

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

5th Report of Session 2022–23

Drawn to the special attention of the House:

Draft Slavery and Human Trafficking (Definition of Victim) Regulations 2022

M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022

Includes information paragraphs on:

Draft Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022

Draft Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022

Draft United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022

Common Organisation of the Markets in Agricultural Products (Third Country Listing for Fruit and Vegetables) (Amendment, etc.) Regulations 2022 and two related instruments

Customs (Safety and Security Procedures) Regulations 2022

National Health Service (Areas of Integrated Care Boards: Appointed Day) Regulations 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 Sarah Jones (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.

Fifth Report

DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Slavery and Human Trafficking (Definition of Victim) Regulations 2022

Date laid: 23 May 2022

Parliamentary procedure: affirmative

These Regulations set out definitions for the terms “victim of slavery” and “victim of trafficking” to enable the functioning of Part 5 of the Nationality and Borders Act 2022. The Home Office states that the intention of this new legislation is to establish definitions that are consistent with both existing statutory guidance and the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT). The changes aim to allow victims to be identified whether or not the threshold of criminality under the Modern Slavery Act 2015 has been evidenced.

*We have however received two submissions, from CARE and ECPAT UK, which believe that the way these definitions are worded means they will not work as intended. Matters of legal drafting are outside our scope, but it appears to us that more comprehensive consultation prior to laying the Regulations might have resolved these concerns. We also note that the Delegated Powers and Regulatory Reform Committee highlighted potential difficulties in adapting the ECAT definitions in its report on the Bill. **The Minister may wish to review the potential defects identified in the correspondence, so as to be able to confirm to the House, during the forthcoming debate, whether the proposed wording will accurately deliver the Home Office’s policy intention, and whether that intention is to exactly replicate Article 4 of ECAT or to modify it in some way.***

These 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 Regulations set out definitions for the terms “victim of slavery” and “victim of trafficking” to enable the functioning of Part 5 of the Nationality and Borders Act 2022 (“the 2022 Act”), which will rely on these definitions for identifying such victims which in turn triggers provision for their protection and support. The Regulations were laid by the Home Office and are accompanied by an Explanatory Memorandum (EM).
2. The Home Office outlines the problem being addressed in section 7 of the EM: current definitions are linked to criminal offences, therefore, someone is only classed as a victim of slavery if the conduct against them constitutes an offence under section 1 of the Modern Slavery Act 2015 (“MSA 2015”). The intention of this new legislation is to broaden that definition to allow victims to be identified whether or not the threshold of criminality has been evidenced, and also to align with the internationally accepted definitions in

the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT) and the Palermo Protocol.¹

3. The revised definitions will not be used by the criminal justice system, however, perpetrators will continue to be prosecuted under sections 1-2 of MSA 2015, which relate to the offences of slavery, servitude and forced or compulsory labour. The definitions in these new Regulations are for operational use and intended to be consistent with existing statutory guidance. They aim to provide those involved in identifying victims through the National Referral Mechanism, charities and NGOs with clear parameters and terms to rely upon in the implementation of modern slavery policies.

Disputed definitions

4. We have received submissions from two such organisations, CARE and ECPAT UK (*Every Child Protected Against Trafficking*), which convey concerns about the definitions used in these Regulations:²
 - The ECPAT UK submission focusses on the wording of the definitions which it perceives as narrowing the scope from the current MSA 2015 position. ECPAT is particularly concerned that age is only one of several factors to be taken into account, asserting that this is contrary to various international conventions which require different treatment of exploited children.
 - CARE draws attention to the wording of regulation 2(2)(a) which refers to circumstances that “*significantly impair the person’s ability to protect themselves from being subjected to slavery, servitude or forced or compulsory labour*” and contrasts this with the language used in section 1(4)(a) of MSA 2015 which states that regard may be had to circumstances “*which may make the person more vulnerable than other persons*”. CARE believes that the proposed wording is contrary to the Modern Slavery Act Statutory Guidance paragraphs 2.82-2.98³ and “could be inferred as placing a duty on the person to protect themselves from vulnerability that could be a contributory factor to their exploitation”.
 - Both organisations are critical of the way the term “travel” is used in the definition, concerned that it should not be limited to travel across international borders, since “county lines” groups coerce young people into moving drugs within the UK.
5. We raised these concerns with the Home Office and the response is published in full alongside the submissions.⁴ The response reiterates the Home Office’s

1 The Palermo Protocol is a United Nations (UN) protocol to prevent, suppress and punish trafficking in human beings, especially women and children, supplementing the UN Convention against Transnational Organized Crime and its Protocols.

2 Secondary Legislation Scrutiny Committee, ‘Scrutiny Evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 21 June 2022].

3 Home Office, *Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland (May 2022)*: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1075198/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.9.1.pdf [accessed 21 June 2022].

4 Secondary Legislation Scrutiny Committee, ‘Scrutiny Evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 21 June 2022].

intention to align the definitions with ECAT and the Palermo Protocol and the belief that the drafting adequately reflects those definitions:

“We disagree that the regulations are too narrow. The activities mentioned in ECAT Article 4 would be covered by the Draft Regulations and we have intentionally avoided including reference to specific forms of exploitation in recognition of the evolving nature of trafficking and modern slavery so as not to exclude victims of what may currently be unknown forms of exploitation.

The draft regulations make specific reference to all elements of trafficking at Section 3(2), setting out that “P may in particular arrange or facilitate V’s travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V”. Here, recruiting, transporting or transferring, harbouring or receiving, and transferring or exchanging control of the Victim are given equal weight as actions for trafficking.

The ECAT Article 4(a) definition of “trafficking in human beings” requires recruitment, transportation etc., by the means specified in that Article, for the purpose of exploitation. In relation to children, Article 4(c) makes clear that the recruitment, transportation etc. of a child shall be considered trafficking, irrespective of the means used. Regulation 3(5)(b) of the draft regulations does the same.

Exploitation under Article 4 includes forced labour or services. The policy intention is that in order to come within the definition of “trafficking”, the services could be also provided under threat or deception. That is reflected in regulation 3(6)(d).

The draft regulations do not state that children (a person under the age of 18) can consent to their own exploitation. However, it is the policy position that a child can consent to providing a service and for that not to be exploitation. Where there is any element of force, deception or threat to induce them to provide that service, it is exploitation. That is the effect of regulation 3(6)(d). When considering the individual circumstances of a case, a person’s age (as well as other factors) will affect what amounts to force, threat or deception.”

Consultation

6. Both the organisations that wrote in claim that there had been inadequate consultation with the anti-trafficking sector about these Regulations.
7. The Home Office responded that it had conducted extensive public consultation on this general topic in connection with the Nationality and Borders Bill and New Plan for Immigration.⁵ The Home Office confirmed that, while they did hold a number of talks with stakeholders including the Victim Support Modern Slavery Strategy Implementation Group and various

5 The New Plan for Immigration Consultation, which ran from 24 March to 6 May 2021, included a section on supporting victims of modern slavery while ensuring the system is not open to misuse. Stakeholders and members of the public were invited to participate via an online questionnaire; there were also eight targeted engagement sessions with invited stakeholders, covering the detail of the policies; six focus group sessions with members of the public from across the UK; and interviews and small group discussions with those who have experience of the UK asylum and modern slavery systems. Full details: Home Office, ‘New Plan for Immigration’: <https://www.gov.uk/government/consultations/new-plan-for-immigration> [accessed 21 June 2022].

police, immigration and enforcement authorities, it was about the principles and objectives of these definitions: **the specific wording proposed was not available to them. Neither was any material with the proposed definition available to people outside that stakeholder group.**

8. We understand that the Delegated Powers and Regulatory Reform Committee (DPRRC) expressed concern over these prospective definitions in its report on the Bill.⁶ The DPRRC found it inappropriate that, what was then clause 68(1), proposed to give Ministers an unlimited discretion to define these terms rather than making a direct reference to Article 4 of ECAT and Article 4 of the ECHR on the face of the Bill. The Committee was prescient, as the current situation appears to have arisen because of the difficulties of trying to interpret the Articles of the conventions.
9. The language used by the Home Office in its supporting material may also add to the uncertainty since it talks about definitions being “compatible with”,⁷ “reflecting” or “aligning with” Article 4 of ECAT, which may or may not imply a complete replication. **We therefore suggest the Minister makes the position unequivocally clear when introducing the debate.**

Conclusion

10. Matters of legal drafting are outside our scope, but it appears to us that more comprehensive consultation prior to laying the Regulations might have resolved these questions.
11. It seems that all involved are pushing for the same objective, but the two submissions raise different and detailed concerns about whether the operational definitions as they appear in these Regulations will match international conventions and existing statutory guidance, as the Home Office says it intends. **The Minister may wish to review the potential defects identified in the correspondence, so as to be able to confirm to the House, during the forthcoming debate, whether the proposed wording will accurately deliver the Home Office’s policy intention, and whether that intention is to exactly replicate Article 4 of ECAT or to modify it in some way.**

6 Delegated Powers and Regulatory Reform Committee, [18th Report](#) (Session 2021–22 HL Paper 141).

7 For example, in para 83 of the [Delegated Powers Memorandum to the Nationality and Borders Bill](#).

M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022 (SI 2022/607)

Date laid: 6 June 2022

Parliamentary procedure: negative

*These Regulations enable the operation of variable mandatory speed limits between junctions 6 and 7, as part of the M56 “all lane running scheme” (ALR scheme). There has been considerable concern over the safety of these smart motorway schemes which involve the conversion of the hard shoulder to a permanent running lane. On 21 January 2022 the Secretary of State for Transport agreed to all of the recommendations in the House of Commons Transport Committee’s 3rd Report, including that he would pause the rollout of future ALR smart motorway schemes until a full five years’ worth of safety data is available. **We find it inexplicable that the Explanatory Memorandum to this instrument makes no mention of the Transport Committee’s reports or how the safety issues it raised will be applied to this ALR scheme.***

We are concerned that the effect of these Regulations will be to bring the Junction 6 to 7 scheme into operation with emergency refuge areas at a much greater distance apart than is currently considered optimal, and have written to the Minister for an explanation of why the scheme is considered safe when it pre-empts the collection of the safety data to which the Transport Secretary has committed.

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

12. These Regulations have been laid by the Department for Transport (DfT) to enable the operation, from 12 September 2022, of variable mandatory speed limits between junctions 6 and 7 of the M56 as part of the “all lane running scheme” (ALR scheme) near Manchester Airport.
13. This means that vehicles will be running on all four lanes. The existing hard shoulder is being converted into a permanent running lane and will become the new lane 1 when the scheme is completed and opened to traffic in September 2022.

Transport Committee Report

14. There has been considerable concern over the safety of these smart motorway schemes and on 2 November 2021 the House of Commons Transport Committee published a critical report which concluded that:

*“the scale of safety measures needed to effectively and reliably mitigate the risks associated with the permanent removal of the hard shoulder on all-lane running motorways has been underestimated by successive Administrations, the Department for Transport and National Highways”.*⁸
15. In his response on 21 January 2022, the Secretary of State for Transport, the Rt Hon. Grant Shapps MP, agreed to all of the Transport Committee’s recommendations, including that he would pause the rollout of future ALR

⁸ Transport Committee, [Rollout and safety of smart motorways](#) (Third Report, Session 2021–22, HC 26).

smart motorway schemes until a full five years' worth of safety data was available.⁹

16. We queried how these Regulations conformed with this undertaking. DfT responded that this commitment was qualified as follows in the Government's response to the Transport Committee:

“We will complete schemes already in construction given they are all over 50% complete. In addition, leaving Traffic Management in place for the duration of the pause would lead to significant disruption to the travelling public and could potentially lead to drivers using less safe A-roads.

The schemes currently in construction will have SVD [*Stopped Vehicle Detection*] technology in place when opened as well as some additional Emergency Areas (EAs), where possible.”¹⁰

17. DfT explained in supplementary material that, at the time of the Secretary of State's announcement in January, the M56 J6 to 7 scheme was already in construction and over 50% complete with an Open for Traffic date of September 2022. It was therefore considered that this scheme should proceed to completion and would open with Stopped Vehicle Detection in operation.
18. Recommendation 3 of the Transport Committee's 3rd Report said:

“The Department and National Highways should retrofit emergency refuge areas [EAs] to existing all-lane running motorways to make them a maximum of 1,500 metres apart, decreasing to every 1,000 metres (0.75 miles) where physically possible.”

The Transport Secretary's response accepted the recommendation stating that:

“the Government is committing £390m over the duration of the second Road Investment Strategy to roll out an EA retrofit programme. This will see over 150 additional EAs being added to ALRs in operation and construction by 2025.”¹¹

19. We therefore also asked DfT whether this ALR scheme for the M56 includes the use of EAs and, if so, at what separation distances. National Highways responded:

“The scheme has 4 designated Emergency Areas (EAs) that will be operational—2no. westbound and 2no. eastbound in the direction of travel. The EA average spacing is 2.5km. There is a programme within National Highways being developed to address EA spacings across smart motorways.”

20. **The Junction 6 to 7 scheme will therefore be brought into operation with emergency refuge areas at a much greater distance apart than is currently considered optimal.**

9 Transport Committee, [Rollout and safety of smart motorways: Government Response to the Committee's Third Report](#) (Sixth Special Report, Session 2021–22, HC 1020).

10 Transport Committee, [Rollout and safety of smart motorways: Government Response to the Committee's Third Report](#) (Sixth Special Report, Session 2021–22, HC 1020).

11 *Ibid.*

Conclusion

21. We note that this ALR scheme complies with the letter if not the spirit of the commitment the DfT gave in January this year. **What we find inexplicable however is that the Explanatory Memorandum makes no mention of either the Transport Committee's reports or how the safety issues it raised apply to this scheme.**
22. Indeed, the EM continues to assert that “variable mandatory speed limits will ... reduce the likelihood of accidents... [and] help the scheme achieve its safety objectives associated with reducing the average annual rate of collisions or casualties, reducing driver stress, and increasing and improving the quality of driver information.” (EM paragraph 12.1) **This is what the collection of five years' worth of safety data is intended to examine, and such a statement now would appear premature.**
23. We have therefore written to the Minister for an explanation of why the scheme is considered safe when it pre-empted the collection of the safety data to which the Transport Secretary has committed.

INSTRUMENTS OF INTEREST

Draft Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022

24. These draft Regulations propose to implement new provisions in the Building Safety Act 2022 (“the Act”) to: introduce a requirement for leaseholders to provide one-time information in relation to their qualifying lease status and their liability under the leaseholder protections provisions; set out details for landlords to calculate liability for and recover any amount that is not recoverable from leaseholders as a result of the leaseholder protections; and make provision regarding the detail of an application for a remediation order to the First-tier Tribunal.
25. The Explanatory Memorandum (EM) states that the impact in relation to leaseholder protections is largely a result of the Act itself, rather than these Regulations. The EM also says, however, that a full Impact Assessment (IA) for the Regulations “has not yet been finalised”, and that it will be published “shortly, ahead of the debates”. While the IA was published on 20 June, this was almost two weeks after the instrument was laid on 7 June. The Department for Levelling Up, Housing and Communities said that this was because of the need to “undertake final quality assurance checks” before publication.
26. **We regret that once again, because of poor planning, a department has failed to comply with the requirement to provide an IA when an instrument is laid before Parliament.** We have raised this issue repeatedly, most recently in our report on Session 2021–22.¹² **We reiterate our concern that each time an IA is not provided on time, this undermines our ability to scrutinise the legislation effectively and to provide advice to the House. Given the importance of meaningful impact information for effective scrutiny, we are taking evidence on the availability and quality of impact information more generally and will raise our concern with a Minister from the Department for Business, Energy and Industrial Strategy.**

Draft Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022

27. These draft Regulations propose changes to ensure that the fees charged for plant health checks (physical checks and identity checks) for imports into England from all third countries reflect the frequencies of plant health checks that will be established under a new risk-targeted inspection regime. The new regime will apply from July 2022 and will be introduced by a further statutory instrument to be laid at the end of June.
28. The instrument also provides for a flat rate fee on certain plants imported for planting from third countries to England, to prevent those plants benefiting from a cost advantage over plants that have been imported for finishing in Great Britain. The instrument further proposes to extend an exemption until the end of December 2023 under which businesses do not have to pay fees for applications for pre-export and export certification services for plants exported to Northern Ireland. The instrument also proposes the re-

12 Secondary Legislation Scrutiny Committee, [What next? The Growing Imbalance between Parliament and the Executive: End of Session Report 2021–22](#), (38th Report, Session 2021–22, HL 200).

instatement of inspection fees when samples of imported consignments are taken for laboratory testing to confirm the presence of certain plant pests. The fees were wrongly removed by an earlier instrument.¹³

Draft United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022

29. These draft Regulations propose an exclusion from the two market access principles in Part 1 of the United Kingdom Internal Market Act 2020 (mutual recognition and non-discrimination) for legislation that prohibits the sale of single use plastic items, such as plates, straws, drink stirrers, stemmed cotton buds, cutlery or polystyrene food and drinks containers. This follows an agreement reached under the provisional Resources and Waste Common Framework.
30. The Department for Environment, Food and Rural Affairs (Defra) explains that the proposed exclusion recognises that while the UK Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive share an ambition to tackle plastic pollution, legislation banning the sale of single-use plastic items is being introduced in the different parts of the UK at different speeds. In practice, the exclusion would mean that relevant single-use plastics cannot be sold in the parts of the UK which prohibit them, even if produced in another part of the UK which is allowed to produce them. For example, single-use plastic plates produced in or imported into other parts of the UK will not be able to be sold in Scotland, as it has been illegal to sell single-use plastic plates in Scotland since 1 June 2022.
31. Asked about potential loopholes, for example a catering business based in England using plastic cutlery at an event across the border in Scotland, Defra explained that a catering company, regardless of where in the UK it was based, supplying single-use plastic plates and cutlery at an event in Scotland would be in breach of the relevant Scottish regulations. The use of single-use plastic products by a private individual was, however, not covered. Defra also confirmed that there was no exemption in any of the existing or proposed regulations banning the supply of single-use plastic items in the UK to allow the use of such items on board aircraft.

Common Organisation of the Markets in Agricultural Products (Third Country Listing for Fruit and Vegetables) (Amendment, etc.) Regulations 2022 (SI 2022/608)

Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2022 (SI 2022/609)

Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2022 (SI 2022/621)

32. These three instruments implement the Government's decision, announced in April, not to introduce this year further sanitary and phytosanitary (SPS) checks on imports from the EU into Great Britain (GB) which would otherwise have been introduced from 1 July.¹⁴ The Department for Environment, Food and Rural Affairs (Defra) says that the changes are being made in

¹³ Plant Health etc. (Fees) (England) (Amendment) Regulations 2021 ([SI 2021/625](#)).

¹⁴ Written Statement, [HLWS771](#), Session 2022–23.

response to rising costs caused by the war in Ukraine and increasing energy prices. According to Defra, not introducing controls for imports from the EU on 1 July “will avoid placing additional costs on British businesses and consumers and ensure frictionless trade while the Government accelerates its transformative programme to digitise Britain’s borders, harnessing new technologies and data”.

33. **SI 2022/608** recognises conformity checks of fruit and vegetables carried out by Listed Member States before they are imported into GB, thereby easing border requirements. **SI 2022/609** extends the grace periods for import requirements that apply to hop products, poultrymeat with optional indications¹⁵ and organic products exported from the EU and certain other countries to GB until 31 December 2023.
34. **SI 2022/621** extends certain temporary waivers to 31 December 2022, with permanent solutions to follow “in due course” and an update on the revised Border Operating Model expected in autumn 2022. The waivers that are extended include the suspension of the requirement for meat preparations imported into England from European Economic Area States to be deep frozen, so that they can continue to be imported in a chilled condition. Defra says that while this waiver only applies in relation to imports into England, Wales and Scotland have both laid mirroring legislation, so import controls will continue to be aligned across GB. SI 2022/621 also extends the exemption from official controls of personal goods in passengers’ luggage and of small consignments of products which will not to be placed on the market; and the exemption from pre-notification requirements of goods which are produced in Northern Ireland or the Republic of Ireland and imported into GB from the Republic of Ireland.
35. The EU has not reciprocated these temporary waivers, and Defra told us that “during the Trade and Cooperation Agreement negotiations, the EU refused to include provisions on an equivalence mechanism, despite our shared high standards and similar biosecurity risk-profiles”.
36. The Explanatory Memorandum to SI 2022/621 recognises “that businesses running Border Control Posts have made significant investment in recruiting staff and investing in infrastructure ahead of the anticipated introduction of checks from 1 July 2022”. Asked whether any support would be made available to businesses, Defra told us that: “We are currently working with them to assess the impact of this decision, and to address any issues or concerns they may have. This includes seeking to identify ways of preventing unnecessary additional capital cost and minimising ongoing costs. As such, we would encourage ports to continue to engage with their Single Points of Contact at the Cabinet Office in the usual way.”

Customs (Safety and Security Procedures) Regulations 2022 (SI 2022/633)

37. This instrument makes **permanent** changes to reduce the burden on businesses arising from Safety and Security (S&S) declaration requirements which are needed for most imports and exports. The key changes made by this instrument are as follows:

¹⁵ According to Defra, optional indications are terms which may be used in marketing poultrymeat to describe the farming or chilling method, such as “free range”.

- Ensuring that goods for which there is no requirement to provide S&S information also do not need to be presented to customs for non-fiscal purposes when they are taken out of the customs territory.
- Waiving the requirement to submit a pre-departure declaration for goods that may be declared orally to a customs officer, and the requirement to submit an Entry Summary (ENS) declaration¹⁶ for goods that may be declared by conduct (by transporting goods through a green channel marked ‘nothing to declare’ at a port or airport).
- Waiving indefinitely requirements for S&S declarations on imports from the EU and other territories where such a declaration was not required before Brexit, which were due to come into force from 1 July 2022. According to HM Revenue and Customs (HMRC), this will avoid new administrative burdens on businesses and disruption at ports and to supply chains in the current challenging economic environment.
- Waiving permanently S&S requirements on three categories of low-risk goods by removing the obligation to submit: (i) ENS or pre-departure declarations for the import or export of commercial goods carried in travellers’ own small vehicles (so-called Merchandise in Baggage); (ii) pre-departure declarations for exported empty units, such as empty pallets and containers, when moved under a transport contract; and (iii) pre-departure declarations for certain outbound transshipment movements, for example where flight cargo brought into Great Britain is transferred to a vehicle to be taken directly out of Great Britain via a different port, as part of a single journey.

National Health Service (Areas of Integrated Care Boards: Appointed Day) Regulations 2022 (SI 2022/632)

38. The Health and Care Act 2022 inserted provisions into the National Health Service Act 2006 to abolish Clinical Commissioning Groups in England and replace them with integrated care boards (“ICBs”). This instrument sets 1 July 2022 as the “appointed day” for the changeover. The Department of Health and Social Care states that the establishment of ICBs as local health service commissioners will help promote the integration of, and joint working amongst, providers of primary care, secondary care and social care to meet the increasing health and social care needs of the population of England. More details of the responsibilities of ICBs and the groups that they are required to provide for and transitional arrangements are set out in other instruments considered by us this week.¹⁷

¹⁶ ENS declarations are made before goods arrive in a customs territory. The information from the declarations is used to form part of a risk assessment of goods before they arrive at the border by air, sea, rail and road.

¹⁷ See: Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022 ([SI 2022/634](#)), National Health Service (Integrated Care Boards: Responsibilities) Regulations 2022 ([SI 2022/635](#)), National Health Service (Integrated Care Boards: Description of NHS Primary Medical Services) Regulations 2022 ([SI 2022/636](#)); and National Health Service (Joint Working and Delegation Arrangements) (England) Regulations 2022 ([SI 2022/642](#)).

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft	Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022
Draft	Common Agricultural Policy (Cross-Compliance Exemptions and Transitional Regulation) (Amendment) (EU Exit) Regulations 2022
Draft	Local Authority and Combined Authority Elections (Nomination of Candidates) (Amendment) (England) Regulations 2022
Draft	Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022
Draft	Police Act 1996 (Amendment and Consequential Amendments) Regulations 2022
Draft	United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022

Draft instruments subject to annulment

Draft	Code of practice Authorisation and supervision of collective defined contribution schemes
Draft	Luton (Electoral Changes) Order 2022
Draft	Suffolk (Electoral Changes) Order 2022
Draft	Modifications to the Standard Conditions of Electricity and Gas Supply Licences Smart Meters No 1 of 2022

Instruments subject to annulment

SI 2022/600	Local Authority and Greater London Authority Elections (Nomination of Candidates) (Amendment) (England) Rules 2022
SI 2022/602	British Nationality (General, British Overseas Territories and Fees) (Amendment) Regulations 2022
SI 2022/605	Armed Forces (Service Court Rules) (Amendment) Rules 2022
SI 2022/608	Common Organisation of the Markets in Agricultural Products (Third Country Listing for Fruit and Vegetables) (Amendment, etc.) Regulations 2022
SI 2022/609	Common Organisation of the Markets in Agricultural Products (Marketing Standards and Organic Products) (Transitional Provisions) (Amendment) Regulations 2022
SI 2022/610	Football (Offences) (Designation of Football Matches) (Amendment) Order 2022
SI 2022/611	Cremation (England and Wales) (Amendment) (No. 2) Regulations 2022

- SI 2022/612 Coroners (Investigations) (Amendment) Regulations 2022
- SI 2022/617 Football Spectators (Prescription) Order 2022
- SI 2022/619 Novel Foods (Authorisations) and Smoke Flavourings (Modification of Authorisations) (Amendment) (England) Regulations 2022
- SI 2022/621 Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2022
- SI 2022/622 Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (Amendment) Regulations 2022
- SI 2022/630 Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) (No. 2) Regulations 2022
- SI 2022/632 National Health Service (Areas of Integrated Care Boards: Appointed Day) Regulations 2022
- SI 2022/633 Customs (Safety and Security Procedures) Regulations 2022
- SI 2022/634 Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022
- SI 2022/635 National Health Service (Integrated Care Boards: Responsibilities) Regulations 2022
- SI 2022/636 National Health Service (Integrated Care Boards: Description of NHS Primary Medical Services) Regulations 2022
- SI 2022/637 Aviation Safety (Amendment) Regulations 2022
- SI 2022/642 National Health Service (Joint Working and Delegation Arrangements) (England) Regulations 2022

APPENDIX 1: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 21 June 2022 and included in this report, Members declared no interests.

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 Lisvane, Lord Powell of Bayswater, Lord Rowlands and Baroness Watkins of Tavistock.