



The Scottish Parliament
Pàrlamaid na h-Alba

Rural Affairs, Climate Change and Environment Committee

5th Report, 2014 (Session 4)

Public Bodies Act Consent Memorandum on the Public Bodies (Abolition of Food from Britain) Order 2014 [draft]

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The Scottish Parliament
Pàrlamaid na h-Alba

Rural Affairs, Climate Change and Environment Committee

Remit and membership

Remit:

To consider and report on agriculture, fisheries, rural development, climate change, the environment and other matters falling within the responsibility of the Cabinet Secretary for Rural Affairs & the Environment.

Membership:

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Rural Affairs, Climate Change and Environment Committee

5th Report, 2014 (Session 4)

Public Bodies Act Consent Memorandum on the Public Bodies (Abolition of Food from Britain) Order 2014 [draft]

The Committee reports to the Parliament as follows—

Background – Public Bodies Act Consent memoranda

1. The UK Public Bodies Act 2011¹ gives UK Ministers the authority, via order making powers, to abolish, merge or transfer the functions of public bodies listed in its schedules. As some of these public bodies operate within both reserved and devolved policy areas, section 9 of the Act provides that those orders which affect public bodies that operate within devolved policy areas require the consent of the Scottish Parliament before they can be agreed by the UK Parliament.
2. This consent is secured via the Scottish Government laying a Public Bodies Act Consent Memorandum (PBACM) seeking the Scottish Parliament's approval for the UK Order, in so far as it relates to devolved policy areas, to be agreed. A PBACM is considered by a lead committee, which must report to the Parliament. The PBACM will include a draft motion which the Scottish Government will lodge following the publication of the lead committee's report.
3. Further information on the PBACM process is set out in chapter 9BA of Standing Orders.

The abolition of Food from Britain

4. On 7 May 2014, a PBACM on the Public Bodies (Abolition of Food from Britain) Order 2014 [draft] was laid by the Minister for Environment and Climate Change and referred by the Parliamentary Bureau on 13 May 2014 to the Rural Affairs, Climate Change and Environment Committee (as lead committee) for its consideration.
5. The purpose of the PBACM is to abolish the body known as Food from Britain (FFB), established by section 1 of the Agricultural Marketing Act 1983 as part of the Government's public body reform programme.

¹ UK Parliament, Public Bodies Act 2011. Available at:
<http://www.legislation.gov.uk/ukpga/2011/24/contents/enacted>

6. A copy² of the PBACM can be found on the Scottish Parliament's website.
7. The PBACM contains the following draft motion—

“That the Parliament consents to the making of The Public Bodies (Abolition of Food from Britain) Order 2014, a draft of which was laid before the United Kingdom Parliament on 6 May 2014 and which makes provision which would be within the legislative competence of the Parliament if it were contained within an Act of that Parliament.”
8. A copy of the Scottish Government's PBCAM, with full background and details of the UK Government's proposal and draft order, is set out in Annexe A and B to this report.

Delegated Powers and Law Reform Committee report

9. The PBCAM was considered by the Delegated Powers and Law Reform Committee on 20 May 2014 and a copy of its report is available on its webpage³.

Consideration by the Rural Affairs, Climate Change and Environment Committee

10. At its meeting on 28 May 2014⁴, the Committee considered the PBACM. **Members raised no issues in relation to the PBACM and agreed to recommend to Parliament that the consent motion be approved.**

Annexe A

PUBLIC BODIES ACT CONSENT MEMORANDUM - THE PUBLIC BODIES (ABOLITION OF FOOD FROM BRITAIN) ORDER 2014

Draft Public Bodies Act Consent Motion

The draft motion, which will be lodged by the Cabinet Secretary for Rural Affairs and the Environment, is:

“That the Parliament consents to the making of The Public Bodies (Abolition of Food from Britain) Order 2014, a draft of which was laid before the United Kingdom Parliament on 6 May 2014 and which makes provision which would be within the legislative competence of the Parliament if it were contained within an Act of that Parliament.”

² Public Bodies Consent Memorandum, Abolition of Food from Britain. Available at:

http://www.scottish.parliament.uk/LegislativeConsentMemoranda/PBCM_AbolitionofFFB.pdf

³ Scottish Parliament, Delegated Powers and Law Reform Committee 36th Report, 2014 (Session 4) *1st Report, 2014 (Session 4): Public Bodies Act Consent Memorandum on the 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*. Available at:

http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/Reports/suR-14-36w.pdf

⁴ Scottish Parliament, Rural Affairs, Climate Change and Environment Committee, *Minutes* for meeting on 28 May 2014. Available at:

http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/Minutes/Minutes_05_28_2014.pdf

This Memorandum has been lodged by Richard Lochhead, Cabinet Secretary for Rural Affairs and the Environment, in accordance with Standing Orders under Chapter 9BA.

Background

Public Bodies Act 2011

The Public Bodies Act 2011 (“the 2011 Act”) gives UK Ministers the authority (via order making powers) to abolish, merge, modify or transfer the functions of public bodies listed in its Schedules, and some of those bodies operate in both the reserved and devolved areas, including Food from Britain. Section 9 of the 2011 Act acknowledges the scope for effects on devolved interests by requiring Orders that include provision falling within devolved competence to be consented to by Holyrood.

Standing Orders include the process for scrutinising PBACMs at Chapter 9BA.

Food From Britain

Food from Britain (“FFB”) was a Defra-sponsored Non Departmental Public Body which promoted UK food exports between 1983 and 2009. The decision to cease FFB’s activities was taken by the FFB Council in 2008, following a reduction in its grant in aid by a previous administration. The decision to close FFB was announced in a written Ministerial Statement to Parliament on 26 March 2008, by the then Secretary of State. Although FFB closed its operations in March 2009 and no longer functions as a public body, the Agricultural Marketing Act 1983 (“the 1983 Act”) which established FFB is still in place. That Act does not provide for FFB’s abolition. FFB was therefore included within Schedule 1 to the 2011 Act to allow for its legislative dissolution.

Shortly after the 2010 election, the UK Government announced that it would review arms-length bodies in order to reduce the numbers, costs and improve accountability. An announcement about the future of Defra’s arms length bodies (including FFB) was made in October 2010. Defra consulted in late 2013 to seek views on whether to formally dissolve FFB in law by repealing the 1983 Act, or do nothing, allowing the legislation to remain in force for the foreseeable future. UK Ministers have now formally concluded that FFB should be abolished.

Since the cessation of FFB’s activities in 2009, advice and support to UK food and drink exporters was made available from UK Trade and Investment, as well as Scottish Development International (Scottish Enterprise), the Welsh Government’s Food and Market Development Division and Invest Northern Ireland. FFB’s former network of independent International offices (now called the Green Seed Group) continues to offer consultancy services to UK exporters of food and drink on a commercial basis.

UK Government reform proposal

Exercising the power of the Public Bodies Act in abolishing FFB, and repealing the 1983 Act, will have the effect of dissolution of the FFB in law. Administratively, the

FFB no longer exists and this is simply a tidying up exercise. FFB ceased operating in 2009 and there are no staff or assets remaining, though because the legislation is still live, Defra and the Devolved Administrations are required to publish Annual Reports and Accounts which must be laid before the UK Parliament and each National Assembly/Parliament each year, with a residual cost to Defra of around £5000 per annum.

Implications for Scotland

As this body has not existed since 2009, there are no implications other than an element of staff resource to formally present the Annual Reports and Accounts to the Scottish Parliament as part of the requirements the Agricultural Marketing Act 1983.

The draft Public Bodies (Abolition of Food from Britain) Order 2014

The Department for the Environment, Food and Rural Affairs is promoting the draft Public Bodies (Abolition of Food from Britain) Order 2014 (the FFB Order) under sections 1(1), 6(1) and (5), 24(1) and 35(2) of the Public Bodies Act 2011. The FFB Order (attached at **Annexe B**) will formally abolish the FFB Council. It transfers to, and vests in, the Secretary of State for Environment, Food and Rural Affairs the property, rights and liabilities of the FFB Council, and it makes provision for the preparation of a final report and statement of accounts. It also makes consequential repeals and revocations.

Scottish Government position

Since 2009 the Scottish Government has provided support to the Food and Drink Sector, through Scottish Development International working with the Sectors' representative body (Scotland Food and Drink), to target export opportunities in key markets around the world. The dissolution of FFB will have no impact on Scottish companies, who will continue to enjoy the support of Scottish Government through Scottish Development International.

Consultation

Section 10 of the 2011 Act requires the UK Minister proposing an Order to consult on the proposed changes. The UK Government consulted on its proposals from 19 September to 31 October 2013 to seek views on whether to formally dissolve FFB in law by repealing the 1983 Act, which initially established FFB, or to do nothing, allowing the legislation to remain in force for the foreseeable future. A total of 8 responses were received, of which 4 respondents supported the government's preferred option, one was opposed, and three did not provide a clear view either way. One respondent was from Scotland, one from NI, and none from Wales. The preferred option of the UK Government is to repeal the Agricultural Marketing Act 1983 and dissolve this defunct body.

Financial/Resource Implications

There are no financial implications for Scotland. There are no resource implications other than the removal of the staff resource required to formally

present Annual Reports and Accounts to the Scottish Parliament as part of the requirements the 1983 Act.

Equal Opportunities Implications

There are no Equal Opportunities implications

Conclusion

The Scottish Government invites the Parliament to consent to the making of The Public Bodies (Abolition of Food from Britain) Order 2014, a draft of which was laid before the UK Parliament on 6 May 2014.

Annexe B

Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2014 No.

AGRICULTURE

PUBLIC BODIES

The Public Bodies (Abolition of Food from Britain) Order 2014

Made - - - -

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 1(1), 6(1) and (5), 24(1) and 35(2) of the Public Bodies Act 2011⁽⁵⁾ (“the Act”), makes the following Order.

In accordance with section 8 of the Act, the Secretary of State considers that this Order—

- (a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1) of the Act;
- (b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Scottish Parliament has consented to the making of this Order in so far as its consent is required by section 9(1) of the Act.

⁽⁵⁾ 2011 c. 24.

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The Northern Ireland Assembly has consented to the making of this Order in so far as its consent is required by section 9(3) of the Act.

The National Assembly for Wales has consented to the making of this Order in so far as its consent is required by section 9(6) of the Act.

The Secretary of State has carried out consultation in accordance with section 10 of the Act.

The Secretary of State has consulted the Scottish Ministers in accordance with section 88(2) of the Scotland Act 1998⁽⁶⁾ and the Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006⁽⁷⁾.

A draft of this Order and an explanatory document containing the information required in section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3).

In accordance with section 11(4) of the Act, the draft of this Order has been approved by resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

Citation, extent and commencement

1.—(1) This Order may be cited as the Public Bodies (Abolition of Food from Britain) Order 2014.

(2) The repeals and revocations made by article 4 and the Schedule have the same extent as the provisions to which they relate.

(3) This Order comes into force on the day after the day on which it is made, except as provided by paragraph (4).

(4) The entry in the table of repeals in the Schedule relating to the Public Bodies Act 2011 comes into force two days after the day on which this Order is made.

Abolition of Food from Britain

2.—(1) The council established by section 1 of the Agricultural Marketing Act 1983⁽⁸⁾ (Food from Britain) is abolished.

(2) The property, rights and liabilities of the council are transferred to and vest in the Secretary of State for Environment, Food and Rural Affairs.

Final report and accounts

3.—(1) The Secretary of State must prepare a report of what has been done in the discharge of Food from Britain's functions during the periods—

(a) beginning with 1st April 2013 and ending with 31st March 2014; and

(b) beginning with 1st April 2014 and ending immediately before the day on which this article comes into force.

(2) The Secretary of State must—

(a) prepare a statement of accounts of Food from Britain in respect of the periods referred to in paragraph (1)(a) and (b), and

(b) send a copy of the statement to the Comptroller and Auditor General.

(3) The Comptroller and Auditor General must—

⁽⁶⁾ 1998 c. 46.

⁽⁷⁾ 2006 c. 32.

⁽⁸⁾ 1983 c. 3.

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- (a) examine, certify and report on the statement prepared under paragraph (2), and
- (b) send a copy of the certified statement and of the Comptroller and Auditor General's report to the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department of Agriculture and Rural Development in Northern Ireland as soon as possible.
- (4) The Secretary of State must lay the final document before each House of Parliament.
- (5) The Scottish Ministers must lay the final document before the Scottish Parliament.
- (6) The Welsh Ministers must lay the final document before the National Assembly for Wales.
- (7) The Department of Agriculture and Rural Development in Northern Ireland must lay the final document before the Northern Ireland Assembly.
- (8) In this article, "the final document" means a document consisting of—
 - (a) a copy of the report prepared under paragraph (1), and
 - (b) a copy of the statement and of the report sent under paragraph (3)(b).

Repeals and revocations

4. The provisions mentioned in the Schedule are repealed or revoked to the extent specified.

	<i>Name</i> Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs
Date	

SCHEDULE

Article 4

Repeals and revocations

Table of repeals

<i>Short title</i>	<i>Extent of repeal</i>
Parliamentary Commissioner Act 1967 ⁽⁹⁾	In Schedule 2, the entry relating to Food from Britain.
Agriculture Act 1967 ⁽¹⁰⁾	Part 4.
House of Commons Disqualification Act 1975 ⁽¹¹⁾	In Schedule 1, in Part 3, the entry relating to the Chairman of Food from Britain.
Northern Ireland Assembly Disqualification Act 1975 ⁽¹²⁾	In Schedule 1, in Part 2, the entry relating to Food from Britain.
Agricultural Marketing Act 1983	The whole Act.
Agriculture Act 1986 ⁽¹³⁾	Section 8. Section 24(2) and (3).

⁽⁹⁾ 1967 c. 13. Schedule 2 was substituted by article 2 of S.I. 2011/2986. There are amendments to Schedule 2, but none is relevant.

⁽¹⁰⁾ 1967 c. 22. Repeals to provisions of Part 4 were made by the Statute Law (Repeals) Act 2004 (c. 14). Section 2 of the Agricultural Marketing Act 1983 transferred the functions of the Central Council for Agricultural and Horticultural Co-operation to Food from Britain.

⁽¹¹⁾ 1975 c. 24.

⁽¹²⁾ 1975 c. 25.

⁽¹³⁾ 1986 c. 49. Repeals to sections 8 and 24 were made by the Statute Law (Repeals) Act 2004.

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<i>Short title</i>	<i>Extent of repeal</i>
	In section 24(7), “8,”.
Freedom of Information Act 2000 ⁽¹⁴⁾	In Schedule 1, in Part 6, the entry relating to Food from Britain.
Scottish Public Services Ombudsman Act 2002 ⁽¹⁵⁾	In Schedule 2, in Part 2, paragraph 70.
Natural Environment and Rural Communities Act 2006 ⁽¹⁶⁾	In Schedule 7, paragraph 11.
Public Bodies Act 2011	In Schedule 1, the entry relating to Food from Britain.

Table of revocations

<i>Title</i>	<i>Extent of revocation</i>
The Agricultural Marketing Act 1983 (Commencement) Order 1983 ⁽¹⁷⁾	The whole Order.
The Agriculture Act 1986 (Commencement No. 3) Order 1986 ⁽¹⁸⁾	The whole Order.
The Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 ⁽¹⁹⁾	In the Schedule, paragraph 48.
The House of Commons Disqualification Order 1993 ⁽²⁰⁾	In the Schedule— (a) in paragraph 2, the entry relating to Food from Britain, (b) in paragraph 4, the entry relating to the Chairman of Food from Britain.
The Agriculture Act 1986 (Commencement No. 6) Order 1998 ⁽²¹⁾	The whole Order.
The Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 ⁽²²⁾	In the Schedule, the entry relating to Food from Britain.
The Scotland Act 1998 (Cross-Border Public	In Schedule 1, the entry relating to Food from

⁽¹⁴⁾ 2000 c. 36. There are amendments to Schedule 1 that are not relevant to this Order.

⁽¹⁵⁾ 2002 asp 11.

⁽¹⁶⁾ 2006 c. 16.

⁽¹⁷⁾ S.I. 1983/366 (C. 13).

⁽¹⁸⁾ S.I. 1986/1596 (C. 57).

⁽¹⁹⁾ S.I. 1991/1997, to which there are amendments not relevant to this Order.

⁽²⁰⁾ S.I. 1993/1572.

⁽²¹⁾ S.I. 1998/879 (C. 19).

⁽²²⁾ S.I. 1999/1319, to which there are amendments not relevant to this Order.

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<i>Title</i>	<i>Extent of revocation</i>
Authorities) (Adaptation of Functions etc) Order 1999 ⁽²³⁾	Britain. Schedule 11.
The Northern Ireland Act 1998 (Designation of Public Authorities) Order 2001 ⁽²⁴⁾	In Schedule 1, the entry relating to Food from Britain.
The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 ⁽²⁵⁾	Article 3(1)(f) (but not the “or” at the end of that sub-paragraph).
The Freedom of Information Act 2000 (Commencement No. 2) Order 2002 ⁽²⁶⁾	In Schedule 1, in Part 1, the entry relating to Food from Britain.
The Northern Ireland Act 1998 (Modification of Enactments) Order 2002 ⁽²⁷⁾	Article 7.
The Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 ⁽²⁸⁾	Article 13. In the Schedule, the entry relating to Food from Britain.
The Companies Act 2006 (Consequential Amendments etc) Order 2008 ⁽²⁹⁾	In Schedule 1, in Part 1, paragraph 1(bb).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order abolishes the council known as Food from Britain established by section 1 of the Agricultural Marketing Act 1983 (c. 3). It transfers to, and vests in, the Secretary of State for Environment, Food and Rural Affairs the property, rights and liabilities of the council, and it makes provision for the preparation of a final report and statement of accounts. It also makes consequential repeals and revocations.

No impact assessment has been produced as no cost to the business or voluntary sectors is foreseen.

⁽²³⁾ S.I. 1999/1747, to which there are amendments not relevant to this Order.

⁽²⁴⁾ S.I. 2001/1294.

⁽²⁵⁾ S.I. 2002/794, to which there is an amendment not relevant to this Order.

⁽²⁶⁾ S.I. 2002/2812 (C. 86), to which there are amendments not relevant to this Order.

⁽²⁷⁾ S.I. 2002/2843.

⁽²⁸⁾ S.I. 2003/1326, to which there are amendments not relevant to this Order.

⁽²⁹⁾ S.I. 2008/948, to which there are amendments not relevant to this Order.

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