



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Eleventh Report of Session 2024–25

HC 291-xi / HL Paper 67

Drawing special attention to:

*The Economic Crime and Corporate Transparency Act 2023
(Commencement No.3) Regulations 2024*

*The Proceeds of Crime Act 2002 (Investigations in different
parts of the United Kingdom) (Amendment) Order 2024*

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 Meston](#) (Crossbench)

[Lord Sahota](#) (Labour)

[Baroness Sater](#) (Conservative)

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

House of Commons

[Sir Bernard Jenkin](#) (Conservative, Harwich and North Essex) (Chair)

[Lewis Atkinson](#) (Labour, Sunderland Central)

[Mark Ferguson](#) (Labour, Gateshead Central and Whickham)

[Claire Hughes](#) (Labour, Bangor Aberconwy)

[Charlie Maynard](#) (Liberal Democrat, Witney)

[Gordon McKee](#) (Labour, Glasgow South)

[Ms Julie Minns](#) (Labour, Carlisle)

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.

Publication

This Report, together with formal minutes relating to the report, was Ordered by the House of Commons and by the House of Lords, on 15 January 2025, to be printed.

It was published on 17 January 2025. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

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

Contacts

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Instruments reported

At its meeting on 15 January 2025 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. 2024/1108: Reported for doubt as to vires

The Economic Crime and Corporate Transparency Act 2023 (Commencement No.3) 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 commence certain provisions of the Economic Crime and Corporate Transparency Act 2023, including section 199 of that Act. Section 219(8) requires that the Secretary of State publish guidance before making regulations that bring into force section 199 of the Act. The Committee noticed that there was no reference to compliance with this pre-condition in the pre-amble to the instrument and asked the Home Office to explain.
- 1.3 In a memorandum printed at Appendix 1, the Department explains that the Secretary of State has published the relevant guidance, but that this was done only after the making of these Regulations. The Committee notes that exercising a power before a relevant statutory pre-condition is satisfied goes to the lawfulness of any legislation made in purported exercise of that power. The Department implicitly acknowledges this and undertakes to correct this error in new commencement regulations to be made in early 2025, which will revoke regulation 3 and include the appropriate recital in the pre-amble. **The Committee accordingly reports regulation 3 for doubt as to whether it is *intra vires*, acknowledged by the Department.**

2 S.I. 2024/1123: Reported for failure to comply with proper legislative practice

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2024

Procedure: Made negative

- 2.1 **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.**
- 2.2 This Order makes amendments to the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2002 (S.I. 2003/425) (“the Investigations Order”), consequential on changes to the Proceeds of Crime Act 2002 made by the Economic Crime and Corporate Transparency Act 2023. The Committee noticed that the Explanatory Memorandum to the Order states that it also makes amendments to the Proceeds of Crime Act 2002 (Enforcement in different parts of the United Kingdom) Order 2002 (S.I. 2003/3133) (“the Enforcement Order”), but that the instrument as drafted does not make any amendments to the Enforcement Order. The Committee asked the Home Office to explain.
- 2.3 In a memorandum printed at Appendix 2, the Department explains that the inclusion in the Explanatory Memorandum of references to amendments to the Enforcement Order was an error, and that the instrument is not intended to make such amendments. The Department undertakes to replace the Explanatory Memorandum with a corrected version. As the Committee noted in its recent report (Seventh Report of 2024-5 in relation to S.I. 2024/1011), Explanatory Memoranda prepared by Departments help both Parliament and the wider public understand what is intended by a particular instrument. Furthermore, they enable the Committee to assess whether the instrument achieves the policy intention and so whether it is technically effective. **The Committee accordingly reports the Explanatory Memorandum for failure to comply with proper legislative practice, acknowledged by the Department.**

Instruments not reported

At its meeting on 15 January 2025 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	Community Radio Order 2025
Draft	Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2024
Draft	Greater Lincolnshire Combined County Authority Regulations 2025
Draft	Medicines for Human Use (Clinical Trials) (Amendment) Regulations 2024
Draft	Gambling Levy Regulations 2025
Draft	Procurement Act 2023 (Consequential and Other Amendments) Regulations 2025
Draft	Space Industry (Licence Exemption for Military Activities of Allies) Regulations 2025
Draft	Electricity Capacity (Amendment) Regulations 2025
Draft	Energy Bill Relief Scheme and Energy Bills Discount Scheme (Amendment) Regulations 2024

S.I. Numbers	S.I. Title
Draft	Online Safety Act 2023 (Category 1, Category 2A and Category 2B Threshold Conditions) Regulations 2025
Draft	Digital Markets, Competition and Consumers Act 2024 (Consequential Amendments) Regulations 2025
Draft	Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2025
Draft	Community Radio Order 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2024/1150	The Thames Estuary Cockle Fishery Order 2024
S.I. 2024/1157	The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2024
S.I. 2024/1211	The Thames Estuary Cockle Fishery (No. 2) Order 2024
S.I. 2024/1233	The Competition Appeal Tribunal (Amendment) Rules 2024
S.I. 2024/1234	The Water Mergers (Modification of Enactments) (Amendment) Regulations 2024
S.I. 2024/1270	The Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2024
S.I. 2024/1276	The Greater London Authority (Consolidated Council Tax Requirement Procedure) Regulations 2024
S.I. 2024/1279	The Tuberculosis (Non-bovine animals) Slaughter and Compensation (England) (Amendment) Order 2024
S.I. 2024/1291	The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment) Order 2024
S.I. 2024/1304	The Miners' Strike (Pardons) (Scotland) Act 2022 (Consequential Modifications) Order 2024

Appendix 1: Memorandum from the Home Office

S.I. 2024/1108

The Economic Crime and Corporate Transparency Act 2023 (Commencement No.3) Regulations 2024

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

Noting that these Regulations were made on 5th November 2024, explain—

 - a. *whether the Secretary of State complied with the requirement in section 219(8) of the Economic Crime and Corporate Transparency Act 2023 that she publish guidance under section 204(3) of that Act before making these Regulations; and*
 - b. *why this pre-condition is not cited in the pre-amble to the instrument.*
2. The Secretary of State has published guidance under section 204(3) of the Act but only after making the Regulations. The Department acknowledges that this was an error and intends to correct it in new commencement regulations to be made early in 2025 including the appropriate recital and revoking regulation 3. Sections 199 to 206 of, and Schedule 13 to, the Act will be fully commenced on 1st September 2025.

Home Office

17 December 2024

Appendix 2: Memorandum from the Home Office

S.I. 2024/1123

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2024

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

Explain why the Explanatory Memorandum for this instrument states that it amends two previous Orders (the “Enforcement Order” and the “Investigations Order” as defined therein) but the instrument as drafted only amends the Investigations Order (S.I. 2003/425), and whether it was the intention that this instrument should have amended the Enforcement Order.

2. The Department confirms that the instrument is not meant to amend the Enforcement Order and that the reference in the Explanatory Memorandum is an error. The Department is seeking to replace the Explanatory Memorandum with a corrected Explanatory Memorandum.

Home Office

17 December 2024

Formal Minutes

Wednesday 15 January 2025

Members present

Sir Bernard Jenkin, in the Chair

Lewis Atkinson

Lord Chartres

Mark Ferguson

Claire Hughes

Charlie Maynard

Lord Meston

Lord Sahota

Baroness Sater

Lord Watson of Wyre Forest

Report consideration

Draft Report (Eleventh 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 2.3 read and agreed to.

Annex agreed to.

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

Resolved, That the Report be the Eleventh 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 22 January at 3.40 p.m.