

Delegated Legislation

Regulations & Orders

Sources of Written Law

- Primary Legislation – Acts of Parliament (Statutes)
- Delegated Legislation – Regulations / Orders
- Aka Subordinate Legislation

Delegated Powers

- Usually the power to make regulations is given (delegated) to a specific government department
- e.g. Weights & Measures Act 1985 section 22 gives the Secretary of State the power to make provisions about transactions in goods
- An order has been made which controls the quantity of sales of beer.

Statutory Instruments

- Regulations & Orders
- Detailed legislation
- Act sets a framework
- Regs put the “meat on the bones”

Example

- Road Traffic Act 1988 creates requirement for passing a test to show competence to drive
- Motor Vehicles (Driving Licences) Regulations 1996 give the detail on content of tests, applicable fees, forms issued to candidates etc
- Increase in fees? Issue an SI amending the 1996 Regulations – Quick & Easy

Negative resolution

- Most SIs do not need to be specifically passed by the Houses of Parliament (affirmative resolution)
- To save Parliamentary time, most are subject to no specific debate before passing into law
- A member of the house may object “pray against” an SI

Progress through Parliament

- SIs normally drafted by Civil Servants working for relevant government department
- Consultations usually take place with interested parties before final draft.
- Sit in Parliament for 40 days & if no objection, become law.
- Numbered sequentially (SI 2012/1.... SI 2012/2 and so on)

Advantages of delegated legislation

- Saves Parliamentary time (approx 3000 SIs per year) since mostly no debate required. Compare this to 23 Acts passed last year.
- Rapid change – easily amended – errors easily corrected
- Can respond quickly to events (e.g Foot and Mouth)
- Can deal with technical / specialist information

Disadvantages

- Lack of publicity – Acts may get more headlines
- Lack of debate – undemocratic?

Scrutiny of SIs

- Joint Select Committee on Statutory Instruments
- 6MPs, 6 Lords
- Examination of SIs, to look at the legality, drafting & clarity.
- Sources suggest over 1000 instruments per year examined.

Other delegated legislation

- Bye Laws
- Church Measures – dealing with administration of Church
- Orders in Council – relating to Government functions
- Commencement Orders – made to bring Acts (or parts of Acts) into force.

Bye Laws

- Made by Local Authority
- Issues specific to particular area
- Still can create criminal offences
- E.g. Bans on drinking in public
- <http://www.eatonbray.com/parish-council/byelaws/>

Legislation - Jargon

- Act of Parliament - when removed it is "repealed"
- Section 1, Section 2 etc
- SIs - when removed it is "revoked"
 - Regulations - Regulation 1, 2 etc
 - Orders - Article 1,2 etc

End of session