



HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

15th Report of Session 2019–21

Proposed Negative Statutory Instruments under the European Union (Withdrawal) Act 2018

Includes information paragraphs on:

2 instruments relating to Covid 19
Social Security (Scotland) Act 2018
(Information-Sharing and Scottish Child
Payment) (Consequential Provision and
Modifications) Order 2020

Consumer Protection (Enforcement)
(Amendment etc.) Regulations 2020

Ordered to be printed 19 May 2020 and published 21 May 2020

Published by the Authority of the House of Lords

HL Paper 63

Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 11 July 2018, are set out on the website but are, broadly:

To report on draft instruments and memoranda laid before Parliament under sections 8, 9 and 23(1) of the European Union (Withdrawal) Act 2018.

And, to scrutinise –

- (a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;
- (b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

<u>Baroness Bakewell of Hardington Mandeville</u>	<u>Lord Hodgson of Astley Abbotts</u>	<u>Lord Lisvane</u>
<u>Rt Hon. Lord Chartres</u>	(Chair)	<u>Lord Sherbourne of Didsbury</u>
<u>Rt Hon. Lord Cunningham of Felling</u>	<u>Lord Liddle</u>	<u>Baroness Watkins of Tavistock</u>
<u>Viscount Hanworth</u>	<u>The Earl of Lindsay</u>	-

Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at <http://www.parliament.uk/seclegpublications>

Committee Staff

The staff of the Committee are Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser), Louise Andrews (Committee Assistant) and Ben Dunleavy (Committee Assistant).

Further Information

Further information about the Committee is available at <https://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hlseclegscrutiny@parliament.uk.

Fifteenth Report

PROPOSED NEGATIVE STATUTORY INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

Proposed Negative Statutory Instruments about which no recommendation to upgrade is made

- Pilotage and Ports Services (Amendment) (EU Exit) Regulations 2020

INSTRUMENTS RELATING TO COVID-19

Public Services

Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/464)

1. According to the Department for Education (DfE), this instrument makes temporary changes to support newly qualified teachers (NQTs) undergoing statutory induction and those undergoing initial teacher training (ITT) during the pandemic. DfE says that the instrument allows accredited providers of ITT to recommend that those trainee teachers whose training has been interrupted because of the pandemic and who as a result have not been assessed as meeting the required standards should still be recognised as having achieved qualified teacher status (QTS). The instrument requires that the ITT provider is satisfied that the trainee teachers were demonstrating "adequate progress" towards meeting the teachers' standards, and that they would have met them, were it not for the interruption in their training. DfE says that this temporary measure will protect NQT supply to schools in September 2020. The instrument also allows a small number of trainee teachers whose practical teaching experience up to the date of interruption has taken place wholly or mainly outside England to be similarly assessed as qualified. Asked about the actual number of trainee teachers that fall into this category, the Department told the Committee that it does not routinely collect data on the location and length of individual trainee placement experiences, but that the overall figure was likely to be a very small proportion of the total number of trainees of around 34,500. DfE added that while the practical teaching experience may have taken place anywhere outside England, the measure only applies to trainee teachers who are training with an accredited ITT provider in England and whose English language proficiency has been assessed. We are publishing the Department's full response at Appendix 1. The instrument also makes changes so that NQTs undertaking statutory induction who are absent from work as a result of the pandemic will not have their induction periods extended automatically. According to DfE, this will allow NQTs who meet the teachers' standards to complete their induction periods as planned. The amendments are time limited: the changes in relation to ITT will cease to have effect on 1 September 2020 and the changes in relation to NQT induction will only apply to absences related to the pandemic which occur before 1 September 2020.

Restrictions on businesses and public gatherings

Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020 (SI 2020/500)

2. Following the Prime Minister's announcement on 10 May, these Regulations further amend the original "lockdown" Regulations¹ in England. They follow the made affirmative procedure and came into effect at 00.01 a.m. on 13 May 2020. They add further reasons why a person may be legitimately outside of their house:
 - to collect goods from any business, which have been purchased in advance by phone, online or by post, providing customers do not enter the premises;

¹ Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ([SI 2020/350](#)).

- to visit public open space (including public gardens and open country) for exercise or recreation, either alone, with members of their household or with one member of another household;
 - to take part in activities associated with moving house; and
 - to use a waste and recycling centre.
3. These Regulations also allow garden centres and outdoor sports courts to re-open. The Explanatory Memorandum states that these measures have been considered by scientific advisors who agree that they are likely to have a negligible impact on transmission rates.
 4. The Regulations also significantly increase the amount of the fixed penalty notices (FPNs) which may be issued to a person over 18 for breaching the lockdown restrictions. The amount of the FPN for a first offence will be increased from £60 to £100 (halved to £50 if paid within 14 days). For a second offence the FPN will be £200, and thereafter doubled until a maximum value of £3,200 is reached for a sixth and subsequent offence.

INSTRUMENTS OF INTEREST

Social Security (Scotland) Act 2018 (Information-Sharing and Scottish Child Payment) (Consequential Provision and Modifications) Order 2020 (SI 2020/482)

5. The Scotland Act 2016 devolved responsibility for certain welfare benefits, and employment support, to the Scottish Parliament. The Scottish Government will shortly introduce a new Scottish Child Payment at a rate of £10 per week per child for households with children under 16 and in receipt of a qualifying benefit. To facilitate this, these Regulations allow Her Majesty's Revenue and Customs to share information to verify a child's eligibility with the Scottish authorities. In line with existing agreements, any new benefits introduced by the Scottish Parliament must not be automatically offset against other benefits. Part 3 of this instrument therefore ensures that the Scottish Child Payment is disregarded for a range of income-related benefits in Great Britain. (The instrument does not mention Universal Credit because the Scottish Child Payment would already be disregarded under its current rules.)

Consumer Protection (Enforcement) (Amendment etc.) Regulations 2020 (SI 2020/484)

6. This instrument implements a new EU regulation ("the new CPC (Consumer Protection Co-operation) Regulation") on the cooperation between national authorities which are responsible for the enforcement of consumer protection laws.² The Department for Business, Energy and Industrial Strategy (BEIS) explains that the UK has to implement the new CPC Regulation as it came into force on 17 January 2020 when the UK was still in the EU. BEIS says that while it will apply directly in the UK throughout the Transition Period, this instrument is needed to ensure that UK authorities have the investigation and enforcement powers required in relation to consumer laws which have been brought into scope, including with regard to passenger rights and digital and financial services. BEIS states that it has taken a "proportionate approach" to implementation to reflect the UK's exit from the EU, using existing provisions in domestic law where possible. According to BEIS this includes, for example, relying on existing enforcement powers, rather than developing a new penalty regime, and avoiding measures that could limit or prejudice wider consumer law reform to which the Government committed in 2018.³ BEIS says that the most significant change relates to new powers to remove online content from or restrict access to websites. Under the new CPC Regulations, these powers may be exercised against infringing traders or third parties or intermediaries where there is a risk of serious harm to the collective interests of consumers and where there are no other effective means. This instrument enables the Competition and Markets Authority (CMA) to exercise the new power through the courts. BEIS says that the impact of the instrument will be limited, as underlying consumer law is not changing and no new obligations are imposed on business. While there will be minor familiarisation costs for enforcement authorities, the CMA does not expect any significant change to its caseload. Asked about the situation after the end of the Transition Period, BEIS told us that:

² [Regulation \(EU\) 2017/2394](#).

³ See: Department for Business, Energy and Industrial Strategy, *Modernising Consumer Markets* (11 April 2018): <https://www.gov.uk/government/consultations/consumer-green-paper-modernising-consumer-markets> [accessed 13 May 2020].

“In the event that the UK leaves the transition period with the 2019 deal, the CPC Regulation will be revoked, and the UK will not be able to participate in the cooperation procedure that it provides for. However, the required investigation and enforcement powers, as implemented in UK law by SI 2020/484, will continue to benefit consumers to the extent that infringements occur within the UK. Arrangements for enforcement cooperation with any trading partner require negotiation.”

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Financial Services (Miscellaneous Amendments) (EU Exit) Regulations 2020

National Minimum Wage (Offshore Employment) (Amendment) Order 2020

Northern Ireland Banknote (Designation of Authorised Bank) Regulations 2020

Made instruments subject to affirmative approval

SI 2020/500 Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020

Instruments subject to annulment

SI 2020/464 Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020

SI 2020/476 Teachers' Skills Test (England) (Miscellaneous Amendments) Regulations 2020

SI 2020/482 Social Security (Scotland) Act 2018 (Information-Sharing and Scottish Child Payment) (Consequential Provision and Modifications) Order 2020

SI 2020/483 Scottish National Investment Bank Act 2020 (Consequential Provision) Order 2020

SI 2020/484 Consumer Protection (Enforcement) (Amendment etc.) Regulations 2020

SI 2020/485 Ecodesign for Energy-Related Products (Amendment) Regulations 2020

SI 2020/489 Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) (Amendment) Regulations 2020

SI 2020/490 Victims' Payments (Amendment) Regulations 2020

APPENDIX 1: EDUCATION (SCHOOL TEACHERS' QUALIFICATIONS AND INDUCTION ARRANGEMENTS) (ENGLAND) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020 (SI 2020/464)

Further information from the Department for Education

Q1: The EM refers at paragraph 2.4 to “the small minority of trainee teachers for whom the practical teaching experience element of their training up to the date of interruption has taken place wholly or mainly outside England” which will be similarly assessed as qualified. Could you clarify please how many trainee teachers the Department estimates fall into this category, i.e. whose teaching experience has taken place wholly or mainly outside England?

A1: The Department does not routinely collect data on the location and length of individual trainee placement experiences. It expects initial teacher training (ITT) providers to comply with the regulations and mandatory criteria. However, the following ITT providers located in border areas of England have indicated the following numbers of trainees, up to the point of interruption of their courses, had trained wholly or mainly outside England:

- Worcester University: 3 trainees
- Bristol University: 1 trainee

These indicative figures suggest that the overall figure is likely to be a very small proportion of the total number of trainees in training at the most recent census point, which was 34,543 at 28th November 2019.

Q2: The EM provides further detail at paragraph 7.8 that this “could include trainees on modern languages ITT courses in England that up to the point of interruption might have undertaken placements mainly in schools abroad, such as in France, Spain or Germany”. Could you clarify please whether this includes placements undertaken anywhere outside England?

A2: The regulations require that in order to be qualified via the relevant route a person must undertake a period of practical teaching experience for the purposes of the course of ITT wholly or mainly in a school, city college, academy, independent school or other institution in England, or in a school administered by Service Children's Education.

As long as the majority of practical teaching experience takes place in England, other placements might be undertaken anywhere outside England. However, such training would be subject to the same mandatory criteria⁴ and quality scrutiny⁵ that apply to all provision. For example, ITT providers would need to assure themselves that the overall training programme enabled trainee teachers to meet all the Teachers' Standards⁶ that apply in England, and that partner schools had the capacity to undertake their responsibilities, as set out and agreed in a formal partnership agreement with the accredited ITT provider.

4 Department for Education (DfE), *Initial teacher training (ITT): criteria and supporting advice* (updated 27 March 2020): <https://www.gov.uk/government/publications/initial-teacher-training-criteria/initial-teacher-training-itt-criteria-and-supporting-advice>.

5 DfE, *Initial teacher education inspection framework and handbook 2020: inspecting the quality of teacher education* (27 January 2020): <https://www.gov.uk/government/consultations/initial-teacher-education-inspection-framework-and-handbook-2020-inspecting-the-quality-of-teacher-education>.

6 DfE, *Teachers' standards* (1 July 2011): <https://www.gov.uk/government/publications/teachers-standards>.

Q3: Could you confirm whether this means that this applies only to trainees undertaking their training with a training provider in England (but who are gaining practical teaching experience outside England) whose English language proficiency has been assessed as part of their course requirement?

A3: Yes — this applies only to trainees training with an accredited ITT provider in England. All such trainees, prior to entry to their courses must have demonstrated a standard equivalent to at least Grade 4 in the GCSE English examination, and for courses starting before 1st April 2020 must have passed a literacy skills test. Passing the skills tests was an entry requirement for the current cohort. The skills tests are externally delivered computerised tests of numeracy and literacy, and are designed to ensure that entrants to teacher training courses have the necessary functional literacy and numeracy skills to successfully fulfil the wider professional role of teacher. (For any trainees entering courses after 1 April 2020, the skills tests have been replaced with a requirement to demonstrate fundamental English skills by the end of their ITT programme). These requirements are set out in the mandatory criteria.

13 May 2020

APPENDIX 2: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 19 May 2020, Members declared no interests.

Attendance:

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord Chartres, Viscount Hanworth, Lord Hodgson of Astley Abbotts, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.