

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 34th Report of Session 2019–21

#### **Proposed Negative Statutory Instruments under the European Union (Withdrawal) Act 2018**

Drawn to the special attention of the House:

#### **Draft REACH etc. (Amendment etc.) (EU Exit) Regulations 2020**

#### **Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020**

**Correspondence: Correction letter from Defra; Sunset  
provisions in statutory instruments dealing with  
COVID-19**

#### **Includes information paragraphs on:**

7 instruments relating to COVID-19

Draft Aquatic Animal Health and Alien  
Species in Aquaculture, Animals, and  
Marketing of Seed, Plant and Propagating  
Material (Legislative Functions and  
Miscellaneous Provisions) (Amendment) (EU  
Exit) Regulations 2020

Draft Protocol on Ireland/Northern Ireland  
(Democratic Consent Process) (EU Exit)  
Regulations 2020

Draft Veterinary Medicines and Residues  
(Amendment) (EU Exit) 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*

<a href="#"><u>Baroness Bakewell of Hardington Mandeville</u></a>	<a href="#"><u>Viscount Hanworth</u></a>	<a href="#"><u>The Earl of Lindsay</u></a>
<a href="#"><u>Rt Hon. Lord Chartres</u></a>	<a href="#"><u>Lord Hodgson of Astley Abbotts</u></a>	<a href="#"><u>Lord Lisvane</u></a>
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<a href="#"><u>Lord German</u></a>	<a href="#"><u>Lord Liddle</u></a>	<a href="#"><u>Baroness Watkins of Tavistock</u></a>

### *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 Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser) and Ben Dunleavy (Committee Assistant).

### *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](mailto:hlseclegscrutiny@parliament.uk).

# Twenty Fourth Report

## PROPOSED NEGATIVE STATUTORY INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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### Proposed Negative Statutory Instruments about which no recommendation to upgrade is made

- Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020
- Road Vehicles (Registration and Licensing) (Amendment) (EU Exit) Regulations 2020

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Draft REACH etc. (Amendment etc.) (EU Exit) Regulations 2020

*Date laid: 19 October 2020*

*Parliamentary procedure: affirmative*

*These draft Regulations propose changes to implement the Northern Ireland Protocol in relation to the regulation of chemicals under the EU REACH regime. As a result, different regulatory regimes will apply in Northern Ireland (NI) and Great Britain (GB) after the end of the Transition Period (TP). The instrument includes measures to reduce the resulting barriers to trade between NI and GB and to give NI goods easier access to the GB market. The instrument also proposes to extend deadlines for the submission of safety data on chemical substances when registrations of such substances are transferred from the current EU to the new GB regime, in response to concerns raised by industry. **We remain deeply concerned, however, about the impact and costs of introducing the new domestic REACH regime and the readiness of the Health and Safety Executive (HSE) to take on its new regulatory role at the end of the TP, especially as the recruitment and training of expert staff is not yet complete and HSE will not have access to the full chemicals safety data currently held by EU REACH.***

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

1. The purpose of these draft Regulations, laid by the Department for Environment, Food and Rural Affairs (Defra) with an Explanatory Memorandum (EM), is to help to ensure the UK meets its obligations under the Northern Ireland Protocol (“the Protocol”), so that the EU regime for the Registration, Evaluation, Authorisation and Restriction of Chemicals (“EU REACH”) can continue to apply to Northern Ireland (NI) after the end of the Transition Period (TP), while the new domestic REACH regime introduced by an earlier EU exit instrument<sup>1</sup> will now apply only to Great Britain (GB), rather than the whole of the UK as originally intended. The draft Regulations also provide for the continued access of NI goods to the GB market and propose amendments to extend the transitional provisions included in the earlier EU Exit instrument to mitigate potential disruption to industry from the move to the new regulatory arrangements.

#### *Background*

2. At present, chemicals are regulated by EU Regulation (EC) No 1907/2006 (“the EU REACH Regulation”), which sets out statutory requirements for the registration, evaluation, authorisation and restriction of chemicals, and establishes a European Chemicals Agency (ECHA) as the EU-wide regulator. An earlier EU Exit instrument established a stand-alone UK regulatory regime (“UK REACH”) to control the production, import and placing on the market of chemicals, and to identify hazards and manage risks in relation to the production and use of chemicals. At the time, Sub-Committee B of the Secondary Legislation Scrutiny Committee drew the instrument to the

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<sup>1</sup> REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 ([SI 2019/758](#)).

special attention to the House,<sup>2</sup> highlighting concerns about the possible impact of the changes, especially in relation to the additional responsibilities being transferred to the Health and Safety Executive (HSE) and its readiness to act as the national regulator, the potential costs for the UK chemicals industry, and the failure of the Department to provide enough information about this impact.

### *Implementing the Protocol*

3. Defra explains that under Article 5(4) of the Protocol, the EU REACH Regulation will continue to apply in NI, while the new domestic REACH regime will apply only in GB, so that NI and GB will be subject to different regulatory regimes for chemicals at the end of the TP. This instrument proposes amendments to the earlier EU Exit instrument to reflect the more limited application of the new domestic REACH regime and the continuation of EU REACH in NI.
4. The instrument also proposes amendments to address the barriers to trade between NI and GB that are a consequence of the operation of two separate REACH regimes, and to ensure that NI chemicals will have easier access to the GB market. Defra explains that while frictionless trade between NI and GB is a stated aim of all parties to the Protocol, “there is a recognition that the risks relating to certain categories of highly regulated goods such as chemicals mean special arrangements are necessary”.
5. Under the new domestic REACH regime, a person placing a chemical substance on the GB market will need to notify HSE, as the responsible GB agency, so that the regulatory authorities know which chemical substances are entering and being used in GB. The notification will provide basic information about the substance. Defra says that while under the new arrangements only GB-based entities may make such notifications, this instrument introduces an exception to enable NI suppliers, rather than their GB customers, to notify HSE directly. In such a scenario, the duties relating to the notification will apply to the NI supplier rather than the GB importer.
6. The instrument further proposes that where NI chemicals are already being traded into the GB market, the notification must be made to HSE within 300 days of the end of the TP and that, where the trade is made for the first time after the end of the TP, the notification must be made before the substance is placed on the GB market. This notification requirement replaces the more onerous duty to register fully the substance in GB.
7. The instrument also provides that NI suppliers can apply directly to HSE for an authorisation where they want to place a substance of very high concern on the GB market, instead of relying on their GB customer to make that application. Defra says that these provisions will apply to qualifying Northern Ireland goods, as defined by a previous EU Exit instrument.<sup>3</sup>

### *Deadlines for submitting information*

8. Under the REACH regime’s “no data, no market” principle, companies need to register chemical substances with the relevant agency before these substances can be used or put on the market. This requires the submission of

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<sup>2</sup> SLSC Sub-Committee B, *15th Report* (Session 2017–19, HL Paper 281).

<sup>3</sup> *Draft* Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020, see: SLSC, *31st Report* (Session 2019–21, HL Paper 153).

safety data on these substances and involves complex copyright and ownership issues, with some data being owned jointly by multiple companies. The original EU Exit instrument provided for an automatic transfer of UK-held EU REACH registrations into the new domestic REACH regime as long as the registration data for the substance that was originally submitted to ECHA would subsequently be submitted to HSE, as the agency responsible for the new domestic regime. The original instrument provided for transitional arrangements to give businesses time to obtain the data.

9. Defra says that this instrument implements a commitment made in both Houses during the passage of the original EU Exit instrument “to keep under review the REACH data submission deadlines which the transitional provisions place on manufacturers and importers of chemicals in GB”.<sup>4</sup> This commitment was given in response to concerns that businesses would not always be able to obtain the data or, lacking ownership of the data, only at significant cost. Defra says that this instrument now proposes a new phased approach to the submission of data, following informal consultation with representatives of the chemicals industry and other stakeholders.
10. Specifically, the instrument proposes that the initial notification stage for existing downstream users<sup>5</sup> that will become importers of chemicals from the EU/European Economic Area (EEA) or NI after the end of the TP is extended from 180 to 300 days, starting from 1 January 2021. According to Defra, this is to give downstream users time to see whether existing GB registrants transfer their EU REACH registrations into the new domestic regime after the end of the TP. Where such a transfer is done by the GB registrant, the downstream users of that substance will not need to notify HSE.
11. The deadline for providing the remaining registration information in the case of existing GB registrants or completing a full registration for those importing from the EU/EEA or NI, is to be extended to run subsequently in a phased manner by two, four and six years. This would mean a total of two, four and six years, and the additional 300 days for the initial notification, to supply the full information. Defra says that this phased approach will operate by reference to tonnage bands and hazard profile, with the highest tonnages and most significant hazards coming first. The EM states that the aim of this phased approach is to “allow companies sufficient time to negotiate access to information where necessary and to form joint registrations. It is expected to reduce the burden on industry and ensure the completeness and quality of the information on substances in the GB REACH system.”

*Concerns about the transition to the new domestic REACH regime*

12. There remain significant concerns about the new domestic regime and the way it seeks to replace EU REACH. Following an evidence session with industry stakeholders, the House of Lords EU Environment Sub-Committee wrote to the Minister about the practical challenges and high costs of submitting chemicals safety data to the new domestic system, the impact this

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4 HL Deb, 26 March 2019, [cols 1727-1758](#).

5 Downstream users are companies that use registered substances but do not hold an EU REACH registration for these substances themselves.

could have on small companies, the preference of stakeholders for a data-sharing agreement with the EU and the readiness of HSE for its new role.<sup>6</sup>

*Concerns about access to data*

13. We have also received a submission from the ChemTrust, raising further concerns, including that extending the period for submitting full registration data to more than six years will “make it difficult, if not impossible, for the HSE to implement legally enforceable restrictions on and authorisations for chemicals without this data”. We put this concern to Defra which told us that:

“It is not correct to imply that HSE will not have access to any information about substances in the absence of the full registration data. They will, for example, be able to look at the substantial amount of publicly available information, from the EU and elsewhere, and what action is being taken internationally in respect of particular substances, including by the EU. HSE will also have the power to request information from industry.”

14. ChemTrust also asked about the possibility of co-operation with ECHA and remaining within and aligned to EU REACH. In response, the Department explained that:

“The Government’s position on not remaining within the jurisdiction of the European Courts of Justice (ECJ), means that we are not seeking alignment with EU REACH or participation in the European Chemicals Agency (ECHA).

In February, the Government published its approach to negotiating a future relationship with the EU. That includes a proposal for a chemicals annex as part of the EU Free Trade Agreement. A deal on data sharing with the EU could mitigate the need for industry to provide full data packages.

It would not be appropriate to automatically implement future EU decisions under UK REACH. This is because the EU will no longer consider the impact of their decisions on Great Britain. We can take their decisions into account but we will need to consider, in each case, whether they are right for Great Britain.”

15. We are publishing the submission by ChemTrust and Defra’s full response on our website.<sup>7</sup>
16. We asked the Department whether the UK would continue to have access to the EU REACH database via NI which will remain under the EU REACH regime. Defra explained that:

“Under the Northern Ireland Protocol the UK (on behalf of NI) should have access to systems that are strictly necessary to the operation of the NIP. We have reached agreement with UKTF [the European Commission’s Task Force for Relations with the UK] confirming access

6 See EU Environment Sub-Committee, ‘Ministers challenged on unresolved chemicals concerns’ (12 October 2020): <https://committees.parliament.uk/committee/444/eu-environment-subcommittee/news/119977/ministers-challenged-on-unresolved-chemicals-concerns/> [accessed 12 November 2020].

7 Secondary Legislation Scrutiny Committee, scrutiny evidence page: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/>.

to a number of systems and talks remain ongoing with key Commission stakeholders regarding outstanding networks, systems and databases.”

17. We also asked whether, given the significant challenges that businesses face in having to submit data under the new domestic REACH regime and the impact this could have on industry and consumers, the Government had considered a data-sharing agreement with the EU in this area. The Department responded that:

“In February, the Government published its approach to negotiating a future relationship with the EU. That includes a proposal for a chemicals annex as part of the EU Free Trade Agreement. A deal on data sharing with the EU could mitigate the need for industry to provide full data packages.

We continue to push for it, but the EU continues to reject any sectoral annexes. However, securing the chemicals annex is still very much our preferred outcome. This would be in the interests of both UK and EU businesses, including those who will want to continue selling their chemicals into the GB market.”

18. We also asked the Department how HSE would obtain commercially sensitive and/or confidential data, in particular data that is currently held by EU REACH and that is required for the effective regulation of chemicals. Defra responded that:

“[T]here is the ability for HSE to request data from registrants, as well as using data from international sources and literature reviews into account when making decisions on whether further action is required to address a risk from a chemical. Where confidential data is submitted under REACH it is in the company-specific dossiers; these company-specific dossiers will continue to be required under UK REACH. It is important to recognise that the REACH process is not linear, so regulators will not need to wait for information from registration packages before they consider if the use of a substance should be controlled through an authorisation requirement or restriction.

The amount of information which will be publicly available to HSE regarding hazard end-points from EU registration dossiers, is very close to that which is available with EU REACH-IT access. This information will continue to be available as the public availability and communication is written in to EU REACH — so HSE will be able to use this information to inform their recommendations.

Therefore, the Agency will be able to look at a variety of sources to inform the decisions — this also includes using years of experience of chemical regulation within EU REACH and the new substance regime which ran prior to that.

None of this should be taken as suggesting that it is not important for the UK to build its own comprehensive REACH database in due course. It does, however, mean that we can take a balanced and proportionate approach to doing so.”

19. **We note the Department’s explanation but remain deeply concerned about the costs to industry of having to obtain data and that, in**

**the absence of complete access to EU REACH or a data sharing agreement with the EU in this area, the full chemicals safety data will not be immediately available to HSE when the new domestic REACH regime is launched on 1 January 2021. This could undermine HSE’s ability to regulate chemicals safely and effectively.**

20. We understand that there will be additional costs for UK businesses which will lose any existing EU REACH registrations for their chemicals. UK businesses will have a number of options if they wish to continue to export their substances to the EU/EEA, including having their EU/EEA customers register the substance with EU REACH, appointing an “Only Representative” within the EU/EEA to take over the tasks and responsibilities for complying with EU REACH or transferring their manufacturing activity to the EU/EEA. We acknowledge that this matter lies outside the scope of these Regulations but draw it to the attention of the House as a significant feature of their broader context.

*Concerns about HSE’s staffing and resources*

21. We also asked the Department whether HSE had sufficient expertise and resources to take on its new regulatory role. Defra told us that:

“In the overall management of REACH, HSE will have key functions as the Agency, working with the Environment Agency, while other functions will lie with ministers in Defra and the Devolved Administrations.

We will have a strong and effective regulator in place to operate UK REACH, building on existing expertise in the Health and Safety Executive (HSE) and the Environment Agency (EA). Both organisations have considerable experience, having worked on some of the most complex dossiers under EU REACH. Both organisations are continuing to bring in new staff to build their capacity.

HSE are recruiting in total 130 extra staff to cover the transition to the domestic system across all the regimes they operate — these staff will be scientists, administrators, occupational hygienists and socio-economists. For REACH specifically this results in a significant increase (more than three-times the staff currently in post) in the amount of staff currently involved in the system. This is the largest recruitment exercise ever undertaken in this area and underlines the importance and priority of chemical regulation to HSE.”

22. Asked about HSE’s progress in recruiting 130 new staff, the Department explained that recruitment was “currently underway” and that HSE “aims to have 100 recruits in post by January and 130 by the end of the financial year — these will be split over all the chemical regimes but around 40 of these staff will be specifically for REACH”. Defra further explained that:

“As the recruitment has been staggered, different posts are at different points in the recruitment process – HSE are currently interviewing for a large number of scientist posts and offers of employment will be made at the end of this month. To date HSE has made around 30 offers of employment to staff across all regimes (this includes posts to help with the implementation of the NI Protocol).”

23. Defra added that:

“HSE is recruiting heavily — however, to ensure they understand the potential workload on Day 1 for UK REACH, they have also worked with stakeholders to estimate the volume of work, as well as using prior knowledge gained from their experience of the EU system e.g. the number of UK companies with EU authorisation applications outstanding who may need to start to reapply under UK REACH. This has enabled HSE to plan training and recruitment in order to build up the functionality and services needed as UK REACH develops.

HSE is also in the fortunate position in having experienced staff, who have been involved in the more technical process of the EU system and can share their experience in order to build competence in others. In the current climate of Covid-19 we have developed remote training modules to ensure training can start as soon as possible.”

24. We also asked the Department about the costs of a domestic REACH regime and any extra funding that had been allocated to HSE. Defra told us that:

“The costs of UK REACH include building a new IT system and putting in place the capacity in HSE, EA and Defra to operate the new regime.

We have already provided extra resources to both HSE and EA to prepare for the end of the transition period and we expect to spend about £20m this financial year on the new UK REACH regulatory system. This figure includes the operation and maintenance of the REACH IT system and staff resourcing in Defra, HSE and EA.

Decisions on budgets for UK REACH in 2021/22 will be taken in the light of the outcome of the current spending review.”

25. **We are concerned that fewer than two months before the new domestic REACH regime is to replace EU REACH, recruitment and training of expert staff at HSE is far from complete, and it is clear that HSE will not have all the staff in post that it will need to exercise its regulatory functions under the new regime from 1 January 2021. We note particularly that HSE has made around 30 job offers to date, compared to its target of recruiting 130 new staff. While HSE aims to complete this target by the end of the financial year 2020/21, the new domestic regime will become operational on 1 January 2021. It is also not clear how many of the job offers made by HSE have been accepted and given that staff may also have to give notice, we are further concerned about the operational consequences of HSE not being able to complete its recruitment by 1 January 2021.**

26. **We are also concerned that the Department has not provided an analysis of the costs of the new domestic REACH regime. The House may wish to seek assurance from the Minister that sufficient funding will be made available in the 2021/22 financial year, at a time when there are significant pressures on public spending.**

### *Conclusion*

27. The chemicals sector is the UK’s second biggest manufacturing industry, and it is estimated that some 61% of chemical exports went to the EU in

2017, with a value of £18 billion, and that around 73% of chemical imports came from the EU.<sup>8</sup> The House expressed strong concerns when the original proposals to establish a domestic regulatory regime for chemicals to replace the current EU regime were debated in 2019. While this instrument proposes to extend certain data submission deadlines to help industry transition to the new arrangements, **we remain deeply concerned about the costs to industry and that the new domestic REACH regime will not have access to the full chemicals safety data currently held by EU REACH. Moreover, HSE has not yet completed the recruitment and training of the expert staff it will need when the domestic REACH regime replaces EU REACH on 1 January 2021. The draft Regulations are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.**

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8 European Union Committee, *Brexit: chemical regulation*, (Twenty Third Report, Session 2017–19 HL Paper 215), p 3.

## Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 (SI 2020/1200)

*Date made: 3 November 2020*

*Parliamentary procedure: made affirmative*

*These Regulations make provision for the second national lockdown in England. They require people to stay at home except for listed reasons, and limit gatherings to two people, if from different households, in a public space. The Regulations also require the closure of a number of businesses and impose restrictions on those which remain open. The exceptions and penalties retain a familiar form. The Regulations will cease to have effect on 2 December, 28 days from the date on which they came into force (5 November).*

*The Government state that when this instrument expires: “we will return to a tiered system on a local and regional basis according to the latest data and trends”. These Regulations, however, revoke SIs 2020/1103, 2020/1104 and 2020/1105, which introduced the previous three-tier system. A new tiered system will therefore have to be put in place. **It is essential that the Government provide an analysis of the performance of the previous three-tier system and a clear, evidence-based explanation for any differences between the previous system and the new one to be put in place post-lockdown.***

**These Regulations are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to matters of public policy interest.**

28. These Regulations were laid by the Department of Health and Social Care and are accompanied by an Explanatory Memorandum (EM). No Impact Assessment was prepared.
29. The Regulations were debated in the House of Lords on 4 November before they came into effect on 5 November 2020. The motion to approve was debated alongside one motion to decline to approve and five regret motions. These are set out at Appendix 1 as an illustration of the concerns raised.

### *What the instrument does*

30. Many of these restrictions and exceptions, which apply only in England, are similar to those set out in the previous three-tier regulations, although there is an additional exemption for Remembrance Sunday events (part 3):
  - Part 1 sets out definitions including elite sportsperson, vulnerable person and disability;
  - Part 2 sets out the general prohibition that “no person may leave or be outside of the place where they are living without reasonable excuse” and the 13 categories of permitted exceptions;
  - Part 3 sets out the general prohibition that two people from different households may not meet indoors or outside (except in a park or public outdoor area) and larger groups may only meet if from the same or a linked household (as defined in regulations 12–13). The same exceptions are made for life events such as births and deaths but marriages are limited to six people attending. A special exception is

made for Remembrance Sunday Day events that take place outdoors or Armistice Day events in Westminster Abbey (regulation 11(18));

- Part 4 and the Schedule set out the requirements for businesses to close and the exceptions. Essential retail will remain open but non-essential retail, hospitality and other entertainment and leisure venues will be closed, although food and drink may be provided by delivery or click and collect;
- Universities, schools, courts and Jobcentres will remain open but places of worship will remain closed except for funerals. Medical and therapy facilities and certain support groups will remain open;
- Part 5 describes the enforcement regime and the offences and fines; and
- Part 6 sets the expiry date, transitional provisions and revocations.

### *Additional Guidance*

31. The EM also refers to guidance which recommends that Clinically Extremely Vulnerable<sup>9</sup> people should minimise social contact (but the legislation does not go so far as to require them to shield). Similarly, guidance has been published about visits to care homes<sup>10</sup> which recommends “visitor numbers should be limited to a single constant visitor wherever possible, with an absolute maximum of two constant visitors per resident”.
32. The general guidance on the lockdown<sup>11</sup> also includes a specific prohibition on staying away from your main residence: “Overnight stays and holidays away from primary residences will not be allowed. This includes holidays abroad and in the UK. It also means you cannot stay in a second home, if you own one, or staying with anyone you do not live with or are in a support bubble with.”
33. **We reiterate a concern which we raised in an earlier report<sup>12</sup> that the distinction between requirements imposed by law and advice given through guidance should be clearly and accurately communicated to the public.**

### *Rationale for lockdown*

34. We welcome the fact that paragraph 1 of the EM sets out data on the infection rate which has prompted the decision to impose another national lockdown:

“Data from the Office of National Statistics COVID-19 infection survey for the most recent week of the study (17–25 October) estimates that an average of 568,100 people had COVID-19 in the community in England — over 30% higher than their estimate from the previous

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9 DHSC, ‘Guidance on shielding and protecting people who are clinically extremely vulnerable from COVID-19’ (13 November 2020): <https://www.gov.uk/government/publications/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19/guidance-on-shielding-and-protecting-extremely-vulnerable-persons-from-covid-19> [accessed 13 November 2020].

10 DHSC, ‘Visiting arrangements in care homes for the period of national restrictions’ (5 November 2020): <https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus/update-on-policies-for-visiting-arrangements-in-care-homes> [accessed 12 November 2020].

11 Cabinet Office, ‘New National Restrictions from 5 November’ (31 October 2020): <https://www.gov.uk/guidance/new-national-restrictions-from-5-november> [accessed 12 November 2020].

12 *13th Report*, (Session 2019-21 HL Paper 57).

week and equivalent to 1 in 100 people. This is in line with estimates from the latest interim results from the Real-time Assessment of Community Transmission (REACT) Study, led by Imperial College. The Government’s expert modelling group SPI-M estimates that the reproduction rate, or R rate, for the UK is between 1.1–1.3, with the epidemic estimated to grow between 2% and 4% per day, with potentially faster growth in certain areas.”

35. In response to our questions in relation to previous instruments, however, the Government have said that *a number of factors* are taken into account in deciding how to respond to the pandemic, not just the R Rate.<sup>13</sup> **We question why, on this occasion, no other factors, other than the R Rate, are mentioned.**
36. In the debate, concerns were raised about the absence of an Impact Assessment or Risk Analysis, comparing the benefits of lockdown against its long-term risks. Questions were also asked about the quality of the data, whether it was reliable, and the degree to which other factors had been taken into account like the economic impact, long-term debt, unemployment, disruption of education, damage to mental health and the effects of delays in treatment for other medical conditions. **The House may wish to continue to press the Minister for a full explanation of the rationale, and evidence-base, for a national lockdown.**

*What happens next?*

37. On 31 October, the Prime Minister announced<sup>14</sup> that, due to rapid increases in the rate of infection both in England and in other countries, the relevant Local Covid Alert Level measures (Tiers 1–3) would be replaced from 5 November by national restrictions. The new measures will apply in England for four weeks to 2 December, at which point the Government “will look to return to a regional approach, based on the latest data”.
38. In his opening remarks in the debate,<sup>15</sup> the Minister, Lord Bethell, said that when this instrument expires “we will return to a tiered system on a local and regional basis according to the latest data and trends” (column 742) but did not make clear what that system would be. A number of questions were asked about the short-term exit strategy from this lockdown and longer-term exit strategy from the pandemic.
39. At paragraph 6.6, the EM states that the policy intention of the instrument is to impose “a nationwide lockdown for 28 days in order to prevent the spread of Coronavirus, thus easing NHS capacity and ensuring that the health system is not overwhelmed during the winter months. It is expected that, at the end of that period, the previous local alert levels introduced in October will once again be brought into force. This policy is subject to review.”
40. The instrument, however, revokes SIs 2020/1103, 2020/1104 and 2020/1105, which introduced the three-tier system, so it is not clear to which “local alert levels” system the EM refers.

13 See paragraphs 26–28 of our [31st Report](#), Session 2019–2021 in relation to SIs [2020/1103](#), [1104](#) and [1105](#) establishing the three tiers.

14 HM Government, ‘Prime Minister’s statement on coronavirus (COVID-19): 31 October 2020’: <https://www.gov.uk/government/speeches/prime-ministers-statement-on-coronavirus-covid-19-31-october-2020> [accessed 12 November 2020].

15 HL Deb, 4 November 2020, [cols 741–791](#).

41. We also note that the EM provides no analysis of the performance of the three-tier system which this instrument replaces or the degree to which it was successful in reducing local infection rates. **Whatever system is put in place after these Regulations expire, it is essential that the Government provide an analysis of the performance of the previous three-tier system and a clear, evidence-based, explanation for any differences between the previous system and the new one to be put in place post-lockdown.**
42. We also recommend that, to improve compliance, the way that any future requirements are set out in law and communicated needs to be clearer. The public has appeared confused by both the quantity and the complexity of the previous provisions.

## CORRESPONDENCE

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### **Correction letter from Defra**

43. We have received a letter from the Department for Environment, Food and Rural Affairs (Defra) with regard to two instruments on which we commented in our 33rd Report. These are the draft Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 and the Draft Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No.2) Regulations 2020. The letter clarifies that information on the enforcement of poultrymeat marketing standards which Defra shared with us and on which we commented was incomplete. The full letter is published in Appendix 2.

### **Sunset provisions in statutory instruments dealing with COVID-19**

44. We have noted in previous reports<sup>16</sup> that many statutory instruments that relate to the Coronavirus pandemic included sunset provisions. To assist the House in scrutinising the legislation, we asked the Leader of the House of Commons to send us monthly updates so that they could be properly monitored. A further update has been received, which is published in Appendix 3 of this report.

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16 For example, our *25th Report*, (Session 2019–21, HL Paper 123).

## INSTRUMENTS RELATING TO COVID-19

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### Restrictions on businesses and public gatherings

#### *Health Protection (Coronavirus, Restrictions) (England) (No. 4) (Amendment) Regulations 2020 (SI 2020/1242)*

45. The original “Lockdown 2” Regulations<sup>17</sup> prohibit gatherings of more than two people but made a specific exemption to permit attendance at outside events to commemorate Remembrance Sunday, or in Westminster Abbey, on 11 November 2020 to commemorate Armistice Day and the centenary of the burial of the Unknown Soldier.
46. This instrument adds a further exemption for other Armistice Day commemorations in England, putting them on the same footing as those for Remembrance Sunday, by amending regulations 6 and 11(18). This instrument will lapse 28 days after coming into effect.

### Travel

#### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 22) Regulations (SI 2020/1227)*

47. These Regulations amend the original International Travel Regulations<sup>18</sup> to remove Denmark, Germany and Sweden from the list of exempt countries. Passengers arriving from Denmark after 6 November and Germany and Sweden from 7 November will be required to self-isolate for 14 days. Germany and Sweden are placed on the quarantine list on the basis of rising infection rates, while Denmark has been placed on the quarantine list as a precautionary measure due to the spread of a mink-variant of the COVID-19 virus from fur farms.

#### *Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 23) Regulations 2020 (SI 2020/1238)*

#### *Health Protection (Coronavirus, Travel from Denmark) (England) Regulations 2020 (SI 2020/1239)*

48. Because of the potential threat of a new strain of the virus from Danish mink, these instruments add further precautions to arrivals from Denmark:
49. SI 2020/1238 removes the exemptions set out in the International Travel Regulations<sup>19</sup> that would otherwise allow a person who arrives from, or has transited through, Denmark to avoid self-isolation or filling out a passenger locator form. The Regulations also extend the requirement to self-isolate for 14 days to anyone residing in that person’s household.
50. SI 2020/1239 prohibits all aircraft and vessels whose last departure point was Denmark from landing, or mooring at a port in England. The prohibition does not apply to craft that only carry freight.

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17 Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 ([SI 2020/1200](#)).

18 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 ([SI 2020/568](#)).

19 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 ([SI 2020/568](#)).

## Public services

### *Draft Business and Planning Act 2020 (London Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020*

51. This instrument proposes to extend the duration of a temporary provision in relation to the electronic inspection of the Mayor of London’s current spatial development strategy (“The London Plan”). The Ministry of Housing, Communities and Local Government (MHCLG) explains that the Mayor of London is usually required to keep the London Plan available for inspection at the Greater London Authority’s (GLA) principal offices and to provide a hard copy on request. Due to the pandemic, however, an earlier instrument<sup>20</sup> disapplied these requirements temporarily until the end of 2020, if the strategy was instead available for inspection free of charge by appropriate electronic means. MHCLG says that because of the continued uncertainty about the pandemic, this instrument proposes to extend the period by 12 months until 31 December 2021. MHCLG says that a new London Plan is due to be published soon and without the extension it may be difficult for the GLA to meet all requests for hard copies while staff are predominantly working from home and City Hall remains closed to the public. MHCLG says that the GLA has not had any recent requests for hard copies of the London Plan and has not received any complaints about copies only being available electronically at present.

### *Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020 (SI 2020/1202)*

52. This instrument extends from one to three years the period over which local authorities can repay deficits in their local tax collection funds which have accrued during financial year 2020/21 as a result of the economic impact of the coronavirus pandemic. According to the Ministry of Housing, Communities and Local Government, this extension gives local councils “breathing space” in setting budgets for next year and implements a commitment made by the Secretary of State on 2 July 2020 when a package of measures to support local government was announced.<sup>21</sup>

## Changes to benefits

### *Social Security (Coronavirus) (Further Measures) (Amendment) and Miscellaneous Amendment Regulations 2020 (SI 2020/1201)*

53. Following review, these Regulations amend the Social Security (Coronavirus) (Further Measures) Regulations 2020<sup>22</sup> so that the expiry date for these support schemes is extended. Regulation 2, relating to the relaxation of the minimum income floor for the self-employed claiming Universal Credit, will now expire on 30 April 2021. Exceptions to regulations 8 (Jobseeker’s Allowance — periods of sickness) and 9 (Carer’s Allowance), which make special exceptions during the pandemic so claimants are not penalised for self-isolating because of possible COVID-19 infection, are extended to 12 May 2021.

20 Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 ([SI 2020/765](#)).

21 MHCLG, Press release: *Comprehensive new funding package for councils to help address coronavirus pressures and cover lost income during the pandemic* on 2 July 2020: <https://www.gov.uk/government/news/comprehensive-new-funding-package-for-councils-to-help-address-coronavirus-pressure-and-cover-lost-income-during-the-pandemic>.

22 Social Security (Coronavirus) (Further Measures) Regulations 2020 ([SI 2020/371](#)).

## INSTRUMENTS OF INTEREST

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### **Draft Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020**

54. This instrument ensures that legislative functions of the EU can be exercised by the appropriate authorities in Great Britain (GB) after the end of the Transition Period (TP). The instrument also amends earlier EU Exit instruments in order to reflect recent changes in EU law and to implement the Withdrawal Agreement and the Northern Ireland (NI) Protocol (“the Protocol”). The instrument covers seven policy areas: seed, plant and plant propagating material; aquatic animal health; Transmissible Spongiform Encephalopathies (TSEs) and Animal By-Products; livestock; zoonotic diseases; pet travel; and the use of alien and locally absent species in aquaculture.
55. Amongst other changes, the instrument ensures that in relation to the movement of non-commercial pets, EU Member States are considered to be a ‘Part 1’ listed third country for the purposes of the Pet Travel Scheme and that pets travelling to GB can continue to use their current EU-issued Pet Passport. The Department for Environment, Food and Rural Affairs (Defra) says that currently around 300,000 pets move into the UK every year through the Pet Travel Scheme. We asked the Department about the requirements for pets moving from GB to the EU and between GB and NI after the end of the TP. Defra told us that:

“The health and documentary preparation required to enter the EU from GB will be dependent on the category of third country that GB becomes after the transition period, although we have submitted an application to become a ‘Part 1’ listed third country. The EU are now considering our application. On pet travel between Great Britain and Northern Ireland, we believe that there is no animal health-related justification for significant changes to pet movements between Great Britain and Northern Ireland and that they should continue in a very similar way to as they do now.”

56. We note that it is not clear at this stage what the process and requirements will be for moving pets from GB to Ireland via NI after the end of the TP.
57. We also asked the Department about the practical impact of having separate regimes in areas such as TSEs and zoonotic diseases on the trade between NI and GB. Defra explained that under the Protocol:

“Moving goods from Northern Ireland to Great Britain should take place as it does now — there will be no additional process, paperwork, or restrictions on Northern Ireland goods moving to Great Britain, delivering unfettered access.

Changes for goods moving from Great Britain to Northern Ireland will be kept to an absolute minimum, but there will be a requirement for export health certification. A new Trader Support Service, available to all traders at no cost, will be established to provide wraparound support, alongside guidance on the processes for food and agricultural products

designed to uphold the longstanding status of the island of Ireland as a single epidemiological unit.”

### **Draft Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020**

58. This instrument inserts into the Northern Ireland Act 1998 (which establishes the devolution arrangements) a schedule setting out the process by which the Northern Ireland Assembly will decide whether to continue with the special provisions set out in the Protocol to the Withdrawal Agreement. Article 18 of the Protocol requires the Northern Ireland Assembly to consent to the continued application of Articles 5 to 10 of that Protocol every four or eight years depending whether it is given on a simple majority or cross-community basis. **The first consent process will need to be completed by the end of December 2024 and the Explanatory Memorandum also identifies the specific dates on which certain actions must be taken.**

### **Draft Veterinary Medicines and Residues (Amendment) (EU Exit) Regulations 2020**

59. This instrument ensures that the regulatory regimes for veterinary medicines and residues surveillance remain operable and enforceable in the UK after the end of the Transition Period (TP). It also implements requirements of the Northern Ireland (NI) Protocol. The Department for Environment, Food and Rural Affairs (Defra) explains that in order to facilitate unfettered market access for veterinary medicines from NI to Great Britain (GB), the instrument introduces “light touch regulatory controls” on medicines that are approved in NI but not GB. As the Explanatory Memorandum does not provide further information, we asked Defra about the nature of these controls.
60. The Department told us that a medicine with a valid marketing authorisation in NI but not in GB may benefit from unfettered market access if the Marketing Authorisation Holder has a “dedicated place of establishment” in NI and has provided the same application dossier and supporting information to the Veterinary Medicines Directorate as they would have provided to the European Medicines Agency or the relevant authority in an EU Member State. In addition, access must be provided to any “EU based pharmacovigilance system” that the Marketing Authorisation Holder has in place.<sup>23</sup> Defra says that if these conditions are met and there are no safety concerns, a certificate will be issued to allow the product to be marketed in GB.
61. We received a submission from Friends of the Earth which raises a number of concerns about the instrument. We are publishing the submission and Defra’s response on our website.<sup>24</sup> As highlighted by Friends of the Earth, we note that the instrument omits a requirement from EU law which will come into effect in November 2022 and updates Reference Points for Action for

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23 A pharmacovigilance system enables the collection, monitoring, assessment and evaluation of information related to adverse events. Under EU law, Marketing Authorisation Holders are required to develop a pharmacovigilance system and provide a detailed description of it as part of their marketing authorisation application.

24 Secondary Legislation Scrutiny Committee, scrutiny evidence page: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/>.

certain antibiotics and antimicrobials.<sup>25</sup> Defra responded that the provision was omitted because it will not have effect until after the end of the TP, but that the “UK Government is committed to maintaining standards”.

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25 Food of animal origin containing residues of certain substances at or above the Reference Points for Action is considered as not complying with relevant legislation.

## **INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE**

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### **Draft instruments subject to affirmative approval**

Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020

Business and Planning Act 2020 (London Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020

Customs Safety, Security and Economic Operators Registration and Identification (Amendment etc.) (EU Exit) Regulations 2020

Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020

Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020

Unmanned Aircraft (Amendment) (EU Exit) Regulations 2020

Veterinary Medicines and Residues (Amendment) (EU Exit) Regulations 2020

### **Made instruments subject to affirmative approval**

SI 2020/1242 Health Protection (Coronavirus, Restrictions) (England) (No. 4) (Amendment) Regulations 2020

### **Instruments subject to annulment**

SI 2020/1187 Harwich Haven and Walton Backwaters (Application of the Pilotage Act 1987) Order 2020

SI 2020/1195 Energy Information (Amendment) Regulations 2020

SI 2020/1201 Social Security (Coronavirus) (Further Measures) (Amendment) and Miscellaneous Amendment Regulations 2020

SI 2020/1202 Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020

SI 2020/1203 Education (Student Fees, Awards and Support Etc.) (Amendment) (No. 3) Regulations 2020

SI 2020/1206 Greater London Authority (Consolidated Council Tax Requirement Procedure) Regulations 2020

SI 2020/1212 Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2020

SI 2020/1217 Electricity Storage Facilities (Exemption) (England and Wales) Order 2020

- SI 2020/1221 Heat Network (Metering and Billing) (Amendment) Regulations 2020
- SI 2020/1227 Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 22) Regulations 2020
- SI 2020/1228 Civil Procedure (Amendment No. 6) Rules 2020
- SI 2020/1238 Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 23) Regulations 2020
- SI 2020/1239 Health Protection (Coronavirus, Travel from Denmark) (England) Regulations 2020

**APPENDIX 1: HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) (NO. 4) REGULATIONS 2020 (SI 2020/1200)**

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**Amendments to the Approval Motion (4 November 2020)**

**Lord Robathan:** Leave out from “That” to the end and insert “this House declines to approve the draft Regulations because no impact analysis of the social, economic and health costs of a national lockdown, compared to the benefits of addressing the transmission of COVID-19 of such a lockdown, has been laid before Parliament, and because Her Majesty’s Government have not published a comprehensive long-term strategy for the lifting of all the restrictions put in place to address the pandemic.”

**Lord Forsyth of Drumlean:** At end insert “but that this House regrets that no impact assessment has been published which sets out the (1) number of jobs lost, (2) businesses permanently destroyed, (3) costs to taxpayers, and (4) consequences for mental and physical health, of a national lockdown; and regrets that Her Majesty’s Government have not provided a strategy for the lifting of the restrictions put in place to address the COVID-19 pandemic.”

**Baroness Noakes:** At end insert “but that this House regrets that the modelling used to support the claims that (1) the National Health Service would be overwhelmed, and (2) daily deaths from COVID-19 would be 4,000 or more, has not been subjected to independent review and challenge.”

**Lord Shinkwin:** At end insert “but that this House regrets that a further national lockdown to address the COVID-19 pandemic signals to totalitarian regimes that Her Majesty’s Government have failed to address the pandemic effectively, and that the United Kingdom’s parliamentary democracy is weak.”

**Baroness Meyer:** At end insert “but that this House regrets that the Regulations will result in an increase in mental illness and other long-term psychological harm.”

**Lord Lilley:** At end insert “but that this House regrets that the Regulations have been laid under the Public Health (Control of Disease) Act 1984, which does not give specific powers to Her Majesty’s Government to impose restrictions on uninfected persons, and not the Civil Contingencies Act 2004, which does.”

## APPENDIX 2: CORRESPONDENCE: CORRECTION LETTER FROM DEFRA

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**Letter from Ms R Ahmed, Head of Food, Farming Sectors and Trade at the Department for Environment, Food & Rural Affairs, to Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee**

*The Draft Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) Regulations 2020 and The Draft Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No.2) Regulations 2020*

I am writing to clarify a matter that was raised by the Committee in the 33rd Report of Session, about the aforementioned Statutory Instruments.

The above class and draft affirmative Statutory Instruments were laid before Parliament on 19 October 2020 and subsequently considered by the Committee on 3 November.

The Committee asked the Department to clarify why some of the transitional provisions were being amended, whilst others were not. The Department responded that

“For poultrymeat [The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020], we have retained a 12-month transitional period as we do not currently enforce poultrymeat marketing standards, so will need sufficient time to operationalise the regime before being in a position to conduct the associated checks.”

As a result of the response provided, the Committee drew attention to the Department’s explanation in the 33rd Report of Session.

Unfortunately, the Department’s response did not provide sufficient context in replying to the Committee’s query. The response should have been clearer in that it was referring to the legal requirement for poultrymeat marked with optional indicators only and not poultrymeat marketing standards checks in general. The response should therefore have read:

“For poultrymeat [The Common Organisation of the Markets in Agricultural Products (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2020] marked with optional indicators, we have retained a 12-month transitional period as we do not currently enforce that aspect of the poultrymeat marketing standards in the absence of any products with such optional indicators entering the country from any of our current Third Country trading partners, so will need sufficient time to operationalise the regime before being in a position to conduct the associated checks.”

In light of the above clarification, I would be grateful if the Department’s revised response could be distributed to the members of the Committee and a correction issued. I understand that this will require you to publish the letter in one of the Committee’s next reports and for a footnote to be added to the original report signposting this letter. With apologies for any inconvenience this has caused.

**11 November 2020**

### APPENDIX 3: CORRESPONDENCE: SUNSET PROVISIONS IN STATUTORY INSTRUMENTS DEALING WITH COVID-19

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#### Letter from the Rt Hon. Jacob Rees-Mogg MP, Leader of the House of Commons, to Lord Hodgson of Astley Abbots, Chair of the Secondary Legislation Scrutiny Committee

In my letter of 9 July 2020 I committed to provide a regular monthly update of sunset provisions in statutory instruments (SI) made in response to the coronavirus pandemic.

As of 30 October 2020, the Government has laid 240 SIs that fall into this category, of which 68 include a specific sunset provision. Annex A sets out the statutory instruments that have been laid in response to the pandemic and which include a specific sunset provision, along with the timing of that provision. This information is also included in the Explanatory Notes for each statutory instrument. The inclusion of a sunset provision is always carefully considered.

I hope that this information is helpful to the Committee and I will continue to provide an updated list every month.

This letter has been copied to the Leader of the House of Lords and the Chairman of the Joint Committee on Statutory Instruments.

**6 November 2020**

#### *Annex A*

**Table 1: COVID-19 SIs with specific sunset provisions**

Dept	Title	Sunset Provision
DHSC	Health Protection (Coronavirus) Regulations 2020	10/02/2022
DHSC	The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020	23/09/2020 — This SI was revoked by the below SI.
DHSC	Health Protection (Coronavirus, Restrictions) (England) Regulations 2020	26/09/2020 — Now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
DHSC	The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020	17/10/2021
HO	Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020	27/03/2021

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
MHCLG	Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020	31/12/2020
DWP	Universal Credit and Employment Support Allowance Amendment Regulations 2020	12/11/2020
DWP	Northern Ireland equivalent to above	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Regulations 2020	12/11/2020
DWP	Social Security (Coronavirus) (Further Measures) Northern Ireland Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020	12/11/2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020 Northern Ireland	12/11/2020
DfE	The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020	31/01/2021
DfE	The Adoption and Children (Coronavirus) (Amendment) Regulations 2020	This has been partially extended. Some of the provisions of these regs were extended through The Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020, but the majority expired.
DIT	The Motor Vehicles (Tests) (Amendment) Regulations 2020	01/02/2021 — This has been further amended by the Motor Vehicles (Tests) (Amendment) (Coronavirus) (No.2) Regulations.
DfE	The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020	These expired with no extension necessary.

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DfE	The Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020	01/09/2021 — These were extended through The Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations.
BETS	Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020	01/08/2020 — No SI was laid to extend these provisions, the sunset provision has come into effect and therefore the SI is no longer in force.
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020	26/09/2020 — Now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
MHCLG	The Town and Country Planning (Development Management Procedure) (England) (Coronavirus) (Amendment) Order 2020	31/12/2020
MoJ	Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020	25/03/2022
MoJ	The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020	08/06/2021
DIT	The Traffic Order Procedure (England) (Coronavirus) (Amendment) Regulations 2020	30/04/2021
DfE	School Forums (Coronavirus) SI	01/04/2021
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 3) Regulations 2020	26/09/2020 — now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
DHSC	Health Protection (Coronavirus, International Travel) (England) Regulations 2020	08/06/2021
DIT	The Health Protection (Coronavirus, Public Health Advice for Passengers) (England) Regulations 2020	08/06/21 — Updated by regulations laid on 6 July.

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DIT/ DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 (S.I., 2020, No. 592)	15/06/21
DHSC	Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020	26/08/2020 — now revoked by Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020
MoJ	Competition Appeals Tribunal	25/03/2022
BEIS	The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020	05/04/2021
BEIS	Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020	31/03/2021
MOJ	The Secure Training Centre (Amendment) (Coronavirus) Rules 2020	25/03/2022
DHSC	Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020	04/01/2021 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level (High) (England) Regulations 2020
DHSC	Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020	04/01/2021 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020	08/06/2021
HMRC	The Value Added Tax (Zero Rate for Personal Protective Equipment) (Extension) (Coronavirus) Order 2020	These regulations have expired.
HMRC	Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020	12/01/2021

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
MHCLG	Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020	31/12/2020
MHCLG	Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020	31/12/2020
MHCLG	Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020	31/12/20
MoJ	Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020	28/03/21
DHSC	Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020	17/01/21
DHSC	Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020	24/07/21
DHSC	Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020	25/01/21 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020	04/02/2021 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020
DHSC	Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) Regulations 2020	04/02/2021 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) (No. 2) Regulations 2020	04/02/2021 — these regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	National Health Service (Coronavirus) (Charges and Further Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020	01/04/2021
DHSC	The Health Protection (Coronavirus) (Restrictions on Holding of Gatherings and Amendment) (England) Regulations 2020	04/12/2020
DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020	27/08/2021
BEIS	Feed-in Tariffs (Amendment) (Coronavirus) (No. 2) Order 2020	The regulations contain multiple sunset provisions depending which elements they apply to: Hydro installations — 31/03/22 Community hydro installations — 30/09/22  Anaerobic Digestion and wind installations- 31/03/21 Community anaerobic digestion and wind installations — 30/09/21  Community solar installations — 31/03/21
BEIS	The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020	18/09/2021
DfE	Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020	31/03/2021
DfE	Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020	31/08/2021
DHSC	Health Protection (Coronavirus, Restrictions) (Greencore) Regulations 2020	These regulations have expired.

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020	10/03/21 — these regulations have been revoked by The Health Protection (Coronavirus, Restrictions) (North of England and North East and North West of England etc) (Amendment) Regulations 2020
DHSC	Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020	15/03/2021 — These regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020	18/09/2021
DHSC	The Health Protection (Coronavirus, Restrictions) (North East England) Regulations	18/03/2021 — These regulations have been revoked by The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020
HO	Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) (No. 2) Regulations 2020	01/04/2021
MoJ	Wills Act 1837 (Electronic Communications) (Amendment) (Coronavirus) Order 2020	31/01/2022
MoJ	Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020	28/06/2021
DWP	Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2020	1 2/ 05/ 2021
MoJ	Prison and Young Offender Institution (Coronavirus , etc.) (Amendment) (No. 3) Rules 2020	25/03/2022

Dept	Title	Sunset Provision
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020	14/04/2021
DHSC	Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) (Amendment) Regulations 2020	14/11/2020 — Regulations that place an area into tier 3 don't have sunset provisions explicitly. However, they will expire 28 days after coming into force, as drafted in The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.
DHSC	Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) Regulations 2020	21/11/2020 — Regulations that place an area into tier 3 don't have sunset provisions explicitly. However, they will expire 28 days after coming into force, as drafted in The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.
DHSC	Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 2) Regulations 2020	24/11/20 — Regulations that place an area into tier 3 don't have sunset provisions explicitly. However, they will expire 28 days after coming into force, as drafted in The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.
DHSC	Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 3) Regulations 2020	27/11/20 — Regulations that place an area into tier 3 don't have sunset provisions explicitly. However, they will expire 28 days after coming into force, as drafted in The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020.
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020	14/04/2021

<b>Dept</b>	<b>Title</b>	<b>Sunset Provision</b>
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations	14/04/2021

*Source: Leader of the House of Commons*

## APPENDIX 4: INTERESTS AND ATTENDANCE

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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 17 November 2020, Members declared no interests.

### **Attendance:**

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord Chartres, Lord Cunningham of Felling, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, Lord Liddle, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.