Delegated Powers and Law Reform Committee

4th Report, 2014 (Session 4)

Public Bodies Act Consent Memorandum on the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014

Published by the Scottish Parliament on 15 January 2014
Delegated Powers and Law Reform Committee

Remit and membership

**Remit:**

1. The remit of the Delegated Powers and Law Reform Committee is to consider and report on—
   (a) any—
      (i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
      (ii) [deleted]
      (iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;
   (b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;
   (c) general questions relating to powers to make subordinate legislation;
   (d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;
   (e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and
   (f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.
   (g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and
   (h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

**Membership:**

Richard Baker  
Nigel Don (Convener)  
Mike MacKenzie  
Margaret McCulloch  
Stuart McMillan (Deputy Convener)  
John Scott  
Stewart Stevenson
Committee Clerking Team:

Clerk to the Committee
Euan Donald

Assistant Clerk
Elizabeth White

Support Manager
Daren Pratt
Delegated Powers and Law Reform Committee

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The Committee reports to the Parliament as follows—

1. At its meeting on 14 January 2014, the Committee considered the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014. The order is a United Kingdom Government instrument that the Scottish Parliament has been asked to consent to under section 9 of the Public Bodies Act 2011 ("the 2011 Act"). The Committee submits this report to the Economy, Energy and Tourism Committee as part of its consideration of the Order.

2. The Scottish Government provided the Scottish Parliament with a Public Bodies Act consent memorandum ("PBCM")\(^1\) which contains the draft order.

Background

3. The 2011 Act provides UK Ministers with the power to make orders to improve the exercise of public functions, having regard to efficiency, effectiveness, economy and securing accountability to Ministers. Section 9(1) of the Act requires the consent of the Scottish Parliament to make any order that would be within the legislative competence of the Scottish Parliament.

4. Chapter 9BA of the Standing Orders requires Public Bodies Act consent memorandums to be scrutinised by the Delegated Powers and Law Reform Committee. Such orders are subject to reporting under the same grounds as other instruments laid before the Parliament.

\(^1\) The PBCM on the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 is available here: http://www.scottish.parliament.uk/LegislativeConsentMemoranda/PBCMNationalConsumerCouncil.pdf
5. As lead committee, the Economy, Energy and Tourism Committee will consider the policy aims of the order before the matter is considered by the Parliament as a whole.

**Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014**

6. This UK statutory instrument abolishes the National Consumer Council and transfers relevant functions to the National Association of Citizens Advice Bureaux (“Citizens Advice”), and the Scottish Association of Citizens Advice Bureaux (“CAS”). The functions being transferred to CAS are ones currently carried out by Consumer Focus Scotland (now called Consumer Futures) so there are not anticipated to be any major changes to the functions, except so far as they will be subject to future work plans of CAS.

7. Functions of the National Consumer Council, relating to consumer matters in Northern Ireland for postal services, are also transferred to the General Consumer Council for Northern Ireland.

8. The abolition of the National Consumer Council and the transfer of functions is to take place on 1 April 2014.

9. The instrument also transfers a few functions which relate to the Office of Fair Trading’s (OFT) consumer advice scheme, which was known as Consumer Direct, to Citizens Advice and CAS. Most of the functions within the advice scheme were transferred to Citizens Advice and CAS by the Public Bodies (The Office of Fair Trading’s Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013. The transfer of the remaining functions will also take effect on 1 April 2014.

10. In addition the order transfers the functions of the OFT in relation to the regulation of estate agents. The OFT’s functions in the Estate Agents Act 1979 are transferred to a lead enforcement authority (Powys County Council). The OFT’s functions as the supervisor of estate agents in the Money Laundering Regulations 2007 are transferred to the Commissioners of Her Majesty’s Revenue and Customs. This transfer of functions is to take place on 31 March 2014.

**Delegated Powers and Law Reform Committee consideration**

11. At its meeting on 14 January, the Committee considered the instrument under the same grounds as other instruments laid before the Parliament.

12. In considering the instrument, the Committee noted that Paragraph 1 of Part 1 of Schedule 1 to the order provides for the omission of the entry relating to the National Consumer Council in Part 2 of Schedule 1 to the Public Bodies Act 1958, when it should omit the entry in the Public Records Act 1958.

13. **As the order contains a minor drafting error, the Committee draws the instrument to the attention of the Parliament under the general ground in Rule 10.3.1 of Standing Orders. However, in doing so, the Committee notes**
that the Department for Business, Innovation and Skills has advised that the Statutory Instrument Registrar will issue a printing correction slip to correct the patent error.
Members who would like a printed copy of this Numbered Report to be forwarded to them should give notice at the Document Supply Centre.