



House of Commons  
Regulatory Reform Committee

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**Regulatory Reform  
(Fire Safety)  
Subordinate Provisions  
Order 2006**

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**Fourth Report of Session 2005–06**

*Report, together with formal minutes*

*Ordered by The House of Commons  
to be printed 21st March 2006*

## 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

Andrew Miller (*Labour, Ellesmere Port & Neston*) (Chairman)  
Gordon Banks (*Labour, Ochil and South Perthshire*)  
Mr James Gray (*Conservative, North Wiltshire*)  
Stephen Hammond (*Conservative, Wimbledon*)  
John Hemming (*Liberal Democrat, Birmingham, Yardley*)  
Mrs Sharon Hodgson (*Labour, Gateshead East & Washington West*)  
Mr Stewart Jackson (*Conservative, Peterborough*)  
Dr Doug Naysmith (*Labour/Co-operative, Bristol North West*)  
Mr Jamie Reed (*Labour, Copeland*)  
Bob Russell (*Liberal Democrat, Colchester*)  
Alison Seabeck (*Labour, Plymouth, Devonport*)  
Mr Andrew Slaughter (*Labour, Ealing, Acton & Shepherd's Bush*)  
Ms Angela C Smith (*Labour, Sheffield, Hillsborough*)  
Mr Anthony Steen (*Conservative, Totnes*)

### 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 Internet at [www.parliament.uk/regrefcom](http://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) and Liz Booth (Secretary).

### Contacts

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, Delegated Legislation Office, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2837; the Committee's email address is [regrefcom@parliament.uk](mailto:regrefcom@parliament.uk).

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*inside back cover*



## ***The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484)***

**1. The Committee has considered this instrument and has determined that the special attention of the House does not require to be drawn to it.**

2. The normal business of the Regulatory Reform Committee is the scrutiny of regulatory reform proposals and draft orders made under the Regulatory Reform Act 2001 and any matter arising from our consideration of the proposals. Included in our responsibilities under our standing order<sup>1</sup> is a requirement to consider whether any provisions of a regulatory reform order are designated as “subordinate”, whether that designation is appropriate, and whether the parliamentary procedure applying to such subordinate provisions is appropriate. Subordinate provisions are appropriate to minor ancillary or technical provisions, such as commencement dates.<sup>2</sup>

3. Our predecessor Committee reported on the proposal for the Regulatory Reform (Fire Safety) Order on 2 August 2004, and on the draft of the Order on 30 March 2005.<sup>3</sup> Article 1(3) of the 2005 Order<sup>4</sup> provides for it to come into force on 1 April 2006. Article 52 designates article 1(3) as a subordinate provision and provides for any subordinate provisions order in relation to article 1(3) to be subject to annulment. In its report on the draft Order, our predecessor Committee considered the designation of article 1(3) to be appropriate.<sup>5</sup>

4. Under our standing order we are required by the House to report on any subordinate provisions orders or draft orders made or proposed to be made.<sup>6</sup> This report deals with the first such order ever made, which relates to the commencement date of the Regulatory Reform (Fire Safety) Order. This subordinate provisions order, S.I. 2006/484, which was laid before the House on 6 March 2006,<sup>7</sup> simply amends article 1(3) of the 2005 Order by substituting a commencement date of 1 October 2006 in place of the 1 April 2006.

5. Our task in scrutinising subordinate provisions order is relatively straightforward.<sup>8</sup> Essentially, it is (a) to consider whether the special attention of the House should be drawn to the order on one or more of technical grounds; and (b) to report to the House if we are of the opinion that any such order or draft order should be annulled or, as the case may be,

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1 Standing Order No.141(6)(n).

2 Under Section 4(4) of the Act a subordinate provisions order is limited in scope to either (a) modifying the subordinate provisions of an order previously made under section 1, or (b) is incidental, consequential, transitional or supplemental provision relating to the provisions falling within paragraph (a). See Second Special Report of Session 1999-2000 Deregulation Committee, Pre-Legislative Scrutiny of the Draft Regulatory Reform Bill, HC 488, para 49.

3 See Eleventh Report of Session 2003-04, HC 684 and Ninth Report of Session 2004-05, HC 495 respectively. An adjournment debate on the Order was held in Westminster Hall on 27 January 2005, HC Deb 27 January 2005, cc 133-178WH.

4 S.I. 2005/1541, made on 7 June 2005.

5 Ninth Report of Session 2004-05, HC 495.

6 S.O. No.141(4).

7 See Votes & Proceedings, 6 March 2006, Appendix I, item 11.

8 S.O.No. 141(8).

should not be approved. The technical grounds on which we are required to reach a judgement whether the special attention of each House should be drawn to an order are:

- that there appears to be doubt about whether there is power to make it;
- that it appears to make an unusual or unexpected use of the power to make it;
- that its drafting appears to be defective;
- that its form or meaning needs to be explained;
- that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;
- that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, because the instrument has come into force before it has been laid;
- that it appears to have retrospective effect;
- that it cannot be challenged in the courts;
- that it imposes, or sets the amount of, a charge on public revenue;
- that it requires payment for a licence, consent or service to be made to the Exchequer, a government Department or a public or local authority, or sets the amount of the payment;
- or on any other ground which does not go to its merits or the policy behind it.<sup>9</sup>

**6. We have considered the Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006, S.I. 2006, No.484, and have determined that the special attention of the House need not be drawn to it on any of the grounds specified above.**

7. We are also invited under our standing order to consider whether to report to the House that a subordinate provisions order should be annulled or a draft order not approved. The only question that arises in this context is whether the delay in implementation should be resisted. The explanatory memorandum published with the order sets out the Department's reason for the postponement of the implementation date.

During the passage of the 2005 Order through Parliament, the Department explained (in paragraphs 69-70 of its explanatory statement (17 March 2005) to the 2005 Order) that although it expected the 2005 Order to come into force on 1 April 2006 it warned of the possibility that this may be deferred. This was due to the difficulties in securing agreement on the guidance and in respect of whether all the guidance documents could be published at least 12 weeks in advance of this date. The gap of 12 weeks was particularly important because the Department was committed to ensuring that those affected have sufficient time to prepare and implement the new fire safety regime. Therefore, the Department considered it

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<sup>9</sup> See Standing Order No. 151 (Statutory Instruments (Joint Committee)) the Select Committee on Statutory Instruments.

prudent and necessary to make provision for deferring the coming into force of the 2005 Order. Accordingly, Article 1(3) was designated a subordinate provision to enable the First Secretary of State to change the coming into force date.

The Department's proposals for commencement and the consequent designation were considered by the Regulatory Reform Committee (9<sup>th</sup> Report of 2004/2005 session at paragraphs 61 to 64) and the Delegated Powers and Regulatory Reform Committee (14<sup>th</sup> Report (at paragraph 34) and 16<sup>th</sup> Report of the 2004/2005 session).

Production of guidance has taken longer than hoped but the Government remains committed to the assurances given to the public and Parliament. Ministers therefore announced to Parliament on 12 January 2006 that in order to honour the commitment given, the coming into force date would be put back.

Given the Parliamentary scrutiny already given to this provision and the public commitments given in respect of coming into force, no further consultation has been undertaken.<sup>10</sup>

**8. In the light of this explanation, we make no report to the House of an opinion whether the order should be annulled.**

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<sup>10</sup> The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), Explanatory Memorandum, paras 7.2-7.5 .

# Formal minutes

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**Tuesday 31 January 2006**

Members present:

Andrew Miller, in the Chair

Gordon Banks

Mr Stewart Jackson

Dr Doug Naysmith

Bob Russell

Alison Seabeck

Ms Angela C Smith

The Committee deliberated.

Draft Report [Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006], 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 8 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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