

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

2019 No.

PUBLIC BODIES

The Public Bodies (Abolition of Public Works Loan Commissioners) Order 2019

*Made - - - -
Coming into force in accordance with articles 1(2) and 1(3)*

The Treasury makes the following Order in exercise of the powers conferred by sections 1(1), and (2), 6(1), (2)(a) and (5), 23(1)(a), (2)(b), and (6) and 35(2) of the Public Bodies Act 2011⁽¹⁾ (“the Act”).

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

- (a) serves the purpose of improving the exercise of public functions, having regard to the factors set out in section 8(1); and
- (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 Treasury has consulted in accordance with section 10 of the Act.

A draft of this Order, and an explanatory document containing the information required by section 11(2) of the Act, have been laid before Parliament in accordance with section 11(1) after the end of the period of 12 weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, the draft of this order has been approved by a resolution of each house of Parliament after the expiry of the 40-day period referred to in that provision.

Citation and commencement

1.—(1) This Order may be cited as the Public Bodies (Abolition of Public Works Loan Commissioners) Order 2019.

(2) Subject to paragraph (3), this Order shall come into force on the day after the day on which it is made.

(1) [2011 c.24](#). The reference to “Public Works Loan Commissioners” was inserted into Schedule 1 to the Act by section 54 of the Infrastructure Act [2015, c.7](#).

(3) Article 7 comes into force on the day after that on which the other provisions of this Order come into force.

Interpretation

2. In this Order—

“Commissioner” means a Public Works Loan Commissioner⁽²⁾;

“the transfer date” means the day on which this Order (other than as provided in article 1(3)) comes into force.

Abolition of the Public Works Loan Commissioners

3. The office of Public Works Loan Commissioner is abolished.

Transfer of functions

4. The functions of the Commissioners are transferred to the Treasury.

Transfers of property, rights and liabilities

5.—(1) The person who immediately before the transfer date is appointed as the secretary of the Commissioners is to be treated, on and after the transfer date, as if the person had been appointed as the Public Works Loans Secretary under section 6(1) of the Public Works Loans Act 1875⁽³⁾.

(2) All land which the Commissioners own, have the benefit of, or are entitled to immediately before the transfer date is transferred to and vested in the Public Works Loans Secretary.

(3) All property, interests, rights and liabilities which the Commissioners own, have the benefit of, are entitled to, or are subject immediately before the transfer date, other than any land that is transferred to the Public Works Loans Secretary pursuant to paragraph (2) above, are transferred to and vested in the Treasury.

Final report

6.—(1) As soon as reasonably practicable after the transfer date, the Treasury must make a report (“the final report”) setting out the details in paragraph (2) for the period which—

- (a) began immediately after the end of the last period for which the Commissioners made a report under section 5(3) of the Public Works Loans Act 1875, and
- (b) ended immediately before the transfer date.

(2) The final report must contain details of—

- (a) any money issued to the Commissioners;
- (b) any loans granted by the Commissioners;
- (c) the execution of the duties of the Commissioners;
- (d) any difference that may have arisen between the Commissioners and any public department respecting the grant of any loan or the construction of any Act relating to the loans by the Commissioners; and
- (e) any other particulars as the Treasury may think fit.

(3) The Treasury must lay a copy of the final report before Parliament.

⁽²⁾ The Public Works Loan Commissioners were established by section 4 of the Public Works Loans Act 1875.

⁽³⁾ 1875 c.89.

Repeal of reference to the Commissioners in the Public Bodies Act 2011

7. In Schedule 1 to the Act, omit “Public Works Loan Commissioners”(4).

Consequential provisions

8. Schedule 1 (which makes consequential amendments to primary legislation) and Schedule 2 (which makes consequential amendments to secondary legislation) have effect.

Supplementary

9.—(1) Nothing in this Order affects the validity of anything done (or having effect as if done) by or in relation to the Commissioners before the transfer date.

(2) Anything (including legal proceedings) which immediately before the transfer date is in the process of being done by or in relation to the Commissioners may be continued on or after the transfer date by or in relation to the Treasury.

(3) Anything done (or having effect as if done) by or in relation to the Commissioners has effect, so far as is necessary for continuing its effect on or after the transfer date, as if done by or in relation to the Treasury.

(4) Subject to the express provision made in Schedules 1 and 2 and so far as necessary or appropriate for the purposes of or in consequence of articles 4 or 5—

- (a) a reference to the Commissioners in an enactment, instrument or other document—
 - (i) where such reference is in respect of land, is to be treated as a reference to the Public Works Loans Secretary, and
 - (ii) in all other cases is to be treated as a reference to the Treasury;
- (b) a reference to the secretary to the Commissioners in an enactment, instrument or other document is to be treated as a reference to the Public Works Loans Secretary; and
- (c) a reference to the Public Works Loan Board is to be treated as a reference to the Treasury.

Date

name
name
Two of the Lords Commissioners of Her
Majesty’s Treasury

(4) Public Works Loan Commissioners were inserted into Schedule 1 of the Public Bodies Act 2011 by section 54 of the Infrastructure Act 2015 c.7.

SCHEDULE 1

Article 8

Consequential provisions – primary legislation

Harbours and Passing Tolls, &c. Act 1861

1. The Harbours and Passing Tolls, &c. Act 1861⁽⁵⁾ is amended as follows.

2.—(1) Section 3 (advances of money to harbour authorities by Public Works Loan Commissioners under 19 & 20 Vict c 17) is amended as follows.

(2) In the heading, for “Public Works Loan Commissioners under 19 & 20 Vict c 17” substitute “the Treasury”.

(3) For the words “Public Works Loan Commissioners” substitute “Treasury” in each place occurring.

(4) In the words before subsection (1) omit the words “, as defined by the Act of the nineteenth year of the reign of Her present Majesty, chapter seventeen,”.

(5) For the words “said Commissioners” substitute “Treasury” in each place occurring.

(6) In subsection (6) for “the Commissioners” substitute “the Treasury.”

Public Works and Fisheries Acts Amendment Act 1863

3. The Public Works and Fisheries Acts Amendment Act 1863⁽⁶⁾ is amended as follows.

4.—(1) Section 1 (Public Works Loan Commissioners may grant priority of security in respect of loans to harbour authorities by other persons over securities given to them) is amended as follows.

(2) In the heading for “Public Works Loan Commissioners” substitute “The Treasury”.

(3) For “the Public Works Loan Commissioners” substitute “local loans made under section 3 of the National Loans Act 1968”.

(4) For “the Commissioners” in each place occurring, substitute “the Treasury”.

(5) For “the said Commissioners” substitute “the Treasury”.

5.—(1) Section 2 (such priority not to give validity to any security which could not have been given if this Act had not passed, etc) is amended as follows.

(2) For “Commissioners” substitute “Treasury” in the first and last place occurring.

(3) For “secretary for the time being of the Commissioners” substitute “Public Works Loans Secretary (see section 6 of the Public Works Loans Act 1875)”.

6.—(1) Section 3 (how priority may be granted) is amended as follows.

(2) For “Public Works Loan Commissioners” substitute “Treasury”.

(3) For “under the hand of the secretary for the time being of the Commissioners” substitute “by the Public Works Loans Secretary”.

(4) For “which the Commissioners” substitute “which the Treasury”.

7.—(1) Section 4 (harbour authorities may borrow money to pay off debts having priority over securities for loans by Public Works Loan Commissioners, etc) is amended as follows.

(5) 1861 c. 47.

(6) 1863 c. 81.

(2) In the heading for “loans by Public Works Loan Commissioners, etc” substitute “local loans made by the Treasury”.

(3) For “loan by the Public Works Loan Commissioners” substitute “local loan, made under section 3 of the National Loans Act 1968(7),”.

(4) For “relating to the Public Works Loan Commissioners” substitute “relating to local loans”.

Public Works Loans Act 1875

8. The Public Works Loans Act 1875 is amended as follows.

9. Omit section 4 (constitution, &c. of Public Works Loan Commissioners).

10.—(1) Section 5 (powers, etc of Commissioners) is amended as follows.

(2) In the heading, for “Commissioners” substitute “the Treasury”.

(3) In the words before subsection (1) for “the Loan Commissioners” substitute “local loans”.

(4) In subsection (2) for “Commissioners” substitute “Treasury”.

(5) In subsection (3)—

(a) for “Loan Commissioners” substitute “Treasury” in each place occurring;

(b) for “the Commissioners” substitute “the Treasury”;

(c) omit the words “either before or after the passing of this Act”; and

(d) omit the words “transmitted to the Treasury and shall be”.

(6) Omit subsections (4) and (5).

11. For section 6 (officers and their salaries and expenses) substitute –

“6 The Public Works Loans Secretary

(1) A person may be appointed from time to time by the Treasury to the office of the Public Works Loans Secretary and that person shall be known as the Public Works Loans Secretary.

(2) A person holds and vacates office as the Public Works Loans Secretary in accordance with the terms made by the Treasury.

(3) The Public Works Loans Secretary exercises the functions of that office on behalf of the Crown.

(4) The Treasury may appoint an assistant to the Public Works Loans Secretary as they consider necessary.”

12.—(1) Section 7 (securities given to and property vested in secretary to vest in his successor) is amended as follows.

(2) In the heading for “securities given to and property vested in secretary to vest in his successor” substitute “Securities given to and land and property vested in the Public Works Loans Secretary to vest in their successor”.

(3) Insert “or instrument” after the words “any other Act”.

(4) For “real”, in both places occurring, substitute “land”.

(7) 1968 c.13.