



House of Commons
House of Lords

Joint Committee on Statutory Instruments

Third Report of Session 2024–25

HC 291-iii / HL Paper 33

Drawing special attention to:

Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024 (S.I. 2024/540)

Official Controls (Miscellaneous Amendments) Regulations 2024 (S.I. 2024/541)

Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2024 (S.I. 2024/573)

Somalia (Sanctions) (EU Exit) (Amendment) Regulations 2024 (S.I. 2024/609)

Armed Forces (Civilians Subject to Service Discipline) (Amendment) Order 2024 (S.I. 2024/614)

Armed Forces (Appeals Against Review of Sentence) Regulations 2024 (S.I. 2024/619)

Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024 (S.I. 2024/635)

Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024 (S.I. 2024/636)

Glue Traps (Offences) Act 2022 (Commencement) Regulations 2024 (S.I. 2024/686)

Insolvency (Amendment) Regulations 2024 (S.I. 2024/722)

Joint Committee on Statutory Instruments

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.

Current membership

House of Lords

[Lord Beith](#) (Liberal Democrat)

[Lord Chartres](#) (Crossbench)

[Lord Haselhurst](#) (Conservative)

[Lord Meston](#) (Crossbench)

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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. These are available on the internet via www.parliament.uk.

Publication

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Committee reports are published on the Committee's website at www.parliament.uk/copyright and in print by Order of the House.

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Contents

Instruments reported	1
<i>Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024</i>	1
<i>Official Controls (Miscellaneous Amendments) Regulations 2024</i>	1
<i>Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2024</i>	2
<i>Somalia (Sanctions) (EU Exit) (Amendment) Regulations 2024</i>	3
<i>Armed Forces (Civilians Subject to Service Discipline) (Amendment) Order 2024</i>	4
<i>Armed Forces (Appeals Against Review of Sentence) Regulations 2024</i>	5
<i>Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024</i>	6
<i>Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024</i>	7
<i>Glue Traps (Offences) Act 2022 (Commencement) Regulations 2024</i>	8
<i>Insolvency (Amendment) Regulations 2024</i>	8
Instruments not reported	10
Annex	10
Appendix 1: Memorandum from the Department for Environment, Food and Rural Affairs	13
S.I. 2024/540 and 2024/541	13
<i>Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024</i>	
Appendix 2: Memorandum from the Home Office	15
S.I. 2024/573	15
<i>Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2024</i>	

Appendix 3: Memorandum from the Foreign, Commonwealth and Development Office

16

S.I. 2024/609 16

Somalia (Sanctions) (EU Exit) (Amendment) Regulations 2024

Appendix 4: Memorandum from the Ministry of Defence

18

S.I. 2024/614 18

*Armed Forces (Civilians Subject to Service Discipline)
(Amendment) Order 2024*

Appendix 5: Memorandum from the Ministry of Defence

19

S.I. 2024/619 19

Armed Forces (Appeals Against Review of Sentence) Regulations 2024

Appendix 6: Memorandum from the His Majesty's Treasury

20

S.I. 2024/635 20

*Financial Services and Markets Act 2000 (Overseas Funds Regime)
(Equivalence) (European Economic Area) Regulations 2024*

Appendix 7: Memorandum from the Department for Transport

21

S.I. 2024/636 21

*Merchant Shipping (Carriage of Dangerous Goods and Harmful
Substances) (Amendment) Regulations 2024*

Appendix 8: Memorandum from the Department for Environment, Food and Rural Affairs

22

S.I. 2024/686 22

Glue Traps (Offences) Act 2022 (Commencement) Regulations 2024

Appendix 9: Memorandum from the Department for Business and Trade

23

S.I. 2024/722 23
Insolvency (Amendment) Regulations

Appendix 10: Memorandum from the Department for Environment, Food and Rural Affairs

24

S.I. 2024/721 24
*Dangerous Dogs (Exemption Schemes) (England and Wales)
(Amendment) Order 2024*

Appendix 11: Memorandum from the Department for Work and Pensions

25

S.I. 2024/604 25
*Welfare Reform Act 2012 (Commencement No. 31 and Savings and
Transitional Provisions) (Amendment) Order 2024*

Formal Minutes

27

Instruments reported

At its meeting on 30 October 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 ten 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. 2024/540 and 2024/541: Reported for failure to comply with proper legislative practice

Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024

Official Controls (Miscellaneous Amendments) Regulations 2024

Procedure: Made negatives

- 1.1 **The Committee draws the special attention of both Houses to these Regulations on the ground that they both fail to comply with proper legislative practice in one respect.**
- 1.2 These instruments relate to controls on imports to Great Britain for sanitary and phytosanitary goods. S.I. 2024/540 extends the transitional staging period which, at the time of the making of the instrument, was due to expire on 29 April 2024 and S.I. 2024/541 makes changes to the operation of official controls during the transitional staging period.
- 1.3 Both instruments breach the 21-day rule which states that made negative instruments should generally be laid at least 21 days before they are due to come into force to protect those affected by changes in the law from being subject to the effect of those changes before they have a reasonable opportunity to understand what they must do to satisfy any requirements. The Explanatory Memorandum for S.I. 2024/540 explains that the breach of the rule results from a late decision taken to remove the extension from

S.I. 2024/541 and legislate for it in S.I. 2024/540 to mitigate the risk of the expiration of the transitional staging period. The Explanatory Memorandum for S.I. 2024/541 refers to the complex nature of the policy and legal drafting, operational issues, checks across Government and the need to deliver key commitments made as being the reasons for the breach or the rule. For both instruments, the Committee asked the Department for Environment, Food and Rural Affairs whether it had anything to add to its explanations for breach of the 21-day rule.

- 1.4** In two memoranda both printed at Appendix 1, the Department states that it has nothing to add to the explanations given in paragraph 11 of each Explanatory Memorandum for the breach of the rule.
- 1.5** The Committee acknowledges the importance of not allowing the transitional staging period to expire and the need to deliver key commitments made but problems or delays within the machinery of Government and the time needed for co-ordination across Government are generally regarded as unacceptable delays by the Committee (see the Committee's First Special Report of Session 2017-19, Transparency and Accountability in Subordinate Legislation, at paragraphs 2.15 to 2.23). The Committee again stresses the importance of the 21-day rule and the need to give stakeholders sufficient time to consider an instrument before it comes into force. **The Committee accordingly reports both instruments for failure to comply with proper legislative practice.**

2 S.I. 2024/573: Reported for failure to comply with proper legislative practice

Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2024

Procedure: Made negative

- 2.1 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.**
- 2.2** These Regulations bring revised guidance into force relating to adults at risk in immigration detention. The Regulations were made on 29 April 2024. Regulation 2 (and the preamble) refer to draft guidance having been laid before Parliament on 30 April 2024, the day after the Regulations were made and therefore a fact that could not have been known at the time of making the instrument. The Committee asked the Home Office to explain. In a memorandum printed at Appendix 2, the Department apologises that the

preamble and regulation 2 refer to the laying of guidance as having already happened but takes the view that the operative part of the Regulations is unaffected given the Regulations come into force on 21 May 2024. That may be the case, but it is inaccurate, confusing and poor practice to make legislation referring to an action as having happened that has not in fact happened at the time the legislation is made. **The Committee accordingly reports the preamble and regulation 2 for failure to comply with proper legislative practice.**

3 S.I. 2024/609: Reported for requiring elucidation

Somalia (Sanctions) (EU Exit) (Amendment) Regulations 2024

Procedure: Made negative

- 3.1 **The Committee draws the special attention of both Houses to these Regulations on the ground that they require elucidation in one respect.**
- 3.2 These Regulations amend the Somalia (Sanctions) (EU Exit) Regulations 2020. Those Regulations enable the Secretary of State to sanction individuals by designating them where they are involved in certain activities. The list of activities is amended by regulation 2(4) to include “association or affiliation with, or activity in support of, terrorist or armed groups”. The latter includes disseminating extremist material. For these purposes—
 - “Extremist material” is defined as including that which “promotes an extremist ideology” (new regulation 6(5)(d)), and
 - “Extremist ideology” is defined as meaning the promotion or advancement of an ideology based on violence, hatred or intolerance that aims to [...] intentionally create a permissive environment for others to” negate or destroy fundamental rights or to undermine democratic rights (new regulation 6(5)(e)).
- 3.3 The Committee asked the Foreign, Commonwealth and Development Office to explain how an ideology could have as its aim to intentionally create a permissive environment for others to negate or destroy fundamental rights or to undermine democratic rights.
- 3.4 In a memorandum printed at Appendix 3, the Department points to the new definition of “extremism” published by the Government in March 2024. This provides useful examples of what intentionally creating a permissive environment might capture in practice such as providing an uncritical

platform for those to negate or destroy fundamental rights or to undermine democratic rights. The Committee notes that it would have been helpful to have this information provided in the Explanatory Memorandum but on this occasion is content to report this instrument for elucidation. **The Committee accordingly reports these Regulations for requiring elucidation, provided by the Department’s memorandum.**

4 S.I. 2024/614: Reported for failure to comply with proper legislative practice

Armed Forces (Civilians Subject to Service Discipline) (Amendment) Order 2024

Procedure: Made negative

- 4.1 The Committee draws the special attention of both Houses to this Order on the ground that it fails to comply with proper legislative practice in one respect.**
- 4.2** This Order amends an instrument which specifies organisations and designates areas for the purposes of the application of service discipline to certain categories of civilians (S.I. 2009/836). Article 3(c) adds “BFBS” as a specified organisation. The Committee understands that this is the initialism now used to refer to the British Forces Broadcasting Service. However, the Committee asked the Ministry of Defence to explain why “BFBS” was not identified by a unique identifier in order to avoid any confusion as to which organisation is being referred to given that there are other companies that use the same initials (for example, BFBS (Consultants) Limited).
- 4.3** In a memorandum printed at Appendix 4, the Department accepts that “BFBS” should have been accompanied by a unique identifier and undertakes to correct the error at the next available opportunity. The Department considers the risk of confusion to be low given the military context of this instrument. However, as the Committee has noted on a number of occasions, good drafting practice requires that companies and other private bodies referred to in legislation be given a unique identifier especially given that the names of such bodies can change and the use of a unique identifier will ensure a certain legal effect if such a change were to occur. **The Committee accordingly reports Article 3(c) for failure to comply with proper legislative practice, acknowledged by the Department.**

5 S.I. 2024/619: Reported for defective drafting

Armed Forces (Appeals Against Review of Sentence) Regulations 2024

Procedure: Made negative

- 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 make provision for procedures to be followed in relation to appeals against decisions on review of sentence under certain sections of the Armed Forces Act 2016. Regulation 20 allows for certain powers of the Appeal Court to be exercised by a single judge. Regulation 20(3) provides that where a single judge refuses to exercise such a power in favour of a party, that party is entitled to have the application determined by the Appeal Court where it is made within the “prescribed period” and in the “prescribed form and manner”. The Committee asked the Ministry of Defence to explain what “prescribed” meant in this context.
- 5.3 In a memorandum printed at Appendix 5, the Department asserts that the prescribed period and prescribed form and manner of the applications dealt with in regulation 20 is sufficiently clear and can be derived from other provisions in the Regulations, such as regulations 4, 9 and 10. The Committee is unconvinced. Regulation 4 indicates an application for leave to appeal needs to be lodged within a “specified” period and include certain information, but it is unclear whether these are the same as the requirements described as “prescribed” in regulation 20. Furthermore, there is nothing in regulations 9 or 10 which could be said to be equivalent to those requirements.
- 5.4 The Department states that it does not consider that it is necessary to amend the instrument to remedy this lack of clarity. Whilst this is a matter for the Department, the Committee takes the view that in this instance steps should be taken to rectify the defects to ensure that the Department’s policy is being achieved effectively by these Regulations, as well as to assist users of the legislation. **The Committee accordingly reports regulation 20(3) for defective drafting, acknowledged in part by the Department.**

6 S.I. 2024/635: Reported for failure to comply with proper legislative practice

Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024

Procedure: Made negative

- 6.1 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.**
- 6.2** These Regulations approve a specified description of collective investment scheme authorised by an EEA state for the purposes of marketing to clients in the United Kingdom. The approval is set out in regulation 3 of this instrument and is for “stand-alone schemes” that are EEA undertakings for collective investment in transferable securities and sub-funds of EEA undertakings for collective investment in transferable securities (although excluding money market funds). “Stand-alone scheme” is defined in regulation 2 as a collective investment scheme which does not have two or more sub-funds and whose fund rules or instruments of incorporation do not enable it to have two or more sub-funds. The Explanatory Memorandum explains that a stand-alone scheme is a scheme with no sub-funds (paragraph 5.15). The Committee asked the His Majesty’s Treasury to explain whether the policy intention was to define a stand-alone scheme as a scheme with no sub-funds, as per the Explanatory Memorandum, or to include schemes that have one sub-fund, as per regulation 2.
- 6.3** In a memorandum printed at Appendix 6, the Department explains that regulation 2 captures the policy intention and that the Explanatory Memorandum contains an error, which it undertakes to correct. As the Committee has previously noted, proper legislative practice requires that the Explanatory Memorandum accurately describes the policy intention. **The Committee accordingly reports the Explanatory Memorandum for failure to comply with proper legislative practice, acknowledged by the Department.**

7 S.I. 2024/636: Reported for defective drafting

Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024

Procedure: Made negative

- 7.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in two respects.**
- 7.2** These Regulations implement outstanding amendments in order to meet the United Kingdom's international obligations with regard to the carriage of dangerous goods and harmful substances by sea.
- 7.3** Paragraph 11(d) of Schedule 1 makes amendments to the Merchant Shipping (Fees) Regulations 2018 which do not appear to take into account amendments made by S.I. 2024/280 and appears to repeat amendments made by that instrument. The Committee asked the Department for Transport to explain. In a memorandum printed at Appendix 7, the Department explains that there was an error in this instrument, albeit the effect of the error does not prevent the 2018 Regulations from operating as intended. Whilst the Committee accepts this, it is poor drafting practice to overlook recently made amendments to instruments, particularly where those amendments have emanated from the same Department. **The Committee accordingly reports paragraph 11 of Schedule 1 for defective drafting, acknowledged by the Department.**
- 7.4** Schedule 2 contains a list of instruments that are revoked, either in their entirety or partially. One such instrument is S.I. 2004/2110, of which regulation 22(4) is included in the revoked provisions. That provision provides that S.I. 1997/2367 shall be amended in accordance with Schedule 2; however, Schedule 2 is not revoked by this instrument. The Committee asked the Department whether the policy intention had been to revoke regulation 22(4). In its memorandum, the Department acknowledges that this was an error although it contends that the error has no legal consequence as it claims that the amendments made by Schedule 2 became spent when S.I. 2004/2110 was made. The Committee is unclear what this means as S.I. 1997/2367 is still in force. As has been noted elsewhere, the question of whether an amending provision is spent immediately after it takes effect has no obvious answer (see Bennion at 8.10) and the real question is how to construe the later repealing legislation. In this case, the

revocation of regulation 22(4) creates some uncertainty about the intended outcome in relation to Schedule 2. **The Committee accordingly reports Schedule 2 for defective drafting, acknowledged by the Department.**

8 S.I. 2024/686: Reported for failure to comply with proper legislative practice

Glue Traps (Offences) Act 2022 (Commencement) Regulations 2024

Procedure: Not subject to parliamentary procedure

- 8.1 **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.**
- 8.2 These Regulations bring into force the Glue Traps (Offences) Act 2022. Regulation 2(1) provides that sections 2 and 10 of the Act come into force on 22 May 2024, whilst the Explanatory Note states that regulation 2(1) brings those sections into force on 13 June 2024. The Committee asked the Department for Environment, Food and Rural Affairs to explain.
- 8.3 In a memorandum printed at Appendix 8, the Department explains that it had been the policy intention to bring sections 2 and 10 into force on 22 May 2024 and regrets the error made in the Explanatory Note. The Department undertakes to liaise with the SI Registrar to correct the error using a correction slip. The Committee agrees that correction of this error can properly be made by correction slip given the Explanatory Note is not an operative part of the instrument. As the Committee has previously noted, proper legislative practice requires that explanatory materials accurately describe the intention of an instrument. **The Committee accordingly reports the Explanatory Note for failure to comply with proper legislative practice, acknowledged by the Department.**

9 S.I. 2024/722: Reported for defective drafting

Insolvency (Amendment) Regulations 2024

Procedure: Not subject to parliamentary procedure

- 9.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**
- 9.2** These Regulations amend the Insolvency Regulations 1994 to increase the hourly rates of remuneration that the official receiver and their officers are entitled to for providing certain services. Regulation 35 of the 1994 Regulations provides that the hourly rates in relation to London rates are set out in Table 2 of Schedule 2 and non-London rates are set out in Table 3 of Schedule 2. Regulation 3 of this instrument amends Schedule 2 to the 1994 Regulations by substituting the tables specifying the hourly rates. The new tables are instead headed Table 1, in relation to London rates, and Table 2, in relation to non-London rates. The Committee asked the Department for Business and Trade to confirm that regulation 35(2) should have also been amended, in order for the two to correspond correctly.
- 9.3** In a memorandum printed at Appendix 9, the Department provides that confirmation and **the Committee accordingly reports regulation 3 for defective drafting, acknowledged by the Department.**
- 9.4** The Committee notes that a correction slip has been issued to address these errors and agrees that this is a proper use of a correction slip given that the errors are small scale and obvious.

Instruments not reported

At its meeting on 30 October 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	Collective Investment Schemes (Temporary Recognition) and Central Counterparties (Transitional Provision) (Amendment) Regulations 2024
Draft	Judicial Pensions (Amendment) Regulations 2024
Draft	Terrorism Act 2000 (Alterations to the Search Powers Code for Northern Ireland) Order 2024
Draft	Voter Identification (Amendment of List of Specified Documents) Regulations 2024
Draft	Criminal Finances Act 2017 and Economic Crime and Corporate Transparency Act 2023 (Consequential Amendments) Regulations 2024
Draft	Bail and Release from Custody (Scotland) Act 2023 (Consequential Modifications) Order 2024
Draft	Trade Union and Labour Relations (Consolidation) Act 1992(Amendment of Schedule A2) Order 2024
Draft	Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2024
Draft	Human Medicines (Amendment) (Modular Manufacture and Point of Care) Regulations 2024

S.I. Numbers	S.I. Title
Draft	Medical Devices (Post-market Surveillance Requirements) (Amendment) (Great Britain) Regulations 2024

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2024/721¹	Dangerous Dogs (Exemption Schemes) (England and Wales) (Amendment) Order 2024
S.I. 2024/727	Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (England, Wales and Scotland) Order 2024
S.I. 2024/728	National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) (Amendment) Regulations 2024
S.I. 2024/831	Employment (Allocation of Tips) Act 2023 (Code of Practice on Fair and Transparent Distribution of Tips) Regulations
S.I. 2024/838	National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2024
S.I. 2024/840	Digital Markets, Competition and Consumers Act 2024 (Water Mergers) (Consequential Amendments) Regulations 2024
S.I. 2024/843	Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) (Amendment) Regulations 2024
S.I. 2024/899	Seed Marketing (CMS Wheat Hybrids) (Temporary Experiment) (England) Regulations 2024
S.I. 2024/907	Accounts and Audit (Amendment) Regulations 2024
S.I. 2024/913	New Towns (Compulsory Purchase of Land) (Amendment) Regulations 2024
S.I. 2024/922	Immigration (Passenger Transit Visa) (Amendment) Order 2024
S.I. 2024/936	Social Security (Genuine and Sufficient Link to the United Kingdom) (Amendment) Regulations 2024
S.I. 2024/1004	School Teachers' Incentive Payments (England) (Amendment) Order 2024
S.I. 2024/1006	Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) (Amendment) Order 2024

¹ The Committee requested a memorandum on this instrument and a satisfactory response was received. The memorandum is printed at Appendix 10.

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	Staffordshire (Electoral Changes) Order 2024
Draft	Surrey (Electoral Changes) Order 2024
Draft	Derbyshire (Electoral Changes) Order 2024
Draft	Coventry (Electoral Changes) Order 2024

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2024/604²	Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions) (Amendment) Order 2024
S.I. 2024/850	Building Safety Act 2022 (Amendment Notices Transitional Provision) Regulations 2024
S.I. 2024/890	Energy Act 2023 (Commencement No. 2) Regulations 2024
S.I. 2024/891	Financial Services and Markets Act 2023 (Commencement No. 7) Regulations 2024
S.I. 2024/984	Electricity (Standards of Performance) (Amendment) Regulations 2024
S.I. 2024/1010	Finance (No. 2) Act 2024 (Applications for Certification as Low-Budget Film: Appointed Day) Regulations 2024

2 The Committee requested a memorandum on this instrument and a satisfactory response was received. The memorandum is printed at Appendix 11.

Appendix 1: Memorandum from the Department for Environment, Food and Rural Affairs

S.I. 2024/540 and 2024/541

Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024

S.I. 2024/540 Official Controls (Extension of Transitional Periods) (Amendment) Regulations 2024

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point:

Does the Department have anything to add to its explanation in paragraph 11 of the Explanatory Memorandum for breach of the 21-day rule.
2. The Department has nothing to add to the explanation given in paragraph 11 of the Explanatory Memorandum for breach of the 21-day rule.

**Department for Environment, Food and Rural Affairs
22 October 2024**

S.I. 2024/541 Official Controls (Miscellaneous Amendments) Regulations 2024

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point(s):

Does the Department have anything to add to its explanation in paragraph 11 of the Explanatory Memorandum for breach of the 21-day rule.

2. The Department has nothing to add to the explanation given in paragraph 11 of the Explanatory Memorandum for breach of the 21-day rule.

Department for Environment, Food and Rural Affairs
22 October 2024

Appendix 2: Memorandum from the Home Office

S.I. 2024/573

Immigration (Guidance on Detention of Vulnerable Persons) Regulations 2024

1. The Committee has asked the Home Office for a memorandum on the following point:

Explain why regulation 2 (and the preamble) refer to an action having been done which could not have been done at the time the instrument was made (given that the instrument was made on 29 April 2024 and regulation 2 refers to the guidance being laid before Parliament on 30 April 2024).
2. We apologise that the preamble and regulation 2 of this SI refer to the laying of guidance as having happened, when in fact the guidance was laid the day following the signature of the SI. However, we take the view that the operative part of regulation 2, which brings the guidance into force in 21 days, is unaffected. We are satisfied that we have complied with the requirements of section 59(4) of the Immigration Act 2016, which requires that draft guidance is laid before Parliament before the guidance is issued.

Home Office
21 October 2024

Appendix 3: Memorandum from the Foreign, Commonwealth and Development Office

S.I. 2024/609

Somalia (Sanctions) (EU Exit) (Amendment) Regulations 2024

1. The Committee has asked the Foreign, Commonwealth and Development Office for a memorandum on the following points:
 1. what is meant by “the promotion or advancement of an ideology [...] that aims to [...] intentionally create a permissive environment for others to achieve the results in 6(5)(e)(i) and (ii)” and
 2. whether it was the intention to instead include new regulation 6(5)(e)(iii) as a new regulation 6(5)(d)(iii)
2. As set out in paragraph 5.6 of the Explanatory Memorandum to the Statutory Instrument, the new and amended sanctions designation criteria are in line with HMG’s Counter Terrorism Strategy (CONTEST) and the new 2024 definition of extremism.³ “[T]he promotion or advancement of an ideology [...] that aims to [...] intentionally create a permissive environment for others to achieve the results in 6(5)(e)(i) and (ii)” is language derived from this new definition of extremism and includes the enabling or facilitation of, or the provision of support to, individuals, groups and organisations which seek to negate fundamental rights and freedoms, undermine democracy, and the dissemination of extremist propaganda or attempting to radicalise or indoctrinate others, all with the aim of enabling the spread of extremism.

3 [New definition of extremism \(2024\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/new-definition-of-extremism-2024)

3. It was the intention to include this language as new regulation 6(5)(e) (iii). As noted in paragraph 2 above, the language in regulation 6(5)(e) (iii) is derived from the new 2024 definition of extremism which focusses on the advancement of extremist ideology rather than purely on extremist material. The intention was to ensure that all three elements (6(5)(e)(i), (ii) and (iii)) were included in the definition of “*extremist ideology*” in line with the new definition of extremism.

Foreign, Commonwealth and Development Office
22 October 2024

Appendix 4: Memorandum from the Ministry of Defence

S.I. 2024/614

*Armed Forces (Civilians Subject to Service Discipline)
(Amendment) Order 2024*

1. The Committee has asked the Ministry of Defence for a memorandum on the following point(s):
 1. why “BFBS” was not identified by a unique identifier, for example the company number (to avoid any confusion as to which organisation is being referred to) and
 2. confirm that other companies with BFBS in the title are not intended to be captured by article 3(c) (for example, BFBS (Consultants) Limited).
2. The Department confirms that only BFBS (registered charity number 233480 and company registration number 407270) is intended to be captured by article 3(c), and not any other company with BFBS in the title.
3. The Department acknowledges the drafting should have made this explicit through use of a unique identifier. The Department believes the potential for confusion is low, given the particular military context of the instrument and the clarity provided by the explanatory note, but commits to correct the drafting error at the next opportunity.

Ministry of Defence
22 October 2024

Appendix 5: Memorandum from the Ministry of Defence

S.I. 2024/619

Armed Forces (Appeals Against Review of Sentence) Regulations 2024

1. The Committee has asked the Ministry of Defence for a memorandum on the following point(s):

In relation to regulation 20(3), explain where the meaning of “prescribed” is to be found.

2. The Department can confirm that “prescribed” in the context of Regulation 20(3) refers to the prescribed period, and prescribed form and manner, in which a party must make one of the various types of application listed in regulation 20(2) according to the provisions set down in Part 2 of these Regulations. The relevant provisions of Part 2 are as follows:
 - i. Regulation 4, which sets out the requirements for an application for leave to appeal and an application to extend the period within which an application for leave to appeal must be lodged;
 - ii. Regulation 9, which makes provision in respect of an offender’s right to be present at proceedings; and
 - iii. Regulation 10, which makes provision in respect of the power to order witnesses to attend for examination and orders for the production of documents.
3. While we acknowledge that it would have further assisted the reader had the drafting expressly identified the above provisions, it is the Department’s view that regulation 20 is sufficiently clear it is referring to the powers of the Appeal Court under Part 2. In these circumstances, the Department does not consider that amendment is required.

Ministry of Defence
22 October 2024

Appendix 6: Memorandum from the His Majesty's Treasury

S.I. 2024/635

Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024

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

Explain whether the policy intention was to define a “stand-alone scheme” as a scheme with no sub-funds (as per paragraph 5.15 of the Explanatory Memorandum) or to include schemes that have one sub-fund (as per regulation 2 of this instrument).
2. Regulation 2 defines a “stand-alone scheme” as a collective investment scheme that “does not have two or more sub-funds” and “whose fund rules or instruments of incorporation do not enable it to have two or more sub-funds.” In accordance with regulation 2, the policy intention was to define a “stand-alone scheme” as a collective investment scheme that either has no sub-funds or has one sub-fund.
3. In paragraph 5.15 of the Explanatory Memorandum, it simply states that “...A standalone scheme is a scheme (i.e. a UCITS fund) with no sub-funds...” This is an error, for which HM Treasury apologises and will seek to rectify.

HM Treasury
22 October 2024

Appendix 7: Memorandum from the Department for Transport

S.I. 2024/636

Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024

1. The Committee has asked the Department for Transport for a memorandum on the following points:
 - Explain why paragraph 11(d) of Schedule 1 does not take into account amendments already made by S.I. 2024/280 (paragraph 4(b) of the Schedule).
 - In relation to Schedule 2, explain whether the intention was to revoke regulation 22(4) of S.I. 2004/2110 (considering that Schedule 2 of that instrument is not revoked).
2. The omission in paragraph 11(d) of Schedule 1 of reference to S.I. 2024/280 is an error.
3. The Department notes that the provision in paragraph 11(d) does nevertheless insert reference to S.I. 2024/636 into the list of instruments amending S.I. 2015/508, albeit with the effect that the listed instruments appear in the wrong order, and therefore the provision does have the intended effect.
4. In Schedule 2, the intention was to retain Schedule 2 to S.I. 2004/2110. Therefore, it was not intended to revoke regulation 22(4) of S.I. 2004/2110 and the provision doing so is an error. However, the Department notes that as regulation 22(4) of, and Schedule 2 to, S.I. 2004/2110 contain only amending provision which became spent when S.I. 2004/2110 was made, the retention or otherwise of this provision has no legal effect in either case.
5. The Department will take steps to correct both these errors at the next available opportunity.

Department for Transport
22 October 2024

Appendix 8: Memorandum from the Department for Environment, Food and Rural Affairs

S.I. 2024/686

Glue Traps (Offences) Act 2022 (Commencement) Regulations 2024

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point(s):

Explain whether it was the policy intention to commence sections 2 and 10 of the 2022 Act on 13 June 2024, as the Explanatory Note states, or on 22 May 2024, as regulation 2(1) provides.
2. The Department thanks the Committee for its question and for the opportunity to clarify the point.
3. The Regulations make provision for the coming into force of the Glue Traps (Offences) Act 2022 ('the Act'). The Department's policy intention was for sections 2 and 10 of the Act to come into force on 22 May 2024, as provided for in regulation 2(1). Sections 2 and 10 were required to be in force to make The Glue Traps (Licensing) Regulations 2024 (S.I. 2024/702), which were made on 24 May 2024.
4. The Department regrets that the Explanatory Note incorrectly refers to sections 2 and 10 of the Act coming into force on 13 June 2024, not on 22 May 2024. This is an inadvertent error in non-operative text. We will liaise with the SI Registrar with a view to addressing the error by way of correction slip.
5. The Explanatory Note correctly refers to the remaining provisions of the Act coming into force on 31 July 2024, as provided for in regulation 2(2).

Department for Environment, Food and Rural Affairs
22 October 2024

Appendix 9: Memorandum from the Department for Business and Trade

S.I. 2024/722

Insolvency (Amendment) Regulations

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

As regulation 3 amends Schedule 2 to the Insolvency Regulations 1994, explain whether the references to Table 2 and Table 3 in regulation 35(2) of those Regulations should have also been amended.
2. The Committee is correct to note that regulation 35(2) of the Insolvency Regulations 1994 refers to Table 2 and Table 3 in Schedule 2 to those Regulations. In regulation 3 of the Insolvency (Amendment) Regulations 2024, which substitutes Table 2 and Table 3 in Schedule 2 to the Insolvency Regulations 1994, we acknowledge that the reference to Table 1 (rather than Table 2) and Table 2 (rather than Table 3) in the headings to the two substituted tables was an error. The Department is grateful to the Committee for drawing this to our attention. Having discussed this matter with the SI Registrar, we think it is appropriate to correct the error using a correction slip and are making arrangements accordingly.

Department for Business and Trade
21 October 2024

Appendix 10: Memorandum from the Department for Environment, Food and Rural Affairs

S.I. 2024/721

Dangerous Dogs (Exemption Schemes) (England and Wales) (Amendment) Order 2024

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point(s):

Explain whether the Department considers that proper legislative practice has been followed in making S.I. 2023/1407 and S.I. 2023/1204 with such speed and tight timescales for compliance, that amendments to extend compliance timescales have now been deemed necessary.
2. The Department would refer the Committee to section 5.5 of the Explanatory Memorandum to S.I. 2024/721 which sets out the reasons for the decision to extend the deadline for the submission of evidence of neutering of older XL Bully dogs (but not the deadline for the neutering of those dogs). The Department is content that proper legislative practice was followed in the making of S.I. 2023/1407 and 2023/1204.

Department for Environment, Food and Rural Affairs
22 October 2024

Appendix 11: Memorandum from the Department for Work and Pensions

S.I. 2024/604

Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions) (Amendment) Order 2024

1. The Committee has asked the Department for Work and Pensions for a memorandum on the following points:

Explain how section 150(3) is relied on to make this instrument and whether the Department considered whether section 150(4) was available in the absence of appointing a day under section 150(3).
2. The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions) (Amendment) Order 2024 (“the 2024 Order”) is one of a suite of commencement orders that bring into force provisions to enable the rollout of Universal Credit. The 2024 Order amends the Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019 (S.I. 2019/37) (“the 2019 Order”).
3. The 2019 Order appointed the day for the coming into force of paragraph 64 (universal credit amendments: insertion of 4(1A) into the 2002 Act) of Schedule 2 to the Welfare Reform Act 2012 subject to a number of savings and transitional provisions. The 2019 Order was made under section 150(3) and (4) of the Welfare Reform Act 2012. The enabling powers for the saving provision amended by the 2024 Order were, more specifically, section 150(3) and (4)(c).
4. Section 14 of the Interpretation Act 1978 provides that where an Act confers a power it implies a power to “revoke, amend or re-enact any instrument made under that power”.

5. The 2024 Order amends a provision that was made under section 150(3) and (4)(c) of the Welfare Reform Act 2012 and, by virtue of section 14 of the Interpretation Act 1978, the Department considers that those are therefore the appropriate powers to rely on for the amendment.
6. The clear intention of Parliament in section 150(4)(c) was that, in relation to the bringing into force of provisions in the Welfare Reform Act 2012, the Secretary of State would also have the power to make transitional or saving provisions as considered “necessary or expedient” to ensure the smooth commencement of a complex legislative regime.
7. For the reasons above, the Department considers section 150(3) read with (4)(c) of the Welfare Reform Act 2012, to be available to amend an order made under section 150(3) and (4)(c) where those powers were previously used to make necessary or expedient transitional or saving provision.

Department for Work and Pensions
22 October 2024

Formal Minutes

Wednesday 30 October 2024

Members present

Sir Bernard Jenkin, in the Chair

Lewis Atkinson

Lord Beith

Lord Chartres

Lord Haselhurst

Claire Hughes

Charlie Maynard

Gordon McKee

Lord Meston

Lord Sahota

Baroness Sater

Lord Watson of Wyre Forest

Report consideration

Draft Report (*Third 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 9.4 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 11.

Resolved, That the Report be the Third 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 6 November 2024 at 3.40 p.m.