



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Twenty-ninth Report of Session 2024-25

HC 291-xxix / HL Paper 147

*The Police (Conduct, Performance and Complaints and
Misconduct) (Amendment) Regulations 2025*

*The Wireless Telegraphy (Spectrum Trading and Register)
(Amendment) 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 Carter of Haslemere](#) (Crossbench; Life peer)

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

[Baroness Miller of Chilthorne Domer](#) (Liberal Democrat; Life peer)

[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)

[Helena Dollimore](#) (Labour; Hastings and Rye)

[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 25 June 2025, to be printed.

It was published on 27 June 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 25 June 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. 2025/558: Reported for failure to comply with proper legislative practice

The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025

Procedure: Made negative

- 1.1 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.**
- 1.2** These Regulations make changes to regulations which determine the processes for police officer dismissals. Regulations 7, 10 and 14 correct errors in earlier regulations. Current legislative practice requires that where an instrument introduces new amending provisions at the same time as correcting a defective instrument, a 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 Home Office to explain whether this consultation took place.
- 1.3** In a memorandum printed at Appendix 1, the Department explains that it did not consult the S.I. Registrar before these Regulations were made but has subsequently done so. The Department undertakes to consult the S.I. Registrar in good time before correcting defective instruments in the future. The Committee notes that in accordance with paragraph 4.7.6 of Statutory Instrument Practice, when a defective instrument is corrected, the Explanatory Memorandum should state whether or not the free issue procedure has been applied together with the reasons for the decision.

The Committee accordingly reports regulations 7, 10 and 14 for failure to comply with proper legislative practice, acknowledged by the Department.

2 S.I. 2025/571: Reported for doubt as to vires

The Wireless Telegraphy (Spectrum Trading and Register) (Amendment) Regulations 2025

Procedure: Not subject to Parliamentary procedure

- 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 Regulation 3 of these Regulations enables Ofcom to provide information about the additional shared access licences (referred to in regulation 2) in its Wireless Telegraphy Register. Section 31(2) of the Wireless Telegraphy Act 2006 allows Ofcom to include relevant information in the register “if, and only if” it is relevant information of a description prescribed by regulations under that section. However, section 31(2) is not cited in the preamble and the Committee asked Ofcom to explain the exclusion.
- 2.3 In a memorandum printed at Appendix 2, the Department accepts that section 31(2) should have been cited in the preamble (even though its initial view was that section 31(1) which provides the Department with the power by regulations to “make provision for the establishment and maintenance of a register of relevant information” was sufficient). The Committee agrees that the citation of section 31(1) may have been sufficient were it not for the more specific power in section 31(2). Where a specific power is available for any provision, that power should be relied upon rather than any general power which could arguably enable the same provision. On the basis that a preamble has the legal effect described by the Court of Appeal in *Vibixa Ltd and another v Komori UK Ltd and others* [2006] EWCA Civ 536, failure to cite an enabling provision relied on goes to vires. **The Committee accordingly reports regulation 3 for doubt as to whether it is intra vires, acknowledged by the Department.**

Instruments not reported

At its meeting on 25 June 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	The Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2025
Draft	The Electricity and Gas (Energy Company Obligation) (Amendment) Order 2025
Draft	The Local Audit (Amendment of Definition of Smaller Authority) Regulations 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2023/1144	The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations 2023
S.I. 2023/1220	The Electronic Communications Code (Jurisdiction) (Amendment) Regulations 2023
S.I. 2024/708	The Code of Practice (Dismissal and Re-engagement) Order 2024
S.I. 2024/832	The Human Medicines (Amendments relating to the Windsor Framework) Regulations 2024

S.I. Numbers	S.I. Title
S.I. 2025/604	The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2025
S.I. 2025/638	The Electricity (Individual Exemption from the Requirement for a Supply Licence) (JG Pears Power Limited) (England) Order 2025
S.I. 2025/651	The Register of Overseas Entities (Annotation) Regulations 2025
S.I. 2025/658	The Code Manager Selection (Competitive) Regulations 2025

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	The South Tyneside (Electoral Changes) Order 2025

Appendix 1: Memorandum from the Home Office

S.I. 2025/558

The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025

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

Given that regulations 7, 10 and 14 correct errors in S.I. 2020/4, explain whether the S.I. Registrar was consulted as to whether the free issue procedure should apply.
2. The Home Office did not consult the S.I. Registrar as to whether the free issue procedure should apply before these Regulations were made. The Home Office has apologised to the S.I. Registrar for this oversight and apologises now to the Committee.
3. The S.I. Registrar has subsequently confirmed that the free issue procedure does not apply. This is because these Regulations qualify for an exemption on the basis of proportionality.
4. The Home Office acknowledges paragraph 4.7.6 of *Statutory Instrument Practice*. It will seek to consult the S.I. Registrar in good time before correcting defective instruments in the future.

Home Office

16 June 2025

Appendix 2: Memorandum from the Office of Communications

S.I. 2025/571

The Wireless Telegraphy (Spectrum Trading and Register) (Amendment) Regulations 2025

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

Explain why it was not considered necessary to cite section 31(2) of the Wireless Telegraphy Act 2006 in the preamble.
2. The Office of Communications ('Ofcom') is grateful for the Committee's consideration of this instrument and for bringing this point to Ofcom's attention.
3. Ofcom's initial view had been that, insofar as the Regulations are amending the Wireless Telegraphy (Register) Regulations 2012 ('the Register Regulations'), it would be sufficient to reference section 31(1) of the Wireless Telegraphy Act 2006 ('the Act') as the enabling provision from which the Regulations derive their validity. This is because section 31(1) provides Ofcom with the power "by Regulations to make provision for the establishment and maintenance of a register of relevant information".
4. It was not clear to us that it would be necessary to cite section 31(2) of the Act in the preamble as we read that provision as being prohibitive in nature (i.e. Ofcom cannot include information in the Wireless Telegraphy Register unless that information is specified in regulations). Our initial view was that section 31(1) is by itself sufficiently broad to enable the instrument to be made in its current form, and that section 31(2) provided additional detail rather than conferring on Ofcom an enabling power.

5. However, we recognise that the Register Regulations do themselves cite section 31(2) of the Act in their preamble and that our decision to not cite section 31(2) was an error.
6. We apologise and would of course welcome the Committee's views regarding what steps (if any) Ofcom should take to rectify this. We also thank the Committee again for bringing this point to Ofcom's attention.

Office of Communications

16 June 2025

Formal Minutes

Wednesday 25 June 2025

Members present

Lord Brady of Altrincham

Lord Carter of Haslemere

Helena Dollimore

Lord Meston

Andrew Pakes

David Pinto-Duschinsky

Lord Sahota

Baroness Sater

Gareth Snell

Lord Watson of Wyre Forest

In the absence of the Chair, Baroness Sater was called to the chair.

Report consideration

Draft Report (Twenty-ninth Report), proposed by the Chair, brought up and read.

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

Paragraphs 1.1 to 2.3 read and agreed to.

Annex agreed to.

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

Resolved, That the Report be the Twenty-ninth 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 2 July 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
28th	1 Statutory Instrument Reported	HC 291-xxviii
27th	3 Statutory Instruments Reported	HC 291-xxvii
26th	3 Statutory Instruments Reported	HC 291-xxvi
25th	2 Statutory Instruments Reported	HC 291-xxv
24th	2 Statutory Instruments Reported	HC 291-xxiv
23rd	2 Statutory Instruments Reported	HC 291-xxiii
22nd	3 Statutory Instruments Reported	HC 291-xxii
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

Number	Title	Reference
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