

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

22nd Report of Session 2019–21

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

Drawn to the special attention of the House:

**Electric Scooter Trials and Traffic Signs
(Coronavirus) Regulations and General
Directions 2020**

**Secure Training Centre (Coronavirus)
(Amendment) Rules 2020**

Includes information paragraphs on:

8 instruments relating to COVID-19

Draft Barnsley, Doncaster, Rotherham and
Sheffield Combined Authority (Functions and
Amendment) Order 2020

Product Safety and Metrology etc.
(Amendment to Extent and Meaning of
Market) (EU Exit) Regulations 2020

Pressure Vessels (Amendment) (Northern
Ireland) (EU Exit) Regulations 2020

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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.

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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/>

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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.

Twenty Second Report

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

Instruments recommended for upgrade to the affirmative procedure

Communications Act (e-Commerce) (EU Exit) Regulations 2020

1. This proposed negative instrument would end the direct effect of Article 3 of the Electronic Commerce Directive (“eCD”) on certain parts of the Communications Act 2003 (“the 2003 Act”) which deal with information society services and which would otherwise become retained EU law after the end of the transition period.
2. Information society services, according to the Department for Digital, Culture, Media and Sport (DCMS), broadly cover online service providers. Article 3 of the eCD sets out “country of origin” rules which provide that these services must be regulated by the law of the European Economic Area (EEA) state in which the provider of the services is established, rather than the law of the EEA state in which the services are received. To get permission to derogate from the country of origin principle, Member States have to notify the Commission and other Member States. DCMS says that after the end of the transition period, UK businesses will no longer benefit from the country of origin principle when operating in the EEA and that retaining the country of origin principle unilaterally in the UK would give EEA-based businesses preferential market access. The instrument therefore proposes to remove the direct effect of the country of origin principle on sections 120–124 and 128–131 of the 2003 Act, which set out the enforcement powers of UK regulators (Ofcom and the Phone-paid Services Authority) in relation to premium rate telephone services and persistent misuse of telephone networks. As a result of these changes, the regulators would be able to enforce breaches of the relevant UK law by EEA businesses in the same way as they enforce breaches by UK and non-EEA businesses, and without applying for permission to derogate from the EU’s country of origin rules in this area. UK businesses would only have to comply with the law of the EEA state in which they provide the service and not UK law as well.
3. There is considerable uncertainty regarding the impact of the changes. The Explanatory Memorandum refers to a low level of impact per business, annual time-saving benefits to certain UK businesses and wider transition costs associated with moving away from the country of origin principle, resulting in a small annual net direct cost to business of £0.6 million over 10 years. The Department told the Committee that no data was available on how many of the 75,000 UK businesses that potentially fall into the scope of the instrument will be affected in practice, and that wider costs to UK businesses as a result of the UK becoming a third country in relation to the eCD will be a consequence of leaving the single market and customs union, rather than the instrument itself. These are issues that the House may wish to explore further. On balance, therefore, the Committee is of the view that given the uncertainty about the impact of the end of country of origin principle in this specific area, **the instrument should be subject to the affirmative procedure.**

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

- Air Traffic Management (Amendment) (EU Exit) (No. 2) Regulations 2020
- Aviation Security (Amendment etc) (EU Exit) Regulations 2020
- Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2020
- Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration and Renewables Obligation (Amendment) (EU Exit) Regulations 2020
- Motor Vehicles (Compulsory Insurance and Rights against Insurers) (Amendment) (EU Exit) Regulations 2020
- Online Intermediation Services for Business Users (Amendment) (EU Exit) Regulations 2020
- Product Safety and Metrology (Amendment) (EU Exit) Regulations 2020
- Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020
- Single Digital Gateway Regulation (Revocation) (EU Exit) Regulations 2020

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020 (SI 2020/663)

Date laid: 30 June 2020

Parliamentary procedure: negative

*These Regulations have been laid by the Department for Transport (DfT) to amend “road traffic regulations on the use of electric scooters (‘e-scooters’), to allow representative, on-road trials of e-scooters to begin. These trials are to gather evidence on the use and impact of e-scooters to inform possible future legalisation”. Similar schemes have been running in cities abroad for some time and we would have expected more use of evidence from those schemes to shape DfT’s proposal. DfT assert in paragraph 7.4 of the Explanatory Memorandum that “E-scooters could be a convenient and clean way to travel that eases the burden on the transport network and allows for social distancing”. They could equally be a hazard for other users of the cycle lanes and for pedestrians. **It is unclear what the policy objective of this instrument is, and how its outcome will be measured.** Is it a pilot scheme to test the viability of a controversial vehicle on British roads? Is it a means to rapidly expand transport capacity in cities all over the country during the Coronavirus pandemic? And are those two objectives compatible?*

The House may wish to ask the Minister for further evidence to support DfT’s case for scaling up the number of trial schemes, whether there is sufficient data on safety, nuisance, and likely costs to local authorities, to justify this expansion, and also to clarify what the targets and objectives of these trials actually are.

These Regulations are drawn to the special attention of the House on the ground that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument’s policy objective and intended implementation.

4. These Regulations have been laid by the Department for Transport (DfT) along with an Explanatory Memorandum (EM). Their purpose is to amend “road traffic regulations as to the use of electric scooters (‘e-scooters’), to allow representative, on-road trials of e-scooters to begin. These trials are to gather evidence on the use and impact of e-scooters to inform possible future legalisation” (Para 2.1 of the EM). This report includes supplementary information provided to the Committee by the Department.

Content of the instrument

5. E-scooters are classified as motor vehicles and cannot currently be used on public roads (or pavements) in Britain. This instrument exempts e-scooters with certain characteristics from that ban, so that they can be used in the trials: those characteristics, set out in regulation 2, include that the e-scooters have two wheels, are designed to carry one person, have no pedals to assist propulsion, are fitted with an electric motor not exceeding 500 watts, have a maximum weight of 55 kgs, and a maximum design speed not exceeding 15.5 miles per hour.

6. Those who hire e-scooters are not required to wear a helmet but do have to hold a driving licence (which may be a provisional licence). The instrument also permits cycle lanes and shared “pedestrian and cycle zones” to be used by an e-scooter taking part in a trial, and provides for traffic signage to be amended appropriately.
7. This instrument applies only to e-scooters used as part of a trial arranged between a rental operator and a local public authority within a specified area. It does not permit the use of privately-owned e-scooters, or other e-scooters which are not participating in organised trials.

Scale

8. Paragraph 3.1 of the EM states that the DfT’s test plans have expanded because of the need to increase capacity due to coronavirus. We asked the Department to clarify what its original plan had been. DfT replied:

“The Department planned to run trials in four Future Transport Zones. Future Transport Zones are areas focusing on trialling transport innovations and providing evidence of their efficacy to inform the development of, and investment in, future schemes, which have been supported with £92 million of Government funding. The Zones are: Portsmouth and Southampton; the West of England Combined Authority (WECA); Derby and Nottingham; and the West Midlands. Further trial areas may have been added if additional data was required to assess the impacts of e-scooters.”

9. DfT states that it has revised its plans in response to COVID-19 so:

“that more areas will be able to host trials and that these will start sooner, to allow more transport options that allow for social distancing. The Department has not specified the number of trial areas. Local authorities wishing to host trials are being asked to submit a proposal, which will be approved where they have demonstrated that the trial is feasible and deliverable, that the trial will offer useful evidence and insights, and that other relevant matters have been considered/addressed.”

The Department has published guidance on how trials will be approved and operate.¹

10. The extent of these new provisions is potentially very wide. The press has mentioned up to 50 trial areas taking part. Local authorities can work with one or more e-scooter operators and can specify the maximum number of e-scooters each may operate in their local area, where they can/cannot be used and requirements on docking or parking of e-scooters.
11. DfT states that the Government will publish details of the trial areas on the Gov.uk website as each trial begins, and also the technical specifications required for e-scooters to be part of a trial. The Gov.uk website covers every arm of government. We are therefore concerned that the information will not be easily found. **As we have said on previous occasions, where—as in this case—an instrument gives the Minister permissive powers, the location of relevant information should be identified more precisely.**

1 DfT, *E-scooter trials: guidance for local areas and rental operators* (last updated 1 July 2020): <https://www.gov.uk/government/publications/e-scooter-trials-guidance-for-local-areas-and-rental-operators/e-scooter-trials-guidance-for-local-areas-and-rental-operators> [accessed 8 July 2020].

Enforceability

12. Only e-scooters used as part of a trial will have permission to use the roads and cycle paths; we therefore asked how they will be distinguished from private vehicles. DfT replied that it has engaged with the police during the consultation on the regulations on the branding and distinguishing aspects of the trial e-scooters. All e-scooters will require a tamper-proof label with the e-scooter details and a unique identification number. **This is welcome as it should make them more likely to be traceable in the case of an accident.**
13. We also asked how those with privately-owned e-scooters would be deterred from riding while the trials are going on. DfT replied that someone using an e-scooter illegally could be liable to a fine, receive penalty points on their licence and have the e-scooter impounded.

Safety

14. Although helmets are encouraged, they are not mandatory. **Given the potential for harm in the event of an accident, the House may wish to press the Minister for an explanation of why the decision was taken not to require the wearing of helmets.**
15. The Department acknowledges that there are risks in introducing new types of vehicle into existing transport networks but does not indicate what they are. **We would have expected the DfT to have illustrated the main risks to be expected using data from similar schemes abroad.**
16. Reflecting on the UK's infrastructure, **the House may wish to ask the Minister for an assurance that there are sufficient cycle paths for this new policy**, whether they are wide enough to cope with a vehicle that may be wider than a bicycle and weigh up to 55kg, and whether can they cope with the anticipated increase in usage and allow for overtaking.
17. We note that the DfT guidance states that operators should have appropriate insurance in place: "a minimum of third-party cover is required by operators (though not a legal requirement, they may also want to insure against vehicle theft/damage and include personal insurance too—to all users or on an optional basis)".

Interaction with the pedestrians

18. Since e-scooters can be used in shared pedestrian zones, we asked whether e-scooters are required to give way to pedestrians trying to cross a cycle lane. DfT responded:

"E-scooter users will be expected to use cycle lanes in the same way as a cyclist would. The Highway Code does not give right of way to any particular group of road users. However it says that cyclists should be considerate of other road users, take care when passing pedestrians, especially children, older or disabled people, and allow them plenty of room. They should always be prepared to slow down and stop if necessary.

On segregated cycle/pedestrian routes, e-scooter users must keep to the side intended for cycles and e-scooters as the pedestrian side remains a pavement or footpath."

19. A problem that has been noted in similar rental schemes abroad is the tendency for users to leave the e-scooter wherever they have finished with it (“a dockless scheme”), usually on the pavement.² This is a particular hazard for the disabled and those with poor vision. DfT guidance says that local authorities should take this into account but again allows a wide range of options. In supplementary information DfT said:

“Local authorities can determine whether to run docked or dockless e-scooter schemes and how parking requirements are managed. Our guidance for local authorities asks them to ensure, where a dockless model is used, that e-scooters do not become obstructive. A range of methods have been used abroad to control vehicle parking, including creating new parking spaces for e-scooters, requiring users to photograph where the e-scooter has been left before the journey is complete, GPS tracking, and continuing to charge users if the e-scooter isn’t parked correctly. Some local authorities are also considering long-term rental schemes only, where on-street parking of e-scooters is unusual.”

Environmentally friendly

20. The use of e-scooters is promoted as environmentally friendly. A number of factors may, however, offset the benefits of using an electric vehicle: for example, whether they are recharged from a generator using fossil fuels, or whether, in the dockless model, fleets of vans are required to pick up discarded e-scooters and take them back to a main location.
21. Environmental gain also depends on what percentage of those using them shift from petrol engine vehicles: DfT’s initial assessment, based on the experience of European schemes, suggests that “around a third will transfer from walking, a third from public transport, 15-20% from car, 10% from cycling and around 2% for new trips. Social distancing requirements may cause the shift from public transport and the proportion of new trips to be higher than these estimates”. **The House may wish to ask the Minister how the environmental gain from the scheme is to be evaluated and how the results of the evaluation will be published.**

Duration

22. In contrast to some other instruments enabling pilot schemes, and many measures responding to coronavirus, these Regulations do not include a sunset clause. The EM states: “It is anticipated that a trial will run for 12 months from a trial commencing in a local area”³—but also states: “The orders may be extended until such time as decisions are made to inform future legislation around e-scooters and other micromobility vehicles”⁴ This implies that such schemes could operate indefinitely under these Regulations.
23. When we questioned this, DfT responded that:

“The trials are intended to run for 12-months. In each trial area, this will be 12 months from the date that trial commenced, so overall the regulations will have effect for more than 12 months. The administrative

2 See, for example, ‘Invasion of the electric scooter: can our cities cope?’, *The Guardian* (15 July 2019): <https://www.theguardian.com/cities/2019/jul/15/invasion-electric-scooter-backlash>. [accessed 15 July 2020].

3 *Explanatory Memorandum* (EM), Para 7.3.

4 EM, Para 9.1.

orders issued by the Secretary of State are required for trial e-scooters which do not comply with current vehicle construction and approval regulations to be used legally. These orders will set the start and end date of trials.

Following the trial period, the Government will consider the evidence gathered and determine whether there is sufficient evidence to inform future policy on whether e-scooters and other micromobility vehicles should be legalised. Depending on the evidence generated, the administrative orders may be extended to gather additional evidence, including where future legislative proposals are being proposed.

The regulations are not suitable for ongoing use of e-scooters. They apply only to rental operations and do not cover privately-owned e-scooters. The Department will bring forward proposals for how e-scooters (rental and private) should be regulated, based on the evidence from trials, which would supersede these regulations.”

Evaluation

24. The key areas where DfT will be gathering information are not described in the EM but in the guidance. They include:
- safety outcomes for e-scooter users and what influences this
 - interaction with, and effect on, other road users
 - public perceptions of e-scooters, including people with disabilities and related groups
 - nature of modal shift and new journeys that have been enabled
 - details of trips made: how far, routes, speed
 - characteristics of users, and how uptake and outcomes differ for different groups
 - local authority perception of effects on their transport system
 - lessons for future rollout
 - what a future regulatory system for the future should include, such as speed, vehicle standards or licensing
 - any other unexpected outcomes
 - overall costs and benefits to society
25. We asked where and when the results of the monitoring programme and of the accident/casualty data be published. **DfT’s reply gave no target date:**
- “The Department will gather data on collisions through the trials to understand safety and will be investigating perceived safety and factors which may contribute to or prevent accidents throughout the trial. Casualties and serious injuries on the road are relatively infrequent so trials will need to run at a sufficient size and duration to gather evidence that will be robust and statistically significant. Other modes of transport are not subject to routine monitoring and evaluation in the way the

trials will be, so comparison between e-scooters and other modes will be difficult without proper evaluation of the evidence. It is important that individual incidents and casualty data points are not taken out of context.

Therefore, we do not expect to publish collision or casualty data without evaluation work, so this would not be published until later in the trials or following their completion.”

Emergency?

26. This instrument expands a limited plan to test the viability of the scheme in four locations into a limitless number in order, according to the Department, “to support the restart from COVID-19 and to help mitigate reduced public transport capacity”.
27. A small data gathering exercise has turned into a major implementation programme. Similar schemes have been very divisive in Copenhagen,⁵ Berlin,⁶ Paris⁷ and other major cities, yet only two weeks were allowed for consultation on something that will affect the public generally.
28. We have seen a number of regulations that defer or delay duties on local authorities because they are overburdened during the pandemic. Although these schemes are voluntary we wonder if this is the right time to divert local authority resource into setting up these schemes, particularly since DfT guidance says they expect trials to commence “between June and the end of August 2020”.⁸ **We would also expect DfT to offer more substantial evidence of the anticipated benefits of these schemes to both individuals and local authorities in the EM and no cost/benefit analysis is offered.**
29. **This is a major development in transport policy yet it was put into effect in a matter of days without any opportunity for Parliamentary scrutiny.** The information in the EM is insubstantial and it is the additional information that demonstrates the extent of the powers enabled by the instrument.

Conclusion

30. DfT assert in paragraph 7.4 of the EM that “E-scooters could be a convenient and clean way to travel that eases the burden on the transport network and allows for social distancing”. They could also be a hazard for other users of the road, cycle lanes and for pedestrians. **It is unclear what the policy objective of this instrument is, and how its outcome will be measured.** Is it a pilot scheme to test the viability of a controversial vehicle on British roads? Is it a rapid means to expand transport capacity in cities all over the country during the Coronavirus pandemic? And are those two objectives compatible?

5 ‘Dozens of arrests in Copenhagen for drunk scooter driving’, *BBC* (8 July 2019): <https://www.bbc.co.uk/news/world-europe-48916918>. [accessed 15 July 2020].

6 ‘Electric scooters cause 74 accidents and hundreds of traffic offences in three months since legalisation in Berlin’, *The Independent* (17 September 2019): <https://www.independent.co.uk/news/world/europe/electric-scooter-accidents-berlin-germany-legalisation-police-a9108916.html>. [accessed 15 July 2020].

7 “Anarchy in the streets”: Electric scooter accidents plague Paris as residents demand police crackdown’, *The Independent* (22 June 2019): <https://www.independent.co.uk/news/paris-scooters-lime-electric-trotinettes-accidents-a8955561.html>. [accessed 15 July 2020].

8 DfT, *E-scooter trials: guidance for local areas and rental operators*, section 4.

31. **The House may wish to ask the Minister for further evidence to support DfT's case for scaling up the number of trial schemes and to show whether there is sufficient data on safety, nuisance, and likely costs to local authorities, to justify this expansion. The House may also wish to ask the Minister for clarification about the targets and objectives of these trials.**

Secure Training Centre (Coronavirus) (Amendment) Rules 2020 (SI 2020/664)

Date laid: 1 July 2020

Parliamentary procedure: negative

*This instrument has been laid by the Ministry of Justice to modify the Secure Training Centre Rules 1998 so that residents' entitlements to visits, activities and education need only be met as far as reasonably practicable during a coronavirus transmission control period. Given that those residing in these Centres are children, the minimum regime that can be imposed, which only allows them out of their rooms for one and a half hours a day, raises concerns over their health and welfare, if applied for any length of time. We note the Secure Training Centres' efforts to deliver the best regime that they can under the circumstances of a pandemic but highlight the need to balance the individuals' mental and physical health appropriately, particularly in the light of their youth and existing problems. **This variable regime could be applied for up to two years and the House may wish to ask how it is being monitored and whether regular reports to Parliament will be published.***

These Rules are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.

Background

32. There are two privately-operated secure training centres (STCs) in England, which hold children, aged 12-17, sentenced and remanded by the courts. They are sentenced for crimes ranging from breaches of court orders and domestic burglaries through to robberies, sexual offences and crimes involving violence against the person, up to and including murder.⁹
33. In April 2020, approximately two-thirds of the population of STCs were in custody for the offences of robbery, sexual offences or violence against the person (this figure includes those remanded). Approximately one third were held on remand. On 7 July, Oakhill had 49 young people in their care and Rainsbrook, which accommodates both boys and girls, held 55, made up of 41 boys, 13 girls and one mother with baby.
34. The Ministry of Justice (MoJ) explained that the normal operating regime at an STC is based around young people being out of their rooms for 14 hours each day. From 7:30am until 9:30pm, they are entitled to be out of their rooms, with a range of activities from education, interventions, enrichment, social leisure time, dining out and time out in the fresh air. Education is delivered in an on-site school (five hours per day, totalling 25 hours per week) and one meal a day is eaten in the dining room.

Modified regime

35. As with prisons, visits have been suspended during the transmission control period as declared by the Secretary of State for Health. However, there is no additional transition period in these amending Rules.¹⁰ The STC Rules

⁹ Youth Custody data is available at HM Government, 'Youth custody data', (last updated 20 July 2020): www.gov.uk/government/statistics/youth-custody-data. [accessed 15 July 2020].

¹⁰ [16th Report](#), Session 2019-21 (HL Paper 69) on the Prison and Young Offender Institution (Coronavirus) (Amendment) (No.2) Rules 2020 (SI 2020/508).

normally prescribe that these young people will have access to a visit each week. While this has not been possible, MoJ state that the young people have access to telephones that they can use in their bedrooms, and Her Majesty's Prison and Probation Service (HMPPS) has provided tablets for them to have video calls with their family instead of face-to-face visits. These amending Rules allow visits to be suspended where necessary to prevent the risk of infection.

36. The STC Rules prescribe that children should participate in education and training for 25 hours per week. During the pandemic, health advice has in effect closed the education centres at each STC, preventing the delivery of the normal timetable. This has been replaced by bespoke homework for the residents requiring them to complete work set for them by teachers. The STCs have also delivered some small group teaching in living units and have reopened parts of the education centre to allow some classes to be delivered there. However, full-time face-to-face teaching has not been possible. MOJ state that STCs are increasing teaching during the recovery period, but if there are local outbreaks it may be necessary to close elements of the educational programme again. These amending Rules provide that the requirement for education will be met as far as reasonably practicable during a transmission control period.
37. The STC Rules require that young residents will also be occupied in programmes designed to tackle offending behaviour. This would normally involve a range of programmes lead by youth workers, psychologists or healthcare professionals. Some of these programmes have been suspended because health guidance has prevented the face-to-face work taking place. Much of this work has been continued through phone calls between staff and children but other elements have not been possible. The instrument provides that this requirement will be met as far as reasonably practicable during a transmission control period.
38. Paragraph 7.3 of the EM describes the new operational guidelines, consistent with Public Health England advice, that have been issued by the Youth Custody Service, HMPPS to the Directors of the two STCs. They set out a temporary minimum regime for as long as appropriate during the coronavirus pandemic, which provides children with:
 - (a) Reduced time out of room: At least one and a half hours out of room a day (normally 14 hours);
 - (b) Reduced access to classroom education: There are opportunities to attend teacher-led sessions, in-room work and some children take part in independent study;
 - (c) Dining on the residential units or in-room; and
 - (d) Daily opportunities to access fresh air.

Timing

39. We have one procedural concern, which is that these amending Rules are being brought forward now as an emergency measure despite the fact that lockdown has been operating since March. We fully understand that the STCs were taking action to reduce risk in line with government guidance on COVID-19; however, it would appear that in doing that they have, for

some months, been in conflict with their statutory requirements to deliver certain standards under the STC Rules. **While these amending Rules now regularise the situation for any further outbreaks this matter should have been addressed much sooner.**

40. As with the similar restrictions on prisoners, described in our 16th Report of this session, the minimum regime that can be imposed raises concerns over residents' health and welfare, if applied for any length of time. These inmates are at a formative stage in their lives. We also observe that a third of the residents of the STCs are on remand. We note the mitigations that are being applied but highlight the need for the regime applied to balance the individuals' mental and physical health appropriately, particularly in the light of their youth and existing problems. **This variable regime could be applied for up to two years and the House may wish to ask how it is being monitored and whether regular reports to Parliament will be published.**

INSTRUMENTS RELATING TO COVID-19

41. Two instruments relating to the COVID-19 pandemic, the Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020 (SI 2020/663) and the Secure Training Centre (Coronavirus) (Amendment) Rules 2020 (SI 2020/664), are drawn to the special attention of the House in this report (see pages 3 to 12 above).

Restrictions on businesses and public gatherings

Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 (SI 2020/684)

42. Because of the frequent changes made, this instrument revokes the original lockdown regulations and the subsequent four sets of amending regulations¹¹ to consolidate the remaining provisions in these Regulations. It also reduces restrictions on the opening of indoor and outdoor public houses, restaurants, cafes and bars from 4 July 2020 and permits the reopening of holiday accommodation, and certain leisure and recreational businesses. However, indoor venues where individuals are expected to be at close proximity, such as nightclubs, gyms, bowling alleys, dance studios and sports courts, are required to remain closed due to the increased risk of aerosol transmission (see full list in Schedule 2). As infection rates have decreased, the Regulations now allow gatherings of up to 30 individuals in private dwellings or unmanaged outdoor spaces. Recognising that certain areas have attracted large crowds, regulation 6 provides the Secretary of State with the power to restrict or prohibit access to a specified public outdoor place or types of place to prevent or provide a public health response to the spread of COVID-19.
43. The instrument will lapse six months after it comes into force and while it is in effect the Secretary of State must review the need for the restrictions and requirements imposed by these Regulations every 28 days. The first review must be carried out by 31 July 2020 and Parliament will be informed of any changes to be made by way of a written or oral statement.

Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020 (SI 2020/685)

44. In response to the high number of positive COVID-19 tests in Leicester in June 2020, the Government announced a local lockdown in order to limit the further spread of the disease. These Regulations came into force on 4 July 2020, re-imposing tighter restrictions on the protected area (as defined by the postcodes set out in Schedule 1) and on those who live within it. The instrument requires all non-essential businesses, leisure, and food and drink establishments to close (see full list in Schedule 3), with a limited number of exceptions. The instrument also prohibits anyone from staying overnight in the protected area and bans certain indoor and outdoor gatherings. The Regulations will expire six months after they came into force but while they are in force the Secretary of State must review the need for the restrictions imposed by these Regulations every 14 days: the first review must be carried out by 18 July 2020.

¹¹ Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 ([SI 2020/350](#)) amended by SIs ([2020/447](#)), ([2020/500](#)), ([2020/558](#)) and ([2020/588](#)).

Changes to business practice and regulation

Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020 (SI 2020/644)

45. This instrument reduces temporarily (in most cases to zero) certain fees that the Intellectual Property Office (IPO) charges in relation to patents, trade marks and designs. According to the IPO, the fee reductions will apply from 30 July 2020 until 31 March 2021, as a part of measures to support businesses in the aftermath of the pandemic.

Changes to benefits

Childcare Payments (Coronavirus and Miscellaneous Amendments) Regulations 2020 (SI 2020/656)

46. The purpose of this instrument is to ensure that critical workers who exceed the maximum income threshold of £100,000 due to an increased income for reasons related to the pandemic can continue to claim Tax-Free Childcare (TFC), up to a new maximum threshold of £150,000. The change is temporary and will be effective only for the year 6 April 2020 to 5 April 2021. Parents who usually earn over £100,000 remain ineligible to TFC, while critical workers who would have been ineligible previously as their income exceeded the maximum threshold will be eligible if their income has reduced as a result of the pandemic, if they can declare that their income over the tax year will be less than the maximum threshold. HM Revenue & Customs (HMRC) estimates that only between 1.5% and 2% of children currently receiving TFC are from families where parents are critical workers whose earnings may potentially exceed the £100,000 threshold during the pandemic. The instrument also implements a permanent measure announced at Budget 2020 to clarify that when parents of primary school-aged children pay for registered childcare through agents or intermediaries, these payments will be permitted payments for TFC. If these payments include a reasonable fee or commission the whole payment will be permitted and no apportionment is needed, while unreasonable fees will not be permitted. HMRC expects the clarification of the TFC scheme to be delivered by June 2021.

Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) (No.2) Regulations 2020 (SI 2020/681)

Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) (No.2) Regulations (Northern Ireland) 2020 (SR 2020/134)

47. These instruments reflect the recently permitted expansion of a person's "bubble". They amend the original Regulations¹² to clarify that those in the shielding group may still receive Statutory Sick Pay (SSP) if they meet people outside their household in accordance with public health guidance (rather than remaining in strict isolation). The instruments also set out provisions for when shielding comes to an end, but allow that any person who is notified to shield at a future date will still be eligible for SSP. Additionally, these instruments provide that someone does not have to serve waiting days, if they stop self-isolating before the end of seven or 14 days because they or someone in their "bubble" subsequently receive a negative test result. Other eligibility criteria will still apply. The Regulations also make someone eligible for SSP if a member of a linked household (in England and Wales) or of their extended household (in Scotland) has the symptoms of coronavirus.

12 Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020 ([SI 2020/374](#)).

Law and order

Tribunal Procedure (Amendment) Rules 2020 (SI 2020/651)

48. Among other things, this instrument makes a temporary amendment to the Rules of a range of First-Tier and Upper Tribunals about access to recordings of remote hearings that was mistakenly omitted (due to a drafting error) from the Tribunal Procedure (Coronavirus) Amendment Rules 2020.¹³

Delayed or revoked legislation

Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulations 2020 (SI 2020/650)

49. This instrument makes changes to both the Non-Domestic and Domestic Renewable Heat Incentive (RHI) schemes. The schemes support the transition from conventional forms of heating to low carbon alternatives, by providing financial incentives to households and non-domestic consumers to help bridge the gap between the cost of renewable heating systems and conventional alternatives. Amongst other changes, the instrument extends the domestic RHI scheme for a further year, so that it closes to new applications on 31 March 2022, and introduces new degression triggers to ensure cost control. The Department for Business, Energy and Industrial Strategy (BEIS) says that the extension will enable a “streamlined transition” to the new Clean Heat Grant scheme. In addition, the instrument introduces a flexible new allocation of Tariff Guarantees on the Non-Domestic RHI. According to BEIS, Tariff Guarantees offer investment certainty to larger, better value for money projects. The changes will require plants to submit financial close information by 31 March 2021 and submit evidence of commissioning by 31 March 2022. The Department says that this will provide certainty for new projects with long build times to be accredited that would otherwise not have had time to fully commission prior to the scheme’s closure and in preparation of the launch of the new Green Gas Support Scheme. The instrument also extends the commissioning deadline for Tariff Guarantee applications made before 29 June 2020 from 31 January 2021 to 31 March 2022. BEIS says that this extension is specifically aimed at giving projects that are delayed as a result of the pandemic more time to commission.

¹³ The Tribunal Procedure (Coronavirus) (Amendment) Rules 2020 ([SI 2020/416](#)).

INSTRUMENTS OF INTEREST

Draft Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020

50. This Order proposes for certain functions to be exercised by the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Sheffield City Region Combined Authority—SCRCA) and its Mayor, as well as changes to governance and constitutional arrangements. The SCRCA was established in 2014. Following the creation of the position of elected Mayor in 2016, the first election was held in May 2018. The Ministry of Housing, Communities and Local Government (MHCLG) explains that this Order now transfers functions in line with the Government’s 2019 Manifesto which set out an “ambition for full devolution across England”.¹⁴ The Order has been laid with an Explanatory Memorandum (EM) and a report, as required under the Local Democracy, Economic Development and Construction Act 2009, setting out the effect of the Order and why the Secretary of State considers it appropriate to be made. The functions to be exercised by the SCRCA relate to transport, education, skills and training as well as housing and regeneration, while the proposed governance and constitutional arrangements deal with issues such as the appointment of political advisers, the establishment of an independent remuneration panel and the ability of the Mayor to cast a deciding vote. The Order also proposes initial measures to create a Mayoral Development Corporation (MDC) in the SCRCA area which is to enable the Mayor to designate mayoral development areas and which will require a further instrument to be established. MHCLG says that if agreement is reached on a debt cap with HM Treasury, a further instrument will be brought forward to confer additional borrowing powers to the SCRCA. The EM sets out the outcome of consultation undertaken on the proposals between 3 February and 15 March 2020 in which support for the proposals ranged from 88% for the principle of devolving powers from Westminster and 84% for devolving functions in relation to skills and training to 65% for the proposals in relation to the constitutional and governance arrangements.

Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (SI 2020/676)

Pressure Vessels (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (SI 2020/678)

51. These two instruments make changes to product safety legislation to ensure that it meets the requirements of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement (“the Protocol”). SI 2020/676 amends the extent of the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/696) (“the 2019 Regulations”),¹⁵ so that most of the amendments made by the 2019 Regulations extend only to England, Wales and Scotland, rather than the UK. It also revokes amendments made to some subordinate legislation that extends only to Northern Ireland. The Department for Business, Energy and Industrial Strategy (BEIS) explains that this creates an operable legal framework for Great Britain only at the end of the Transition Period, whilst helping to ensure that relevant EU

14 See the Conservative and Unionist Party, *Manifesto 2019*: https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf, p.29.[accessed 15 July 2020].

15 See: SLSC (Sub-Committee B), [17th Report](#), Session 2017–19 (HL Paper 293).

law remains implemented in respect of Northern Ireland, in line with the requirements of the Protocol. Similarly, SI 2020/678 makes changes to ensure that the UK meets its obligations under the Protocol specifically in relation to product safety requirements for simple pressure vessels and pressure equipment in Northern Ireland. One of the key changes introduced by the 2019 Regulations was a framework for a stand-alone UK marking system for manufacturers to show that their products comply with relevant product safety requirements, to replace the EU's CE marking. We asked BEIS what the impact would be on manufacturers in Northern Ireland if the 2019 Regulations no longer apply to them, but they want to continue to market their products in Great Britain. The Department told us that:

“If manufacturers based in Northern Ireland (or indeed elsewhere) want to place their products on the NI market, they must continue to mark their products ‘CE’, in line with the relevant EU rules applied by the Northern Ireland Protocol. For certain products requiring third-party conformity assessment before being placed on the NI market, approvals may be provided either by a EU-recognised conformity assessment body or a UK-recognised conformity assessment body (though the latter will be able to approve only for the UK market, as set out in our May Command Paper). Further provision for these processes will be set out later this year. In terms of NI manufacturers placing their products on the market in GB, the Government has committed to guaranteeing ‘unfettered access’ for Northern Ireland’s businesses to the whole of the UK internal market in legislation by the end of this year.”

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Alternative Dispute Resolution for Consumer Disputes
(Extension of Time Limits for Legal Proceedings)
(Amendment etc.) (EU Exit) Regulations 2020

Barnsley, Doncaster, Rotherham and Sheffield Combined
Authority (Functions and Amendment) Order 2020

Terrorism Act 2000 (Proscribed Organisations) (Amendment)
(No.2) Order 2020

Made instruments subject to affirmative approval

SI 2020/652 Insolvency Act 1986 Part A1 Moratorium (Eligibility of Private
Registered Providers) Regulations 2020

SI 2020/684 Health Protection (Coronavirus, Restrictions) (No. 2)
(England) Regulations 2020

SI 2020/685 Health Protection (Coronavirus, Restrictions) (Leicester)
Regulations 2020

Draft instruments subject to annulment

London Borough of Haringey (Electoral Changes) Order

London Borough of Hounslow (Electoral Changes) Order

Instruments subject to annulment

SI 2020/620 Merchant Shipping (Prevention of Pollution by Sewage from
Ships) Regulations 2020

SI 2020/621 Merchant Shipping (Prevention of Pollution by Garbage from
Ships) Regulations 2020

SI 2020/642 Somalia (Sanctions) (EU Exit) Regulations 2020

SI 2020/644 Patents, Trade Marks and Registered Designs (Fees)
(Coronavirus) (Amendment) Rules 2020

SI 2020/647 Insolvency (Amendment) (EU Exit) Regulations 2020

SI 2020/650 Domestic Renewable Heat Incentive Scheme and Renewable
Heat Incentive Scheme (Amendment) Regulations 2020

SI 2020/651 Tribunal Procedure (Amendment) Rules 2020

SI 2020/654 NHS (Charges to Overseas Visitors) (Amendment) (No. 2)
Regulations 2020

SI 2020/655 Universal Credit (Persons who have attained state pension
credit qualifying age) (Amendment) Regulations 2020

SI 2020/656 Childcare Payments (Coronavirus and Miscellaneous
Amendments) Regulations 2020

SI 2020/660 Health and Safety (Consequential Amendments) (EU Exit)
Regulations 2020

- SI 2020/661 Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) (No. 2) Regulations 2020
- SI 2020/662 Vehicle Drivers (Certificate of Professional Competence) (Amendment) Regulations 2020
- SI 2020/665 Healthy Start Scheme and Welfare Food (Miscellaneous Amendments) (Amendment) (England) Regulations 2020
- SI 2020/666 Loans for Mortgage Interest (Transaction Fee) (Amendment) Regulations 2020
- SI 2020/667 Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020
- SI 2020/671 Pilotage and Port Services (Amendment) (EU Exit) Regulations 2020
- SI 2020/672 Child Benefit and Child Tax Credit (Persons of Northern Ireland) (Amendment) Regulations 2020
- SI 2020/676 Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (EU Exit) Regulations 2020
- SI 2020/677 Universal Credit (Northern Ireland Reciprocal Arrangements) Regulations 2020
- SI 2020/678 Pressure Vessels (Amendment) (Northern Ireland) (EU Exit) Regulations 2020
- SI 2020/681 Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) (No.2) Regulations 2020
- SI 2020/682 Marketing of Seed, Plant and Propagating Material (England) Regulations 2020
- SI 2020/683 Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020
- SR 2020/119 Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations (Northern Ireland) 2020
- SR 2020/125 Loans for Mortgage Interest (Transaction Fee) (Amendment) Regulations (Northern Ireland) 2020
- SR 2020/130 Universal Credit (Persons of Northern Ireland - Family Members) (Amendment) Regulations (Northern Ireland) 2020
- SR 2020/134 Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) (No.2) Regulations (Northern Ireland) 2020

APPENDIX 1: 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 14 July 2020, Members declared the following interests:

Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (SI 2020/676)

Pressure Vessels (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (SI 2020/678)

The Earl of Lindsay

Chairman, United Kingdom Accreditation Service (UKAS)

Attendance:

The meeting was attended by Lord Chartres, Lord Cunningham of Felling, Lord German, Viscount Hanworth, Lord Liddle, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.