Secondary Legislation Scrutiny Committee

23rd Report of Session 2019–21

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

Correspondence: Sunset provisions in statutory instruments dealing with COVID-19

Includes information paragraphs on:

- 5 instruments relating to COVID-19
- Draft Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- Draft Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020
- Draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2020
- Global Human Rights Sanctions Regulations 2020
- Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) (Amendment) Order 2020
- Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies In Financial Difficulty) Regulations 2020

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HL Paper 111
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
Baroness Bakewell of Hardington Mandeville
Viscount Hanworth
Rt Hon. Lord Chartres
Lord Hodgson of Astley Abbots
Rt Hon. Lord Cunningham of Felling
The Earl of Lindsay
Lord Lisvane
Lord German
Lord Liddle
Baroness Watkins of Tavistock

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.
Twenty-Third Report

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

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

- Return of Cultural Objects (Revocation) (EU Exit) (Amendment) Regulations 2020
CORRESPONDENCE

Sunset provisions in statutory instruments dealing with COVID-19

1. Having considered a significant number of statutory instruments that make provision, either directly or indirectly, to deal with the Coronavirus pandemic, the Committee noticed the use of a wide variety of different sunset dates and provisions. To assist the House in scrutinising the legislation, we asked the Leader of the House of Commons for a list of all statutory instruments laid before the House to deal with the Coronavirus pandemic that contain sunset provisions, along with the expiry date of those provisions and an explanation of how the application of these sunset provisions will be monitored. This correspondence was published in our 13th report.1 We also requested monthly updates of the list and, after further correspondence, we have now received the first monthly update which is published in Appendix 1 of this report. We welcome the overview and look forward to receiving further updates in due course. We will continue to monitor the use of sunset provisions in secondary legislation.

INSTRUMENTS RELATING TO COVID-19

Restrictions on businesses and public gatherings


2. The International Travel Regulations² (“the original regulations”) were made on an emergency basis to reduce the likelihood of an increase in COVID-19 infections from imported cases, by requiring all passengers coming from outside the Common Travel Area to self-isolate for 14 days. Following the first review on 29 June, these Regulations insert a new Schedule A1 which lists exempted countries and sporting events to which this requirement will not apply. The list in Schedule A1 will be subject to on-going review and further countries will be added or removed on the basis of their risk status. Consequential amendments are also made to the Passenger Locator Form to ask people for the details of which countries or territories they have visited in the last 14 days. People who were in a non-exempt country within the last 14 days, but have travelled from an exempt country, will need to self-isolate for the ‘balance’ of 14 days after their arrival, counted from the time they were last in a non-exempt country. These Regulations apply to passengers arriving in England and are subject to statutory review every 28 days; they amend the original regulations which will lapse 12 months after coming into force.

*Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 2) Regulations 2020 (SI 2020/724)*

3. Following revised information from Public Health England, these Regulations further amend SI 2020/568 (and SI 2020/691 above) to remove Serbia from the list of exempt countries (so passengers arriving in England from Serbia will now have to self-isolate for 14 days).

*Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) Regulations 2020 (SI 2020/719)*

4. These Regulations amend the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020³ to permit the reopening of outdoor swimming pools and water parks (from 11 July 2020) and nail bars and salons, tanning booths and salons, spas and beauty salons, massage parlours, tattoo parlours, and body and skin piercing services (from 13 July 2020).

Changes to business practice and regulation

*Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) Regulations 2020 (SI 2020/710)*

5. This instrument makes changes to ensure that the new free-standing moratorium during which no legal action can be taken against a company or certain other corporate entities without leave of the court, introduced by the Corporate Insolvency and Governance Act 2020, can apply effectively to charitable incorporated organisations. The Department for Digital, Culture, Media and Sport (DCMS) explains that the moratorium provision is being implemented immediately to ensure that relevant corporate entities which

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are struggling as a direct result of the pandemic are given the opportunity to survive by providing a formal breathing space to pursue a rescue plan free from creditor action. According to DCMS, there are around 22,500 charitable incorporated organisations on the register of charities in England and Wales.

**Changes to benefits**

_**Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/712)**_

6. This instrument makes a temporary change to the maximum income threshold eligibility criterion for free childcare for working parents of three and four-year olds set out in the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations (“the 2016 Regulations”), commonly referred to as “30 hours free childcare”. According to the Department for Education (DfE), the change aims to ensure that critical workers who exceed the maximum income threshold set out in the 2016 Regulations due to an income that has increased as a result of work undertaken in relation to the pandemic can continue to take up 30 hours of free childcare. The change will be effective only for the tax year from 6 April 2020 to 5 April 2021. The instrument complements an earlier instrument which made changes to the income thresholds to ensure consistency with the Tax Free Childcare scheme. DfE says that it has also suspended temporarily the minimum income eligibility criterion for 30 hours free childcare which requires each parent in a two parent family, or a sole parent, to earn the equivalent of a weekly minimum of 16 hours at national minimum wage or national living wage. According to DfE, the temporary suspension does not require legislative change and will help to minimise the impact of the pandemic on lower earning families who would ordinarily be eligible but who have lost income due to the pandemic.

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INSTRUMENTS OF INTEREST


7. We drew the Agreement reached by the United Kingdom and the United States of America on access to electronic data for the purpose of countering serious crime\(^5\) to the special attention of the House in our 3rd Report of Session 2019.\(^6\) While it allows data requests from the other country to be processed much more quickly, it raised the possibility, albeit remote, that a UK citizen’s data could be sought in relation to a crime that could result in the death penalty or transfer to the Guantanamo Bay detention facility. Given the gravity of the matter, we took the view that even a theoretical possibility was alarming and drew the Agreement to the special attention of the House on the ground that it may imperfectly achieve its policy objective. The purpose of the current instrument is to provide a statutory basis, under both the Crime (Overseas Production Orders) Act 2019 and the Investigatory Powers Act 2016, for the Investigatory Powers Commissioner to review compliance with the Agreement by public authorities (including by way of audit, inspection, and investigation). \textbf{We are pleased to note the introduction of this element of independent oversight which may offer the House some reassurance.}

Draft Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020

8. These draft Regulations propose to prohibit the use of land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage it. The instrument also sets out the matters that local authorities should take into account when making a fit and proper person assessment, provides for the establishment of a fit and proper person register and sets out procedures for applying for inclusion on the register, appeals and enforcement (including the creation of criminal offences). The Ministry of Housing, Communities and Local Government (MHCLG) explains that the Mobile Homes Act 2013 introduced a new mobile home site licensing regime in England with the aim of raising standards in the industry and strengthening the ability of local authorities to enforce, where necessary, the licence obligations on mobile home site owners. A review of the effectiveness of the Act in 2017\(^7\) concluded that some site owners were continuing to disregard the law and harass and financially exploit residents, who are mostly elderly and on low incomes. Consultation on the proposals for a fit and proper person test between 22 July and 17 September 2019\(^8\) received 370 responses, with 80% showing...


\(^6\) 3rd Report, Session 2019 (HL Paper 11).


overall support. MHCLG says that following a co-ordinated response from 160 local authorities and engagement with the Gypsy and Traveller Communities, the proposals were amended to exempt from the fit and proper person requirements non-commercial sites occupied by a single family, as this would have placed a disproportionate burden on residents.

Draft Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020

9. According to the Department for Business, Energy and Industrial Strategy (BEIS), a key purpose of this instrument is to implement the recognition of professional qualification provisions in the EU Withdrawal Agreement, European Economic Area (EEA) European Free Trade Area (EFTA)\(^9\) Separation Agreement and the Swiss Citizens’ Rights Agreement (“the Agreements”) in UK domestic law. The draft regulations seek to protect recognition decisions made before the end of the Transition Period (TP) and to allow applications that are ongoing at the end of the TP to be concluded under the existing rules. With regard to Switzerland, the instrument proposes a four-year grace period during which Swiss nationals who have a qualification, or have started a qualification before the end of the TP, can seek recognition in the UK under the existing rules, and a five-year period during which certain Swiss service providers can continue to provide services in the UK on a temporary and occasional basis, if this is on the basis of a contract that was concluded and service provision started before the end of the TP. We asked the Department what the situation would be for EEA and Swiss nationals who apply to have a professional qualification recognised after the end of the TP. BEIS responded that:

“The Agreements do not provide for arrangements for EEA [that is EU and EFTA] or Swiss nationals who seek recognition after the end of the Transition Period (except as provided by the additional four—and five-year transitional arrangements for certain Swiss nationals). In 2018–2019, the Government laid various Recognition of Professional Qualifications EU Exit Regulations. These Regulations provide for ongoing recognition systems for certain EEA and Swiss qualification holders to apply for recognition after the Transition Period. Arrangements on the future recognition of professional qualifications (applying after the end of the Transition Period) are being discussed as part of UK-EU Comprehensive Free Trade Agreement [FTA] negotiations. We intend to include appropriate non-discrimination and equal treatment provisions in the FTA. In an FTA context this would be in the form of most-favoured nation and national treatment provisions. We have proposed a national treatment provision in the Mutual Recognition of Professional Qualifications chapter of the UK’s draft legal text.\(^{10}\) The UK Government has set out its intention to agree similar arrangements with the EFTA states.”

10. We note that while an agreement with the EU on the mutual recognition of professional qualifications would be desirable, it is, of course, a possibility

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\(^9\) EFTA includes Iceland, Liechtenstein and Norway, while the EEA covers EU and EFTA states.

that such an agreement might not be reached with the EU, and that the UK Government might not recognise professional qualifications unilaterally.

Draft Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2020

11. The purpose of this instrument is to prescribe the fees that developers will have to pay to local planning authorities if they apply for a recently introduced new ‘permitted development’ right that allows purpose-built detached blocks of flats of three or more storeys to be extended by up to two storeys to create new homes. The Ministry of Housing, Communities and Local Government (MHCLG) says that the fees will be £334 per dwelling house for development proposals of 50 or fewer new dwelling houses and, for development proposals of more than 50 new dwelling houses, £16,525 plus an additional £100 for each dwelling house in excess of 50, subject to a maximum fee of £300,000. According to MHCLG, the level of scrutiny required by local planning authorities for prior approval of the new permitted development right is expected to be greater than for other existing types of prior approval; the fees are therefore higher, but below those for a full planning application.


12. Many recent instruments laid under the Sanctions and Anti-Money Laundering Act 2018 have simply reaffirmed continued compliance with UN sanctions after the UK leaves the EU. This instrument, in contrast, enables the UK to impose sanctions in its own right against individuals or organisations who commit a serious violation of certain human rights. Part 2 of the instrument lists the criteria against which a Minister may make a decision to designate a person as being subject to a travel ban or asset freeze (“designated persons”). The names of designated persons are not included in the instrument but are published separately on the Gov.uk website. The instrument is yet to be debated, but the Foreign Secretary has already published a list of 49 names, many of them Russians linked to the mistreatment and death of auditor Sergei Magnitsky, who uncovered widespread corruption in Russia, or Saudi nationals involved in the death of journalist Jamal Khashoggi in Istanbul.

Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) (Amendment) Order 2020 (SI 2020/688)

13. This instrument further delays, until 31 October 2022, the implementation of the destruction and retention provisions in the Protection of Freedoms Act 2012 (POFA) in relation to “pre-commencement” biometric material taken in Northern Ireland under counter-terrorism powers. In a Written Ministerial Statement on 18 March 2020, the Secretary of State for Northern Ireland set out the Government’s proposals to address the legacy of the past in Northern Ireland by means of a Bill. Analysis of this “pre-commencement” biometric material, such as fingerprint or DNA samples, using more modern

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13 HC Deb, 18 March 2020, HCWS168.
techniques is potentially important to legacy investigations. The Bill will therefore provide a time-limited alternative mechanism that will govern the retention of this material that will supersede the need for further transitional provisions under POFA.

Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020 (SI 2020/693)

14. Measures in the Corporate Insolvency and Governance Act 2020 introduce corporate restructuring tools which include a stand-alone moratorium for companies, Limited Liability Partnerships and Charitable Incorporated Organisations in financial difficulty, to give them respite from their creditors. The Pension Protection Fund (PPF) provides compensation to eligible pension scheme members whose employer has become insolvent and cannot meet the scheme’s liabilities. These Regulations enable the PPF to participate in key decisions in the restructuring process by enabling it to exercise creditor rights that would otherwise be exercisable by the scheme trustees or managers.

Draft Midland Metro (Wednesbury To Brierley Hill Land Acquisition) Order 2020

15. This Order seeks to renew the powers of compulsory land acquisition, originally conferred by a 2005 Order\textsuperscript{14} for the extension of the Midland Metro Light Rapid Transit System (“the Midland Metro”). The project will extend Line 1 from Wednesbury to Brierley Hill and incorporate 17 new stops. It will run partly along the route of the former South Staffordshire Railway and partly on existing urban streets.

16. A Special Procedure Order (SPO) is required because the project involves, either permanently or during construction, some compulsory acquisition of open space land for which no suitable replacement land is being provided in exchange. The SPO procedure includes a 21-day period for petitions to be laid before each House which will expire on 28 July 2020 in the Lords and on 1 September in the Commons. If any petitions are deposited, a Joint Committee of both Houses will consider those which are proper to be received. Further information on the progress of this instrument will be available on the dedicated Parliamentary webpage.\textsuperscript{15}

17. The Explanatory Memorandum explains the social and economic impetus for the extension but is silent on the reasons why the land purchase powers in the previous order were allowed to lapse in 2010 and renewal is only now being sought. An explanation, provided by the Department for Transport in response to our questions, is included in Appendix 2 of this Report.

Other instruments

18. The Official Controls (Plant Health and Genetically Modified Organisms) (England) (Amendment) Regulations 2020\textsuperscript{16} were laid before Parliament on

\textsuperscript{14} Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (SI 2005/927).
31 March 2020 and came into force on 21 April 2020. The Regulations should have been scrutinised by the Committee at its 11th meeting on 21 April 2020 but, due to an oversight, the instrument was not considered by the Committee then or at any subsequent meeting. Unfortunately, we only became aware of this oversight after the prayer period of the instrument had expired on 10 June 2020.
INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

- Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2020
- Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020
- Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- Police Act 1997 (Criminal Record Certificates: Relevant Matters) (Amendment) (England and Wales) Order 2020
- Professional Qualifications and Services (Amendments and Miscellaneous Provisions) (EU Exit) Regulations 2020
- Royal Parks and Other Open Spaces (Amendment) etc. Regulations 2020
- Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2020

Made instruments subject to affirmative approval

- SI 2020/693 Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020
- SI 2020/710 Charitable Incorporated Organisations (Insolvency and Dissolution) (Amendment) Regulations 2020
- SI 2020/719 Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) Regulations 2020

Draft instruments subject to annulment

- London Borough of Barnet (Electoral Changes) Order 2020
- London Borough of Camden (Electoral Changes) Order 2020
### Instruments subject to annulment

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<tr>
<th>SI Number</th>
<th>Instrument Description</th>
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<tr>
<td>SI 2020/673</td>
<td>Merchant Shipping (Safety of Navigation) Regulations 2020</td>
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<tr>
<td>SI 2020/674</td>
<td>Health Protection (Notification) (Amendment) (No. 2) Regulations 2020</td>
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<tr>
<td>SI 2020/688</td>
<td>Protection of Freedoms Act 2012 (Destruction, Retention and Use of Biometric Data) (Transitional, Transitory and Saving Provisions) (Amendment) Order 2020</td>
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<tr>
<td>SI 2020/689</td>
<td>European Union (Regulated Professions Proportionality Assessment) Regulations 2020</td>
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<td>SI 2020/690</td>
<td>School Teachers’ Incentive Payments (England) (Amendment) Order 2020</td>
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<td>SI 2020/700</td>
<td>Early Years Foundation Stage (Exemption from Learning and Development Requirements) and Childcare (Exemption from Registration) (Amendment) Regulations 2020</td>
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<td>SI 2020/705</td>
<td>Mali (Sanctions) (EU Exit) Regulations 2020</td>
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<td>SI 2020/707</td>
<td>Iraq (Sanctions) (EU Exit) Regulations 2020</td>
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<td>SI 2020/711</td>
<td>Climate Change Agreements, CRC Energy Efficiency Scheme and Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2020</td>
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<td>Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Coronavirus) (Amendment) Regulations 2020</td>
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<td>SI 2020/717</td>
<td>Companies (Shareholders’ Rights to Voting Confirmations) Regulations 2020</td>
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<td>SI 2020/724</td>
<td>Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 2) Regulations 2020</td>
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### Special Procedure Order

- Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order 2020
Letter from Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee, to the Rt Hon. Jacob Rees-Mogg MP, Leader of the House of Commons

I wrote to you on 23 April to ask for an explanation of the use of sunset provisions in statutory instruments dealing with the Coronavirus pandemic, and for a list of all such instruments laid before the House at the time that contain sunset provisions, along with the expiry date of those provisions, and subsequent monthly updates for publication in our reports.

You responded on 30 April with a helpful explanation of the use of sunset provisions and how they are monitored by departments, and an overview of all instruments containing such provisions at the time. We were disappointed as we did not receive a monthly update of this table in May, we contacted your office and were told that there had been no commitment to provide an update as the information about sunset provisions was public. Your office explained that each instrument must clearly outline if a sunset provision is included and set out the rationale in the Explanatory Memorandum (EM). We were advised that all Coronavirus-related secondary legislation is identified through its title and listed on the legislation.gov.uk website.

We are of course aware of these presentational arrangements. We are surprised, however, that there does not seem to be a readily available and up-to-date overview of instruments that contain sunset provisions that you could share with us. The idea of such an overview is to bring the information together in one place rather than having to scan the EM of every pandemic-related instrument for the potential use of a sunset provision and its expiry date. To date, our Committee has considered almost 100 different instruments dealing with the pandemic.

We would therefore still welcome a monthly updated overview to be published in our reports. We believe that this would enhance transparency and assist us and the House more widely in scrutinising the legislation.

2 July 2020

Letter from Jacob Rees-Mogg MP to Lord Hodgson

Thank you for your letter of 1 July 2020 regarding sunset provisions in statutory instruments (SIs) made in response to the coronavirus pandemic. As of 8 July the Government has laid 118 SIs that fall into this category, of which 36 include a specific sunset provision.

The Government is keen to assist your Committee in its scrutiny function. Attached at Annex A is therefore a list of the SIs made in response to the pandemic that include a specific sunset provision along with the timing of that provision. This adds to the detail provided in my letter of 30 April and this information is also included in the Explanatory Notes to each SI.

As outlined in my previous letter, sunset provisions are not the only method by which SIs can be time limited to ensure they are only in effect for as long as needed. Some SIs are required to be continuously kept under review in line with the Coronavirus Act 2020, whilst some, such as the health protection regulations which enforce the restrictions on social distancing, include a provision which
obliges the Secretary of State to review regularly the need for the restrictions. Others are one-off legislative changes and set out the timeframe for which they will apply, for example the academic year.

The Government continues to take every step to be as transparent as possible when bringing forward the urgent legislation needed to respond to the pandemic and whether or not it is appropriate to include a sunset provision is always carefully considered.

I trust that this further information is helpful to the Committee in its work in scrutinising this crucial area of legislation. I will continue to provide an updated list to your Committee at the beginning of every month.

12 July 2020

*Annex A*

**Table 1: COVID-19 SIs with specific sunset provisions**

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<tr>
<th>Dept</th>
<th>Title</th>
<th>Sunset Provision</th>
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<tr>
<td>DHSC</td>
<td>Health Protection (Coronavirus) Regulations 2020</td>
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<td>The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020</td>
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<td>The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020</td>
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<td>Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020</td>
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<td>Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020</td>
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<td>Universal Credit and Employment Support Allowance Amendment Regulations 2020</td>
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<td>Social Security (Coronavirus) (Further Measures) Regulations 2020</td>
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<td>Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020</td>
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<td>DHSC</td>
<td>Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020</td>
<td>26/08/2020 — now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020</td>
</tr>
<tr>
<td>MoJ</td>
<td>Competition Appeals Tribunal</td>
<td>25/03/2022</td>
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<tr>
<td>BEIS</td>
<td>The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020</td>
<td>05/04/2021</td>
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<td>BEIS</td>
<td>Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020</td>
<td>31/03/21</td>
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<td>MOJ</td>
<td>The Secure Training Centre (Amendment) (Coronavirus) Rules 2020</td>
<td>25/03/2022</td>
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<td>Dept</td>
<td>Title</td>
<td>Sunset Provision</td>
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<td>DHSC</td>
<td>Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020</td>
<td>04/01/2021</td>
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<tr>
<td>DHSC</td>
<td>Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020</td>
<td>04/01/2021</td>
</tr>
<tr>
<td>DHSC</td>
<td>The Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020</td>
<td>08/06/21</td>
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</table>

*Source: Leader of the House of Commons*
APPENDIX 2: DRAFT MIDLAND METRO (WEDNESBURY TO BRIERLEY HILL LAND ACQUISITION) ORDER 2020

Additional information from the Department for Transport

Q1: Your EM is clear about why the Order is wanted but is silent on why the permission given in 2005 was allowed to lapse, and why a further ten years were left before seeking to renew the permission.

A1: The powers lapsed because of a lack of central Government funding that was essential to enable the implementation of the scheme. This was due to national funding constraints at the relevant time.

In June 2000, the applicant submitted an initial Outline Business Case to Government in accordance with relevant protocols at that time. It was determined by Government – as set out in its formal response to the business case – that the scheme passed the Government’s economic appraisal tests which were used to decide whether a project was eligible for Government funding. Additionally, funding was sought from other sources including local authorities and private sector interests.

Once the Order was made, further development work was carried out and a further business case was submitted to Government in 2006 covering both this scheme and the works authorised by the Midland Metro (Birmingham City Centre Extension) Order 2005. Receipt of conditional approval would have enabled Centro to seek tenders for the work packages and then to seek a further full approval from Government. The 2006 business case was never rejected but funding was not forthcoming due to national funding constraints.

Consideration was then given to incorporating funding for this scheme within a wider bid for funding under the Transport Innovation Fund, to be secured by the introduction of a road charging scheme but, having assessed the impact of such charges, it was determined not to proceed with that bid.

The position changed with the advent of the West Midlands Combined Authority ("WMCA") in 2015 and the momentum created by the West Midlands Devolution Deal and prospect of HS2. Work was undertaken in 2016/17 to refresh the engineering of the scheme and prepare an updated business case.

Compulsory powers under the 2005 Order expired in 2010. However, the planning permission for the scheme was kept live by the discharge of conditions and carrying out of material operations at Dudley Port Railway Station and the Dudley Interchange tram stop. The application for the land acquisition Order was made in December 2017.

Q2: The SLSC will also want to know, if granted, whether the compulsory purchase order likely to be used within the next five year period?

A2: A series of advance works are due to commence in mid-July 2020 (and the Midland Metro Alliance website has details of works that have commenced to date\(^\text{17}\)). The main works, for which land acquisition powers are required, are programmed to commence in 2021.

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\(^{17}\) Midland Metro Alliance, ‘Wednesbury To Brierley Hill Extension’: [https://metroalliance.co.uk/projects/wednesbury-to-brierley-hill-extension/](https://metroalliance.co.uk/projects/wednesbury-to-brierley-hill-extension/)
WMCA has already been able to negotiate licences with some neighbouring landowners to carry out fencing to secure sites in anticipation of the land acquisition powers.

The revised cost of funding the Order received approval of the WMCA Board on 22 March 2019 (for more information please see also the further supplementary proof of Peter Adams in support of the Transport and Works Act Order application18).

Q3: The bulk of your consultation process happened in 2017 - have any significant changes happened since then?

A3: There have not been any significant changes since the consultation undertaken in 2017.

A revised (“Filled”) Order was submitted to the Inquiry together with revised plans and Book of Reference. (Clean and tracked copies were submitted.) Inquiry document APP/INQ 1.3 shows that:

plots 233, 37, 87, 89 and 307 were removed from the Order to reflect assurances provided to the landowners where construction of the scheme no longer required that land,

plot 250 was divided into plots 250 and 250a (because it was discovered that a small part of that land was in unknown ownership),

plots 253 and 255 were removed from the Order because the necessary interests were secured by agreement with the landowner.

These amendments were carried over into the revised plans and Book of Reference.

Q4: Have any of the affected properties changed hands since then and if so has the current owner been contacted?

A4: There are a number of statutory requirements under the Transport and Works Act that the applicant has to comply with requiring publicity and notices to owners and occupiers of property affected by the Order, and WMCA has confirmed that it has complied with all the relevant statutory requirements.

These requirements include publishing notices of the application, including individual notices to affected landowners in accordance with Rule 15.

Owners and occupiers were identified by a land referencing process carried out by experienced consultants and recorded in the Book of Reference submitted with the application in accordance with the Rule 12 of the Applications Rules.

Notice of the Inquiry was given in accordance with the Transport and Works (Inquiries Procedure) Rules 2004.

Notice of the making of the Order has been given in accordance with the requirements of the Transport and Works Act 1992, as amended, as directed by the Secretary of State. This includes the registration of a local land charge and notices to landowners.

Prior to the making of the Order, the usual buyers’ searches would reveal the extant planning permission for the tramway. (The implementation of the planning consent by material operations took place years before the 2017 consultation exercise.)

An internet search indicates a good deal of local publicity for the scheme.

15 July 2020
APPENDIX 3: 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 21 July 2020, Members declared the following interests:

**Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020 (SI 2020/693)**

The Earl of Lindsay  
*Chairman, BPI Pension Trustees Limited*

**Attendance:**

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