

HOUSE OF LORDS

Delegated Powers and Regulatory Reform
Committee

3rd Report of Session 2012-13

Special Report:
**Strengthened Statutory
Procedures for the
Scrutiny of Delegated
Powers**

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The Delegated Powers and Regulatory Reform Committee

The Committee is appointed by the House of Lords each session with the terms of reference “to report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny; to report on documents and draft orders laid before Parliament under sections 14 and 18 of the Legislative and Regulatory Reform Act 2006, report on documents and draft orders laid before Parliament under or by virtue of section 7(2) of the Localism Act 2011 or under or by virtue of section 5E(2) of the Fire and Rescue Services Act 2004; and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments”.

Membership

The members of the Delegated Powers and Regulatory Reform Committee (as of 12 June) were:

Baroness Andrews
 Lord Blackwell
 Rt Hon Lord Butler of Brockwell
 Lord Carlile of Berriew QC
 Baroness Gardner of Parkes
 Lord Haskel
 Rt Hon Lord Mayhew of Twysden QC DL
 Baroness O’Loan
 Lord Soley
 Baroness Thomas of Winchester (Chairman)

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Contacts for the Delegated Powers and Regulatory Reform Committee

Any query about the Committee or its work should be directed to the Clerk of the Delegated Legislation, Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020 7219 3103 and the fax number is 020 7219 2571. The Committee’s email address is dpr@parliament.uk

Historical Note

In February 1992, the Select Committee on the Committee work of the House, under the chairmanship of Earl Jellicoe, noted that “in recent years there has been considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion” (Session 1991–92, HL Paper 35-I, paragraph 133). The Committee recommended the establishment of a delegated powers scrutiny committee which would, it suggested, “be well suited to the revising function of the House”. As a result, the Select Committee on the Scrutiny of Delegated Powers was appointed experimentally in the following session. It was established as a sessional committee from the beginning of Session 1994–95. The Committee also has responsibility for scrutinising legislative reform orders under the Legislative and Regulatory Reform Act 2006.

Strengthened statutory procedures for the scrutiny of delegated powers

THIRD REPORT

Overview and recommendations

1. In this Special Report we draw attention to what has become a complex patchwork of procedures written into legislation to give Parliament a strengthened scrutiny role over certain legislative powers delegated by Parliament to Ministers. This is not a dry legal matter – it is an important aspect of both the legislative process and of how Parliament carries out its function of scrutinising the work of the Executive. The Delegated Powers and Regulatory Reform Committee has a narrow remit, and we present this Special Report in the context of concerns about the increasing practice of delegating significant legislative powers to Ministers, and the House’s continuing desire to ensure that appropriately robust scrutiny processes are put in place. We welcome the existing statutory procedures described in this Special Report in that they provide Parliament with an enhanced role, and we acknowledge the need for flexibility to ensure that each scrutiny procedure is appropriate to the power delegated to Ministers. However the number of variations in these statutory scrutiny procedures has led to a level of complexity that is unhelpful for both Parliament and the public.
2. We offer a number of recommendations and conclusions in this Report. Our main recommendation is as follows:
 - **We recommend that in proposing a strengthened scrutiny procedure in any future Bill the Government should normally use an existing model rather than creating a new variation; and they should explain the basis for the decision. If the Government exceptionally take the view that it is necessary to create yet another variation rather than using an existing statutory scrutiny procedure, the reasons should be set out clearly in the Explanatory Notes to the Bill and in the delegated powers memorandum.** (paragraph 25)

Our other recommendations and conclusions are:

- **We invite the Government either to set out the case for not requiring supporting documents to be laid with draft orders under section 19 of the Localism Act 2011, or to give an undertaking to lay supporting documents when laying any draft order under that section.** (paragraph 17)
- **It would be helpful to the House if the Government made clear whether they intend to confirm the undertakings given by the previous Government in respect of draft orders laid under section 14 of the Legislative and Regulatory Reform Act 2006; and whether they intend to give the same undertakings in respect of draft orders laid under section 5E of the Fire and Rescue Services Act 2004 and sections 7 and 11 of the Localism Act 2011.** (paragraph 22)

- **We recommend that the Leader of the House puts proposals to the Procedure Committee for how the House will scrutinise draft orders under:**
 - (a) **section 85 of the Northern Ireland Act 1998,**
 - (b) **section 17 of the Local Government Act 1999,**
 - (c) **section 9 of the Local Government Act 2000,**
 - (d) **section 98 of the Local Government Act 2003,**
 - (e) **section 102 of the Local Transport Act 2008, and**
 - (f) **section 19 of the Localism Act 2011.** (paragraph 30)
- **We have considered whether the strengthened scrutiny procedures covered in this Report might appropriately be made available in respect of delegated powers which, while they are not Henry VIII powers, nonetheless give Ministers discretion to legislate widely across important areas of public policy. This could provide Parliament with an enhanced scrutiny role over significant statutory instruments that would otherwise be subject only to the affirmative procedure. We draw this possibility to the attention of the House.** (paragraph 31)

Background and introduction

3. The House of Lords Delegated Powers and Regulatory Reform Committee was established in 1992 by the House following “considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion”.¹ Proceedings on the Public Bodies Bill in the 2010-12 session showed that this remains as much an issue now as it was in 1992 and that the work of this Committee continues to be as relevant now as it was 20 years ago.
4. Delegations of legislative power (“delegated powers”) are features of statutory provisions which allow Ministers to make legislation which would otherwise need another Act of Parliament. They are frequently included in Bills before Parliament and are an acknowledged part of the legislative landscape. For example, an Act may set out the key provisions of a policy, but allow a Minister to supplement them, or even modify them as circumstances change over time, by way of statutory instrument (usually, an Order or Regulations).
5. For those delegated powers that are subject to Parliamentary scrutiny, most are subject to one of two scrutiny procedures:
 - (a) **The negative procedure** under which an instrument is laid before both Houses, usually after being made. Either House may within 40 days pass a motion that the instrument be annulled (that is, revoked). The instrument may come into force at any time after it is made and remains in force until it expires or is revoked or annulled. Negative instruments are only debated if a Member specifically requests a debate.

¹ Session 1991-92, HL Paper 35, paragraph 133

- (b) **The affirmative procedure** under which an instrument is usually laid before Parliament in draft and must be approved by both Houses before it may be made. Affirmative instruments are always debated. Although there is no set timing for such debates, under House of Lords Standing Order 72 no motion to approve a draft affirmative can be taken until the Joint Committee on Statutory Instruments has reported on the instrument.
6. There are variations on these two procedures. For example, some Acts make provision for **draft negatives** (instruments subject to a negative procedure that must be laid before Parliament in draft for a period before they may be made) or **made affirmatives** (instruments which are made, and may even come into force, before being laid before Parliament for affirmative approval). There are also a number of delegated powers which Parliament has determined should be subject to a level of Parliamentary scrutiny more rigorous than that required even under the affirmative procedure, and it is these delegated powers that are the subject of this Special Report.
 7. The work of our Committee is to scrutinise delegated powers in Bills before the House of Lords and report to the House “whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny”. To do this, we look at each instance of a delegated power in a Bill and the level of parliamentary scrutiny proposed to oversee the exercise of that power. We are careful to limit our scrutiny to consideration of these matters as our remit does not extend to considering the merits of the overall policy. We seek to take a consistent approach to judgements about whether a delegated power, and the level of scrutiny it is subject to, are appropriate. One principle underpinning our work is that no level of Parliamentary scrutiny can itself make appropriate a power which it is inappropriate to delegate to secondary legislation.
 8. For each government Bill, the sponsoring department provides a memorandum identifying every delegated power and its purpose, explaining why the provision is to be made in delegated rather than primary legislation, and why the proposed level of Parliamentary control is thought appropriate. We have the power to call Ministers to give oral evidence.
 9. We aim to report to the House on each Bill before Committee Stage. Our Reports make recommendations to the House, and it is a matter for the House, and not for this Committee, to determine whether a delegated power and its scrutiny arrangements are appropriate. We also aim to consider all government amendments tabled during Lords proceedings that contain significant delegated powers.
 10. In our Bill scrutiny work we take particular interest in Henry VIII powers — that is, powers that enable Ministers to amend Acts of Parliament by secondary (delegated) legislation.² Henry VIII powers always merit especially careful consideration, and require a persuasive explanation, because they are delegating to Ministers not merely the power to supplement the detail of

² The term “Henry VIII power” comes from the Statute of Proclamations of 1539 which says that “The King ... may set forth at all times by authority of this Act his proclamations, under such penalties and pains as ... shall seem necessary and requisite; and that those same shall be obeyed, observed, and kept as though they were made by Act of Parliament.”

policy, but the power to amend primary legislation which is otherwise the preserve of Parliament itself.

11. In 2002 our predecessor Committee published a Special Report on *Henry VIII powers to make incidental, consequential and similar provision*³. We now take up again the subject of Henry VIII powers and this Report is concerned with those that confer on Ministers particularly significant powers to amend primary legislation. Frequently, Henry VIII powers are simply incidental, consequential, updating or otherwise limited in character. But many of these powers go well beyond this. In such cases Parliament has decided it is necessary for each power to be subject to additional statutory scrutiny safeguards, so giving both Houses the opportunity for a greater level of control of the exercise of such powers. We are aware of 11 such powers currently on the statute book, where in each case the parent Act sets out its own scrutiny procedure to be followed when the power is exercised.

Current statutory provisions

12. Those 11 current strengthened scrutiny procedures are to be found in:
- (a) Northern Ireland Act 1998 (section 85),
 - (b) Human Rights Act 1998 (Schedule 2),
 - (c) Local Government Act 1999 (section 17),
 - (d) Local Government Act 2000 (section 9),
 - (e) Local Government Act 2003 (section 98),
 - (f) Fire and Rescue Services Act 2004 (section 5E) (as inserted by the Localism Act 2011),
 - (g) Legislative and Regulatory Reform Act 2006 (sections 12 to 19),
 - (h) Local Transport Act 2008 (section 102),
 - (i) Public Bodies Act 2011 (section 11),
 - (j) Localism Act 2011 (section 7), and
 - (k) Localism Act 2011 (section 19).

Appendix 1 gives a brief description of the nature of the power to which each of these procedures applies.

13. Although these strengthened scrutiny procedures share a number of common features, there are marked differences between the Parliamentary procedures applicable to different powers or categories of powers. It is this variation in statutory provision that has prompted us to undertake the analysis in this Special Report. Four of these powers were enacted in the 2010-12 Session. Indeed, the Localism Act 2011 makes provision for three strengthened scrutiny procedures⁴, one of which is different in character from the other two. In addition, we have already reported in the current Session on a power in the Crime and Courts Bill⁵. The Bill describes the provision as a “super-affirmative” procedure (as found in section 18 of the Legislative and

³ 3rd Report of Session 2002-03, HL Paper 21

⁴ Sections 7 and 19 of the Localism Act 2011; and section 9 which inserts a new section 5E in to the Fire and Rescue Services Act 2004

⁵ 2nd Report 2010-12, HL Paper 12

Regulatory Reform Act 2006) although much closer in character to the procedure provided for in section 11 of the Public Bodies Act 2011 that has previously been described as an “enhanced” affirmative procedure. So the terminology used itself tends to blur, rather than distinguish, the features of the many varieties of procedure on the statute book.

14. Table 1 (Variations in strengthened scrutiny procedures) provides an illustration of the differences between these various procedures, and paragraphs 15 to 23 provide further explanation. In the Lords, three committees are currently involved in carrying out scrutiny under these statutory procedures:

- The Delegated Powers and Regulatory Reform Committee scrutinises draft orders laid under section 5E of the Fire and Rescue Services Act 2004, sections 12 to 19 of the Legislative and Regulatory Reform Act 2006, and section 7 of the Localism Act 2011;
- The Secondary Legislation Scrutiny Committee (formerly the Merits of Statutory Instruments Committee) scrutinises draft orders laid under section 11 of the Public Bodies Act 2011; and
- The Joint Committee on Human Rights scrutinises draft orders laid under Schedule 2 to the Human Rights Act 1998.

In addition, there are currently a number of strengthened scrutiny procedures in respect of which no committee of the Lords has been nominated formally as the scrutiny committee. We return to this in paragraphs 27 to 30.

TABLE 1 – VARIATIONS IN STRENGTHENED SCRUTINY PROCEDURES

	Requirement to consult	Requirement to lay supporting documents	Power for relevant committee to determine the level of Parliamentary scrutiny	Power for relevant committee to veto order	Statutory obligation for Minister to consider recommendations made by relevant committees	Additional (non-statutory) Ministerial undertakings given in respect of the procedure	Laid in first instance as a proposal (P) or draft order (DO)
Northern Ireland Act 1998 (section 85)	x	✓	x	x	✓	x	P
Human Rights Act 1998 (Schedule 2)	x	✓	x	x	✓ ⁶	x	P
Local Government Act 1999 (section 17)	✓	✓	x	x	x	x	P
Local Government Act 2000 (section 9)	✓	✓	x	x	x	x	P
Local Government Act 2003 (section 98)	✓	✓	x	x	x	x	P
Fire and Rescue Services Act 2004 (section 5E)	✓	✓	✓	✓	✓	x	DO
Legislative and Regulatory Reform Act 2006 (sections 12 to 19)	✓	✓	✓	✓	✓	✓	DO
Local Transport Act 2008 (section 102)	✓	✓	x	x	x	x	P
Public Bodies Act 2011 (section 11)	✓	✓	✓	x	✓	x	DO
Localism Act 2011 (section 7)	✓	✓	✓	✓	✓	x	DO
Localism Act 2011 (section 19)	✓	x	x	✓	✓	x	DO

⁶ In paragraphs 3(2) and 4(2) of Schedule 2 to the Human Rights Act 1998, and in section 85(6) of the Northern Ireland Act 1998, there is an express statutory obligation to provide a statement summarising any “representations” made and detailing any resulting changes to the proposed order or Order in Council; and “representations” is defined in each case to include a relevant Parliamentary report or resolution”

Requirement to consult prior to laying order

15. Most of these statutory scrutiny procedures place a duty on the Secretary of State or the Minister to undertake a consultation before a draft order can be laid. For example, under the Public Bodies Act 2011 the Minister cannot lay a draft order until the expiry of a 12 week consultation period. The two exceptions to this requirement are draft orders laid under the Northern Ireland Act 1998 and Remedial Orders under the Human Rights Act 1998.

Requirement to lay supporting documents

16. All but one of these statutory procedures place an obligation on the Government to lay supporting documents at the outset of the Parliamentary process. This additional information is designed to support Parliament in carrying out effective scrutiny. There are variations about what supporting documents are required.
17. The exception is for draft orders under section 19 of the Localism Act 2011 where the Act contains no statutory requirement to lay supporting documents. We are not clear why supporting documents are not required in this case when they are a requirement in every other case. **We invite the Government either to set out the case for not requiring supporting documents to be laid with draft orders under section 19 of the Localism Act 2011, or to give an undertaking to lay supporting documents when laying any draft order under that section.** Section 19 was tabled as an amendment at Report Stage in the Lords and we were not able to report on it during the Bill's passage.

Power for a committee or either House to determine the level of scrutiny

18. Some of these statutory procedures give each House or a committee of each House charged with considering the orders (the relevant committee) the power to determine the level of scrutiny. In the other cases, the scrutiny procedure is fixed in the parent Act. The cases where Parliament is given this power are:
- *Legislative Reform Orders (LROs)*: when laying a draft order under sections 12 to 19 of the Legislative and Regulatory Reform Act 2006, the Government makes an initial recommendation on whether the order should be subject to the negative, affirmative or “super-affirmative” procedure. The relevant committee in either House has the power to upgrade the level of scrutiny from the original proposed by the Government, subject to a contrary decision of the House. The same applies to draft orders under section 5E of the Fire and Rescue Services Act 2004 and section 7 of the Localism Act 2011, but not to orders laid under section 19 of the Localism Act.
 - *Public Bodies Orders*: draft orders under section 11 of the Public Bodies Act 2011 are laid as draft affirmatives. The relevant committee in either House can recommend that the draft order should be subject to a 60 day “enhanced affirmative” procedure, subject to a contrary decision of the House.

Power for relevant committee to veto a draft order

19. The Legislative and Regulatory Reform Act 2006 gives the relevant committee in either House a power to veto a draft order laid under that Act by recommending that “no further proceedings be taken in relation to the draft order”⁷. This power of veto is mirrored in the three statutory procedures contained in the Localism Act 2011⁸, two of which apply sections 15 to 19 of the 2006 Act and the other of which appears to be modelled on a modified form of those provisions. There is no similar power of veto in any of the seven other types of statutory scrutiny procedure.

Obligation on Government to consider recommendations or resolutions

20. Seven of these statutory scrutiny procedures place a legal duty on the Government to “take account of”, “consider” or “have regard to” recommendations made by the relevant committee or resolutions passed by either House. By contrast, the other four procedures all contain a more general provision for the Government to consider representations. It is not clear why the statutory obligation on the Government to consider, have regard to or take account of recommendations or resolutions made by Parliament is not an express feature in all cases, given that each is designed to give Parliament an opportunity for greater scrutiny. Furthermore, it is not clear whether the statutory requirements to “take account of”, “consider” or “have regard to” are intended to mean the same thing or whether the terms are meant to have different legal effect. If in practice these terms mean the same thing, it would be helpful if a consistent term were used; if however the terms have different meanings, it would be helpful if an explanation of the differences were provided.

Additional (non-statutory) Ministerial undertakings

21. The statutory scrutiny procedure in sections 12 to 19 of the Legislative and Regulatory Reform Act 2006 was accompanied at the time by Government undertakings about the operation of the scrutiny procedures. These undertakings have a significant impact on how the scrutiny of draft orders operates. In respect of a draft Legislative Reform Order (LRO) laid under the 2006 Act, the previous Government undertook:
- (a) not to use the procedure for highly controversial changes, and
 - (b) that an LRO proposal will not be pursued in the face of opposition from the scrutiny committee in either House.
22. Neither of these undertakings has so far been endorsed by the current Government, and no matching undertakings have been given in respect of those statutory scrutiny procedures which are modelled on Part 1 of the 2006 Act. **It would be helpful to the House if the Government made clear whether they intend to confirm the undertakings given by the previous Government in respect of draft orders laid under section 14 of the Legislative and Regulatory Reform Act 2006; and whether they intend to give the same undertakings in respect of draft orders laid**

⁷ Legislative and Regulatory Reform Act 2006, sections 17(3) and 18(5); section 16(4) (the equivalent for draft negatives) is also relevant.

⁸ Sections 5 and 15, and section 5C(1) and (2) of the Fire and Rescue Services Act 2004 (inserted by section 9 of the Localism Act 2011)

under section 5E of the Fire and Rescue Services Act 2004 and sections 7 and 11 of the Localism Act 2011.

Provisions laid either as proposals or draft orders

23. For six of the 11 statutory scrutiny procedures, the parent Act specifies that what is laid is a proposal containing a draft order and then after a specified scrutiny period, the draft order itself may be laid. For the remaining five procedures, the process is different: the Government lays a draft order (rather than a proposal) for scrutiny and the procedure contains the provision for the Government to lay a revised draft after the scrutiny period has expired. Although the statutory provisions are inconsistent, in practice both procedures offer an opportunity for the Government to respond to issues raised during the Parliamentary scrutiny process by revising the original draft of the order without having to re-start the statutory procedure from scratch.

Our view of the existing statutory procedures

24. We consider that the existence of so many variations of these procedures is not helpful either to Parliament or to the public in understanding the scrutiny process. We recognise that there may in some cases be justification for tailoring the statutory procedure to specific circumstances of a Bill, and that each of the current variations has been approved by Parliament. However, we hope that, by drawing these statutory procedures together in this Report for analysis, we may prompt the House to consider whether for the future it should seek consistency.
25. The House may wish to consider whether it might be more appropriate to take the bolder course of rationalising the entire range of current variations by legislation. In the meantime, we make the following recommendations designed to prevent unnecessary proliferation in the number of future variations. **We recommend that in proposing a strengthened scrutiny procedure in any future Bill the Government should normally use an existing model rather than creating a new variation; and they should explain the basis for the decision. If the Government exceptionally take the view that it is necessary to create yet another variation rather than using an existing statutory scrutiny procedure, the reasons should be set out clearly in the Explanatory Notes to the Bill and in the delegated powers memorandum.**
26. In our future consideration of Bills, we intend to look closely at any provision for a strengthened scrutiny procedure and particularly carefully at proposals for new variation. In the light of the analysis and recommendations in this Report, we intend to draw to the House's attention any instance where a new type of statutory procedure is created. If we are not persuaded by the Government's choice of an existing procedure, or its case for a new variation, we will recommend that it be amended.

The House's scrutiny of draft orders under these procedures

27. The existence of these scrutiny procedures in legislation does not in itself ensure that the House exercises its enhanced scrutiny role. Effective scrutiny

in all cases relies on the House putting in place mechanisms (for example, nominating a committee) to undertake scrutiny and report its conclusions on a draft order.

28. In respect of five of the 11 procedures, the relevant committee has been identified. For the remaining six procedures, the House has not nominated a committee to undertake scrutiny of draft orders. This risks the result that, if a draft order is laid, the House does not carry out the full scrutiny role made available to it in the originating legislation; this problem occurs with the six draft orders laid under section 85 of the Northern Ireland Act 1998.
29. Table 2 (Scrutiny arrangements for draft orders) shows, for each of the 11 statutory scrutiny procedures, which committee has been designated as the relevant committee to undertake scrutiny of draft orders (or where no committee has been designated). It also shows the number of draft orders laid under each of the statutory provisions to date.

TABLE 2 – SCRUTINY ARRANGEMENTS FOR DRAFT ORDERS

Statutory provision	Provision made by the House	Relevant Committee	No. of draft orders laid since Act passed
Northern Ireland Act 1998 (section 85)	x	-	6
Human Rights Act 1998 (Schedule 2)	✓	Joint Committee on Human Rights	6
Local Government Act 1999 (section 17)	x	-	0
Local Government Act 2000 (section 9)	x	-	0
Local Government Act 2003 (section 98)	x	-	0
Fire and Rescue Services Act 2004 (section 5E)	✓	Delegated Powers	0
Legislative and Regulatory Reform Act 2006 (sections 12 to 19)	✓	Delegated Powers	18
Local Transport Act 2008 (section 102)	x	-	0
Public Bodies Act 2011 (section 11)	✓	Secondary Legislation Scrutiny	11
Localism Act 2011 (section 7)	✓	Delegated Powers	0
Localism Act 2011 (section 19)	x	-	0

30. It is clearly important that the House has mechanisms in place to carry out scrutiny of these draft orders in the way Parliament intended through

legislation. **We recommend that the Leader of the House puts proposals to the Procedure Committee for how the House will scrutinise draft orders under:**

- (a) section 85 of the Northern Ireland Act 1998,
- (b) section 17 of the Local Government Act 1999,
- (c) section 9 of the Local Government Act 2000,
- (d) section 98 of the Local Government Act 2003,
- (e) section 102 of the Local Transport Act 2008, and
- (f) section 19 of the Localism Act 2011.

New opportunities

31. The House has now built up considerable experience in applying the statutory procedures covered in this Special Report. When operated effectively, these procedures provide Parliament with the toolkit to exercise an important, strengthened scrutiny role. To date, these procedures all relate to the exercise of delegated powers to amend primary legislation (Henry VIII powers). Although the remit of our Committee is narrow, our reports on the delegated powers in individual Bills contribute to the House's scrutiny, helping to ensure that when significant powers are delegated, appropriate scrutiny procedures are put in place to oversee the exercise of those powers. **We have considered whether the strengthened scrutiny procedures covered in this Report might appropriately be made available in respect of delegated powers which, while they are not Henry VIII powers, nonetheless give Ministers discretion to legislate widely across important areas of public policy. This could provide Parliament with an enhanced scrutiny role over significant statutory instruments that would otherwise be subject only to the affirmative procedure. We draw this possibility to the attention of the House.**

APPENDIX 1 – PROVISIONS IN LEGISLATION FOR STRENGTHENED STATUTORY SCRUTINY PROCEDURES

Statutory procedure	Nature of the power covered by the procedure
Northern Ireland Act 1998 (section 85)	Section 85 enables Her Majesty to make provision about certain of the “reserved matters” in Schedule 3 to the Act
Human Rights Act 1998 (Schedule 2) (Human Rights Remedial Orders)	Section 10 enables a Minister or Her Majesty to amend a provision of legislation to remove incompatibility with a Convention right or a UK obligation under the Convention
Local Government Act 1999 (section 17)	Section 16 enables the Secretary of State to modify or exclude the application of any enactment which he thinks prevents or obstructs compliance by best value authorities with the requirements of Part 1 of the Act (best value), and confer new powers on authorities to permit or facilitate such compliance
Local Government Act 2000 (section 9)	Sections 5 and 6 enable the Secretary of State to amend, repeal, revoke or disapply any enactment which he thinks prevents or obstructs local authorities from exercising their power under section 2(1) to promote well-being, or which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter
Local Government Act 2003 (section 98)	Section 97 enables the Secretary of State to amend, repeal, revoke or disapply any enactment (other than section 93(2) or 95(2) of the 2003 Act) which it appears to him prevents or obstructs best value authorities charging by agreement for the provision of a discretionary service, or doing for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions, or which makes provision for or in connection with such charging
Fire and Rescue Services Act 2004 (section 5E)	Section 5C(1) and (2) enable the Secretary of State to amend, repeal, revoke or disapply any provision which he thinks prevents or restricts fire and rescue authorities from exercising any

	power conferred by section 5A(1) (to do, for a commercial purpose or otherwise, things that are incidental to or connected with their functions), or which he thinks overlaps any such power
Legislative and Regulatory Reform Act 2006 (sections 12 to 19)	Part 1 enables a Minister to make any provision which he considers would serve the purpose of removing or reducing any burden, or the overall burdens, resulting directly or indirectly for any person from any legislation, or which he considers would secure that regulatory functions are exercised so as to comply with the principles that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and be targeted only at cases in which action is needed
Local Transport Act 2008 (section 102)	Section 101 enables the Secretary of State to amend, repeal, revoke or disapply any enactment he thinks prevents or obstructs Integrated Transport Authorities from exercising their power to promote well-being under section 99(1)
Public Bodies Act 2011 (section 11)	Sections 1 to 5 enable a Minister to abolish or merge public bodies specified in the Act, or modify their constitutional or funding arrangements, or modify or transfer their functions
Localism Act 2011 (section 7)	Section 5 enables the Secretary of State to amend, repeal, revoke or disapply a statutory provision which the Secretary of State thinks prevents a local authority from exercising “the general power” (to do anything that individuals may do), or which he thinks overlaps the general power
Localism Act 2011 (section 19)	Section 15 enables the Secretary of State to apply, extend, disapply, amend, repeal or revoke any enactment to transfer a local public function from the public authority whose function it is to a “permitted authority”, and to make provision about the discharge of transferred functions

APPENDIX 1: MEMBERS AND DECLARATION OF INTERESTS

Committee Members' registered interests may be examined in the online Register of Lords' Interests at www.publications.parliament.uk/pa/ld/ldreg.htm. The Register may also be inspected in the House of Lords Record Office and is available for purchase from The Stationery Office.

Attendance:

The meeting on 13 June was attended by Baroness Andrews, Lord Butler of Brockwell, Baroness Gardner of Parkes, Lord Haskel, Lord Mayhew of Twysden, Baroness O'Loan, Lord Soley and Baroness Thomas of Winchester.