



House of Commons
Regulatory Reform Committee

Draft Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006

Eighth Report of Session 2005–06

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 18th 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 (Agricultural Tenancies) (England and Wales) 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 (Agricultural Tenancies) (England and Wales) Order 2006 was laid before the House by the Cabinet Office on behalf of the Secretary of State for Environment, Food and Rural Affairs on 30 March 2006. We issued our report on the proposal for this draft Order on 26 June 2006.¹

3. On 5 July 2006 the Secretary of State for Environment, Food and Rural Affairs laid the draft Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 before Parliament, together with an explanatory statement from the Department.² The draft Order is in substance the same as that which was included in the earlier, proposal stage. It would:

(Proposal 1) - Expand the range of activities from which relatives of a tenant of agricultural land could derive income without jeopardising any rights of statutory succession to a tenancy;

(Proposal 2) - Remove existing restrictions on the eligibility of parties to a tenancy agreement for compensation for improvements (in the case of tenants) or dilapidations³ (in the case of landlords) at the end of that tenancy;

(Proposal 3) - Bring the provisions of the Agricultural Holdings Act 1986 relating to the management of the arbitration of disputes over tenancies into line with arbitration mechanisms of the Arbitration Act 1996;

(Proposal 4) - Amend statutory provisions which govern the holding of rent reviews for agricultural tenancies;

(Proposal 5) - Make it easier to add new land to an agricultural holding which is subject to a tenancy under the Agricultural Holdings Act 1986, without that necessarily voiding the existing tenancy agreement; and

(Proposal 6) - Abolish the upper limit of 24 months for a notice to quit a tenancy under the Agricultural Tenancies Act 1995, so that indefinitely long notice could be given.

1 Sixth Report of the Regulatory Reform Committee, Session 2005-06, Proposal for the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006, HC (2005-06) 1309

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 Department.

3 "Dilapidations" means damage or disrepair to a rented property for which the tenant of the property will usually be liable.

4. 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.⁴

Findings of our previous report

5. Our Report on the proposal for this draft Order described the effect of the proposal in detail and assessed it against the statutory and Standing Order tests. We concluded that the proposal would be an appropriate use of the powers granted to ministers in the Regulatory Reform Act 2001, and that the Department had made a convincing case for the desirability of making the draft Order. We recommended that the Department should lay a draft Order in the same form as the proposal before the House.

Other representations

6. 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.⁵

7. The Department states that it received no other representations during the period of parliamentary consideration which ended on 29 June 2006.

The draft Order

8. The Department notes in its explanatory statement that a number of minor drafting changes have been made to the Order since the proposal stage with the aim of improving its clarity and coherence.⁶ None of these changes gives rise to any concern and the effect of the draft Order is not materially changed.

Michaelmas implementation date

9. The Department indicates that, should the draft Order be approved by both Houses, it will be made and come into effect on the following day.⁷ While to do this would not be in accordance with Government's recommended guidance that advice on the implementation of new legislation should be made available to those affected at least 12 weeks before they would need to comply with it, the Department points out that the Order, although technically in force, would have little effect in practice until the next Quarter Day, when agricultural tenancies are traditionally signed. This would be either Michaelmas (which is 29 September) or Christmas Day, depending on the timing of the Parliamentary approval process. As the largest number of tenancies are signed at Michaelmas, the Department

4 Standing Order No.141(7)

5 Twenty First Report of the House of Lords Committee on Delegated Powers and Regulatory Reform, Session 2005-06, HL (2005-06) 193

6 These are identified and discussed in paragraphs 16–21 of the explanatory statement.

would prefer to bring the Order into effect in advance of this date, should the prior approval of the Order in Parliament make it possible. The Department states that it will ensure that the agricultural industry is properly informed about the coming into effect of the Order and of its implications before the next Quarter Day. It also considers that the substantial involvement of industry representatives in the process of developing the legislation means that the implications of the Order are already widely understood by many of those affected by it.

10. We consider that no difficulty is likely to arise from the bringing into effect of the Order with a “notice period” to the agricultural community of less than 12 weeks, provided full and effective efforts are made by the Department to communicate its requirements to all those who need to be advised about it.

Recommendation

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

Formal minutes

Tuesday 18 July 2006

Members present:

Andrew Miller, in the Chair

Lorely Burt
John Hemming

Mr Stewart Jackson
Alison Seabeck

The Committee deliberated.

Draft Report [Draft Regulatory Reform (Agricultural Tenancies) (England and Wales) 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 Eighth 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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