

# Topic: Delegated Legislation

## **Meaning of Delegated Legislation**

Delegated legislation means the exercise of legislative power by an agency that is subordinate to the legislature. This subordinate body acquires the power from the act of the legislature. Power is transferred from the principal lawmaker to the lower body, which may be the executive, cabinet, council of minister, or a specific administrative agency, by the mechanism of delegation.

## **TYPES OF DELEGATED LEGISLATION**

There are different types of delegated legislation:

- Statutory Instruments
- byelaws
- Orders in Council
- Court Rule committees
- professional regulations.

## **Reasons For Delegated Legislation**

1. Despite the ever-increasing volume of primary legislation, the complexities of governing a sophisticated society (and even a developing society) demands the delegation of some legislative functions to inferior bodies such as ministers and administrative agencies. Clearly parliament does not have time or resources to enact every single piece of legislation that is needed in the form of primary legislation, which can be fully debated and scrutinized in accordance with legislative procedures. The result is delegated legislation- legislation produced by an 'inferior body' which nevertheless has the force of law.
2. Tackling the complexities of modern administration in an efficient and efficient manner demands an atmosphere of complexity. Parliament has to follow strict legislative procedures to make a single law. Hence, it will be far from being flexible without delegating some of its powers to the executive.

## **Merits of Delegated Legislation:**

- Saves limited time in Parliament;
- Allow rapid change;
- Lack detailed or technical knowledge. E.g. Specific details in Abortion Act, Road Traffic detail
- Quick response to new developments, e.g. Foot and Mouth outbreaks. The Prevention of Terrorism (Temporary Provisions) Act allows the quick addition of new prohibited groups.
- Enables minor changes to statutes, e.g. Variations in sentences, approval of motor vehicle changes.
- Model bylaws available from Whitehall.
- Withdrawal or amendment easy.

## **Demerits of Delegated Legislation**

- Implies that Parliament has insufficient time to scrutinize it. Parliament is not reviewing legislation properly.
- Sub-delegation of powers a further problem (although not for EU statutory instruments), which causes complexity and confusion.
- Sheer volume causes complexity – it is impossible for anyone to keep abreast of all delegated legislation.
- Lack of publicity, not known about by the public (and often lawyers).
- It is undemocratic as most regulations are made by civil servant or other unelected people, except for local authority bylaws made by elected Councillors.

### **Control of Delegated Legislation**

Delegated legislation is controlled by the Parliament and the judiciary. Overall, the Parliament has control along with statutory committees who take into account the delegated powers made by a Bill. Using the negative resolution procedure statutory instruments can become legislation in either two ways. One of the ways it commences is when after the statutory instruments is written, it is shown to Parliament. However, if after forty days there are no counter arguments it instantly becomes law, if there is some concern then it is debated upon. The other procedure is more oppressive as the Parliament does not amend any statutory instruments in fact only one out of ten instruments are passed under this procedure.