



House of Lords  
House of Commons

Joint Committee on Statutory Instruments

# Eighteenth Report of Session 2024-25

HC 291-xviii / HL Paper 99

Drawing special attention to:

*The Civil Procedure (Amendment) Rules 2025*

*The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2025*

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# 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)

[Rachel Blake](#) (Labour; Cities of London and Westminster)

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

[Andrew Pakes](#) (Labour; Peterborough)

[David Pinto-Duschinsky](#) (Labour; Hendon)

[Gareth Snell](#) (Labour; Stoke-on-Trent Central)

## 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 19 March 2025, to be printed.

It was published on 21 March 2025. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

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## Contacts

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# Instruments reported

At its meeting on 19 March 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. 2025/106: Reported for requiring elucidation

### *The Civil Procedure (Amendment) Rules 2025*

*Procedure: Made negative*

- 1.1 The Committee draws the special attention of both Houses to these Rules on the ground that they require elucidation in one respect.**
- 1.2** These Rules make various amendments to the Civil Procedure Rules 1998 (S.I. 1998/3132), with the Schedule to the Rules introducing a revised Part 25 of the Civil Procedure Rules (interim remedies). The new rule 25.27 details the circumstances in which the court may make an order for security for costs, which is an order made where there are concerns that a losing claimant may not be able to reimburse the defendant’s legal costs. Rule 25.27 refers to the types of claimants that can be made subject to such an order, which includes where—

*The claimant is acting as a nominal claimant, other than as a representative claimant under Part 19, and there is reason to believe that they will be unable to pay the defendant’s costs if ordered to do so (rule 25.27(b)(v))*

The Committee was unclear about the intended meaning of the term “nominal claimant”, noting that this appears to apply to the claimant acting other than as a representative claimant under Part 19. The Committee asked the Ministry of Justice to explain what is intended to be included within that term.

- 1.3** In a memorandum printed at Appendix 1, the Department explains that the meaning of “nominal claimant” is case-specific and cites some case-law where the issue has been considered by the courts (including *Chuku v Chuku* [2017] EWHC 541 (Ch) and *Tamiz v Offley* [2022] EWHC 305 (QB)). The Department explains that the decision as to whether or not to include a definition of “nominal claimant” was considered by the Civil Procedure Rules Committee as this point was also raised at the consultation stage but it was ultimately decided that it would rely on the body of case law in an effort to avoid inadvertently altering the meaning by inserting a definition. However, the Department goes on to say that the term “nominal” is capable of everyday interpretation.
- 1.4** In the Committee’s view, having reviewed the case-law drawn to its attention by the Department’s memorandum, the term “nominal claimant” has a technical legal meaning which justifies not including a definition for the reasons the Department gives (see further Bennion (7th ed) at 22.5). The Committee notes the Department’s approach and **accordingly reports rule 25.27(b)(v) for requiring elucidation, provided by the Department’s memorandum.**

## **2 S.I. 2025/128: Reported for failure to comply with proper legislative practice**

### *The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2025*

*Procedure: Not subject to Parliamentary procedure*

- 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 amends the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, which makes provision for pensions and other awards in respect of disablement or death due to service before 6th April 2005 in the naval, military and air forces. The tables at Schedule 4 to this Order refer to three orders and a Royal Warrant from 1920 and 1921 none of which are included on the legislation.gov website and no information is given in this Order about where they can be found. The Committee asked the Ministry of Defence to provide further details as to how they can be accessed.

- 2.3** In a memorandum printed at Appendix 2, the Department explains that the benefits payable under these instruments are payable in respect of service during the First World War and therefore no new awards have been made under these instruments for many years, albeit the Department has not been able to establish how many individuals are currently in receipt of pensions under the instruments. The Department annexed to its memorandum copies of two of the orders and the Royal Warrant referred to but could not trace a copy of the third order.
- 2.4** Whilst the Committee acknowledges that it may be the case that very few pensions remain payable under the instruments, the Committee reiterates that where a document is given a significance in legislation, availability details should be given in the instrument itself for both electronic and hard copies (or for hard copies alone where the document is not available electronically) (see First Special Report of Session 2017–19, Transparency and Accountability in Subordinate Legislation at paragraphs 4.6 to 4.8). As suggested by the Department in its memorandum, enquiries should be made to locate the missing order. **The Committee accordingly reports this Order for failure to comply with proper legislative practice.**



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# Instruments not reported

At its meeting on 19 March 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.

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## Annex

### Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025

### Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I.2025/127	The Excise Duties (Miscellaneous Amendments and Revocations) (Amendment) Regulations 2025
S.I.2025/130	The RTM Companies (Model Articles) (England) (Amendment) Regulations 2025
S.I.2025/138	The Motor Vehicles (Driving Licences) (Amendment) Regulations 2025
S.I.2025/144	The Social Security (Contributions) (Amendment) Regulations 2025
S.I.2025/159	The Elections (Policy Development Grants Scheme) Order 2025

<b>S.I. Numbers</b>	<b>S.I. Title</b>
<b>S.I.2025/201</b>	The Neonatal Care Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2025
<b>S.I.2025/216</b>	The Unauthorised Co-ownership Alternative Investment Funds (Reserved Investor Fund) Regulations 2025
<b>S.I.2025/218</b>	The Armed Forces (Discharge and Transfer to the Reserve Forces) (Amendment) Regulations 2025
<b>S.I.2025/220</b>	The Enterprise Act 2002 (Bodies Designated to make Super-complaints) (Amendment) Order 2025
<b>S.I.2025/221</b>	The Medical Profession (Responsible Officers) (Amendment) Regulations 2025
<b>S.I.2025/236</b>	The Wildlife Licence Charges (England) Order 2025
<b>S.I.2025/239</b>	The Oil and Gas Authority (Levy and Fees) Regulations 2025

## **Draft instruments subject to annulment**

<b>S.I. Numbers</b>	<b>S.I. Title</b>
<b>Draft</b>	The Barnsley (Electoral Changes) Order 2025
<b>Draft</b>	The Wakefield (Electoral Changes) Order 2025

## **Instruments not subject to Parliamentary proceedings not laid before Parliament**

<b>S.I. Numbers</b>	<b>S.I. Title</b>
<b>S.I.2025/120</b>	The Judicial Committee (Cayman Islands) Order 2025
<b>S.I.2025/225</b>	The Protection of Trading Interests (Authorisation) (Amendment) Regulations 2025

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# Appendix 1: Memorandum from the Ministry of Justice

## S.I. 2025/106

### *The Civil Procedure (Amendment) Rules 2025*

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

*In relation to rule 25.27(b)(v), explain the intended meaning of “nominal claimant” (noting that this appears to apply to the claimant acting other than as a representative claimant under Part 19).*
2. The amending S.I. replaces current Part 25 of the Civil Procedure Rules with a new, simplified version of that Part. The above-mentioned rule replicates rule 25.13(2)(f) (including the phrase “nominal claimant”) in the current version of Part 25. The existing rule, in its current form, came into force on 2nd May 2000 and is itself the successor to a previous provision in the Rules of the Supreme Court, Order 23, rule 1(1). The phrase “nominal claimant” only appears in this rule.
3. The meaning of “nominal claimant”, both under Order 23, rule 1(1) (which was a little more descriptive) and the current rule, has been the subject of a line of case law, notably *Chuku v Chuku* [2017] EWHC 541 (Ch), which reviewed various authorities both pre and post the introduction of the current provision and (at paragraph 26) gave guidance on the matter, and latterly, and by way of example, *Sohila Tamiz v Anthony Offley, The Green Bee Ltd.* [2022] EWHC 305 (QB), which considered *Chuku* (at paragraph 67). It is evident from these cases and those which they cite, that the concept of a “nominal claimant” is quite case-specific.
4. Before making new Part 25, the Civil Procedure Rule Committee (CPRC) did consider including a definition of “nominal claimant”, the point having been made by a respondent to the consultation on a draft of that Part. However, the CPRC concluded that the risk of inadvertently cutting across existing case law militated against it. That was consistent with the remit of the simplification work recently undertaken by the CPRC, so as not to alter substantive procedure, but rather, in this case, to continue to use the term

“nominal claimant” and rely on the body of case law to determine whether in any particular claim there is a “nominal claimant”, rather than risk inadvertently making a substantive alteration to the established meaning, through omission or otherwise, when imposing a precise definition.

5. Nevertheless, the Joint Committee’s inquiry has afforded the CPRC and MoJ the opportunity to both consider and further explain the reasons for maintaining the current approach, which may be summarised as follows. The phrase “nominal claimant” has been used in the same context (being one of the circumstances where the court may make an order for security of costs in favour of the defendant), and only in that context, for a significant period. The word “nominal” is capable of everyday interpretation. Where parties have challenged the boundaries of its meaning, those issues have been settled by case law. As such, it is considered appropriate to continue to rely upon the body of case law when determining the meaning of “nominal claimant”, and the risks arising from attempting to define that phrase outweigh any potential benefit from attempting to do so.

**Ministry of Justice**

**11 March 2025**

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# Appendix 2: Memorandum from the Ministry of Defence

## S.I. 2025/128

### *The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2025*

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

*Given that the 1921 (Officers) Order (Order in Council of 9th March 1921), the 1921 (Warrant Officers) Order (Order in Council of 9th March 1921), the 1920 Warrant (Royal Warrant of 2nd July 1920), and the 1921 Order (Order of His Majesty of 25th September 1921) referenced in Schedule 4 cannot be found online, provide further details as to how they can be accessed.*

2. The Orders in Council of 9th March 1921 (Officers) and (Warrant Officers) and the Royal Warrant of 2nd July 1920 are attached to this memorandum. Unfortunately, the Department does not hold and cannot trace a copy of the Order of His Majesty of 25th September 1921, but, having exhausted all internal avenues, is making enquiries with the National Archives, and will revert on this point as soon as possible.
3. The Committee may wish to note that benefits under these instruments are payable in respect of service during the First World War (between 14 August 1914 and 30 September 1921) and accordingly no new awards have been made under these instruments for many years.
4. The Department's computer system for managing the War Pension Scheme does not record the instrument under which a pension is paid, and such information would be held, if at all, on the individual's paper file. Accordingly, it has not been possible to establish how many individuals are currently in receipt of pension under the instruments.
5. The Department does not believe that there could be many pensions in payments under these instruments: there are no surviving veterans of the First World War and so any pension in payment could only relate to widows

and dependent children. The Department has considered the provisions of article 11(1) and (2) of the 1921 (Officers) Order, article 11(1) of the 1921 (Warrant Officers) Order and article 11(1) of the 1920 Warrant and notes that the provision of widow's pensions was limited to cases where the veteran had died in war service, or where death occurred as a result of war service within, at the latest, seven years of leaving service. Given the timeframes involved, the Department considers that it is likely that very few, if any pensions remain payable under the instruments.

6. Should the Committee require any further information the Department would be pleased to assist.

**Ministry of Defence**

**11 March 2025**

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# Formal Minutes

**Wednesday 19 March 2025**

## Members present

Sir Bernard Jenkin, in the Chair

Lord Brady of Altrincham

Lord Meston

David Pinto-Duschinsky

Lord Sahota

Baroness Sater

Lord Watson of Wyre Forest

## Report consideration

Draft Report (Eighteenth 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 2.4 read and agreed to.

Annex agreed to.

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

*Resolved*, That the Report be the Eighteenth 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 26 March at 3.40 p.m.

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# 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
17th	No Statutory Instruments Reported	HC 291-xvii
16th	1 Statutory Instrument Reported	HC 291-xvi
15th	1 Statutory Instrument Reported	HC 291-xv
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