Delegated Legislation

By the end of this unit, you will be able to (AO1):
- Explain what DL is and why we need it.
- Describe the three types of DL and illustrate them with examples.
- Describe how DL is controlled

You will also be able to evaluate (AO2):
- The effectiveness of the controls
- The impact of the Legislative and Regulatory Reform Act 2007
- Evaluate the advantages and disadvantages of DL

End of Unit Assessment
You will be assessed using a DRAG test covering legislation and delegated legislation at the end of this unit of work. Note: this test will be part of your assessment.

Homework:
Complete the research task on p. 10.

Key Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Means?</th>
<th>Term</th>
<th>Means?</th>
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</thead>
<tbody>
<tr>
<td>Parent or Enabling Act</td>
<td>Judicial review</td>
<td>Statutory Instrument</td>
<td>Locus standii</td>
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<tr>
<td>By law</td>
<td>Negative resolution</td>
<td>Orders in Council</td>
<td>Affirmative resolution</td>
</tr>
<tr>
<td>Secondary or delegated legislation</td>
<td>Super-affirmative resolution.</td>
<td>Standing Committee</td>
<td>Wednesbury unreasonableness</td>
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</table>
**An Introduction: What is Delegated legislation?**

They are a series of laws made by a body other than Parliament. Parliament literally ‘delegates’ or hands over power to other bodies to make laws. In technical terms, the legislative gives away its power to set laws in some areas to the executive e.g. local government or ministers.

Although this is known as secondary legislation, it has the same force in law as any Act of Parliament.

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**Remember:** Parliament can pass any law it wants, so it can give away its power!
This is known as ________________

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**Where does it come from?**

Well, it comes out of a Parent or Enabling Act.

The Parent or Enabling Act creates the framework of the law which delegates authority to others for a specific purpose (this must be within the scope of the act – so they can’t use a Farming Act to talk about cannabis!).

It says who can delegated and what they can delegate, and how the delegated body can pass the law.

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**Student Task:** For each of the following Acts, decide who might be given the power, and what they might be given the power to do!

**Hint:** often it is passed to Ministers

<table>
<thead>
<tr>
<th>ACT</th>
<th>DELEGATES POWER TO...</th>
<th>TO MAKE LAWS CONCERNING....</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dangerous Dogs Act 1991</td>
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<td>Misuse of Drugs Act 1971</td>
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<tr>
<td>Police and Criminal Evidence Act 1984</td>
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<tr>
<td>Criminal Justice and Police Act 2001*</td>
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</table>

*for this one, think about what might cause the most violent crime and who might have the power to try and stop it!
Consolidating your understanding of the types...

For the purposes of AS Law, there are three(ish) types you need to know. You need to be able to identify them and explain them, using at least two examples to illustrate. You also need to explain how they become law.

**Type One:**

These are created by local authorities (e.g. Central Bedfordshire), public utilities, town councils or nationalised bodies e.g. railways or airports!

The idea is that they can address the local needs more easily than Parliament, and they normally only affect a specific geographic area.

After all, Westminster doesn’t really care about Dunstable and our local nuisances!

Most of the local laws are done under Local Government Act 1972.

They will need to be publicised and signed off by the relevant minister before they can become law.

*Boddingtons v British Transport Police 1998*

**FACTS:**

**LAW:**

Enabling Act: Transport Act 1962

By-law:________________________

Other examples:

Notes:
Type Two:

These are possibly the strangest. They are exercised by the legislative Privy Council. This is a select group of ministers and ex-ministers, the cabinet and the PM (and others!). They are acting on behalf of the Queen under prerogative powers.

They have the power to make laws in emergencies or when Parliament is not sitting. Emergency Powers Act 1920

Orders in council are also used to implement a lot of European directives (laws) under the European Communities Act 1972.

Since 1946, they have been treated as a special version of statutory instruments, and as such are subject to the same checks and controls. They are drafted by the relevant government department and then approved by the Privy Council.

An example of an order in council....

R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (2006)

Look at the article on the next page of the handout entitled ‘After 40 years Chagos exiles can go home, court rules’ and answer the following questions:

1. What were the facts of the situation?

2. Which court handed down the verdict?

3. When will the judgment come into effect?

4. What problems with Orders in Council can you spot?

5. What powers does the court have?

Other Examples: Notes
After 40 years Chagos exiles can go home, court rules

Exiles from the Chagos Islands were planning last night to return to their paradise in the Indian Ocean from which they were expelled by the Government at the height of the Cold War.

Three judges said that the Government’s treatment of them was “a repugnant abuse of power” as families and wellwishers packed the Court of Appeal to hear the news they had awaited for 40 years.

However, the islanders still face a formidable obstacle in the form of the Pentagon, which will use its considerable muscle to keep civilians away from its strategic military base on Diego Garcia, the largest island in the archipelago.

Under an agreement signed in 1966, America leased Diego Garcia from Britain for 50 years and began developing the island into an air and naval facility. A secret “exchange of notes” also provided for the population to be removed.

Diego Garcia is now home to nearly 4,000 American military and civilian personnel and some of the most lethal weaponry in the US armoury. The nearest locals are 1,000 miles away.

B52 bombers line the apron alongside the 4,000-yard runway. Recently the Americans added four hangars for B2 Stealth bombers, their only deployment outside mainland America. During the Afghan campaign in 2001, more bombs were dropped from aircraft based on Diego Garcia than any other American facility. The bombers went into action against Iraq in 2003.

After winning the legal battle estimated to have cost the taxpayer up to £4 million, Olivier Bancoult, the leader of the Chagossian community in exile, said yesterday: “We can now go back to our paradise. It has been my dream.”

More than 2,000 islanders, who worked mainly on coconut plantations, were removed forcibly from their homes on the 57 islands of the Chagos archipelago between 1965 and 1973 and dumped on the dockside at Mauritius.

Barely 500 are still alive but, with their descendants, there are an estimated 4,000 exiles in Mauritius, the Seychelles and Britain. The judges, headed by the Master of the Rolls, Sir Anthony Clarke, refused a stay on the effect of the judgment, allowing the islanders to return immediately.

The method the Government used to stop the islanders from returning home – an Order in Council under the Royal Prerogative – was unlawful and an unrestrained abuse of power, the judges ruled.

Margaret Beckett, the Foreign Secretary, took the case to the Court of Appeal after two High Court judges found for the Chagossians. The Government was refused leave to take the case to the House of Lords but is expected to petition the law lords directly.

The only island the Chagossians will not be able to resettle under the original High Court orders will be Diego Garcia.

What about the House of Lords’ (Supreme Court) response?
Type Three:

These probably make up the majority of DL.

There are well over ___________of them passed every year compared to around ___________Acts of Parliament. Many of them don’t even go anywhere near Parliament (but more of that little problem later...)

These give power to a **minister** to make rules and regulations governing things in his area. He has to consult before introducing them. SIs are designed to supplement the broad aims of Parliament’s primary legislation with detailed technical rules.

They must all be ‘laid before Parliament’, but the exact process to be followed is laid out in the enabling act. There are two processes you will need to know:

<table>
<thead>
<tr>
<th>Affirmative Resolution</th>
<th>Means...</th>
<th>Example of when it is needed...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negative Resolution</td>
<td>Means...</td>
<td>Example of when it is needed...</td>
</tr>
</tbody>
</table>

**Consolidating your knowledge:**

**How well were you listening?** Using what you have heard... complete the table below with your own examples!

<table>
<thead>
<tr>
<th>Act</th>
<th>What is the Power?</th>
<th>Who has the power?</th>
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**My Notebox...**
Another type of SI (and possible ‘destruction of democracy...)

Legislative and Regulatory Reform Act 2006

- LROs allow a minister to amend primary legislation without parliamentary debate or the creation of new primary legislation (an act of parliament). A minister can ‘read in’ delegated powers into any Act **even if they were not there to start with.**

- According to the Act, it can be done, amongst other things, if it is to reduce a **‘burden’**

  “a financial cost, an administrative inconvenience, an obstacle to efficiency, productivity or profitability, or a sanction, criminal or otherwise, that affects the carrying on of any lawful activity.”

**Spot any issues?**

These orders will be called ‘Statutory Instruments’. However, because these orders are quite powerful, amendments under this Act must be passed using the brilliantly named **super-affirmative resolution procedure.**

This allows the SI to be amended within 60 days, and says that the Minister **must** have regard to the recommendations of the various committees and changes the rule that Statutory Instruments cannot be amended following being laid before Parliament.

In normal language this means:

**An Example:** Dangerous Wild Animals Act 1976

AO2: **Student Task:** Is the introduction of these new powers justified? Why might some people call this the end of democracy? What steps has the government taken to provide controls? Are they sufficient?
b) Identify and explain the most suitable type of delegated legislation to implement law in the following situations:

(i) To implement a European Union Directive quickly when Parliament is not sitting. [5]

<table>
<thead>
<tr>
<th>Decision</th>
<th>Because</th>
<th>Illustration, example</th>
<th>AORP</th>
</tr>
</thead>
</table>

(ii) To allow a government department to issue regulations on education. [5]

(iii) For a train company (a public corporation) to implement a ban on the use of mobile phones by passengers. [5]

<table>
<thead>
<tr>
<th>Mark i</th>
<th>Mark ii</th>
<th>Mark iii</th>
<th>Confidence?</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
Homework Task:

Researching a Statutory Instrument.

**Task One:**  [http://www.legislation.gov.uk/ukpga](http://www.legislation.gov.uk/ukpga)

This will take you to the page on Acts of Parliament... pick a year from the bar chart!

1. How many statutes were passed that year?

2. Click on your chosen year and pick two that sound interesting: what were they and what did the act cover? 
   (remember that the long title might help you with this)

**Task Two:**  [http://www.legislation.gov.uk/uksi](http://www.legislation.gov.uk/uksi)

This will take you to the UK statutory instrument area with all SIs since 1987. You should choose a year on the bar chart (the same as the year you picked for your legislation!)

1. How many in your year?

2. What sort things are covered in your year?

Now select an individual SI and make a note of the following:

3. The full title of the SI

4. **Who** is given the power to bring it into force?

5. Then name and date of the parent or enabling Act.

6. The date it came into force. How much time passed between the date it was made and the date it came into force?

7. What does it do?
### Why do we need DL?

There are thousands of them passed every year, so we must have a reason for having them...

<table>
<thead>
<tr>
<th>Reason</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well, it lets them <strong>add technical detail</strong>, e.g. the level of fine, without having to pass a new act each time.</td>
<td>They can also use them <strong>flesh out</strong> the law in more detail, because Parliament is not quite bright enough, or expert enough, to describe it accurately e.g. pension calculations.</td>
</tr>
<tr>
<td>It is <strong>quick to bring in</strong>, which means that emergencies can be responded to quickly.</td>
<td>Finally, they can use this method to <strong>update the law</strong> more easily e.g. changing the classification of Cannabis.</td>
</tr>
<tr>
<td>It allows for further <strong>consultation</strong> with affected parties.</td>
<td>They can use the <strong>expertise</strong> of people who know better than them! E.g. computer regulations, environmental standards, local councils.</td>
</tr>
<tr>
<td><strong>It is more flexible</strong> than primary statutes. It can be altered to suit changing circumstances.</td>
<td>Prevents Parliamentary timetable from being overloaded by allowing them to focus on the <strong>big</strong> picture e.g. the aims and scope of the Act, rather than the <strong>minute detail.</strong></td>
</tr>
</tbody>
</table>

**Show your understanding:** Go back through the reasons and add an example to **at least** four of them.

**Developing your AO2**

Ok, so these are all fairly sound reasons for having delegated legislation, but we also need to look at the argument that there is too much DL and is it not all necessary. Pick two points from above and illustrate the problem with that argument to answer the question:

**Discuss some of the problems associated with delegated legislation.**
Q: Why do we need controls on DL?

A: Well, simply put, because they are powers exercised by people other than Parliament (and not necessarily democratically elected) so we want to try and limit their power so they won’t get carried away!

There are three sets of controls that you need to be able to cover:

- **General**
- **Parliamentary**
- **Judicial**

**How do we know what the controls are?**

Well, some of them are general, and apply no matter what type of DL it is, but most of the time we know what the controls are because they are mentioned in the *enabling act*.

**Task:**

1. Look at this extract from the Dangerous Dogs Act 1991. What controls over the powers of the Home Secretary can you spot?

2. Think back to your research task at the start of the topic, and what we have covered so far. What other controls or limits did you come across when looking at the different types of delegated legislation:
General Controls

1. Consultation

Specialists and special interest groups will be asked to feed in to the decisions before. They can also be a little more general and the enabling act may say “such consultation as the Minister may deem appropriate.”

   e.g. Codes of Practice under s.66 PACE 1984.

   The Home Secretary must consult with __________________________ before amending these.


   Statutory Instrument Act 1996 - this says that all SI must be published and made available to the public (although it can be hard to find them!).

   By laws should also be published in local papers one month before they come into force (and don’t forget the lamp posts), and should be visible!
Parliamentary Controls

1. Further Legislation or Revocation of the Parent Act

Reminds us of the supremacy of Parliament, and if they don’t like it... they revoke the Enabling Act or pass another bright shiny law.

What does revoke mean?

Why will passing an Primary Act work?

2. Ask a Question!

At Prime Minister’s questions (Tuesday PM) they can ask a question of the relevant minister (or even the PM!) or at debates on the bill...

3. Affirmative Resolution

A motion to approve it is put before both Houses within a certain time period (normally 28-40 days) and the House calls a division.

They cannot amend it - only approve or disapprove it. [These tend to be the most controversial ones or those of special constitutional importance.]

e.g. amendments to PACE’s Codes of Practice or the tuition fee increases!
4. Negative Resolution

Simply put, if nothing is done (normally within 40 days), it automatically becomes law.

The majority of SI are done this way. If a MP wishes to challenge it, he must table a motion to annul in either House.

5. Super-Affirmative Resolution

This allows the SI to be amended within 60 days, and says that the Minister must have regard to the recommendations of the various committees and changes the rule that Statutory Instruments cannot be amended following being laid before Parliament.

Student Question:

How do we know which resolution process to follow?

6. Parliamentary Scrutiny Committees

There is a House of Lords Delegated Powers Scrutiny Committee, set up in 1992, in the House of Lords, which was set up to examine any bills with DL powers in them before they become law and report back on whether they are ok or not.

However, it has no legal powers to force Parliament to follow its recommendations!

There is also a Merits of Statutory Interpretation committee in the House of Lords, established in 2003. These people look at all the merits of the SI's (whether negative or affirmative resolution) and bring to Parliament's attention any that look dodgy.

Following the recent election, there is also the newly resurrected Joint Committee on Statutory Instruments who have power to look at all legislation, including those which are to be passed by negative resolution. It is made up of members from ______ and ____________,. They look at the wording of the SI, and are not concerned with the merits of the SI at all.

That's a lot of people looking at a lot of things with not much power to make anyone do anything!

Summarise the powers of each committee below:

<table>
<thead>
<tr>
<th>HL DL Scrutiny committee</th>
<th>HL Merits of SI Committee</th>
<th>Joint Committee on SIs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>
7. The Parent Act Itself

The long title (remember this?) imposes limits because if it isn’t referred to here, it can’t be empowered*.

*err... well there is an exception!

8. Department for Local Government

...needs to approve all new bylaws. (Likewise, the Department of Transport needs to approve transport ones!)
Unlike primary legislation, DL can be challenged in the courts (the High Court to be exact!) and they can even quash the legislation.

We've already seen an example of this with the Chagos challenge.

Why should we allow legislation to be challenged?
...because delegated legislation is created by non-directly elected people (the executive) and so there should be limits on their power.

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**A Grade Extension Work**

There is further information on the operation of Judicial Review in January 2008's Law Review (pgs 10-11). Take a look at it:

1. Explain the orders the court may make if the judicial review challenge is successful.
2. How effective are the orders which may be imposed?
3. Is it true to say that an individual may receive effective protection from inappropriate DL?

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**How do I bring a case?**

When someone challenges powers under delegated legislation, they have to prove that they have:

locus standii.

This means that they are directly affected by the legislation and have the 'standing' to bring the case.

**Gillick v West Norfolk AHA (1986)**

Facts:  
Ratio:

Why did Mrs Gillick have standing?
At AS you need to be able to describe three types of judicial review:

1. **Procedural Ultra Vires**

This means that the body has the power to introduce the delegated legislation, but they don’t follow the set procedures e.g. consultation.

**Agricultural Training Board v Aylesbury Mushrooms Ltd (1972)**

According the Enabling Act, the Minister when looking at changing the training requirements, he had to consult:

“any organization… appearing to him to be representative of substantial numbers employers engaging in the activity concerned.”

And he forgot to consult the mushroom growers who represented 85% of all mushroom growers.

The court ruled that the minister’s actions were *ultra vires*. So, the legislation was invalid against them.

**But it was still valid against the other organisations... why?**

2. **Substantial Ultra Vires**

This means that the body making the law has gone beyond its powers or done something *it never had the power to do* in the first place!

Some examples...

- **Interferes with basic human rights:** *Strictland v Hayes Borough Council (1896)*
- **Levy taxes**
- **Sub-delegate**
- **Contravenes the Human Rights Act 1998 (e.g. the tuition fee challenge)**
One of your IS tasks will give you a second example here:

3. **Wednesbury (1932) ‘unreasonableness’**

This is quite controversial! It means was it was so unreasonable that no public body would really do it.

**Associated Picture House v Wednesbury Corporation 1948**

**Student Task** Read the case summary on the board and complete the table below:

<table>
<thead>
<tr>
<th>Parent Act?</th>
<th></th>
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<tbody>
<tr>
<td>Type of DL?</td>
<td></td>
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<tr>
<td>Who did it give power to?</td>
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<tr>
<td>What did they do with this power?</td>
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<td>Why was it not substantive or procedural?</td>
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<td>What was the outcome?</td>
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</tbody>
</table>
**GOT THOSE CONTROLS?**

Below is a wordsearch containing fifteen controls on delegated legislation. **Find** the words and then **assign** them to one of the following three areas:

<table>
<thead>
<tr>
<th>Judicial</th>
<th>General</th>
<th>Legislative</th>
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N B S U J H Q R C P F E S F P S E R U G
F O W U D U Z U R D V Y J D U O L E I N
G Y I M B M M O I I J F K P K U B S Z W
A L U T J S C S T S E B E Q F C A O J S
G K J A A E T A G G I R E W X G N L C N
A A N W D T M A E H A Y L I J E O U K O
L X P U Z R L N N F E T X V E B S T T J
Q K R V I V W U F T S X T C N Z A I C V
M A W F U D I I S N I C T M U J E O A O
L O F M T X R Y O N N A S C V J R N T X
N A C J Y M R I A N O O L C Y N N D N H
J E M S A X T I D Q Z C I C R E U U E Z
V U P T N S S E R I V A R T L U K U R Y
W E I V E R L A I C I D U J A W T O A A
E V P U B L I C A T I O N R V K K I P N
E C Q N E G A T I V E G E Q C R O Y N J
U F T Y I Y Q G Y X W K A E M O Y V M Y
R B O T W Q I E W E N J B J W W H W E E
T O Q K Q H M Z X R W F D J B E U E M R
O E N B D S O K C G Y O Y W R P L X H Y
Evaluating the Controls... Are they as good as they should be?

Pick six controls and complete the evaluative table below. Your snowballs should help with this!

_Aim to refer to a range of controls covering all three types._

<table>
<thead>
<tr>
<th>Control</th>
<th>Effective because</th>
<th>However...</th>
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What are the Problems with Delegated Legislation?

**Task:** Complete the grid below! Use the article at the back of the handout to help, and even your snowball may be of some assistance!

**Aiming for:**
- E – explain why it is a disadvantage
- C – give an example to illustrate your point
- A – consider the counterargument. Why might the disadvantage not be so bad after all?

<table>
<thead>
<tr>
<th>Disadvantage</th>
<th>Why</th>
<th>Linked example…</th>
<th>However… because</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume</td>
<td></td>
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</tr>
<tr>
<td>Difficult to understand</td>
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<td></td>
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<tr>
<td>Lack of Parliamentary Scrutiny</td>
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<td></td>
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<tr>
<td>Lack of democratic accountability</td>
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<td></td>
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<tr>
<td>Sub delegation</td>
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<tr>
<td>Powers to challenge it in the court are limited</td>
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<td></td>
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<tr>
<td>Lack of publicity and debate</td>
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</tbody>
</table>
Whitehall's bread and butter

Statutory instruments cover everything from units of measurement to grey squirrels and sausage making, but few are widely publicised.

Steve Thoburn, the market trader in Sunderland magistrates court this week for selling fruit in pounds and ounces alone rather than along with metric measures, was not prosecuted under the law as it is usually understood - a statute passed after deliberation by MPs and peers. He was done under "delegated legislation". The case was brought under the Units of Measurement Regulations 1994 - which came into effect in 2000.

Parliament passed 3,412 similar regulations last year. MPs have only been back at work a few days after the Christmas break and already they have passed 60 of them. While parliament gets to "see" them, all but a handful go through on the nod. Few have even the remotest chance of being debated, let alone defeated. There is nothing new about governments' use of statutory instruments or SIs - even if, as the chart shows, the annual average has been rising in recent years. (Annual records began in 1895.) The Tories were committed to lightening the regulatory load but Thatcher and Major presided over a very big increase. Such orders can only be made under a pre-existing act of parliament. Sometimes statutes can give very broad licence, such as the 1972 European Communities Act under which the metric regulation was issued.

These are laws made by civil servants. A minister, usually not the secretary of state, does see and approve them but the crucial decisions about what should be in regulations, their timing and indeed whether they should be made at all, are taken within Whitehall, not usually by the senior civil service but many grades below.

As citizens and taxpayers we would probably object to our MPs spending too much time immersing themselves in the detail of the Thames Estuary Cockle Fishery Order 1994 or the Baking and Sausage Making (Christmas and New Year) Regulations 1985 and the thousands like them passed each year. But they are not all a matter of routine. The issues behind some other regulations make frontpage headlines such as the supply of arms to Sierra Leone (the Sierra Leone [UN sanctions] Order 1997) and whether butchers should be allowed to sell beef on the bone (the Beef Bones Regulations 1997). And there are very many more big issues (such as sentencing criminal offenders or eligibility for social security benefits) that do not make the frontpages.

Of course, just because bureaucrats write them, this does not mean that they should not be on the statute books. In general, civil servants are a conscientious bunch who do not ban things just for fun. In the case of Mr Thoburn and his apples and oranges, they were "only obeying orders" in the form of EU council directives (80/181 and 89/617). If they did not pass the law, the government might be sued in the European court while the directives would not go away.

At other times, civil servants react to public pressure. They were not acting as killjoys when they proposed the Wireless Telegraphy (Control of Interference from Videosenders) order 1997 which banned mini-transmitters to plug into the back of videos so you could pick up the signal on any television in your house. A reason for the ban was that these gadgets caused interference and could impede emergency services radio frequencies. People power was another reason. A videosender owner used his machine to beam hardcore pornography to his bedroom on a Sunday night during Songs of Praise. People in the neighbourhood complained when freak atmospheric conditions meant that the pornographic signal drowned out the religious worship.

Whitehall makes an effort to consult. Though interest groups consulted do not always have the time to deal with the mass of detail, over two-thirds of them think that the system works well and say that they are consulted regularly and frequently.

So what is the problem with these type of laws? For the most part, nothing. As long as these regulations do not embody major political decisions, we would want the system to beaver away on regulations bearing on, say, grants to former apple orchard owners, without bothering us or our MPs.

Government should not expect to make really big decisions by means of these regulations and imagine people will not notice. Big issues will out as some of the key SIs on genetically modified foods, beef on the bone and lone parent benefit (all covered by SIs) show us. It is the regulations in between the routine and the eyecatchingly political that should worry us more.

There is simply no mechanism for airing the collective choices that are made every day on our behalf. Matters such as which particular bits of crime sentencing legislation should actually be brought into effect, whether discriminatory legislation preventing women entering the fire service should be removed and exactly how far we need to go to implement this or that European directive are the bread and butter of everyday government in Whitehall.

Such topics are rarely raised by politicians, press, radio or TV. There are plenty of reasons why - they may be technical issues, they may appear at first sight to affect only a few people or, like weights and measures laws, they might seem to be a long way off.

But once they are on the statute books they can come back to haunt us because they are not always easy to remove. The Grey Squirrels (Prohibition of Importation and Keeping) order 1937 is still technically in force. It requires "the occupier of any land, who knows that grey squirrels, not being grey squirrels kept by him under licence, are to be found thereon shall forthwith give notice to the appropriate department".

I have not yet tried phoning the Ministry of Agriculture about the squirrel that eats nuts from our bird table. I hope it will not land me in court like Mr Thoburn.

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Revision Questions:

1. Explain the importance of the Enabling Act

2. What is a by-law?

3. What is a Statutory Instrument?

4. What is an Order in Council?

5. What are the checks done by Parliament?

6. What is judicial review?

7. Explain procedural ultra vires

8. Explain substantive ultra vires

9. What is ‘wednesbury unreasonableness’?

10. What are the main advantages of delegated legislation?

11. What are the main disadvantages of delegated legislation?

12. Which are the most effective controls on legislation why?

13. What is meant by a super affirmative resolution?