



House of Commons
Regulatory Reform Committee

Draft Regulatory Reform (Registered Designs) Order 2006

Seventh Report of Session 2005–06

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 4th July 2006*

The Regulatory Reform Committee

The Regulatory Reform Committee is appointed under Standing Order No. 141 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*)
Lorely Burt (*Liberal Democrat, Solihull*)
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*)
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*)

Criteria against which the Committee considers each proposal

Paragraph (6) of Standing Order No.141 requires us to consider any proposal for a regulatory reform order against the following criteria:

... whether the proposal—

- (a) appears to make an inappropriate use of delegated legislation;
- (b) removes or reduces a burden or the authorisation or requirement of a burden;
- (c) continues any necessary protection;
- (d) has been the subject of, and takes appropriate account of, adequate consultation;
- (e) imposes a charge on the public revenues or contains provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;
- (f) purports to have retrospective effect;
- (g) gives rise to doubts whether it is *intra vires*;
- (h) requires elucidation, is not written in plain English or appears to be defectively drafted;
- (i) appears to be incompatible with any obligation resulting from membership of the European Union;
- (j) prevents any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
- (k) satisfies the conditions of proportionality between burdens and benefits set out in sections 1 and 3 of the Regulatory Reform Act 2001;
- (l) satisfies the test of desirability set out in section 3(2)(b) of the 2001 Act;
- (m) has been the subject of, and takes appropriate account of, estimates of increases or reductions in costs or other benefits which may result from its implementation; or
- (n) includes provisions to be designated in the draft order as subordinate provisions.

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) and Liz Booth (Secretary/Committee Assistant).

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.

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Report under Standing Order No. 141

Summary

1. The Regulatory Reform Committee has examined the draft Regulatory Reform (Registered Designs) Order 2006 in accordance with Standing Order No. 141. We recommend unanimously that the draft Order be approved.

Introduction

2. The Proposal for the draft Regulatory Reform (Registered Designs) Order 2006 was laid before the House by the Cabinet Office on 13 March 2006 on behalf of the Minister for Science and Innovation, Lord Sainsbury of Turville, in the Department of Trade and Industry (DTI).

3. The draft Order substantially follows that which was included in the proposal. It would amend the Registered Designs Act 1949 (“the 1949 Act”) which governs the registration of designs in the UK in order to remove burdens associated with four specific aspects of the legislation governing procedures for the registration of designs. The draft Order would:

- a) remove the power of the Registrar to refuse to register designs on grounds of lack of novelty or individuality and to conduct searches for establishing novelty;
- b) remove an effective block on multiple applications;
- c) require public inspections of all designs, and
- d) facilitate the reinstatement of lapsed registrations.

4. The RRA requires that a draft Order cannot be laid before Parliament till after a period of 60 days following the laying off the proposal.¹ That period expired on 12 June. On 19

¹ Not including days during which either House of Parliament is adjourned for more than four days.

June 2006 the Government laid the draft Order before Parliament, together with an explanatory statement from the DTI.²

5. We are required under Standing Order No. 141(6) to examine the draft Order against such of the criteria specified therein 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.³

Findings of our previous report

6. We issued our report on the proposal for this draft Order on 26 May 2006.⁴ It described the effect of the Proposal in some detail and assessed it against the statutory and Standing Order tests. We concluded that the Proposal for the Regulatory Reform (Registered Designs) Order 2006 would be an appropriate use of the powers granted under the Regulatory Reform Act 2001, and that the DTI had made a convincing case for the desirability of making the Order. We recommended that some minor drafting changes should be made to the draft included in the proposal before the draft Order was laid before the House.⁵

The Department's response to our report

7. The DTI has made the minor amendments to the Order's drafting, as we requested, and has also made two other minor corrections.⁶

2 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 the DTI. The draft Order is also available on the Cabinet Office web site: www.cabinetoffice.gov.uk/regulation/reform/act/proposals.asp

3 Standing Order No. 141(7)

4 Fifth Report from the Regulatory Reform Committee of Session 2005-06, *Proposal for the Regulatory Reform (Registered Designs) Order 2006*, HC 1142

5 Described thus at paragraph 16 of our report: "Where the 1949 Act refers to a section of that Act, it always does so in terms of "section X of this Act". Most of the amendments made by the proposed Order maintain this approach, but those in articles 8 and 9 do not."

6 See DTI's explanatory statement (13 June 2006) paragraphs 18 to 21 -substituting the word "granted" for "issued" in section 22(1) of the 1949 Act and the consequential amendment of the transitional provision in article 19 so as to limit the effect of article 16(2)(b) and (3) but not article 16(2)(a)

Other representations

8. The period for parliamentary consideration of the proposal began on 13 March 2006 and expired on 12 June.

9. The House of Lords' Delegated Powers and Regulatory Reform Committee concluded in its report that the proposal met the requirements of the Regulatory Reform Act and that it would be appropriate for the reforms proposed to be made under the Act.⁷ The DTI states in its explanatory statement that Counsel to the House of Lords Select Committee on Delegated Powers and Regulatory Reform informally recommended two minor amendments in order to improve the drafting of the Order and that these suggestions had been adopted.⁸

10. The DTI states that it received no other written representations during the period of Parliamentary consideration.

Recommendation

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

7 Seventeenth Report from the Delegated Powers and Regulatory Reform Committee of Session 2005-06, Proposal for the Regulatory Reform (Registered Designs) Order 2006, HL 160

8 See DTI 's explanatory statement (13 June 2006) paragraphs 8 and 14 to 17 – an amendment to section 8A(4) of the 1949 Act to make it clear that the periods being referred to are those in section 8(3) and (4) of the 1949 Act and a consequential amendment to the tailpiece of 22(1) of the 1949 Act so that it refers specifically to subsection (4) as the only remaining provision, rather than referring to the “following provisions of this section”.

Formal minutes

Tuesday 4 July 2006

Members present:

Andrew Miller, in the Chair

Gordon Banks

Lorely Burt

John Hemming

Mr Stewart Jackson

Dr Doug Naysmith

Alison Seabeck

Mr Andrew Slaughter

The Committee deliberated.

Draft Report [Draft Regulatory Reform (Registered Designs) 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 11 read and agreed to.

Resolved, That the Report be the Seventh 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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