



House of Commons
Public Administration
Select Committee

**Legislative and
Regulatory Reform Bill:
Government Response
to the Committee's
Third Report**

**Fifth Special Report of
Session 2005–06**

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The Committee is one of the select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are 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 <http://www.parliament.uk/pasc>.

Committee staff

The current staff of the Committee are Eve Samson (Clerk), Clive Porro (Second Clerk), Lucinda Maer (Committee Specialist), Phil Jones (Committee Assistant), Sue Holt (Secretary) and Louise Glen (Senior Office Clerk).

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Fifth Special Report

1. The Public Administration Select Committee reported to the House on the *Legislative and Regulatory Reform Bill* in its Third Report of Session 2005–06, published on 25 April 2006 as HC 1033. The Government's Response to the Report was received in the form of a letter from the Rt Hon Hilary Armstrong MP, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, on 11 May 2006. The letter is appended to this report.

Appendix 1

Letter from the Rt Hon Hilary Armstrong MP, Minister for the Cabinet Office, to the Chairman of the Public Administration Select Committee

I am writing both in response to the Public Administration Select Committee's third report (session 2005-06) on the Legislative and Regulatory Reform Bill published on 25 April, and to inform you of a number of amendments to the Bill which the Government has tabled today.

The Legislative and Regulatory Reform Bill is the third attempt by a government since 1994 to have an Act that can improve the way we regulate for the public sector, businesses, charities and the voluntary sector.

To deliver the Government's ambitious better regulation programme, it is essential that we get this third attempt right. The Government has maintained from the very beginning of the debate about the Bill, that we will listen to Parliament's views on how best to achieve the right balance of a power that is flexible enough to deliver swiftly the reforms to regulation that business leaders and others are crying out for, while ensuring Parliament continues to play its proper role in scrutinising legislation.

I am particularly grateful for the recommendations you and your Committee have made on the Bill in the report published on 25 April.

In the light of your report and those of other Committees, the Government last week tabled amendments to the Bill. The amendments focussed the order-making power in Part 1 of the Bill on better regulation initiatives; gave a statutory veto over orders to relevant committees of either House of Parliament; imposed the same restrictions on orders implementing Law Commission recommendations as other orders; and extended the time a Committee has to consider the appropriate scrutiny process for any order from 21 to 30 days.

These amendments address directly the concerns your Committee raised in its report on the Bill. You recommended that there should be on the face of the Bill a statutory Parliamentary veto which could be exercised outside the Committee as well as within it. The Government amendment tabled on 3 May places on the face of the Bill a veto to be exercised by a relevant Committee of either House that can be overturned by resolution of the House. This means that Parliament will have the final say on what can be delivered by

order. The veto places on a statutory footing the Government undertaking that has worked so well under the 2001 Act that the Government will not push through an order in the face of Parliamentary opposition.

An amendment was also laid that gives the relevant Parliamentary Committee 30 days instead of 21 to decide which scrutiny procedure is appropriate for an individual order. The Government realises it is important to get the procedures absolutely right and we will continue to listen to you and other colleagues on how this can best be done.

The amendments laid on 3 May included three amendments that focus the power on bar regulation initiatives. This will address your Committee's recommendation that the power in the Bill needs to be restricted. NC 19 and 20 ensure that a Minister may by order amend legislation which removes or reduces a burden or which brings regulatory activity in line with the five better regulation principles (that inspection should be transparent, accountable, proportionate, consistent and target where action is needed). Burden is defined more broadly than in the 2001 Act as a financial cost; an administrative inconvenience; an obstacle to efficiency, productivity or profitability; or decriminalise offences or reduces or remove sanctions where they are no longer considered proportionate. This will allow the Government to deliver its ambitious better regulation agenda while ensuring that the power cannot be used for inappropriate purposes.

Your Committee's final recommendation was that orders implementing Law Commission recommendations should not be exempted from limits on creating penalties. A further Government amendment laid on 3 May ensures that this is the case.

There remains then, one final recommendation in your Committee's report that was not addressed directly by the amendments laid last week: that the order-making power should not be used to amend Part 1 of the Bill itself.

Today the Government has tabled two further amendments, the first of which addresses this concern:

- An amendment which will prevent orders from amending Part 1 of the Bill;
- An amendment which prevents orders from amending the Human Rights Act 1998.

I should make clear that the amendments laid by the Government last week would preclude amendment by order to both Part 1 of the Bill and to the Human Rights Act. However, these amendments put this beyond any doubt whatsoever.

The Government today has also tabled amendments to Part 2 of the Bill. These provide that the duty to have regard to the Compliance Code should apply at the point where regulators make general policies or principles about carrying out regulatory activities, rather than at the level of individual actions. The Chancellor announced in the Budget that this amendment would be made by Report stage. Further amendments increase the level of parliamentary scrutiny, from the negative to the affirmative procedure, when issuing or revising a Code of Practice in relation to the exercise of regulatory functions.

Three technical amendments to Part 3 have also been tabled today. The first amendment corrects an incorrect reference so that clause 29 works in respect of Scotland. The second

amendment to Part 3 improves the drafting of the definition of the EEA Agreement¹, so that it is easier to use in practice. The third amendment to Part 3 of the Bill adds a new procedure to clause 29 so that it covers all practical possibilities.

Let me thank you again for your constructive report on the Bill which has helped the Government to amend the Bill in these ways. I look forward to our debate at Report stage next Monday 15 and Tuesday 16 May.

10 May 2006

1 European Economic Area Agreement

Reports from the Public Administration Select Committee since 2005

The following reports have been produced during the current session.

Session 2005–06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577
Third Report	Legislative and Regulatory Reform Bill	HC 1033
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690
Second Special Report	Ministerial Accountability and Parliamentary Questions: Government Response to the Committee's Fifth Report	HC 853
Third Special Report	Inquiry into the Scrutiny of Political Honours	HC 1020
Fourth Special Report	Tax Credits: putting things right: Government Response to the Committee's Second Report	HC1076