

2005 No. 634

REGULATORY REFORM

ENVIRONMENTAL PROTECTION

**The Regulatory Reform (Joint Nature Conservation Committee)
Order 2005**

Made - - - - *9th March 2005*

Coming into force - - *31st March 2005*

Whereas—

- (a) the Secretary of State has consulted such organisations as appear to her to be representative of interests substantially affected by the proposals, the National Assembly for Wales and such other persons as she considered appropriate;
- (b) following that consultation, the Secretary of State considered it appropriate to proceed with the making of this Order;
- (c) a document containing the Secretary of State's proposal was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001^(a) and the period for Parliamentary consideration under section 8 of that Act has expired;
- (d) the Secretary of State has had regard to the representations made during this period, in particular to the First Report of the Regulatory Reform Committee^(b) and the Second Report of the Delegated Powers and Regulatory Reform Committee^(c);
- (e) a draft of this Order was laid before Parliament with a statement giving details of such representations and Reports and of the changes to the Secretary of State's proposals in the light of them;
- (f) the draft was approved by a resolution of each House of Parliament;
- (g) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
- (h) this Order creates burdens affecting persons in the carrying on of certain activities, and the Secretary of State is of the opinion that—
 - (i) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interest of the persons affected by the burdens being created, and

^(a) 2001 c.6.

^(b) First Report of Session 2004-05, published on 9th December 2004, HC 117, ISBN 0 21502086 3.

^(c) Second Report of Session 2004-05, published on 10th December 2004, HL13, ISBN 0 10484997 5.

- (ii) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for this Order to be made;

Now, therefore, the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Regulatory Reform (Joint Nature Conservation Committee) Order 2005 and comes into force on 31st March 2005.

(2) This Order does not extend to Northern Ireland.

Amendments to the Environmental Protection Act 1990

2. This Order amends the Environmental Protection Act 1990(a) (“the 1990 Act”).

Grants by the Secretary of State

3. In section 129(1) (grants by Secretary of State), after “the Councils”, insert “and to the joint committee”.

Amendments to Schedule 7

4.—(1) Schedule 7(b) (the Joint Nature Conservation Committee) is amended as follows.

(2) In paragraphs 5 and 6 (remuneration and allowances for members) for all references to “the councils” substitute “the committee”.

(3) In paragraph 7 (staff etc. and expenses)—

(a) in sub-paragraph (1) the words “such staff” to “facilities, and” are omitted;

(b) after sub-paragraph (1), insert—

“(1A) The committee may appoint such number of employees as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine.

(1B) The committee shall pay to the employees appointed under sub-paragraph (1A) above such remuneration and allowances as the committee may, with the approval of the Secretary of State given with the consent of the Treasury, determine.

(1C) The committee shall, in the case of such of their employees or former employees as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine—

(a) pay such pensions, allowances or gratuities to or in respect of those employees,

(b) make such payments towards provision of such pensions, allowances or gratuities,
or

(c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine.”

(c) after sub-paragraph (3), insert—

(a) 1990 c.43.

(b) Schedule 7 continues to extend to Scotland, and “councils” includes Scottish Natural Heritage, *see* section 4(2) of the Natural Heritage (Scotland) Act 1991 (c.28).

“(4) With the consent of the Secretary of State, not given without the approval of the Treasury, and subject to any conditions he may impose, the councils may jointly, through the committee, form a company limited by guarantee the main objects of which fall within sub-paragraph (5).

(5) The objects falling within this sub-paragraph are objects of—

- (a) providing administrative and corporate support services to the committee, including the employment of staff, for the purposes of the special functions (within the meaning of section 133 of this Act);
- (b) making charges and holding land or any interest in or right over land for those purposes; and
- (c) doing such other things as are incidental or conducive to the exercise of those functions.

(6) The councils, acting jointly through the committee, shall ensure that, at all times, only members of the committee are members of any company formed under sub-paragraph (4).

(7) The members of any company formed under sub-paragraph (4) shall ensure that no-one is appointed, or continues to serve, as a director of the company who is not a member of the committee, or an employee of the committee or of the company.

(8) Sub-paragraphs (4) to (7) above are without prejudice to any power of the councils jointly through the committee to undertake anything mentioned in sub-paragraph (5) above by virtue of sections 132(2) and 133(2) of this Act.

(9) Where a company is formed under sub-paragraph (4) the requirements as to the approval of the Secretary of State given with the consent of the Treasury shall apply in respect of appointment, payment and pension matters for employees and former employees of the company as they do in respect of employees and former employees of the committee under sub-paragraphs (1A), (1B) and (1C) above.”.

(4) In paragraph 9 (delegation of functions), for sub-paragraph (1), substitute—

“(1) Anything authorised or required to be done by the committee may be done by any member of the committee, by a company formed under paragraph 7(4), by any council or by any employee of the committee, of such a company, or of a council who is authorised (generally or specially) for the purpose by the committee.”

Continuity of employment

5.—(1) This article applies to any person who is an employee of one of the Councils, and “Councils” shall have the same meaning as in section 128(4)(a) of the 1990 Act.

(2) Where in consequence of this Order a person to whom this article applies ceases to be employed by such a Council and becomes an employee of the Joint Nature Conservation Committee or of a company formed under paragraph 7(4) of Schedule 7 to the 1990 Act, then, for the purposes of the Employment Rights Act 1996(b), his period of employment with that Council shall count as a period of employment by the Joint Nature Conservation Committee or, as the case may be, by the company.

9th March 2005

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment Food and Rural Affairs

(a) The words “the Nature Conservancy Council for Scotland” in section 128(1) of the 1990 Act were repealed by Schedule 11 to the Natural Heritage (Scotland) Act 1991 (c.28). Section 4(2) of that Act provides that “the Councils” in section 128(4) shall include Scottish Natural Heritage (established by section 1 of that Act).

(b) 1996 c.18.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Environmental Protection Act 1990 (“the Act”) in so far as it relates to the Joint Nature Conservation Committee (“the JNCC”).

It removes certain burdens upon the Countryside Council for Wales, English Nature and Scottish Natural Heritage (“the Councils”), and on the JNCC, by relieving the Councils of various support roles and enabling the JNCC to do things for itself.

Section 129(1) of the Act allows the Secretary of State, with Treasury approval, to make grants to the Councils. Article 3 amends this, so that such grants may be made directly to the JNCC.

Schedule 7 to the Act is concerned with the constitution and proceedings of the JNCC, and is amended by article 4. Paragraphs 5 and 6 are amended so that obligations on the Councils to make certain payments (approved by the Secretary of State and Treasury) to the chairman and certain members of the JNCC are transferred to the JNCC. Paragraph 7 is amended so that the Councils are no longer required to provide the JNCC with staff, accommodation and other facilities. New provision is made to enable the JNCC to employ, pay and provide pensions for staff itself, directly, or to form a company limited by guarantee for these and related purposes. Paragraph 9 allows for delegation by the JNCC, and the scope for this is extended to include a company formed under the new power, and an employee of the JNCC or of such a company.

Article 5 provides for continuity of employment for employees of the Councils who become employees of the JNCC, or of a company formed under the new power, as a result of the changes introduced by this Order.

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