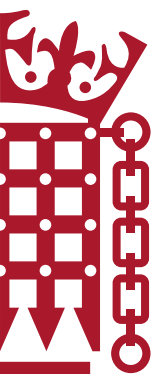


HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

5th Report of Session 2019–21



Includes information paragraphs on:

Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020

Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020

Rules for Direct Payments to Farmers (Amendment) Regulations 2020

Statement of Changes in Immigration Rules

Immigration and Nationality (Fees) (Amendment) Regulations 2020

Victims' Payments Regulations 2020

Health Protection (Coronavirus) Regulations 2020

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Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 11 July 2018, are set out on the website but are, broadly:

To report on draft instruments and memoranda laid before Parliament under sections 8, 9 and 23(1) of the European Union (Withdrawal) Act 2018.

And, to scrutinise –

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

<u>Baroness Bakewell of Hardington Mandeville</u>	<u>Lord Hodgson of Astley Abbotts</u>	<u>The Earl of Lindsay</u>
<u>Rt Hon. Lord Chartres</u>	(Chair)	<u>Lord Lisvane</u>
<u>Rt Hon. Lord Cunningham of Felling</u>	<u>Lord Kirkwood of Kirkhope</u>	<u>Lord Sherbourne of Didsbury</u>
<u>Viscount Hanworth</u>	<u>Lord Liddle</u>	<u>Baroness Watkins of Tavistock</u>

Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at <http://www.parliament.uk/seclegpublications>

Committee Staff

The staff of the Committee are Christine Salmon Percival (Clerk), Helen Gahir (Adviser), Philipp Mende (Adviser), Jane White (Adviser), Louise Andrews (Committee Assistant) and Ben Dunleavy (Committee Assistant).

Further Information

Further information about the Committee is available at <https://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hlseclegscrutiny@parliament.uk.

Fifth Report

INSTRUMENTS OF INTEREST

Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (SI 2020/61)

1. From exit day these Regulations established a right of appeal for EU and other European Economic Area and Swiss citizens against decisions affecting their entitlement to enter and remain in the UK under the EU Settlement Scheme (EUSS), or against decisions in relation to EUSS family permits or travel permits. This Home Office instrument is one of the first made under the European Union (Withdrawal Agreement) Act 2020 and, although it came into effect on exit day, 40 days are allowed for Parliamentary scrutiny. The Regulations meet the UK's obligations under various agreements including the Withdrawal Agreement, which specify that redress procedures must allow for an examination of the legality of these decisions, as well as of the facts and circumstances on which the decision is based. Appeals under this instrument will be to the Immigration and Asylum Chamber of the First-tier Tribunal, with an onward right of appeal to the Upper Tribunal on a point of law. The only exception is, that, where the appeal is certified on the grounds of national security, it will be heard by the Special Immigration Appeals Commission. Appeals under this instrument can be brought from either inside or outside the UK and, where the decision has resulted in deportation, a person will generally have a right to return to the UK to attend their appeal to the First-tier Tribunal hearing in person, but they will be subject to immigration bail for the duration of their time in the UK.

Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020 (SI 2020/90)

Rules for Direct Payments to Farmers (Amendment) Regulations 2020 (SI 2020/91)

2. The purpose of these instruments is to ensure that the Direct Payment schemes for farmers can continue to operate in the UK after EU exit for the 2020 calendar year. According to the Department for the Environment, Food and Rural Affairs (Defra), Direct Payments make up around 80% of all payments under the Common Agricultural Policy in the UK. Within the EU, Direct Payments in 2020 will be funded from the EU's new 2021 multi-annual budget. Defra explains that the Withdrawal Agreement disapplies the EU Direct Payments legislation in the UK during the 2020 claim year, starting on exit day, to avoid the UK being part of the new EU budget, but that without equivalent domestic legislation, Defra and the Devolved Administrations would be unable to make Direct Payments to UK farmers in 2020. These instruments therefore ensure that the Direct Payment schemes can continue to function properly and be enforced across the UK. The Government have committed to provide £2.852 billion so that payments can be made in 2020, at 2019 levels, across the UK. Defra says that the instruments maintain the status quo as far as possible and that farmers will not see any practical change. The Department adds that the Agriculture Bill, which was introduced into Parliament on 16 January, contains powers for the Secretary of State to make regulations for the continuation of Direct

Payment schemes in England beyond 2020, and equivalent powers for Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. The Scottish Government has introduced its own legislation. The instruments have been laid under the urgent ‘made affirmative’ procedure under which they cannot remain in force unless they are approved by Parliament within 28 days, beginning with the day on which they were made. Defra says that this approach was necessary because the instruments could not be made until the Direct Payments to Farmers (Legislative Continuity) Act 2020 had received Royal Assent, and because the instruments had to come into force on exit day to avoid any legislative gap in the Direct Payment schemes in 2020.

Statement of Changes in Immigration Rules (HC 56)

Immigration and Nationality (Fees) (Amendment) Regulations 2020 (SI 2020/77)

3. These two Home Office instruments close the Tier 1 (Exceptional Talent) immigration route to new applicants and, from 20 February 2020, replace it with the new Global Talent immigration route. The fees and two-stage application process will be broadly similar to the previous scheme but while the Exceptional Talent route was subject to a cap of 2,000 places per year, there will be no cap on applications to the new Global Talent category. Also, whilst specific provisions are made for the science and research sector, the Global Talent category will also be open to applicants from the digital technology and arts and culture sectors (including film and television, fashion design and architecture). The rules for the new Global Talent category are set out in Appendix W to the Immigration Rules (which are initially published in this Statement of Changes). The Home Office’s Explanatory Memorandum states that the Global Talent category does not form part of the Points-Based System and does not include points-scoring tables.

Victims’ Payments Regulations 2020 (SI 2020/103)

4. These Regulations establish a Scheme to make payments to those permanently disabled as a consequence of injury caused by a Troubles-related incident. This fulfils one of the provisions of the 2014 Stormont House Agreement between the British and Irish Governments and the Northern Ireland Executive. The instrument, laid by the Northern Ireland Office, sets out the arrangements for who will be entitled to payments and for how much, for decisions and appeals, and creates a new independent Board to operate the scheme which will be supported by the Northern Ireland Civil Service. Anyone injured in an incident in the UK will be eligible to apply. The Scheme is restricted to incidents between 1 January 1966 and 12 April 2010 (the date policing and justice were devolved to the Northern Ireland Executive), but the Board will have discretion to include applications outside of that period, if they consider that not to do so would undermine the purpose of the Scheme. Recipients’ entitlement to other benefits will not be affected by payments under this Scheme and injury includes both mental and physical effects; up to 40,000 people may be eligible.

Health Protection (Coronavirus) Regulations 2020 (SI 2020/129)

5. This instrument is made under the Public Health (Control of Disease) Act 1984 to enable certain measures to be taken to reduce the risks arising from the Wuhan novel coronavirus (2019-nCoV). These Regulations had

immediate effect to enable the imposition of proportionate restrictions (which may include screening, isolation and other appropriate restrictions) where the Secretary of State or a registered public health consultant have reasonable grounds to suspect that an individual is, or may be, contaminated with the Coronavirus. The Regulations provide for a police constable to detain an individual and enforce those restrictions as required. These Regulations only apply in England, and only for as long as there remains a realistic prospect of preventing an epidemic in the UK.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Guaranteed Minimum Pensions Increase Order 2020
 National Minimum Wage (Amendment) Regulations 2020
 Social Security (Contributions) (Rates Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2020
 Social Security Benefits Up-rating Order 2020
 Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations 2020

Made instruments subject to affirmative approval

SI 2020/61 Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020
 SI 2020/90 Financing, Management and Monitoring of Direct Payments to Farmers (Amendment) Regulations 2020
 SI 2020/91 Rules for Direct Payments to Farmers (Amendment) Regulations 2020
 SI 2020/129 Health Protection (Coronavirus) Regulations 2020

Draft instruments subject to annulment

Wiltshire (Electoral Changes) Order 2020

Instruments subject to annulment

HC 56 Statement of Changes in Immigration Rules
 SI 2020/40 Carcinogens and Mutagens (Miscellaneous Amendments) Regulations 2020
 SI 2020/43 Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020
 SI 2020/52 Veterinary Surgeons (Recognition of University Degree) (Surrey) Order of Council 2020
 SI 2020/56 Financial Services (Consequential Amendments) Regulations 2020
 SI 2020/58 Merchant Shipping (Technical Requirements for Inland Waterway Vessels) (Amendment) Regulations 2020
 SI 2020/67 Adult Skills (Specified Qualification in Information Technology) (Amendment) Regulations 2020
 SI 2020/77 Immigration and Nationality (Fees) (Amendment) Regulations 2020
 SI 2020/78 Police (Conduct) (Amendment) Regulations 2020
 SI 2020/103 Victims' Payments Regulations 2020

APPENDIX 1: 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 11 February 2020, Members declared no interests.

Attendance:

The meeting was attended by Lord Cunningham of Felling, Lord Hodgson of Astley Abbotts, the Earl of Lindsay, Lord Liddle, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.