Subordinate Legislation Committee

5th Report, 2013 (Session 4)

Public Body Consent Memorandum on the Public Bodies (Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order [2013]

Published by the Scottish Parliament on 15 January 2013
Subordinate Legislation Committee

Remit and membership

Remit:

The remit of the Subordinate Legislation Committee is to consider and report on—

(a) 
   (i) subordinate legislation laid before the Parliament;

   (ii) any Scottish Statutory Instrument not laid before the Parliament but classed as general according to its subject matter;

and, in particular, to determine whether the attention of 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;

*(Standing Orders of the Scottish Parliament, Rule 6.11)*

Membership:

Nigel Don (Convener)
Jim Eadie
Mike MacKenzie
Hanzala Malik
John Pentland
John Scott
Stewart Stevenson (Deputy Convener)

Committee Clerking Team:

Clerk to the Committee
Euan Donald
Assistant Clerk
Elizabeth White

Support Manager
Daren Pratt
The Committee reports to the Parliament as follows—

1. At its meeting on 15 January 2013, the Committee considered the Public Bodies (Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order [2013]. 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 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. A change to standing orders (Chapter 9BA) to require Public Body Act Consent Memorandums to be scrutinised by the Subordinate Legislation Committee was agreed to by Parliament on 21 November 2012. Such Orders are subject to reporting under the same grounds as instruments laid before the Parliament.

5. As lead committee, the Economy, Energy and Tourism Committee will consider the policy aims of the order, taking into account the Subordinate

¹ PBCM for Public Bodies (Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order [2013] available here: http://www.scottish.parliament.uk/LegislativeConsentMemoranda/PBACM_OFT_transfer_CAS_function.pdf
Legislation Committee’s report, before the matter is considered by the Parliament as a whole.

Public Bodies (Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order [2013]

6. This UK statutory instrument transfers the consumer advice scheme function of the Office of Fair Trading (OFT) to Citizens Advice and Citizens Advice Scotland. It also makes minor modifications to a number of the enforcement functions of the OFT and provisions concerning information sharing. These measures are part of the UK Government public bodies reform programme which will abolish the OFT and the Competition Commission and replace them both with the Competition Markets Authority from April 2014.

7. Consumer protection is reserved to the UK Government. However, the order requires the consent of the Scottish Parliament under section 9 of the 2011 Act since provision is made for treating Citizens Advice Scotland as a Scottish public authority for the purposes of the Freedom of Information (Scotland) Act 2002 in respect of the consumer advice scheme function transferred to it by the order. This is a matter which would be within the legislative competence of the Scottish Parliament.

Subordinate Legislation Committee consideration

8. At its meeting on 15 January 2013, the Committee considered the instrument under the same grounds as instruments laid before the Parliament.

9. 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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