*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

Mr Peter Pike (*Labour, Burnley*) (Chairman)  
 Mr Russell Brown (*Labour, Dumfries*)  
 Mr Brian Cotter (*Liberal Democrat, Weston-Super-Mare*)  
 Mrs Claire Curtis-Thomas (*Labour, Crosby*)  
 Mr Jeffrey M. Donaldson (*Ulster Unionist Party, Lagan Valley*)  
 Mr Paul Goodman (*Conservative, Wycombe*)  
 Mr Dai Havard (*Labour, Merthyr Tydfil and Rhymney*)  
 Mr Andy King (*Labour, Rugby and Kenilworth*)  
 Mr Mark Lazarowicz (*Labour, Edinburgh North and Leith*)  
 Mr Andrew Love (*Labour/Co-op, Edmonton*)  
 Mr Chris Mole (*Labour, Ipswich*)  
 Mr Denis Murphy (*Labour, Wansbeck*)  
 Dr Doug Naysmith (*Labour/Co-op, Bristol North West*)  
 Mr Andrew Rosindell, (*Conservative, Romford*)  
 Mr Anthony Steen (*Conservative, Totnes*)  
 Mr Brian White (*Labour, Milton Keynes North East*)

### 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](http://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 Committee’s website [http://www.parliament.uk/parliamentary\\_committees/regulatory\\_reform\\_committee.cfm](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.

### Contacts

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, Committee Office, 7 Millbank, London SW1P 3JA. The telephone number for general inquiries is: 020 7219 2837; the Committee’s e-mail address is: [regrefcom@parliament.uk](mailto:regrefcom@parliament.uk).

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# FOURTEENTH REPORT

**The Regulatory Reform Committee has agreed to the following Report:**

## **DRAFT REGULATORY REFORM (REMOVAL OF 20 MEMBER LIMIT IN PARTNERSHIPS ETC.) ORDER 2002**

### **Report under Standing Order No. 141**

1. The Regulatory Reform Committee has examined the Draft Regulatory Reform (Removal of the 20 Member Limit) Order 2002 in accordance with Standing Order 141. We recommend unanimously that the draft order be approved.

### **Introduction**

2. On 24 October 2002, the Secretary of State for Trade and Industry (the responsible Minister) laid the draft order before Parliament, together with an explanatory statement from the Department of Trade and Industry (the Department). We have already reported on the proposal for this order, which would amend the Companies Act 1985 and the Limited Partnerships Act 1907 to remove the prohibition on the formation of partnerships, limited partnerships, unregistered companies and associations with more than 20 members. This would effectively enable those bodies to have an unlimited number of members.

3. The House has instructed us to examine the draft order against such of the criteria specified in Standing Order No. 141(6) as are relevant. We are also required to consider the extent to which the responsible Minister has had regard to any resolution or report of the Committee or to any other representations made during the period for parliamentary consideration. Our discussion of matters arising from our examination is set out below.

### **Findings of our previous report**

4. We were satisfied that the proposal met the criteria against which we are required to judge it, and we recommended that a draft order in the same terms as the proposal be laid before the House.

5. However, we considered that the House should note the Government's commitment to introduce changes to disability discrimination law in October 2004. Our concern arose from a response made to the Department's consultation paper by The Honourable Mr Justice Lindsay, President of the Employment Appeals Tribunal. Mr Justice Lindsay raised concerns about the proposal in terms of its potential effect on the application of the Disability Discrimination Act 1995 (the 1995 Act). Mr Justice Lindsay raised the possibility that, if the 20 member limit is removed, an organisation may choose to designate some or all of its employees as "partners", which could enable it to avoid the 15 employee threshold that triggers the application of the 1995 Act.

6. In responding to Mr Justice Lindsay's concerns, the Department stated that the Government:

... intends to bring partnerships into coverage when legislative time allows and [intends to ensure] that partners in partnerships of any size, as well as prospective partners are protected from disability discrimination.

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<sup>1</sup> Explanatory memorandum, p B-11.

When we asked the Department for further detail about this statement, it explained that the Government intends to bring forward the relevant legislation in October 2004.

7. Although it is not within the scope of the present draft order to address issues of discrimination law, we considered that it was possible that the removal of the 20 member limit would result in a more urgent need to introduce the changes to disability discrimination law to which the Government has already made a commitment. It is for this reason that we considered that the House should note the Government's commitment to introduce changes to disability discrimination law in October 2004 .

### **The Department's response to our report**

8. No significant amendments have been made to the draft order since the proposal was laid on 7 May 2002. Incomplete legislative cross-references have been corrected by way of a minor amendment to footnote (a) and the insertion of new footnote (e).

9. In the explanatory statement, the Department has commented further on its intended changes to disability discrimination law. It states that the Government is committed to bringing partnerships into coverage of the 1995 Act in October 2004, two years ahead of the deadline set by the European Community Employment Directive. The Department considers that it is not practicable for the changes to be introduced prior to October 2004 for the following reasons:

- the changes are being made to a timetable announced in January 2002; those affected are therefore expecting changes to occur in accordance with that timetable
- the changes tie in with the implementation, in 2004, of other significant provisions of the 1995 Act on access to goods, facilities and services
- business needs time to prepare for the changes
- the independent Disability Rights Commission needs time to prepare a code of practice which will explain new duties and responsibilities to existing employers and others being brought within the coverage of the 1995 Act for the first time.

10. The Department also comments more specifically on Mr Justice Lindsay's concern that the removal of the 20 member limit could enable an organisation to avoid the application of the 1995 Act. The Department reports that the Department of Work and Pensions, the department responsible for administering the 1995 Act, is aware that there are several mechanisms that employers could use to avoid the 15 employee threshold. The mechanism suggested by Mr Justice Lindsay is one such mechanism. However, the Department of Work and Pensions is not aware of any evidence that such mechanisms have been used in attempts to circumvent the provisions of the 1995 Act.

**11. On the basis of the explanatory statement, we are satisfied that the responsible Minister has had due regard to our previous report on the proposal for the draft order.**

### **Other representations**

12. Three representations were received during the period for parliamentary consideration, aside from the reports of this Committee and of the Lords Committee.<sup>2</sup> One representation was made to the Lords Committee prior to that Committee reporting on the proposal for the draft order; that Committee has since reported on the representation. Two

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<sup>2</sup> Twenty-third report of the Delegated Powers and Regulatory Reform Committee, session 2000–01, laid 19 June 2002.

other representations were made to the Department, both by respondents who had previously commented during the consultation process carried out by the Department. The Department's assessment of each of these three representations is set out in the explanatory statement.

**13. On the basis of the explanatory statement, we are satisfied that the responsible Minister has had due regard to all other representations made during the period for Parliamentary consideration.**

#### **Recommendation**

**14. In accordance with Standing Order No. 141(15), we recommend unanimously that the draft order be approved.**

**PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT**

WEDNESDAY 6 NOVEMBER 2002

Mr Peter Pike, in the Chair

Mr Russell Brown  
Mr Brian Cotter  
Mrs Claire Curtis-Thomas  
Mr Jeffrey M. Donaldson  
Mr Dai Havard

Mr Mark Lazarowicz  
Mr Andrew Love  
Mr Chris Mole  
Dr Doug Naysmith  
Mr Brian White

The Committee deliberated.

Draft 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 14 read and agreed to.

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

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

[Adjourned to a day and time to be fixed by the Chairman.]

**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.

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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**

<b>Report</b>	<b>Title</b>	<b>HC number</b>
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
Third Special Report	The Handling of Regulatory Reform Orders (III)	1272



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