



House of Lords
House of Commons
Joint Committee on Statutory
Instruments

**Ninth Report of Session
2023–24**

Drawing special attention to:

Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 5)
Regulations 2022 (S.I. 2022/1227)

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to be printed 24 January 2024*

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Joint Committee on Statutory Instruments

Current membership

House of Lords

[Lord Beith](#) (*Liberal Democrat*)

[Lord Chartres](#) (*Crossbench*)

[Baroness D'Souza](#) (*Crossbench*)

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

[Baroness Sater](#) (*Conservative*)

[Lord Smith of Hindhead](#) (*Conservative*)

[Lord Watson of Wyre Forest](#) (*Labour*)

House of Commons

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[Peter Grant MP](#) (*Scottish National Party, Glenrothes*)

[Paul Holmes MP](#) (*Conservative, Eastleigh*)

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[Liz Twist MP](#) (*Labour, Blaydon*)

Powers

The full constitution and powers of the Committee are set out in [House of Commons Standing Order No. 151](#) and [House of Lords Standing Order No. 73](#), relating to Public Business.

Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

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.

Contents

Instruments reported	3
1 S.I. 2022/1227: Reported for failure to comply with proper legislative practice	3
Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 5) Regulations 2022	
Instruments not reported	4
Annex	4
Appendix 1: Memorandum from the Home Office	7
S.I. 2022/1227	7
Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 5) Regulations 2022	
Formal Minutes	8

Instruments reported

At its meeting on 24 January 2024 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 instrument and the ground for reporting are given below. The relevant departmental memorandum is published as an appendix to this report.

1 S.I. 2022/1227: Reported for failure to comply with proper legislative practice

Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 5) Regulations 2022

Procedure: Not subject to parliamentary procedure

1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they fail to comply with proper legislative practice in one respect.

1.2 These Regulations bring into force specified provisions of the Police, Crime, Sentencing and Courts Act 2022. Section 208(1) of the 2022 Act provides the power to appoint the day that provisions within the Act come into force. Section 208(2) specifies that regulations may appoint different days for different purposes. This instrument appoints different days for different provisions but cites only section 208(1) in the preamble. The Committee asked the Home Office to explain why section 208(2) was not also cited in the preamble.

1.3 In a memorandum printed at Appendix 1, the Department explains that section 208(2) was not cited as the Department took the view that the Regulations did not appoint different days for different purposes (or areas). It further explains that it considers section 208(2) to not limit the general power found in section 208(1). Whilst the Committee is inclined to agree that section 208(2) does not limit the general power, it does not agree that section 208(2) was not relevant and should not have been cited in the preamble.

1.4 Where an Act provides a power to appoint “different days for different purposes”, this is understood to include the power to appoint different days for different provisions (see *Craies* section 10.1.10 and *Office of Parliamentary Counsel Drafting Guidance* section 10.6.14). This also accords with how the Department has approached section 208 when commencement instruments that have been made under that section to date (and not only in some similar regulations). **The Committee accordingly reports the preamble for failing to comply with proper legislative practice in one respect.**

Instruments not reported

At its meeting on 24 January 2024 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	Electoral Commission Strategy and Policy Statement
Draft	Nuclear Decommissioning Authority (Pension Scheme Amendment) Regulations 2024
Draft	Human Medicines (Amendments Relating to Coronavirus and Influenza) (England and Wales and Scotland) Regulations 2024
Draft	Local Elections (Northern Ireland) (Amendment) Order 2024
Draft	Paternity Leave (Amendment) Regulations 2024
Draft	Reporting on Payment Practices and Performance (Amendment) Regulations 2024
Draft	Representation of the People (Postal Vote Handling etc.) (Northern Ireland) (Amendment) Regulations 2024
Draft	Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2024
Draft	Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2024
Draft	Guaranteed Minimum Pensions Increase Order 2024
Draft	Social Security (Contributions) (Limits and Thresholds, National Insurance Funds Payments and Extension of Veterans Relief) Regulations 2024
Draft	Social Security Benefits Up-rating Order 2024
Draft	Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations 2024
Draft	Water Industry (Special Administration) Regulations 2024
Draft	Water Industry Act 1991 (Amendment) Order 2024

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2023/1054	Sea Fisheries (Amendment) (England) Regulations 2023
S.I. 2023/1279	Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2023
S.I. 2023/1280	Tribunal Procedure (Amendment No. 2) Rules 2023
S.I. 2023/1298	Greater London Authority (Consolidated Council Tax Requirement Procedure) Regulations 2023

S.I. 2023/1300	Public Interest Merger Reference (Telegraph Media Group Ltd) (Pre-emptive Action) Order 2023
S.I. 2023/1307	Branded Health Service Medicines (Costs) (Amendment) (No. 2) Regulations 2023
S.I. 2023/1319	Prohibition of Cross-Examination in Person (Fees of Court-Appointed Qualified Legal Representatives) (Amendment) Regulations 2023
S.I. 2023/1323	Central Counterparties (Equivalence) (United States of America) (Commodity Futures Trading Commission)
S.I. 2023/1328	Flexible Working (Amendment) Regulations 2023
S.I. 2023/1330	Childcare (Free of Charge for Working Parents) (England) (Amendment and Transitional Provision) Regulations 2023
S.I. 2023/1333	Code of Practice (Reasonable Steps for Trade Unions) Order 2023
S.I. 2023/1334	Local Government and Greater London Authority Elections (Amendment) Rules 2023
S.I. 2023/1345	Misuse of Drugs (England and Wales and Scotland) (Amendment) (No. 2) Regulations 2023
S.I. 2023/1357	Non-Domestic Rating (Improvement Relief) (England) Regulations 2023
S.I. 2023/1360	Government Resources and Accounts Act 2000 (Estimates and Accounts) (Amendment) Order 2023
S.I. 2023/1361	Superannuation (Admission to Schedule 1 to the Superannuation Act 1972) Order 2023
S.I. 2023/1372	Asylum Support (Amendment) Regulations 2023
S.I. 2023/1373	Immigration and Asylum (Provision of Services or Facilities) (Amendment) Regulations 2023

Instruments not subject to parliamentary proceedings laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2023/1305	Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) (No. 2) Order 2023

Instruments not subject to parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2023/1234	Elections Act 2022 (Commencement No. 10 and Savings) Regulations 2023
S.I. 2023/1235	Representation of the People (Variation of Election Expenses, Expenditure Limits and Donation etc. Thresholds) Order 2023
S.I. 2023/1281	Public Order Act 2023 (Commencement No. 2) (England and Wales) Regulations 2023
S.I. 2023/1283	Carer's Leave Act 2023 (Commencement) Regulations 2023
S.I. 2023/1363	Retained EU Law (Revocation and Reform) Act 2023 (Commencement No. 1) Regulations 2023

S.I. 2023/1382	Financial Services and Markets Act 2023 (Commencement No. 4 and Transitional and Saving Provisions) (Amendment) Regulations 2023
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Appendix 1: Memorandum from the Home Office

S.I. 2022/1227

Police, Crime, Sentencing and Courts Act 2022 (Commencement No. 5) Regulations 2022

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

Explain why section 208(2) of the enabling Act is not cited in the preamble.

2) The Home Office notes that the general enabling power for these Regulations, section 208(1) of the Police, Crime, Sentencing and Courts Act 2002, was appropriately cited. It further notes that section 208(2) is a specific power which is intended to illustrate (but not limit) how the section 208(1) power may be used. Section 208(2) was not cited because the Home Office took the view that the Regulations did not appoint different days for different purposes or areas.

3) However, the Home Office accepts that subsection (2) of section 208 of that Act was cited in some similar Regulations made under this power, and so this approach would have aided consistency.

Home Office

16 January 2024

Formal Minutes

Wednesday 24 January 2024

Members present

Jessica Morden, in the Chair

Lord Beith

Lord Chartres

Peter Grant

Lord Sahota

Baroness Sater

Lord Watson of Wyre Forest

Report consideration

Draft Report (*Ninth 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 1.4 read and agreed to.

Annex agreed to.

A paper was appended to the Report as Appendix 1.

Resolved, That the Report be the Ninth 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 31 January at 3.40 p.m.