



House of Lords
House of Commons
Joint Committee on
Statutory Instruments

**First Report of
Session 2022–23**

Drawing special attention to:

*M271 Motorway (Junction 1 to Redbridge Roundabout) (Fixed Speed Limits)
(Amendment) Regulations 2022 (S.I. 2022/202)*

*Ordered by the House of Lords
to be printed 11 May 2022*

*Ordered by the House of Commons
to be printed 11 May 2022*

**HL 3
HC 4-i**

Published on 13 May 2022
by authority of the House of Lords
and the House of Commons

Joint Committee on Statutory Instruments

Current membership

House of Lords

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[Baroness Gale](#) (*Labour*)

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

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

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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.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Liz Booth (Committee Operations Officer), Apostolos Kostoulas (Committee Operations Officer), Christine Salmon Percival (Lords Clerk), Hannah Stone (Commons 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

At its meeting on 11 May 2022 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 one of those considered. The instrument and the grounds for reporting it are given below. The relevant departmental memorandum is published as an appendix to this report.

1 S.I. 2022/202: Reported for failure to comply with proper legislative practice

M271 Motorway (Junction 1 to Redbridge Roundabout) (Fixed Speed Limits) (Amendment) Regulations 2022

1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they fail to comply with proper legislative practice in one respect.

1.2 These Regulations, which are subject to the negative resolution procedure, amend the M271 Motorway (Junction 1 to Redbridge Roundabout) (Fixed Speed Limits) Regulations 2021 (“the Principal Regulations”) so as to provide for the 50mph speed limit on the on-slip road at Junction 1 to start 55 metres nearer its merger with the southbound carriageway. Paragraph 7.1 of the Explanatory Memorandum explains that this instrument was required to remedy an error in the Principal Regulations. The Committee accordingly asked the Department for Transport to explain whether the S.I. Registrar was consulted as to whether the free issue procedure should apply. In a memorandum printed as an Appendix, the Department asserts that the free issue procedure did not apply as the Principal Regulations were not “defective in law”, and questions the utility of the free issue procedure on the ground that few people nowadays buy individual copies of statutory instruments. The latter point is one that the Committee made in its First Special Report of Session 2017–19, *Transparency and Accountability in Subordinate Legislation* at paragraphs 3.16 to 3.25, where the Committee suggested a more modern and effective procedure. Until the Government institutes a new procedure, however, free issue remains the only mechanism for alerting users to an instrument which, as in this case, is designed to rectify an error in the implementation of the originally intended policy. The Committee is not sure what the Department means by “defective in law”, and as discussed in its Special Report does not wish to be prescriptive about the situations to which the free issue procedure should apply: but in the case of a simple error of the kind described in the Explanatory Memorandum, the Committee is clear that the public are entitled to have it remedied without charge, and the free issue procedure should have been applied. **The Committee accordingly reports these Regulations for failure to comply with proper legislative practice.**

Instruments not reported

At its meeting on 11 May 2022 the Committee considered the instruments set out in the Annex to this Report, none of which was required to be reported to both Houses.

Annex

Instruments requiring affirmative approval

S.I. Numbers	S.I. Title
S.I. 2022/452	Russia (Sanctions) (EU Exit) (Amendment) (No. 8) Regulations 2022

Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Passport (Fees) Regulations 2022
Draft	Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022
Draft	Public Procurement (International Trade Agreements) (Amendment) Regulations 2022

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2022/216	Social Security Revaluation of Earnings Factors Order 2022
S.I. 2022/267	Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2022
S.I. 2022/273	National Health Service Pension Schemes (Member Contributions etc.) (Amendment) Regulations 2022
S.I. 2022/276	Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2022
S.I. 2022/295	Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2022
S.I. 2022/298	Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2022
S.I. 2022/301	Education (Student Loans) (Repayment) (Amendment) Regulations 2022
S.I. 2022/307	National Insurance Contributions Act 2022 (Application of Part 1) Regulations 2022
S.I. 2022/313	Social Security Contributions (Freeports) Regulations 2022
S.I. 2022/318	National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022
S.I. 2022/320	Teachers' Pension Scheme (Amendment) Regulations 2022
S.I. 2022/330	Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2022

S.I. 2022/339	Allocation of Housing and Homelessness (Eligibility) (England) and Persons subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Regulations 2022
S.I. 2022/354	Further Education Loans (Amendment) Regulations 2022
S.I. 2022/366	Extradition Act 2003 (Part 1 Territories) (Designation of Prosecutors) (Scotland) Order 2022
S.I. 2022/369	Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations 2022
S.I. 2022/380	Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2022
S.I. 2022/391	M5 Motorway (Junctions 1 to 3) (60 Miles Per Hour Speed Limit) Regulations 2022
S.I. 2022/398	National Security and Investment Act 2021 (Prescribed Form and Content of Notices and Validation Applications) (Amendment) Regulations 2022

Instruments subject to annulment (Northern Ireland)

S.I. Numbers	S.I. Title
S.R. 2022/128	Allocation of Housing and Homelessness (Eligibility) (Amendment) Regulations (Northern Ireland) 2022

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2022/289	Police Act 1997 (Criminal Records and Registration) (Guernsey) (Amendment) Regulations 2022
S.I. 2022/290	Police Act 1997 (Criminal Records and Registration) (Isle of Man) (Amendment) Regulations 2022
S.I. 2022/291	Police Act 1997 (Criminal Records and Registration) (Jersey) (Amendment) Regulations 2022
S.I. 2022/381	Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days) (Saving Provision) Regulations 2022
S.I. 2022/399	Annual Tax on Enveloped Dwellings (Indexation of Annual Chargeable Amounts) Order 2022

Appendix 1: Memorandum from the Department for Transport

S.I. 2022/202

M271 Motorway (Junction 1 to Redbridge Roundabout) (Fixed Speed Limits) (Amendment) Regulations 2022

1. The Committee has asked the Department for Transport for a memorandum on the following point:

Given that these Regulations correct an error, explain whether the S.I. Registrar was consulted as to whether the free issue procedure should apply.

2. The S.I. Registrar was not consulted as to whether the free issue procedure should apply to these amendment Regulations.

3. The Department does not consider that S.I. 2021/82 (“the principal Regulations”) are defective in law notwithstanding that they did not give effect to one particular aspect of the policy originally intended. Accordingly the Department does not consider that paragraph 4.7.6 (free replacement copies) of the Statutory Instrument Practice applies to these amendment Regulations.

4. The purpose of the amendment Regulations is to allow the 50mph speed limit signs to remain at the place where they are currently sited on a slip road rather than be moved to the position provided for on that slip road by the principal Regulations. Moving the speed limit signs would have the effect of increasing the length of road which is subject to the speed limit by 55 metres.

5. The Department respectfully submits that if there were any purchasers of the principal Regulations they would not have been misled to their detriment by those Regulations. The 50mph speed limit could not have been properly enforced on the 55 metre length of road without the signs being moved.

6. The Department further submits that, on the assumption that those actually purchasing S.I.s are likely to be in a minority, consideration should perhaps be given to the merits of retaining the free issue procedure in its current form.

Department for Transport

4 April 2022

Formal Minutes

Wednesday 11 May 2022

Virtual meeting

Members present

Jessica Morden, in the Chair

Lord Beith

Dr James Davies

Baroness Gale

Lord Haskel

Baroness Newlove

Lord Smith of Hindhead

Richard Thomson

Report consideration

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.2 read and agreed to.

Annex agreed to.

A paper was appended to the Report as Appendix 1.

Resolved, That the Report be the First Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Adjournment

Adjourned till Wednesday 18 May at 3.40 p.m.