



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Fifteenth Report of Session 2024-25

HC 291-xv / HL Paper 86

Drawing special attention to:

*The Leasehold and Freehold Reform Act 2024 (Commencement
No. 2 and Transitional Provision) Regulations 2025*

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; Life peer)

[Lord Kakkar](#) (Crossbench; Life peer)

[Lord Meston](#) (Crossbench; Excepted Hereditary)

[Lord Sahota](#) (Labour; Life peer)

[Baroness Sater](#) (Conservative; Life peer)

[Lord Watson of Wyre Forest](#) (Labour; Life peer)

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.74, 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 26 February 2025, to be printed.

It was published on 28 February 2025. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

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Contacts

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Instruments reported

At its meeting on 26 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 one of those considered. The instrument and the grounds for reporting are given below. The relevant departmental memoranda are published as appendices to this report.

1 S.I. 2025/57: Reported for defective drafting

*The Leasehold and Freehold Reform Act 2024
(Commencement No. 2 and Transitional Provision)
Regulations 2025*

Procedure: Not subject to parliamentary procedure

- 1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**
- 1.2** These Regulations bring into force section 27 of the Leasehold and Freehold Reform Act 2024 on 31 January 2025. This removes the two-year qualifying period for leasehold enfranchisement and lease extension claims. Regulation 3 makes transitional provision modifying the wording in two prescribed forms which refer to the two-year qualifying period. The instrument is silent as to when the transitional provision comes into force and therefore, in the absence of a specific commencement date, regulation 3 came into force on the date the instrument was made, 22 January 2025. This pre-empted the coming into force of section 27 by 9 days resulting in a period when the forms were incorrect. The Committee asked the Ministry of Housing, Communities and Local Government to explain the discrepancy.
- 1.3** In a memorandum printed at Appendix 1 the Department agrees that regulation 3 comes into force before the date of commencement of section 27. The Department goes on to assert that the power to make transitional provision in section 124(4) of the same Act provides that it must be “in connection with the coming into force of any provision of this Act” and

suggests that arguably, the commencement of regulation 3 is tied to the commencement of section 27 on 31 January 2025. The Department further asserts that despite this error, the intent would be clear to the reader, as it would not make sense to amend the forms before the commencement of section 27.

- 1.4 The Committee does not agree with the Department that the error would not have made a difference during the 9-day period and reminds the Department that the correct interpretation of legislation is not derived from arguments based on the law that the Department wished it had made, rather than the law it actually made. In the Committee's view the forms were defective for that period. Furthermore, a reader of legislation should not be left to make sense of an instrument when its legal effect is at odds with what the Department says was its intention in making the instrument. However, the Committee notes that the error created an issue for a finite period which has now passed and it agrees with the Department that it is unnecessary to correct the instrument at this point in time. **The Committee accordingly reports regulation 3 for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 26 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. Number	S.I. Title
Draft	National Minimum Wage (Amendment) Regulations 2025
Draft	Industrial Training Levy (Construction Industry Training Board) Order 2025
Draft	Civil Proceedings and Magistrates' Courts Fees (Amendment) Order 2025
Draft	Infected Blood Compensation Scheme Regulations 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2025/39	The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2025
S.I.2025/44 ¹	The Social Security (Income and Capital Disregards) (Amendment) Regulations 2025

¹ The Committee requested a Memorandum on this instrument and a satisfactory response was received. The Memorandum is printed at Appendix 2.

S.I. Numbers	S.I. Title
S.I. 2025/82	The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) Regulations 2025
S.I. 2025/92	The Sea Fisheries (Amendment) (England) Regulations 2025
S.I. 2025/93	The Financial Services and Markets Act 2023 (Digital Securities Sandbox) (Amendment) Regulations 2025
S.I. 2025/110	The Payment and Electronic Money Institution Insolvency (Scotland) (Amendment) Rules 2025

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2025/51	The Income Tax (Indexation of Qualifying Care Relief Amounts) Order 2025
S.I. 2025/53	The Income Tax (Indexation of Blind Person's Allowance and Married Couple's Allowance) Order 2025

Appendix 1: Memorandum from the Ministry of Housing, Communities and Local Government

S.I. 2025/57

The Leasehold and Freehold Reform Act 2024 (Commencement No. 2 and Transitional Provision) Regulations

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

Noting that regulation 3 appears to have come into force when this instrument was made (22nd January 2025), explain whether it was the intention that Forms 1 and 2 should be modified 9 days before the coming into force of section 27 of the Leasehold and Freehold Reform Act 2024?

2. The Department has reviewed the drafting of the Leasehold and Freehold Reform Act 2024 (Commencement No. 2 and Transitional Provision) Regulations 2025. We agree that it appears that its effect is that regulation 3 comes into force before the date of commencement of section 27 of the Leasehold and Freehold Reform Act 2024 (the Act) under regulation 2, which was not the intent.
3. The Department apologises for the error.
4. We note that the power to make transitional provision in section 124(4) of the Act provides that it must be “in connection with the coming into force of any provision of this Act”. Accordingly, there is an argument that the commencement of regulation 3 is tied to the commencement of section 27 of the Act on 31st January. In any event, we think the intent would be

clear to the reader, i.e. that regulation 3 should apply once section 27 has come into force. It would not make sense to amend the forms before the commencement of section 27.

5. The Department is grateful to the Committee for drawing this point to its attention. However, we do not believe that it would be possible to correct the error as it is now in the past. It was only an issue in the period before 31 January when section 27 of the Act came into force. Now that section 27 is in force, the measure works as intended.

Ministry of Housing, Communities and Local Government

10 February 2025

Appendix 2: Memorandum from the Department of Work and Pensions

S.I. 2025/44

The Social Security (Income and Capital Disregards) (Amendment) Regulations 2025

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

Given that the repeal of section 4(2) of the Welfare Reform Act 2007 has been commenced for particular purposes (in relation to which around 100 instruments have been made since 2013), explain the particular purposes for which section 4(2) remains available to make this instrument.

2. Section 4(2) of the Welfare Reform Act 2007 (“the 2007 Act”) remains available to make S.I. 2025/44 for the purposes of all persons who presently remain on income-related employment and support allowance.
3. Section 4(2) is the enabling provision for regulation 8(6) of S.I. 2025/44: it amends paragraph 19 of Schedule 6 to the Employment and Support Allowance Regulations 2008 (S.I. 2008/794), which concerns the calculation of the ‘applicable amount’ of an income-related employment and support allowance.
4. Section 4(2) remains in force to a significant extent. Schedule 14 to the Welfare Reform Act 2012 (“the 2012 Act”) repeals s 4 of the 2007 Act. The commencement of that repeal has been, and continues to be, effected on a staged basis through a sequence of orders under s 150(3) of the 2012 Act. Those orders have not yet completed the repeal.
5. There is a large cohort of people who remain in receipt of the income-related allowance to which s 4 of the 2007 Act refers. These people are gradually being migrated to universal credit pursuant to the procedure in Part 4 of the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) and in accordance with a timetable determined by the

Government. As each such person makes a claim for universal credit, the repeal of s 4 of the 2007 Act will come into effect for that person's 'case': see, for example, article 4 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I. 2013/983 – the No. 9 Order).

6. However, until each such person in the cohort makes a claim for universal credit, or otherwise has their allowance terminated, there is nothing to trigger an order under s 150(3) of the 2012 Act that repeals s 4 of the 2007 Act as it applies to the person's case. For each such person it is necessary to ensure that compensation under the LGBT Financial Recognition Scheme is disregarded in the calculation of their income and capital for employment and support allowance purposes. This requires the Secretary of State to exercise the enabling power in s 4(2) in the way that it is usually exercised in similar circumstances (see, for example, S.I. 2021/1405 and S.I. 2023/640).

Department for Work and Pensions

11 February 2025

Formal Minutes

Wednesday 26 February 2025

Members present

Sir Bernard Jenkin, in the Chair

Lord Brady of Altrincham

Claire Hughes

Gordon McKee

Lord Meston

Ms Julie Minns

Baroness Sater

Lord Watson of Kidderminster

Report consideration

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

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

Paragraphs 1.1 to 1.4 read and agreed to.

Annex agreed to.

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

Resolved, That the Report be the Fifteenth Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Adjournment

Adjourned till Wednesday 5 March at 3.40 p.m.

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

Session 2024–25

Number	Title	Reference
14th	No Statutory Instruments Reported	HC 291-xiv
13th	8 Statutory Instruments Reported	HC 291-xiii
12th	2 Statutory Instruments Reported	HC 291-xii
11th	2 Statutory Instruments Reported	HC 291-xi
10th	2 Statutory Instruments Reported	HC 291-x
9th	2 Statutory Instruments Reported	HC 291-ix
8th	4 Statutory Instruments Reported	HC 291-viii
7th	1 Statutory Instrument Reported	HC 291-vii
6th	4 Statutory Instruments Reported	HC 291-vi
5th	5 Statutory Instruments Reported	HC 291-v
4th	2 Statutory Instruments Reported	HC 291-iv
3rd	10 Statutory Instruments Reported	HC 291-iii
2nd	No Statutory Instruments Reported	HC 291-ii
1st	2 Statutory Instruments Reported	HC 291-i