



House of Lords
House of Commons
Joint Committee on Statutory
Instruments

**Forty-Eighth Report of
Session 2022-23**

Drawing special attention to:

Stockton-on-Tees (Electoral Changes) (Amendment) Order 2023

Town and Country Planning (General Permitted Development etc.)
(England) (Amendment) Order 2023 **(S.I. 2023/747)**

Administration of Estates (Fixed Net Sum) Order 2023 **(S.I. 2023/758)**

Cosmetic Products (Restriction of Chemical Substances) (No. 2) Regulations
2023 **(S.I. 2023/836)**

*M621 Motorway (Off Side Lane Prohibition Disapplication) (No.2)
Regulations 2023 (S.I. 2023/840)*

*Ordered by the House of Lords to be
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Joint Committee on Statutory Instruments

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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.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Ines Nizigama (Committee Operations Officer), Michael O’Leary (Committee Operations Manager), Christine Salmon Percival (Lords Clerk), Jonathan Whiffing (Commons Clerk). Advisory Counsel: Sarita Arthur-Crow, Klara Banaszak, Rupert Grist, Justin Leslie, Vanessa MacNair, and Hannah Stewart (Commons); Nicholas Beach, James Cooper, and Ché Diamond (Lords).

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Instruments reported

At its meeting on 18 October 2023 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 five of those considered. The instruments and the grounds for reporting are given below. The relevant departmental memoranda are published as appendices to this report.

1 Draft S.I.: Reported for doubtful vires

Stockton-on-Tees (Electoral Changes) (Amendment) Order 2023

1.1 The Committee draws the special attention of both Houses to this Order on the ground that there is doubt as to whether it is *intra vires* in one respect.

1.2 This draft Order, which is subject to the negative resolution procedure, amends S.I. 2022/966. That instrument provides for the parish of Ingleby Barwick to have six parish councillors representing two wards. Article 2 increases that to 12 councillors. The Explanatory Memorandum asserts that this is done to give full effect to recommendations in the report prepared under section 58(4) of the Local Democracy, Economic Development and Construction Act 2009; section 59(1) of that Act—a power to give effect to report recommendations—is accordingly cited in the preamble as the enabling power.

1.3 The Committee noticed, however, that in Schedule 2 to the 2022 Order, Table 4 accurately reflects the recommendation made by all published versions of the final report that “Ingleby Barwick Parish Council should comprise 6 councillors, as at present, representing two wards”. That being the case, it was not clear how increasing the number of parish councillors could be said to give effect to the report’s recommendation. If it was done to correct a mistake that had arisen in some other way, it appeared to the Committee that section 59(6) of the 2009 Act conferred a more appropriate enabling power (to correct mistakes that cannot be otherwise rectified). The Committee asked the Local Government Boundary Commission for England to explain the context in which the error arose and to justify its reliance on section 59(1).

1.4 In a memorandum printed at Appendix 1, the Department explains that while it had always been the Commission’s intention to recommend that Ingleby Barwick Parish Council should retain its 12 parish councillors, this was not reflected in the published recommendations. The Department acknowledges that the draft Order does not accurately reflect the recommendations that applied at the time it was laid. It undertakes to withdraw the draft Order, correct the recommendations for Ingleby Barwick, and relay the amending Order to give effect to the amended recommendations. The Committee accepts that relying on section 59(1) would be appropriate in those circumstances, **and accordingly reports the draft Order for doubt as to whether it is *intra vires* in so far as it does not give effect to recommendations published in a report under section 58(4) of the 2009 Act.**

2 S.I. 2023/747: Reported for defective drafting

Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2023

2.1 **The Committee draws the special attention of both Houses to this Order on the ground that it is defectively drafted in three respects.**

2.2 This Order, which is subject to the negative resolution procedure, primarily amends the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) (“GDPO”).

2.3 The amendments provide for additional permitted development rights in certain cases. One of the changes allows for land to be temporarily used for siting caravans or for camping when this is in “connection with a festival” (see article 3(2) of the Order). The Committee asked the Department of Levelling-Up, Housing and Communities to explain what sort of event is intended to be covered by the term “festival” and whether an individual needs to satisfy any requirements to demonstrate they are using land in connection with a festival.

2.4 In a memorandum printed at Appendix 2, the Department explains that the decision was taken not to define “festival” and to rely instead on its natural and ordinary meaning. In addition, no requirements need to be satisfied by someone who is proposing to use their land “in connection with a festival”. As a result, the Committee remains unclear about what sort of event the Department is trying to identify. Any event could be described as a “festival” by its organisers. The Committee has said on a number of occasions that terms should be defined where the meaning of such a term is not clear in context and that a ‘common sense’ approach is no substitute for achieving certainty in the text of an instrument. The lack of a definition of “festival” means that the effect of article 3(2) is unclear **and the Committee accordingly reports article 3(2) for defective drafting.**

2.5 The Order also introduces a new permitted development right relating to temporary recreational campsites (see article 3(3) which inserts a new Class BC into the GDPO). Where such a campsite would be within certain flood zones, the local planning authority must give prior approval before the campsite can be developed. That process requires the local planning authority to notify and consult the Environment Agency of any application for prior approval. This requirement to consult is in paragraph BC.3(3) of new Class BC. However, an associated amendment by article 7(a) to article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595) prescribes paragraph BC.2(d) as if that contained a duty to consult, which it does not. The Committee asked the Department to explain. In its memorandum, the Department acknowledges that this was an error and will amend it at the first available opportunity. **The Committee accordingly reports article 7(a) for defective drafting, acknowledged by the Department.**

2.6 This Order comes into force on 26 July 2023 (article 1(1)). Article 8 of this Order is described as a transitional provision. However, its effect is to suspend the effect of the amendments made by article 3(2) for all purposes until the end of 25 July 2024. The Committee asked why this effect is achieved using a transitional provision, rather than a commencement provision.

2.7 In its memorandum the Department accepts that the coming into force of article 3(2) should have been achieved by a commencement provision, rather than a transitional provision. The Committee notes that the commencement of legislation is an essential but often complex aspect of statute law. It calls for particular care and clarity so that readers can understand what aspects of the law are in force at any given time. The effect of article 1(1) and article 8 is that the amendments made by article 3(2) are in force but not in effect. This apparent incoherence makes it more difficult than necessary to determine the correct position (which the Committee accepts ultimately achieves the Department's intention). The Committee notes that a transitional provision is typically a provision that facilitates the transition to a new legal regime for particular cases. However, article 8 is a provision that suspends the effect of the amendments made by article 3(2) for all purposes. In substance, this is a commencement provision disguised as a transitional provision, and to that extent it is defectively drafted. **The Committee accordingly reports article 8 for defective drafting, acknowledged by the Department.**

3 S.I. 2023/758: Reported for failure to comply with a statutory duty

Administration of Estates (Fixed Net Sum) Order 2023

3.1 The Committee draws the special attention of both Houses to this Order on the ground that there has been a failure to comply with a statutory duty in one respect.

3.2 This Order, which is subject to the negative resolution procedure, sets a new “fixed net sum” under the Administration of Estates Act 1925. This is commonly referred to as a ‘statutory legacy’. It is the amount of money that a surviving spouse or civil partner is entitled to from the estate of their deceased spouse or civil partner where the person (a) has died without a will and (b) has surviving children.

3.3 The Inheritance and Trustees’ Powers Act 2014 amended the 1925 Act to introduce a new system for determining the fixed net sum (see Schedule 1A to the 1925 Act). Under that system, the amount had previously been set at £270,000. The system includes a mechanism to take into account inflation that is triggered where the consumer prices index (CPI) reaches 15% more than the CPI figure used when setting the previous fixed net sum. When this occurs, the Lord Chancellor becomes required to take certain steps within 21 days of the relevant CPI figures becoming available, including setting a new fixed net sum to reflect the increase in inflation.

3.4 The system was triggered in December 2022 when the relevant CPI figures became available. However, the statutory duty in paragraph 4 of Schedule 1A to the 1925 Act was not complied with, nor was it complied with in relation to the CPI figures for January, February, March and April 2023. This instrument reflects the CPI figures from May, which were made available on 21 June 2023, and sets the fixed net sum at £322,000. Given the nature of the breaches of statutory duty in this case, the Committee asked the Ministry of Justice whether it had anything to add to its explanation in its Explanatory Memorandum.

3.5 In a memorandum printed at Appendix 3, the Department explains that this instrument was made in June 2023 following its recognition of the significance of the rise in inflation and acknowledges that the statutory duty had been breached. The Committee notes with concern that the breaches of duty in this case were repeated on five separate

occasions, and those breaches will have a significant impact for any estate to which the fixed net sum applies. It is fundamentally important that the Government complies with the duties imposed on it by Parliament. The Committee notes that the Department is undertaking a review of its processes and expects that similar failures will not happen again. **The Committee accordingly reports this Order in relation to the failures to comply with the statutory duty in paragraph 4 of Schedule 1A to the 1925 Act, acknowledged by the Department.**

4 S.I. 2023/836: Reported for defective drafting

Cosmetic Products (Restriction of Chemical Substances) (No. 2) Regulations 2023

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

4.2 These Regulations, which are subject to the negative resolution procedure, revoke and replace S.I. 2023/764 to correct an omission in that instrument. Regulation 2, the revoking provision, is brought into force on 26 July (to be in force before the instrument it revokes); but regulation 1, the commencement provision, does not bring itself into force until two weeks later. The Committee asked the Department for Business and Trade to explain. In a memorandum printed at Appendix 4, the Department acknowledges that regulation 1 should have been brought into force on 26 July and apologises for the error.

4.3 As the Committee has noted before (see its Twenty-seventh and Twenty-eighth reports of this Session, in relation to S.I. 2023/28 and S.I. 2023/61), it is absurd for a commencement provision to come into force after regulations it purports to commence: at best this creates doubt as to whether those regulations came into force as intended; at worst it makes them inoperable. The Committee is troubled that this error appears to have become more frequent and trusts that steps will be taken across all Departments to ensure it is not repeated. **The Committee accordingly reports regulation 1 for defective drafting, acknowledged by the Department.**

5 S.I. 2023/840: Reported for defective drafting

M621 Motorway (Off Side Lane Prohibition Disapplication) (No.2) Regulations 2023

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

5.2 These Regulations, which are subject to the negative resolution procedure, revoke and replace S.I. 2023/802 to correct a defective commencement provision in that instrument. The new commencement provision (regulation 1(3)) purports to bring the revoking provision into force on 10 August while not bringing itself into force until 1 December. As noted above, this results in the absurdity of the commencement provision coming into force after a provision it purports to commence. The Committee asked the Department for Transport to explain. In the memoranda printed at Appendix 5, the Department

acknowledges the error and informs the Committee that it intends to correct the error by revoking and remaking the instrument. **The Committee accordingly reports regulation 1 for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 18 October 2023 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. Number	S.I. Title
S.I. 2023/990	Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2023

Draft instruments requiring affirmative approval

S.I. Number	S.I. Title
Draft	Fluorinated Greenhouse Gases (Amendment) Regulations 2023
Draft	Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Revised Guidance) Regulations 2023
Draft	Dormant Assets (Distribution of Money) (England) Order 2023
Draft	Representation of the People (Postal Vote Handling and Secrecy) (Amendment) Regulations 2023
Draft	Justification Decision (Scientific Age Imaging) Regulations 2023
Draft	National Minimum Wage (Amendment) (No. 2) Regulations 2023

Instruments subject to annulment

S.I. Number	S.I. Title
S.I. 2023/737	Justices' Allowances (Amendment) Regulations 2023
S.I. 2023/743	Fruit and Vegetables Aid Scheme Closure (England) Regulations 2023
S.I. 2023/744	Data Protection (Law Enforcement) (Adequacy) (Bailiwick of Guernsey) Regulations 2023
S.I. 2023/755	Safety of Sports Grounds (Designation) (Amendment) (England) (No. 3) Order 2023
S.I. 2023/759	Divorce, Dissolution and Separation Act 2020 (Consequential Amendments) Regulations 2023
S.I. 2023/764	Cosmetic Products (Restriction of Chemical Substances) Regulations 2023
S.I. 2023/769	First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2023
S.I. 2023/790	Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023
S.I. 2023/795	Transport and Works (Applications, Objections and Inquiries Procedure) (Amendment) (England and Wales) Rules 2023
S.I. 2023/801	Higher Education (Assessment Fees) (England) Regulations 2023
S.I. 2023/848	National Health Service (Ophthalmic Services and Optical Charges and Payments) (Amendment) Regulations 2023

S.I. 2023/882	School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) (No. 2) Regulations 2023
S.I. 2023/945	National Health Service (Disapplication of NHS England's Powers of Direction) (England) Regulations 2023
S.I. 2023/948	Health and Care Act 2022 (Further Consequential Amendments) Regulations 2023

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Number	S.I. Title
S.I. 2023/768	Firearms (Air Weapons) (England and Wales) Rules 2023
S.I. 2023/779	Financial Services and Markets Act 2023 (Commencement No. 1) Regulations 2023
S.I. 2023/792	Digital Economy Act 2010 (Appointed Day No. 5) Order 2023
S.I. 2023/809	Higher Education (Freedom of Speech) Act 2023 (Commencement No. 1) Regulations
S.I. 2023/814	Designation of Schools Having a Religious Character (England) Order 2023
S.I. 2023/838	Offshore Installations (Safety Zones) Order 2023
S.I. 2023/884	Finance (No. 2) Act 2023, Part 2 (Alcohol Duty) (Appointed Day, Savings, Consequential Amendments and Transitional Provisions) Regulations 2023
S.I. 2023/934	Financial Services Act 2021 (Commencement No. 5) Regulations 2023
S.I. 2023/936	Financial Services and Markets Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2023
S.I. 2023/937	Financial Services and Markets Act 2023 (Commencement No. 3) (Amendment) Regulations 2023

Appendix 1: Memorandum from the Local Government Boundary Commission for England

Draft S.I.

Stockton-on-Tees (Electoral Changes) (Amendment) Order

1) The Committee has asked the Local Government Boundary Commission for England for a memorandum on the following point(s):

(1) Given that the final recommendations for Stockton-on-Tees (contained in the report first published in March 2022 and then amended in May 2022 and March 2023) provide that “Ingleby Barwick Parish Council should comprise 6 councillors, as at present, representing two wards”, with 3 councillors in each parish ward, and that those final recommendations are accurately reflected in table 4 of Schedule 2 to S.I. 2022/966, explain how the draft Order corrects an error in that instrument to “ensure those recommendations are given full effect” (as stated in paragraph 6.1 of the Explanatory Memorandum).

(2) If the error arose otherwise than by failure to give effect to the recommendations in the final report, explain why the draft Order is proposed to be made under section 59(1), which provides a power to implement reports, rather than section 59(6), which provides a power to correct mistakes.

2) In respect of point 1, there was an unrelated error in the Commission’s original recommendations published in March 2022. Those recommendations were subsequently amended in May 2022, but the allocation of councillors in the parish of Ingleby Barwick was not affected. The Stockton-on-Tees (Electoral Changes) Order (S.I. 2022. No.966) therefore gave effect to the recommendations as set out in the May 2022 Report.

The subsequent amending report dated March 2023 did not relate to the parish in question. However, it has always been the Commission’s intention to recommend that Ingleby Barwick Parish Council should retain its 12 parish councillors as per the laid amendment order. The Commission now intends to withdraw that amending draft Order since it does not accurately reflect the recommendations as those applied at the time of its laying.

The Commission will subsequently amend its recommendations, to set out the correct number and allocation of councillors for Ingleby Barwick Parish Council. Once this has been done, the Commission will re-lay its amending Order in order to give effect to those further amended recommendations.

3) In respect of point (2), the Commission, when it re-lays its Order, intends to rely upon the power in section 59(1) of the 2009 Act rather than the power in section 59(6). This is because, in the Commission’s view, any further order giving effect to an amended report will simply be giving effect to the Commission’s intended recommendations rather than otherwise correcting an error within the ambit of section 59(6).

Local Government Boundary Commission for England

12 September 2023

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

S.I. 2023/747

Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2023

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

(1) In the context of paragraph B.1(c) and (f), (as substituted by article 3(2) (a) and (c)) explain—

(a) what sort of event is intended to be covered by the term “festival”; and

(b) whether there are any requirements that an individual needs to satisfy to demonstrate that they are using land for camping “in connection with a festival”, and if so where they are to be found.

(2) In relation to article 7(a), explain—

(a) whether it should have referred to paragraph BC.3(3) (which contains a duty to consult) rather than paragraph BC.2(d) (which does not); and

(b) if so, why it allows a response period of “not less than 21 days” given that article 22(3)(c) of S.I. 2015/595 read with section 54(4) PCPA 2004 requires a consultee to respond before the end of 21 days (or within such period as the consultee and the consultor may agree in writing).

(3) Explain why the coming into force of the amendments to Class B made by article 3(2) is achieved by way of a transitional provision, rather than a commencement provision (given that article 8 means that the amendments made by article 3(2) have not come into effect for any purposes).

2) In relation to the questions in point (1), the decision was taken not to define ‘festival’ and to rely instead on its natural and ordinary meaning as this approach is well recognised when interpreting the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (see, for example, *Mawbey v London Borough of Lewisham* [2019] EWCA Civ 1016 at para [20]).

3) Similarly, the Department considered the approach in not providing a list of requirements to be met in relation to the phrase “in connection with a festival” to be in keeping with other legislative contexts where the ordinary and natural meaning of a phrase provides sufficient explanation. See, for example, the approval for the lack of definition of ‘arrangements’ as discussed in *The Office of Fair Trading v Lloyds Bank TSB plc* [2004] EWHC 2600 Comm at para [23]-[25].

4) In relation to the questions in point (2), the reference to BC.2(d) is an error. The Department is grateful to the Committee for noticing it and will amend the instrument at the first suitable opportunity.

5) The Department believes that the Committee's reference in point (2)(b) to article 22(3) (c) should be to article 22(3). The phrase "not less than 21 days" in Class BC is in keeping with the drafting relating to other consultation periods within the GPDO, for example paragraph W(7) of Part 3 and paragraph E3(7) of Part 4. The Department considered that departure in this case would have created inconsistency within the GPDO which we considered should be avoided. However, the Department is grateful to the Committee for highlighting this.

6) In relation to point (3), the Department accepts that the coming into force of the amendments to Class B made by article 3(2) ought to have been achieved by a commencement provision, rather than a transitional provision. Although we consider that the transitional provision has the same legal effect, we are grateful to the Committee for drawing this to our attention.

Department for Levelling Up, Housing and Communities

13 September 2023

Appendix 3: Memorandum from the Ministry of Justice

S.I. 2023/758

Administration of Estates Act 1925 (Fixed Net Sum) Order 2023

1) On 6th September 2023, the Committee requested that the Ministry of Justice submit a memorandum relating to the above instrument and in answer to the following question:

Does the Department have anything to add to its explanation in paragraph 7.6 of the Explanatory Memorandum as to the breaches of statutory duty that preceded the making of this Order?

2) The Ministry is grateful for the Committee's consideration of this instrument and sets out below its answer to that question.

3) The Explanatory Memorandum makes clear that the Ministry did not exercise its obligations under the provisions of Schedule 1A to the Administration of Estates Act 1925 ("the Act") when they first arose in December 2022. The Ministry was in consequence in breach of its statutory duties.

4) Those obligations, triggered by the operation of sub-paragraph 4(1) of Schedule 1A to the Act, were only met in July 2023 by this instrument following the Ministry's recognition in June 2023 of the significance of the rise in inflation to that sub-paragraph. It is hopefully of relevance to the Committee to know that this was the first time that obligation had been triggered in this way.

5) Whilst it may be obvious, the Ministry welcomes the opportunity to make explicit that the failure to recognise the significance of the rise in inflation until June 2023 means that it had also failed to recognise that significance in the months before and therefore, in those intervening months, it failed to meet its obligations triggered by sub-paragraph 4(1) of Schedule 1A to the Act by publication of further rises in inflation on 18th January, 15th February, 22nd March and 19th April (and, as explained in paragraph 7.7 of the Explanatory Memorandum, this meant that the "current month" for calculating the revised fixed net sum was May 2023).

6) The Ministry is currently undertaking a review of the events and failures to ensure that they do not recur.

Ministry of Justice

12 September 2023

Appendix 4: Memorandum from the Department for Business and Trade

S.I. 2023/836

Cosmetic Products (Restriction of Chemical Substances) (No.2) Regulations 2023

1) The Committee has asked the Department for Business and Trade for a memorandum on the following point:

Explain why regulation 1 does not bring itself into force on the earliest of the coming into force dates (see the Committee's 27th and 28th reports of this session, in relation to S.I.s 2023/28 and 2023/61)

2) The Department confirms that this was an error and that regulation 1 should have been stated to come into force on 26th July 2023, being the earliest commencement date.

3) The Department apologises to the Committee for this error.

Department for Business and Trade

12 September 2023

Appendix 5: Memorandum from the Department for Transport

S.I. 2023/840

M621 Motorway (Off Side Lane Prohibition Disapplication) (No. 2) Regulations 2023

1) The Committee has asked the Department for Transport for a memorandum on the following point(s):

Explain why regulation 1 does not come into force on the earlier of the two commencement dates, i.e., on 10th August 2023 (see the Committee's 27th and 28th reports of this session, in relation to S.I.s 2023/28 and 2023/61).

2) The Department thanks the Committee for bringing this to its attention. The Department recognises that this is an error and that regulation 1 should have been commenced on 10th August 2023. The Department is considering what course of action it will take and will update the Committee when a decision has been made.

Department for Transport

12 September 2023

Further Memorandum to the Joint Committee on Statutory Instruments

From the Department for Transport on S.I. 2023/840

M621 Motorway (Off Side Lane Prohibition Disapplication) (No. 2) Regulations 2023

1) The Committee asked the Department for Transport for a memorandum on the following point(s):

Explain why regulation 1 does not come into force on the earlier of the two commencement dates, i.e., on 10th August 2023 (see the Committee's 27th and 28th reports of this session, in relation to S.I.s 2023/28 and 2023/61).

2) In a memorandum to the Committee dated 12 September 2023, the Department confirmed that it recognised an error had been made but that it was still considering what course of action to take.

3) The Department can now confirm and update the Committee that it intends to correct the error by laying further regulations to revoke and replace S.I. 2023/840. The Department apologises to the Committee for not having been able to confirm this in the memorandum of 12 September 2023, and apologises also for not having identified the error in regulation 1 before S.I. 2023/840 was made.

Department for Transport

28 September 2023

Formal Minutes

Wednesday 18 October 2023

Virtual meeting

Members present

Jessica Morden, in the Chair

Lord Chartres

Baroness D'Souza

Peter Grant

Damien Moore

Lord Sahota

Baroness Sater

Lord Smith of Hindhead

Maggie Throup

Liz Twist

Report consideration

Draft Report (*Forty-Eighth 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 5.2 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 5.

Resolved, That the Report be the Forty-Eighth 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 25 October at 3.40 p.m.