HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

3rd Report of Session 2021–22

Instruments under the European Union (Withdrawal) Act 2018:
Proposed Negative Instruments
Published Draft Instruments

Includes information paragraphs on:

6 instruments relating to COVID-19

Draft Climate Change Act 2008 (Credit Limit) Order 2021

Draft Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021

Draft School Admissions Code 2021

School Information (England) (Amendment) Regulations 2021

Recognition of Professional Qualification (Amendment etc) (EU Exit) Regulations 2021

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Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as amended on 13 May 2021, are set out on the website but are, broadly:

To report on draft instruments published under paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018; 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

Baroness Bakewell of Hardington Mandeville
Rt Hon. Lord Chartres
Rt Hon. Lord Cunningham of Felling
Lord German
Viscount Hanworth
Lord Hodgson of Astley Abbotts (Chair)
The Earl of Lindsay
Lord Lisvane
Lord Sherbourne of Didsbury
Baroness Watkins of Tavistock

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 Operations Officer).

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.

Third Report

INSTRUMENTS UNDER THE EUROPEAN UNION WITHDRAWAL ACT 2018

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

Instruments about which no recommendation to upgrade is made

- Common Organisation of the Markets in Agricultural Products (Transitional Arrangements) (Amendment) Regulations 2021

Consideration of published draft instruments under Schedule 8 of the European Union (Withdrawal) Act 2018

Background

1. While the UK was a member of the EU, most Directives were transposed into UK law using section 2(2) of the European Communities Act 1972 (ECA). The European Union (Withdrawal) Act 2018 ("the 2018 Act") repealed the ECA. It also requires that instruments that amend or revoke secondary legislation made under section 2(2) of the ECA, and made under a power conferred before the beginning of session 2017–19, must be (1) subject to an enhanced scrutiny procedure and (2), when laid formally, subject to the affirmative resolution procedure (with certain requirements about statements to be made in relation to the laid instrument).

2. The enhanced scrutiny procedure is set out in paragraph 14 of Schedule 8 to the 2018 Act. It is a two-stage procedure:

   - First, the proposed instrument must be published as a draft for at least 28 days[1] before it is laid before Parliament to allow for comment, whether by a committee of either House or any other organisation or individual. ("Stage 1 scrutiny"). We refer to these draft instruments as "published drafts".

   - Second, the instrument is laid formally before Parliament, subject to the usual scrutiny procedures ("Stage 2 scrutiny") that apply to affirmative instruments. In addition, before the instrument is laid, the minister must make a "scrutiny statement" setting out, amongst other things, the Government's response to any recommendations made by a parliamentary committee and to any other representations about the instrument. These statements will be published in the Explanatory Memorandum accompanying the statutory instrument.

3. Paragraph 15 of Schedule 8 to the 2018 Act also requires the minister, before an instrument is laid (for Stage 2 scrutiny), to make two other statements setting out "good reasons for the amendment or the revocation" and a statement explaining relevant law and the effect of the amendment or revocation on retained EU law. Helpfully, the Government have provided these statements alongside the two published draft instruments mentioned in this report.

1 As usual, the 2018 Act stops the clock for recesses, prorogation etc. (para 14(9) of Sched 8 to the 2018 Act).

Our approach to scrutiny of published drafts

Stage 1 scrutiny

4. Although it is open to any other parliamentary committee to make recommendations on published drafts, the House has appointed this Committee to consider all published drafts under the enhanced procedure.

5. The 2018 Act does not contain any criteria against which the published drafts should be assessed. It seems reasonable to us therefore to consider them against our normal terms of reference.[2]

6. In doing so, we will focus, in particular, on the following questions:

- **whether the policy intention is clear**: is the policy well described, are scope and definitions clear? Is there a rationale for the change to be made?
- **whether the intended implementation is clear**: is it obvious how it will work in practice or, for example, is essential operational guidance not available at the time the draft is published? Are there any gaps, for example, the policy's application to Northern Ireland?
- **whether the impact is clear**: are the likely effects analysed and costs and benefits outlined to a proportionate degree?

7. Where we do not wish to raise any concerns, the published draft will be listed in our weekly report without comment (in the same way as some Proposed Negative instruments are treated). Where we wish to make a recommendation, an explanation will be published in our weekly report, and we will notify the relevant department.

Stage 2 scrutiny

8. When the instrument is laid formally before Parliament, we will undertake our usual scrutiny. Unlike Proposed Negative instruments, the 2018 Act allows a published draft to change between Stage 1 and Stage 2: our consideration at Stage 2 may include comment on the degree to which the final version has been adapted to address recommendations made by this or any other parliamentary committee and any other representations.

Published drafts on which the Committee makes recommendations

Motor Fuel (Composition and Content) and the Biofuel (Labelling) (Amendment) (No. 2) Regulations 2021

9. Ethanol is a biofuel that can be blended into petrol to reduce greenhouse gas emissions. The standard 95 octane grade, known as "premium" petrol in the UK, is currently blended with no more than 5% ethanol, a grade known as E5. These proposed Regulations will require its ethanol content to be increased to no more than 10% (E10) **with effect from 1 September 2021**. E10 petrol is suitable for the majority of petrol vehicles, but not some older vehicles and some petrol-powered equipment. This instrument therefore also ensures that "super" grade higher octane petrol remains E5 for those that need it.

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2 Except for the first which is to report whether an instrument is politically or legally interesting.

10. The Department for Transport (DfT) says in the draft's Explanatory Memorandum (EM) that these changes are necessary to meet future legally binding carbon budgets. Biofuel blending levels are generally driven by a separate government scheme known as the Renewable Transport Fuel Obligation (RTFO). The EM states that the proposed Regulations will only be effective if RTFO targets are increased as soon as possible after E10 is introduced; however, **the next RTFO increases are planned for 1 January 2022**. In the three months in between these Regulations taking effect and the RTFO targets being increased, according to paragraph 12.2 of the EM, the policy will cost the motorist around £20 million and decrease CO_2 savings.

11. DfT does not offer any reason why these two sets of regulations cannot be more effectively synchronised and until they are, it appears that the proposed Regulations will operate against the policy intention of reducing emissions. **We therefore recommend that, in the absence of convincing reasons to the contrary, the start of these Regulations should be reviewed with a view to aligning it with the complementary increase in the RTFO targets from 1 January 2022**.

Published drafts on which the Committee makes no recommendations

- Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021

INSTRUMENTS RELATING TO COVID-19

12. This Committee has on several occasions raised concerns about a blurring of the distinction between legislation and guidance. Recent events have illustrated why this is a significant problem: Guidance associated with both the travel regulations and the changes to restrictions in certain areas (see below) have this week caused confusion for the public and have given rise to questions about enforcement, both of which undermine the effectiveness of the advice given. Recently, in oral evidence to the Delegated Powers and Regulatory Reform Committee, the Lord President and Leader of the House of Commons, the Rt Hon Jacob Rees-Mogg MP, stated "Law is law and guidance is guidance"—we agree. There should be a very clear distinction between the two but regret that these two examples do not follow that maxim.

Restrictions on businesses and public gatherings

Health Protection (Coronavirus, Restrictions) (Steps and Other Provisions) (England) (Amendment) Regulations 2021 (SI 2021/585)

13. These Regulations amend the "Steps Regulations"[3] to implement the easing of lockdown in line with the "road map". With effect from 17 May, they move all of England from the Step 2 area to the Step 3 area, so that the restrictions set out in Schedule 3 to the Steps Regulations now apply: for example, six people or two households may gather indoors and up to 30 people outdoors, weddings and funerals are now permitted with up to 30 attending, and all remaining outdoor entertainment and indoor hospitality may now reopen. The Steps Regulations are due to expire on 30 June 2021.

14. Schedule 3 to the Steps Regulations is also amended to increase the number of people who may attend support groups to up to 30, and to allow funeral limits to exceed 30 where the venue has capacity to meet coronavirus guidelines. Regulation 8 of the Steps Regulations is also revoked to remove the prohibition on international travel and the requirement for individuals to declare their reason for travelling abroad.

15. This instrument also amends the Face Coverings in a Relevant Place Regulations[4] to provide an exemption for gatherings for specified education and training purposes in community premises. This mirrors the policy for schools and further education providers. It also extends the expiry date of certain other regulations to 20 June 2021.[5]

16. These national provisions came into effect on 17 May. However the Government published guidance on 21 May[6] which said that to combat "the Indian variant" people living in Bedford, Blackburn with Darwen, Bolton, Burnley, Kirklees, Leicester, Hounslow and North Tyneside should meet outside wherever possible and travel in and out of those areas should be avoided. This change was not publicised by the Government and caused

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

4 Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020) (SI 2020/791).

5 Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020 (SI 2020/1375) and Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020 (SI 20202/592).

6 Cabinet Office, '(COVID-19) Coronavirus restrictions: what you can and cannot do: If you're in an area where the new COVID-19 variant is spreading' (29 March 2021): https://www.gov.uk/guidance/covid-19-coronavirus-restrictions-what-you-can-and-cannot-do#if-youre-in-an-area-where-the-new-covid-19-variant-is-spreading [accessed 25 May 2021].

considerable confusion. All eight local health directors have since issued a joint statement contradicting it, saying that there are no restrictions on travel in or out of their areas and national conditions apply.[7] It appears that this situation was in part caused by continuing confusion over the status of government guidance and in part by failures in how the advice was communicated.

Changes to business regulation and practice

Assured Tenancies and Agricultural Occupancies (Forms) (England) (Amendment) and Suspension (Coronavirus) Regulations 2021 (SI 2021/562)

Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021 (SI 2021/564)

17. These two instruments have been laid before Parliament alongside and share an Explanatory Memorandum. SI 2021/564 amends Schedule 29 of 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. The measures were introduced to protect tenants from eviction during the pandemic, by delaying when landlords could begin possession proceedings. The measures were brought into force for an initial period of six months until 30 September 2020 and were subsequently extended until 31 March 2021, when the required notice period was also extended to six months in most cases.[8] They were extended further until 31 May,[9] and SI 2021/564 extends the measures for a third time until 30 September. The instrument also reduces the length of notice required from six to four months from 1 June and, in the case of non-serious rent arrears cases only, reduces it further to two months' notice from 1 August. The instrument also reduces the threshold for what is considered 'serious rent arrears' from more than six months' to four months' rent from 1 June. The Ministry of Housing, Communities and Local Government says that the changes reflect the easing of national restrictions. SI 2021/564 makes consequential changes to the notice period requirements in the prescribed form that is used for serving notice of a property let on an assured tenancy or an assured agricultural occupancy.

Travel

Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (SI 2021/582)

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) Regulations 2021 (SI 2021/589)

18. The previous International Travel regulations,[10] which were due to expire on 8 June, have been amended more than 50 times. SI 2021/582 consolidates and carries forward the requirements of those Regulations and the associated

7 'Covid: Government backtracks over local travel advice after confusion', *BBC* (26 May 2021): https://www.bbc.co.uk/news/uk-57246973 [accessed 26 May 2021].

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

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

10 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (SI 2020/568) as amended.

SIs which required operators of commercial transport to ensure passenger compliance with them.[11] In addition, from 17 May, in line with the report of the Global Travel Taskforce[12] it introduces, in Schedule 1, the green list for countries from which travellers are assessed as posing a lower risk to public health. (The green, amber and red lists are referred to as categories 1, 2 and 3 respectively in the instrument.) In Schedule 3, the measures applicable to red list "high risk" arrivals remain unchanged. Amber list countries are those not listed in either Schedule 1 or 3. The same requirements for testing, completion of a Passenger Locator Form quarantine, exemptions and penalties are carried forward. The new Regulations must be reviewed on 14 June and at least every 28 days thereafter. The instrument will cease to have effect on 16 May 2022 if not revoked earlier.

19. SI 2021/589 was laid four days later to disapply the exemption for seafarers (in Schedule 11) from those working on cruise ships, who will have to enter managed self-isolation if they have been in a red list country in the previous 10 days. It also corrects errors to (amongst other things) ensure that Part 4 (operator liability) of the International Travel and Operator Liability Regulations applies as intended to maritime and rail operators.

20. **We once again note that significant regulations have been laid and brought into effect over a weekend and also that they have required almost immediate correction.**

21. **We also note reports of confusion over whether people can take holidays in amber list countries such as France or Spain. The restrictions in this instrument impose self-isolation at home and testing on days 2 and 8 for anyone who arrives in England from one of those countries. SI 2021/585 (see above) removed all legal restrictions on leaving the UK, but the government guidance states that people should not travel to amber list countries.[13] Ministers have made apparently conflicting statements about whether people are allowed to travel for leisure purposes, and now say that people should not visit most countries unless there are "exceptional circumstances".[14] Reportedly holiday companies are refusing to refund or exchange bookings to these countries,[15] so the confusion over what is guidance and what is law appears to have led to financial losses for some customers .**

11 Health Protection (Coronavirus, Public Health Information for International Passengers) (England) Regulations 2020 (SI 2020/567) and the Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021 (SI 2021/38).

12 DfT, *Global Travel Taskforce: safe return of international travel* (9 April 2021): https://www.gov.uk/government/publications/global-travel-taskforce-safe-return-of-international-travel [accessed 20 May 2021].

13 DfT, 'Red, amber and green list rules for entering England: Amber list countries and territories' (7 May 2021): https://www.gov.uk/guidance/red-amber-and-green-list-rules-for-entering-england#amber-list [accessed 25 May 2021].

14 'Don't holiday in amber list countries — Boris Johnson', *BBC* (19 May 2021): https://www.bbc.co.uk/news/business-57158372 [accessed 26 May 2021].

15 'Holiday firms refuse refunds for amber destinations', *BBC* (18 May 2021): https://www.bbc.co.uk/news/business-your-money-57155554 [accessed 26 May 2021].

Public services

Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) (Amendment) Regulations 2021 (SI 2021/579)

22. This instrument confirms that a hearing for appeals made to the Valuation Tribunal for England (VTE) can be conducted in whole or in part by video link, telephone, or other means of instantaneous two-way electronic communication. According to the Ministry of Housing, Communities and Local Government (MHCLG), this brings the VTE procedures in line with the arrangements in the broader tribunal system. MHCLG says that without the clarification there could be an expectation that hearings would be physical and require in-person attendance, and that the need for social distancing during the pandemic has highlighted the benefit of clarifying the options available to the VTE when deciding how to conduct a hearing. There will be no requirement for hearings to be held remotely: the VTE will continue to be able to hold in-person hearings where appropriate.

Draft Climate Change Act 2008 (Credit Limit) Order 2021

23. This draft Order proposes a limit on the number of international carbon units (55 million) that may be used to meet the fourth carbon budget (which runs from 2023 to 2027). Each unit or "credit" represents one tonne of CO_2 equivalent. The proposed limit remains unchanged from the second and third carbon budgets. According to the Department for Business, Energy and Industrial Strategy (BEIS), the Committee on Climate Change (CCC) advised the Government that there should be no use of credits to meet the fourth carbon budget in place of domestic action, as this could detract from UK climate leadership and reduce clarity on the steps required in the UK to meet the 2050 Net Zero emissions target. The CCC does support, however, the purchase of international carbon credits as a way of supporting climate mitigation action internationally. The Devolved Administrations were also consulted, and their views are set out in the Impact Assessment that has been laid alongside the draft Order.

24. BEIS says that while the UK is currently projected to meet the fourth carbon budget, the credit limit will provide "an appropriate level of flexibility" to manage the uncertainty about future emissions: if actual emissions were to turn out significantly higher than currently projected, the UK would be able to use international credits to meet any shortfall, avoiding the need for urgent and expensive action to reduce domestic emissions. BEIS adds that the ability to purchase credits will also enable the UK to support mitigation action in developing countries.

Draft Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021

25. These draft Regulations seek to ensure that there is continuity for UK firms and their customers which use certain European Economic Area (EEA) systems, including payment systems, central securities depositories and clearing houses, and which rely on these systems retaining settlement finality protection[16] in the UK. HM Treasury (HMT) explains that an earlier EU Exit instrument[17] introduced a Temporary Designation Regime (TDR) to ensure that EEA systems benefitting from settlement finality protection at the end of the Transition Period (TP) will continue to do so for three years until 31 December 2023. The purpose of the TDR is to allow time for applications from EEA systems to be considered by the Bank of England ("the Bank"): in order for the systems to benefit from the TDR, they were required to notify the Bank before the end of the TP that they wished to enter the TDR and, in order to remain in the TDR, they are required to submit an application to the Bank by 30 June 2021.

26. This instrument makes changes to what happens if any system fails to submit an application by 30 June: at the moment, according to HMT, the system would immediately lose UK settlement finality protection and "UK firms using the EEA system might have to suddenly off-board, which could

16 The aim of settlement finality protection is to reduce the systemic risk associated with participation in payment and securities settlement systems, and in particular the risk linked to the insolvency of a participant in such a system.

17 Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2021 (SI 2019/341).

result in disruption for end-users of financial services provided by the EEA system". This instrument ensures that any EEA system that fails to submit an application will retain settlement finality protection until 30 June 2023, giving UK firms sufficient time to find alternative providers should any EEA system choose to stop providing services to UK firms.

27. Asked about the scale of the issue and how many UK firms currently use relevant EEA systems, HMT told us that:

> "37 EEA systems notified the Bank at the end of December 2020 that they wish to join the [TDR] and receive UK settlement finality protection until 31 December 2023. This includes EEA payment systems, central securities depositories and clearing houses […][18] Some individual systems in the EU are used by a wide number of UK participants, either directly or indirectly."

Draft School Admissions Code 2021

School Information (England) (Amendment) Regulations 2021 (SI 2021/570)

28. The draft School Admissions Code 2021 ("the 2021 Code") aims to improve the in-year admissions process, with a particular focus on supporting the in-year admission of vulnerable children.[19] According to the Department for Education (DfE), the 2021 Code revises and replaces the current Code from 2014 to improve the clarity, timeliness and transparency of the in-year admissions process to ensure all vulnerable children can access a school place as quickly as possible. DfE says that the changes address the conclusions of a review[20] which found that children in need are more likely to seek a school place outside the normal admissions round, and that delays in securing a school place in-year can lead to children missing education. We asked the Department for a summary of the changes made by the 2021 Code compared to the 2014 Code, which we are publishing at Appendix 1. The 2021 Code will take effect from 1 September 2021.

29. The changes to the 2021 Code require consequential amendments to the School Information Regulations 2008,[21] which set out what information local authorities and governing bodies are required to publish about school admissions. Amongst other changes, SI 2021/570 removes the current obligation on local authorities to provide information about in-year applications in their annual composite prospectus, as the 2021 Code introduces a new requirement on local authorities to publish such information on their website, with hard copies available to parents on request. SI 2021/570 also makes an unrelated consequential change to reflect the discontinuation of the Year 7 catch up premium grant which has been replaced with a Low Prior Attainment factor within the National Funding Formula.

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18 Bank of England, List of EEA systems to receive settlement finality protection in the UK under TDR (30 April 2021): https://www.bankofengland.co.uk/eu-withdrawal/-/media/boe/files/financial-stability/financial-market-infrastructure-supervision/list-of-eea-systems.pdf [accessed 20 May 2021].

19 In-year admission means that a school place is taken up at some point during, rather than at the beginning of, the academic year, or at the start of a year which is not the normal point of entry to the school. The normal point of entry to school is reception class in a primary school or year 7 in a secondary school.

20 DfE, 'Review of children in need' (17 June 2019): https://www.gov.uk/government/publications/review-of-children-in-need/review-of-children-in-need [accessed 20 May 2021].

21 School Information (England) Regulations 2008 (SI 2008/3093).

Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2021 (SI 2021/574)

30. This instrument makes a change in relation to an alert mechanism in the EU's Internal Market Information (IMI) system, a digital information sharing platform. The Department for Business, Energy and Industrial Strategy (BEIS) explains that the mechanism is used by regulators to issue alerts to inform other Member States when a professional has been suspended or prohibited from practising in a regulated profession due to their conduct, for example in the health or education sector. Following EU Exit, the UK no longer has access to the IMI system and the European Commission has withdrawn all UK alerts from the system. This instrument removes the obligation on UK regulators to update the European Commission on any UK IMI alerts, now that these alerts have been withdrawn.

31. BEIS told us that outside the IMI system, "there are arrangements for UK and EU regulators to communicate with each other concerning cases of disciplinary action or criminal sanctions in relation to a professional's practice. However, this may not apply to all regulated professions, or may differ depending on the profession." BEIS added that with regard to the General Medical Council (GMC), for example, "there are provisions in the Medical Act 1983 that allow the GMC to disclose information related to an individual's fitness to practise to any person (including EU regulators) if they consider this to be in the public interest".

32. The House may wish to ask the Minister whether information will be published to show in which regulated professions the UK regulator may share information with an overseas counterpart. We also note that the Professional Qualifications Bill that is currently before the House contains provisions to authorise UK regulators to enter into recognition arrangements with overseas regulators and for a duty on UK regulators to provide information to their overseas counterparts.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

	Birmingham Commonwealth Games (Compensation for Enforcement Action) Regulations 2021
	Climate Change Act 2008 (Credit Limit) Order 2021
	Common Organisation of the Markets in Agricultural Products (Fruit and Vegetable Producer Organisations, Tariff Quotas and Wine) (Amendment etc.) Regulations 2021
	Contracts for Difference (Miscellaneous Amendments) Regulations 2021
	Financial Markets and Insolvency (Transitional Provision) (EU Exit) (Amendment) Regulations 2021
	Public Procurement (International Trade Agreements) (Amendment) Regulations 2021

Made instruments subject to affirmative approval

SI 2021/585	Health Protection (Coronavirus, Restrictions) (Steps and Other Provisions) (England) (Amendment) Regulations 2021

Draft instruments subject to annulment

	School Admissions Code 2021

Instruments subject to annulment

SI 2021/558	Capital Requirements Regulation (Amendment) (EU Exit) Regulations 2021
SI 2021/560	European Union (European Schools) Regulations 2021
SI 2021/562	Assured Tenancies and Agricultural Occupancies (Forms) (England) (Amendment) and Suspension (Coronavirus) Regulations 2021
SI 2021/564	Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021
SI 2021/565	Accounts and Audit (Amendment No. 2) Regulations 2021
SI 2021/566	Financial Services and Markets Act 2000 (Collective Investment Schemes) (Amendment) Order 2021
SI 2021/570	School Information (England) (Amendment) Regulations 2021
SI 2021/572	St Ives (G7 Summit 2021) Harbour Revision Order 2021
SI 2021/573	Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2021
SI 2021/574	Recognition of Professional Qualification (Amendment etc) (EU Exit) Regulations 2021
SI 2021/579	Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) (Amendment) Regulations 2021

SI 2021/582	Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021
SI 2021/589	Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) Regulations 2021

APPENDIX 1: DRAFT SCHOOL ADMISSIONS CODE 2021

Further information from the Department for Education

Subject to Parliamentary approval, the following changes will be made to the School Admissions Code 2021 (2021 Code):

1. In-year admissions (see paragraphs 2.23–2.31)

- Introducing a dedicated section in the 2021 Code on in-year admissions to better support all admission authorities (including local authorities) in discharging their duties when processing in-year applications.
- Clarifying responsibilities around making information available to parents on how the in-year admissions process works.
- Requiring decisions on in-year applications to be made within 15 school days.
- Requiring admission authorities to provide information on availability of school places to local authorities whenever this is requested to assist parents when looking for a school place for their child.

2. Fair Access Protocols (FAPs) (see paragraphs 3.14–3.22)

- Clarifying the section in the existing (2014) Code around FAPs, to make clear the purpose of the FAP, when it should be used and setting out a clear process of how the FAP should work, including requiring that placement decisions need to be made within 20 school days of a child being referred to the FAP.
- Extending the mandatory categories of children who must be admitted via the FAP to include children on a Child in Need/Child Protection Plan, children in refuge, children in formal kinship care arrangements, children who have been out of education for four or more weeks and previously looked after children (PLAC) for whom the local authority has been unable to promptly secure a school place.
- Removing the ability for local authorities to introduce their own FAP categories and avoiding the routine use of FAPs in place of the usual in-year admissions process.
- Clarifying the process of refusing to admit a child who displays challenging behaviour, including defining challenging behaviour for the purposes of the 2021 Code (see paragraphs 3.8–3.13).

3. Giving parity to children who have been adopted from state care outside of England (referred to as "IAPLAC") as PLAC (see paragraph 1.7)

- Extending highest admissions priority to IAPLAC.
- Extending any provisions given to PLAC in the 2021 Code to IAPLAC.

4. Providing further clarity as to how admission authorities should process applications from families of Service and Crown personnel (see paragraph 2.21)

- Clarifying that admission authorities should be flexible with regard to the form of evidence that parents must provide as proof of address, whereas currently, some admission authorities are rigid about what they will accept as proof of address.

5. Minor policy and technical drafting changes to certain provisions of the Code

We have also made a number of minor policy and technical drafting changes to certain provisions of the Code (including references to dates and timelines). These changes aim to improve the effectiveness of the admissions framework and provide further clarity on the definition of key terms to make clear our policy intention where there appears to be ambiguity. These changes do not introduce new requirements.

18 May 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 25 May 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, the Earl of Lindsay, Lord Lisvane and Lord Sherbourne of Didsbury