Draft Public Bodies Act Consent Motion

1. The draft motion, which will be lodged by the Minister for Environment, Climate Change and Land Reform, is:

“That the Parliament consents to the making of The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015, a draft of which was laid before the United Kingdom Parliament on 2 December 2014.”

2. This Memorandum has been lodged by Aileen McLeod, Minister for Environment, Climate Change and Land Reform, in accordance with Standing Orders under Chapter 9BA.

Background

Public Bodies Act 2011

3. The Public Bodies Act 2011 (“the 2011 Act”) gives UK Ministers the authority (via order making powers) to abolish, merge, modify or transfer the functions of public bodies listed in its Schedules, and some of those bodies operate in both the reserved and devolved areas, including the Home Grown Timber Advisory Committee. Section 9 of the 2011 Act acknowledges the scope for effects on devolved interests by requiring Orders that include provision falling within devolved competence to be consented to by Holyrood.

4. Standing Orders include the process for scrutinising PBACMs at Chapter 9BA.

Home Grown Timber Advisory Committee (HGTAC)

5. The HGTAC was originally formed under The Forestry Act (1951) with a principal aim to advise the Forestry Commissioners on their duties to establish and maintain sufficient reserves of growing trees across Great Britain. Subsequent Acts extended this position to advise Commissioners on their duties of finding a balance between the management and conservation of forests. The Forestry Act (1967) - which superseded the 1951 Forestry Act - preserved the HGTAC and required the Forestry Commissioners to consult it, for example, on the making of regulations. However, this requirement to maintain the committee for the purpose of a specific regulatory function is no longer necessary and the advice it previously offered is now provided by devolved structures.

6. The HGTAC is therefore currently defunct, with the last meeting occurring in September 2005. The HGTAC members’ Terms of Office expired in 2006 and were not renewed because it was decided (by the Commissioners and the final members themselves) that as forestry was now a devolved matter, it would be more appropriate for advice to be received at national level instead. They also agreed that specialist advice would be best presented through a working group of experts which was subsequently set up. Thus, at present, the HGTAC has no appointed members.
UK Government reform proposal

7. Administratively, the HGTAC no longer exists and this is simply a tidying up exercise.

Implications for Scotland

8. The Committee’s last meeting occurred in September 2005 and it is therefore currently defunct. Thus, at present, the HGTAC has no appointed members. Now that forestry is a devolved matter all three Administrations now have satisfactory alternative arrangements to cover the HGTAC functions. Forestry Commission Scotland has been consulted and supported the proposed abolition.

The draft Public Bodies (Abolition of HGTAC) Order 2015

9. In October 2010, UK Government announced, as part of its public bodies reform programme, that it would abolish the HGTAC. However, delivering on the commitment was delayed, given the Independent Panel’s review of forestry matters. Cabinet Office wishes to see the outstanding commitments delivered as soon as possible, preferably by Autumn 2014 as the reform is already well overdue. This specific abolition will also contribute towards the department’s commitment to reduce regulation via the ‘Red Tape Challenge’ (RTC). Furthermore, the FC cannot make, consolidate or revoke any SI made under the Forestry Act 1967 unless it first consults HGTAC. This means that a defunct HGTAC is also now holding up delivery of other RTC commitments, relating to various forestry-related SIs. The Public Bodies Team has also advised that not pursuing this abolition is not an option, as it is a commitment of the Coalition Government as part of its public bodies programme, aimed at reforming the crowded public bodies landscape. Any delay to the abolition until the next session of Parliament is likely to attract criticism and pressure from Cabinet Office, given its regular checking for departmental progress on outstanding reform commitments. Defra’s reputation for delivering on reform may also suffer.

Scottish Government position

10. The dissolution of the HGTAC will have no impact on Scottish forestry. Now that forestry is a devolved matter, all three Administrations have satisfactory alternative arrangements to cover the HGTAC functions.

Consultation

11. Section 10 of the 2011 Act requires the UK Minister proposing an Order to consult on the proposed changes. A public consultation was run from 14 April – 30 May 2014 on the Defra website and a targeted e-mail was sent to key forestry stakeholders. A total of five responses were received, of which three were in support of the proposed abolition and two raised objections. The UK Government will publish a formal response to the consultation; however it is their intention to proceed with the abolition of the HGTAC via an order under the Public Bodies Act 2011.

Financial / Resource Implications

12. There are no financial implications for Scotland.
Equal Opportunities Implications

13. There are no Equal Opportunities implications.

Conclusion

14. The Scottish Government invites the Parliament to consent to the making of The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015, a draft of which was laid before the UK Parliament on 2 December 2014.

Scottish Government
December 2014
Draft Order laid before Parliament under section 11(1) of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

Draft Statutory Instruments

2015 No.

FORESTRY

PUBLIC BODIES

The Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015

Made - - - - ***

Coming into force in accordance with article 1 ***

The Secretary of State makes this Order in exercise of the powers conferred by sections 1(1), 6(1) and (5) and 35(2) of the Public Bodies Act 2011 (“the Act”).

In accordance with section 8 of the Act, the Secretary of State considers that this Order—

(a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1) of the Act; and

(b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The consent of the Scottish Parliament has been obtained in accordance with section 9(1) of the Act.

The Secretary of State makes this Order after consultation in accordance with section 10 of the Act and after consultation with the Scottish Ministers in accordance with section 88(2) of the Scotland Act 1998.

A draft of this Order and an explanatory document containing the information required in section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks referred to in section 11(3).

In accordance with section 11(4) of the Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

(a) 2011 c.24.
(b) 1998 c.46.
Title and commencement

1.—(1) This Order may be cited as the Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015.

(2) It comes into force on the day after the day on which it is made, except as provided by paragraph (3).

(3) In respect of the final entry (Public Bodies Act 2011) in the table of repeals in the Schedule, article 3 comes into force on the second day after the day on which the Order is made.

Abolition of the Home Grown Timber Advisory Committee

2. The Home Grown Timber Advisory Committee maintained under section 37(1)(a) of the Forestry Act 1967(3) is abolished.

Repeals and revocation

3. The Schedule (repeals and revocation) has effect.

Name
Parliamentary Under Secretary of State

Date
Department for Environment, Food and Rural Affairs

SCHEDULE

Article 3

Repeals and revocation

PART 1

Repeals

<table>
<thead>
<tr>
<th>Short title</th>
<th>Extent of repeal</th>
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</thead>
<tbody>
<tr>
<td>Forestry Act 1967</td>
<td>In section 32(1)(4), the words “subject (in the case of the Commissioners) to their duty of consultation under section 37(2) below,”.</td>
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<tr>
<td></td>
<td>In section 37—</td>
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<td>(a) subsection (1)(a)(5);</td>
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<td></td>
<td>(b) subsection (2)(6).</td>
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<td></td>
<td>In section 38—</td>
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<td></td>
<td>(a) subsection (1)(7);</td>
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<td></td>
<td>(b) in subsection (1B), the words “(1) or”;</td>
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<td></td>
<td>(c) subsection (2);</td>
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<td></td>
<td>(d) in subsection (4)(8), the words “The</td>
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</table>

(a) 1967 c.10.
(b) Section 32(1) was amended by S.I. 2013/755.
(c) Section 37(1) was substituted by S.I. 2013/755.
(d) Section 37(2) was substituted by S.I. 1999/1747.
(e) Section 38(1) was substituted by S.I. 2013/755.
Public Bodies Act 2011

In Schedule 1, the words “Home Grown Timber Advisory Committee”.

PART 2

Revocation

<table>
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<tr>
<th>Instrument</th>
<th>Extent of revocation</th>
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order abolishes the Home Grown Timber Advisory Committee and removes the requirement under section 37(1) of the Forestry Act 1967 (c.10) for the Forestry Commissioners to continue to maintain that Committee. It also removes the requirement for the Forestry Commissioners to consult with that Committee before making regulations under section 32 of that Act.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

(a) Section 38(4) was amended by S.I. 2013/755.
(b) S.I. 1999/1747, to which there are amendments not relevant to this Order.