



Post Legislative Scrutiny of the Public Bodies Act 2011

**Memorandum to the
Public Administration and Constitutional Affairs Committee**

Presented to Parliament
by the Minister for the Constitution
by Command of Her Majesty

December 2016

Cm 9367



Post Legislative Scrutiny of the Public Bodies Act 2011

**Memorandum to the
Public Administration and Constitutional Affairs Committee**

Presented to Parliament
by the Minister for the Constitution
by Command of Her Majesty

December 2016

Cm 9367



© Crown copyright 2016

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at publicbodiesreform@cabinetoffice.gov.uk

Print ISBN 9781474138970

Web ISBN 9781474138987

ID 16111608 12/16

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

Contents

Preamble	4
Background	5
Summary of the Objectives of the Act.....	7
Implementation	8
Secondary Legislation	12
Orders	12
Order Laid and Later Withdrawn.....	17
Welsh Orders	17
Reports and Scrutiny	19
Preliminary Assessment of the Act.....	22
Introduction.....	22
Effectiveness.....	22
Public Bodies Reformed by Other Means	22
Alternative Legislation	22
Voluntary Means.....	23
Public Bodies Not Reformed	23
Bodies Not Reformed Due to Changes in Policy or Approach.....	23
Bodies Subjected to Triennial Review	24
Other Bodies for Which the Act Has Not Been Used	25
Future Use of the Act.....	26
Devolution.....	26
Reductions in Administrative Cost.....	27
Conclusion.....	28
Annexes.....	29

Preamble

1. This memorandum provides a preliminary assessment of the Public Bodies Act 2011 'the Act' and has been prepared by the Cabinet Office for submission to the Public Administration and Constitutional Affairs Committee. It is published as required by the process set out in the document Post Legislative Scrutiny – The Government's Approach (Cm7320).
2. We have assessed the operation of the Act by looking at how the legislation has worked and how the bodies listed in the schedules to the Act have been reformed.
3. The content of this memorandum reflects our engagement with departments, territorial offices, devolved administrations and committee clerks, in order to ensure that it is comprehensive and covers all areas of interest.

Background

4. In May 2010, the Government committed to review public bodies, with the aim of increasing accountability for actions carried out on behalf of the state and reducing the number and cost of public bodies, through cutting out duplication of effort and abolishing bodies whose function or remit had expired.
5. The Government's presumption was that a body should only exist at arm's length from government if it meets one of three tests:
 - it performs a technical function;
 - its activities require political impartiality; and
 - it needs to act independently to establish facts.
6. Over 900 bodies were subject to a review undertaken by all departments in spring/summer 2010. The Minister for the Cabinet Office announced the outcome of that review on 14 October 2010 and proposals were published in December 2011 setting out that 199 bodies would be abolished, 120 merged and 176 substantially reformed.
7. The Public Bodies Act was the main legislative vehicle for implementing the review of public bodies. As an enabling act, it gave ministers power to abolish, merge, modify constitutional or funding arrangements, or modify or transfer functions of public bodies through affirmative procedure in secondary legislation, subject to consultation and parliamentary scrutiny.
8. Departments could also opt to reflect the Act's provisions in their own bills, modified to the specific reform of a public body. An example of this is the Protection of Freedoms Act 2012 which dissolved the Independent Safeguarding Authority and formed the Disclosure and Barring Service.
9. Further, other legislation was passed that contributed to public bodies reform, including:
 - the Health and Social Care Act 2012, which cut the number of health bodies to help meet the Government's commitment to cut NHS administration costs;
 - the Education Act 2011 which abolished bodies including the General Teaching Council for England, the Qualifications and Curriculum Development Agency and the School Support Staff Negotiating Body; and
 - the Localism Act 2011 which abolished bodies such as the London Development Agency and provided for a transfer of functions to the Homes and Communities Agency.

10. However, legislation was not required to make all of the proposed reforms to public bodies as many were non-statutory, requiring no legislation.
11. The Public Bodies Bill took 14 months to pass through Parliament, where it received extensive scrutiny and was subject to significant amendment. The Act received Royal Assent on 14 December 2011 and came into effect two months later.
12. The Act allows for bodies to be added to its schedules using primary legislation. For those bodies listed in the schedules at Royal Assent, the entry is valid for a period of five years plus two months from Royal Assent. Entries to the schedules by later primary legislation are valid for a period of five years from the day upon which that entry is commenced.
13. At Royal Assent, there were 285 public bodies listed in five schedules which correspond to the powers in the Act (for example Schedule 1 lists the bodies subject to the power to abolish in Section 1).
14. The Act was a key element of the 2010-15 Public Bodies Reform Programme, under which
 - the number of public bodies reduced by over 290, through the abolition of more than 190 and the merger of over 165 into fewer than 70;
 - over 130 public bodies were substantially reformed;
 - administrative cost reduced by a cumulative £3 billion over the life of the programme to the end of March 2015; and
 - the functions of over 75 bodies were brought closer to democratically-elected representatives.
15. Activity under the Act has been reviewed formally three times by the Secondary Legislation Scrutiny Committee (SLSC) (see chapter on Reports and Scrutiny, page 19). In addition, Cabinet Office has laid information before Parliament in the form of Written Ministerial Statements, in 2011, 2013, 2014 and 2015¹, commenting on progress of reform. Regular engagement on the operation of the Act has been maintained with committee clerks.

¹ Proposals for change 2011 and WMS for 2011, 2013 and 2014 can be found at <https://www.gov.uk/guidance/public-bodies-reform> (see links under 'Additional Information' heading at the bottom of the web page).

Update on public body reform and WMS for 2015 can be found at <https://www.gov.uk/government/speeches/achievements-of-the-2010-15-public-bodies-reform-programme>

Summary of the Objectives of the Act

16. The purpose of the Act was to provide the statutory framework, where primary legislation was required, for the changes agreed by the Government through the public bodies review process. The Act was designed to enable the Government to reform the public bodies landscape by providing Secretaries of State with powers to make orders to abolish, merge, transfer the functions and modify the constitutional and funding arrangements of certain public bodies and offices.
17. The Act enabled one piece of legislation to identify the bodies the Government wished to reform, in a consistent and streamlined manner. This single piece of legislation was followed by bodies being reformed through an affirmative process involving committees.
18. As well as providing a vehicle for public body reform through secondary legislation, the Act also makes provision for
 - delegation and implementation of shared services in relation to organisations exercising environmental functions (Sections 26 to 29);
 - the abolition of Regional Development Agencies (Section 30);
 - the funding of Sianel Pedwar Cymru (Section 31);
 - the powers of bodies established under the National Heritage Act 1983 to form companies (Section 32);
 - repeal of the provisions of the Coroners and Justice Act 2009 relating to appeals to the Chief Coroner (Section 33); and
 - amendment of Schedule 1 to the Superannuation Act 1972 (Section 34).
19. The Act cannot be used to:
 - create a new public body (except as a result of a merger under Section 2);
 - make changes to non-statutory bodies, such as executive agencies;
 - make changes to a body which is not listed in the relevant schedule of the Act; or
 - make an order which does not relate to public bodies; it does not provide general order-making powers along the lines of the Legislative and Regulatory Reform Act 2006.

Implementation

20. The Act came into force in February 2012, two months after it was passed. (Sections 10 and 11, relating to consultation and procedure respectively, and 35 to 39, relating to supplementary information and interpretation, came into force on the day the Act was passed).
21. Section 1 provides for ministers to abolish the public bodies listed in Schedule 1. This section has been used to make 26 orders, abolishing 44 bodies. There were a further possible eight orders that could have been made to abolish 37 bodies, however the Act was not used and there were a variety of reasons for this. The reasons are discussed in paragraphs 100, 103, 105 and 106. Annex 8 lists bodies abolished and provides detail on their functions, where these transferred elsewhere.
22. Section 2 provides for ministers to merge the groups of bodies listed in Schedule 2. There were five groups of bodies included in the schedule, of which two groups were merged using public bodies orders. One of the other groups was merged under the Enterprise and Regulatory Reform Act 2013, as discussed in paragraph 100, whilst the other two were retained following developments to policy, as discussed in paragraph 103.
23. Section 3 provides the power to modify constitutional arrangements for the bodies listed in Schedule 3. One of the bodies listed in this schedule was abolished under Section 1, but this power has not been used for any of the other ten bodies listed, which are discussed in paragraphs 100, 101, 105 and 106.
24. Section 4 provides the power to modify funding arrangements for bodies and offices listed in Schedule 4. Out of six possible orders, two were made and one of the bodies was abolished under Section 1. The remainder are discussed in paragraphs 100, 101, 103 and 105.
25. Section 5 provides the power to modify or transfer functions for bodies listed in Schedule 5. Two orders were made using this power and one was laid and later withdrawn (relating to OFCOM, as detailed in paragraph 76 and discussed in paragraph 103). One of the bodies was abolished under Section 1. The remainder are discussed in paragraphs 100, 101, 103, 105 and 106.
26. Section 6 allows for orders under the previous sections to make consequential, supplementary or transitional provisions. The individual orders made have made consequential provisions.
27. Section 7 places restrictions on ministerial powers and the orders made have reflected these.
28. Section 8 requires ministers only to make an order under Sections 1 to 5 if they consider the order improves the exercise of public functions regarding efficiency, effectiveness, economy and securing appropriate accountability. Ministers must also

take into consideration the fact that the order does not remove any necessary protection or prevent the continuation of the exercise of any right or freedom. The explanatory documents, published alongside laid orders, refer to the way in which efficiency (the more efficient undertaking of public functions), effectiveness (the more effective provision of public functions), economy (the reform or abolition of a body to deliver better value for money to the taxpayer) and accountability (securing direct accountability to ministers as the elected and legitimate office holders who answer to Parliament by bringing particular functions back into the department, or changing the reporting requirements of a public body to increase its accountability, or moving functions further away from central government and increasing local accountability) are affected by the reform. The parliamentary scrutiny process has ensured that this requirement has been met in full.

29. Section 9 relates to devolution and details when an order under Sections 1 to 5 require consent of the Northern Ireland Assembly, Scottish Parliament and the National Assembly for Wales. All the orders made that affect the devolved administrations have received the required consent to make the order.
30. Section 10 details who must be consulted when an order is proposed. Information relating to consultation has been included in the explanatory documents and was examined as part of the parliamentary scrutiny of the orders.
31. Section 11 details the procedure for drafting and laying an order and explanatory document. All orders have followed the procedures. This section also details the enhanced affirmative procedure, which gives Parliament and its committees a longer scrutiny period for more contentious orders and a chance to make representations to the minister about any draft order laid under the legislation; and the minister may re-lay an amended order if necessary.
32. The enhanced affirmative procedure has been triggered for eight Public Bodies Orders, out of 33 orders coming into force. The orders were:
 - Public Bodies (Abolition of the Library Advisory Council for England) Order 2014;
 - Public Bodies (Modification of Functions of OFCOM) Order 2013 [This order was later withdrawn];
 - Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013;
 - Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013;
 - Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme and Modification of Enforcement Functions) Order 2013;
 - Public Bodies (Abolition of Disability Living Allowance Advisory Board) Order 2013;

- British Waterways Board (Transfer of Functions) Order 2012; and
 - Inland Waterways Advisory Council (Abolition) Order 2012.
33. Section 12 relates to time limits. All entries in Schedules 1 to 5 cease to have effect five years after they came into force. This gives certainty to the bodies listed in the Schedules.
34. Sections 13 to 19 relate to Welsh ministers. The Act was used to establish a new body, Natural Resources Wales, in shadow form initially. There were two orders made under the Act; the first, Establishment Order to establish the body with the bare minimum of functions to prepare the way for the new organisation, and a second, Functions Order to transfer all functions necessary to allow the body to function fully. The Act was also used to transfer the Welsh devolved functions of the Environment Agency and the Forestry Commission to Natural Resources Wales and for the abolition of the Countryside Council for Wales and for the transfer of its functions to Natural Resources Wales. This section of the Act was also used for a Welsh water inspection fees order - the Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012. Further details on the orders can be found in paragraphs 77, 78 and 79.
35. Sections 20 to 22 relate to restrictions on powers of ministers and Welsh ministers. The orders made have abided by the restrictions.
36. Sections 23 to 25 relate to the transfer of property, rights and liabilities. A number of orders have included transfers and have followed these requirements.
37. Sections 26 to 29 cover delegation and shared services.
- The delegation power was used in March 2015 to set up an agreement to administer cross border abstraction and impoundment licences more effectively so that licence holders only have to deal with one regulator – the Environment Agency or Natural Resources Wales (NRW). The Environment Agency, which has an agreement in place with NRW, has also relied on the shared services power.
 - The shared services power has been used as the legal base for the Forestry Commission (FC) to supply shared services to NRW since the latter vested in April 2013. These are administrative, professional or technical services previously supplied to the former FC Wales and will be provided until March 2017 to allow NRW time to develop its own corporate services.
38. Section 30 refers to the abolition of Regional Development Agencies (RDAs) and two orders were made to implement these provisions. The first order came into effect on 16 December 2011 and relates to making a scheme for the transfer of property, rights and liabilities of an RDA to an eligible person or anybody corporate in connection with the abolition of the agency. The second order came into effect on 1

July 2012 and abolished all RDAs, apart from the London Development Agency, which was abolished by the Localism Act 2011. Under the same section the remaining assets and liabilities of the RDAs transferred to the Secretary of State for Business, Innovation and Skills. Section 30 allowed the Secretary of State to make provision for activities begun by a RDA to be carried on by another person.

39. Section 31 relates to Sianel Pedwar Cymru (S4C) and makes provision such that the Welsh Authority is paid a sufficient annual amount to cover the costs of delivering its public broadcasting services i.e. S4C. This has been achieved primarily by the agreement between the S4C Authority and the BBC Trust to share licence fee money, which now provides over 90% of S4C's funding.
40. Section 32 allows a subsidiary to be established for other purposes incidental to the functions of the respective boards of the V&A, Science Museum, Kew and English Heritage. The power allows optimisation of business opportunities (including commercial trading) that can be undertaken within enterprises. Under this section, RBG Kew has expanded its wholly owned trading subsidiary RBG Kew Enterprises Ltd (Enterprises) and the V&A has set up a subsidiary company associated with specific events and fundraising activities. English Heritage/Historic England may make use of the power in the future.
41. Section 33 repealed Section 40 of the Coroners and Justice Act 2009, which provided for appeals to the Chief Coroner against a decision made by a senior coroner. Section 40 was repealed before it was implemented, meaning that Section 33 of the Public Bodies Act had no impact on options available for challenging a coroner's decision or outcome of an investigation (by way of a judicial review or application to the High Court for a fresh investigation).
42. Section 34 relates to the Superannuation Act 1972. The amendment to the Superannuation Act 1972 provided clarification that the requirement for bodies being added to Schedule 1 to that Act (eligibility to be members of the Principal Civil Service Pension Scheme - PCSPS) to be funded out of the consolidated fund only applied at the point that the body was added to the schedule. Since the Public Bodies Act 2011 received Royal Assent there have been three orders adding bodies to Schedule 1 of the 1972 Act. Further, since the Public Service Pensions Act 2013 (and the closing of the PCSPS to further accrual save for protected members) the importance of the 1972 Act has diminished.
43. The final section of the Act (Sections 35 – 39) covers supplementary information about orders, the interpretation of the Act, the territorial extent of the Act, the commencement and short title. All of these sections have been applied. For example, Welsh ministers exercised powers conferred in Section 35 to make the Functions Order relating to Natural Resources Wales (see paragraph 78).

Secondary Legislation

44. The Act uses secondary legislation to take forward changes to public bodies, by conferring a series of powers to amend primary legislation through secondary legislation on ministers in relation to specific bodies.
45. The Act delegates to ministers the power to abolish, merge or modify the bodies listed in Schedules 1 to 5 of the Act. 34 orders have been laid and 33 have come into force; this includes two omnibus orders that each abolished two unconnected bodies (see paragraphs 68 and 69). A brief description of each order is given in the following paragraphs. One order was laid and later withdrawn; see paragraph 76.

Orders

46. **Public Bodies (Abolition of the Advisory Committees on Pesticides) Order 2015**
Date laid: 15 December 2014, date made: 26 March 2015
This instrument abolished the Advisory Committee on Pesticides and the Advisory Committee on Pesticides (Northern Ireland). These were established by Section 16(7) of the Food and Environment Protection Act 1985.
47. **Public Bodies (Abolition of the Home Grown Timber Advisory Committee) Order 2015**
Date laid: 2 December 2014, date made: 1 March 2015
This instrument abolished the Home Grown Timber Advisory Committee. The Home Grown Timber Advisory Committee was established by Section 15 of the Forestry Act 1951.
48. **Public Bodies (Abolition of the Library Advisory Council for England) Order 2014**
Date laid: 4 November 2014, date made: 16 March 2015
This instrument abolished the Library Advisory Council for England, known as the Advisory Council on Libraries, which was established by Section 2 of the Public Libraries and Museums Act 1964, and implements the necessary consequential repeals.
49. **Public Bodies (Marine Management Organisation) (Fees) Order 2014**
Date laid: 13 May 2014, date made: 14 September 2014
This instrument extended the Marine Management Organisation's ability to recover the costs it incurs in dealing with licence applications under Part 4 of the Marine and Coastal Access Act 2009.
50. **Public Bodies (Abolition of Food from Britain) Order 2014**
Date laid: 6 May 2014, date made: 17 July 2014
This instrument abolished the body known as Food from Britain, established by Section 1 of the Agricultural Marketing Act 1983.

51. **Public Bodies (Abolition of the Committee on Agricultural Valuation) Order 2014**

Date laid: 6 February 2014, date made: 22 April 2014

This instrument abolished the Advisory Committee on Valuation of Improvements and Tenant-Right Matters, otherwise known as the Committee on Agricultural Valuation. The Committee on Agricultural Valuation was originally established under Section 79 of the Agricultural Holdings Act 1948, and upon repeal of that Act continued in existence by virtue of Section 92 of the Agricultural Holdings Act 1986.

52. **Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014**

Date laid: 16 December 2013, date made: 26 March 2014

This instrument gave legal effect to the administrative merger of the Crown Prosecution Service and the Revenue and Customs Prosecutions Office. The schedules to the order made a number of consequential amendments and repeals of legislation that refer to the Crown Prosecution Service or the Revenue and Customs Prosecutions Office.

53. **Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc.) Order 2014**

Date laid: 5 December 2013, date made: 13 March 2014

This instrument had three main purposes:

- A. the abolition of the National Consumer Council and the transfer of relevant functions to Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;
- B. the transfer of the Office of Fair Trading's estate agency functions to Powys County Council and the Commissioners of Her Majesty's Revenue and Customs; and
- C. the transfer of functions of the Office of Fair Trading relating to its consumer advice scheme to Citizens Advice and Citizens Advice Scotland.

54. **Public Bodies (Abolition of BRB (Residuary) Limited) Order 2013**

Date laid: 15 May 2013, date made: 10 September 2013

This instrument abolished BRB (Residuary) Limited and transferred its functions to the Secretary of State for Transport and Network Rail (Assets) Limited.

55. **Public Bodies (Abolition of the Registrar of Public Lending Right) Order 2013**

Date laid: 9 May 2013, date made: 6 September 2013

This instrument abolished the Registrar of Public Lending Right and transferred its functions to the British Library Board.

56. **Public Bodies (Abolition of Victims' Advisory Panel) Order 2013**

Date laid: 25 April 2013, date made: 4 November 2013

This instrument abolished the Victims' Advisory Panel and made a number of consequential amendments and repeals to legislation which refers to the Victims' Advisory Panel.

57. Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013

Date laid: 25 March 2013, date made: 12 September 2013

This instrument merged the Gambling Commission and the National Lottery Commission, achieved by the abolition of the National Lottery Commission and the transfer of its functions, property, rights and liabilities to the Gambling Commission.

58. Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013

Date laid: 18 December 2012, date made: 18 August 2013

This instrument abolished the Administrative Justice and Tribunals Council and the schedule to the order made a number of consequential amendments and repeals to legislation which referred to the Administrative Justice and Tribunals Council or its committees.

59. Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme and Modification of Enforcement Functions) Order 2013

Date laid: 12 December 2012, date made: 27 March 2013

This instrument amended statutory provisions to finalise the transfer of the consumer advice scheme function from the Office of Fair Trading to Citizens Advice and to Citizens Advice Scotland and to make minor modifications to a number of the enforcement functions of the Office of Fair Trading.

60. Public Bodies (Abolition of Disability Living Allowance Advisory Board) Order 2013

Date laid: 15 October 2012, date made: 6 February 2013

This instrument abolished the Disability Living Allowance Advisory Board. The Board was established by the Disability Living Allowance and Disability Working Allowance Act 1991 but upon the repeal of that Act the Board was continued in being by the Social Security Administration Act 1992.

61. Public Bodies (Abolition of the Railway Heritage Committee) Order 2013

Date laid: 29 October 2012, date made: 6 February 2013

This instrument abolished the Railway Heritage Committee and transferred its functions to the Board of Trustees of the Science Museum.

62. Public Bodies (Abolition of the Aircraft and Shipbuilding Industries Arbitration Tribunal) Order 2013

Date laid: 1 November 2012, date made: 21 March 2013

This instrument abolished the Aircraft and Shipbuilding Industries Arbitration Tribunal. The Tribunal was established by Section 42 of the Aircraft and Shipbuilding Industries Act 1977.

63. **Public Bodies (Abolition of British Shipbuilders) Order 2013**
Date laid: 1 November 2012, date made: 21 March 2013
This instrument abolished British Shipbuilders (BS) and its subsidiaries. This instrument also transferred the property, rights and liabilities of BS and its subsidiaries to the Secretary of State for Business, Innovation and Skills.
64. **Public Bodies (Water Supply and Water Quality Fees) Order 2012**
Date laid: 23 October 2012, date made: 7 February 2013
This instrument enabled inspectors appointed under the Water Industry Act 1991 to recover from relevant water suppliers the cost of regulatory work undertaken in relation to the quality of drinking water supplies in England and some parts of Wales by way of a fee charging regime.
65. **Public Bodies (Abolition of Regional and Local Fisheries Advisory Committees) Order 2012**
Date laid: 21 May 2012, date made: 18 September 2012
This instrument abolished the Regional and Local Fisheries Advisory Committees in England. The Regional and Local Fisheries Advisory Committees were independent advisory non-departmental public bodies established by Section 13 of the Environment Act 1995.
66. **Public Bodies (Abolition of Environmental Protection Advisory Committee) Order 2012**
Date laid: 21 May 2012, date made: 18 September 2012
This instrument abolished the Regional Environment Protection Advisory Committees in England. The Regional Environment Protection Advisory Committees were independent advisory non-departmental public bodies established by Section 12 of the Environment Act 1995.
67. **Public Bodies (Abolition of the Commission for Rural Communities) Order 2012**
Date laid: 16 May 2012, date made: 18 October 2012
This instrument abolished the Commission for Rural Communities established under the Natural Environment and Rural Communities Act 2006.
68. **Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012**
Date laid: 17 May 2012, date made: 17 September 2012
This instrument abolished the Crown Court Rule Committee and Magistrates' Courts Rule Committee. This was an omnibus order.
69. **Public Bodies (Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board) Order 2012**
Date laid: 10 May 2012, date made: 17 September 2012
This instrument abolished the Public Guardian Board and Her Majesty's Inspectorate of Court Administration. This was an omnibus order.

70. Public Bodies (Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions) Order 2012

Date laid: 23 April 2012, date made: 31 July 2012

This instrument abolished the Child Maintenance and Enforcement Commission and transferred its functions to the Secretary of State for Work and Pensions. The Child Maintenance and Enforcement Commission was established by the Child Maintenance and Other Payments Act 2008.

71. Inland Waterways Advisory Council (Abolition) Order 2012

Date laid: 29 February 2012, date made: 1 July 2012

This instrument abolished the Inland Waterways Advisory Council in England and Wales and in Scotland. The Inland Waterways Advisory Council was an independent, advisory non-departmental public body established by Sections 110-110C of the Transport Act 1968.

72. British Waterways Board (Transfer of Functions) Order 2012

Date laid: 29 February 2012, date made: 1 July 2012

This instrument transferred functions exercisable by the British Waterways Board under certain enactments to the Canal & River Trust (a company limited by guarantee), in relation to England and Wales. The British Waterways Board will continue to operate in Scotland, and this instrument additionally makes consequential changes to the constitution and functions of that Board in Scotland. The British Waterways Board was established by Section 1 of the Transport Act 1962.

73. Advisory Committee on Hazardous Substances (Abolition) Order 2012

Date laid: 27 February 2012, date made: 21 July 2012

This instrument abolished the Advisory Committee on Hazardous Substances, established under Section 140(5) of the Environmental Protection Act 1990, and made repeals and revocations (including the repeal of the power to appoint a committee) associated with the abolition.

74. Public Bodies (Abolition of Courts Boards) Order 2012

Date laid: 31 January 2012, date made: 1 May 2012

This instrument abolished Courts Boards. Courts Boards were established by Section 4 of the Courts Act 2003.

75. Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012

Date laid: 19 January 2012, date made: 27 March 2012

This instrument abolished the National Endowment for Science, Technology and the Arts, which was established by Part II of the National Lottery Act 1998.

Order Laid and Later Withdrawn

76. **Public Bodies (Modification of Functions of OFCOM) Order 2013**

Date laid: 18 July 2013

Order Withdrawn: 24 February 2014

This instrument made amendments to a number of duties and functions, which were carried out by the Office of Communications, commonly referred to as OFCOM. The instrument enabled a) reform of the schedules to the Office of Communications Act 2002 in order to modify OFCOM's internal structure, b) amendments of Part 1 of the Communications Act 2003 and c) functions of OFCOM in relation to broadcasters in Part 3 of that Act (also refer to paragraph 103).

Welsh Orders

77. **The Establishment Order**

2012 No.1903 (W.230)

Date made: 18 July 2012

PUBLIC BODIES, WALES

The Natural Resources Body for Wales (Establishment) Order 2012

This instrument established the new single body for the management of Wales' natural resources. The new body had the working title Natural Resources Body for Wales, and this order established the body in a way that ensured that, prior to its having transferred to it the full range of appropriate functions, it would be able to undertake the preparatory work necessary to ensure the new body would be able to function fully from the first day it becomes responsible for all the environmental responsibilities that were to be transferred to it. This order allowed the body to:

- appoint and compensate a Chair and board members (who were not employees but appointed by ministers) and, through the board, appoint a Chief Executive Officer;
- appoint staff and to make decisions on terms and conditions;
- contract the services of contractors and consultants (it was able to occupy accommodation, use telephones, email and other ICT, to communicate internally and externally, and to enter into contracts for ICT design and development, and procure other goods and services);
- enter into arrangements, and be party to agreements, receive and pay money, including: paying salaries; incurring and reimbursing travel and subsistence costs; incurring other costs e.g. maintenance, overheads, utility bills and rent for accommodation;
- design and deliver (and agree with the Welsh Government) the key governance required for running the new body, including: organisation structures, financial schemes of delegation, etc.;

- facilitate the adoption of policies, including statutory guidance to others (e.g. prosecution policy; health and safety policy; Welsh Language Scheme) that can be put into effect when the body takes up its full functions; and
- take steps to ensure that, from the body's first day of full operation, arrangements were in place (under powers contained in Sections 26-28 of the Public Bodies Act 2011) with the Environment Agency and the Forestry Commission for the provision of certain services.

78. The Functions Order

2013 No. 755 (W.90)

Date made: 25 March 2013

**PUBLIC BODIES, ENVIRONMENTAL PROTECTION, FORESTRY, COUNTRYSIDE
The Natural Resources Body for Wales (Functions) Order 2013**

This second instrument amended a wide range of legislation in order to transfer to the new body functions exercised by the Countryside Council for Wales, Environment Agency and Forestry Commission, along with certain licensing functions of the Welsh ministers. It made consequential changes to legislation, and amended the body's general powers and duties to reflect the range of functions being transferred to it. It abolished the Countryside Council for Wales and two statutory advisory committees of the Environment Agency. It also transferred a number of functions from the Forestry Commission to the Welsh ministers rather than Natural Resources Wales.

79. Public Bodies (Water Supply and Water Quality) (Inspection Fees) Order 2012

2012 No. 3101 (W.314)

Date made: 12 December 2012

This instrument enabled inspectors appointed under the Water Industry Act 1991 to recover from relevant water suppliers the cost of regulatory work undertaken in relation to the quality of drinking water supplies in England and Wales by way of a fee charging regime.

Reports and Scrutiny

80. Following Parliament's agreement that it would take responsibility for scrutinising each order laid under the Act, in January 2012 The House of Lords Merits of Statutory Instruments Committee published a Special Report² which set out the key provisions of the Act and the statutory scrutiny process (as detailed in Section 11) and explained how it intended to approach the scrutiny role. This report forms Annex 1 of this document.

81. Draft orders are scrutinised by three committees: the Joint Committee on Statutory Instruments (JCSI), the Secondary Legislation Scrutiny Committee (SLSC) in the House of Lords and the relevant departmental select committee in the House of Commons. The process is set out in Using the Public Bodies Act 2011, published by Cabinet Office in 2013.³ This document forms Annex 11 to this document.

82. The committees consider:

- whether the statutory test of improving the exercise of public functions with specific reference to efficiencies, effectiveness, economies and accountability to ministers has been met;
- whether the statutory consultation requirements have been met and the effectiveness of such consultation; and
- whether the draft order takes account of any ministerial commitments made during debate of the passage of the Act.

83. SLSC has published three reports reviewing activity under the Act ('Public Bodies Act 2011: One Year On' (19th Report of Session 2012-13) (the 'first report')⁴, 'Public Bodies Act 2011: Two Years On' (22nd Report of Session 2013-14) (the 'second report')⁵ and 'Public Bodies Act 2011: Three Years On' (17th Report of Session 2014-15) (the 'third report'))⁶ and the Government has responded to each report. The reports and responses form Annexes 2 to 7 of this document.

84. The purpose of these reports were to offer the Committee's observations on how well the policy objectives of the Act were being achieved, to monitor progress in order to

² <http://www.publications.parliament.uk/pa/ld201012/ldselect/ldmerit/250/250.pdf>

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243888/Using_the_Public_Bodies_Act_2011.pdf

⁴ <http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/90/90.pdf>

⁵ <http://www.publications.parliament.uk/pa/ld201314/ldselect/ldsecleg/98/98.pdf>

⁶ <http://www.publications.parliament.uk/pa/ld201415/ldselect/ldsecleg/73/73.pdf>

manage the Committee's scrutiny workload and to comment on how the public bodies orders format was operating in practice.

85. The first report cited a number of areas where good practice was evidenced, for example the draft order proposing the abolition of the Railway Heritage Committee, which clearly set out the benefits the reform would bring. There was also praise for the positive way in which the Government responded to the Committee's reports on public bodies orders. However, a key concern was insufficient evidence provided for the reform in the explanatory documents, for example the orders relating to the Courts Boards and the Disability Living Allowance Advisory Board. In addition, a specific recommendation was raised regarding the verification of net savings.
86. The Government provided a response (31st Report of Session 2012-13)⁷ to the recommendations and comments raised in the first report. The response detailed the steps that Government was taking to address the issues highlighted, including officials working with departments to ensure the Government provide consistency when producing evidence for each reform.
87. The second report acknowledged that the standard of supporting evidence for the majority of orders scrutinised in the second 12 months had improved on the first year and that the explanatory documents were more robust and consistent. However, the second report raised some concerns on two orders where the explanatory document failed to follow the tests set out in the Act and on the quality of evidence provided for one of these orders. The orders were those relating to the abolition of the Administrative Justice and Tribunals Council (see paragraph 58) and the transfer of the Consumer Advice Scheme of the Office of Fair Trading (see paragraph 59). The second report repeated the Committee's recommendations made in the first report.
88. The Government responded (33rd Report of Session 2013-14)⁸ to the report confirming that the Cabinet Office continues to work with departments to improve the standard of secondary legislation and to support departments to drive forward the remaining statutory instruments under the programme.
89. The third report looked at progress under the Act and acknowledged that the explanatory material provided with the orders considered in 2014 was generally good, but with supplementary information being requested for one order (abolition of the National Consumer Council, see paragraph 53). The Committee also questioned the adequacy of the consultation carried out in relation to one order (abolition of the Committee on Agricultural Valuation, see paragraph 51).
90. The third report also advised that a post legislative review of the Act may like to consider the potential waste of parliamentary time in cases where bodies were included in the schedules of the Act but are not being reformed through the Act and

⁷ <http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/137/137.pdf>

⁸ <http://www.publications.parliament.uk/pa/ld201314/ldselect/ldsecleg/138/138.pdf>

the duplication of parliamentary consideration of bodies listed in the schedules of the Act and later reformed using an alternative legislative vehicle. These points are examined in the section dealing with preliminary assessment of the Act.

91. The Government's response⁹ to the third report welcomed the findings of the report and that the Committee had recognised the steps taken by the Government to improve the standard of the orders under the Act. The response explained that where a change had been achieved by a means other than a public bodies order this was due to information that only became evident at a later stage or where an alternative means could achieve the change more quickly. The response also stated that the Act provided one option for reform to public bodies, but was never intended to preclude the use of other means if more appropriate.
92. In addition to the annual reports, the SLSC also produced a report on each order that the Committee considered.¹⁰
93. Impact Assessments were published for the individual public bodies orders where appropriate. In these cases, departments are also obliged to conduct post-implementation reviews at regular intervals to ensure that the impact of the reforms is measured.
94. The National Audit Office has also reported on the public bodies reform programme in their 2014 report 'Progress on public bodies reform'¹¹ and their 2012 report 'Reorganising Central Government Bodies'¹². The focus of both of these reports was on the reform programme, with passing reference to the Public Bodies Act and how the Act fitted within the overall programme.
95. To support best practice policy advice and scrutiny, the Cabinet Office issued a guidance document 'Using the Public Bodies Act 2011; A Guidance and Best Practice Note for Officials'¹³ in September 2013. The document was intended to assist departments in using the Public Bodies Act through providing advice on policy development, consultation requirements, parliamentary scrutiny and the procedures to follow in making an order.

⁹ <http://www.publications.parliament.uk/pa/ld201415/ldselect/ldsecleg/148/148.pdf>

¹⁰ <http://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/public-bodies-orders/public-bodies-orders-considered/>

¹¹ <https://www.nao.org.uk/wp-content/uploads/2014/02/Progress-on'-public-bodies-reform.pdf>

¹² <https://www.nao.org.uk/wp-content/uploads/2012/01/10121703.pdf>

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243888/Using_the_Public_Bodies_Act_2011.pdf

Preliminary Assessment of the Act

Introduction

96. The Act provided the statutory framework for the changes agreed by the Government through the public bodies review process where primary legislation was required. It created a consistent process, designed to avoid the need for time and resource-demanding individual pieces of legislation or amendments to other legislation.
97. The Act enabled a great deal of change to be taken forward in a consistent manner. It also ensured Parliament could properly scrutinise the rationale and overall approach of this process, leaving Secretaries of State to take forward the detail of the agreed changes. For more contentious or substantial reforms, Parliament could opt for the enhanced affirmative procedure to ensure reforms were subject to more detailed parliamentary scrutiny.

Effectiveness

98. Five years on, the post-legislative scrutiny process provides an opportunity to assess how effective the Act was in practice. Whilst it is apparent that the Act was used effectively in the form of the 33 orders laid and carried through to completion, reforming 52 public bodies (as described in paragraphs 46 to 79), we acknowledge that the schedules list several public bodies which were reformed by other means, or not at all.

Public Bodies Reformed by Other Means

99. The content of the paragraphs below should be seen in the context that the Act provided one option for reform to public bodies, but was never intended to preclude the use of other means, if more appropriate.

Alternative Legislation

100. Several bodies listed in the schedules were reformed through other pieces of legislation. There were instances when alternative legislation was used as it provided a shorter timeframe for reform. In other cases, the proposed reform was revised and thus required powers beyond those granted by the Act.
- The Enterprise and Regulatory Reform Act 2013 (ERRA) was used to abolish the Agricultural Wages Boards of England and Wales, the Agricultural Dwelling House Advisory Committees in England and the Agricultural Wages Committees in England (Schedule 1). As stated in 'Government Response to the Public Bodies Act 2011: Three Years On' (see Annex 7), the use of the ERRA enabled the Government to complete these reforms within a more appropriate timeframe than would have been achievable under the Public Bodies Act. The ERRA was

also used for the merger of the Competition Commission and Office of Fair Trading (Schedule 2) for timing-related reasons.

- The Commission for Equality and Human Rights (in Schedules 3, 4 and 5) was reformed under the ERRA because the scope of its reform was extensive to the point where it could not be delivered under the Public Bodies Act.

Voluntary Means

101. In addition to the use of alternative legislation, some public bodies were reformed under voluntary means.

- Constitutional changes to Sianel Pedwar Cymru (S4C) and Passengers' Council (Schedule 3) were achieved through voluntary agreement. This included some changes to the S4C's funding arrangements. Passengers' Council (Transport Focus) undertook a significant restructure in 2011 and was further reformed when its role widened to include representing users of the strategic road network in April 2015.
- Reform of Internal Drainage Boards (IDBs – Schedules 4 and 5) was delivered through local action, avoiding additional regulation and constraints on the flexibility of IDBs. The rationale for this was that although IDBs are statutory public bodies, they are locally based, locally funded and as such are fundamentally different in nature from most other bodies captured under the Act.

Public Bodies Not Reformed

102. We acknowledge however that a number of the bodies listed in the Act have not been reformed in the manner intended by the Act. This is for a variety of reasons. In order to proceed at pace and to provide the statutory framework for the reform programme, it was not always possible for the full policy details to be worked out. As a result, there were cases where the policy evolved following further analysis and review.

Bodies Not Reformed Due to Changes in Policy or Approach

103. Reform as originally planned was not pursued under the Act for the following bodies, following changes or developments in policy or approach.

- The Disabled Persons' Transport Advisory Committee (Schedule 1) was retained in order to provide the department with advice on accessibility issues relating to the disabled.
- In Schedule 2, the Pensions Ombudsman and Ombudsman for the Board of the Pension Protection Fund and the Central Arbitration Committee and Certification Officer were originally proposed for merger, however they were retained following developments in policy direction.

- The draft order for OFCOM (Schedules 4 and 5) was laid in July 2013 and was subsequently withdrawn in February 2014. Department for Culture, Media and Sport (DCMS) consulted widely on the proposed changes and the draft order followed the agreed parliamentary processes. However, following concerns raised during the consultation process, DCMS decided to withdraw the order.
- The proposed abolition of the Valuation Tribunal Service (VTS, Schedule 1) and transfer of its functions to Her Majesty's Courts and Tribunals Service was halted due to the significant pension liabilities that would have been incurred, making such reform unviable on cost grounds.
- The Sports Ground Safety Authority (Schedule 1) was retained due to its ongoing role in ensuring the safety of spectators at sports grounds. It will be subjected to a Tailored Review during this Parliament.
- The Dover Harbour Board (Schedule 5) was added to the Act by way of an amendment, to facilitate plans for an alternative ownership model. However, that plan was subsequently not taken forward by the Government. Reforms to the governance of the board were delivered through Harbour Revision Orders made under the Harbours Act 1964, so the Act was not used.

Bodies Subjected to Triennial Review

104. The Triennial Review was the primary means of public body scrutiny under the Public Bodies Reform Programme 2010 – 2015. Triennial Reviews provided strong challenge for the continuing need for individual Non-Departmental Public Bodies (NDPBs) – in both function and form – and reviewed the control and governance arrangements in place to ensure that the NDPB in question was complying with recognised principles of good corporate governance.

105. The following bodies listed in the schedules were subjected to a Triennial Review, either following retention, or as a means of identifying further reform opportunities.

- The Human Fertilisation and Embryology Authority and Human Tissue Authority (both Schedule 5) were retained following the McCracken Review and are both currently subject to Triennial Review.
- With regard to the Environment Agency (Schedule 5) and Natural England (Schedule 4), powers under the Act were not carried out and further reform options, including those identified in the Triennial Review, are under consideration as part of The Department of Environment, Food and Rural Affairs' (Defra) ongoing Transformation Programme.
- The Triennial Review of the British Hallmarking Council (BHC, Schedules 3 and 5) in 2015 recommended no changes to its structure, control and governance.

BHC was included in Schedules 3 and 5 to offer flexibility to ministers should reform be required.

- The Triennial Review of the Joint Nature Conservation Committee (JNCC, Schedule 3) concluded that only small changes were needed and these were delivered through administrative means.
- English Tourist Board (Schedule 3) was covered in a Triennial Review in 2015. It proved to be better value for money not to reform or abolish the body.
- The Competition Service (CS, Schedule 1) was retained and subjected to a Triennial Review. Following its recommendations, Department for Business, Energy and Industrial Strategy intend in a forthcoming parliamentary session to merge the accounts of the CS with those of the Competition Appeal Tribunal (CAT) and change the name of the CS to more clearly reflect its relationship with the CAT.

Other Bodies for Which the Act Has Not Been Used

106. In some cases, the Act was unable to deliver the proposed reforms. Either the Act proved to be unsuitable, or the Government has not yet brought forward reform.

- The Advisory Council on Public Records, Her Majesty's Stationery Office, the Keeper of Public Records and the Public Records Office (all in Schedule 5) operate together administratively as The National Archives. However reform has not taken place due to significant legal complexities which could not be overcome without disproportionate use of resources.
- With regard to the Broads Authority (BA, Schedule 3) and National Park Authorities (NPA, Schedule 3), powers have not been used for either body under the Act. However, the powers provided by the Act did not extend to some of the policy that was developed subsequently.
- The Government is in the process of reforming the current Horserace Betting Levy and transferring functions of the Horserace Betting Levy Board (Schedule 5). This reform cannot now be made under the Act without further primary legislation (see paragraph 107).
- The proposed abolition of the Plant Varieties and Seeds Tribunal (Schedule 1) has not taken place due to the potential costs of transferring its functions to Her Majesty's Courts and Tribunal Service. Defra review this again in 2019.
- Proposed changes to the governance and classification of the Theatres Trust (TT, Schedule 3) did not take place. Removal of Secretary of State's power to appoint trustees, so that the body goes forward only as a charity, has not yet been taken forward.

107. The Act contains a sunset clause (Section 12) which imposes for those bodies listed in the schedules a deadline (dependent on the date when the body was inserted into the schedule). For the bodies listed above, the deadline for obtaining an order is 14 February 2017. This means that these bodies would have to be re-inserted into their schedules via primary legislation, if the Government wished to proceed with reform under the Act.

Future Use of the Act

108. Looking forward, Her Majesty's Treasury intend to use the Public Bodies Act to abolish the Public Works Loan Board. Section 54 of the Infrastructure Act 2015 inserted the Public Works Loan Board into Schedule 1 of the Public Bodies Act. Following a consultation in May 2016, the Government has recently published its response confirming plans to abolish this body and transfer its powers to the Treasury.

Devolution

109. Orders under Sections 1 to 5 of the Act may in principle affect matters which are the responsibility of the devolved administrations, relating to legislative competence and eligibility of ministers to whom functions may be transferred. The Act also confers powers on Welsh ministers to make orders to modify certain public bodies in Wales. Provision is also made for the transfer of assets and liabilities of public bodies subject to orders.

110. There was good engagement with the devolved administrations regarding the process of laying orders which affected them, including the securing of Consent Motions and the system worked as it was intended to. The only exception was the example described in paragraph 111 below.

111. In the case of the abolition of the Agricultural Wages Board and associated committees, complex issues regarding the structure of the bodies led to the use of alternative legislation for their reform. As stated in paragraph 100, the Enterprise and Regulatory Reform Act 2013 was used as it offered a more appropriate timeframe.

Reductions in Administrative Cost

112. The orders laid under the Act have brought about an administrative cost reduction of £121,917,000. This figure is the aggregated, cumulative administrative cost reduction, relative to a baseline established by the Cabinet Office in 2010 for bodies reformed, merged or abolished under the Act. This is as reported for the individual bodies reformed under the Act by departments, to the Cabinet Office. This figure was calculated using a specific Cabinet Office methodology and relates to reductions over the life of the Public Bodies Reform Programme (2010 – 2015).
113. Cabinet Office's methodology for calculating administrative cost reductions, together with the returns from departments, were audited by the National Audit Office (NAO) in 2013.
114. NAO undertook a similar analysis using the audited accounts of departments and found that overall savings in administrative cost shown by their analysis were comparable with those calculated by the Cabinet Office, providing the broad assurance that the overall level of administrative cost reduction, based on departmental returns, was achieved.
115. All findings were published by NAO in its report 'Progress on public bodies reform', published in February 2014 (see link on page 21).
116. Annex 9 provides details of the administrative cost reductions for each order made and Annex 10 provides a summary of the methodology used in their calculation.

Conclusion

117. Since the Act was passed the Government has brought forward a total of 34 orders (53 bodies) for scrutiny. 33 of these orders have now been made, reforming 52 bodies. This constitutes significant reform of the public bodies landscape.
118. We recognise that the total number of potential orders possible was significantly higher than this (60). The Secondary Legislation Scrutiny Committee (SLSC) has raised this as an issue, questioning whether parliamentary time had been used effectively. SLSC¹⁴ also noted the number of bodies in the schedules which were retained and suggested that their original selection was based on inadequate evidence.
119. However the analysis outlined in this memorandum shows that the majority of bodies listed in the schedules but not subject to an order, have been reformed either through alternative primary legislation, or through voluntary means. The Government's primary objective was to achieve the reform; how that was delivered, whether through the Act or through other means, was secondary. For these bodies it was quite proper for the Government to pursue reform proposals through these alternative measures, for the reasons set out in this memorandum.
120. We acknowledge that there are some bodies listed in the schedules which have not been reformed by the Act as intended. This was because policy evolved after the act was passed. Waiting until all policy was worked out in granular detail would have resulted in delays and a more piecemeal approach to reform.
121. The number of bodies for which the Act could not be used as it proved in some way to be unsuitable, or where a listed body has not yet been reformed, is small.
122. In summary, the Act, whose scope was determined after thorough consultation and agreement, was an important legislative vehicle for the delivery of public body reform. It has been a central element of the reform programme and has enabled a great deal of change to be executed in a consistent manner.

¹⁴ Public Bodies Act 2011: Three Years On (17th Report of Session 2014-15), <http://www.publications.parliament.uk/pa/ld201415/ldselect/ldsecleg/73/73.pdf>

Annexes

Annex 1

Scrutiny of Public Bodies Orders (50th Report of Session 2010-12)

<http://www.publications.parliament.uk/pa/ld201012/ldselect/ldmerit/250/250.pdf>

Annex 2

Public Bodies Act 2011: One Year On (19th Report of Session 2012-13),

<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/90/90.pdf>

Annex 3

Government response to Public Bodies Act 2011: One Year On (31st Report of Session 2012-13),

<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/137/137.pdf>

Annex 4

Public Bodies Act 2011: Two Years On (22nd Report of Session 2013-14),

<http://www.publications.parliament.uk/pa/ld201314/ldselect/ldsecleg/98/98.pdf>

Annex 5

Government response to Public Bodies Act 2011: Two Years On (33rd Report of Session 2013-14),

<http://www.publications.parliament.uk/pa/ld201314/ldselect/ldsecleg/138/138.pdf>

Annex 6

Public Bodies Act 2011: Three Years On (17th Report of Session 2014-15),

<http://www.publications.parliament.uk/pa/ld201415/ldselect/ldsecleg/73/73.pdf>

Annex 7

Government response to Public Bodies Act 2011: Three Years On (32nd Report of Session 2014-15),

<http://www.publications.parliament.uk/pa/ld201415/ldselect/ldsecleg/148/148.pdf>

Annex 8 (attached)

Public Bodies Act: bodies abolished and/or functions transferred.

Annex 9 (attached)

Use of Public Bodies Act and administrative cost reductions as reported by departments.

Annex 10 (attached)

Methodology for calculating administrative cost reductions.

Annex 11

Using the Public Bodies Act 2011.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243888/Using_the_Public_Bodies_Act_2011.pdf

Annex 8

Public Bodies Act: Bodies Abolished and/or Functions Transferred

In alphabetical order, by department

Department	Public Body	Reform under the PBA	Functions	Notes
Business, Innovation and Skills (BIS)	Aircraft and Shipbuilding Industries Arbitration Tribunal.	Abolished.	Abolished. Tribunal defunct - most recent meeting was in 1981.	Completed March 2013.
BIS	British Shipbuilders and any subsidiary of British Shipbuilders (within the meaning of section 1159 of the Companies Act 2006).	Abolished.	Remaining functions were already being carried out by the department.	Completed March 2013.
BIS	National Consumer Council ('Consumer Focus').	Abolished.	Transfer of relevant functions to Citizens Advice/Citizens Advice Scotland/General Consumer Council for Northern Ireland. OFT's estate agency functions transferred to Powys County Council and the Commissioners of HM Revenue and Customs. OFT's functions relating to its consumer advice scheme to Citizens Advice and Citizens Advice Scotland. This order also transferred the Office	Completed April 2014.

BIS	National Endowment for Science, Technology and the Arts.	Abolished as a public body.	of Fair Trading's functions in relation to estate agents. Established under the same name as independent charity - endowment held in separate trust.	Completed April 2012.
Culture, Media and Sport (DCMS)	Library Advisory Council for England.	Abolished.	Abolished. ACL effectively defunct. Intelligence about library sector exists elsewhere e.g. Arts Council, Chartered Institute of Library and Information Professionals.	Completed March 2015.
DCMS	Registrar of Public Lending Right.	Abolished.	Transferred to British Library, of which the PLR Office is a part.	Completed October 2013.
Environment, Food and Rural Affairs (Defra)	Advisory Committee on Hazardous Substances.	Abolished.	Reconstituted as The Hazardous Substances Advisory Committee, a committee of experts.	Completed July 2012.
Defra	Advisory Committee on Pesticides and Advisory Committee on Pesticides for Northern Ireland.	Abolished.	Reconstituted as a committee of experts: the UK Expert Committee on Pesticides, which provides independent, impartial advice to the Government on the science relating to pesticides.	Completed March 2015.
Defra	Committee on Agricultural Valuation.	Abolished.	Abolished. A moribund body which had not met for 20 years.	Completed April 2014.
Defra	Commission for Rural Communities.	Abolished.	Abolished. To compensate, the Government's capacity to reflect rural interests in policies and programmes has been reinforced.	Completed March 2013.

Defra	Environment Protection Advisory Committees established under section 12 of the Environment Act 1995 other than the one established pursuant to subsection (6) of that section (Wales).	Abolished.	Abolition allowed a more direct engagement via non-statutory, local arrangements, supported by the department and the Environment Agency.	Completed September 2012.
Defra	Food from Britain.	Abolished.	Abolished. Had already closed, in 2009, and was not functioning as a public body.	Completed August 2014.
Defra	Home Grown Timber Advisory Committee.	Abolished.	Abolished. Had had no physical form for 10 years prior to abolition; existed only on the statute book, the terms of office of the last members having expired in 2006.	Completed March 2015.
Defra	Inland Waterways Advisory Council.	Abolished.	Management of inland waterways moved to new charity, the Canal and River Trust.	Completed July 2012.
Defra	British Waterways Board.	Transfer of Functions.	Certain functions transferred to Canal and River Trust in relation to England and Wales.	
Defra	Regional and Local Fisheries Advisory Committees established under section 13 of the Environment Act 1995 other than the one established pursuant to subsection (5) of that section (Wales).	Abolished.	Abolition allowed a more direct engagement via non-statutory, local arrangements, supported by the department and the Environment Agency.	Completed September 2012.

Transport (DFT)	BRB (Residuary) Limited.	Abolished.	Functions transferred to Secretary of State and Network Rail (Assets) Ltd. Property, rights and liabilities transferred to the Secretary of State, London & Continental Railways Ltd, Network Rail Infrastructure Ltd and the Rail Safety and Standards Board Ltd.	Completed September 2013.
DFT	Railway Heritage Committee.	Abolished.	Powers transferred to a new Railway Heritage Designation Advisory Board which reports to the Board of Trustees of the Science Museum.	Completed April 2013.
Work and Pensions (DWP)	Child Maintenance and Enforcement Commission.	Abolished.	Responsibilities transferred to department, operating as Child Maintenance Service.	Completed July 2012.
DWP	Disability Living Allowance Advisory Board.	Abolished.	In effect, moribund. Last consulted for advice by a Secretary of State in 2008. Functions transferred to department (supported by external specialist advice) and Equality 2025.	Completed February 2013.
Ministry of Justice (MOJ)	Administrative Justice and Tribunals Council.	Abolished.	Functions and policy responsibility transferred to department. Administrative Justice Advisory Committees established in Scotland and Wales.	Completed August 2013.
MOJ	Courts Boards.	Abolished.	Abolished.	Completed May 2012.

MOJ	Crown Court Rule Committee.	Abolished.	Transferred to Lord Chief Justice, who will be free to consult as appropriate, including consultation of existing main rule committees.	Completed March 2014.
MOJ	Her Majesty's Inspectorate of Court Administration.	Abolished.	Transferred to appropriate inspectorate (within department).	Completed September 2012.
MOJ	Magistrates' Courts Rule Committee.	Abolished.	Lord Chief Justice to be free to consult as appropriate, including consultation of existing main rule committees.	Completed September 2012.
MOJ	Public Guardian Board.	Abolished.	Abolished.	Completed September 2012.
MOJ	Victims' Advisory Panel.	Abolished.	Abolished.	Completed November 2013.

Annex 9

Use of Public Bodies Act and Administrative Cost Reductions as Reported by Departments

Administrative cost reduction figures were recorded annually as part of the 2010 – 2015 Public Bodies Reform Programme. The figures are cumulative and valid as of 31 March 2015, when the programme concluded.

Laid Orders

Department	Public Body	Proposed Reform	Latest administrative cost reductions reported by Departments in line with CO Methodology (£)	Notes
Attorney General's Office	Director of Public Prosecutions Director of Revenue and Customs Prosecutions.	Merge, included in Schedule 2.	£0 £0	Explanatory document explained that the savings resulting from the merger were all Programme savings. Order prepared by Ministry of Justice, office later moved from Ministry of Justice to Attorney General's Office.
Business, Innovation and Skills (BIS)	Aircraft and Shipbuilding Industries Arbitration Tribunal.	No longer an NDPB, included in Schedule 1.	£0	
BIS	British Shipbuilders.	No longer a Public Corporation, included in Schedule 1.	£0	

BIS	National Consumer Council (Consumer Focus).	No longer an NDPB, included in Schedule 1.	£0
BIS	National Endowment for Science, Technology and the Arts (NESTA).	No longer an NDPB, included in Schedule 1.	£0
BIS	Office of Fair Trading.	Transfer of Consumer Advice Scheme, transfer of functions in relation to estate agents and modification of enforcement functions (followed by a merger of competition functions with the Competition Commission), included in Schedules 2 and 5.	£15,530,000
Culture, Media and Sport (DCMS)	Gambling Commission National Lottery Commission.	Merge, included in Schedule 2.	£0
DCMS	Library Advisory Council for England.	No longer an NDPB, included in Schedule 1.	£0
DCMS	OFCOM	Retain and reform, included in Schedules 4 and 5.	£0
			Draft order laid and subsequently withdrawn.

DCMS	Registrar of Public Lending Right.	No longer an NDPB, included in Schedule 1.	£1,313,000
Environment, Food and Rural Affairs (Defra)			
Defra	Advisory Committee on Hazardous Substances.	No longer an NDPB, included in Schedule 1.	£0
Defra	Advisory Committee on Pesticides.	No longer an NDPB, included in Schedule 1.	£0
Defra	British Waterways Board.	No longer a Public Corporation, included in Schedule 5.	£0
Defra	Commission for Rural Communities.	No longer an NDPB, included in Schedule 1.	£18,700,000
Defra	Committee on Agricultural Valuation.	No longer a statutory body, included in Schedule 1.	£0
Defra	Drinking Water Inspectorate.	Retain and reform, included in Schedule 4.	£0
Defra	Environment Protection Advisory Committee.	No longer an NDPB, included in Schedule 1.	£0

The £0.2m per year savings reported in the explanatory document have been reinvested

in new ways of working so this is cost neutral.

Defra	Food From Britain.	No longer a statutory body, included in Schedule 1.	£0	
Defra	Home Grown Timber Advisory Committee.	No longer an NDPB, included in Schedule 1.	£0	
Defra	Inland Waterways Advisory Council.	No longer an NDPB, included in Schedule 1.	£0	
Defra	Marine Management Organisation.	Retain, included in Schedule 4.	£12,500,000	The £0.6m per year reported in the explanatory document reflects costs to be recovered to offset MMO expenditure.
Defra	Regional and Local Fisheries Advisory Committees.	No longer an NDPB, included in Schedule 1.	£0	The £0.2m per year savings reported in the explanatory document have been reinvested in new ways of working so this is cost neutral.
Transport (DfT)	BRB (Residuary) Ltd.	No longer a statutory body, included in Schedule 1.	£4,700,000	

DfT	Railway Heritage Committee.	No longer an NDPB, included in Schedule 1.	£174,000	
Work and Pensions (DWP)	Child Maintenance and Enforcement Commission.	No longer an NDPB, included in Schedule 1.	£58,200,000	The explanatory document stated that the rationale behind the abolition was to increase ministerial responsibility and accountability for child maintenance, not to save money. Also that once transferred as the new Child Maintenance Group was integrated, administrative savings could be identified and estimated. The process used to produce the savings estimate was agreed by the NAO and covers the entirety of the child maintenance budget, not just admin costs.
DWP	Disability Living Allowance Advisory Board.	No longer an NDPB, included in Schedule 1.	£0	
Ministry of Justice (MoJ)	Administrative Justice and Tribunals Council.	No longer a statutory body, included in	£3,000,000	

MoJ	Courts Boards (x 19).	Schedules 1, 3, 4 and 5.	No longer an NDPB, included in Schedule 1.	£1,400,000	
MoJ	Crown Court Rule Committee.		No longer a statutory body, included in Schedule 1.	£0	Omnibus Order with Magistrates' Courts Rule Committee.
MoJ	HM Inspectorate of Court Administration.		No longer a statutory body, included in Schedule 1.	£6,000,000	Omnibus Order with Public Guardian Board.
MoJ	Magistrates' Courts Rule Committee.		No longer a statutory body, included in Schedule 1.	£0	Omnibus Order with Crown Court Rule Committee.
MoJ	Public Guardian Board.		No longer a statutory body, included in Schedule 1.	£400,000	Omnibus Order with Her Majesty's Inspectorate of Courts Administration.
MoJ	Victims' Advisory Panel.		No longer a statutory body, included in Schedule 1.	£0	

Total administrative cost reductions £121,917,000.

Annex 10

Summary of Methodology used by Departments for Calculating Costs and Savings Arising from the 2010 Public Bodies Reform Programme

Background

The Treasury issued guidance to departments for Spending Review 2010. This included details on content of submission on Resource Departmental Expenditure Limits (RDEL) and calculating RDEL savings.

The methodology contained within that guidance for calculating RDEL savings is summarised below:

- agree baseline and roll forward in line with inflation (using GDP deflators provided by the Office for Budget Responsibility) for each year of the spending review period (to end of March 2015);
- departments to develop spending plans for each year of the spending review period, including the expected costs of redundancies; and
- savings to be calculated by taking away planned spend from the inflation adjusted 2010/11 baseline.

Summary of Methodology

The default assumption for what to include in administration budgets was outlined in the Spending Review 2010 guidance:

- all the costs involved with providing policy, funding and regulation functions; and
- all the back-office costs associated with administering ALBs - including back-office costs (e.g. HR, finance) of supporting frontline functions.

When calculating the financial impact of the 2010 Public Bodies Review, departments were to focus only on expenditure funded from the administration budgets of ALBs.

The following were then factored in to the calculations, to yield a *net* administrative cost reduction figure:

- structural reform costs: where bodies are undertaking structural reform as proposed in the 2010 Public Bodies Review, the estimated annual costs of implementing the reforms were deducted; and
- ongoing functions: where structural reform had been implemented and functions transferred to other areas of the public sector, the ongoing cost of delivering this function was also deducted

Administrative cost reductions were measured annually, up to and including the 2014-15 financial year, to yield a total cumulative figure for the programme of £3 billion.

ISBN 978-1-4741-3897-0



9 781474 138970