



House of Lords
House of Commons
Joint Committee on Statutory
Instruments

**Fifteenth Report of
Session 2023–24**

Drawing special attention to:

Levelling-up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024 (**S.I. 2024/92**)

Building Safety Act 2022 (Commencement No. 7 and Transitional Provisions) Regulations 2024 (**2024/104**)

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Joint Committee on Statutory Instruments

Current membership

House of Lords

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

[Lord Haselhurst](#) (*Conservative*)

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

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

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

[Baroness Sater](#) (*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*)

[Gareth Johnson MP](#) (*Conservative, Dartford*)

[Damien Moore MP](#) (*Conservative, Southport*)

[Maggie Throup MP](#) (*Conservative, Erewash*)

[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), Joe Watt (Commons Clerk), Advisory Counsel: Sarita Arthur-Crow, Rupert Grist, Justin Leslie, Vanessa MacNair, and Hannah Stewart (Commons); Nicholas Beach, James Cooper, Ché Diamond (Lords).

Contacts

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Instruments reported

At its meeting on 13 March 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 two of those considered. The instruments and the grounds for reporting are given below. The relevant departmental memoranda are published as appendices to this report.

1 S.I. 2024/92: Reported for doubtful *vires*

Levelling-up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024

Procedure: Not subject to parliamentary procedure

1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that there is doubt as to whether they are *intra vires* in one respect.

1.2 These Regulations bring into force provisions of the Levelling-up and Regeneration Act 2023. Regulation 2(h) purports to bring into force section 140, which is contained in Part 4 of the Act. There is a specific power in section 255(4) to commence provisions contained in Part 4 of the Act. As this provision is not cited in the preamble, the Committee asked the Department for Levelling Up, Housing and Communities to explain.

1.3 In a memorandum printed at Appendix 1, the Department acknowledges that the preamble should have cited section 255(4). On the basis that the preamble has the legal effect described by the Court of Appeal in *Vibixa Ltd v Komori UK Ltd* [2006] EWCA Civ 536, failure to include a necessary enabling power in the preamble may go to *vires*. **The Committee accordingly reports regulation 2(h) for doubt as to whether it is *intra vires*, acknowledged by the Department.**

2 2024/104: Reported for defective drafting

Building Safety Act 2022 (Commencement No. 7 and Transitional Provisions) Regulations 2024

Procedure: Not subject to parliamentary procedure

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

2.2 These Regulations bring into force provisions of the Building Safety Act 2022 and contain various transitional provisions. Regulation 1(2) provides a definition for “pre-1st October 2023 work”, however, whilst regulation 5 deals with notices given before that date, the quoted phrase does not appear in the rest of the instrument (and the Committee noticed that the phrase appears in a closely related instrument, S.I. 2024/110). The Committee asked the Department for Levelling Up, Housing and Communities to clarify why the definition was included. In a memorandum printed at Appendix 2, the Department explains that the inclusion of the definition was unnecessary. The Committee notes that superfluous definitions can create confusion as to the intended effect of an

instrument. Defined phrases give rise to the expectation that they will be used in the instrument and superfluous definitions can create uncertainty as to whether it was the definition that was included in error, or a provision to which it pertains, that was omitted in error. **The Committee accordingly reports regulation 1(2) for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 13 March 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

Instruments requiring affirmative approval

S.I. Numbers	S.I. Title
S.I. 2024/218	Russia (Sanctions) (EU Exit) (Amendment) Regulations 2024

Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2024
Draft	Goods Vehicles (International Road Transport Permits and Haulage Within the EU) Regulations 2024
Draft	Plant Health (Fees) (England) and Official Controls (Frequency of Checks) (Amendment) Regulations 2024
Draft	Veterinary Medicines (Amendment etc.) Regulations 2024

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2024/155	Registrar of Companies (Fees) (Amendment) Regulations 2024
S.I. 2024/165	Nutrition and Health Claims (England) (Amendment) Regulations 2024
S.I. 2024/166	Customs (Preferential Trade Arrangements: Error in Evidence of Origin) Regulations 2024
S.I. 2024/168	Electricity (Criteria for Relevant Electricity Projects) (Transmission) Regulations 2024
S.I. 2024/170	Firefighters' Pension Scheme (England) (Amendment) Regulations 2024
S.I. 2024/172	Extradition Appeals (Scotland) Order 2024
S.I. 2024/175	Crime and Courts Act 2013 (Application and Modification of the Extradition Act 2003) (England and Wales) Order 2024
S.I. 2024/176	Tax Credits (Miscellaneous Amendments) Regulations 2024

Instruments not subject to parliamentary proceedings laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2024/213	Employment Rights (Increase of Limits) Order 2024

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

S.I. 2024/92

Levelling-up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024

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

Explain why the preamble does not cite section 255(4) of the Levelling-up and Regeneration Act 2023 for the purposes of regulation 2(h).

2) The Department acknowledges that the preamble to the Regulations should have cited section 255(4) of the Levelling-up and Regeneration Act 2023 as the enabling power for the commencement provision in regulation 2(h). The Department apologises to the Committee for this error and will consider whether there are any steps it may wish to take in respect of the omission.

Department for Levelling Up, Housing and Communities

5 March 2024

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

S.I. 2024/104

Building Safety Act 2022 (Commencement No. 7 and Transitional Provisions) Regulations 2024

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

Explain why regulation 1(2) defines “pre-1st October 2023 work”.

2) The Department accepts that the inclusion of the definition of “pre-1st October 2023 work” was unnecessary. The Department apologises for the error.

Department for Levelling Up, Housing and Communities

5 March 2024

Formal Minutes

Wednesday 13 March 2024

Members present

Jessica Morden, in the Chair

Lord Beith

Lord Chartres

Peter Grant

Lord Haselhurst

Damien Moore

Lord Sahota

Baroness Sater

Report consideration

Draft Report (*Fifteenth Report*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 2.2 read and agreed to.

Annex agreed to.

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

Resolved, That the Report be the Fifteenth 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 20 March at 3.40 p.m.