Delegated Powers and Law Reform Committee

6th Report, 2015 (Session 4)

Public Bodies Act Consent Memorandum on the Public Bodies (Abolition of the Advisory Committee on Pesticides) Order 2015

Published by the Scottish Parliament on 21 January 2015
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:

Nigel Don (Convener)
John Mason (Deputy Convener)
Margaret McCulloch
John Scott
Stewart Stevenson
Committee Clerking Team:

Clerk to the Committee
Euan Donald

Assistant Clerk
Elizabeth Anderson

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 20 January 2015, the Committee considered the Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015.

2. 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 Rural Affairs, Climate Change and Environment Committee as part of its consideration of the Order.

3. The Scottish Government provided the Scottish Parliament with a Public Bodies Act consent memorandum ("PBACM")¹ which contains the draft order.

Background

4. 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.

5. 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 PBACM on the Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015: http://www.scottish.parliament.uk/LegislativeConsentMemoranda/PublicBodiesPesticidesPBACM.pdf
6. As lead committee, the Rural Affairs, Climate Change and Environment 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 Advisory Committees on Pesticides) Order 2015 [draft]**

7. This UK Order, made under powers in the Public Bodies Act 2011 ("the 2011 Act"), abolishes both the Advisory Committee on Pesticides ("the ACP") and the Advisory Committee on Pesticides for Northern Ireland. The Order also makes a series of consequential repeals and revocations.

8. The ACP (which is a body listed in Schedule 1 to the 2011 Act) was established by UK statutory instrument using powers in the Food and Environment Protection Act 1985. It provides advice to UK Government departments as well as the devolved administrations on matters relating to the control of pests with a view to:

   - protecting the health of human beings, wildlife and plants;
   - safeguarding the environment;
   - securing safe, efficient and humane methods of controlling pests; and
   - making information about pesticides available to the public.

9. The explanatory document accompanying the draft order\(^2\) explains that the ACP is to be abolished and re-constituted as a non-statutory scientific committee which will continue to provide advice to both the UK and devolved administrations on matters relating to pesticides. The current membership of the ACP will transfer to the new body. The UK Government considers that re-constituting the body on a non-statutory basis will enable it to be more flexible and to keep pace with changes in the way in which pesticides are regulated. As an example, the document refers to the fact that the terms of reference of a non-statutory committee may be changed more readily than those of a committee established under statute thereby enabling the Committee to adapt to changes in the regulatory landscape at short notice. The explanatory document also notes that this approach was broadly endorsed in consultation with stakeholders.

10. The ACP operates in an area which is predominantly devolved. The consent of the Scottish Parliament is therefore required, having regard to section 9 of the 2011 Act, to the abolition of the Committee. In the Scottish Government’s accompanying memorandum, it explains that it has sought assurances from the Department for the Environment, Food and Rural Affairs that the re-constituted Committee will continue to provide independent scientific advice and that its change in status will not lead to any practical change in the current procedures governing pesticide authorisations.

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11. This Order is subject to an enhanced scrutiny procedure as set out in section 11 of the 2011 Act. If, after consultation, the responsible UK Minister considers it appropriate to proceed with the Order, a draft may be laid before both Houses of the Westminster Parliament along with an explanatory document which gives reasons for making the order and contains a summary of the responses received to the consultation. After the expiry of 40 days beginning with the day on which the draft Order was laid, if it is approved by resolution of both Houses, the Order may be made.

**Delegated Powers and Law Reform Committee consideration**

12. At its meeting on 20 January 2015, the Committee considered the instrument under the same grounds as instruments laid before the Parliament.

13. In doing so, it determined that it did not need to draw the attention of the Parliament to the instrument on any of those grounds.
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