



House of Commons
Regulatory Reform Committee

**Draft Regulatory
Reform (Joint Nature
Conservation
Committee) Order 2005**

Fourth Report of Session 2004–05

Report, together with formal minutes

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The Regulatory Reform Committee

The Regulatory Reform Committee is appointed to consider and report to the House of Commons 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)
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Andrew Rosindell (*Conservative, Romford*)
Mr Anthony Steen (*Conservative, Totnes*)
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.

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 Internet at www.parliament.uk/regrefcom

A list of Reports of the Committee in the present Session of Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are Mick Hillyard (Clerk), Stuart Deacon (Committee Specialist), Brian Dye (Committee Assistant) and Liz Booth (Secretary).

Contacts

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1 Report under Standing Order No. 141

1. The Regulatory Reform Committee has examined the draft Regulatory Reform (Joint Nature Conservation Committee) Order 2005 in accordance with Standing Order No. 141. We recommend unanimously that the draft Order be approved.

2 Introduction

2. The Proposal for the draft Regulatory Reform (Joint Nature Conservation Committee) Order 2005 was laid before the House by the Department for the Environment, Food and Rural Affairs (Defra) on 12 October 2004. The Joint Nature Conservation Committee [JNCC] was created by the Environmental Protection Act 1990 and is the UK Government's wildlife adviser, undertaking national and international conservation work on behalf of the three country nature conservation agencies: English Nature, Scottish Natural Heritage and the Countryside Council for Wales.

3. The draft Order will free JNCC of various constraints presently upon it and enable it to operate more effectively. This will include providing the ability to employ its own staff, remunerate its Chairman and independent members and receive certain monies direct from Government.

4. The draft Order will make amendments to section 129(1) of and Schedule 7 to the Environmental Protection Act 1990. It will remove the requirement imposed by section 129(1) of the 1990 Act for the Secretary of State to make all payments for the work of JNCC through the country bodies, rather than making direct payments to JNCC for work undertaken directly for the Government. The draft Order will amend Schedule 7 to the 1990 Act to remove the current requirement on English Nature, Scottish Natural Heritage and the Countryside Council for Wales to provide JNCC with staff, accommodation and other facilities, and to enable it employ its own staff and to give it responsibility for paying remuneration, allowances, pension and, where necessary, compensation to its chairman, to the three JNCC members appointed by the Secretary of State and to the non-voting members.

5. Finally, the draft Order will afford the option of setting up a Company Limited by Guarantee as a corporate vehicle for the employment of staff and to provide other administrative and corporate support services for the purposes of the functions discharged through JNCC.

6. On 24 January 2005 the Government laid the draft Order before Parliament, together with an explanatory statement from Defra.¹

7. 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

1 Copies of the draft Order and explanatory statement are available to Members of Parliament from the Vote Office and to members of the public from Defra. The draft Order is also available on the Cabinet Office web site: www.cabinet-office.gov.uk/regulation/rra/rro/proposals.asp

the Committee or to any other representations made during the period for Parliamentary consideration.² Our discussion of matters arising from our examination is set out below.

3 Findings of our previous report

8. We issued our substantive report on 9 December 2004.³ Our First Report described the effect of the Proposal and assessed it against the statutory and Standing Order tests. We concluded that the Proposal for the Regulatory Reform (Joint Nature Conservation Committee) Order 2005 was within the vires of the Regulatory Reform Act 2001 and that Defra had made a convincing case for the desirability of making the Order. We recommended that some minor drafting changes should be made before the draft Order was laid before the House.⁴

4 The Department's response to our report

Drafting of the Order

9. Defra has made the minor amendments to the Order's drafting, as we requested, and has also made two other minor corrections.⁵

5 Other representations

10. The period for Parliamentary consideration of the proposal began on 12 October 2004 and expired on 14 December 2004. Defra received no written representations during the period of Parliamentary consideration.

11. The House of Lords Select Committee on Delegated Powers and Regulatory Reform requested further reassurance about the extent to which protection is provided for staff who elect to transfer to employment with the JNCC but subsequently return to the employment of one of the three country agencies.⁶ Defra explained that the Common Trawling Agreement works in much the same way as the arrangements for staff transferring from one Department to another within the Civil Service. Staff transferring from one agency to another, including those who elect to transfer to JNCC once the Order is made but who subsequently return to the employment of one of the three country agencies, will do so without breaking continuity of employment for all terms and conditions that require a qualifying period, including early retirement and redundancy. On

2 Standing Order No. 141(7)

3 First Report from the Regulatory Reform Committee of Session 2004-05, *Proposal for the Regulatory Reform (Joint Nature Conservation Committee) Order 2005*, HC 117

4 First Report from the Regulatory Reform Committee of Session 2004-05, *Proposal for the Regulatory Reform (Joint Nature Conservation Committee) Order 2005*, HC 117, paragraph 47

5 "A minor error to final indent of the Explanatory Note, which referred to Article 6 rather than Article 5, has been corrected. In the Preamble (a) – the words "the Law Commission" have been deleted on the advice of the Cabinet Office" — Defra's explanatory statement (19 January 2005), para 11.

6 Second Report from the House of Lords Select Committee on Delegated Powers and Regulatory Reform, Session 2004-05, HL 13

level transfer, staff will also retain their current salary where this is in the pay range/scale of the importing agency for their grade/band.⁷

6 Recommendation

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

⁷ Defra's explanatory statement (19 January 2005), para 10

Formal minutes

Tuesday 25 January 2005

Members present:

Mr Peter Pike, in the Chair

Mr Denis Murphy

Mr Anthony Steen

Dr Doug Naysmith

Brian White

The Committee deliberated.

Draft Report [Draft Regulatory Reform (Joint Nature Conservation Committee) Order 2005], proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 12 read and agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

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

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

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