House of Lords
House of Commons

Joint Committee on Statutory Instruments

Ninth Report of Session 2022–23

Drawing special attention to:

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

Local Authority and Greater London Authority Elections (Nomination of Candidates) (Amendment) (England) Rules 2022 (**S.I. 2022/600**)

Football Spectators (Prescription) Order 2022 (**S.I. 2022/617**)

Ordered by the House of Lords
to be printed 13 July 2022

Ordered by the House of Commons
to be printed 13 July 2022

HL 50
HC 4-ix
Published on 15 July 2022
by authority of the House of Lords
and the House Commons

Joint Committee on Statutory Instruments

Current membership

House of Lords

Lord Beith (*Liberal Democrat*)

Lord Chartres (*Crossbench*)

Baroness D'Souza (*Crossbench*)

Baroness Gale (*Labour*)

Lord Haskel *(Labour)*

Baroness Newlove *(Conservative)*

Lord Smith of Hindhead *(Conservative)*

House of Commons

Jessica Morden MP (*Labour, Newport East*) (Chair)

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

Paul Holmes MP (*Conservative, Eastleigh*)

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

Sir Robert Syms MP (*Conservative, Poole*)

Richard Thomson MP *(Scottish National Party, Gordon)*

Liz Twist MP *(Labour, Blaydon)*

Powers

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

Remit

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

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

i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;

ii that its parent legislation says that it cannot be challenged in the courts;

iii that it appears to have retrospective effect without the express authority of the parent legislation;

iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;

vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;

vii that its form or meaning needs to be explained;

viii that its drafting appears to be defective;

ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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 Manager), 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

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, House of Commons, London SW1A OAA. The telephone number for general inquiries is: 020 7219 3296; the Committee's email address is: jcsi@parliament.uk.

Contents

Instruments reported

At its meeting on 13 July 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 three of those considered. The instruments and the grounds for reporting are given below. The relevant departmental memoranda are published as appendices to this report.

1 Draft S.I.: Reported for defective drafting and for doubtful vires

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

1.1 **The Committee draws the special attention of both Houses to these Regulations on the grounds that they are defectively drafted in four respects and that there is doubt as to whether they are *intra vires* in one respect.**

1.2 These Regulations, which are subject to the draft affirmative resolution procedure, make provision about the recovery by landlords of amounts which they are unable to recover from tenants as a result of the leaseholder protections conferred by Schedule 8 to the Building Safety Act 2022 ("Schedule 8"). Regulations 3, 4 and 5 deal with three different cases, but each makes provision for the recovery of an amount referred to in the Regulations as "the remediation amount". It is an amount which is equal to the amount which the landlord would otherwise have been able to recover from the tenant under the lease, which under the Regulations one or more other landlords are liable to pay to them.

1.3 Each of regulations 3(3), 4(2) and 5(7) imposes a duty on the landlord to give notice of the liability to the relevant landlords who are liable to pay the remediation amount. Provision is also made for those on whom a notice has been served to appeal against the notice to the First-tier Tribunal. The fact that an appeal may be made against the notice suggests that the liability of a particular person to make payment is intended to be dependent in some way on the notice served on them continuing to be valid. But there is nothing in the Regulations to suggest that the liability of a person to pay the remediation amount is in fact contingent on the notice being served and remaining valid following an appeal against it.

1.4 The Committee asked the Department for Levelling Up, Housing and Communities to explain whether it is intended that the liability to pay the remediation amount should be contingent on the service of the notice; and, if so, what gives effect to that intention. In a memorandum printed as Appendix 1, the Department explains that liability to pay does not arise from the notice but from the Act. The purpose of the notice is to inform relevant landlords of their liability to pay towards remediation costs.

1.5 In the view of the Committee, the provisions relating to the giving of notice are defective for the following reasons:

- Regulations 3(3), 4(2) and 5(7) impose a statutory duty on landlords to give notice. But the absence of anything which makes the ability to recover the remediation amount dependent on compliance with that duty means that there

is no sanction for failure to comply with the duty. It would therefore be open to the landlord to ignore the requirement to serve the notice without any impact on their ability to recover the remediation amount.

- Because the notice is intended solely to inform and does not affect the landlord's ability to recover the remediation amount, any appeal against the notice will also not affect the landlord's ability to recover. This undermines the appeal process provided for in the Regulations.

The Committee accordingly reports regulations 3, 4 and 5 for defective drafting.

1.6 Although each of regulations 3, 4 and 5 specify the grounds on which a person can appeal against a notice to the First-tier Tribunal, there is nothing in any of those regulations setting out the powers of the Tribunal in determining an appeal. The Committee asked the Department to explain the powers of the Tribunal and how those powers are conferred. In its memorandum, the Department relies on the fact that in each case the regulation specifies the grounds of appeal. It states that "the Tribunal would simply allow an appeal if one of those grounds were made out by the evidence presented". To say that the Tribunal would allow an appeal if grounds of appeal were made out, does not explain the powers available to the Tribunal. For example, where a person appeals successfully against the level of the remediation amount specified in the notice, it is unclear what the powers of the Tribunal might be in those circumstances and whether it includes a power to substitute an alternative amount determined by the Tribunal. **The Committee accordingly reports regulations 3, 4 and 5 for a second instance of defective drafting.**

1.7 Regulation 6(1) enables a tenant to send the landlord a leasehold deed of certificate in the form set out in regulation 7, together with the evidence referred to in paragraph (7) of regulation 6. The Committee was not clear as to the powers under which this provision was made. Although paragraph 15(1) of Schedule 8 allows regulations to impose requirements on tenants to provide documents and information, that does not appear relevant here since regulation 6(1) does not require the tenant to provide the relevant document or information. Accordingly, the Committee asked the Department to explain the powers under which regulation 6(1) is made.

1.8 In its memorandum, the Department relies on paragraph 15 of Schedule 8 as conferring the relevant powers. The Department suggests that the powers conferred by sub-paragraphs (1) and (2) of paragraph 15 are capable of being exercised independently; and that sub-paragraph (2) allows regulations to prescribe the way in which a document or information is to be provided without also imposing a requirement on a person to provide that document or information. In the view of the Committee, sub-paragraph (2) is not a free-standing power as suggested by the Department. Instead, it is limited to enabling regulations to specify the way in which a document or information is to be provided, where the tenant is required to provide that document or information by virtue of regulations made under sub-paragraph (1). **Accordingly, the Committee reports regulation 6(1) for doubt as to whether it is *intra vires*.**

1.9 Regulation 6(4) and (7) refers in various places to a "shared ownership lease". That expression is not defined anywhere in the Regulations and accordingly the Committee asked the Department to explain where the expression was defined for the purposes of regulation 6. In its memorandum, the Department explains that the definition of "shared

ownership lease" appears in paragraph 6(8) of Schedule 8. However, the definition in paragraph 6(8) applies only for the purposes of that specific paragraph, and therefore cannot be treated as also having effect for the purposes of the Regulations by virtue of section 11 of the Interpretation Act 1978. **The Committee accordingly reports regulation 6(4) and (7) for defective drafting.**

1.10 Regulation 6(6)(a) imposes a requirement on a leaseholder, where they receive a notice under paragraph (2), to provide both a leaseholder deed of certificate which complies with the requirements of regulation 7 and the supporting evidence referred to in regulation 6(7). While, by virtue of paragraph 13(2)(b) of Schedule 8, the failure of a leaseholder to provide a leaseholder deed of certificate affects whether the lease is to be treated as a qualifying lease for the purposes of the Building Safety Act 2022, there is no provision either in that Act or in the Regulations which specifies the consequences of a failure to comply with the duty to provide the supporting evidence referred to in regulation 6(7). It is not sufficient to impose a statutory duty on a person to do something without there being any sanction or remedy for a failure to comply with that duty. **The Committee accordingly reports regulation 6(6)(a) for defective drafting.**

2 S.I. 2022/600: Reported for defective drafting

Local Authority and Greater London Authority Elections (Nomination of Candidates) (Amendment) (England) Rules 2022

2.1 **The Committee draws the special attention of both Houses to these Rules on the ground that they are defectively drafted in one respect.**

2.2 These Rules, which are subject to the negative resolution procedure, amend the candidate's consent to nomination forms for various elections to refer to additional disqualification criteria introduced by the Local Government (Disqualification) Act 2022. The Committee asked the Department for Levelling Up, Housing and Communities to explain why this instrument comes into force on 29 June 2022 (rule 1(2)) given that the additional disqualification criteria in the 2022 Act come into force at the beginning of the day on 28 June 2022. In a memorandum printed at Appendix 2, the Department accepts that the 29 June 2022 commencement date was a drafting mistake. (The mistake had no practical effect, for the reasons given in the Department's memorandum.) **The Committee accordingly reports rule 1(2) for defective drafting, acknowledged by the Department.**

3 S.I. 2022/617: Reported for failure to comply with proper legislative practice

Football Spectators (Prescription) Order 2022

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

3.2 This Order, which is subject to the negative resolution procedure, prescribes football matches that are regulated football matches and organisations that are regulated football organisations for the purposes of the Football Spectators Act 1989. The Committee asked the Home Office to explain why the organisations listed in articles 1(2), 3 and 4 are not

identified by a unique identifier (for example, a company number). In a memorandum printed at Appendix 3, the Department explains that it does not consider that the Order is defective because of the omission of a unique identifier in relation to the organisations listed as there is no real possibility of any ambiguity, lack of clarity or legal certainty that results from the drafting. The Department considers that citation of the full name of the organisations is sufficient. The Committee agrees that the likelihood of confusion is small in this case but stresses that good drafting practice requires that companies and other private bodies referred to in legislation be given a unique identifier. The Department should ensure that future instruments contain unique identifiers in relation to such bodies either in footnotes or in the instrument itself. **The Committee accordingly reports this Order for failure to comply with proper legislative practice.**

Instruments not reported

At its meeting on 13 July 2022 the Committee considered the instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

Annex

Instruments requiring affirmative approval

S.I. Numbers	S.I. Title
S.I. 2022/748	Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2022

Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Warm Home Discount (Scotland) Regulations 2022
Draft	Merchant Shipping (High Speed Craft) Regulations 2022

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2022/669	Freedom of Information (Additional Public Authorities) Order 2022
S.I. 2022/687	National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 2) Regulations 2022
S.I. 2022/693	Television Licences (Disclosure of Information) Act 2000 (Prescription of Information) Order 2022
S.I. 2022/697	General Pharmaceutical Council (Amendment) Rules Order of Council 2022
S.I. 2022/701	Solicitors Act 1974 and Administration of Justice Act 1985 (Amendment) Order 2022
S.I. 2022/702	Electricity (Individual Exemptions from the Requirement for a Generation Licence) (Scotland) Order 2022
S.I. 2022/703	Criminal Justice (Sentencing) (Licence Conditions) (Amendment) (No. 2) Order 2022
S.I. 2022/706	Direct Payments to Farmers (Advance Payments and Activation of Payment Entitlements) (Amendment) (England) Regulations 2022
S.I. 2022/711	Building Safety (Leaseholder Protections) (England) Regulations 2022
S.I. 2022/712	Construction Products (Amendment) Regulations 2022
S.I. 2022/720	Coasting Schools (England) Regulations 2022

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	Stratford-on-Avon (Electoral Changes) Order 2022
Draft	Waverley (Electoral Changes) Order 2022

Instruments not subject to Parliamentary proceedings laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2022/682	Freedom of Information (Removal of References to Public Authorities) Order 2022

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2022/694	Leasehold Reform (Ground Rent) Act 2022 (Commencement) Regulations 2022
S.I. 2022/721	Pension Schemes Act 2021 (Commencement No. 6 and Transitional Provision) Regulations 2022

Appendix 1: Memorandum from the Department for Levelling Up, Housing and Communities

Draft S.I.

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

1. The Committee has asked the Department for Levelling Up, Housing and Communities for a memorandum on the following points:

> *(1) Explain the effect of the notice referred to in each of regulations 3(3), 4(2) and 5(7). If it is intended that the liability to pay the remediation amount should be contingent on the service of the notice, explain what gives effect to that intention.*

2. The effect of the notice in regulation 3(3) is to require the landlord with responsibility to remediate a defect (L) to let other relevant landlords in the building know that they are liable to meet the costs of historical remediation where they were responsible for creating the defects (e.g., because those landlords were or were associated with the developer of the building).

3. Regulation 5(7) applies where paragraphs 3 and 4 do not apply (i.e. no landlord was, or is associated with, the developer of the building nor has a net wealth of over £2m per relevant building owned). The landlord will have recovered whatever capped amount they can from leaseholders and there is still a residual amount to pay for remediation costs. In this case, the effect of the notice is to alert the other landlords that they are liable to pay a share of that residual amount.

4. The liability for each landlord to pay does not arise from the notice – it exists already in the Act. The purpose of the notice is to inform relevant landlords of their liability to pay toward remediation costs, as provided for in the Act.

> *(2) In each of regulations 3, 4 and 5, explain the powers of the First-tier Tribunal in determining an appeal, and how those powers are conferred.*

5. Paragraph 12 of Schedule 8 to the Building Safety Act 2022 provides that:

> "12 (1) The Secretary of State may by regulations make provision for and in connection with the recovery, from a prescribed relevant landlord, of any amount that is not recoverable under a lease as a result of this Schedule.
>
> (2) In this paragraph "relevant landlord", in relation to a lease, means the landlord under the lease or any superior landlord"

6. So these regulations, which (in effect) enable a landlord to recover contributions from other landlords, fall within the ambit of being "…in connection with the recovery from…"

7. The powers of the Tribunal to deal with an appeal are grounded in the specified grounds of appeal in the Regulations.

8. In paragraphs 3(5) and 4(5), the grounds of appeal are:

> (a) that the remediation amount does not represent the cost of the relevant measure; or
>
> (b) that the person sent the notice is not a responsible landlord.

9. In paragraph 5(9) the grounds of appeal are:

> (a) that the remediation amount does not represent the cost of the relevant measure;
>
> (b) that the person is not a relevant landlord within the meaning of paragraph 12(2) of Schedule 8 to the Act; or
>
> (c) that the share of the remediation amount determined for the landlord is incorrect.

10. Therefore the Tribunal would simply allow an appeal if one of those grounds were made out by the evidence presented.

> *(3) In each of regulations 3, 4 and 5, explain how payment of the remediation amount is to be enforced, and what provides for that method of enforcement.*

11. For regulations 3, 4 and 5, the obligation to pay the service charge is moved from the tenant to the landlord and paragraph 12 of Schedule 8 to the Building Safety Act enables the making of these regulations, which set out how the landlord has to pay. The costs will still be considered to be service charges under the lease, but will be payable by the landlord rather than the tenants. In each of regulations 3(2), 4(2) and 5(2) the respective landlord is "liable to pay L". This creates a liability which is legally enforceable and is therefore recoverable as a debt.

> *(4) Explain whether it is intended that a person should fall within the definition of "responsible landlord" in regulation 3(8) if they fall within either sub-paragraph (a) or sub-paragraph (b) of that definition; or whether it is intended that sub-paragraph (a) should only apply if there is no one who falls within sub-paragraph (b). If the latter is intended, explain how that effect is achieved.*

12. The policy intent is that, if sub-paragraph (a) does not apply, the responsible landlord is defined according to paragraph (b).

13. In other words, if the person who is currently the landlord was also the landlord on 14 February 2022, then sub-paragraph (a) applies. If that interest has since been sold such that the person who is currently the landlord is not the same person as the person who was the landlord on 14 February 2022, then sub-paragraph (b) applies. There is no possibility of confusion as the same interest in a lease cannot be owned by two different landlords simultaneously.

(5) Explain the powers under which regulation 6(1) is made.

14. Regulation 6(1) is made under the power in paragraph 15 of Schedule 8 to the Building Safety Act 2022. This paragraph has two powers: paragraph 15(1) allows the Secretary of State to make provision requiring a tenant to give information or documents to the landlord, and paragraph 15(2) allows the Secretary of State to prescribe that the information or documents be given in a certain way. Regulation 6(1) provides that if the leaseholder wants to confirm they have a qualifying lease, they must use a specified form for their certificate (regulation 7) and the documents and information accompanying that certificate must also be in a specified form (paragraph 7). The 'may' element only relates to whether the certificate is served at all as, if a leaseholder decides they want to pay the service charge regardless of whether or not they are protected, they are free to do so.

(6) Explain where the references to "shared ownership lease" in regulation 6 are defined.

15. The definition of "shared ownership lease" is in paragraph 6(8) of Schedule 8 to the Building Safety Act 2022, which makes it clear that it has the meaning given by section 7 of the Leasehold Reform, Housing and Urban Development Act 1993.

(7) Explain the consequences of a failure to comply with the duty in regulation 6(6)(a) to provide the evidence referred to in paragraph (7) of that regulation.

16. The consequence of not providing a leaseholder deed of certificate in regulation 6(6)(a) is set out in regulation 6(4)(c) – i.e. i) the lease will not be treated as a qualifying lease, or ii) the landlord may assume (where the leaseholder has a less than total share of the ownership) that they own 100% of the property. Finally, it may result in the leaseholder not being able to take advantage of having a leasehold interest worth less than £175,000 (£325,000 in London).

Department for Levelling Up, Housing and Communities

4 July 2022

Appendix 2: Memorandum from the Department for Levelling Up, Housing and Communities

S.I. 2022/600

Local Authority and Greater London Authority Elections (Nomination of Candidates) (Amendment) (England) Rules 2022

1. The Committee has asked Department for Levelling Up, Housing and Communities for a memorandum on the following point:

> *Given that the additional disqualification criteria come into force at the beginning of the day on 28 June 2022, explain why this instrument comes into force on 29 June 2022*

2. The Local Government (Disqualification) Act 2022 (the 2022 Act) amends the disqualification criteria for councillors, members of the London Assembly and elected mayors to cover individuals made subject to the notification requirements set out in the Sexual Offences Act 2003, a Sexual Risk Order made under section 122A of that Act and the equivalent notification requirements and Orders in effect in Jersey, Guernsey and the Isle of Man.

3. The Department's intention was to bring this instrument into force either on or soon after the 28 June 2022 coming in force date of the additional disqualification criteria set out in the 2022 Act.

4. The 29 June 2022 in force date arose from a drafting oversight where a previous draft specified a making date of 8 June, which would have required a 29 June coming into force date to meet the 21 day rule. The making date approved by the Parliamentary Business and Legislation Committee was in fact 6 June 2022, which would have allowed for a coming into force date of 28 June.

5. However, as no regular elections to local authorities in England or to the Greater London Assembly took place on 28 June 2022, and the additional disqualification criteria only apply to notification requirements and Orders imposed on or after the 2022 Act came into force, the Department is of the view that the 1 day period between the coming into force of the 2022 Act and the coming into force of this statutory instrument does not have a material impact on persons affected by the instrument.

Department for Levelling Up, Housing and Communities

4 July 2022

Appendix 3: Memorandum from the Home Office

S.I. 2022/617

Football Spectators (Prescription) Order 2022

1. The Committee has asked the Home Office for a memorandum on the following points:

> *(1) Explain why article 1(2) does not contain a unique identifier in relation to FIFA and UEFA (for example, see footnote I on page 2 of S.I. 2022/487).*

2. Article 1(2) of S.I. 2022/617 ("the Order") defines FIFA as the "Fédération Internationale de Football Associations" and UEFA as the "Union des Associations Européennes de Football". This reflects the legal names of the organisations. The Department notes the legal names, without a unique identifier, are included in other legislation; in particular, in the previous prescription order (the Football Spectators (Prescription Order) 2004 (S.I. 2004/2409), as amended) (see also regulation 2 of S.I. 2021/731 and article 2 of S.I. 2017/1257). The Department followed the same approach.

3. The definitions are operative for the purposes of article 3(4)(c) and (d) of the Order, which defines a regulated football match as an association football match outside of England and Wales involving (variously, and amongst other conditions) a team representing any country whose football association is a member of FIFA, or a team representing a club which is a member of, or affiliated to, a national football association which is a member of FIFA, where the match is part of a competition organised by, or under the authority of, FIFA or UEFA. The Department considers provision of the legal names of the organisations enables the reader to identify readily whether a team or club has the requisite connection to FIFA or UEFA.

4. As such, the Department does not consider that the Order is defective because of the omission of a unique identifier in relation to these organisations. The Department acknowledges that in the context of its report on S.I. 2018/212 (here) the Committee said: "Although it may be that the likelihood of confusion was small in this case, proper drafting practice requires that companies or other bodies referred to in legislation are given a unique identifier." However, in the context of the Order to which this memorandum relates, the Department considers there is no real possibility of any ambiguity, lack of clarity or legal certainty that results from the drafting. Consequently, the Department considers that citation of the full name of the organisations is sufficient.

> *(2) Explain why the organisations listed in articles 3 and 4 are not identified by a unique identifier (for example, a company number).*

5. Articles 3 and 4 cite, variously, football governing bodies, football league competitions and incorporated organisations which are national football organisations.

6. In so far as the articles cite incorporated organisations which are football governing bodies or run the relevant elite football leagues, such as the Football Association Limited and the Football Association Premier League Limited, the Department does not consider that the Order is defective because of the omission of company numbers.

7. The legal names of the organisations are listed such that the reader should be able to identify readily the incorporated organisations which are football organisations. The effect of prescribing an organisation is that the Court may make a declaration that an offence related to a football organisation or to a person whom the accused knew or believed to have a prescribed connection with such an organisation (Schedule 1 to the Football Spectators Act 1989), leading to potential imposition of a Football Banning Order. It is readily identifiable whether an offence relates to, for example, the FA Premier League or Football Conference. Further, a search on the Companies House website shows no other companies registered with these names. The Department notes that certain of the organisations are cited, without a unique identifier, in other legislation (for example, Regulation 2 of S.I. 2021/731). Whilst noting the Committee's report on S.I. 2018/212 (as above), the Department considers there is no real possibility of any ambiguity, lack of clarity or legal certainty that results from the drafting in the Order to which this memorandum relates.

8. In so far as articles 3 and 4 list other football organisations, football league competitions and/or FIFA or UEFA the Department considers that citation of the name of the relevant organisation or competition (as applicable) sufficient. The Department notes that other legislation makes similar citation without unique identifier information. For example, see the previous prescription order (S.I. 2004/2409, as amended) and S.I. 2004/2410 (as amended). The purpose of these references is to enable identification of a football club, or team representing such club, which is a member of a relevant football league (articles 3(2) and (4) and 4(f)) and/or a national team appointed by the relevant governing body (articles 3(4)(a) and 4(g)). The terms have (with the exception of the FA Women's Super League and Women's Championship, which are newly added by this Order) been used without amplification to date and, as far as the Home Office is aware, individuals and/or the Courts have found no difficulty in identifying whether a club or team falls in scope of the definition of regulated football matches. The Department considers the same will apply for the women's leagues and the use of the terms in relation to regulated football organisations.

9. If, after consideration of the above points, the Joint Committee considers that it would assist readers if the Order provided further identifier information (where possible), the least disruptive approach for achieving such clarification would appear to be to make such provision as part of subsequent Orders amending the principal Order. It is expected that the Order will require amending over time to add or remove organisations if, for example, new trends in football related crime emerge or the legal organisations change.

Home Office

5 July 2022

Formal minutes

Wednesday 13 July 2022

Virtual meeting

Members present

Jessica Morden, in the Chair

Lord Beith

Lord Chartres

Dr James Davies

Baroness D'Souza

Baroness Gale

Lord Haskel

John Lamont

Baroness Newlove

Report consideration

Draft Report (Ninth 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 3.2 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 3.

Resolved, That the Report be the Ninth 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 20 July at 3.40 p.m.