HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

50th Report of Session 2019–21

Proposed Negative Statutory Instruments under the European Union (Withdrawal) Act 2018

Drawn to the special attention of the House:

Compulsory Electronic Monitoring Licence Condition Order 2021

Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021

Includes information paragraphs on:

11 instruments relating to COVID-19

Draft Plant Health etc. (Fees) (England) (Amendment) Regulations 2021

Ordered to be printed 23 March 2021 and published 25 March 2021

Published by the Authority of the House of Lords

HL Paper 256

Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 22 February 2021, are set out on the website but are, broadly:

To report on draft instruments and memoranda laid before Parliament under sections 8, and 23(1) of the European Union (Withdrawal) Act 2018 and section 31 of the European Union (Future Relationship) Act 2020..

And, to scrutinise –

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in the terms of reference.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

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Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/

Committee Staff

The staff of the Committee are Christine Salmon Percival (Clerk), Philipp Mende (Adviser), Jane White (Adviser) and Ben Dunleavy (Committee Assistant).

Further Information

Further information about the Committee is available at https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/

The progress of statutory instruments can be followed at https://statutoryinstruments.parliament.uk/

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at http://www.legislation.gov.uk/uksi

Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hlseclegscrutiny@parliament.uk.

Fiftieth Report

PROPOSED NEGATIVES UNDER THE EUROPEAN UNION WITHDRAWAL ACT 2018

Proposed Negative Statutory Instruments about which no recommendation to upgrade is made

- Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021
- Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (Amendment) Regulations 2021
- Official Controls, Plant Health, Seeds, and Seed Potatoes (Amendment etc.) Regulations 2021
- Road Tunnel Safety (Amendment) Regulations 2021

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Compulsory Electronic Monitoring Licence Condition Order 2021 (SI 2021/330)

Date laid: 17 March 2021

Parliamentary procedure: negative

This Order enables a pilot project to fit those convicted of certain 'acquisitive crimes', such as theft and burglary, with a GPS tag when they are released on licence, to assess potential benefits to the individual, the probation service, the police, and the wider community. The study will follow 1,500 individuals in six police areas. Data collected will be evaluated to assess a wide range of potential impacts including any improvement in reoffending and clear up rates. An evaluation should be available in about two years.

This Order is drawn to the special attention of the House on the grounds that that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House.

Description

1. This Order enables a pilot project to fit those convicted of certain 'acquisitive crimes', such as theft and burglary, with a GPS tag when they are released on licence to assess potential benefits to the individual, the probation service, the police and the wider community.

2. The Impact Assessment states that, although there have been small-scale projects previously, their evaluation has been inadequate. This project will undertake detailed evaluation of the effects of GPS tracking on 1,500 individuals convicted of the theft, robbery or burglary offences listed in Schedule 2 to the Order while they are released on licence.[1] All eligible individuals will be tagged in the police areas specified in Schedule 1 to the Order: Avon and Somerset, Cheshire, Gloucestershire, Gwent, Humberside and West Midlands.

3. The Explanatory Memorandum (EM) states that data collected as a result of the compulsory electronic monitoring condition will be processed in compliance with data protection legislation and the statutory Code of Practice for Electronic Monitoring.[2] Qualifying offenders will be made aware of the specific use to which their data will be put. Subjects' personal electronic monitoring data will be held by the relevant contractor for up to six years after the monitoring ends unless there is a lawful reason to hold it for longer, such as an ongoing investigation. Thereafter it will be destroyed securely.[3]

Background

4. The EM states that offenders who commit theft, robbery and burglary ('acquisitive crime') have the highest levels of reoffending across all offence

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1 Theft means taking someone's property but does not involve the use of force. Robbery is stealing from a person using force or making them think that force will be used. Burglary means illegally entering a property in order to steal property from it.

2 Ministry of Justice, *Code of Practice: electronic monitoring* (28 February 2018): https://www.gov.uk/government/publications/code-of-practice-electronic-monitoring [accessed 23 March 2021].

3 *Ibid.*, para 50.

types. The Ministry of Justice states that the most recent figures show that 29% of those convicted of robbery and 51% of those convicted of theft (including burglary) reoffend within a year of release, compared to 23% in all other cases.[4] Acquisitive crime also has low detection rates: 62% of robbery cases and 79% of theft (including burglary) cases resulted in no suspect being identified, compared with 24% in all other cases.[5]

5. The GPS tracking data will be made available to the probation officer supervising the offender on a regular basis to better inform management and supervision of the individual and to reduce reoffending. The police may also ask to see this tracking data to rule suspects in and out of investigations, potentially increasing the conviction rate for acquisitive crimes. Improved conviction rates and reduced reoffending would also be beneficial to society as a whole.

6. The effect of the pilot will be evaluated with a focus on understanding the technology's impact on: reducing reoffending behaviour; the efficiency of implementation; how the measure has affected offenders, organisations, and communities; how the data-sharing with the police has supported detection of crime; and arrest cost effectiveness.

7. The evaluation will be based on the first 1,500 offenders who have been subject to the licence condition and will be available around two years from commencement, depending on when that number is reached. Further details about how the data will be evaluated are given in Appendix 1.

8. **While the House may regard this pilot as a positive development, it may wish to seek an assurance from the Minister that the data gathered is subject to high quality analysis so that findings can form a robust basis for future policy development. The House may also wish to seek an assurance that the probation services are adequately resourced to support the project effectively.**

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4 MOJ, 'Proven Reoffending Statistics: October to December 2018' (29 October 2020): https://www.gov.uk/government/statistics/proven-reoffending-statistics-october-to-december-2018 [accessed 18 March 2021].

5 Home Office, 'Crime Outcomes in England and Wales, year ending June 2020' (28 October 2020): https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-year-to-june-2020-data-tables [accessed 18 March 2021].

Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (SI 2021/364)

Date made: 22 March 2021

Parliamentary procedure: affirmative

These Regulations provide the framework to implement the Government's published "roadmap out of lockdown" for England, which has four main steps. The restrictions in these Steps broadly mirror the Tiers provisions (as amended) and the relaxations will be imposed incrementally. Step 1 will be brought into effect on 29 March and the first review must take place on 12 April; after that, no dates are included in the Regulations. The Government state that they intend to ease restrictions nationally, but cannot rule out reimposing economic and social restrictions at a local or regional level - for example, if evidence suggests they are necessary to contain or suppress a variant which escapes the vaccine. The Government also state that the changes will be a minimum of five weeks apart, but that this will be dependent on infection data and the key tests being met. ***The Committee recognises the Government's need for the flexibility to respond to unpredictable circumstances, but the House may wish to ask the Government for more detail about the process by which this legislation will be amended to bring subsequent Steps into effect and whether local hotspots of infection may delay the lifting of national restrictions. The House may also wish to ask how frequently changes between Steps may be made.***

Additionally, these Regulations impose a ban on all travel from England to a destination outside the UK. A fine of £5,000 is imposed on anyone leaving England or being present at an embarkation point for the purpose of travelling outside the UK, without a reasonable excuse or an exemption (set out in Schedules 5 and 6). Those who are travelling are required to complete a form in advance declaring their reason for travelling. ***Changes to these provisions are separate from the Steps and will be linked to reviews by the Global Travel Taskforce which will first report on 12 April.***

These Regulations are drawn to the special attention of the House on the grounds that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.

9. These Regulations, laid by the Department for Health and Social Care (DHSC), provide the framework to implement the Government's "roadmap out of lockdown" for England.[6] There are four main steps:

- Step 1 — 8 and 29 March: schools reopened from 8 March, then, from 29 March, up to six people from two households may meet outdoors, outdoor sports facilities may open, travel outside the local area is allowed, but not abroad.
- Step 2 — no sooner than 12 April: non-essential retail and personal care may open, also public buildings including libraries and community centres, outdoor hospitality and self-contained holiday accommodation.
- Step 3 — no sooner than 17 May: legal restrictions on meeting outdoors may be lifted although gatherings of more than 30 people will remain

6 Cabinet Office, 'COVID-19 Response - Spring 2021 (Summary)' (22 February 2021): https://www.gov.uk/government/publications/covid-19-response-spring-2021/covid-19-response-spring-2021-summary [accessed 23 March 2021].

illegal. Six people or two households may meet indoors and indoor hospitality (including pubs and cinemas) and hotels may open.

- Step 4 — no sooner than 21 June: legal limits on social contact removed, venues where there is close contact such as nightclubs may reopen.

The Government have made clear that these are the earliest possible dates for change as movement from Step to Step will be dictated by changes in the infection rate. These Regulations are temporary and will expire on 30 June 2021.

Restrictions

10. This instrument revokes and replaces the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (as amended)[7] with broadly similar conditions:

- Regulations 2–6 set out definitions. including linked households and permitted organised gatherings.
- Regulation 7 sets the overarching requirement for compliance with the restrictions in each Step but the details of the specific restrictions in Steps 1–3 are laid out in the corresponding Schedules 1–3.
- Regulations 10–18 set out the enforcement provisions.

11. The Steps broadly mirror the Tiers; it is not clear why a change in terminology is used. There are, however, some minor changes; for example, the requirement to have a substantial meal when buying alcohol will be removed when hospitality venues reopen; the provision where one member may provide contact details for a whole group is removed and venues must offer a system for those who do not own a device that can scan a QR code to provide the required contact information. Protests will be allowed under Step 1.

12. Schedule 4 defines the geographical area covered by each Step. The whole of England is included in Step 1 with the areas for Steps 2 and 3 left blank. It would appear that this provides the flexibility to lift the restrictions on a sub-national level, presumably to leave certain hotspots of higher infection under tighter restrictions. In supplementary material the Government state that they intend to ease restrictions nationally, but cannot rule out reimposing economic and social restrictions at a local or regional level — for example, if evidence suggests they are necessary to contain or suppress a variant which escapes the vaccine. **The Committee recognises the Government's need for the flexibility to respond to unpredictable circumstances, but the House may wish to ask the Government for more detail about the process by which this legislation will be amended to bring subsequent Steps into effect and whether local hotspots of infection may delay the lifting of national restrictions. The House may also wish to ask how frequently changes between Steps may be made.**

Timetable

13. These Regulations apply the Step 1 changes to the whole of England from 29 March and must be reviewed on 12 April. Thereafter the timetable is not fixed. The Government have made clear that the dates in the roadmap are indicative and implementation will be "guided by data, not dates". The

7 SI 2020/1374 as amended.

roadmap states that the decision about when to move from one Step to the next will be based on four tests:

- the vaccine deployment programme continues successfully;
- evidence shows vaccines are sufficiently effective in reducing hospitalisations and deaths in those vaccinated;
- infection rates do not risk a surge in hospitalisations which would put unsustainable pressure on the NHS; and
- the assessment of the risks is not fundamentally changed by new Variants of Concern.

14. Both the roadmap and the Explanatory Memorandum (EM) say that there will be a minimum of five weeks between the implementation of each Step: four weeks for the scientific data following the previous change to restrictions to emerge and be analysed, and then one week's advance notice for businesses of the restrictions that will be eased.

15. The EM adds that "if a Step is delayed, the timing of subsequent Steps will need to be recalibrated in order to maintain the necessary five-week period to assess the impact of each Step and provide notice of changes". This limit does not appear in the legislation, however. Regulation 20 requires the Secretary of State to review the need for the restrictions by 12 April 2021 and "thereafter *at least* once every 35 days from that date." We therefore asked the Government whether provision could be reviewed at an earlier date if the infection rate allowed. DHSC replied:

> "There is nothing in the regulations that prevents a review happening more frequently than every 35 days but the Government has been clear about its intentions in the roadmap. If at a review point the decision is taken not to move forward a step, we would revisit that subject to the data as the Secretary of State is under an ongoing legal obligation to repeal any restrictions that are no longer required for public health reasons."

16. We assume that if infection rates rise there would be no requirement to delay for five weeks before tightening restrictions. **The House may wish to ask for further explanation about the degree of flexibility in the Government's plans and how frequently changes between Steps may be made**.

Travel

17. Additionally, regulation 8 imposes a ban on all travel from England to a destination outside the UK. Regulation 13 sets the penalties for travel offences and regulation 19 allows that the information provided by a person on their declaration form may be used in evidence against them, if they are prosecuted under these Regulations. A fine of £5,000 is imposed on anyone leaving England or being present at an embarkation point for the purpose of travelling outside the UK, without a reasonable excuse or an exemption (set out in Schedules 5 and 6). Those who are travelling are required to complete a form in advance declaring their reason for travelling. The provisions do not permit leisure or holiday travel.

18. Changes to these provisions are separate from the Steps and will be linked to reviews by the global travel taskforce which will first report on 12 April.[8]

8 HM Government, 'Global Travel Taskforce': https://www.gov.uk/government/groups/global-travel-taskforce [accessed 23 March 2021].

INSTRUMENTS RELATING TO COVID-19

19. One instrument relating to the COVID-19 pandemic, the Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 (SI 2021/364), is drawn to the special attention of the House in this report (see paragraphs 8 to 18 above).

Changes to business practice and regulation

Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) Regulations 2021 (SI 2021/283)

20. This instrument extends further, until 30 June 2021, the moratorium during which landlords of commercial properties may not evict tenants due to non-payment of rent. This follows an initial three-month moratorium until 30 June 2020, introduced by the Coronavirus Act 2020, and three subsequent extensions until 30 September 2020, 31 December 2020 and 31 March 2021.[9] The Ministry of Housing, Communities and Local Government (MHCLG) explains that the moratorium is not a rent holiday and tenants remain liable for payment of any rent arrears, and that this further extension is necessary as many businesses are continuing to struggle with rent payments, especially in the hospitality and other vulnerable sectors. Separately, the Ministry of Justice has increased to 18 months the amount of commercial rent arrears that must be outstanding before commercial rent arrears recovery may take place (see SI 2021/300 at paragraph 25).

21. The Government previously stated that there would be no extension beyond 31 March 2021, but MHCLG says that this was before the discovery of the new UK coronavirus variant and the national restrictions announced in January 2021. According to MHCLG, this further extension will allow time for the current restrictions to be relaxed and enable tenants to negotiate with their landlords with some certainty over their ability to trade and pay rent and accumulated rent arrears.

22. MHCLG says that while the impact of reduced rental income "is causing some financial distress among commercial landlords", a Code of Practice[10] encourages businesses that can pay rent to do so. In addition, MHCLG points to the extension of the Coronavirus Job Retention Scheme until September 2021, new 'Restart Grants' of up to £18,000 for highly impacted businesses and the support that is available to businesses and the commercial real estate sector through the Coronavirus Business Interruption Loan Scheme, the Coronavirus Large Business Interruption Loan Scheme and the Coronavirus Corporate Financing Facility. These schemes provide lending through grants and government-backed loans and are available to landlords in distress. While we note the support that the Government have made available, the further extension of the moratorium raises the question whether a Code of Practice is sufficient to ensure that those commercial tenants which can pay rent will do so.

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9 Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) Regulations 2020 (revoked) (SI 2020/602), Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 2) Regulations 2020 (SI 2020/994) and Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 3) Regulations 2020 (SI 2020/1472).

10 See: MHCLG, *Code of practice for the commercial property sector* (19 June 2020): https://www.gov.uk/government/publications/code-of-practice-for-the-commercial-property-sector [accessed 18 March 2021].

Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2021 (SI 2021/284)

23. This instrument amends Schedule 29 to the Coronavirus Act 2020 which introduced emergency measures requiring residential landlords to provide extended notice periods of three months when seeking possession of either a social or privately rented property. These measures were introduced to protect tenants from eviction, by delaying when landlords could begin possession proceedings in recognition of the impact of the pandemic on tenants, the public health risk in relation to the spread of infection and the need to reduce pressure on public services. The original measures were brought into force until 30 September 2020 and subsequently extended until 31 March 2021, when the required notice period was also extended from three to six months in most cases.[11] As some national restrictions in response to the pandemic will remain in place during spring, this instrument extends these measures until 31 May 2021.

24. The Ministry of Housing, Communities and Local Government says that the instrument enables landlords to provide shorter notice periods for certain serious cases, for example cases involving anti-social behaviour, domestic abuse in the social sector or where a tenant has passed away, has no right to rent in the UK under immigration legislation or where there are rent arrears of more than six months.

Taking Control of Goods (Amendment) (Coronavirus) Regulations 2021 (SI 2021/300)

25. These Regulations increase the minimum amount of net unpaid rent that must be outstanding before commercial rent arrears recovery (CRAR) may take place, to 457 days' rent (15 months) where the enforcement action takes place on or before 23 June 2021, and to 554 days' rent (18 months) where it takes place on or after 24 June 2021. The Ministry of Justice says that, given the continuing COVID-19 restrictions, there is a high risk that, without extension of the protections set out in section 82 of the Coronavirus Act 2020 beyond 31 March, businesses that would otherwise be viable would fold. The Explanatory Memorandum adds that the Government recognise that the impact of reduced rental income is causing some financial distress among commercial landlords, and are offering support through the Coronavirus Business Interruption Loan Schemes and the Coronavirus Corporate Financing Facility. (See also SI 2021/283 at paragraphs 20 to 22.)

Travel

Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 10) Regulations 2021(SI 2021/348)

26. These Regulations amend the International Travel Regulations[12] to prohibit the arrival in England of aircraft from Ethiopia, Oman and Qatar. Arrivals from those countries are also added to the "red list", in Schedule B1, requiring them to arrive at a designated port and enter managed quarantine. Conversely, due to improved infection data, Mauritius, the Azores, Portugal and Madeira are removed from the red list and the ban on the arrival of aircraft and vessels from those countries is removed.

11 Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020 (SI 2020/914).

12 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (SI 2020/568).

27. The Regulations also exempt the following new groups from the duty to self-isolate in a managed facility if travelling to England:

- Aircrew, maritime crew and ship surveyors travelling in the course of their employment;
- those who suffer from a severe medical condition which makes it unreasonable and impractical for them to self-isolate in a managed facility; and
- those who have travelled to England with the express intention of visiting a severely ill or dying relative, who can demonstrate that they will self-isolate in another location.

Public services

Education (Student Support) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/268)

28. This instrument makes changes to the support for living costs that is available for students in higher education. The Department for Education (DfE) explains that in line with public health guidance during the pandemic, most students stayed at home and did not return to term-time accommodation for the 2020/21 spring term. While the Government will review the options for the timing of the return of students to university by the end of the Easter holidays, some students may not have received their maintenance payments, depending on their term start dates, by the time this decision is made. Depending on the nature of that decision, that may mean that students who continue to live at home in line with public health guidance, would, under the current arrangements, only be entitled to the lower home rate of loan for living costs while also paying for accommodation near their university. This instrument therefore ensures that students who were living away from home but have now returned home in line with public health guidance continue to receive the higher London or outside London rates of loan for living costs for the summer term of the 2020/21 academic year, starting on 1 April.

Public Sector Apprenticeship Targets (Amendment) Regulations 2021 (SI 2021/278)

29. This instrument sets the period from 1 April 2021 to 31 March 2022 as the new target period for public sector bodies to employ an average of at least 2.3% of their headcount staff in England as new apprentices. The Department for Education (DfE) says that the 2.3% target was introduced in 2017 to boost apprenticeships in the public sector. Specified public sector bodies[13] with over 250 employees must have due regard to the target; the House of Lords and the House of Commons, and certain other public bodies, such as universities, are exempt. The first target period ran from 1 April 2017 to 31 March 2021. According to DfE, the new one-year target period reflects a one-year spending review settlement and is set at 2.3% of headcount in recognition of the current labour market conditions created by the pandemic.

13 This includes government departments, local authorities, NHS Trusts, fire and police services and local-authority maintained schools.

30. Asked about the progress made in meeting the target, DfE told us that:

> "Since its introduction, the public sector has achieved an average of 1.7% of starts against the target, and whilst this is less than the prescribed 2.3%, we have seen positive year on year increases in the number of apprentices hired within the public sector, with an average of 1.4% of employees starting an apprenticeship in 2017. The Civil Service had an average of 2.1% of their employee headcount as new apprentice starts in 2019-20, with some individual departments exceeding the target. There have also been individual public sector bodies who have exceeded the target, such as the armed forces who had an average of 7.9% of their headcount as apprenticeship starts."

Social Security (Claims and Payments, Employment and Support Allowance, Personal Independence Payment and Universal Credit) (Telephone and Video Assessment) (Amendment) Regulations 2021(SI 2021/230)

31. Prior to the COVID-19 pandemic, claimants with health conditions or disabilities applying for Industrial Injuries Disablement Benefit (IIDB), Employment and Support Allowance (ESA), Personal Independent Payment (PIP) and Universal Credit (UC) were required to attend a face-to-face assessment. From March 2020, the Department for Work and Pensions (DWP) suspended all face-to-face assessments to safeguard claimants and staff, whilst exploring alternative methods of conducting health assessments by remote means. This instrument allows telephone and video channels to be used as additional methods of conducting health assessments for these purposes.

32. In additional material, DWP states that while these amendments do not mandate the use of telephone and video assessments, they allow them to be used if appropriate and ensure that the provisions are consistent across these benefits:

> "The same expectations and appeal rights apply to all assessments, regardless of channel. This means failure to attend is being applied for telephone assessments as it would be for face-to-face assessments in business as usual conditions: claimants who do not attend are proactively contacted and a range of factors, including their physical and mental health, is taken into full consideration to determine if they have a good reason for not attending or participating.
>
> Currently we are operating telephony assessment at scale across most of our benefits, a small number of video assessments have taken place to enable us to test and evaluate effectiveness, and face to face assessments remain suspended. No decisions have yet been taken on the appropriate channel mix once public health restrictions are lifted."

Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2021 (SI 2021/242)

33. This instrument extends two temporary Class 1 National Insurance contributions (NICs) disregards which were introduced for the 2020/21 tax year,[14] so that they also apply for the 2021/22 tax year (6 April 2021 to 5 April

14 Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2020 (SI 2020/525) and Social Security Contributions (Disregarded Payments) (Coronavirus) (No. 2) Regulations 2020 (SI 2020/1523).

2022). First, the instrument ensures that, where an employer reimburses an employee for the cost of home office equipment to enable them to work from home as a result of the pandemic, there is no Class 1 NICs liability for either the employer, or the employee, during the 2021/22 tax year. Second, the instrument provides that, where an employer pays or reimburses an employee for the cost of a relevant coronavirus antigen test, there is no Class 1 NICs liability for either the employer or the employee during the 2021/22 tax year.

Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021 (SI 2021/281)

34. This instrument amends two earlier instruments[15] to ensure that employers can continue to access support with the costs of paying eligible Statutory Sick Pay (SSP) to their employees. Specifically, it increases from 6 April 2021 the maximum SSP costs related to coronavirus that an employer can claim in respect of an individual employee to £192.70, which represents two weeks SSP at the uprated amount of £96.35. The instrument also increases the total maximum amount that an employer may claim to £192.70, multiplied by the number of employees enrolled in PAYE schemes by the employer on 28 February 2020.

Universal Credit (Extension of Coronavirus Measures) Regulations 2021 (SI 2021/313)

35. These Regulations extend the temporary coronavirus uplift of £86.67 per month (equivalent to £20 per week) to the Universal Credit standard allowances for a further six months. This applies to those who are making a new claim or are already receiving Universal Credit. Provision has also been made to ensure that the calculation of any Transitional Protection that is awarded to a claimant as part of managed migration to Universal Credit from another benefit is not reduced because of the temporary uplift.

36. The Regulations also extend, for a further three months, the relaxation of the minimum income floor requirements for the self-employed. This enables self-employed claimants whose business activity is impacted by the COVID-19 restrictions to benefit from a full award of Universal Credit rather than having their benefit reduced by an assumed level of income.

Delayed or revoked legislation

Non-Domestic Rating (Transitional Protection Payments and Rates Retention) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/262)

37. This instrument amends the schedule of instalments for payments owed by major precepting authorities[16] for the 2021/22 year, so that instead of 12 instalments, these authorities will only be required to make one payment to billing authorities in March 2022 in relation to their share of any deficit that arises from rates relief introduced during the pandemic.[17] The Ministry of Housing, Communities and Local Government (MHCLG) says that by

15 Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2020 (SI 2020/512) and Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2020 (SI 2020/513).

16 Precepting authorities are local authorities that do not collect council tax directly but instruct another local authority (the billing authority) to do it on their behalf.

17 Such as rates reliefs for the retail, hospitality and leisure sectors.

March 2022 they will have received a central government grant with which to make the payment. The instrument also moves the deadline by which billing authorities must make and certify their end-year calculations for the rates retention scheme, from 31 July to 30 September for the financial years beginning in 2020 and 2021, following the Redmond Review into the effectiveness of external audit and transparency of financial reporting in local authorities.[18]

38. In addition, the instrument ends, from 1 April 2021, the Tees Valley Additional Growth Pilot (AGP) which was created for an initial period of five years under the Tees Valley Devolution Deal. MHCLG told us that it was always intended that AGPs would be for a time limited period and that the English Devolution White Paper will consider future funding arrangements for Mayoral Combined Authorities. MHCLG says that a new special economic area with increased business rates retention will be put in place from 2021/22 in the Tees Valley authority of Redcar and Cleveland, allowing that authority and the Tees Valley Combined Authority to keep 100% of business rates growth in that area to support the long term regeneration of the defined economic area.

18 MHCLG, *Local authority financial reporting and external audit: government response to the Redmond review* (17 December 2020): https://www.gov.uk/government/publications/local-authority-financial-reporting-and-external-audit-government-response-to-the-redmond-review [accessed 18 March 2021].

INSTRUMENTS OF INTEREST

Draft Plant Health etc. (Fees) (England) (Amendment) Regulations 2021

39. This instrument enables fees to be charged for plant health checks on imports into England from the EU, Switzerland and Liechtenstein. Currently, such fees are charged only for checks on imports from the rest of the world. The Department for Environment, Food and Rural Affairs (Defra) explains that under a phased approach, higher risk consignments of regulated[19] plants, plant products and other commodities imported from the EU, Switzerland and Liechtenstein have been subject to documentary, identity and physical checks since 1 January 2021, with such checks on the remaining regulated goods being phased in during 2021 and 2022. In order to give businesses time to adjust, the fees for documentary, identity and physical checks on the higher risk goods will be applied from 1 June 2021, while fees for identity and physical checks on the remaining regulated goods will be applied from 1 March 2022. The fees reflect full cost recovery. Defra says that Scotland and Wales are introducing similar provisions.

40. We asked the Department about the expected additional cost to business arising from these fees. Defra told us that this instrument:

> "will extend the current policy of recovering the cost of plant health import inspections on regulated plants, plant products and other objects from the rest of the world to also cover inspections of similar material from EU member States, Switzerland and Liechtenstein. The impacts of this instrument on businesses […] are a result of the Transition Period ending and the EU becoming a third country, rather than any change in policy. We are simply applying the existing policy, as applied to rest of the world goods, to EU goods as well. Therefore, no Impact Assessment has been prepared for this instrument."

41. We note the rationale for this instrument. **It is disappointing, however, that the Department did not provide some analysis of the expected financial impact, given that the businesses affected did not have to pay these fees in the past, and that the Department found it necessary to phase in the fees to give businesses time to adjust. We regard this as poor legislative practice and note that Defra has previously not provided financial information when this would have assisted Parliamentary scrutiny: both the Agriculture and Fisheries Bills were introduced into Parliament without Impact Assessments**.

19 Regulated plants require a phytosanitary certificate for import, but do not require pre-notification.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

	Civil Proceedings Fees (Amendment) Order 2021
	Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021
	Plant Health etc. (Fees) (England) (Amendment) Regulations 2021
	Recognised Auction Platforms (Amendment and Miscellaneous Provisions) Regulations 2021

Made instruments subject to affirmative approval

SI 2021/279	Common Organisation of the Markets in Agricultural Products (Wine) (Amendment, etc.) Regulations 2021

Draft instruments subject to annulment

	London Borough of Newham (Electoral Changes) Order 2021
	London Borough of Waltham Forest (Electoral Changes) Order 2021

Instruments subject to annulment

SI 2021/219	Social Security (Contributions) (Amendment) Regulations 2021
SI 2021/226	Armed Forces (Enhanced Learning Credit Scheme and Further and Higher Education Commitment Scheme) (Amendment) Order 2021
SI 2021/230	Social Security (Claims and Payments, Employment and Support Allowance, Personal Independence Payment and Universal Credit) (Telephone and Video Assessment) (Amendment) Regulations 2021
SI 2021/242	Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2021
SI 2021/256	Guardian’s Allowance Up-rating Regulations 2021
SI 2021/262	Non-Domestic Rating (Transitional Protection Payments and Rates Retention) (Coronavirus) (Amendment) Regulations 2021
SI 2021/263	Accounts and Audit (Amendment) Regulations 2021
SI 2021/265	Government Resources and Accounts Act 2000 (Estimates and Accounts) Order 2021
SI 2021/267	Social Security Revaluation of Earnings Factors Order 2021
SI 2021/268	Education (Student Support) (Coronavirus) (Amendment) Regulations 2021

SI 2021/269	Immigration and Nationality (Fees) (Amendment) Regulations 2021
SI 2021/278	Public Sector Apprenticeship Targets (Amendment) Regulations 2021
SI 2021/280	Merchant Shipping (Light Dues) (Amendment) Regulations 2021
SI 2021/281	Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021
SI 2021/283	Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) Regulations 2021
SI 2021/284	Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2021
SI 2021/286	National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2021
SI 2021/287	Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment) Regulations 2021
SI 2021/292	Personal Injuries (Civilians) Scheme (Amendment) Order 2021
SI 2021/300	Taking Control of Goods (Amendment) (Coronavirus) Regulations 2021
SI 2021/310	Transfer of Functions (Speaker's Committee) Order 2021
SI 2021/312	Social Security Benefits Up-rating Regulations 2021
SI 2021/313	Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Amendment) Regulations and the Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) (Amendment) Regulations 2021
SI 2021/322	Tribunal Procedure (Amendment) Rules 2021
SI 2021/331	National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2021
SI 2021/348	Health Protection (Coronavirus, International Travel) (England) (Amendment) (No. 10) Regulations 2021
SI 2021/355	Patents (European Patent with Unitary Effect and Unified Patent Court) (Repeal and Revocation) Regulations 2021
SR 2021/51	Magistrates' Courts (Amendment) Rules (Northern Ireland) 2021

APPENDIX 1: COMPULSORY ELECTRONIC MONITORING LICENCE CONDITION ORDER 2021 (SI 2021/330)

Further information from the Ministry of Justice

As set out in the Explanatory Memorandum, the 'Acquisitive Crime' project will be fully evaluated and findings will be published.

The Ministry of Justice's Data and Analytical Services Directorate (DASD) will undertake research and analysis for the evaluation, it is our view that this offers better value for money. The project will include a multi-disciplinary team of social researchers, statisticians and economists to deliver the evaluation programme. We are allocating funding for a principal research officer to oversee the project over three years. In addition, we plan to recruit external researchers on a temporary basis to support elements of the evaluation.

In line with Government Social Research (GSR) protocols we intend to publish an interim report in Summer 2022 and a final report in late 2023. All research reports will be independently peer reviewed.

The research objectives are as follows:

- Objective 1: To understand how the process of location monitoring is working from an operational perspective, and to identify potential improvements.
- Objective 2: To understand how data sharing with the police supports crime investigation, detection and arrest.
- Objective 3: To understand the extent that location monitoring impacts offending behaviour and other rehabilitation outcomes.
- Objective 4: To understand the costs and benefits of the intervention for the CJS, specifically police, Electronic Monitoring Services (EMS), probation, and prison services.

Methodology

The initial phase will involve a process evaluation, which will include analysis of monitoring information and trail monitoring outcomes, and an evaluation of 'perceived impacts', primarily by obtaining views from staff and tag wearers through focus groups with staff; semi-structured interviews, and wearer 'Tag on' and 'Tag off' surveys. The findings from these will be provided in the interim report.

To assess the impact on reoffending we require a sample size of approximately 1,500 tag wearers to be able to detect statistically significant differences in reoffending rates of 5 percentage points or more. We anticipate reaching this by Summer 2023, enabling the final report to be published in late 2023. Impacts on reoffending will be assessed using propensity score matching, where we will compare reoffending outcomes between offenders subject to GPS tagging and similar offenders who were not. An economic evaluation will use cost-benefit analysis to understand whether the benefits of the measure outweigh its costs relative to other alternatives. The final report will outline findings from both the robust impact evaluation and economic evaluation.

22 March 2021

APPENDIX 2: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 23 March 2021, Members declared no interests.

Attendance:

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord Chartres, Lord Cunningham of Felling, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, Lord Liddle, the Earl of Lindsay, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.