

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

11th Report of Session 2022–23

Instruments under the European Union (Withdrawal) Act 2018: Published Draft Instrument Proposed Negative Instrument

Drawn to the special attention of the House:
Statement of changes in immigration rules (HC 511)

Correspondence:
Follow-up from DWP on Way to Work outcome

Includes information paragraphs on:

Two instruments related to Covid-19	Judicial Offices (Sitting in Retirement - Prescribed Offices and Descriptions) Regulations 2022
Draft Armed Forces (Covenant) Regulations 2022	Care Standards Act 2000 (Extension of the Application of Part 2 to Supported Accommodation) (England) Regulations 2022
Draft Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022	Abortion (Amendment) Regulations 2022
Draft Public Sector Bodies (Websites and Mobile Applications) Accessibility (Amendment) (EU Exit) Regulations 2022	Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022
Draft Sanctions (Damages Cap) Regulations 2022	Street Works (Inspection Fees) (England) Regulations 2022 and one related instrument
Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) (No. 2) Regulations 2022	Aquatic Animal Health (Amendment) Regulations 2022
Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022 and two related instruments	Criminal Legal Aid (Remuneration) (Amendment) 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.

Eleventh Report

INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

Consideration of published draft instruments under Schedule 8 to the European Union (Withdrawal) Act 2018

Published draft on which the Committee makes no recommendations

- Renewable Transport Fuel Obligations (Amendment) Order 2022

Proposed negative instruments about which no recommendation to upgrade is made

- EU Agencies Revocations Regulations 2022

DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Statement of Changes to the Immigration Rules (HC511)

Date laid: 20 July 2022

Parliamentary procedure: Negative

*The Government announced on 22 June 2022 that they are expanding the Homes for Ukraine Scheme to allow children who are not applying with or joining a parent or legal guardian in the UK to be granted a visa where the requirements are met. **While we are all aware of the humanitarian impetus to act quickly, bringing the scheme into effect during recess allowed the House no opportunity to ask practical questions on how it will operate in practice.** For example, what happens to the children at the end of the three year visa? Would they be sent back to occupied parts of Ukraine? Who takes responsibility for a child if it is orphaned during the period of sponsorship?*

*We also note that an Office for National Statistics survey found that 26% of current sponsors are already proposing to leave the existing scheme after less than six months due to cost of living increases. The House may wish to ask what happens to a child if the sponsor withdraws or if the relationship between the child and the sponsor breaks down. **Around 1,000 eligible children under the age of 18 have already applied, so the House may wish to enquire whether there are sufficient caseworker resources to deal with them and to what extent the different approaches taken in the Devolved Administrations have been accommodated in the new scheme. We are concerned that neither these children, nor those already in the care system, should be put in jeopardy because caseworker resources are spread too thinly.***

This instrument is drawn to the special attention of the House on the grounds that it is politically or legally important and gives rise to issues of public policy likely to be of interest to the House.

Background

1. The Government announced on 22 June 2022 that they are expanding the *Homes for Ukraine Sponsorship Scheme* to allow children who are not applying with or joining a parent or legal guardian in the UK to be granted a visa where certain requirements are met. To enable that, with effect from 10 August 2022, this instrument amends the Immigration Rules, made under the Immigration Act 1971, that are used to regulate people's entry to, and stay in, the UK.
2. The conditions are:
 - The child's sponsor will need to have been pre-approved by the local authority before the child makes a visa application.
 - As part of this process, the child's parent will need to provide notarised parental consent. If the child is accompanied by or is joining an adult relative, the adult relative will need the same sponsor.
 - Except in exceptional circumstances, the sponsor should be someone who is personally known to the parents.

- To give these children greater security, sponsors in the UK will be asked to commit to hosting the child for up to three years. In relation to minors who are due to turn 18 before the end of their three years, sponsors will need to consider from the outset how they will support that young person to move into independent accommodation.

Duties on the local authority

3. The Home Office states in its Explanatory Memorandum (EM) that the local authority should check the parental consent is genuine. In supplementary material it said:

“All children applying to the Homes for Ukraine Scheme, who are not travelling with or joining a parent or legal guardian, must provide two different forms of parental or legal guardian consent:

1) Proof of parental or legal guardian consent for the child to leave Ukraine notarised by an authority approved by the Ukrainian Government:

If in Ukraine, then this must be certified by either the notary authorities or the Guardianship Service of the city or regional council in Ukraine.

If in another country, then this must be certified by the notary authorities in that country or by the Ukrainian Embassy or Consulate.

2) A completed and signed UK sponsorship arrangement consent form¹ for the council (or Health and Social Care Trusts in Northern Ireland) where the child will be living. This form collects various information pertaining to the child.

Our guidance to caseworkers² suggests that as part of the Local Authority sponsor suitability assessments, councils should contact the parent and/or legal guardian.”

4. Paragraph 7.7 of the Home Office’s EM also states that local authorities will need to approve sponsorship arrangements before any visa is issued and, in doing this, consider the individual needs of each child (as set out in the documentation required). Council approvals will be informed by the relevant DBS³ checks on sponsors as well as an in person visit to the prospective sponsor and accommodation checks. Councils will also be expected to undertake post-arrival and ongoing safeguarding checks.
5. As part of the safeguarding arrangements, the legislation also introduces a requirement that a person sponsoring a child cannot have already been refused sponsorship by a local authority for the same or another child.

1 Department for Levelling Up, Housing and Communities (DLUHC), ‘Homes for Ukraine: UK sponsorship arrangement consent form’: <https://www.gov.uk/government/publications/homes-for-ukraine-uk-sponsorship-arrangement-consent-form> [accessed 5 September 2022].

2 Home Office, ‘Homes for Ukraine Sponsorship Scheme: caseworker guidance’: https://www.gov.uk/government/publications/homes-for-ukraine-sponsorship-scheme-caseworker-guidance/homes-for-ukraine-sponsorship-scheme-caseworker-guidance-accessible-version--2#child_concession [accessed 5 September 2022].

3 The Disclosure and Barring Service.

Further detail is set out in extensive guidance on how these children will be supported in the UK. This includes guidance for councils,⁴ guidance for sponsors,⁵ guidance for parents,⁶ a UK sponsorship arrangement consent form⁷ and a welcome guide for children.⁸

Numbers involved

6. Paragraph 7.9 of the EM states that the Home Office had already accumulated a backlog of applications before this legislation came into effect, and that the scheme is uncapped. In supplementary information the Home Office told us:

“Around 1,000 eligible children under the age of 18 applied under the wider Home for Ukraine scheme without a parent or legal guardian. These applications were initially placed on hold. On Friday 15 July we ‘unpaused’ these applications. As of Thursday 28 July, the Homes for Ukraine scheme opened for new applicants who are under 18 and not travelling with or joining their parent or legal guardian.

The latest statistics are published on the Gov.uk website.”⁹

New Burdens

7. This instrument imposes a significant number of additional duties on local authority staff both in checking whether the visa should be granted initially and then requiring extensive post-arrival and on-going safeguarding checks. We therefore asked whether the Home Office had undertaken the required “New Burdens” assessment (required when legislation imposes new duties on local authorities). The Home Office responded:

“We have worked in close partnership with local authorities to develop and design the scheme. As set out in guidance, the government will provide further funding (above that provided for all arrivals under the Homes for Ukraine scheme) to support councils with costs arising from cases where eligible children’s sponsorship arrangements break down after arrival in the UK, and children are placed into the care of a council, at a rate of £64,150 per child per year (for the first year).

The Government will also support councils with the costs of supporting any eligible children who have arrived via this route, been placed into the care of a council, and leave the care system once they reach the

4 DLUHC, ‘Homes for Ukraine: Guidance for councils (children and minors applying without parents or legal guardians)’: <https://www.gov.uk/guidance/homes-for-ukraine-guidance-for-councils-children-and-minors-applying-without-parents-or-legal-guardians> [accessed 5 September 2022].

5 DLUHC, ‘Homes for Ukraine: Guidance for sponsors (children and minors applying without parents or legal guardians)’: <https://www.gov.uk/guidance/homes-for-ukraine-guidance-for-sponsors-children-and-minors-applying-without-parents-or-legal-guardians> [accessed 5 September 2022].

6 DLUHC, ‘Homes for Ukraine: Guidance for parents or legal guardians (children and minors applying without parents)’: <https://www.gov.uk/guidance/homes-for-ukraine-guidance-for-parents-or-legal-guardians-children-and-minors-applying-without-parents> [accessed 5 September 2022].

7 DLUHC, ‘Homes for Ukraine: UK sponsorship arrangement consent form’: <https://www.gov.uk/government/publications/homes-for-ukraine-uk-sponsorship-arrangement-consent-form> [accessed 5 September 2022].

8 DLUHC, ‘Homes for Ukraine: welcome guide for Ukrainian children under 18’: <https://www.gov.uk/guidance/homes-for-ukraine-welcome-guide-for-ukrainian-children-under-18> [accessed 5 September 2022].

9 Home Office, ‘Ukraine Family Scheme, Ukraine Sponsorship Scheme (Homes for Ukraine) and Ukraine Extension Scheme visa data’: <https://www.gov.uk/government/publications/ukraine-family-scheme-application-data/ukraine-family-scheme-and-ukraine-sponsorship-scheme-homes-for-ukraine-visa-data--2> [accessed 5 September 2022].

age of 18, at a rate of £16,850 per care leaver per year (also for the first year).”

8. This is an accountant’s response rather than one which looks at the practicalities of delivering this scheme and the emotional challenges to a child arriving in even the best of households under this scheme.
9. We are somewhat reassured by the Home Office’s statement that it has worked in close partnership with local authorities in developing the scheme, but on the ground child services are reportedly already under strain. **The House may wish to enquire further into whether the caseworkers actually have the capacity to take on this additional work**, particularly when the children concerned may not speak English.

Conclusion

10. We are generally critical of significant policy changes that are brought into effect while Parliament is in recess. **While we are all aware of the humanitarian impetus to act quickly, the House may wish to ask for more detail on how this scheme will operate in practice.** For example, what happens to the children at the end of the three year visa? Would they be sent back to occupied parts of Ukraine? Who takes responsibility for a child if it is orphaned during the period of sponsorship?
11. We also note reports that an Office for National Statistics survey found 26% of current sponsors are already proposing to leave the existing scheme after less than six months due to increases in the cost of living.¹⁰ The House may wish to ask what happens to a child if the sponsor withdraws or if the relationship between the child and the sponsor breaks down. **The House may also wish to enquire whether there are sufficient resources to deal with this number of children and to what extent the different approaches in the Devolved Administrations have been accommodated in the new scheme. If child services are already under strain, we are concerned that neither these children, nor those already in the care system, should be put in jeopardy because caseworker resources are spread too thinly.**

10 Office for National Statistics, ‘Experiences of Homes for Ukraine scheme sponsors, UK’: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/experiencesofhomesforukraineschemesponsorsuk> [accessed 5 September 2022] which was cited in ‘Homes for Ukraine: Quarter of refugee sponsors do not want to carry on’, *BBC News* (10 August 2022): <https://www.bbc.co.uk/news/uk-62493852>.

CORRESPONDENCE: FOLLOW-UP FROM DWP ON WAY TO WORK OUTCOME

12. The Department for Work and Pensions (DWP) originally laid the **Universal Credit and Jobseeker’s Allowance (Work Search and Work Availability Requirements - limitations) (Amendment) Regulations 2022**¹¹ on 7 February 2022 to reduce from three months to four weeks the period during which claimants are permitted to limit their job search to the same occupation and level of remuneration as their previous work (“the permitted period”). The Department said that this change was made with the objective of getting 500,000 claimants into work by 30 June.
13. We were concerned about the Regulations’ ability to achieve this and therefore asked Baroness Stedman-Scott, Parliamentary Under Secretary of State at DWP to give oral evidence on them. Our 33rd Report of Session 2021–22¹² included more details but, back in March, we took the view that the target was aspirational, its delivery not fully thought through, and it was uncertain whether the DWP would be able to demonstrate that it had been achieved.
14. After the end of June deadline had passed, we wrote to DWP to ask about the Regulations’ outcome. In its reply, published in Appendix 1, the Department states that by 6 July at least 520,000 unemployment benefit claimants had moved into work during the “Way to Work” campaign. The letter goes on to say, however, that DWP cannot identify how many of these people would have flowed off the register in a “normal” year, and that “it is sometimes hard to disentangle specific impacts” of the campaign. Similarly, it said that there had been an overall increase in applied sanctions, however within the data it was unable to determine which, if any, were due to the change to the Permitted Period.
15. Our 33rd Report criticised DWP’s lack of an evaluation plan and predicted its inability to identify which of the elements of the Way to Work package had been most effective. While DWP claims to have succeeded in its objective, it cannot identify how many of those leaving are a result of the normal seasonal ebb and flow of unemployment, or what proportion of those who left the register did so a result of market forces. **DWP cannot identify the degree to which its policy and the various elements which support it, including these Regulations, have had any effect in achieving the target. We therefore regard the Regulations as a poor example of legislative practice.**

11 Universal Credit and Jobseeker’s Allowance (Work Search and Work Availability Requirements - limitations) (Amendment) Regulations 2022 ([SI 2022/ 108](#)).

12 SLSC, [33rd Report](#) (Session 2022–23, HL 176).

INSTRUMENTS RELATED TO COVID-19

Changes to business practice and regulation: Travel

Draft Airports Slot Allocation (Alleviation of Usage Requirements) (No. 3) Regulations 2022

16. An airport “slot” is a permission to use all necessary airport infrastructure at a specified date and time for take-off or landing. Allocation of airport slots at congested airports is governed by Council Regulation (EEC) No 95/93 which, among other things, provides that if an airline has used at least 80% of its slots in the preceding winter or summer season, it is entitled to the same series of slots in the following equivalent season (the “80:20 rule”).
17. Due to the pandemic’s continuing effects on air travel, the Government have been managing these rules more flexibly. This instrument amends the airport slot usage rule to 70:30 for the Winter 2022 season (30 October 2022 until 25 March 2023).
18. It also amends the list of justified reasons for not using a slot to include flight bans, border closures or the imposition of COVID-19 testing before travel, where this has reduced passenger demand. While continuing a waiver that allows up to 10% of slots to be treated as operated if they are handed back between 1 and 7 September for reallocation, the instrument modifies the waiver to prevent airlines from reapplying for any of their surrendered slots until 14 September, so as to ensure that other carriers have time to bid for them.

Delayed or revoked legislation

School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (SI 2022/788)

19. This instrument introduces new requirements for sharing data on exclusions of pupils from school by adding social workers and, where relevant, Virtual School Heads¹³ to the list of parties to be informed of an exclusion and included in the different stages of the exclusion process; and by requiring head teachers to inform their local authorities immediately of all fixed-term exclusions, regardless of duration. The Department for Education (DfE) says that the consultation on the changes and the laying of the instrument were delayed by the pandemic.
20. According to DfE, the changes will provide local authorities, social workers and Virtual School Heads with the necessary information to assess and respond to the safeguarding needs of excluded pupils. DfE says that the changes draw on the findings of two reviews from 2019, the Children in Need Review¹⁴ and the Timpson Review,¹⁵ which both concluded that to promote safety and stability for all children, information needs to be shared between social care and schools, particularly where this could affect changes in education such as school exclusions.

13 Virtual School Heads are in charge of promoting the educational achievement of all the children looked after by the local authority for which they work.

14 Department for Education, ‘Review of children in need’: <https://www.gov.uk/government/publications/review-of-children-in-need/review-of-children-in-need> [accessed 5 September 2022].

15 DfE, ‘Edward Timpson publishes landmark exclusions review’: <https://www.gov.uk/government/news/edward-timpson-publishes-landmark-exclusions-review> [accessed 5 September 2022].

INSTRUMENTS OF INTEREST

Draft Armed Forces (Covenant) Regulations 2022

21. The purpose of these draft Regulations is to bring into effect statutory guidance¹⁶ about carrying out a new duty which requires public bodies to have due regard to the principles of the armed forces covenant (“the duty”). According to the Ministry of Defence, the covenant is a promise by the nation that those who have served in the armed forces and their families should be treated fairly and face no disadvantage when accessing public and other services. The Armed Forces Act 2021 strengthens the covenant by placing a new duty to have due regard to the covenant principles on specified public bodies¹⁷ when they are carrying out public functions relating to education, healthcare and housing. These draft Regulations propose to implement key provisions of the new duty by defining service members and relevant family members to help public bodies identify more easily those to whom they must have due regard, and by bringing into force the statutory guidance to help public bodies in scope to discharge the new duty.

Draft Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022

22. This instrument proposes to make so-called exclusivity terms unenforceable in contracts which entitle workers to net average weekly wages up to the Lower Earnings Limit (LEL, currently £123 a week). This includes apprenticeships where apprentices do not earn more than the LEL. The Department for Business, Energy and Industrial Strategy (BEIS) explains that exclusivity terms in workers’ contracts restrict their ability to take on additional work with other employers. They are already unenforceable in zero hours contracts. These Regulations would extend this protection to workers working under contracts where they are guaranteed a net average weekly wage up to the LEL, to ensure that they are also not restricted by exclusivity terms. The instrument would give these workers the right to take on additional employment without being subjected to unfair dismissal, or detriment by their employer, or having to gain their permission to seek additional employment.
23. Under the new rules, eligible workers would also be able to bring proceedings in employment tribunals and may be awarded compensation if their contracts include exclusivity terms. BEIS says that it intends to lay a separate negative instrument once these draft Regulations have been approved by Parliament and made. The further instrument will require prospective claimants wishing to take a case to the employment tribunal to contact the Advisory, Conciliation and Arbitration Service (Acas) first about their dispute and consider conciliation before presenting a claim to an employment tribunal.

Draft Public Sector Bodies (Websites and Mobile Applications) Accessibility (Amendment) (EU Exit) Regulations 2022

24. To reflect the UK’s departure from the EU, this instrument would replace the EU standard on website accessibility with the international standard

16 Ministry of Defence, *Draft Statutory Guidance on the Armed Forces Covenant Duty* (2022): https://www.legislation.gov.uk/ukdsi/2022/9780348237801/pdfs/ukdsiod_9780348237801_en.pdf [accessed 5 September 2022].

17 Armed Forces Act 2006, [Part 16A](#).

recommended by W3C, the World Wide Web Consortium (as amended from time to time).

25. “Accessibility” refers to principles and techniques to follow when designing, building, maintaining and updating websites and applications, in order to make them easy for people to use, especially people with disabilities.
26. Although the standards’ requirements are broadly similar, this legislation changes the process from regulation to administration:
 - regulation 3(d) transfers power to set the model statement from the European Commission to the Government, but only requires it to be published electronically rather than being set out in legislation.
 - regulation 5(c) transfers from the European Commission to the Government the power to establish a monitoring methodology, but only requires it to be published as part of the monitoring report rather than being set out in legislation.
27. The Minister is still required to produce monitoring reports every three years, but the content of the report is at the Minister’s discretion and need only to be laid before Parliament whereas previously requirements were set out in law and the report was subject to scrutiny by European Commission experts.
28. Although this instrument would give the Cabinet Office increased flexibility to update the standard and its enforcement as new developments occur, **the House may wish to give detailed consideration to the proposal before the power to set relevant standards is transferred permanently from legislation to an administrative function of the Government.** We welcome this instrument being laid as an affirmative, so that in debate the House has an opportunity to reflect on it as an example of further powers moving to the Government.

Draft Sanctions (Damages Cap) Regulations 2022

29. The UK has imposed a robust sanctions regime in support of the UK’s foreign policy and national security objectives, including in response to Russia’s invasion of Ukraine. While the possibility of large damages remains, some persons designated under the sanctions may seek to challenge the Government through the courts. This instrument seeks to disincentivise such claims by capping the damages, where a court is satisfied that the sanctions decision was made in bad faith, to £10,000. An individual’s right under the Sanctions and Anti-Money Laundering Act 2018 to challenge their designation in court, and have it revoked, remains.

Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) (No.2) Regulations 2022 (SI 2022/782)

30. This made affirmative instrument updates the list of third countries (“the List”) which are considered to be high-risk in relation to money laundering and terrorist financing. Businesses have to carry out enhanced due diligence on any new and existing customers from such a high-risk country or for any relevant transaction where either of the parties is from a high-risk country. HM Treasury (HMT) explains that the update aligns the List with the lists

of the Financial Action Task Force (FATF).¹⁸ The FATF makes periodic updates to its lists to reflect changes in global money laundering, terrorism financing and proliferation financing (AML/CTF/CPF). A country is added to the lists if it has been identified as having “significant strategic deficiencies” in its AML/CTF/CPF regimes.

31. The update made by this instrument removes Malta and adds Gibraltar to the List. We asked HMT which strategic deficiencies had been identified in relation to Gibraltar, and, given that Gibraltar is a British Overseas Territory, whether the Government would assist Gibraltar in addressing these deficiencies. HMT responded:

“In July 2019 Gibraltar was assessed against the FATF standards by its FATF Style Regional Body, Moneyval. Gibraltar was found not to have the required levels of effectiveness against ten out of eleven criteria.¹⁹

Following an observation period the FATF has agreed to put Gibraltar under enhanced monitoring. The reasons Gibraltar are subject to increased monitoring by the FATF can be found in its June 2022 notice.²⁰ The FATF notes that Gibraltar has made significant progress against the recommended actions from its 2019 evaluation and must now complete the remaining actions, which are:

- 1) ensuring that supervisory authorities for non-bank financial institutions and DNFBPs use a range of effective, proportionate, and dissuasive sanctions for AML/CFT breaches; and
- 2) demonstrating that it is more actively and successfully pursuing final confiscation judgements, through criminal or civil proceedings based on financial investigations.

HM Treasury has ongoing engagement with the Gibraltarian authorities on completing the recommended actions from its mutual evaluation and the action items noted above from its action plan. The Economic Secretary to the Treasury wrote to Gibraltar’s finance minister in June 2022 on this issue. Gibraltar has made the necessary high level political commitment to completing the two actions noted above and does not require bilateral assistance to do so. We will continue working with Gibraltar as it engages with the FATF process.”

18 The UK is a founding member of the Financial Action Task Force (FATF), an inter-governmental watchdog that sets international standards to prevent global money laundering and terrorist financing.

19 FATF, ‘Gibraltar’s measures to combat money laundering and terrorist financing’: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-gibraltar-2019.html> [accessed 5 September 2022].

20 FATF, ‘Jurisdictions under Increased Monitoring—June 2022’: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2022.html> [accessed 6 September 2022].

Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022 (SI 2022/801)

Russia (Sanctions) (EU Exit) (Amendment) (No. 13) Regulations 2022 (SI 2022/814)

Russia (Sanctions) (EU Exit) (Amendment) (No. 14) Regulations 2022 (SI 2022/850)

32. These three instruments were laid just before the House rose for recess and came into immediate effect. They will be subject to debate in September as they follow the made affirmative procedure.
- *SI 2022/801* prohibited additional types of new investment in Russia including acquisition of land in Russia, the establishment of commercial arrangements such as branches in Russia and joint ventures with persons connected with Russia.
 - *SI 2022/814* extended the activities for which a person may be designated, expanded the definition of those obtaining a benefit from or supporting the Government of Russia, and broadened the definition of ‘associated with’ to include specified family members. It also expanded the definition of ownership in relation to ships and aircraft. The instrument introduced a humanitarian exception from trade sanctions in the non-government-controlled areas of Donetsk and Luhansk.
 - *SI 2022/850* extended the range of goods that may not be exported to Russia to include more chemicals, materials, machinery and electrical appliances, further extended the prohibition on both import and export of goods relating to oil, gas and coal production and prohibited the import, acquisition or supply of any gold that originated in Russia.

Judicial Offices (Sitting in Retirement–Prescribed Offices and Descriptions) Regulations 2022 (SI 2022/798)

33. The Public Service Pensions and Judicial Offices Act 2022 changed the retirement age for judges to 75 and created provision for certain judges, who had retired at 70, to return to an equivalent position within two years, if required. The tables in Schedule 1 to these Regulations list the prescribed judicial offices that a person must hold or have held prior to their retirement in order to be appointed to the corresponding sitting in retirement office. Judges appointed to these posts will be paid fees and accrue new judicial pension whilst also drawing judicial pension from their pre-retirement office.
34. While this particular instrument is narrow in scope, in that it simply lists the prescribed judicial offices, Members of the House may be interested in the impact of the wider package of reforms introduced by the parent Act. In particular, the House may wish to consider the implications of these new pensions arrangements for the pensions of other public sector workers, such as those in the health service; and how they fit with the other restrictions imposed by the pension lifetime allowance.

Care Standards Act 2000 (Extension of the Application of Part 2 to Supported Accommodation) (England) Regulations 2022 (SI 2022/808)

35. This instrument marks the first step in the introduction of mandatory national standards and Ofsted registration and inspection arrangements for

providers of supported accommodation for looked after children (LAC) and care leavers aged 16 and 17. The instrument extends powers of the Secretary of State to make regulations or prescribe matters in regulations in this policy area. The second step will involve more substantive regulations to introduce the new standards and Ofsted registration and inspection regime, which the Department for Education (DfE) expects to lay before Parliament in late 2022/early 2023, following consultation.

36. According to the Department, demand on the care system is increasing, and the number of LACs and care leavers placed in supported accommodation is growing rapidly. DfE says that in the absence of any regulatory framework, the quality of provision is highly variable and too often children are placed in settings that do not meet their needs or keep them safe. Against this background, the new national standards and Ofsted regulatory regime seek to increase consistency and security for all children up to the age of 18, and to improve the quality of supported accommodation and ensure that Ofsted can take action when needed.

Abortion (Amendment) Regulations 2022 (SI 2022/811)

37. These Regulations make administrative amendments in response to the changes made by the Health and Care Act 2022, which made permanent the arrangement used during the pandemic that allows Early Medical Abortion (EMA) without attending a clinic.
38. EMA involves the taking of two pills: prior to the pandemic the first (mifepristone) would be taken in the clinic and the second (misoprostol) could then be taken either in the clinic or at home. The 2022 Act makes permanent the arrangement which allows both pills to be taken at home following a remote consultation, if the registered medical professional can certify “in good faith” that the pregnancy to be terminated by EMA is under ten weeks gestation. The Regulations also modify the HAS4 form, used to provide information to the Chief Medical Officer, to enable the collection of better evaluation data. We received a submission from Christian Action, Research, and Education (CARE) raising technical questions about how this data would be collected and, in particular, when action will be taken to improve data on the recording of medical complications for EMAs completed at home: CARE’s letter and the Department’s response are published on our website.²¹

Occupational Pension Schemes (Investment) (Employer-Related Investments by Master Trusts) (Amendment) Regulations 2022 (SI 2022/827)

39. These Regulations relax the restrictions on employer-related investments for defined contribution Master Trust pension schemes which are authorised by the Pensions Regulator and have 500 or more participating employers (“large Master Trusts”). The Department for Work and Pensions (DWP) states that this change still delivers the original policy intent of preventing malpractice at the top of the scheme’s governance structure whilst removing outdated restrictions which limit the ability of large Master Trusts to invest freely in the best interests of their members. Additional benefits to pension members as a result of the changes, however, are not guaranteed. **While this legislation removes a burden and an overhead cost for large Master**

21 SLSC, ‘Scrutiny Evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 5 September 2022].

Trusts by removing the need for each investment to be researched for prohibited links, we were concerned whether it might also remove a protection for scheme members by allowing the Master Trust managers to use the huge sums available to them to boost (artificially) the share prices of participating companies. DWP has provided further information on the policy which is published in Appendix 2.

Street Works (Inspection Fees) (England) Regulations 2022 (SI 2022/830)

Street and Road Works (Miscellaneous Amendments) (England) Regulations 2022 (SI 2022/831)

40. Since 2020 the Department for Transport has been implementing “Street Manager” (a digital service for planning, managing and communicating street and road works). *SI 2022/831* now makes its use mandatory for planning all works and amends the list of criteria used to designate a road as “traffic sensitive” and the definition of “major works”. It also requires highway authorities to notify a utility company when their works are overrunning and an overrun charge is being applied.
41. Using inspection data from Street Manager, *SI 2022/830* will change the inspection frequency of street works depending on how each firm performs. The Explanatory Memorandum states that the average inspection failure rate is currently 9%, with the best firm at 2%, and the worst failing 63% of its inspections. From April 2023 the minimum level of works inspected will be 20% (with at least 5% of inspections in each of category A (whilst works are taking place), category B (within six months) and category C (within two or three years) to test sustainability of repairs, allowing the highway authorities to focus the other inspections on any identified areas of weakness). Those companies who fail more than 15% of inspections will have their number of chargeable inspections increased by 5% for the following quarter, those whose failure rate is less than 10% will have the number decreased as an incentive.

Aquatic Animal Health (Amendment) Regulations 2022 (SI 2022/835)

42. This instrument amends retained EU law to turn a legislative process for changing lists in relation to aquatic animal²² health into an administrative process. The Department for Environment, Food and Rural Affairs (Defra) explains that the changes will allow the Secretary of State (in relation to England, or for Great Britain, with the consent of the relevant devolved administrations), Scottish Ministers (in relation to Scotland) and Welsh Ministers (in relation to Wales), to amend the lists administratively, rather than by statutory instrument, as currently required. According to Defra, the lists include aquatic animal species that act as vectors for listed diseases; aquatic animal species that are susceptible to listed diseases; and species that can be imported into Great Britain from certain countries. The lists relate to imports of both live aquatic animals and aquatic animal products.
43. The Department says that the changes will help to protect Great Britain’s aquatic animal health status and support trade with third countries: under the new rules it will be possible to specify any changes made to the lists in a document published for that purpose rather than in legislation, so that

²² The term “aquatic animal” in the context of this instrument refers to fish, crustaceans and molluscs.

the lists can be updated more quickly and officials can react to disease outbreaks which are restricted only to certain areas of trading partner countries. Where a species is included in the lists of susceptible and vector species for example, additional import requirements may apply. Defra says parliamentary oversight will be retained over the disease and third country lists: legislation will continue to be required to approve or delist a country, or to add or remove diseases from the list of diseases.

Criminal Legal Aid (Remuneration) (Amendment) Regulations 2022 (SI 2022/848)

44. In December 2020 the Government commissioned Sir Christopher Bellamy QC (now Lord Bellamy QC) to conduct the Criminal Legal Aid Independent Review (CLAIR) of criminal legal aid provision in England and Wales.²³ Following consultation on the outcome, these Regulations are an interim response,²⁴ providing for a 15% increase in fees for cases that begin on or after 30 September 2022. The Ministry of Justice states that this is an initial step that will increase the Legal Aid fund by £97 million to £115 million a year, but that this figure represents the limit of the Department's current financial allocation. A further response to CLAIR will be published in the autumn. However, the Criminal Bar Association is currently taking industrial action seeking a 25% increase in advocacy fees, rather than 15%, and demanding that those rates should be applied to work in progress, rather than only to new cases from the end of September.

23 Independent Review, *Independent Review of Criminal Legal Aid Sir Christopher Bellamy* (29 November 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041117/clar-independent-review-report-2021.pdf [accessed 5 September 2022].

24 Ministry of Justice, 'Response to Independent Review of Criminal Legal Aid': <https://consult.justice.gov.uk/digital-communications/criminal-legal-aid-independent-review-response/> [accessed 5 September 2022].

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft	Airports Slot Allocation (Alleviation of Usage Requirements) (No. 3) Regulations 2022
Draft	Armed Forces (Covenant) Regulations 2022
Draft	Armed Forces (Service Court Rules) (Amendment) (No. 2) Rules 2022
Draft	Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2022
Draft	Digital Government (Disclosure of Information) (Amendment) Regulations 2022
Draft	Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022
Draft	Health and Care Act 2022 (Further Consequential Amendments) Regulations 2022
Draft	Public Sector Bodies (Websites and Mobile Applications) Accessibility (Amendment) (EU Exit) Regulations 2022
Draft	Sanctions (Damages Cap) Regulations 2022
Draft	Terrorism Act 2000 (Alterations to the Search Powers Code for England and Wales and Scotland) Order 2022
Draft	Trade Marks (Amendment) Regulations 2022
Draft	Water Fluoridation (Consultation) (England) Regulations 2022

Made instruments subject to affirmative approval

SI 2022/782	Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) (No. 2) Regulations 2022
SI 2022/801	Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022
SI 2022/814	Russia (Sanctions) (EU Exit) (Amendment) (No. 13) Regulations 2022
SI 2022/818	Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2022
SI 2022/850	Russia (Sanctions) (EU Exit) (Amendment) (No. 14) Regulations 2022

Draft instruments subject to annulment

Draft	Gravesham (Electoral Changes) Order 2022
Draft	Guildford (Electoral Changes) Order 2022
Draft	West Lancashire (Electoral Changes) Order 2022

Instruments subject to annulment

- SI 2022/783 Civil Procedure (Amendment No. 2) Rules 2022
- SI 2022/786 School Teachers' Incentive Payments (England) (Amendment) Order 2022
- SI 2022/788 School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022
- SI 2022/793 Home Loss Payments (Prescribed Amounts) (England) Regulations 2022
- SI 2022/798 Judicial Offices (Sitting in Retirement - Prescribed Offices and Descriptions) Regulations 2022
- SI 2022/808 Care Standards Act 2000 (Extension of the Application of Part 2 to Supported Accommodation) (England) Regulations 2022
- SI 2022/811 Abortion (Amendment) Regulations 2022
- SI 2022/813 Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2022
- SI 2022/815 Criminal Procedure (Amendment No. 2) Rules 2022
- SI 2022/819 Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022
- SI 2022/821 Family Procedure (Amendment No. 2) Rules 2022
- SI 2022/827 Occupational Pension Schemes (Investment) (Employer-related investments by Master Trusts) (Amendment) Regulations 2022
- SI 2022/830 Street Works (Inspection Fees) (England) Regulations 2022
- SI 2022/831 Street and Road Works (Miscellaneous Amendments) (England) Regulations 2022
- SI 2022/835 Aquatic Animal Health (Amendment) Regulations 2022
- SI 2022/847 Payment and Electronic Money Institution Insolvency (England and Wales) (Amendment) Rules 2022
- SI 2022/848 Criminal Legal Aid (Remuneration) (Amendment) Regulations 2022
- SI 2022/854 Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules and Miscellaneous Amendments) Regulations 2022
- SI 2022/858 Beavers (England) Order 2022
- SI 2022/885 European Parliamentary Elections (Amendment and Revocation) (United Kingdom and Gibraltar) (EU Exit) Regulations 2022
- SI 2022/889 Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations 2022
- SI 2022/905 Independent School Standards and Non-Maintained Special Schools (England) (Amendment) Regulations 2022
- SI 2022/924 Non-Commercial Movement of Pet Animals (Amendment) (England) (No. 2) Regulations 2022

APPENDIX 1: CORRESPONDENCE FROM DWP ON WAY TO WORK OUTCOME

Letter from Ian Caplan, Director for Employment, Youth and Skills, Department for Work and Pensions, to Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee

Thank you for email dated 13th July in relation to the Way to Work Campaign and the above regulations which were laid on 7th February and came into force on 8th February.

The Secretary of State would like to reaffirm that the focus of these regulations was to provide claimants clarity on their requirements. The regulations also sought to provide Work Coaches with protection from challenge as well as clarity of purpose through a Ministerial instruction directly to Work Coaches.

I will address the questions that you raised in your email in turn.

The total number of people who signed off the register and started a job between 7 February and 30 June 2022

As of 6 July, we estimate that at least 520,400 unemployed Universal Credit claimants and Jobseeker's Allowance claimants have moved into work during the Way to Work Campaign between 31 January and the end of 30 June 2022.

The final figure is expected to be higher, and this will be released shortly.

How does the figure above compare with normal flows off the register for the same period in previous (normal) years, if it is above the normal flow how far is that attributable to the reduction of the permitted period from 13 to 4 weeks?

An accurate comparison of the above figure to 'normal' movement in to work data is not possible due to the differing level of caseloads from year to year. Such a comparison would not be able to provide an accurate assessment of the impact of the regulations given the difficulty of disentangling the specific impacts of various measures on historical movements in to work.

We have achieved our Way to Work target of moving 500,000 claimants into work by the end of June. The Department is looking at how it might be able to evaluate different aspects of the campaign, but it is sometimes hard to disentangle specific impacts. This could be the case as the change in the permitted period regulations was introduced alongside other aspects of the 'Way to Work' campaign including more employer engagement and better use of data to improve performance.

What were the regional out turns (mirroring the regional data in the follow up letter)?

The Government did not set regional or local targets for Way to Work. Instead we sought to ensure all Jobcentres maximised their impact.

How many people were sanctioned for failing to extend their search after 4 weeks?

Sanctions are only ever used where someone fails to comply with reasonable and appropriate commitments they have made without good reason. If, after 4 weeks, claimants refuse to widen their job search and apply for roles mandated by their work coach, attend interviews or take up paid work outside of their preferred sector without good reason, then they may be referred for a sanction. But if a claimant

has done all they can reasonably do to look for work, even if that has not resulted in a job offer, there is no failure and so no referral for a sanction.

The renewed focus on conditionality has seen an overall increase in applied sanctions however within the data we are unable to determine which, if any, are due to the change to the Permitted Period.

18 July 2022

APPENDIX 2: ADDITIONAL INFORMATION FROM THE DEPARTMENT FOR WORK AND PENSIONS

Occupational Pension Schemes (Investment) (Employer-Related Investments by Master Trusts) (Amendment) Regulations 2022 (SI 2022/827)

Q1: These Regulations simplify the position for investing in shares etc so that the Master Trust managers are no longer forbidden from investing in any participating company—only in their own companies. This removes a burden and an overhead cost by removing the need for each investment to be researched for prohibited links, but does it not also remove a protection—by allowing the Master Trust managers to invest deliberately in participating companies? Is there not a risk of them using the huge sums available to them to (artificially) boost those companies’ share prices/manipulate the market?

A1: The power to make regulations to prescribe restrictions on employer related investments was originally introduced by the Pensions Act 1995 to strengthen member protection. The legislation was designed to restrict the way trustees of single employer Defined Benefit occupational pension schemes (‘DB schemes’) could make employer-related investments. It was introduced following several high-profile cases where employers had misappropriated the scheme assets through loans and investments from the scheme’s funds to the employers sponsoring the scheme or to companies with connections to the employers such as in the Maxwell scandal with the Mirror Group pension scheme.

The pensions landscape has changed significantly since then and DB schemes, prevalent at that time, are now predominantly closed to new accrual. Following the success and full roll out of automatic enrolment in 2018, Defined Contribution occupational pension schemes (‘DC schemes’) are now the dominant form of pension saving in the UK. It’s important therefore that regulations evolve and adapt to reflect and meet the needs of the current pension system. When considering these changes, we looked very closely at the impact this could have on member protection and what checks and balances could help mitigate the risks you also identified.

In reaching our decision to proceed with the regulations we concluded, after careful consideration of the feedback we received at consultation, that it was highly unlikely that the risks you have identified would arise in a large Master Trust that has completed a rigorous authorisation process overseen by The Pensions Regulator. We also think existing safeguards in the pension system help mitigate these risks, for example, the fit and proper person tests which Trustees in Master Trusts must pass, their fiduciary duties and the overarching regulatory oversight The Pensions Regulator provides.

Q2: After these Regulations take effect, could the Master Trust managers now make a large loan to one of the participating employers as long as they are not on the list in para 6.2 of the EM with potential for the same consequences as in the Maxwell scandal?

Q3: Do these Regulations also remove the 5% and 20% caps on loans to those companies?

A2 & 3: Employer-related loans in relation to large, authorised Master Trusts will still be prohibited, but only loans to the scheme funder, scheme strategist, or a person connected or associated with the scheme funder and scheme strategist will

constitute employer-related loans. Loans to other participating employers will no longer be prohibited.

Removing the prohibition on loans to most participating employers means there will no longer be a continuous need for the scheme to check whether any of the entities in which it has loan investments has become a participating employer, has acquired a participating employer or has been acquired by a participating employer. This removes a considerable burden on a large multi-employer scheme and frees up investment opportunities.

The 5% cap on employer-related investments in any single participating employer, and overall 20% cap on employer-related investments, apply to multi-employer schemes under regulation 16(5)(a) of the current regulations. The caps apply to investments, rather than loans. Employer-related loans are a type of employer-related investment, so if a scheme did have an employer-related loan, it would count towards the caps. But employer-related loans are generally prohibited. In the amending regulations, the overall 20% cap is removed for large, authorised Master Trusts. But they are still subject to a 5% cap on investments in any particular employer (although this will only relate to the scheme funder, scheme strategist or persons connected or associated with them)."

Q4: Also the consultation document and IA both refer to the government's wider objective of opening up all asset classes to DC schemes, most notably illiquids or private markets. The IA goes on to say "these new regulations should make it easier for Master Trusts to access private credit markets." Could you please explain what you mean by "private credit markets", whether these Regulations do have that effect, and, if so, what the benefits of that change are likely to be for the pension scheme member.

A4: By private credit markets we mean asset classes that are not traded on the public markets. Private credit can be a useful source of finance for Small and Medium Enterprises and can often be the key to unlocking their potential. Investment by pension scheme trustees in private credit markets has the potential to deliver good long term returns for pension schemes and their members (who take a long-term view) as part of a diversified investment portfolio.

The previous legislation required Master Trusts to monitor each investment they made to ensure they do not breach the employer-related investment restrictions by investing in any of the participating employers using their scheme. Feedback from Master Trusts to our consultation was that due to the number of participating employers (which can range from hundreds to tens of thousands), the regulations restricting employer-related investments were becoming a real barrier to investing in these asset classes. They expected this issue to increase as the DC market and the number of participating employers continues to grow. The amending regulations have only recently been made, and we will keep the operation of them under review to see what impact they are having.

26 August 2022

APPENDIX 3: 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 6 September 2022 and included in this report, Members declared the following interests:

Draft Armed Forces (Covenant) Regulations 2022

Lord German

Has family member in the armed forces

Attendance:

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord German, Lord Hodgson of Astley Abbots, the Earl of Lindsay, Lord Lisvane, Lord Powell of Bayswater, Lord Rowlands and Baroness Watkins of Tavistock.