

Joint Committee on Statutory Instruments

House of Commons London SW1P 3JA

Tel 020 7219 2830 Fax 020 7219 2441 Email jcsi@parliament.uk Website www.parliament.uk/jcsi

ORDERS UNDER SECTIONS 1-5 OF THE PUBLIC BODIES ACT 2011

Orders under sections 1 to 5 of the Public Bodies Act 2011 must be laid in draft accompanied by an explanatory document. The draft must be approved by both Houses before the Order can be made.

When a draft Order is laid, the JCSI will require 22 copies of the draft and the explanatory document, together with a covering note on the department's headed paper, which should include the contact details of the official who signs the note.

On being laid, the draft is passed to the JCSI's Counsel in the House of Lords. In many cases, Counsel will previously have been given an opportunity to comment on an earlier draft ("prior scrutiny"); and the lapse of time between the laying of the draft and its first consideration by the JCSI will depend on whether or not there has been prior scrutiny.

The JCSI meets most Wednesdays when both Houses are sitting. (The dates of future meetings over the coming six months are set out at the end of this note.) The Committee's agenda is finalised each Wednesday pm/Thursday am for the meeting on the following Wednesday afternoon, and the papers are then circulated to Members. This circulation cannot be delayed.

A draft Order which has received prior scrutiny, and in respect of which Counsel has no outstanding matters to raise with the JCSI, will usually be considered at a meeting if it is laid no later than the Monday of the week before the week of the meeting.

Where there has been no prior scrutiny, or where issues arise on the laid version of the draft Order which Counsel wishes to raise with the JCSI, the draft will not usually be considered by the Committee until two or three weeks after it has been laid. The JCSI may be prepared, exceptionally, to consider a draft Order at an earlier meeting than it otherwise would ("expedited"), where the Minister concerned has written to the Chairman to explain both the need for urgency and the reasons why the draft could not be laid sooner. (The Committee is not, however, usually prepared to agree to such expedition unless it is satisfied that the reasons given for the delay are compelling.)

If the JCSI wishes to raise any issue on a draft Order, or if it requires further information, it will request a memorandum from the department. Any such request will be sent by email to the department's JCSI liaison officer immediately after the Wednesday meeting, and the memorandum must arrive in the JCSI office no later than noon on the following Tuesday. It will be considered by the Committee at its meeting the following week (that is, two weeks after the meeting at which the memorandum was requested). Unless the JCSI considers that it requires a further memorandum or oral evidence from the department, it will then decide whether the draft should be drawn to the special attention of both Houses and, if so, in what terms. The Committee's report is usually published on the Tuesday following the meeting.

The motion to approve the draft Order may not be moved in the House of Lords until after the JCSI has reported; but in the House of Commons this is only a convention.

With a view to reducing the lapse of time before a laid draft is considered by the JCSI and avoiding the need for the Committee to raise unexpected issues on the draft, departments are encouraged to seek Counsel's prior scrutiny of the final drafts of Orders, well before the date on which the department will wish to lay the draft. Information about the conditions on which prior scrutiny of affirmative instruments is offered, and the time that should be allowed for that process, can be found on the JCSI's website.

Expected future meeting dates

February to Easter

1, 8, 29 February
7, 14, 21 March

After Easter – **subject to change**

25 April
2, 9, 16, 23 May
20, 27 June
4, 11 July

26 January 2012