



House of Lords
House of Commons
Joint Committee on Statutory
Instruments

**Fifth Report of Session
2023–24**

Drawing special attention to

*Local Government and Greater London Authority Elections (Miscellaneous
Amendments) Regulations 2023 (S.I. 2023/1066)*

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

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[Lord Sahota](#) (*Labour*)

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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), Jennifer Mills (Lords Clerk), Ines Nizigama (Committee Operations Officer), Jonathan Whiffing (Commons Clerk). Advisory Counsel: Sarita Arthur-Crow, Rupert Grist, Justin Leslie, Vanessa MacNair, and Hannah Stewart (Commons); Nicholas Beach, James Cooper, and Ché Diamond (Lords).

Contacts

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, House of Commons, London SW1A 0AA. The telephone number for general inquiries is: 020 7219 3895; the Committee's email address is: jcsi@parliament.uk.

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Instruments reported

At its meeting on 6 December 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 one of those considered. The instruments and the grounds for reporting are given below. The relevant departmental memoranda are published as appendices to this report.

1 S.I. 2023/1066: Reported for requiring elucidation and defective drafting

Local Government and Greater London Authority Elections (Miscellaneous Amendments) Regulations 2023

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

1.2 These Regulations, which are subject to the negative resolution procedure, update poll cards to reflect changes to proxy voting made by the Elections Act 2022.

1.3 Regulations 3(9) and (18), 4(9) and (17) and 5(38) provide for the forms in the associated Schedules to replace the forms for official poll cards and official proxy poll cards to reflect this change, substituting references to domestic electors for references to family members. No similar change is made to official postal poll cards or official proxy postal poll cards, which contain the same references to family members – although Schedule 1 makes transitional provision which apply “in the case of a proxy appointed before 31st October 2023”. The Committee asked the Department for Levelling Up, Housing and Communities to explain the apparent discrepancy.

1.4 In a memorandum printed at Appendix 1, the Department explains that the equivalent changes to the postal poll cards are made by the Overseas Electors, Postal Vote Handling and Secrecy (Amendment) Rules 2023 (S.I. 2023/1233). The Department goes on to explain that whilst the transitional provisions of Schedule 1 to S.I. 2023/1066 are meant to ensure that existing prescribed forms would operate as intended for any elections prior to the replacement poll cards being used for elections taking place from 2 May 2024, the transitional provisions would not apply if there was an election between 31 January 2024 and 1 May 2024 where the notice of election was issued on or after 31 January 2024. The Department undertakes to correct this. **The Committee accordingly reports regulations 3(9) and (18), 4(9) and (17) and 5(38) for requiring elucidation, provided by the Department’s memorandum.**

1.5 Paragraph 14(2) of Schedule 1 makes transitional amendments to official postal poll cards and official proxy poll cards for Greater London Authority elections. The Committee noticed that the amendment made by sub-paragraph 14(2)(b) is done by reference to the phrase “vote as a proxy in this election”, which does not appear in the forms in question. It asked the Department to explain. In its memorandum, the Department acknowledges

the error and undertakes to correct this when it legislates to address the transitional issue identified above. **The Committee accordingly reports paragraph 14(2)(b) of Schedule 1 for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 6 December 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

Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Data Reporting Services Regulations 2023
Draft	Misuse of Drugs Act 1971 (Amendment) Order 2024
Draft	Public Offers and Admissions to Trading Regulations 2023
Draft	Securitisation Regulations 2023

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2023/1135 ¹	Civil Legal Aid (Financial Resources and Payment for Services and Remuneration) (Amendment) Regulations 2023
S.I. 2023/1139	Child Benefit and Tax Credits (Miscellaneous Amendments) Regulations 2023
S.I. 2023/1140	Criminal Legal Aid (Remuneration) (Amendment) (No. 4) Regulations 2023
S.I. 2023/1163	Care Quality Commission (Additional Functions) (Amendment) Regulations 2023
S.I. 2023/1184	Education (Student Loans) (Repayment) (Amendment) (No. 3) Regulations 2023
S.I. 2023/1187	Hydrocarbon Oil (Marking and Designated Markers) (Amendment) Regulations 2023
S.I. 2023/1190	Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Deferment of Provisions in Resolution Instruments) Regulations 2023
S.I. 2023/1195	Financial Services and Markets Act 2023 (Resolution of Central Counterparties: Calculation of Maximum Amounts for Cash Calls and Use of Specified Funds) Regulations 2023
S.I. 2023/1196	Feed Additives (Authorisations) (England) Regulations 2023
S.I. 2023/1228	Electricity (Designation of Delivery Bodies) (Transmission) Regulations 2023

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	Rossendale (Electoral Changes) Order 2024

¹ Note: This instrument has been withdrawn and replaced by S.I. 2023/1177.

Appendix 1: Memorandum from the Department for Levelling Up, Housing and Communities

S.I. 2023/1066

Local Government and Greater London Authority Elections (Miscellaneous Amendments) Regulations 2023

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

(1) Explain the reason regulations 3(9) and (18), 4(9) and (17) and 5(38) do not amend official postal poll cards or official proxy postal poll cards, especially having regard to the transitional arrangements made by paragraphs 8(3), 11(3) and 14(2)(b) of Schedule 1.

(2) Explain what modification is intended to be achieved by paragraph 14(2)(b) of Schedule 1 given that the words “vote as a proxy in this election” do not appear in the forms that paragraph modifies.

2) In respect of the first point, the Department’s intention was to replace the prescribed form of official postal poll cards and official proxy postal poll cards on a single occasion. The replacement would reflect changes required to the prescribed form from both the changes to proxy voting limits resulting from the commencement of Schedule 4 to the Elections Act 2022 and the changes to postal vote handling and secrecy requirements resulting from the subsequent commencement and implementation of sections 4, 5 and 7 of the Elections Act 2022. The replacement postal and proxy postal poll card forms are therefore contained in the Overseas Electors, Postal Vote Handling and Secrecy (Amendment) Rules 2023 (S.I. 2023/1233).

3) Paragraphs 8(3), 11(3) and 14(2)(b) of Schedule 1 to S.I. 2023/1066 were intended to provide a modification to the existing prescribed forms to ‘bridge the gap’ for any elections held during the limited period between the coming into force of the proxy voting limit provisions and the replacement of the prescribed postal and proxy postal poll card forms (which apply for elections taking place from 2nd May 2024 onwards). However, the Department acknowledges that these provisions do not fully provide for all elections which could potentially be held during that period, in that no modifying provision is made for elections for which (a) the notice of election is issued on or after 31st January 2024 and (b) the date of poll is on or before 1st May 2024. Consequently, the Department intends to legislate further to make such modifying provision.

4) In relation to the second point, the Department acknowledges the typographical error in paragraph 14(2)(b) of Schedule 1. The relevant text on the forms to be modified by that provision is “vote as a proxy at the same election”. The Department intends to correct this error as part of the further legislation referred to in respect of the first point.

Department for Levelling Up, Housing and Communities

28 November 2023

Formal minutes

Wednesday 6 December 2023

Virtual meeting

Members present

Jessica Morden, in the Chair

Lord Beith

Lord Chartres

Peter Grant

Paul Holmes

Baroness Sater

Lord Smith of Hindhead

Lord Watson of Wyre Forest

Report consideration

Draft Report (Fifth 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 1.5 read and agreed to.

Annex agreed to.

A paper was appended to the Report as Appendix 1.

Resolved, That the Report be the Fifth 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 13 December at 3.40 p.m.