



House of Lords  
House of Commons  
Joint Committee  
on Statutory Instruments

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**Nineteenth Report  
of Session 2019–21**

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**Drawing special attention to:**

*Representation of the People (Form of Canvass) (Northern Ireland)  
Regulations 2020 (S.I. 2020/580)*

*General Osteopathic Council (Coronavirus) (Amendment) Rules Order of  
Council 2020 (S.I. 2020/596)*

*Ordered by the House of Lords  
to be printed 15 July 2020*

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## Joint Committee on Statutory Instruments

### Current membership

#### House of Lords

[Lord Colgrain](#) (*Conservative*)

[Lord Haskel](#) (*Labour*)

[Lord Morris of Handsworth](#) (*Labour*)

[Baroness Newlove](#) (*Conservative*)

[Lord Rowe-Beedoe](#) (*Crossbench*)

[Baroness Scott of Needham Market](#) (*Liberal Democrat*)

[Lord Stirrup](#) (*Crossbench*)

#### House of Commons

[Jessica Morden MP](#) (*Labour, Newport East*) (Chair)

[Dr James Davies MP](#) (*Conservative, Vale of Clwyd*)

[Paul Holmes MP](#) (*Conservative, Eastleigh*)

[John Lamont MP](#) (*Conservative, Berwickshire, Roxburgh and Selkirk*)

[Sir Robert Syms MP](#) (*Conservative, Poole*)

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

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

### Powers

The full constitution and powers of the Committee are set out in [House of Commons Standing Order No. 151](#) and [House of Lords Standing Order No. 73](#), relating to Public Business.

### Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

### **Publications**

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

### **Committee staff**

The current staff of the Committee are Liz Booth (Committee Assistant), Luanne Middleton (Commons Clerk), Christine Salmon Percival (Lords Clerk). Advisory Counsel: Sarita Arthur-Crow, Klara Banaszak, Daniel Greenberg, and Vanessa MacNair (Commons); Nicholas Beach, James Cooper, and Ché Diamond (Lords).

### **Contacts**

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# Instruments reported

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At its meeting on 15 July 2020 the Committee scrutinised a number of instruments in accordance with Standing Orders. It was agreed that the special attention of both Houses should be drawn to two of those considered. The instruments and the grounds for reporting them are given below. The relevant departmental memoranda are published as appendices to this report.

## 1 S.I. 2020/580: Reported for unusual or unexpected use of enabling powers

### *Representation of the People (Form of Canvass) (Northern Ireland) Regulations 2020*

1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they make unusual or unexpected use of the enabling power in one respect.

1.2 These Regulations specify the content of the form to be used for the canvass in Northern Ireland. Regulation 4(3) states that where the person in relation to whom the canvass form is completed is unable to read that person must arrange for the declaration mentioned in regulation 4(2) to be read out to him or her. That declaration includes (at paragraph (c)) a confirmation from the person who is unable to read that regulation 4(3) has been complied with. The Committee asked the Northern Ireland Office to explain how the duty imposed by regulation 4(3) is intended to be monitored and enforced. In a memorandum printed at Appendix 1, the Department explains that canvass forms will make it clear that the declaration must be read aloud to those who cannot read, that the person who cannot read must declare that the requirement has been complied with and that it is an offence to provide false information to the registration officer. However, the Department accepts that it may be difficult to detect false declarations under regulation 4(2)(c). Given that a person who is unable to read is unlikely to be made aware of this duty where it is not complied with and in any event has no way of knowing whether the declaration has been read properly, the Committee considers this a pointless and unenforceable duty. A better approach would have been to require the person reading out the declaration to make a separate declaration that they have read it (which could then be enforced by way of the offence of providing false information). **The Committee accordingly reports regulation 4 for unusual or unexpected use of the enabling power.**

## 2 S.I. 2020/596: Reported for failure to comply with proper legislative practice

### *General Osteopathic Council (Coronavirus) (Amendment) Rules Order of Council 2020*

2.1 The Committee draws the special attention of both Houses to this Order of Council on the ground that it fails to comply with proper legislative practice in one respect.

2.2 This Order amends the General Osteopathic Council Rules to provide for service of documents by email. The Order was laid before Parliament on 17 June 2020. The Committee asked the Department of Health and Social Care to identify the provision that makes this instrument subject to any Parliamentary procedure. In a memorandum printed at Appendix 2, the Department confirms that there is no such provision and regrets that the instrument was laid before Parliament in error. **The Committee accordingly reports this Order for failure to comply with proper legislative practice, acknowledged by the Department.**



## Instruments not reported

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At its meeting on 15 July 2020 the Committee considered the instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

## Annex

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### Draft Instruments requiring affirmative approval

<b>Draft S.I.</b>	Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020
<b>Draft S.I.</b>	Functions of the Investigatory Powers Commissioner (Oversight of the Data Access Agreement between the United Kingdom and the United States of America and of functions exercisable under the Crime (Overseas Production Orders) Act 2019) Regulations 2020
<b>Draft S.I.</b>	Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020
<b>Draft S.I.</b>	Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2020
<b>Draft S.I.</b>	The Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No.2) Order 2020

### Instruments requiring affirmative approval

<b>S.I. 2020/680</b>	Global Human Rights Sanctions Regulations 2020
<b>S.I. 2020/684</b>	Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
<b>S.I. 2020/685</b>	Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020
<b>S.I. 2020/693</b>	Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020

### Instruments subject to annulment

<b>S.I. 2020/616</b>	Central African Republic (Sanctions) (EU Exit) Regulations 2020
<b>S.I. 2020/620</b>	Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020
<b>S.I. 2020/621</b>	Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020
<b>S.I. 2020/642</b>	Somalia (Sanctions) (EU Exit) Regulations 2020
<b>S.I. 2020/645</b>	Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020

<b>S.I. 2020/647</b>	Insolvency (Amendment) (EU Exit) Regulations 2020
<b>S.I. 2020/650</b>	Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme (Amendment) Regulations 2020
<b>S.I. 2020/651</b>	Tribunal Procedure (Amendment) Rules 2020
<b>S.I. 2020/654</b>	National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2020
<b>S.I. 2020/655</b>	Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020
<b>S.I. 2020/656</b>	Childcare Payments (Coronavirus and Miscellaneous Amendments) Regulations 2020
<b>S.I. 2020/660</b>	Health and Safety (Consequential Amendments) (EU Exit) Regulations 2020
<b>S.I. 2020/661</b>	Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) (No. 2) Regulations 2020
<b>S.I. 2020/663</b>	Electric Scooter Trials and Traffic Signs (Coronavirus) Regulations and General Directions 2020
<b>S.I. 2020/665</b>	Healthy Start Scheme and Welfare Food (Miscellaneous Amendments) (Amendment) (England) Regulations 2020
<b>S.I. 2020/666</b>	Loans for Mortgage Interest (Transaction Fee) (Amendment) Regulations 2020
<b>S.I. 2020/667</b>	Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020
<b>S.I. 2020/672</b>	Child Benefit and Child Tax Credit (Persons of Northern Ireland) (Amendment) Regulations 2020
<b>S.I. 2020/676</b>	Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (EU Exit) Regulations 2020
<b>S.I. 2020/678</b>	Pressure Vessels (Amendment) (Northern Ireland) (EU Exit) Regulations 2020

### **Instruments subject to annulment (Northern Ireland)**

<b>S.R. 2020/119</b>	Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations (Northern Ireland) 2020
<b>S.R. 2020/125</b>	Loans for Mortgage Interest (Transaction Fee) (Amendment) Regulations (Northern Ireland) 2020

### **Draft Instruments subject to annulment**

<b>Draft S.I.</b>	London Borough of Haringey (Electoral Changes) Order 2020
<b>Draft S.I.</b>	London Borough of Hounslow (Electoral Changes) Order 2020

# Appendix 1

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## S.I. 2020/580

### ***Representation of the People (Form of Canvass) (Northern Ireland) Regulations 2020***

1. In its letter to the Northern Ireland Office dated 1 July 2020 the Joint Committee requested a memorandum on the following points:

*Explain how the duty imposed by regulation 4(3) is intended to be monitored and enforced.*

2. Regulation 4(2)(c) requires a canvass form to contain a declaration that the relevant person confirms that, by submitting a canvass form or instructing someone else to do so on their behalf, that regulation 4(3) has been complied with. Section 13D(1) of the Representation of the People Act 1983 provides that “[a] person who for any purpose connected with the registration of electors provides to a registration officer any false information is guilty of an offence.” Thus where a person falsely confirms that Regulation 4(3) has been complied with then they may be guilty of an offence.

3. Where someone believes there may be irregularities in a person’s electoral registration they may report the matter to the police. The police may then investigate the matter and decide whether to refer it to the relevant prosecution service. The Electoral Commission monitors electoral fraud across the UK and publishes and reports on the number, type and outcome of electoral fraud allegations.

4. Whilst the Northern Ireland Office accepts that it may be difficult to detect some instances of false declarations under regulation 4(2)(c) this is not an unusual feature amongst statutory declarations relating to elections. For instance, section 82 of the Representation of the People Act 1983 requires an electoral candidate making a declaration about their election expenses to confirm that they have “examined the return of [their] election expenses [...] of which a copy is now shown to [them]”. In such instances the relevant electoral officer must usually rely on the declaration made to them.

5. In practice it is intended the paper and electronic canvass forms provided to electors will make it very clear that the declaration must be read aloud to those who cannot read, that the relevant person declares that requirement has been complied with and that it is an offence to provide false information to the registration officer.

### **Northern Ireland Office**

**6 July 2020**

## Appendix 2

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### S.I. 2020/596

#### ***General Osteopathic Council (Coronavirus) (Amendment) Rules Order of Council 2020***

1. In its letter to the Department of 1st July 2020, the Committee requested a memorandum on the following points:

*(1) Identify the provision that makes this instrument subject to a specified Parliamentary procedure.*

*(2) If there is no such provision explain why the instrument was laid before Parliament.*

*(3) If the instrument was required to be laid before Parliament, explain the long delay between the making and laying of the instrument.*

2. In response to point (1), the Department confirms that there is no provision in the instrument that makes it subject to a specified Parliamentary procedure. Under section 36(3) of the Osteopaths Act 1993 (c.21), the negative procedure applies to instruments made under certain powers, none of which were exercised when making the instrument.

3. In response to points (2) and (3), the Department regrets that the instrument was laid before Parliament in error.

4. The Department apologises to the Committee for the error and assures the Committee that it will make every effort to ensure that the error is not repeated.

**Department of Health and Social Care**

**7th July 2020**