



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Thirteenth Report of Session 2024–25

HC 291-xiii / HL Paper 78

Drawing special attention to:

The Immigration and Police (Passenger, Crew and Service Information) Order 2024

The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024

The Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) Order 2024

The International Waste Shipments (Amendment) Regulations 2024

The Companies (Accounts and Reports) (Amendment and Transitional Provision) Regulations 2024

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2024

The Medicines (Gonadotrophin-Releasing Hormone Analogues) (Restrictions on Private Sales and Supplies) Order 2024

Power to Award Degrees etc. (Warwickshire College) Order of Council 2014 (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 Brady of Altrincham](#) (Conservative)

[Lord Kakkar](#) (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)

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[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.74, relating to Public Business.

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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Instruments reported

At its meeting on 5 February 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 eight 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. 2024/1227: Reported for defective drafting and requiring elucidation

The Immigration and Police (Passenger, Crew and Service Information) Order 2024

Procedure: Made negative

- 1.1 The Committee draws the special attention of both Houses to this Order on the grounds that it is defectively drafted in one respect and requires elucidation in another respect.**
- 1.2** This Order empowers immigration officers to require operators of aircraft, ships and trains to provide to the Secretary of State specified types of information about passengers, crew and services arriving in or departing the United Kingdom. It revokes and replaces an earlier instrument granting similar powers (S.I. 2008/5) to reflect developments in operators' normal business practices, and to align with current international standards. The Committee noticed that the drafting of article 3(4) appeared to be unclear in two respects: first, it appears to require that information is provided before the beginning of the "relevant period", when the start of that period was itself defined by the provision of that information (article 3(4)(a)); and, secondly, it appears to require that information is provided before the point in time when it would no longer be possible for any further passengers or crew to board a service prior to its departure (article 3(4)(b)). The intention behind the drafting of these provisions appeared unclear to the Committee and it asked the Home Office to explain.

1.3 In a memorandum printed at Appendix 1, the Department explains that the policy intention is that the required information should be provided so that there is sufficient time for authority to carry to be sought (article 3(4)(a)) and that this is done before the relevant doors are closed (article 3(4)(b)). Regarding article 3(4)(a), whilst the Committee appreciates the Department's policy intention, the Committee is not convinced that the drafting achieves this. Requiring the relevant information to be provided before the beginning of a period that starts with the provision of that information lacks coherence. This is because it is impossible to satisfy a requirement to send information before the beginning of a period, where that period starts with the sending of that information. The Committee thinks it more likely that the policy intention would have been achieved if the information had to be provided within a sufficient period of time to allow authority to carry to be sought. **Accordingly, the Committee reports article 3(4)(a) for defective drafting.**

1.4 In relation to article 3(4)(b), the Department further explains that the relevant information needs to be provided before the relevant doors are closed because once the doors are closed it can be difficult for an operator to identify passengers (particularly, on ferries). The Committee agrees that in technical terms this is achieved by article 3(4)(b) although if the policy concern is about stopping certain passengers boarding in the first place, the Committee notes that an alternative way to achieve this would have been to require the information before boarding opens, rather than before it closes. However, to the extent this raises a question of policy, this is rightly a matter for the Department and not a point upon which the Committee can comment. **Accordingly, the Committee reports article 3(4)(b) for requiring elucidation, provided by the Department's memorandum.**

2 S.I. 2024/1266: Reported for elucidation and defective drafting

The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024

Procedure: Made negative

2.1 The Committee draws the special attention of both Houses to these Regulations on the grounds that they require elucidation in one respect and are defectively drafted in another respect.

- 2.2** These Regulations define “less healthy food or drink products” for the purposes of restrictions on advertising less healthy food set out in the Communications Act 2003. The Schedule to this instrument sets out categories of less healthy food and drink, which includes at paragraph 12—

Morning goods, including croissants, pains au chocolat and similar pastries, crumpets, pancakes, buns, teacakes, scones, waffles, Danish pastries and fruit loaves.

The Committee was unclear about the intended meaning of the term “morning goods” given that it is accompanied by a non-exhaustive list which includes a series of baked goods but does not include other baked goods, such as bread. Noting that where legislation goes out of its way expressly to include one thing, it can be assumed that it did not intend to include other things of the same kind (a rule sometimes expressed as *expressio unius est exclusio alterius*), the Committee asked the Department for Health and Social Care to explain what is intended to be included within that term.

- 2.3** In a memorandum printed at Appendix 2, the Department explains that the term “morning goods” is intended to have its ordinary meaning and goes onto cite a definition provided by the Oxford English Dictionary which refers to “pastries, scones and other products which are baked and sold fresh each day”. This definition appears to include bread if it is baked and sold fresh each day but given that the Department’s memorandum does not deal with this point expressly (even though the point was specifically mentioned in the Committee’s question to the Department), the Committee remains unclear whether bread is intended to be included. Without this information about the Department’s policy, the Committee is unable to analyse whether the instrument is effective. **The Committee accordingly reports paragraph 12 of the Schedule for requiring elucidation, not provided by the Department’s memorandum.**

- 2.4** The Committee was also unclear about the intended meaning of paragraph 17(c) which refers to—

...products...in or with a sauce (but not a marinade, glaze, dressing, seasoning or similar accompaniment)...

The Committee was unclear about what could come within the meaning of the term “sauce” when marinade, glaze, dressing, seasoning or similar accompaniments are excluded from that term. In its memorandum, the Department again cites a definition from the Oxford English Dictionary that a sauce means “a topping, condiment, or accompaniment for other food, usually fluid in consistency and typically prepared from several ingredients”. The Department refers to some guidance it has published to accompany this instrument. As non-statutory guidance, the Committee places little weight on this to determine the legal effect of the instrument. The Committee has

also noted many times that where legislation has been drafted so as to leave areas of uncertainty, non-statutory guidance cannot be used to fill those gaps as if it were the law itself (for example, the Committee’s First Special Report of Session 2021-22, Rule of Law Themes from COVID-19 Regulations, at paragraphs 55 to 58). However, even for the purposes of determining the Department’s intentions, the guidance only states that “it is the sauce...that defines these products” without explaining what that could mean in this context.

- 2.5** In the Committee’s view, a drafting approach that uses a term and then excludes almost all content from that term is likely to have the result of creating uncertainty about what that term means. In this case, the Committee’s concern remains that that given what is excluded from the term (in particular “similar accompaniments”) there does not appear to be much left for the term “sauce” to cover. **The Committee accordingly reports paragraph 17(c) of the Schedule for defective drafting.**

3 S.I. 2024/1273: Reported for unjustifiable delay

The Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) Order 2024

Procedure: Not subject to parliamentary procedure

- 3.1** **The Committee draws the special attention of both Houses to this Order on the ground that there was unjustifiable delay in notifying the Speaker of the House of Commons and the Lord Speaker that the instrument came into force before it was laid before Parliament.**
- 3.2** This Order updates certain of the forms to be used in parliamentary elections and recall petitions in Wales. The Committee noticed that the instrument was laid before Parliament on the same day that it was stated to come into force (4 December 2024). Section 4(a) of the Interpretation Act 1978 provides that, where an instrument is said to come into force on a particular day, it comes into force at the beginning of that day. As a result, this instrument came into force at the beginning of 4 December 2024, before it was then laid before Parliament later that day. In these circumstances, the Committee asked the Ministry of Housing, Communities and Local Government to confirm whether the requirements of the proviso to section 4(1) of the Statutory Instruments Act 1946, which apply where an instrument comes into force before it is laid, had been complied with.

- 3.3** In a memorandum printed at Appendix 3, the Department explains that it was intended that the coming into force of this instrument should align with the coming into force of a related instrument (S.I. 2024/1275), which also came into force on 4 December 2024. The Department acknowledges that, as this instrument was only laid on 4 December 2024, it did indeed therefore come into force shortly before it was laid. The Committee notes that the Department did eventually write to the Speaker of the House of Commons and the Lord Speaker on 28 January 2025 in accordance with section 4(1) of the 1946 Act. Whilst the Department acknowledges that the delay in writing this letter, in the Committee’s view this delay was significant and unjustified. **The Committee accordingly reports this Order for an unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, acknowledged by the Department.**

4 S.I. 2024/1281: Reported for requiring elucidation

The International Waste Shipments (Amendment) Regulations 2024

Procedure: Made negative

- 4.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they require elucidation in one respect.**
- 4.2** These Regulations contain amendments to reflect updates to the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal. They are made under powers in Regulation (EC) No 1013/2006 (“Regulation 1013”), which now forms part of assimilated law. The starting point is that assimilated law extends to the whole of the United Kingdom (in other words, it is part of the law of the three legal jurisdictions of England and Wales, Scotland and Northern Ireland). On that basis, the Committee was unclear why this instrument did not extend to Northern Ireland, and asked the Department for Environment, Food and Rural Affairs to explain.
- 4.3** In a memorandum printed at Appendix 4, the Department explains that because Regulation 1013 is included in Annex 2 of the Windsor Framework the EU law version of that Regulation applies and has practical effect in Northern Ireland. As a result, the assimilated law version does not apply in Northern Ireland. However, despite this, the assimilated law version of the Regulation does still extend to the legal jurisdiction of Northern Ireland as a result of section 3 of the European Union (Withdrawal) Act 2018. The Committee notes that this creates a complex position whereby there are two

different versions of the same Regulation – one operating for the purposes of domestic law and one operating for the purposes of the Windsor Framework – both of which extend and apply in different ways.

- 4.4** However, it appears to the Committee that if the intention behind this instrument was to ensure that the amendments made by it do not apply to Northern Ireland, this has been achieved by limiting its extent to just England and Wales and Scotland. The Committee was therefore confused by the Department’s memorandum which refers to an “oversight” in this instrument, given that it appears that the instrument achieves the Department’s policy intention. The oversight could be that regulation 1(3) should have extended the instrument to the whole of the United Kingdom and then noted elsewhere that despite forming part of the law of the United Kingdom, its practical effect did not apply in Northern Ireland because of the Windsor Framework. The Committee would have found it helpful to have further clarity from the Department’s memorandum on this point.
- 4.5** The Committee considers that, where there are complex issues of extent and application, particularly in respect of matters relating to devolution and other arrangements, it is helpful for these to be explained clearly in the Explanatory Memorandum in the first instance, or otherwise in a Department’s memorandum to the Committee. **The Committee accordingly reports this instrument for requiring elucidation, partly provided by the Department’s memorandum.**

5 S.I. 2024/1303: Reported for doubtful vires

The Companies (Accounts and Reports) (Amendment and Transitional Provision) Regulations 2024

Procedure: Made negative

- 5.1** **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.**
- 5.2** These Regulations amend the turnover and balance sheet threshold criteria that determine the size categorisation of companies for the purpose of certain reporting requirements under the Companies Act 2006. They also apply the updated criteria in respect of Limited Liability Partnerships (“LLPs”) and include transitional provision such that when qualification for a particular company or LLP size is considered by reference to a previous financial year, the amendments made by these Regulations are treated as having applied in those previous years. The Committee noticed that while the preamble to the instrument cites the specific power enabling

transitional provision in respect of LLPs (section 17(3) of the Limited Liability Partnerships Act 2000), the equivalent provision for companies (section 1292(1)(c) of the Companies Act 2006) is not cited. The Committee asked the Department for Business and Trade to explain.

- 5.3** In a memorandum printed at Appendix 5, the Department agrees that the Regulations contain provision that is transitional and consequential on the Companies Act 2006 and that section 1292(1) of that Act should have been cited as an enabling power. The preamble to an instrument is evidence of the powers relied on in the making of that instrument. If the preamble fails to cite all powers needed to cover its content, this can give rise to a doubt as to whether its provisions are *intra vires*. **The Committee accordingly reports regulation 3 for doubt as to whether it is *intra vires*, acknowledged by the Department.**

6 S.I. 2024/1306 Reported for failure to comply with proper legislative practice

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) 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 amend the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) in respect of the persons and organisations to whom the Financial Conduct Authority may disclose certain confidential information. The Committee noticed that the Explanatory Memorandum for this instrument explains that part of its purpose in making these amendments is to “rectify a drafting deficiency” in S.I. 2001/2188, that had been introduced by another amending instrument in 2018 (S.I. 2018/1253). Current legislative practice requires that, where an instrument introduces new amending provisions at the same time as correcting a defective instrument, the Department should consult with the S.I. Registrar as to whether to provide free replacement copies of the instrument to everyone who received the original instrument. The Committee asked the Treasury to explain whether this consultation took place.

- 6.3** In a memorandum printed at Appendix 6, the Department explains that it had not consulted with the S.I. Registrar regarding use of the free issue procedure while the instrument was being prepared, and apologises for this oversight. It has now consulted with the Registrar and the free issue procedure will be followed. **The Committee accordingly reports this instrument for failure to comply with proper legislative practice, acknowledged by the Department.**

7 S.I. 2024/1319: Reported for defective drafting

The Medicines (Gonadotrophin-Releasing Hormone Analogues) (Restrictions on Private Sales and Supplies) Order 2024

Procedure: Made negative

- 7.1 The Committee draws the special attention of both Houses to this Order on the ground that it is defectively drafted in one respect.**
- 7.2** This Order restricts, with limited exceptions, the sale or supply of gonadotrophin-releasing hormone analogues (known also as puberty blockers, and referred to in the instrument as GnRH analogues). The instrument replaces earlier Orders (S.I. 2024/727, S.I. 2024/868 and S.I. 2024/1110), which were made in similar terms, but with limited duration pending the completion of consultation as is required under sections 62 and 129 of the Medicines Act 1968 before the introduction of an indefinite prohibition.
- 7.3** The Committee noticed that the drafting in articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) that refers to the need for verification of the age and identity of “the person to or for whom the GnRH analogue is to be sold or supplied” is different to the words used in articles 6(2), 7(2) and 8(2) (which refer to the “patient in respect of whom it [a prescription] is issued”). The Committee was unclear as to whether the different drafting between these provisions was intentional, given that the drafting in the former case might be read to refer to someone purchasing the medicine on behalf of the patient, rather than the patient themselves. The Committee asked the Department of Health and Social Care to explain.
- 7.4** In a memorandum printed at Appendix 7, the Department explains that the intention of the drafting in articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) is that they should be understood as referring to the age and identity of the patient, and not someone purchasing the medicine on behalf of the

patient. While the Department suggests that it would expect a purposive interpretation to be applied to these provisions as they are currently drafted, such that they would be construed in line with this intention, it undertakes to amend the drafting to deal with the inconsistency when a suitable opportunity arises. The Committee's view is that relying on a purposive interpretation to save ambiguous drafting is not a proper substitute for drafting that fulfils the requirements of reasonable legislative clarity and certainty. It therefore welcomes the Department's commitment to amend the ambiguity in this instance. The Committee accordingly reports articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) for defective drafting, acknowledged by the Department.

8 S.I. 2024/1375: Reported for failure to comply with proper legislative practice

Power to Award Degrees etc. (Warwickshire College) Order of Council 2014 (Amendment) Order 2024

Procedure: Not subject to parliamentary procedure

- 8.1 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.**
- 8.2** This Order amends the Power to Award Degrees etc. (Warwickshire College) Order of Council 2014 which is a Privy Council Order not made by statutory instrument. The Order is not included on the legislation.gov or the Privy Council's websites and no indication is given in this Order of where it can be found. The Committee, noting that the same issue had been raised in respect of S.I. 2024/1171 as reported in its 12th Report of Session 2024-25, asked the Office for Students to explain.
- 8.3** In a memorandum printed at Appendix 8, the Department explains the making of this instrument pre-dated the Committee's earlier report in relation to S.I. 2024/1171. The Department undertakes, as for S.I. 2024/1171, to issue a correction slip to the Explanatory Note to this Order stating how copies of the Privy Council Order being amended may be obtained (in this case, on request from the Privy Council website). The Committee notes that the Department further undertakes to ensure in future cases that statutory instruments making reference to Privy Council Orders contain information about how those orders can be located. Without such information, it is unnecessarily difficult for users to understand legislation, especially where

the instrument being amended is not available from the usual sources. **The Committee accordingly reports this Order for failure to comply with proper legislative practice, acknowledged by the Department.**

Instruments not reported

At its meeting on 5 February 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	Child Benefit and Guardian's Allowance Up-rating Order 2025
Draft	Flood Reinsurance (Amendment) Regulations 2025
Draft	Social Security Benefits Up-rating Order 2025
Draft	Social Security (Contributions) (Rates, Limits and Thresholds Amendments, National Insurance Funds Payments and Extension of Veteran's Relief) Regulations 2025
Draft	Guaranteed Minimum Pensions Increase Order 2025
Draft	Immigration and Nationality (Fees) (Amendment) Order 2025
Draft	Higher Education (Fee Limits and Fee Limit Condition) (England) (Amendment) Regulations 2025
Draft	Neonatal Care Leave and Miscellaneous Amendments Regulations 2025
Draft	Statutory Neonatal Care Pay (General) Regulations 2025
Draft	Immigration (Biometric Information etc.) (Amendment) Regulations 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2024/1283	The Tribunal Procedure (Amendment No. 2) Rules 2024
S.I. 2024/1285	The First-tier Tribunal and Upper Tribunal (Chambers) (Amendment No. 2) order 2024
S.I. 2024/1293	The Aviation Security (Amendment) (No. 2) Regulations 2024
S.I. 2024/1296	The Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 2024
S.I. 2024/1309	The Housing (Right to Buy or Acquire) (Designated Rural Areas etc.) (England) Order 2024
S.I. 2024/1312	The Road Vehicles (Construction and Use) (Amendment) (No. 2) Regulations 2024
S.I. 2024/1313	The Immigration and Nationality (Fees) (Amendment) (No. 2) Regulations 2024
S.I. 2024/1322	The Family Procedure (Amendment No. 2) Rules 2024
S.I. 2024/1323	The Government Resources and Accounts Act 2000 (Estimates and Accounts) (Amendment) Order 2024
S.I. 2024/1369	The Misuse of Drugs and Misuse of Drugs (Designation) (England and Wales and Scotland) (Amendment) (No. 2) Regulations 2024
S.I. 2025/3	The Social Security (Miscellaneous Amendments) Regulations 2025
S.I.2025/5	The Rent Officers (Housing Benefit and Universal Credit Functions) (Modification) Order 2025
S.I. 2025/11	The Public Lending Right Scheme 1982 (Commencement of Variation) Order 2025
S.I.2025/13	The Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025
S.I. 2025/17	The Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2025
S.I. 2025/27	The Electricity (Individual Exemption from the Requirement for a Transmission Licence) (Dogger Bank A) Order 2025

S.I. Numbers	S.I. Title
S.I. 2025/36	The Firearms (Variation of Fees) Order 2025
S.I.2025/42	The School and Early Years Finance (England) Regulations 2025

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	The Thurrock (Electoral Changes) Order 2025
Draft	The Walsall (Electoral Changes) Order 2025

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2024/1326	The Veterinary Surgeons (Examination of Commonwealth and Foreign Candidates) Regulations Order of Council 2024
S.I. 2024/1333	Online Safety Act 2023 (Commencement No.4) Regulations 2024
S.I.2025/41	The Neonatal Care (Leave and Pay) Act 2023 (Commencement No. 2) Regulations 2025

Appendix 1: Memorandum from the Home Office

S.I. 2024/1227

The Immigration and Police (Passenger, Crew and Service Information) Order 2024

1. The Committee has asked the Home Office for a memorandum on the following point(s):
 - In relation to article 3(4)—*
 - i. *in relation to sub-paragraph (a), given that it appears that the required information must be provided before the beginning of the relevant period, which appears to begin with the provision of the required information (article 3(6)(a)), explain how it is possible to provide the information before that period begins; and*
 - ii. *in relation to sub-paragraph (b), given that it appears that the relevant information must be provided before (rather than after) a point in time when it is no longer possible for any further passengers or crew to board the service prior to its departure, explain whether this achieves the policy intention.*
2. In respect of (i), the drafting is intended to convey that a sufficient period must be allowed for authority to carry (“ATC”) to be sought (which is done by the provision of the required information) and, when necessary, refused. The required information must be provided before the start of the “sufficient period”. It could therefore be provided before that period begins. For example, an air carrier could send it 24 hours before departure, which would certainly allow sufficient time for the ATC process to be completed. Article 3(4)(a) is designed to address services where passengers would otherwise be allowed to board very close to departure, which does not allow sufficient time for the ATC process to be completed. Without article 3(4)(a), there would be a risk that the required information would be provided too late, and that Border Force would not have the opportunity to refuse carriers ATC to persons of concern.

3. In respect of (ii), the policy intention is that there is a clear line where ATC must be sought for the service. Without a cut-off, the carrier could continue to add more passengers. We do not accept that the timing of sub-paragraph (b) will always fall after sub-paragraph (a); as closing of the doors could occur before the beginning of the “sufficient period”. Without article 3(4)(b), there could be insufficient time for the operator to comply with a refusal of ATC and offload the individual. For example, once boarding has closed, it can be difficult for an operator to identify passengers (particularly, on ferries). If the information was not provided prior to this point, it would make the desired practical outcome of ATC refusals extremely difficult. It is therefore considered that the drafting ensures that the policy intention is achieved, given the important role the ATC scheme plays in respect of border security.

Home Office

28 January 2025

Appendix 2: Memorandum from the Department of Health and Social Care

S.I. 2024/1266

The Advertising (Less Healthy Food Definitions and Exemptions) Regulations 2024

1. The Committee has asked the Department of Health and Social Care for a memorandum on the following point(s):

In relation to the Schedule—

1. *as the list in paragraph 12 is non-exhaustive (given the use of the word “including”), explain the intended meaning of “morning goods” (and, in particular, how a user is expected to know whether other typical morning goods (for example, bread) are intended to come within that term);*
 2. *explain the intended meaning of “sauce” in paragraph 17(c) (noting that marinades, glazes, dressings, seasonings and similar accompaniments are excluded from that term).*
2. Both terms are intended to have their ordinary meaning. The Oxford English Dictionary defines “morning goods” as “pastries, scones, and other products which are baked and sold fresh each day” and the term is commonly understood as such. The Department of Health and Social Care has published guidance¹ which provides illustrative examples about the categories listed in the Schedule.

¹ Department of Health and Social Care (2024) Restricting advertising of less healthy food or drink on TV and online: products in scope: <https://www.gov.uk/government/publications/restricting-advertising-of-less-healthy-food-or-drink-on-tv-and-online-products-in-scope/restricting-advertising-of-less-healthy-food-or-drink-on-tv-and-online-products-in-scope>

3. Similarly “sauce” is defined in the Oxford English Dictionary as “a topping, condiment, or accompaniment for other food, usually fluid in consistency and typically prepared from several ingredients”. Again, the Department’s guidance provides further detail.
4. Both terms “morning goods” and “sauce” are in common use, including in legislation (categories 8 and 13(2) in Schedule 1 to the Food (Promotion and Placement) (England) Regulations 2021 (S.I. 2021/1368)). The terms are not intended to have a meaning different to their dictionary definition and are also widely understood within the food sector.

Department of Health and Social Care

21 January 2025

Appendix 3: Memorandum from the Ministry of Housing, Communities and Local Government

S.I. 2024/1273

The Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) Order 2024

1. The Committee has asked the Ministry of Housing, Communities and Local Government for a memorandum on the following point(s):

Noting that this instrument was laid before Parliament on the same day that it came into force (4th December 2024), and that where provision is made for an instrument to come into force on a particular day it comes into force at the beginning of that day, explain whether the requirements of section 4(1) of the Statutory Instruments Act 1946 were complied with.

2. The Department acknowledges that the instrument was laid before Parliament on 4th December and therefore, by virtue of section 4(a) of the Interpretation Act 1978, the instrument came into force before it was laid.
3. On 28th January 2025, the Department notified both the Speaker of the House of Commons and the Lords Speaker in accordance with the proviso in section 4(1) of the Statutory Instruments Act 1946, explaining that the timing of laying and coming into force of the instrument was intended to align with the coming into force of the Voter Identification (Amendment of List of Specified Documents) Regulations 2024 (SI 2024 No 1275), to which the instrument relates. However, the Department regrets that this has resulted in the instrument coming into force shortly before it was laid. The Department is also intending to lay a corrected explanatory memorandum to accompany the instrument, reflecting this additional information.

4. The Department acknowledges the delay in complying with the proviso in section 4(1) of the Statutory Instruments Act 1946 in respect of this instrument, for which the Department apologises to the Committee.
5. We thank the Committee for drawing this issue to the Department's attention.

Ministry of Housing, Communities and Local Government

28 January 2025

Appendix 4: Memorandum from the Department for Environment, Food and Rural Affairs

S.I.2024/1281

The International Waste Shipments (Amendment) Regulations 2024

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

Explain why this instrument extends only to England and Wales and Scotland, and not to Northern Ireland.
2. Regulation (EC) No 1013/2006 is covered by Annex 2 of the Windsor Framework and therefore the assimilated version of this Regulation does not apply in Northern Ireland. However, the Department accepts that Regulation (EC) No 1013/2006 and Regulation (EC) 1418/2007 (which relates to powers exercisable under Article 37 of Regulation (EC) No 1013/2006) were incorporated into domestic law as direct EU legislation under section 3 of the European Union (Withdrawal) Act 2018 as a matter of UK law. The Department apologises for the oversight and is considering further how best to deal with it in a suitable future legislative vehicle.

Department for Environment, Food and Rural Affairs

28 January 2025

Appendix 5: Memorandum from the Department for Business and Trade

S.I. 2024/1303

The Companies (Accounts and Reports) (Amendment and Transitional Provision) Regulations 2024

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

Noting that this instrument makes provision that appears to be transitional and consequential on the Companies Act 2006 (see, for example, regulation 3), explain why section 1292(1) of the Companies Act 2006 is not cited as an enabling power.

2. We agree that the Regulations contain provision that is transitional and consequential on the Companies Act 2006 and that section 1292(1) of that Act should have been cited as an enabling power.
3. We thank the Committee for drawing this matter to our attention.

Department for Business and Trade

28 January 2025

Appendix 6: Memorandum from HM Treasury

S.I.2024/1306

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2024

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

Noting, as set out in paragraph 6.5 of the Explanatory Memorandum, that this instrument corrects an error in the deficiency of the drafting of S.I. 2001/2188, introduced by S.I. 2018/1253, explain whether the S.I. Registrar was consulted as to whether the free issue procedure should apply.

2. HM Treasury apologises to the Committee for its oversight in not consulting the S.I. Registrar about the free issue procedure at the time the S.I. was being prepared. This has now been done.
3. HM Treasury will now ask National Archives to issue corrected reprints of the S.I. under the free issue procedure and for refunds to be issued to purchasers of SI 2024/1306.

HM Treasury

28 January 2025

Appendix 7: Memorandum from the Department of Health and Social Care

S.I. 2024/1319

The Medicines (Gonadotrophin-Releasing Hormone Analogues) (Restrictions on Private Sales and Supplies) Order 2024

1. The Committee has asked the Department of Health and Social Care for a memorandum on the following points:

Noting the definition of “sale” and “supply” in this instrument, explain—

 - i. *whether the reference to verification of the age and identity of “the person to or for whom the GnRH analogue is to be sold or supplied” in articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) is intended to refer to only the patient in respect of whom the medicine is supplied (as they are described in articles 6(2), 7(2) and 8(2)) as opposed to someone purchasing the medicine on behalf of the patient; and*
 - ii. *if so, whether the different wording between those provisions is intentional.*
2. The intention is that the reference to verification of age and identity in articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) is to be understood as referring to the age and identity of the patient, as opposed to of someone purchasing the medicine on behalf of the patient.
3. Given the nature of the age restrictions in articles 6(2), 7(2) and 8(2), the Department considers that the intention of the verification arrangements is clear – and we would expect the relevant references to “...the person to or

for whom the GnRH analogue is to be sold or supplied...” to be construed in accordance with the Department’s intentions, applying a purposive construction.

4. Nevertheless, the Department intends, when a suitable opportunity arises, to amend articles 6(3)(b) and (4), 7(3)(b) and 8(3)(b) so that they refer instead to “...the patient in respect of whom the GnRH analogue is to be sold or supplied...” (amendment highlighted). This would deal with the inconsistency highlighted by the Committee.
5. The Department thanks the Committee for drawing this matter to its attention.

Department of Health and Social Care

28 January 2025

Appendix 8: Memorandum from the Office for Students

S.I. 2024/1375

Power to Award Degrees etc. (Warwickshire College) Order of Council 2014 (Amendment) Order 2024

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

Explain why this Order does not provide information that allows the instrument being amended by this Order to be located.
2. The Office for Students acknowledges the error and it is grateful to the Committee for pointing it out. We note that the Committee raised a similar query with us in relation to S.I. 2024/1171 (which has been reported on in the Committee’s report published on 24 January 2025 (Twelfth Report of Session 2024–25)). S.I. 2024/1375 pre-dates us resolving that query. We have since changed our practices.
3. We intend to correct this error by issuing a correction slip to the explanatory note for S.I. 2024/1375 containing details on how to obtain the Privy Council Order on request from the Privy Council website, in the following link, Orders of Council - Privy Council.
4. The Office for Students would be grateful to receive any comments from the Committee on its proposed approach. In future cases, we intend to ensure that statutory instruments making reference to Privy Council Orders contain information about how those orders can be located.

The Office for Students

27 January 2025

Formal Minutes

Wednesday 5 February 2025

Members present

Sir Bernard Jenkin, in the Chair

Lewis Atkinson

Lord Brady of Altrincham

Claire Hughes

Lord Kakkar

Charlie Maynard

Gordon McKee

Lord Meston

Ms Julie Minns

Lord Sahota

Baroness Sater

Lord Watson of Wyre Forest

Report consideration

Draft Report (Thirteenth 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 8.3 read and agreed to.

Annex agreed to.

Eight papers were appended to the Report as Appendices 1 to 8.

Resolved, That the Report be the Thirteenth 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 12 February at 3.40 p.m.