

LEGISLATIVE AND REGULATORY REFORM ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Supplementary and General

Supplementary

Section 30: Repeals and savings

156. Subsection (1) gives effect to the repeals set out in the Schedule to the Act.
157. The remainder of this section provides that, despite the repeal of the 2001 Act, some of its provisions are carried over for certain purposes. Subsection (2) provides that, if a draft RRO has been laid under section 6(1) of the 2001 Act before the day on which this Act comes into force, then that Act will continue to apply to that order. The order may continue to be made as a RRO under the 2001 Act, notwithstanding that Act's repeal.
158. Subsection (3) provides that even though the 2001 Act is repealed by this Act, any RROs which have been made under the power in that Act (either before the day this Act comes into force, or after that day if the order is made by virtue of subsection (2) of this section) are not affected and continue in force.
159. Subsection (4) provides that the repeal of the 2001 Act does not affect the ability of a Minister to make a subordinate provisions order under section 1 of that Act, pursuant to section 4(4) of that Act. This is to ensure that provisions in a RRO made under the 2001 Act which were designated as 'subordinate' in accordance with section 4(3) of that Act can continue to be amended using the procedure provided by that Act.
160. Subsection (5) provides that the repeal of the 2001 Act does not affect the continuation in force of any order which was made under the power in the Deregulation and Contracting Out Act 1994, provided that it continued in force by virtue of section 12(4) of the 2001 Act immediately before this Act comes into force.

Section 31: Consequential amendments

161. Subsection (1) amends section 6(7) of the Deregulation and Contracting Out Act 1994 ('the 1994 Act'). Section 6(7) of the 1994 Act defined "enforcement action" by reference to section 9 of the 2001 Act. As a consequence of the repeal of section 9 of the 2001 Act, subsection (1) substitutes the definition of "enforcement action" which was in section 9 of the 2001 Act into section 6(7) of the 1994 Act.
162. Subsections (2) and (3) amend respectively section 100 of the Local Government Act 2003 and article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996. In each case a reference to section 1 of the 2001 Act is replaced by a reference to section 1 or 2 of this Act.

General

Section 32: General interpretation

163. This section defines terms used throughout the Act.
164. Of particular note is the definition of “regulatory function” in subsection (2). This definition applies to the term as it appears in Parts 1 and 2 of the Act.
165. The Act does not attempt to define a “regulator”, but rather provides a broad definition of the functions carried out by such persons or bodies. Functions falling within the definition might be exercised by a wide range of bodies including Government departments, local authorities and independent statutory regulators. The first limb of the definition (subsection (2)(a)) is aimed at functions of ‘regulating’ (for example by producing rules, or imposing requirements, which apply to a category of persons). The second limb (subsection (2)(b)) covers functions of enforcing or securing compliance with such regulation. A regulatory function of making rules or regulations falling within the first limb could be exercised by a different person than the corresponding regulatory function (falling within the second limb of the definition) of securing compliance with or enforcing those rules or regulations.
166. Only functions that fall within this definition may be the subject of an order made under section 2, or may be included in an order made by a Minister (or the Assembly) under section 24. Orders made under section 1 can only reduce or remove burdens which only affect Ministers or Government Departments where they affect the exercise of regulatory functions.
167. Subsection (3)(b) states that the definition of ‘regulatory function’ does not include any functions exercisable by one of the bodies of the Church of England or by a person holding office in the Church of England, which would otherwise fall within the definition.
168. Subsection (3)(b)(ii) expressly excludes from the definition of regulatory function the function of conducting criminal or civil proceedings. However, this would not exclude the making of a decision to instigate such proceedings.
169. The provision in subsection (4) makes clear that the definition in subsection (2) of regulatory function includes regulation of the activities of providing goods or services, and employing or offering employment to any person.

Section 34: Extent

170. Subsection (1) provides that an order under Part 1 which amends or repeals any enactment extending outside England and Wales, Scotland and Northern Ireland may have the same extent as the enactment. So, for example, an order under Part 1 which amends an Act of Parliament which extends to the Channel Islands and the Isle of Man can have the same extent as that Act.