

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

37th Report of Session 2021–22

Drawn to the special attention of the House:

Draft Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022

Correspondence: Department for Transport on its maritime
legislation backlog and on the late publication of an Impact
Assessment

Includes information paragraphs on:

2 instruments relating to COVID-19

Draft Contracts for Difference (Miscellaneous
Amendments)-Regulations 2022

Russia (Sanctions) (EU Exit) (Amendment)
(No. 8) Regulations 2022

High Speed Rail (West Midlands – Crewe)
(Qualifying Authorities) Regulations 2021

Non-Commercial Movement of Pet Animals
(Amendment) (England) Regulations 2022

Council Tax (Discount Disregards and
Exempt Dwellings) (Amendment) (England)
Regulations 2022

Criminal Justice (Sentencing) (Licence
Conditions) (Amendment) Order 2022

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Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 13 May 2021, are set out on the website but are, broadly:

To report on draft instruments published under paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018; to report on draft instruments and memoranda laid before Parliament under sections 8 and 23(1) of the European Union (Withdrawal) Act 2018 and section 31 of the European Union (Future Relationship) Act 2020.

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 <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/>

Committee Staff

The staff of the Committee are Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser) and Emily Pughe (Committee Operations Officer).

Further Information

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/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.

Thirty Seventh Report

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022

Date laid: 30 March 2022

Parliamentary procedure: affirmative

These draft Regulations propose changes to allow the Secretary of State, with the consent of Scottish and Welsh Ministers, to “rapidly change” certain conditions for the import of animals and animal products from third countries into Great Britain, where there is a risk to public or animal health in the UK. While the current process for making such changes requires a statutory instrument and is therefore subject to parliamentary scrutiny, the proposed new mechanism would be administrative, so that there would be no direct parliamentary oversight. This would align the process for imports from third countries with the process that is already in place for EU imports. We have received a submission from Green Alliance on behalf of Friends of the Earth which raises questions about the proposed non-legislative mechanism. The loss of parliamentary oversight may be of interest to the House, and additional information from the Department may provide useful further context.

The draft Regulations 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.

1. These draft Regulations have been laid by the Department for Environment, Food and Rural Affairs (Defra) with an Explanatory Memorandum (EM). The purpose of the instrument is to empower the Secretary of State, with the consent of the Scottish Ministers (in relation to Scotland) and the Welsh Ministers (in relation to Wales), to “rapidly change” certain conditions for the import of animals and animal products from third countries into Great Britain (GB), where there is a risk for public or animal health in the UK. This may be, for example, after an overseas animal disease outbreak or food safety incident.
2. We have received a submission from Green Alliance on behalf of Friends of the Earth which raises questions about the proposed non-legislative mechanism. This report sets out some of the information provided by Defra in response to the issues raised. We have published the submission and Defra’s response in full on our website.¹

Background

3. Defra explains that trading partners that have been approved to export animals and animal products to GB must comply with country-specific import conditions set out in retained EU law. Regular changes to these conditions are needed to respond to changes in risk, including to manage the trade from countries which are experiencing animal disease outbreaks, such

¹ SLSC, ‘Scrutiny Evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 26 April 2022].

as Avian Influenza or African Swine Fever, or food safety incidents. Under the current system, such changes are made by statutory instrument for non-EU countries. Defra says that due to this legislative process there is “significant gap” between the identification of risk and the legal implementation of import conditions, and that both trade bodies and trading partners have raised concerns about this lack of responsiveness.

The changes proposed by this instrument

4. This instrument proposes to empower the Secretary of State to change the conditions for the import of animals and animal products into GB from third countries, by specifying the change in a document published for that purpose, rather than through a statutory instrument. Consent will be required of Scottish Ministers in relation to Scotland and Welsh Ministers in relation to Wales. The document will be published on the gov.uk website,² which already contains legally binding information on EU imports.
5. While this instrument would not allow import conditions to be amended for Northern Ireland which remains under EU law, Defra says that “any implications for biosecurity or food safety in Northern Ireland will be taken into consideration throughout the process”.
6. Defra says that similar powers already exist for imports from the EU and European Free Trade Association (EFTA),³ so this instrument would bring the process for changing import conditions for non-EU countries in line with those already in place for the EU/EFTA. Defra says that this will avoid a potential challenge at the World Trade Organization by non-EU countries which could raise concerns about discriminatory treatment under the current arrangements, and that the ability to change import conditions quickly is also needed to meet trade agreement obligations, and that a failure to meet these obligations could lead to legal challenges from trading partners, or retaliatory action against exports from GB.
7. Asked for more detail about the changes that the Secretary of State would be able to make under the new non-legislative mechanism, the Department explained that:

“The new powers will primarily be used to:

- **Impose import restrictions** that prohibit the entry of animals or animal products from a country, or region of a country. For instance, this might include bans on the import of poultry from a country, or region of a country, experiencing an avian influenza outbreak.
- **Lift import restrictions**, permitting the entry of animals or animal products from a country, or a region of a country, where risks to biosecurity and food safety are diminished. For instance, to lift import restrictions where a country (or region of a country) has successfully controlled an animal disease outbreak.
- **Impose and amend additional conditions that need to be met for trade to continue.** This may include requirements for certain

2 Defra, ‘Exporting to the UK: countries and establishments approved to export animals and animal products’: <https://www.gov.uk/guidance/exporting-to-the-uk-countries-and-establishments-approved-to-export-animals-and-animal-products> [accessed 26 April 2022].

3 EFTA includes Iceland, Liechtenstein, Norway and Switzerland.

meat products to be processed or heat treated, additional livestock vaccination or testing to be carried out, and/or official veterinarians in exporting countries to provide supplementary guarantees for health certification purposes.”

Loss of parliamentary oversight

8. The Department says that this instrument “aims to strike a balance between the requirement for appropriate parliamentary scrutiny and the need for effective biosecurity controls”. The EM states that the instrument has been drafted to ensure that “as much parliamentary oversight as possible is retained”, and that “only import conditions that must be amended quickly (sometimes within days) have been removed from legislation”, adding that a “statutory instrument will continue to be required to approve or delist a country or a commodity, ensuring ongoing parliamentary scrutiny of the government’s commitment to maintain standards for animal health and welfare and food safety”.
9. Before Brexit, the power to change import restrictions rested with the European Commission. In response to a question by Friends of the Earth about the difference between the proposed new process and the one used by the EU, Defra explained that the mechanism established by this instrument will “approximate” the EU process:

“The existing EU process: Sanitary and Phytosanitary (SPS) import conditions for entry to the EU are considered by the EU Commission’s Standing Committee on Plants, Animals, Food and Feed, which is composed of representatives of all EU Member States. Import conditions are implemented in law by the EU Commission, which has delegated powers to amend certain conditions via implementing decisions and regulations. These are legally binding across all Member States on their publication in the Official Journal of the European Union.

The proposed GB process: Import conditions for animals and animal products are considered by the Animal Disease Policy Group (ADPG), a senior decision-making body on SPS matters whose representatives include the Chief Veterinary Officers of England, Scotland, Wales and Northern Ireland, along with the Director of Veterinary Services for the Food Standards Agency. ADPG reaches official-level agreement on UK and GB import policy and, where appropriate, informs officials’ recommendations to their respective Ministers. Following the proposed instrument coming into force, implementation in law of changes to import conditions will require the Defra Secretary of State, with consent of the Scottish Ministers (in relation to Scotland) and the Welsh Ministers (in relation to Wales), to specify the change(s) in a document published for that purpose on www.gov.uk. Depending on the type of changes being made, officials may act on behalf of Ministers under the Carltona principle.”⁴

10. Defra added that:

“[T]his instrument will not allow changes to the process for consideration of new market access requests to GB from new countries, or current

⁴ According to the Carltona principle, in UK law, the acts of government departmental officials are synonymous with the actions of the minister in charge of that department.

countries requesting access for different commodities. In this case, the approval and/or delisting of countries and commodities will continue to require secondary legislation in the form of a Statutory Instrument and will therefore remain subject to parliamentary scrutiny.”

11. Friends of the Earth also asked about independent checks under the new process. Defra responded that:

“Recommendations regarding the exercise of powers in this instrument will be made following risk-based assessments carried out or commissioned by veterinary experts in Defra, which coordinates SPS import policy and delivery functions repatriated from the EU Agency DG Santé F in January 2021. They will provide expert advice to the Animal Disease Policy Group (ADPG), including assessments of risk, and ensure that any changes to import conditions are implemented in accordance with legislative requirements. The legal implementation of any changes by the Defra Secretary of State will be, as they are now, subject to agreement by the Welsh Government and the Scottish Government, thereby providing a further layer of scrutiny.”

12. Asked about the capacity of the ADPG, Defra said that:

“The expertise, capacity and processes required to exercise the powers in this instrument appropriately are well-established within government, and have already been used to effectively control a range of SPS import risks since January 2021.

The [ADPG] is a senior, expert government body that considers a wide range of animal health, human health and food safety issues, and ensures that such decisions are informed by assessments of risk. It has had a remit since 2007 for UK animal disease risks, which was extended in January 2021 to include SPS risks from the import of animals and animal products to the UK.

ADPG incorporates experts from across government, including the Chief Veterinary Officers of England, Scotland, Wales, and Northern Ireland, the Director of Veterinary Services for the Food Standards Agency, technical experts from Scottish Government, Welsh Government, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA), Defra, the Food Standards Agency, the Animal and Plant Health Agency and, where appropriate, public health and aquatics experts. ADPG make clear in their terms of reference that: *“When making decisions, consideration will be given first to the best options for disease control, then to any legal requirements, latitude and constraints and finally to the deliverability of the preferred strategy in the field, including sustainability of the operational response and where to prioritise if resources are limited.”*

Conclusion

13. These draft Regulations propose to replace the current legislative process for changing the conditions for third country imports of animals and animal products with an administrative one, mirroring the mechanism that already exists for imports from the EU/EFTA. We note that while this would enable changes to be made more quickly in response to emergencies, such as animal disease outbreaks and where there is a risk to public or animal health, it would also mean that such changes would no longer be subject to

parliamentary scrutiny. The House may wish to obtain assurance from the Minister that regulations like these, which remove parliamentary scrutiny, will be introduced only on the rarest of occasions. **The draft Regulations 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.**

CORRESPONDENCE

Correspondence: Update from the Department for Transport on its maritime legislation backlog

14. In our 17th Report of this session⁵ we drew attention to oral evidence from Robert Courts MP, Parliamentary Under Secretary of State at the Department for Transport (DfT), on the Department's significant backlog of overdue legislation. For that occasion, he had conducted an audit of the statutory instruments required to deal with the problem and set out arrangements to deal with the backlog by the end of 2023. Mr Courts has sent us a progress report, which is published in full in Appendix 1. We note that six of the required instruments are already in force, and that several more are at a late stage of preparation. We find this encouraging.

Correspondence: Publication of the Impact Assessment for the Motor Vehicle (Driving Licences) (Amendment) (No. 5) Regulations 2021

15. Following protracted correspondence with Baroness Vere of Norbiton, Minister for Roads, Buses and Places at DfT,⁶ her letter of 7 April 2022, published in full at Appendix 2, announces that the Impact Assessment (IA) for the Motor Vehicle (Driving Licences) (Amendment) (No. 5) Regulations 2021 has now been laid in Parliament. That is almost four months after the Regulations came into effect and long after the IA might have assisted Parliament by informing the scrutiny process. We note that the IA is equivocal about the potential for the removal of towing tests to affect road safety, largely due to a lack of data. We trust that better data will be collected to ensure that the consequences are monitored properly. **We reiterate that unless the Government ensure that all necessary supporting documentation is laid before Parliament at the same time as an instrument itself, transparency is lost, and departments cannot be properly held to account for their policy decisions.**

⁵ SLSC, [17th Report](#) (Session 2021–22, HL Paper 88).

⁶ See in particular SLSC [15th Report](#) (Session 2021–22, HL Paper 79), [23rd Report](#) (Session 2021–22, HL Paper 123), [27th Report](#) (Session 2021–22, HL Paper 150) and [35th Report](#) (Session 2021–22, HL Paper 187).

INSTRUMENTS RELATING TO COVID-19

Changes to benefits

Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/380)

16. This instrument revoked deeming provisions related to the claiming of Statutory Sick Pay (SSP) during the pandemic to coordinate with the expiry of linked provisions in the Coronavirus Act 2020. The provisions deemed individuals who were self-isolating or shielding due to coronavirus to be incapable of work, and therefore eligible for SSP, even if they had no symptoms. This change meant that, from 25 March, COVID-19 was to be treated like any other respiratory disease and the individual must be sick or incapable of work to qualify for payment of SSP.
17. The proposal was reviewed by the Social Security Advisory Committee (SSAC) whose report, and the Government's response to it, were laid alongside these Regulations.⁷ The SSAC drew attention to the speed with which the Regulations were formulated, stating that in consequence they had inadequate information on the Regulations' impact on groups with protected characteristics, or on those with clinical vulnerabilities, social care workers and others in low paying roles. The Secretary of State's response said that her officials have expanded the equality analysis to consider a wider range of data, and she is content that the consequences of the change are understood.
18. The SSAC was also critical of these Regulations being brought into effect before 1 April, when revised public health guidance was to be published.⁸ The Secretary of State responded that her officials had seen the guidance and she was content that there is no conflict: "While it would not be appropriate to discuss the detail of the future content of such guidance... I am satisfied that from 1 April there will be a rationale for treating COVID-19 like other respiratory illnesses". The Department for Work and Pensions (DWP) does not explain why the publication of the revised guidance was not coordinated with the changes to SSP on 25 March or why the SSAC could not have advance sight of it. **DWP has responded seriously to the SSAC's concerns but the fact that the follow-up analysis relied on confidential information frustrates the purpose of independent scrutiny.**

Delayed or revoked legislation

National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2022 (SI 2022/404)

19. These Regulations delay the start of the requirement for GPs to declare their earnings above £150,000 per year. An agreement between NHS England, NHS Improvement and the General Practitioners Committee England

7 Department for Work and Pensions, 'The Draft Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022 (SI 2022/****)': <https://www.gov.uk/government/publications/the-draft-statutory-sick-pay-general-coronavirus-amendment-regulations-2022-si-2022/the-draft-statutory-sick-pay-general-coronavirus-amendment-regulations-2022-si-2022> (24 March 2022) [accessed 26 April 2022].

8 UK Health Security Agency. 'Living safely with respiratory infections, including COVID-19': <https://www.gov.uk/guidance/living-safely-with-respiratory-infections-including-covid-19> [accessed 26 April 2022] and UK Health Security Agency, 'People with symptoms of a respiratory infection including COVID-19': <https://www.gov.uk/guidance/people-with-symptoms-of-a-respiratory-infection-including-covid-19> [accessed 16 April 2022].

of the British Medical Association (BMA) was published in 2019⁹ which required contractors and sub-contractors of medical services to submit self-declarations annually if their NHS superannuable earnings were above that threshold. In November 2021, the Secretary of State for Health and Social Care took the decision to delay implementation of this policy until at least Spring 2022, to allow general practice to focus on seeing patients during the pandemic. These Regulations implement this delay by removing the requirement on relevant individuals to declare their 2020–21 NHS earnings by 30 April 2022. The Department of Health and Social Care states that these changes are made with the expectation that this policy will resume at a later date.

20. In the meantime, the BMA has published guidance on pay transparency in general practice.¹⁰

9 British Medical Association and NHS England, *Investment and Evolution: A five-year framework for GP contract reform to implement The NHS Long Term Plan* (31 January 2019): <https://www.england.nhs.uk/wp-content/uploads/2019/01/gp-contract-2019.pdf> [accessed 26 April 2022].

10 British Medical Association, 'Declaring GP earnings over £150,000': <https://www.bma.org.uk/pay-and-contracts/pay/gp-pay/declaring-gp-earnings-over-150-000> [accessed 26 April 2022].

INSTRUMENTS OF INTEREST

Draft Contracts for Difference (Miscellaneous Amendments)- Regulations 2022

21. These draft Regulations propose changes to the Contracts for Difference scheme, the Government's main mechanism for supporting low-carbon electricity generation. The changes aim to support the Government's ambition to create an effective Carbon Capture and Storage (CCS) sector by 2030, for example, by supporting the retrofitting of existing natural gas fuelled power stations with CCS technology.
22. We do not have concerns about the proposed changes, but we found that the Explanatory Memorandum (EM) which was laid alongside the draft Regulations was not sufficiently clear: It used considerable technical jargon and did not explain some of the key concepts or technologies, so that it was difficult for a lay reader to understand what the proposed changes would mean in practice.
23. While we recognise the highly technical nature of this policy area, we note that the purpose of an EM is to provide Parliament, those affected by changes in the law and the wider public with a clear and accessible explanation of the effect of an instrument and how it is intended to operate. It is not our role to quality assure EMs; this is something that departments should do themselves, with oversight by their Senior Responsible Owner of secondary legislation. In this case, however, we found that the EM did not meet the expected standard, and we have asked the Department for Business, Energy and Industrial Strategy to revise the EM.

Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022 (SI 2022/452)

24. These made affirmative Regulations introduce additional trade sanctions against Russia with immediate effect. In particular they prohibit the provision of services, supply and delivery for use in Russia or by a person connected with Russia, related to:
 - Quantum computing and advanced materials-related goods and technology,
 - oil refining goods and technology (including oil catalysts), and
 - certain luxury goods.
25. In addition, this instrument introduces a new prohibition on the import, acquisition, supply and delivery of certain iron and steel products originating in or consigned from Russia.
26. We fully understand the importance of putting pressure on Russia through trade sanctions. Prohibiting the export of computing technology and equipment for oil refining is an obvious step but the Explanatory Memorandum fails to give the rationale for the luxury goods chosen, the value thresholds (for example, clothing items with a sale price of more than £250), and what goods may still be exported. **When legislation is passed through Parliament at speed, it is particularly important that the policy choices it implements are very clearly explained.**

High Speed Rail (West Midlands–Crewe) (Qualifying Authorities) Regulations 2021 (SI 2021/151)

27. Schedule 17 to the High Speed Rail (West Midlands - Crewe) Act 2021 Act gives local planning authorities that have signed the HS2 Phase 2a Planning Memorandum (the ‘qualifying authorities’) a greater range of controls than those planning authorities that have not: these Regulations list the qualifying authorities.
28. Due to a misinterpretation of the law, this instrument was made on 11 February 2021 and came into force on 12 February 2021 without having been laid before Parliament, despite being subject to the negative resolution procedure. The Department for Transport has written to the Lord Speaker to apologise for the error which is now being rectified by laying the instrument before the House. The Department explains that, although Phase 2a remains at an early stage, the powers of the qualifying authorities have been exercised on few occasions since this instrument came into force.
29. **We note again, with concern, the Department for Transport’s continuing difficulties in conforming with normal legislative practice.**

Non-Commercial Movement of Pet Animals (Amendment) (England) Regulations 2022 (SI 2022/420)

30. This instrument authorises temporarily the use of an additional rabies antibody titre test for pets (dogs, cats and ferrets) entering England. According to the Department for Environment, Food and Rural Affairs (Defra), this will speed up significantly the rabies testing process for pets entering England at a time when the system faces a significant backlog due to pets arriving with their owners fleeing from Ukraine. Defra says that the only currently used fluorescent antibody virus neutralisation (FAVN) test has a turnaround time of up to two weeks, compared with two to three days for the enzyme linked immunosorbent assay (ELISA) test that is the subject of this instrument. The Scottish and Welsh Governments have made similar regulations, while Northern Ireland remains subject to EU law.
31. Defra estimates that 1,000 to 2,000 pets might be brought into Great Britain by around 100,000 refugees from Ukraine, compared to fewer than 150 available quarantine spaces. The Department says that the use of the additional test will reduce the burden on quarantine spaces and enable people being reunited with their pets earlier, while also protecting UK biosecurity. The measure is temporary and will expire on 1 October 2022, but Defra will consider together with the devolved administrations and relevant stakeholders whether the additional test should become a permanent part of the rabies quarantine system. We question how likely it is that 100,000 refugees will have arrived in Great Britain by 1 October when the measure expires.
32. With regard to other diseases and parasites, Defra told us that dogs from Ukraine will be treated for tapeworm as legally required, that dogs and cats will be treated for ticks as necessary and that, subject to owner consent, they will also be vaccinated against diseases such as infectious canine hepatitis and feline respiratory viruses. The costs of the vaccinations and tick treatment will be met by the Government

**Council Tax (Discount Disregards and Exempt Dwellings)
(Amendment) (England) Regulations 2022 (SI 2022/439)**

33. This instrument ensures that households in England will not lose council tax discounts or exemptions as a consequence of hosting a sponsored individual or family under the Homes for Ukraine scheme. The measures do not extend to accommodation provided to refugees from Ukraine through other emergency visa schemes or to refugees arriving from other countries. The Department for Levelling Up, Housing and Communities says that the instrument addresses the special characteristics of the Homes for Ukraine scheme which operates on the basis of households sponsoring refugees and providing accommodation in their own home, and that there are no plans to extend the scope of the instrument. The Department notes, however, that other local council tax support schemes are available, and that local authorities have powers to offer council tax reductions on the accommodation of other refugees where they consider this appropriate. As of 12 April 2022, some 17,625 visas have been issued under the Homes for Ukraine scheme in England.¹¹

**Criminal Justice (Sentencing) (Licence Conditions) (Amendment)
Order 2022 (SI 2022/459)**

34. Offenders subject to determinate custodial sentences may be released into the community on licence. Section 250 of the Criminal Justice Act 2003 (the 2003 Act) gives the Secretary of State powers to prescribe licence conditions for these offenders. This instrument adds an additional condition that may be included on a terrorist offender's licence, to require such offenders to submit to a personal search by the police. That power is to be inserted into section 43c) of the Terrorism Act 2000 by section 183 of the Police, Crime, Sentencing and Courts Act Bill (the PCSC Bill) currently awaiting Royal Assent.
35. Under section 2(9) of the Police and Criminal Evidence Act 1984, the police are not permitted to require the removal of any clothing in public apart from an outer coat, jacket, or gloves during a search. New section 43c (7) of the Terrorism Act 2000, however, will also allow anything carried by the offender to be searched to allow for the identification of weapons, as well as phones which could be used to contact terrorist networks. New sections 43c (4) to (6) will allow an associated vehicle, including anything in or on it, to be searched.
36. **Although the instrument itself is made under the powers of the 2003 Act, the House may wish to note that this legislation pre-empts agreement to the licence conditions in the current PCSC Bill. The Explanatory Memorandum does not provide any justification for anticipating Parliament in this way or any indication that this legislation is urgent. We regard this as poor practice.**

¹¹ Department for Levelling Up, Housing and Communities and Home Office, 'Homes for Ukraine sponsorship scheme – numbers of visas issued': <https://www.gov.uk/government/publications/homes-for-ukraine-sponsorship-scheme-numbers-of-visa-applications> (8 April 2022) [accessed 26 April 2022].

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft	Agriculture and Horticulture Development Board (Amendment) Order 2022
Draft	Contracts for Difference (Miscellaneous Amendments) Regulations 2022

Made instruments subject to affirmative approval

SI 2022/452	Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022
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Instruments subject to annulment

2021/151	High Speed Rail (West Midlands–Crewe) (Qualifying Authorities) Regulations 2021
SI 2022/380	Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022
SI 2022/404	National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2022
SI 2022/405	Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022
SI 2022/406	European Market Infrastructure Regulation (United States of America Regulated Market Equivalence) Regulations 2022
SI 2022/410	Trade in Dual-Use Items (Council Regulation (EC) No 428/2009) (Amendment) Regulations 2022
SI 2022/420	Non-Commercial Movement of Pet Animals (Amendment) (England) Regulations 2022
SI 2022/428	Social Security Benefits (Claims and Payments) (Modification) Regulations 2022
SI 2022/439	Council Tax (Discount Disregards and Exempt Dwellings) (Amendment) (England) Regulations 2022
SI 2022/448	Universal Credit (Local Welfare Provision Disregard) (Amendment) Regulations 2022
SI 2022/449	Social Security and Council Tax Reduction Schemes (Amendment) Regulations 2022
SI 2022/459	Criminal Justice (Sentencing) (Licence Conditions) (Amendment) Order 2022

APPENDIX 1: CORRESPONDENCE: UPDATE ON THE DEPARTMENT FOR TRANSPORT'S MARITIME LEGISLATION BACKLOG

Letter from Robert Courts MP, Minister for Aviation, Maritime and Security, and Trudy Harrison MP, Minister for the Future of Transport, Department for Transport, to Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee.

Following on from Robert Courts' appearance in front of your committee on 19 October and his letter to you of 26 October, we are writing to provide an update the Department's progress against the backlog of secondary legislation as Maritime Minister and Minister responsible for DfT's Statutory Instrument programme.

We have reviewed the list of Statutory Instruments (SI) raised in October's session against the list provided in a letter to the Committee in July 2021 in order to provide a concise summary of our current maritime work programme, showing clearly which are "backlog". In this context, we define "backlog" as relating to SIs that have a date set by an external body by which they should have been made and that date has not been met. That list, which also includes "delayed" SIs (i.e. not "backlog" but delayed beyond the Department's intended laying date), is provided as an annex to this letter.

We are delighted to report that six further SIs in the backlog have come into force—four from the Maritime programme and two from the Aviation programme (to note, most provisions from the Aviation Safety (Amendment) (No. 3) Regulations 2021 are in force but there are some remaining provisions that will be in force soon). This reduces the backlog SIs that Robert Courts referred to in his appearance before the committee to nine.

In addition to the steps outlined in our last letter to improve secondary legislation training across the Department and in the context of recent errors in the Department's Statutory Instrument programme, we are further reviewing the processes for delivering Ministerial SIs and addressing prioritisation of our SI programme. Our officials are keen to engage with your team to gather the Committee's views to feed into this process. This will help to ensure the secondary legislation we need can be enacted efficiently, to avoid future backlogs, and to understand better understand the challenges we face in delivering a large SI programme.

We hope this continues to reassure the committee that we take the issue of any outstanding secondary legislation very seriously and are taking steps to ensure we have greater resilience and capability to protect against this happening again.

Annex

The table in this Annex sets out a total of 41 SIs, this is broken down by:

- 13 maritime SIs classed as “international backlog”–numbers 1-13.
- 7 domestic SIs that are outstanding/delayed–numbers 14-20.
- 12 SIs that are part of the maritime SI programme that are not delayed or overdue–numbers 21-32.
- 9 SIs that were identified as delayed across the Department–numbers 33-41.
This is made up of:
 - 2 SIs in rail
 - 5 in roads and local transport
 - 2 in aviation

Maritime SI Programme				
No	Title	Status	Finalisation Status	Update
1	The Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2021	International Backlog	Enters into force 22 October 2021.	In Force
2	The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	In Force
3	The Merchant Shipping (Polar Code) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	In Force
4	The Merchant Shipping (Entry into Enclosed Spaces) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	In Force
5	The Merchant Shipping (Standards of Training, Certification and Watchkeeping) (Amendment) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	At Publication Submission stage (EUWA affirmative measure)
6	The Merchant Shipping (Nuclear Ships) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	At Post Consultation stage (negative measure)

7	The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying	At Publication Submission stage (EUWA affirmative measure)
8	The Merchant Shipping (Fire Protection) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Pre-Consultation stage (EUWA affirmative measure)
9	The Merchant Shipping (Cargo and Passenger Ship Construction) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Pre-Consultation Stage (negative measure)
10	The Merchant Shipping (High Speed Craft) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Publication Submission stage (EUWA affirmative measure)
11	The Merchant Shipping (Special Measures to Enhance Maritime Safety) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Pre-Consultation Stage (negative measure)

12	The Merchant Shipping (Carriage of Cargoes) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Pre-Consultation Stage
13	The Merchant Shipping (Carriage of Dangerous Goods) Regulations 2022	International Backlog	Statutory Instrument is being prepared for consultation and are expected to be completed by end 2022 or early 2023	At Pre-Consultation stage (EUWA affirmative measure)
14	The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022	Outstanding Delayed Domestic (UK commitment to accede to a convention)	Well progressed and at consultation or in the final stage prior to making and laying	Laying date dependent on passage of the Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022 (see no 32)
15	The Merchant Shipping (Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2022	Outstanding Delayed Domestic (Thames Inquiry)	Well progressed and at consultation or in the final stages prior to making and laying	Published 21 March 2022 (EUWA affirmative measure)
16	Merchant Shipping (Inspections of Ro-Ro Passenger Ships and High-Speed Passenger Craft) Regulations 2022	Outstanding	Expected to be completed by end 2022	Pre-Publication stage (EUWA affirmative measure)

17	The Merchant Shipping (Cargo Ship) (Bilge Alarm) (Amendment) Regulations 2022	Delayed Domestic	Amendment identified by the JCSI following the laying of the Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021	Early Development for correction of minor amendment
18	Merchant Shipping (Standards of Training, Certification and Watchkeeping) (Fishing vessels) Regulations 2022	Outstanding	Underway and are expected to be completed by the end of 2022	At Pre-Consultation Stage
19	Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2022	Delayed Domestic (MAIB recommendation)	Underway and expected to be completed in 2023	At Pre-Consultation Stage
20	Merchant Shipping (Workboats) Regulations 2022 MAIB	Outstanding Delayed Domestic (MAIB recommendation)	Statutory Instrument is being prepared for consultation and are expected to be completed by early 2023	At Pre-Consultation Stage . Consultation expected by summer 2022
21	The Merchant Shipping (Seafarers' Documents) Regulations 2023	Domestic Not Overdue	2023	Project in early stages. Completion expected in late 2023.
22	The Merchant Shipping (Fees for Seafarer Medical Fitness Certificates (ENG1) Regulations 2022	Domestic Not Overdue	Expected to be completed by the end of 2022	At Pre-Consultation Stage. Consultation expected mid 2022.
23	Merchant Shipping (Official Logbooks) Regulations	Domestic Not Overdue	In development expected completion by end of 2022	Project in early stages. Completion expected in late 2023

24	The Merchant Shipping (Crew Agreements, list of crew and discharge of seamen) Regulations 2023	Domestic Not Overdue	Early Development expected completion by the end of 2023	Early Development expected completion by the end of 2023
25	The Merchant Shipping (Seafarers' Documents) (Amendment) Regulations 2022	Domestic Not Overdue	Early stages of development. Completion expected late 2022	At Pre-Consultation Stage
26	The Merchant Shipping (Health and Safety at Work) (Employment of Young Persons) (Amendment) Regulations 2023	Domestic Not Overdue	Project development started in 2020. Expected completion by late 2022	Project development started in 2020. Expected completion by 2023
27	Merchant Shipping Registration of Ships Regulations 2023	Domestic Not Overdue	Early stages of development. Expected completion by late 202	Early stages of development. Expected completion by late 2023.
28	The Merchant Shipping (Fees) Regulations 2023	Domestic Not Overdue	Early stages of development. Expected completion by the end of 2023	Early stages of development. Expected completion by the end of 2023
29	The Red Ensign Group Yacht Code and Red Ensign Group (REG) Yacht Code, Part A	Domestic Not Overdue	Early stages of development. Expected completion 2023	Early stages of development. Expected completion 2023
30	Seagoing Passenger Ship Regulatory Harmonisation/Consolidation	Domestic Not Overdue	Early stages. Expected completion 2023	Early stages. Expected completion 2023
31	The Merchant Shipping (High Speed Offshore Service Craft) Regulations	Domestic Not Overdue	SI is being prepared for consultation and are expected to be completed	In force

32	The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022	Domestic Not Overdue	SI being prepared for laying in draft in 2022	Laid in draft and debates completed. Awaiting confirmation of the next available date to go to the Privy Council to be made. (June 22?)
Rail				
33	The Trans-European Transport Network (Amendment and Revocation) (EU Exit) Regulations Focused on rail but also covers road and waterways.	Delayed	Underway and are expected to be completed by the end of 2022	On track to be completed by the end of 2022
34	The Channel Safety Order Amendments	Delayed	Underway and are expected to be completed by Spring/ Summer 2022	Now scheduled for coming into force March 2023
Roads and Local Transport				
35	Public ChargePoint consumer experience regulations	Delayed	Underway and are expected to be completed by Spring/ Summer 2022	On track to be completed by Summer 2022

36	Further ChargePoint regulations	Delayed	Underway and are expected to be completed by Spring/ Summer 2022	On track to be completed by Summer 2022 if required. Discussions ongoing to see if this can be amalgamated with the Public ChargePoint consumer experience regulations or if required.
37	Package of measures to improve the standard of motorcycle training	Delayed	Not yet determined, as it may require primary powers.	No progress as officials have been working on regulations to help address HGV driver shortage, by improving the availability of driving test appointments and streamlining HGV licence acquisition.
38	Driving Instructors (Registration) Act 2016	Delayed	Not been identified as a commitment to introduce by any given date	No progress as officials have been working on regulations to help address HGV driver shortage, by improving the availability of driving test appointments and streamlining HGV licence acquisition.

39	The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provision) Regulations 2021 and Transitional Provision) Regulations 2021	Delayed	Underway and are expected to be completed by Summer 2022	Legislation is due to be laid in September 2022 and signed in November/December, subject to Commons and Lords debates. It will come into force by January 2023 and fully apply from 1st July 2023.
Aviation				
40	Air Navigation (Amendment) Order 2021 (SI 2021/879)	Delayed	This SI has now been laid	In force.
41	Aviation Safety (Amendment) (No. 3) Regulations 2021	Delayed	The legislation is due to be made and laid on 28th and 29th October 2021, with most of its provisions coming into force on 20th November 2021.	Completed. The SI was made and laid and most of its provisions have already come into force.

22 April 2022

APPENDIX 2: PUBLICATION OF THE IMPACT ASSESSMENT FOR THE MOTOR VEHICLE (DRIVING LICENCES) (AMENDMENT) (NO. 5) REGULATIONS 2021

Letter from Baroness Vere of Norbiton, Minister for Roads, Buses and Places, Department for Transport, to Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee.

The Impact Assessment (IA) for the above statutory instrument (SI) has now been laid in Parliament. Please also find enclosed the de minimus assessments that support the measures introduced in the Motor Vehicles (Driving Licences) (Amendment) (No. 3) and (No. 4) Regulations 2021.

I understand the concerns you have raised around this analysis not being made available at the time the regulations were passed. As you are aware, owing to the pace of the work to alleviate the heavy goods vehicle (HGV) driver shortage, the IA was still being prepared by officials at the time the regulations were laid. I regret that the full analysis was not available sooner.

Overall, the IA shows that the level of evidence does not allow us to make any categorical statements about the policy's impacts on road safety. The theory does suggest that removing the test could have a potential detrimental impact, however this would be expected to be very small. An accreditation scheme will also aim to mitigate this risk and will cover not only new drivers wanting to tow a trailer, but also drivers who received their licence pre-1997 without training, although its success is dependent on take-up. I would like to also reiterate my comments from the oral evidence session in January—this was an exceptional circumstance in the face of a national crisis and not standard procedure.

I can also confirm that the Regulatory Policy Committee has cleared the IA with a green fit for purpose rating. Since receiving the rating, we have also further addressed their comments to ensure a robust assessment.

To that end, I have agreed that the IA be laid in Parliament today for scrutiny and published more widely [here](#).

In addition, two de minimis assessments (DMAs) have been prepared relating to associated changes made to the [Motor Vehicles \(Driving Licences\) Regulations 1999 by the Motor Vehicles \(Driving Licences\) \(No. 3\) \(Amendment\) Regulations 2021](#) and the [Motor Vehicles \(Driving Licences\) No. 4\) \(Amendment\) Regulations 2021](#). DMAs are not laid in Parliament and there is no requirement for publication, however, in the interests of transparency, we arranged for their publication. These relate to the outsourcing of the manoeuvres elements of HGV driving tests and the removal of the 'staging' requirement between tests in categories C (rigid lorries) and CE (articulated lorries).

I thank you for your continued scrutiny of this legislation and I would be happy to meet again should you have any questions.

7 April 2022

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 26 April 2022, Members declared the following interests.

Non-Commercial Movement of Pet Animals (Amendment) (England) Regulations 2022 (SI 2022/420)

Lord Hodgson of Astley Abbotts

Sister is a vet

Attendance:

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord De Mauley, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, Lord Hutton of Furness, the Earl of Lindsay, Lord Rowlands and Baroness Watkins of Tavistock.