



House of Lords  
House of Commons  
Joint Committee on Statutory  
Instruments

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**Eleventh Report of  
Session 2022–23**

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**Drawing special attention to:**

*Register of Overseas Entities (Verification and Provision of Information)  
Regulations 2022 (S.I. 2022/725)*

*Land Registration (Amendment) Rules 2022 (S.I. 2022/730)*

*Ordered by the House of Lords to be  
printed 7 September 2022*

*Ordered by the House of Commons  
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## 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**

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://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 0AA. The telephone number for general inquiries is: 020 7219 3296; the Committee's email address is: [jcsi@parliament.uk](mailto:jcsi@parliament.uk).



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# Instruments reported

At its meeting on 7 September 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 two 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 S.I. 2022/725: Reported for requiring elucidation and for doubtful *vires*

### ***Register of Overseas Entities (Verification and Provision of Information) Regulations 2022***

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

1.2 These Regulations, which are subject to the negative resolution procedure, require certain information about beneficial owners and managing officers to be verified in connection with the new register for overseas entities that own or buy property in the UK.

1.3 Regulation 1(1) links commencement of this instrument to section 3 of the Economic Crime (Transparency and Enforcement) Act 2022 (ECTEA). The Committee asked the Department for Business, Energy and Industrial Strategy to explain what steps will be taken to ensure that this instrument complies with the 21-day rule. In a memorandum printed at Appendix 1, the Department explains that section 3 will be brought into force on 1 August 2022, which is more than 21 days after this instrument was laid. The Committee is grateful for this confirmation and notes that in future it would be helpful to include such information in a footnote or in the Explanatory Memorandum. **The Committee accordingly reports these Regulations for requiring elucidation, provided by the Department’s memorandum.**

1.4 Regulation 6(5)(c) requires the person who is verifying the information to provide a statement to the registrar including the names of the registrable beneficial owners and managing officers whose identity has been verified “but where it has not been possible to obtain full names, so much of that information as it has been possible to obtain”. The Committee asked the Department to explain how it is envisaged that a person’s identity can be verified without their full name. In its memorandum, the Department explains that sections 4, 7 and 9 of ECTEA envisage that it may sometimes not be possible to supply a full name and that the verifier’s obligation is to verify the information it has been given by the overseas entity (which may only be a partial name). **The Committee accordingly reports regulation 6(5)(c) for requiring elucidation, provided by the Department’s memorandum.**

1.5 Regulation 7 provides that a verifier of information must not be a known close associate of the individual whose information they are verifying and that a close associate includes a person who has “close business relations” with the individual (regulation 7(4)(a)). The Committee asked the Department to explain what criteria are intended to be applied in

determining the closeness of a relationship. In its memorandum, the Department explains that whether the verifier has “close business relations” with the individual will be assessed on a case-by-case basis and that the term is deliberately not defined in order to ensure that the registrar can flexibly consider each circumstance. The Department gives examples of what may or may not constitute close business relations and indicates that it will include this information in guidance. That may be so, but as drafted the regulations are unclear as to what will amount to “close business relations”. Leaving “flexibility” for the registrar is in effect sub-delegating to the registrar the power to determine the core meaning of this provision, which is unlawful in the absence of an express enabling power to that effect. The general power to “make provision” (section 16 ECTEA) is not sufficient to rebut the strong presumption against sub-delegation. To be lawful, the regulations should have made provision by reference to objective criteria (which would not have been difficult, or very different from definitions of connected persons and the like in many places on the statute book, particularly given that the Department intended to articulate these in guidance). **The Committee accordingly reports regulation 7(4)(a) for doubt as to whether it is *intra vires*.**

## **2 S.I. 2022/730: Reported for requiring elucidation**

### ***Land Registration (Amendment) Rules 2022***

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

2.2 These Rules, which are subject to the negative resolution procedure, implement aspects of the new register of overseas entities referred to in the report on S.I. 2022/725 above and, as with that instrument, link commencement to section 3 of the Economic Crime (Transparency and Enforcement) Act 2022. The Committee asked the Department for Business, Energy and Industrial Strategy the same question as was asked on S.I. 2022/725 and received the same response in a memorandum printed at Appendix 2. **The Committee accordingly reports these Rules for requiring elucidation, provided by the Department’s memorandum.**

## Instruments not reported

At its meeting on 7 September 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. 2022/792 | Russia (Sanctions) (EU Exit) (Amendment) (No. 11) Regulations 2022 |
| S.I. 2022/801 | Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022 |
| S.I. 2022/814 | Russia (Sanctions) (EU Exit) (Amendment) (No. 13) Regulations 2022 |

### Draft instruments requiring affirmative approval

| S.I. Numbers | S.I. Title                                                                                                               |
|--------------|--------------------------------------------------------------------------------------------------------------------------|
| Draft        | Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2022 |
| Draft        | Digital Government (Disclosure of Information) (Amendment) Regulations 2022                                              |
| Draft        | Public Sector Bodies (Websites and Mobile Applications) Accessibility (Amendment) (EU Exit) Regulations 2022             |
| Draft        | Terrorism Act 2000 (Alterations to the Search Powers Code for England and Wales and Scotland) Order 2022                 |

### Instruments subject to annulment

| S.I. Numbers  | S.I. Title                                                                                                             |
|---------------|------------------------------------------------------------------------------------------------------------------------|
| S.I. 2022/762 | Statutory Auditors and Third Country Auditors (Amendment) Regulations 2022                                             |
| S.I. 2022/771 | Seal Products (Amendment) Regulations 2022                                                                             |
| S.I. 2022/784 | Non-Domestic Rating (Transitional Protection Payments and Rates Retention) (Amendment) Regulations 2022                |
| S.I. 2022/786 | School Teachers' Incentive Payments (England) (Amendment) Order 2022                                                   |
| S.I. 2022/793 | Home Loss Payments (Prescribed Amounts) (England) Regulations 2022                                                     |
| S.I. 2022/798 | Judicial Offices (Sitting in Retirement - Prescribed Offices and Descriptions) Regulations 2022                        |
| S.I. 2022/808 | Care Standards Act 2000 (Extension of the Application of Part 2 to Supported Accommodation) (England) Regulations 2022 |
| S.I. 2022/811 | Abortion (Amendment) Regulations 2022                                                                                  |
| S.I. 2022/813 | Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2022                                                  |
| S.I. 2022/821 | Family Procedure (Amendment No. 2) Rules 2022                                                                          |
| S.I. 2022/830 | Street Works (Inspection Fees) (England) Regulations 2022                                                              |

| S.I. Numbers  | S.I. Title                                                                                                                              |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| S.I. 2022/831 | Street and Road Works (Miscellaneous Amendments) (England) Regulations 2022                                                             |
| S.I. 2022/847 | Payment and Electronic Money Institution Insolvency (England and Wales) (Amendment) Rules 2022                                          |
| S.I. 2022/848 | Criminal Legal Aid (Remuneration) (Amendment) Regulations 2022                                                                          |
| S.I. 2022/854 | Financial Services and Markets Act 2000 (Consequential Amendments of References to Rules and Miscellaneous Amendments) Regulations 2022 |
| S.I. 2022/885 | European Parliamentary Elections (Amendment and Revocation) (United Kingdom and Gibraltar) (EU Exit) Regulations 2022                   |
| S.I. 2022/886 | Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2022                                                       |
| S.I. 2022/889 | Education (Student Loans) (Repayment) (Amendment) (No. 2) Regulations 2022                                                              |
| S.I. 2022/905 | Independent School Standards and Non-Maintained Special Schools (England) (Amendment) Regulations 2022                                  |

### Draft instruments subject to annulment

| S.I. Numbers | S.I. Title                                           |
|--------------|------------------------------------------------------|
| Draft        | Epsom and Ewell (Electoral Changes) Order 2022       |
| Draft        | Gravesham (Electoral Changes) Order 2022             |
| Draft        | Guildford (Electoral Changes) Order 2022             |
| Draft        | South Staffordshire (Electoral Changes) Order 2022   |
| Draft        | Stockport (Electoral Changes) Order 2022             |
| Draft        | Tonbridge and Malling (Electoral Changes) Order 2022 |
| Draft        | West Lancashire (Electoral Changes) Order 2022       |

### Instruments not subject to Parliamentary proceedings not laid before Parliament

| S.I. Numbers  | S.I. Title                                                                                                                               |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------|
| S.I. 2022/828 | Offensive Weapons Act 2019 (Commencement No. 2) (England and Wales) (Amendment) Regulations 2022                                         |
| S.I. 2022/855 | Pensions Act 2004 (Code of Practice) (Authorisation and Supervision of Collective Defined Contribution Schemes) Appointed Day Order 2022 |
| S.I. 2022/874 | Finance Act 2021, Schedule 5 (Pension Schemes: Collective Money Purchase Benefits) (Appointed Day) Regulations 2022                      |
| S.I. 2022/876 | Economic Crime (Transparency and Enforcement) Act 2022 (Commencement No. 3) Regulations 2022                                             |

# Appendix 1: Memorandum from the Department for Business, Energy & Industrial Strategy

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**S.I. 2022/725**

## ***Register of Overseas Entities (Verification and Provision of Information) Regulations 2022***

1. The Committee has asked the Department for Business, Energy & Industrial Strategy for a memorandum on the following points:

Given that rule 1(1) links commencement of this instrument to commencement of provisions in other legislation, explain what steps will be taken to ensure that this instrument complies with the 21-day rule.

In relation to regulation 6(5)(c), explain how it is envisaged that a person's identity can be verified without their full name.

In relation to “close business relations” in regulation 7(4)(a), explain what criteria are intended to be applied in determining the closeness of a relationship.

2. Section 3 of the Economic Crime (Transparency and Enforcement) Act 2022 (the ECTEA) will be brought into force on 01 August 2022, which is more than 21 days after this instrument was laid.

3. Under sections 4, 7 and 9 of the ECTEA, the overseas entity may supply to the registrar “so much of that information as the entity has been able to obtain”. The ECTEA envisages that it sometimes may not be possible to supply a full name. Under this instrument, the verifier only has to verify the information it has been given by the overseas entity. For example, if there is only a partial name, evidenced in a document obtained from a reliable source which is independent of the person whose identity is being verified, it is the information on that document which is being verified.

4. Whether the verifier has “close business relations” with the individual whose information they are verifying will be assessed on a case-by-case basis. Examples of close business relations could include where the verifier and the individual have a connection to the same entity, for example both sitting on the same board of directors, or are both a partner in the same firm. It could also include where they are both engaged in a joint venture like a property investment.

5. However, it does not include where the verifier is simply acting as an advisor to, or providing a service to, the individual whose information they are verifying. The term is deliberately not defined in order to ensure that the registrar can flexibly consider each circumstance.

6. This phrase is also used in regulation 35(12)(c) of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and so will already be familiar to practitioners.

7. We will provide guidance on this instrument, in particular on Part 2 (Verification). The above information will also feature in that guidance.

**Department for Business, Energy & Industrial Strategy**

**18 July 2022**

# Appendix 2: Memorandum from the Department for Business, Energy & Industrial Strategy

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**S.I. 2022/730**

## ***Land Registration (Amendment) Rules 2022***

1. The Committee has asked Department for Business, Energy & Industrial Strategy for a memorandum on the following point:

Given that rule 1(1) links commencement of this instrument to commencement of provisions in other legislation, explain what steps will be taken to ensure that this instrument complies with the 21-day rule.

2. Section 3 of the Economic Crime (Transparency and Enforcement) Act 2022 will be brought into force on 01 August 2022, which is more than 21 days after this instrument was laid.

**Department for Business, Energy & Industrial Strategy**

**18 July 2022**

# Formal minutes

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**Wednesday 7 September 2022**

***Virtual meeting***

***Members present***

Jessica Morden, in the Chair

Lord Beith

Baroness Gale

Lord Haskel

John Lamont

Baroness Newlove

Lord Smith of Hindhead

Richard Thomson

***Report consideration***

Draft Report (Eleventh 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 2.2 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 2.

*Resolved*, That the Report be the Eleventh 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 14 September at 3.40 p.m.