House of Commons

Select Committee on Statutory Instruments

Twelfth Report of Session 2023–24

Drawing special attention to:

Public Service Pensions Revaluation Order 2024 (**S.I. 2024/290**)

Ordered by the House of Commons to be printed 15 May 2024

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Select Committee on Statutory Instruments

Current membership

Jessica Morden MP *(Labour, Newport East)* (Chair)

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, available on the Internet via https://www.parliament.uk/business/publications/commons/standing-orders-public11/.

The Select Committee on Statutory Instruments (SCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. It carries out the same duties as the Joint Committee on Statutory Instruments in respect of those instruments laid before and subject to proceedings in the House of Commons only.

The role of the SCSI, whose membership is drawn from the House of Commons, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of the 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 or on 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

The reports of the Committee are published in print by Order of the House.
All publications of the Committee are available on the Internet from www.parliament.uk/scsi.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Rebecca Kirby (Committee Operations Officer), and Joe Watt (Clerk). Advisory Counsel: Sarita Arthur-Crow, Rupert Grist, Justin Leslie, Vanessa MacNair and Hannah Stewart.

Contacts

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Contents

Instruments reported

At its meeting on 15 May 2024 the Committee scrutinised a number of instruments in accordance with Standing Orders. It was agreed that the special attention of the House of Commons 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. 2024/290: Reported for defective drafting, ambiguity caused by terminology

Public Service Pensions Revaluation Order 2024

Procedure: Made negative

1.1 The Committee draws the special attention of this House to these Regulations on the ground that they are defectively drafted in one respect.

1.2 This Order specifies the annual percentage change to be applied for the purpose of revaluation required for schemes made under the Public Service Pensions Act 2013. Article 1(3) and (4) provide that the Order has effect from "the beginning of" the specified dates. The Committee asked the Department what those words add to section 4 of the Interpretation Act 1978, which provides that where a provision is made to come into force on a particular day, it comes into force at the beginning of that day.

1.3 In a memorandum printed at Appendix 1, the Department explains that the words were used to avoid any ambiguity as to whether section 4 applies as the two provisions refer to "has effect from" rather than "come into force". The Department acknowledges that an alternative to "has effect from" could have been found and will bear this in mind for future drafting cycles. The Committee is not convinced that there is a distinction in this context between "come into force" and "has effect from". There will be contexts in which it is meaningful or even necessary to make provision replicating a provision of the 1978 Act that may have been, or thought to have been, contra-indicated in the context. In this case, any concern that the 1978 Act did not apply could have been circumvented by using different wording. The Committee assumes that legislative drafters rely on the 1978 Act unless there is a contra-indication or desire to create a different effect.

1.4 **The Committee accordingly reports article 1(3) and (4) for defective drafting.**

Instruments not reported

The Committee has considered the instruments set out in the Annex to this Report, none of which were required to be reported.

Annex

Draft Instruments requiring affirmative approval

S.I. Number	S.I. Title
Draft	Scotland Act 1998 (Increase of Borrowing Limits) Order 2024

Instruments subject to annulment

S.I. Number	S.I. Title
S.I. 2024/519	Trade Remedies (Increase in Imports as a Result of a Free Trade Agreement Causing Serious Injury to UK Producers) Regulations 2024
S.I. 2024/545	Trade Remedies (Amendment) Regulations 2024
S.I. 2024/555	Mutual Societies (Transfers of Business) (Tax) (Amendment) Regulations 2024

Appendix 1: Memorandum from His Majesty's Treasury

S.I. 2024/290

Public Service Pensions Revaluation Order 2024

1. The Committee has asked HM Treasury for a memorandum on the following point(s):

> *Explain what is added by the words "from the beginning of" in article 1(3) and (4), in light of section 4 of the Interpretation Act 1978.*

2. Section 4 of the Interpretation Act 1978 provides:

> "An Act or provision of an Act comes into force—
>
> > (a) where provision is made for it to come into force on a particular day, at the beginning of that day;
> >
> > (b) where no provision is made for its coming into force, at the beginning of the day on which the Act receives the Royal Assent."

3. Article 1(1) of S.I. 2024/290 provides that S.I. 2024/290 comes into force on 1st April 2024. Article 1(3) and (4) goes on to distinguish when S.I. 2024/290 has effect from in respect of specific pension schemes.

4. Article 1(3) and (4) of S.I. 2024/290 replicates the language used in article 1(2) and (3) of the Public Service Pensions Revaluation Order 2023 (S.I. 2023/252).

5. In the relevant articles, "from the beginning of" is added to avoid any ambiguity regarding whether section 4 of the Interpretation Act 1978 applies where the expression "has effect from" is used.

6. On review HM Treasury acknowledges there may have been ways to avoid using the expression "has effect from" altogether. As the Public Service Pensions Revaluation Order is an annual order, the Department will bear this point in mind for future drafting cycles.

His Majesty's Treasury

7 May 2024

Formal minutes

Wednesday 15 May 2024

Members present

Jessica Morden, in the Chair

Peter Grant

Damien Moore

Liz Twist

Report consideration

Draft Report (Twelfth 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 an Appendix.

Resolved, That the Report be the Twelfth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Adjournment

Adjourned till a day and time to be fixed by the Chair.