



House of Commons  
European Statutory  
Instruments Committee

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**Third Report of  
Session 2019–21**

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**Documents considered by the  
Committee on 24 March 2020**

**Drawing attention to:**

The Carriage of Dangerous Goods and Use of Transportable  
Pressure Equipment (Amendment) (EU Exit) Regulations 2020

*Report, together with  
formal minutes*

*Ordered by the House of Commons  
to be printed 24 March 2020*

## European Statutory Instruments Committee

The European Statutory Instruments Committee is appointed by the House of Commons to examine and report on:

(a) any of the following documents laid before the House of Commons in accordance with paragraph 3(3)(b) or 17(3)(b) of Schedule 7 to the European Union (Withdrawal) Act 2018—

- (i) a draft of an instrument; and
- (ii) a memorandum setting out both a statement made by a Minister of the Crown to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament (the negative procedure) and the reasons for that opinion, and

(b) any matter arising from its consideration of such documents.

### Current membership

[Andrew Jones MP](#) (*Conservative, Harrogate and Knaresborough*) (Chair)

[Kirsty Blackman MP](#) (*Scottish National Party, Aberdeen North*)

[Geraint Davies MP](#) (*Labour, Swansea West*)

[Mrs Flick Drummond MP](#) (*Conservative, Meon Valley*)

[Rt Hon Mr Philip Dunne MP](#) (*Conservative, Ludlow*)

[Rt Hon Sir David Evennett MP](#) (*Conservative, Bexleyheath and Crayford*)

[Vicky Ford MP](#) (*Conservative, Chelmsford*)

[Mark Garnier MP](#) (*Conservative, Wyre Forest*)

[Mr Richard Holden](#) (*Conservative, North West Durham*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Charlotte Nichols MP](#) (*Labour, Warrington North*)

[Mary Robinson MP](#) (*Conservative, Cheadle*)

[Jo Stevens MP](#) (*Labour, Cardiff Central*)

[Owen Thompson MP](#) (*Scottish National Party, Midlothian*)

[Liz Twist MP](#) (*Labour, Blaydon*)

[Craig Williams MP](#) (*Conservative, Montgomeryshire*)

### Powers

The Committee's powers are set out under a temporary Standing Order of 3 February 2020.

### Publications

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The reports of the Committee are published in print by Order of the House. All publications of the Committee are available on the Internet from <https://committees.parliament.uk/committee/393/european-statutory-instruments>.

### **Committee staff**

The current staff of the Committee are Elektra Garvie Adams (Second Clerk), Sue Beeby and Apostolos Kostoulas (Committee Assistants), and Luanne Middleton (Clerk). Advisory Counsel: Klara Banaszak, Daniel Greenberg and Vanessa MacNair.

All correspondence should be addressed to the Clerk of the European Statutory Instruments Committee, House of Commons, London SW1A 0AA. The telephone number for general inquiries is: 020 7219 7599; the Committee's email address is: [esic@parliament.uk](mailto:esic@parliament.uk).

You can follow the Committee on Twitter using [@CommonsESIC](https://twitter.com/CommonsESIC).

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## Instruments recommended for the affirmative procedure

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At its meeting on 24 March 2020 the Committee considered proposed negative instruments laid by the Government and has recommended that the appropriate procedure for the following instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made (i.e. the affirmative procedure).

### 1 The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020

1.1 Currently a fee may be charged for consideration by a UK competent authority of an application to appoint a person to determine whether equipment used in the carriage of dangerous goods should be approved (known as notified bodies after appointment). Regulations 24(3) and 47(3) provide that no fee is to be charged where a UK competent authority appoints a person that was a notified body before IP completion day as an appointed body after that date.

1.2 Under section 8 or Part 1 of Schedule 2—Schedule 7 paragraphs 1(2), 2(1) provisions relating to a fee in respect of a function exercisable by a public authority in the United Kingdom are mandatory affirmative. It is strongly arguable that Parliament would not have insisted on draft affirmative for exercises like this one—and one would not expect much in the way of a debate on any draft instrument—but the terms of the Act are strict and the draft affirmative procedure should have been used.

1.3 The Committee therefore recommends that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made (i.e. the affirmative procedure) on the ground that it is of political and legal importance.

## Instruments recommended for the negative procedure

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At its meeting on 24 March 2020 the Committee considered proposed negative instruments and recommended that the appropriate procedure for the following instruments is for them to be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).

The Harbours and Highways (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2020

The Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2020

# Formal Minutes

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**Tuesday 24 March 2020**

Members present:

Andrew Jones, in the Chair

Mrs Flick Drummond      Liz Twist  
Richard Holden              Craig Williams

Draft Report (*Third Report*), proposed by the Chair, brought up and read.

*Ordered*, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.3 agreed to.

*Ordered*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

[Adjourned to a day and time to be fixed by the Chair.]