

**EXPLANATORY MEMORANDUM TO
THE COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT
(DISSOLUTION) ORDER 2012**

2012 No. [XXXX]

- 1.** This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

2.1 This Order provides for the dissolution of the Commission for Architecture and the Built Environment (“CABE”). It transfers the property, rights and liabilities of CABE immediately before the dissolution date to the Secretary of State for Culture, Olympics, Media and Sport. The Order also contains consequential repeals and revocations, and includes transitory and saving provisions.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Order makes consequential repeals to provisions of primary legislation, albeit that the power to make consequential provisions does not contain an express power to amend primary legislation. The repealed provisions are provisions which refer to CABE and which relate to other aspects of CABE such as its establishment, constitution and functions. It is a necessary implication of the power conferred on the Secretary of State to dissolve CABE that these provisions which refer to and establish CABE, and which set out its constitution and confer its functions, should cease to have effect on the power to dissolve being exercised. On this basis, it is considered that, in this case, the power to make consequential provisions may by implication be used to amend particular provisions of primary legislation.

3.2 The rights and liabilities transferred by the Order to the Secretary of State for Culture, Olympics, Media and Sport do not include any rights and liabilities in relation to employees (because CABE has no remaining employees and will not have any employees at the dissolution date). Accordingly, the Order does not include any provision under section 90(4) of the parent Act (the Clean Neighbourhoods and Environment Act 2005) relating to the application of the TUPE regulations.

4. Legislative Context

4.1 This Order is made under the Clean Neighbourhoods and Environment Act 2005. This Act established CAFE as a statutory body and contains a specific provision (section 90) allowing for the dissolution of CAFE.

4.2 The Order will come into force on the day after the day on which it is made.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

John Penrose has made the following statement regarding Human Rights:

In my view the provisions of the Commission for Architecture and the Built Environment (Dissolution) Order 2012 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 In 2011, the Government decided to dissolve CAFE. In connection with this CAFE transferred some of its activities to a subsidiary company of the Design Council. The Government is not transferring any of CAFE's statutory functions to any other person.

8. Consultation outcome

8.1 The decision to dissolve CAFE took place in the context of the 2010 Comprehensive Spending Review and no separate consultation was carried out.

9. Guidance

9.1 It is not considered necessary to issue guidance in relation to this instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 It is considered that no monitoring and review is necessary in relation to this instrument.

13. Contact

Peter Karpinski at the Department for Culture, Media and Sport Tel: 020 7211 2339 or email: peter.karpinski@culture.gsi.gov.uk can answer any queries regarding the instrument.