



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Thirty-first Report of Session 2024-25

HC 291-xxxi / HL Paper 154

*The Folkestone Harbour Revision Order (Amendment)
Order 2025*

*The Water Supply and Sewerage Services (Customer Service
Standards) (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 9 July 2025, to be printed.

It was published on 11 July 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 9 July 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. 2025/596: Reported for failure to comply with proper legislative practice

The Folkestone Harbour Revision Order (Amendment) 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 two respects.**
- 1.2** This Order corrects errors in the Folkestone Harbour Revision Order 2017 (S.I. 2017/601), which at the time it was made did not reflect the effect of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (which removed the limit on certain fines on conviction by a magistrates' court). These errors were drawn to the attention of both Houses by the Committee in its Fourth Report of Session 2017–19. Given the content of that report, and the Department for Transport's commitment in its memorandum dated 21 November 2017 urgently to consider how the errors might be corrected, the Committee asked the Department for Transport to explain why this correcting instrument had not been made until nearly 8 years later, and why there was no reference to the Committee's report on S.I. 2017/601 in the accompanying Explanatory Memorandum.
- 1.3** In a memorandum printed at Appendix 1, the Department (together with the Marine Management Organisation (the "MMO"), to whom the power to make orders of this type is delegated) explains that under section 14(2) (a) of the Harbours Act 1964 a harbour revision order may only be made upon application by the relevant authority, here the Folkestone Harbour

Company Limited (the “Authority”). The Authority was informed of the errors and of the Committee’s report in December 2017 and was invited to make an application to the MMO for an amending order. However, no application was received by the MMO from the Authority until March 2023. A statutory consultation was conducted in 2024 and the order then made in May 2025. The MMO accepts that reference should have been made in the Explanatory Memorandum to the Committee’s report on S.I. 2017/601.

- 1.4** Whilst the Committee notes that an application is required from the relevant harbour authority before exercising the power to make a harbour revision order, the Committee remains unclear why there was an extended delay between the Authority being informed of the errors in 2017 and the application in 2023. In particular, the Committee is unclear about the extent to which the Authority was chased by the MMO or the Department, given the Department’s undertaking to the Committee that it would urgently consider how to correct the errors. In any event, as the MMO acknowledges, the accompanying Explanatory Memorandum should have noted that the instrument was being made in response to an earlier Committee report. The Committee notes that this practice is reflected in the Guide to Preparing Explanatory Memoranda to Statutory Instruments prepared by the Cabinet Office and the Committee endorses the approach to matters of special interest to Parliament listed therein. **The Committee accordingly reports this Order and its Explanatory Memorandum for failure to comply with proper legislative practice, acknowledged in part by the Department.**

2 S.I. 2025/662: Reported for requiring elucidation

The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2025

Procedure: Made negative

- 2.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they require elucidation in one respect.**
- 2.2** These Regulations make amendments to S.I. 2008/594 (the “2008 Regulations”) which provides for customer service standards in relation to water and sewerage services. Regulations 11(2) and 12(3) insert new provisions into regulations 17H and 17I of the 2008 Regulations, which deal with payment amounts that service providers must pay when there is an effluent leak into buildings. The Committee noticed that part of the formula for calculating the amount of such payments, in cases where there have been previous incidents of entry in the last 12 months, includes reference to

incidents “in respect of which the English service provider has already made a payment to the customer under this regulation”. In other words, where an effluent leak has occurred, the amount a service provider is required to pay may be less if it has failed to make payments in relation to previous leaks. On the basis that this appears to provide an incentive to service providers to not pay in relation to a leak, the Committee was unclear whether this was the policy intention and, if not, whether this gave rise to a question of whether the instrument was defectively drafted. The Committee asked the Department for Environment, Food and Rural Affairs to explain.

- 2.3** In a memorandum printed at Appendix 2, the Department explains that the instrument correctly achieves the policy intention. The Department’s view is that specifying only payments that have actually been paid will mean that there is clarity about the number of incidents that are counted in the formula. The Department acknowledges that in theory this appears to incentivise providers not to make payments, but does not consider this a cause for concern in practice, because providers are subject to a duty under regulation 17J of the 2008 Regulations to make payments within specified time frames and that duty is enforceable by Ofwat as the relevant regulator where disputes are referred to it. The Committee appreciates the Department’s further explanation of the intention of these provisions and is satisfied that the instrument is not defectively drafted. **The Committee is accordingly content to report regulations 11(2) and 12(3) for requiring elucidation, provided by the Department’s memorandum.**

Instruments not reported

At its meeting on 9 July 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

Instruments requiring affirmative approval

S.I. Numbers	S.I. Title
S.I. 2025/737	Enterprise Act 2002 (Amendment of Section 58 Considerations) Order 2025

Draft instruments requiring affirmative approval

S.I. Numbers	S.I. Title
Draft	Draft Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025
Draft	Draft Electrical Safety Standards in the Private Rented Sector (England) (Amendment) (Extension to the Social Rented Sector) Regulations 2025
Draft	Draft Hazards in Social Housing (Prescribed Requirements) (England) Regulations 2025
Draft	Draft Enterprise Act 2002 (Definition of Newspaper) Order 2025
Draft	Draft Online Safety Act 2023 (Qualifying Worldwide Revenue) Regulations 2025

S.I. Numbers	S.I. Title
Draft	Draft Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2025
Draft	Draft Economic Crime and Corporate Transparency Act 2023 (Consequential, Incidental and Miscellaneous Provisions) Regulations 2025
Draft	Draft Limited Liability Partnerships (Application and Modification of Company Law) Regulations 2025
Draft	Draft Register of People with Significant Control (Amendment) Regulations 2025

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2025/652	The Local Audit (Modification of Financial Reporting Requirements) Regulations 2025
S.I. 2025/664	The Private Security Industry Act 2001 (Exemption) (Aviation Security) (Amendment) Regulations 2025
S.I. 2025/667	The Branded Health Service Medicines (Costs) (Amendment) Regulations 2025
S.I. 2025/712	The Sanctions (EU Exit) (Treasury Debt) Regulations 2025
S.I. 2025/738	The Child Trust Funds (Amendment) Regulations 2025

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2025/722	The Investigatory Powers (Amendment) Act 2024 (Commencement No. 3) Regulations 2025
S.I. 2025/726	The Water (Special Measures) Act 2025 (Commencement No. 1) Regulations 2025
S.I. 2025/731	The Victims and Prisoners Act 2024 (Commencement No. 7) Regulations 2025

Appendix 1: Memorandum from the Department for Transport

S.I. 2025/596

The Folkestone Harbour Revision Order (Amendment) Order 2025

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

Noting that the errors giving rise to the amendments made by this instrument were first identified by the Committee in its Fourth Report of Session 2017–19 in respect of S.I. 2017/601, explain—

*(i) why this instrument has not been made until nearly 8 years later;
and*

(ii) why no reference to the Committee’s report on S.I. 2017/601 is made in the accompanying Explanatory Memorandum.

2. The Department respectfully informs the Committee that the responsibility for the consideration of the application and the making of any harbour revision order passed to the Marine Management Organisation (MMO) by virtue of the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674) which delegated the Secretary of State’s functions under Section 14 of the Harbours Act 1964 (c.40) (Ministers’ powers, on application of harbour authorities, or others, to make orders for securing harbour efficiency) to the MMO except in relation to specified applications. This memorandum has therefore been prepared by the MMO in conjunction with the Department.
3. In response to point (i) section 14(2)(a) Harbours Act 1964 requires that an application for a harbour order, and in this case an amendment order, can only be made on the written application of the harbour authority. The Folkestone Harbour Company Limited was informed in December 2017 of the

error following the publication on 1 December 2017 of the Fourth Report of Session 2017–19 in respect of S.I. 2017/601, advised of the process and invited to make an application to the MMO for an amending order. An application was received by the MMO in March 2023. The statutory consultation was conducted in 2024 and the order made May 2025.

4. In response to point (ii) the MMO has reconsidered the Explanatory Memorandum and accepts that reference should have been made to the Committee's report on S.I. 2017/601. The MMO regrets the lack of consideration of the inclusion of a specific reference to the report and will work to ensure that should such circumstances arise in the future, reference is made to any relevant Committee report.

Department for Transport

27 June 2025

Appendix 2: Memorandum from the Department for Environment, Food and Rural Affairs

S.I. 2025/662

The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2025

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point(s):

Explain whether the reference in regulations 11(2) (in inserted 17H(2D)(b)) and 12(3) (in inserted 17I(2D)(b)) to incidents of entry “in respect of which the English service provider has already made a payment to the customer under this regulation” is intended to include incidents in respect of which the provider is liable to make such payments but where these have not, at the relevant time, been made.
2. The reference in regulations 11(2) and 12(3) of this instrument (“the 2025 Regulations”) to incidents of entry “in respect of which the English service provider has already made a payment to the customer under this regulation [meaning regulation 17H or regulation 17I respectively of the Water Supply and Sewerage Services (Customer Service Standards) Regulations (S.I. 2008/594, “the 2008 Regulations”)]” is not intended to include incidents in respect of which the provider is liable to make such payments but where these have not, at the relevant time, been made.
3. “IN” is used in the “minimum payment amount” and “maximum payment amount” definitions in both regulations. The drafting does not include instances where a company is liable to make a payment, but has not yet made that payment. It will be clear to both parties when a payment has been made (and hence there will be clarity about the number of incidents of entry for the purposes of the definition of “IN”).

4. While this might appear to incentivise companies not to make payments to customers under the 2008 Regulations, so as to cause the minimum and maximum payment amounts not to be increased under the formulae in regulations 17H and 17I, the Department does not consider this a cause for concern in practice. Companies are expected to make payments under the regulations promptly if an incident of entry occurs in relation to internal or external flooding. The company must pay the customer within 20 working days, beginning with the date of the incident for internal flooding, or the day on which the customer makes the relevant claim for external flooding. These timing requirements are set out in regulations 17J(2)(b) (for internal flooding) and 17JA(1) (for external flooding) of the 2008 Regulations. This duty is ultimately enforceable by Ofwat (the Water Services Regulation Authority) for disputes referred to it – see regulation 17O of the 2008 Regulations.
5. By way of further explanation, under regulation 17H (flooding from sewers, internal flooding of buildings) and 17I (Flooding from sewers—external flooding and flooding of non-domestic outbuildings), as amended by regulation 11 and 12 respectively, if there is a breach of the relevant standard, the provider must pay the customer the lesser of the sewerage charge and the maximum payment amount. For internal flooding, the “sewerage charge amount” is the greater of 12 months of sewerage charges payable by the customer, and the minimum payment amount. For external flooding, the “sewerage charge amount” is the greater of 50% of 12 months of sewerage charges payable by the customer and the minimum payment amount.

Department for Environment, Food and Rural Affairs

1 July 2025

Formal Minutes

Wednesday 9 July 2025

Members present

Sir Bernard Jenkin, in the Chair

Lewis Atkinson

Lord Carter of Haslemere

Helena Dollimore

Lord Meston

Baroness Miller of Chilthorne Domer

Lord Sahota

Baroness Sater

Report consideration

Draft Report (Thirty-first 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 Thirty-first 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 16 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
30th	2 Statutory Instruments Reported	HC 291-xxx
29th	2 Statutory Instruments Reported	HC 291-xxix
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

Number	Title	Reference
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