



House of Lords
House of Commons

Joint Committee on Statutory Instruments

Forty-third Report of Session 2024–26

HC 291-xliii / HL Paper 241

The Carbon Dioxide Transport and Storage (Licensed Operators) Administration (England and Wales) Rules 2025

The Immigration (Guernsey) Order 2025

The Power to Award Degrees (S P Jain London School of Management Limited) (Amendment) Order 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 Doolimore](#) (Labour; Hastings and Rye)

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

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[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 17 December 2025, to be printed.

It was published on 19 December 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 17 December 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. 2025/1135: Reported for defective drafting

The Carbon Dioxide Transport and Storage (Licensed Operators) Administration (England and Wales) Rules 2025

Procedure: Made negative

- 1.1 The Committee draws the special attention of both Houses to these Rules on the ground that they are defectively drafted in one respect.**
- 1.2** These Rules set out the procedures applicable to the special administration regime for Carbon Dioxide Transport and Storage Companies. A Carbon Dioxide Transport and Storage Company is a company that holds a licence under the Energy Act 2023 (the “2023 Act”), giving it the right to receive a regulated revenue in relation to the provision of carbon dioxide transport and storage services. Provisions in the 2023 Act set out the framework for the administration regime, by applying (with modifications) relevant provisions of the Energy Act 2004. The Committee noticed that at several places in the Rules (specifically, rules 42(1)(g) and 91(3)(c) - (f) and (4)(a)) reference is made to “the 2022 Act”, which is not a term defined in this instrument nor in its enabling Act. The Committee asked the Department for Energy Security and Net Zero to explain to what those references were intended to refer.
- 1.3** In a memorandum printed at Appendix 1, the Department acknowledges that the references to “the 2022 Act” are errors, which were incorrectly drawn from an earlier similar instrument (S.I. 2023/712) on which these Rules are partly based. That instrument deals with the administration of relevant

licensee nuclear companies as defined in the Nuclear Energy (Financing) Act 2022, and so correctly refers to that Act. In these Rules, however, in each case, the correct reference should have been to the equivalent provision of the 2023 Act. The Committee observes that legislative drafters should take particular care when drafting provisions based on precedents. In this case, relying on the precedent of S.I. 2023/712 led the drafter to make several errors. The Department states that it is considering the appropriate steps to rectify the errors. The Committee's view is that timely rectification is to be preferred, as in the meantime the relevant provisions do not operate as intended. **The Committee accordingly reports rules 42(1)(g) and 91(3)(c) - (f) and (4)(a) for defective drafting, acknowledged by the Department.**

2 S.I. 2025/1138: Reported for failure to comply with proper legislative practice and doubt as to vires

The Immigration (Guernsey) 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 two respects, and there is doubt as to whether it is intra vires in one respect.**
- 2.2** This Order extends (with modifications) provisions of the Nationality and Borders Act 2022 (the "2022 Act") to Guernsey. The Committee noticed that the Order purported to rely on section 86 of the Immigration Act 1971 (the "1971 Act") as an enabling power, but that there is no section 86 in the 1971 Act. The Committee asked the Home Office to explain.
- 2.3** In a memorandum printed at Appendix 2, the Department (on behalf of the Bailiwick of Guernsey (the "Bailiwick")) explains that the reference to section 86 of the 1971 Act was an error. The intention was to cite section 36 of that Act as an enabling power for the relevant provisions. The Department's view, however, is that the Order is validly made despite this error. They assert that the intention to rely on section 36 of the 1971 Act was "for completeness", given that the provisions of the 2022 Act being extended are themselves amendments to the 1971 Act.
- 2.4** The Committee accepts that the power cited in section 86(4) of the 2022 Act (which provides that His Majesty may "by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man") is sufficient to enable

all of the extensions and modifications set out in this instrument. To that extent, the additional citation of the similar powers in the 1971 Act (intended to be section 36 of that Act) and the Immigration and Asylum Act 1999 (section 170(7) of that Act) is not strictly necessary, notwithstanding the Department's position as to the reason for their inclusion. Citation of unnecessary powers has the potential to create confusion and, as in this case, further scope for error. **The Committee accordingly reports the pre-amble to this Order for failure to comply with proper legislative practice.**

- 2.5** The Committee also noted that article 1(1) of this Order provides that it comes into force on the day specified in regulations made by the States of Guernsey Committee for Home Affairs (the "Guernsey Committee"), and that different dates may be specified for different provisions and purposes. The Committee was unclear as to the legal basis on which the instrument could sub-delegate to the Guernsey Committee a power to legislate by making regulations and, further, how a reader of this instrument would be able to establish whether any such regulations had been made.
- 2.6** In its memorandum, the Department explains that the States of Deliberation in Guernsey expressly agreed to the making of this Order, and that the Order therefore has force of law in the Bailiwick. In exercising the commencement power in article 1(1), which will necessarily be before the Order comes into force, the Guernsey Committee will rely on section 9 of the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, which provides for the anticipatory exercise of such powers in certain circumstances. The regulations, once made by the Guernsey Committee, will be registered in accordance with the relevant requirements under Bailiwick law, and published online.
- 2.7** Whilst this is interesting contextual information, the Department does not point to any of the enabling powers relied upon to make this Order as providing authority for the sub-delegation in article 1(1). In the Committee's view, there is a general rule that the person on whom a power to legislate is conferred cannot use that power to confer a further power to legislate (see *Craies* (13th edition) at 3-043 and *Bennion* (8th edition) at 3.14). In this case, Parliament conferred on His Majesty a power to extend any of the provisions in the 2022 Act to the Bailiwick of Guernsey. That Act did not confer a power on the Bailiwick to decide whether to give effect to such an extension of those provisions. The Committee appreciates that in practice the agreement of the Bailiwick will be sought before extending to it provisions of United Kingdom law, but that does not provide a basis for rebutting the strong rule against the sub-delegation of legislative power. **The Committee accordingly reports article 1(1) of this Order for doubt as to whether it is *intra vires*.**

- 2.8** A further practical problem created by this approach is that finding out whether the Guernsey Committee has legislated to bring this Order into effect requires an understanding of how to navigate Bailiwick law: the Department’s memorandum provides some assistance in that regard but in the Committee’s view any barrier to establishing the legal status of United Kingdom legislation ought to be avoided. In this case, a footnote referencing the Guernsey Legal Resources website would have been sufficient as well as being consistent with Statutory Instrument Practice (see paragraph 3.17.4). **The Committee accordingly reports article 1(1) of this Order for failure to comply with proper legislative practice.**

3 S.I. 2025/1194: Reported for failure to comply with proper legislative practice

The Power to Award Degrees (S P Jain London School of Management Limited) (Amendment) Order 2025

Procedure: Not subject to Parliamentary procedure

- 3.1 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.**
- 3.2** This Order amends S.I. 2023/875, which grants degree-awarding powers to the S P Jain London School of Management Limited. It is made under section 42(1) of the Higher Education and Research Act 2017 (the “2017 Act”). Section 44(1) of that Act provides for variations of orders made under section 42(1) by a further order under that section. The variation made by this instrument is to extend the period for which degree-awarding powers are authorised. The Committee noted that section 42(9) of the 2017 Act was also cited as an enabling power for the instrument, which provides that orders may restrict the power to grant the relevant awards to persons enrolled with the provider at the time they complete the course of study. The Committee queried why section 42(9) was cited as an enabling power for this instrument, given that the amendment it makes does not include such a restriction and that S.I. 2023/875 itself did not rely on that provision either, and asked the Office for Students to explain.
- 3.3** In a memorandum printed at Appendix 3, the Department explains that section 42(9) illustrates how the general power in section 42(1) may be used. On the basis that the authorisation that is being extended by this Order is an exercise of the general power in that manner (in that the Order in S.I. 2023/875 restricts the power to grant the relevant awards to person enrolled with the provider), section 42(9) was cited as an additional enabling

power for this amendment even though it had not been cited as a power enabling the original instrument. The Department states that this approach represents a “more fulsome approach to referencing enabling provisions”, in the interests of following best practice and applicable guidance.

- 3.4** While the Committee appreciates that drafting practice may evolve, in general a consistency of approach is to be preferred, particularly in the case of amending instruments made after only a relatively short period of time. Further, while it is normally more appropriate to cite a specific power (where one exists) rather than a general power, the citation of provisions that merely describe or illustrate a general power, as in this instance, is usually not essential. The Committee notes that section 42(2) of the 2017 Act is a provision similarly illustrative of the main power in section 42(1), relevant to the original authorisation, yet that has not been cited here. Whilst the Committee appreciates that the Department’s fulsome approach to citation is well-intended, the Committee is also of the view that it is better legislative practice to present pre-ambls consistently and accurately. Accordingly, **the Committee reports the pre-ambles for failure to follow proper legislative practice, acknowledged in part by the Department’s memorandum.**

Instruments not reported

At its meeting on 17 December 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	Draft Public Order Act 2023 (Interference With Use or Operation of Key National Infrastructure) Regulations 2025
Draft	Draft United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Glue Traps) Regulations 2025
Draft	Draft Local Government (Exclusion of Non-commercial Considerations) (England) Order 2026
Draft	Draft Police and Criminal Evidence (Northern Ireland) Order 1989 (Application to Immigration Officers and Designated Customs Officials in Northern Ireland) and Consequential Amendments Regulations 2026
Draft	Draft Social Security (Scotland) Act 2018 (Carer's Assistance) (Consequential Modifications) Order 2026

Instruments subject to annulment

S.I. Numbers	S.I. Title
S.I. 2025/1171	The Nuclear Installations (Prescribed Conditions and Excepted Matter) Regulations 2025
S.I. 2025/1207	The Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) (Amendment) Regulations 2025
S.I. 2025/1261	The Childcare (Miscellaneous Amendments) (Inspection Outcomes) (England) Regulations 2025

Draft instruments subject to annulment

S.I. Numbers	S.I. Title
Draft	The East Riding of Yorkshire (Electoral Changes) Order 2026

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. Numbers	S.I. Title
S.I. 2025/1173	The Energy Act 2023 (Commencement No. 4) Regulations 2025
S.I. 2025/1232	The Power to Award Degrees etc. (Blackpool and The Fylde College) Order 2025

Appendix 1: Memorandum from the Department for Energy and Net Zero

S.I. 2025/1135

The Carbon Dioxide Transport and Storage (Licensed Operators) Administration (England and Wales) Rules 2025

1. The Committee has asked the Department for Energy and Net Zero for a memorandum on the following point(s):

In relation to rule 42(1)(g) and 91(3)(c) - (f) and (4)(a), explain to what the references to the “2022 Act” are intended to refer, noting that similar references appear in S.I. 2023/712.
2. The Department is grateful to the Committee for drawing attention to these references and accepts that, in each case, the drafting is erroneous.
3. The references to the “2022 Act” and the associated section numbers are, in each case, drawn incorrectly from S.I. 2023/712 on which these Rules are partly based. S.I. 2023/712 deals with the administration of “relevant licensee nuclear companies”, as defined in section 1(4) of the Nuclear Energy (Financing) Act 2022, and so appropriately refers to that Act.
4. This instrument should have cross referred to the Energy Act 2023, which deals with the administration of companies which hold a carbon dioxide transport and/or storage licence under section 7 of that Act, and which contains provisions analogous to the provisions of the Nuclear Energy (Financing) Act 2022.
5. We have set out below the references that should have been made and will consider appropriate steps to rectify the errors.

Current Drafting	Intended Reference
Rule 42(1)(g) “the remuneration of any person who has been employed by the T&S administrator to perform any services for the T&S company, as required or authorised under the 1986 Act, the 2004 Act, the 2022 Act or these Rules”	“the remuneration of any person who has been employed by the T&S administrator to perform any services for the T&S company, as required or authorised under the 1986 Act, the 2004 Act, the 2023 Act or these Rules”
Rule 91(3)(c) “to repay the whole or any part of a grant made to the company under section 165 of the 2004 Act as applied by section 33 of the 2022 Act”	“to repay the whole or any part of a grant made to the company under section 165 of the 2004 Act as applied by section 44 of the 2023 Act”
Rule 91(3)(d) “to repay a loan made to the company under section 165 of the 2004 Act (as applied by section 33 of the 2022 Act), or to pay interest on such a loan”	“to repay a loan made to the company under section 165 of the 2004 Act (as applied by section 44 of the 2023 Act), or to pay interest on such a loan”
Rule 91(3)(e) “to make a payment under section 166(4) of the 2004 Act (as applied by section 33 of the 2022 Act)”	“to make a payment under section 166(4) of the 2004 Act (as applied by section 44 of the 2023 Act)”
Rule 91(3)(f) “to make a payment under section 167(5) of the 2004 Act (as applied by section 33 of the 2022 Act)”	“to make a payment under section 167(5) of the 2004 Act (as applied by section 44 of the 2023 Act)”

Current Drafting	Intended Reference
Rule 91(4)(a) “a “shortfall” arises if, in a case where the company is or has been subject to a T&S administration order, the property available (apart from conditions falling within section 35(1) and (5) of the 2022 Act) for meeting relevant debts is insufficient for meeting them, and...”	“a “shortfall” arises if, in a case where the company is or has been subject to a T&S administration order, the property available (apart from conditions falling within section 46(1) of the 2023 Act) for meeting relevant debts is insufficient for meeting them, and...”

Department for Energy and Net Zero

8 December 2025

Appendix 2: Memorandum from the Home Office

S.I. 2025/1138

The Immigration (Guernsey) Order 2025

1. The Committee has asked the Home Office for a memorandum on the following point(s):
 1. *Noting that there is no section 86 in the Immigration Act 1971, explain what provision of that Act, if any, should have been relied on for the making of this Order.*
 2. *Explain—*
 - a. *the basis on which this instrument creates a power for the States of Guernsey Committee for Home Affairs to legislate by making regulations to bring this instrument into force; and*
 - b. *how a reader of the instrument may establish whether the Committee has made such regulations.*
2. This instrument is an Order in Council made by the King, by and with the advice of His Privy Council, at the request of the Bailiwick of Guernsey. It is not a Home Office instrument but the Home Office assisted with the formalities associated with the making of the Order and its registration with the National Archives. The answers to the questions asked by the Committee have been answered by the Bailiwick of Guernsey, as they pertain to matters of Guernsey law but this memorandum has been drafted by the Home Office.
3. The Home Office and the Bailiwick of Guernsey apologise for the erroneous citation of section 86(4) of the Immigration Act 1971.
4. The Order in Council extends provisions made under the Nationality and Borders Act 2022 and, accordingly, the vires for the making of this Order in Council are section 86(4) of that Act. However, the intention was also to cite section 36 of the Immigration Act 1971 for completeness, given that the provisions to be extended have been inserted into the 1971 Act at Part 1A – Electronic Travel Authorisations. Section 36 of the 1971 Act sets out a power

to extend the 1971 Act to the Islands by Order in Council as directed by His Majesty the King. The Home Office and the Bailiwick of Guernsey take the view that while it is unfortunate that this error has occurred, the Order is validly made.

5. Article 1(1) of this Order in Council authorises the States of Guernsey Committee for Home Affairs to legislate by making regulations to bring this Order into force. Constitutionally, an Order in Council lawfully extending provisions of an Act of Parliament to the Bailiwick of Guernsey is an enactment that has force of law in the Bailiwick. In this case, the States of Deliberation has also expressly agreed to the making of an Order in Council to extend to the Bailiwick the relevant provisions of the Nationality and Borders Act 2022 (see [resolution-ix-2025-04-29](#)). When the States of Guernsey Committee for Home Affairs makes regulations to bring the Order into force, that Committee is exercising a power in anticipation of the Order coming into force, for the purpose of bringing that Order into force, as provided for under section 9 of the [Interpretation and Standard Provisions \(Bailiwick of Guernsey\) Law, 2016](#).
6. Regulations made under any Order in Council in Guernsey must be delivered to the Greffier (effectively the Registrar of the Royal Court of Guernsey) under the Guernsey Statutory Instruments (Registration) Ordinance 1949. They will then be registered in the Greffe and will also be published online on the Guernsey Legal Resources website; see, for example, the Regulations that commenced the Immigration (Guernsey) Order 2020 ([No. 151 - The Immigration and Social Security Co-ordination \(EU Withdrawal\) \(Bailiwick of Guernsey\) Regulations, 2020](#)).

Home Office

9 December 2025

Appendix 3: Memorandum from the Office for Students

S.I. 2025/1194

The Power to Award Degrees (S P Jain London School of Management Limited) (Amendment) Order 2025

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

Explain why section 42(9) of the Higher Education and Research Act 2017 is cited as an enabling power for this instrument, noting that it was not cited as an enabling power for S.I. 2023/875 which this instrument amends.

2. In the interests of following best practice as detailed in applicable guidance, when drafting this instrument, the Office for Students has taken a more fulsome approach to referencing enabling provisions than was the case when drafting S.I. 2023/875.
3. S.I. 2025/1194 extends the duration of an authorisation granted by S.I. 2023/875. The authorisation was granted by the Office for Students under its general power in section 42(1) of the Higher Education and Research Act 2017. Section 42(9) then illustrates how the general section 42(1) power may be used. The authorisation in question is an exercise of the section 42(1) power in the manner envisaged by section 42(9). Accordingly, in the interests of transparency, when drafting the amending order (S.I. 2025/1194), we opted to cite both the general power and the more specific illustrative power.
4. We appreciate, however, that the more comprehensive approach taken to drafting the preamble to S.I. 2025/1194, whilst undertaken to enhance transparency, looks somewhat inconsistent when compared to the drafting of S.I. 2023/875. The Office for Students would be grateful to receive any views from the Committee on its recommended approach to this matter.

Office for Students

9 December 2025

Formal Minutes

Wednesday 17 December 2025

Members present

Sir Bernard Jenkin, in the Chair

Lewis Atkinson

Lord Brady of Altrincham

Lord Carter of Haslemere

Lord Meston

Baroness Miller of Chilthorne Damer

Report consideration

Draft Report (*Forty-third 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 Forty-third 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 14 January 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 2024–26

Number	Title	Reference
42nd	1 Statutory Instrument Reported	HC 291-xlii
41st	1 Statutory Instrument Reported	HC 291-xli
40th	2 Statutory Instruments Reported	HC 291-xl
39th	1 Statutory Instrument Reported	HC 291-xxxix
38th	5 Statutory Instruments Reported	HC 291-xxxviii
37th	8 Statutory Instruments Reported	HC 291-xxxvii
36th	2 Statutory Instruments Reported	HC 291-xxxvi
35th	8 Statutory Instruments Reported	HC 291-xxxv
34th	2 Statutory Instruments Reported	HC 291-xxxiv
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32nd	No Statutory Instruments Reported	HC 291-xxxii
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30th	2 Statutory Instruments Reported	HC 291-xxx
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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
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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
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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

Number	Title	Reference
2nd Special	Scrutinising Statutory Instruments: Departmental Returns, October 2024 – September 2025: Government response	HC 1501
1st Special	Scrutinising Statutory Instruments: Departmental Returns, October 2024 – September 2025	HC 1342