



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Twenty-second Report of Session 2024-25

HC 291-xxii / HL Paper 116

Drawing special attention to:

The Moveable Transactions (Scotland) Act 2023 (Financial Collateral Arrangements and Financial Instruments) (Consequential Provisions and Modifications) Order 2025

The Merchant Shipping (Light Dues) Regulations 2025

The Food Crime Officers (Complaints and Misconduct) 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)

[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 30 April 2025, to be printed.

It was published on 2 May 2025. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

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Instruments reported

At its meeting on 30 April 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 three 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. 2025/275: Reported for failure to comply with proper legislative practice

The Moveable Transactions (Scotland) Act 2023 (Financial Collateral Arrangements and Financial Instruments) (Consequential Provisions and Modifications) Order 2025

Procedure: Made negative

- 1.1 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.**
- 1.2** This Order makes provision to bring financial collateral arrangements and financial instruments within the scope of the reforms provided for by an Act of the Scottish Parliament (the Moveable Transactions (Scotland) Act 2023 (the “2023 Act”). Financial instruments and financial collateral arrangements relate to a reserved matter under the Scotland Act 1998, and therefore the provisions now made by this Order could not be included in the 2023 Act for lack of legislative competence on the part of the Scottish Parliament. Part 4 of the Order makes consequential modifications to the 2023 Act, principally by adding references to this instrument into a number of provisions. On the making of this instrument, the provisions in Part 4 therefore referred expressly to this instrument both by name and by S.I. number in the form “2025/XXX”. The Committee noted that those incomplete references have now been corrected by correction slip published some 12 days after the instrument was made. The Committee asked the Scotland Office to explain why, in these circumstances, an advanced number had

not been requested for this Order (in accordance with paragraph 4.5.1 of *Statutory Instrument Practice*) to avoid the need for such immediate correction.

- 1.3** In a memorandum printed at Appendix 1, the Department explains that the failure to request an advanced number was due to an administrative error and that the error was “picked up straight after the SI was registered” and the Department sought a correction slip as soon as it was able. The Committee notes that the ability to request an advanced number is a straightforward way to avoid the need to rely on a correction slip, which the Committee regards as an unreliable method of changing law in a transparent or accountable way (see the Committee’s First Special Report of Session 2017–19, *Transparency and Accountability in Subordinate Legislation* at paragraph 3.5). **The Committee accordingly reports this instrument for failure to comply with proper legislative practice, acknowledged by the Department.**

2 S.I. 2025/278: Reported for doubt as to vires

The Merchant Shipping (Light Dues) Regulations 2025

Procedure: Made negative

- 2.1 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.**
- 2.2** These Regulations make provision for the levying of charges (“light dues”) on certain categories of vessel. Light dues are payable into the General Lighthouse Fund to support General Lighthouse Authorities in their statutory duties of providing aids to navigation. Regulation 7 and Schedule 2 revoke S.I. 1997/562 and all the instruments that amended it. The Committee noticed that the power to revoke of one of those instruments did not appear to be cited in the preamble to these Regulations, namely the power in section 259 of the Civil Partnership Act 2004 under which S.I. 2005/2114 was made. The Committee asked the Department for Transport to explain.
- 2.3** In a memorandum printed at Appendix 2, the Department accepts that it erred in not citing section 259 of the Civil Partnership 2004 Act in the preamble to this instrument. The Department correctly acknowledges that this is by virtue of section 14(b) of the Interpretation Act 1978, which implies into a power to make subordinate legislation a power to revoke, amend or re-enact any legislation made under that power. The Department undertakes to rectify the position at the earliest opportunity. Given that the

preamble to an instrument provides evidence of those powers relied upon to make an instrument (as well as other matters on which the validity of an instrument relies), the failure to cite an enabling power in the preamble to an instrument can raise a doubt as to its *vires*. **The Committee accordingly reports the fifth entry of the table in Schedule 2 for doubt as to whether it is intra vires, acknowledged by the Department.**

3 S.I. 2025/301: Reported for defective drafting

The Food Crime Officers (Complaints and Misconduct) Regulations 2025

Procedure: Made negative

- 3.1 **The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in one respect.**
- 3.2 These Regulations confer functions on the Director General of the Independent Office for Police Conduct (“IOPC”) to handle complaints regarding food crime officers’ exercise of investigatory powers under the Police and Criminal Evidence Act 1984, and the Criminal Justice and Public Order Act 1994. The Committee noticed that the Regulations impose a number of duties on the IOPC, its Director General and the Chief Executive of the Food Standards Agency. In particular, regulation 8 requires that the Director General and the IOPC carry out their functions under the Regulations “efficiently and effectively”. The Committee was unclear as to the purpose of this provision, noting in particular that it appears simply to restate section 10B of the Police Reform Act 2002, and asked the Food Standards Agency to explain.
- 3.3 In a memorandum printed at Appendix 3, the Department explains that the purpose of restating this provision in the Regulations was to ensure that the duty was clear on the face of this instrument, which is intended to operate as “self-contained regime”. In the Committee’s view, a desire for legislative neatness does not justify simply repeating provisions that are otherwise legally otiose. In fact, it is more likely to create confusion because the result is that Director General and the IOPC are now under two identical duties from different legislative sources.
- 3.4 The Department goes on to explain that this approach is consistent with other similar instruments that confer functions on the IOPC in respect of other enforcement agencies and which include the same provision. In the

Committee's view, whilst some level of consistency with similar instruments may be helpful, in the case of regulation 8 the mere repetition of general duties is not necessarily an aid to clarity, particularly where those duties are expressed at such a high-level that their purpose is unclear. **Accordingly, the Committee reports regulation 8 for defective drafting.**

Instruments not reported

At its meeting on 30 April 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	National Security Act 2023 (Foreign Activities and Foreign Influence Registration Scheme: Exemptions for Certain Foreign Power Investment Funds, Education, Government Administration and Public Bodies) Regulations 2025
Draft	National Security Act 2023 (Foreign Activities and Foreign Influence Registration Scheme: Publication) Regulations 2025
Draft	National Security Act 2023 (Foreign Activities and Foreign Influence Registration Scheme: Specified Persons) (Iran) Regulations 2025
Draft	National Security Act 2023 (Foreign Activities and Foreign Influence Registration Scheme: Specified Persons) (Russia) Regulations 2025
Draft	Contracts for Difference (Miscellaneous Amendments) (No. 2) Regulations 2025
Draft	Investigatory Powers (Communications Data) (Relevant Public Authorities and Designated Senior Officers) Regulations 2025
Draft	Medical Devices and Blood Safety and Quality (Fees Amendment) Regulations 2025
Draft	Licensing Act 2003 (Victory in Europe Day Licensing Hours) Order 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2025/307	The Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2025
S.I. 2025/317	The Medicines (Products for Human Use) (Fees) (Amendment) Regulations 2025
S.I. 2025/337	The Guardian's Allowance Up-rating Regulations 2025
S.I. 2025/350	The Social Security Contributions (Decisions and Appeals) (Amendment) Regulations 2025
S.I. 2025/351	The Court and Tribunal Fees (Miscellaneous Amendments) Order 2025

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I.2024/379	The Annual Tax on Enveloped Dwellings (Indexation of Annual Chargeable Amounts) Order 2024
S.I.2025/185	The Veterinary Surgeons and Veterinary Practitioners (Registration) (Amendment) Regulations Order of Council 2025
S.I.2025/214	The Identity and Language (Northern Ireland) Act 2022 (Commencement) Regulations 2025
S.I.2025/319	The Domestic Abuse Act 2021 (Commencement No. 8 and Saving Provisions) Regulations 2025
S.I.2025/364	The Annual Tax on Enveloped Dwellings (Indexation of Annual Chargeable Amounts) Order 2025
S.I.2025/371	The Online Safety Act 2023 (Commencement No. 5) Regulations 2025

Appendix 1: Memorandum from the Scotland Office

S.I. 2025/275

The Moveable Transactions (Scotland) Act 2023 (Financial Collateral Arrangements and Financial Instruments) (Consequential Provisions and Modifications) Order 2025

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

Explain why, given the numerous references to itself in Part 4 of this Order, an advanced number was not requested for this Order (see paragraph 4.5.1 of Statutory Instrument Practice) to avoid the situation where placeholder S.I. number references (“S.I. 2025/XXX”) were used such that instrument required correction immediately after it had been made (and the Committee notes that such corrections have now been made by correction slip published on 17 March 2025).
2. An advanced number was not requested due to an administrative error. The laying and making dates were the last possible dates for this Order to be in force. Without the Order being in date by 1st April, there would have been negative consequences for people in Scotland. This error was picked up straight after the SI was registered and we worked to issue a correction slip as soon as we were able to.

Scotland Office

8 April 2025

Appendix 2: Memorandum from the Department for Transport

S.I. 2025/278

The Merchant Shipping (Light Dues) Regulations 2025

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

Explain what power is relied on for the revocation of the entry in Schedule 15 in the Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005 (S.I. 2005/2114), as set out in Schedule 2.

2. The Department thanks the Committee for its question and the opportunity to clarify the point raised.
3. The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005 (S.I. 2005/2114) as referred to in Schedule 2 to SI 2025/278 was made under the power in section 259(1) of the Civil Partnership Act 2004 (“the 2004 Act”). By virtue of section 14(b) of the Interpretation Act 1978, section 259(1) is the relevant power to use for the revocation of any provision in SI 2005/2114. The Department accepts that it erred in not citing section 259(1) of the 2004 Act in the preamble to SI 2025/278 and it undertakes to rectify the position at the earliest opportunity.

Department for Transport

3 April 2025

Appendix 3: Memorandum from the Food Standards Agency

S.I. 2025/301

The Food Crime Officers (Complaints and Misconduct) Regulations 2025

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

Explain the purpose of regulation 8, noting that it appears simply to restate section 10B of the Police Reform Act 2002.

2. Regulation 8 of the instrument provides:

Efficiency etc. in exercise of functions

8. The Director General and the Office must carry out their functions under these Regulations efficiently and effectively.

3. Section 10B of the Police Reform Act 2002 (“the Act”) provides:

Efficiency etc. in exercise of functions

10B. The Director General and the Office must carry out their functions efficiently and effectively.

4. The following extracts from sections 10 and 10A of the Act provide:

General functions of the Director General

10(1) The functions of the Director General shall be—

....

(gb) to carry out such corresponding functions in relation to officers of the Food Standards Agency acting in the exercise of functions conferred on them by virtue of—

section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers), or

section 39A of the Criminal Justice and Public Order Act 1994 (powers for food crime officers: inferences from silence).

...

(3) The Director General shall also have the functions which are conferred on the Director General by—

...

(be) any regulations under section 26E of this Act (food crime officers);

General functions of the Office

10A...

(2) The Office also has such other functions as are conferred on it by any other enactment (whenever passed or made).

5. The instrument was made under section 26E (power to make regulations conferring functions on the Director General in relation to officers of the Food Standards Agency, etc.) of the Act. Section 26E(2)(a) provides that regulations made under section 26E may, in particular: “(a) apply (with or without modifications), or make provision similar to, any provision of or made under this Part;”, where “this Part” is Part 2 of the Act. Section 10B of the Act is in Part 2 of the Act.
6. The instrument makes provision that is similar to certain provisions of Part 2 of the Act (in particular Schedule 3 to the Act, which is given effect by Part 2). The instrument also makes provision that is similar to, and which is intended to mirror and align with, to a significant extent, other regulations, whether made under the Act or under other powers, that confer similar functions on the Director General (“the Director General”) of the Independent Office for Police Conduct (“the Office”) (please see below).
7. The purpose of the instrument is to create a self-contained and bespoke regime to provide for the basis on which the Director General and the Office have oversight of complaints and other matters relating to the conduct of food crime officers of the Food Standards Agency, whilst attempting to remain consistent with other similar regulations. Accordingly, any similar provision made by the instrument, including regulation 8, is for that purpose, and relates to the functions of the Director General and the Office in that context, as reflected in the instrument.

8. Sections 10(1)(gb), (3)(be) and 10A(2) of the Act, when read with section 10B, might already have the effect of requiring the Director General and the Office to carry out their functions under the instrument efficiently and effectively. However, it was considered preferable to make the position clear on the face of the instrument (in regulation 8):

because not all functions conferred on the Director General by the instrument necessarily fall within the functions described by section 10(1)(gb) and (3)(be) of the Act; and to align with, and to maintain consistency with, other regulations that provide that the Director General and the Office must carry out their functions efficiently and effectively (please see below).

9. For completeness, the other restatements referred to above (i.e. restatements of section 10B in other regulations) are:
- a. *the UK Border Agency (Complaints and Misconduct) Regulations 2010 (S.I. 2010/782) – regulation 6B;*
 - b. *the Revenue and Customs (Complaints and Misconduct) Regulations 2010 (S.I. 2010/1813) – regulation 7B;*
 - c. *the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (S.I. 2012/62) – regulation 3B;*
 - d. *the National Crime Agency (Complaints and Misconduct) Regulations 2013 (S.I. 2013/2325) – regulation 6B;*
 - e. *the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 (S.I. 2015/431) – regulation 6B;*
 - f. *the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017 (S.I. 2017/521) – regulation 6B.*
10. The above regulations, which the instrument mirrors to some extent, each create their own systems for the Director General and the Office to have oversight of, and functions in relation to, complaints and other matters relating to the conduct of certain officers or personnel of each organisation concerned.
11. The above restatements of section 10B of the Act were inserted by the Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017 (S.I. 2017/1250). As mentioned above, we considered it necessary, clearer and preferable, and more accessible for the reader, to include regulation 8 in the instrument in order to align, and maintain consistency, with those restatements in other regulations.

Food Standards Agency

9 April 2025

Formal Minutes

Wednesday 30 April 2025

Members present

Sir Bernard Jenkin, in the Chair

Lord Brady of Altrincham

Lord Meston

David Pinto-Duschinsky

Lord Sahota

Baroness Sater

Gareth Snell

Report consideration

Draft Report (Twenty-second 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 3.4 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 3.

Resolved, That the Report be the Twenty-second 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 7 May 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
21st	2 Statutory Instruments Reported	HC 291-xxi
20th	5 Statutory Instruments Reported	HC 291-xx
19th	No Statutory Instruments Reported	HC 291-xix
18th	2 Statutory Instruments Reported	HC 291-xviii
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