

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 4th Report of Session 2021–22

#### **Instruments under the European Union (Withdrawal) Act 2018: Published Draft Instruments**

Drawn to the special attention of the House:

#### **Draft Calorie Labelling (Out of Home Sector) (England) Regulations 2021**

#### **Includes information paragraphs on:**

2 instruments relating to COVID-19

Draft Introduction and the Import of Cultural Goods (Revocation) Regulations 2021

Draft Space Industry Regulations 2021 and two related instruments

Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021

Regulation of Investigatory Powers (Criminal Conduct Authorisations) (Amendment) Order 2021

Food (Amendment and Transitional Provisions) (England) Regulations 2021

Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2021

Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (England) 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*

<a href="#"><u>Baroness Bakewell of Hardington Mandeville</u></a>	<a href="#"><u>Viscount Hanworth</u></a>	<a href="#"><u>Lord Lisvane</u></a>
<a href="#"><u>Rt Hon. Lord Chartres</u></a>	<a href="#"><u>Lord Hodgson of Astley Abbotts</u></a>	<a href="#"><u>Lord Sherbourne of Didsbury</u></a>
<a href="#"><u>Rt Hon. Lord Cunningham of Felling</u></a>	(Chair)	<a href="#"><u>Baroness Watkins of Tavistock</u></a>
<a href="#"><u>Lord German</u></a>	<a href="#"><u>The Earl of Lindsay</u></a>	

## *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/ukxi>

## *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](mailto:hlseclegscrutiny@parliament.uk).

# Fourth Report

## INSTRUMENTS UNDER THE EUROPEAN UNION WITHDRAWAL ACT 2018

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

#### *Published drafts on which the Committee makes recommendations*

##### *Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2021*

1. These proposed Regulations would implement internationally agreed changes to reduce emissions from ships. They would apply the global limit of 0.5% sulphur or less to marine fuels used or carried by UK flagged ships operating outside of UK waters (where the limit already applies) and would require that new ships and new engines be certified to meet the latest nitrogen oxide emission standards. The instrument also includes an ambulatory reference<sup>1</sup> provision which will allow future emission reductions agreed by the International Maritime Organization to be implemented more rapidly.
2. This instrument will belatedly implement five separate revisions to the International Convention for the Prevention of Pollution from Ships 1973, the earliest of which came into force on 1 March 2016. Paragraph 7.15 of the Explanatory Memorandum (EM) explains that until this new instrument comes into effect, marine inspectors will not be able to use the criminal justice system to impose fines on foreign vessels calling at UK ports which breach these standards. In its EM, the Department for Transport acknowledges that these revisions are part of their legislative backlog. In the forthcoming scrutiny statement, we would wish to see a fuller explanation of why the Department has not dedicated more resource to resolving a longstanding problem which it initially aimed to address by 2020<sup>2</sup> and which has knowingly left the Marine and Coastguard Agency with inadequate powers of enforcement. The explanation should also set out the extent of the remaining backlog and how long it is estimated it will take to clear it completely.

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1 An “ambulatory reference” allows domestic legislation to be updated automatically when the cross-referenced provisions in international legislation are updated.

2 Our [21st Report](#) of Session 2017–19 (HL Paper 88) included an exchange of correspondence on this point and more recently, our [17th Report](#) of Session 2019–21 (HL Paper 73).

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Draft Calorie Labelling (Out of Home Sector) (England) Regulations 2021

*Date laid: 13 May 2021*

*Parliamentary procedure: affirmative*

*These Regulations require cafés, restaurants and takeaway food businesses with more than 250 employees (including franchises and food delivery firms) to provide information on the food and drink that they sell for immediate consumption in kilocalories (kcal). By 6 April 2022, calorie information must be displayed at the point of choice for the customer, on menus and online sites, alongside a statement that ‘adults need around 2000 kcal a day’. The Department for Health and Social Care (DHSC) presents a well-argued case for the policy but it is not unchallenged; both the hospitality industry and Beat (an organisation representing people with eating disorders) have expressed concerns. It appears that this is a situation where there is no ideal solution, but DHSC’s policy is one it believes will benefit most people. The markedly higher mortality rate from coronavirus amongst people who are overweight has made this initiative a priority.*

**These Regulations are drawn to the special attention of the House on the grounds that they give rise to issues of public policy likely to be of interest to the House.**

#### *Background*

3. These Regulations, laid by the Department for Health and Social Care (DHSC), require qualifying businesses which sell food and drink for immediate consumption, either in a café, restaurant or other catering establishment or as take away food, to provide information on the energy content of the food that they sell to consumers in kilocalories (kcal). By 6 April 2022, calorie information must be displayed at the point of choice for the customer, on menus and online sites, alongside a statement that ‘adults need around 2000 kcal a day’. The provision applies to all businesses with 250 or more employees, including franchises, and where food is sold through third party delivery companies. (Separate legislation already requires pre-packed foods sold in supermarkets and other shops to show the food’s calorie content on the label.)
4. In the Explanatory Memorandum (EM), DHSC says that voluntary measures to encourage these food businesses to provide calorie content have been in place since 2011 but that compliance has been very low. The Department cites evidence that one in four children and adults are now obese and that restaurant or take-away meals contribute to the overconsumption of calories because they contain, on average, twice as many calories as equivalent retailer own-brand or manufacturer-branded products.
5. DHSC hopes that clear and consistent calorie information at the point of choice will help consumers make healthier choices, and that transparency about the calorie content may encourage businesses to reformulate products or reduce portion sizes. If successful, as well as health benefits for the individual, the legislation is anticipated to save the NHS and social care services nearly a billion pounds in care costs over 25 years. **We commend**

**the comprehensive, well-structured and clear EM which supports the proposed policy change with a range of evidence.**

*Concerns expressed*

6. DHSC’s policy is well presented and argued but not unchallenged. Concerns have been expressed by UK Hospitality, which supports the objective but not the timing:

“The last thing the sector needs after prolonged periods of closure and trading restrictions is unnecessary red tape. The majority of operators are in survival mode and their recovery will take many, many months, so creating additional burdens is hugely unhelpful. Hospitality businesses share the Government’s objectives in tackling obesity and improving public health, but at a time of huge economic uncertainty these new rules must strike a balance and be proportionate. Layering on new costs for businesses in a sector that has been hardest hit by the pandemic risks prolonging their recovery and business’ ability to invest and create jobs.”<sup>3</sup>

7. The legislation allows firms, however, until 6 April 2022 to comply, exempts smaller firms, schools, hospitals and other institutions that run their own canteens, and provides an exemption for restaurants where the menu changes frequently. It is squarely targeted at the larger chains.
8. Different concerns have been expressed by Beat,<sup>4</sup> an organisation that supports those who suffer from eating disorders, that the publication of calorie content will exacerbate their condition because it will encourage an obsession with calories, which is a common trait for people with eating disorders. Beat also says that the Government’s focus should be on nutrition rather than simply on calorie intake. DHSC states that they have taken into account similar views expressed during the consultation by providing an exemption in the Regulations which allows for a menu without calorie information to be provided on request. In additional material on this point, DHSC said:

“We have been careful to consider the views of a wide range of experts in response to our public consultation on introducing mandatory out-of-home calorie labelling including representatives from eating disorder groups. Feedback from people living with eating disorders is that they may find viewing calorie information challenging, and therefore may find it beneficial for their recovery to request a menu without calorie information when eating out. It should be noted that the Regulations only permit a menu without calorie information to be provided at the express request of the customer, a business may not offer a menu without calorie information to their customers. This means that the default menu provided by businesses subject to these Regulations will be one displaying calorie information, which will support people in making healthier choices when eating out.”

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3 UK Hospitality, Press Release: *Commenting on Government plans revealed in the Queen’s Speech that may impose restrictions on advert* on 11 May 2020: <https://www.ukhospitality.org.uk/news/565003/Commenting-on-Government-plans-revealed-in-the-Queens-Speech-that-may-impose-restrictions-on-advert.htm> [accessed 9 June 2021].

4 Beat’s submission is published in full on our website: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/>.

*DHSC's response*

9. The matter is also addressed in DHSC's published response to the consultation.<sup>5</sup> In this, while acknowledging the legitimate concerns of those with eating disorders, the Department also cites research which shows that the general public would welcome these changes:

“There is strong public demand for calorie labelling; 79% of respondents to a Public Health England survey said they think that menus should include the number of calories in food and drinks. Another survey from Diabetes UK showed that around 60% of the public said that they would be more likely to eat at an establishment that offered calorie labelling on its menus.” (page 5)

10. DHSC maintains that the policy is justified by the increasing amount of obesity in the population, “nearly a quarter of children in England are overweight or obese when they start primary school aged five, and this rises to one third by the time they leave aged 11” with the negative effects this will have on them in adulthood (increased risk of developing type 2 diabetes, heart disease, fatty liver disease and a number of cancers).
11. DHSC has provided additional data which illustrates the range of groups and reasons for concern:

“Data from the Health Survey for England, published December 2020, shows that, in 2019, around 64% of adults (28.9 million) aged 16 and over were overweight or obese; around 28% of adults (12.6 million) were living with obesity. The same survey reported 16% of adults aged 16 and over screened positive for a possible eating disorder. The eating disorder charity Beat estimate that approximately 1.25 million people in the UK have an eating disorder.

The Health Survey for England shows that, in 2019, 10% of adults had diabetes, of which 7% was doctor-diagnosed diabetes. The proportion of all adults with doctor-diagnosed diabetes has at least trebled from 1994. A Diabetes UK report published in February 2020 suggested that 3.9 million people in the UK are currently living with a diagnosis of diabetes, up to 4.8 million people when data on estimated undiagnosed cases is included. Diabetes UK estimate 90% of people with diabetes in the UK have type 2 diabetes. As well as the human cost, type 2 diabetes treatment alone accounts for just under 9% of the annual NHS budget; this is around £8.8 billion a year.

Excess weight is also the second biggest preventable cause of cancer behind smoking and is linked with several different types of cancer; Cancer Research UK estimate around 22,800 (6.3%) of cancer cases in the UK per year are attributed to being overweight or obese. Excess abdominal adiposity and type 2 diabetes are risk factors for cardiovascular disease; in 2017, the Health Survey for England reported that 14% of adults aged 16 and over had a doctor-diagnosed cardiovascular disease. In 2016, cardiovascular disease was the second most common broad

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5 DHSC, *Mandating calorie labelling in the out-of-home sector: Government response to public consultation* (26 February 2021): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/903714/Calorie\\_Labelling\\_-\\_Consultation\\_Response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903714/Calorie_Labelling_-_Consultation_Response.pdf) [accessed 4 June 2021].

cause of death, accounting for just over a quarter of all deaths registered in England and Wales.”

12. The Government’s consultation response cites the current pandemic as the reason for pressing for this change at this time:

“The outbreak of COVID-19 has been one of the biggest public health challenges ever faced by the UK and is a catalyst for us to redouble our efforts to reduce obesity levels in the UK. Emerging evidence shows that patients with obesity, and in particular morbid obesity, may be more likely to be admitted to intensive care; require advanced treatment, such as ventilation; and have 37% increased risk of dying from COVID-19 compared to non-obese patients.” (page 4)

### *Conclusion*

13. It appears that this is a situation where there is no ideal solution, but DHSC’s policy is one it believes will benefit most people. Although the evidence of success is equivocal (for example, Beat cites evidence that some of the dietary changes made by individuals in America in response to a similar campaign were small and short-lived), the obesity problem is so widespread that DHSC sees these Regulations as part of a campaign to raise awareness of calorie intake not only for individuals but also the hospitality industry. The markedly higher mortality rate from coronavirus amongst people who are overweight has made this initiative a priority.

## INSTRUMENTS RELATING TO COVID-19

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### Changes to business practice and regulation

#### *Draft Customs Safety and Security Procedures (EU Exit) Regulations 2021*

14. These draft Regulations propose changes to the safety and security regime as part of the Government's wider extension of the phasing in of customs controls. The instrument extends the waiver from a requirement for an entry summary declaration for goods moved into Great Britain (GB) from territories that did not require such a declaration before EU Exit, such as the EU, Norway and Switzerland, from 30 June until 31 December 2021. The instrument also extends the waiver from the requirement for an exit summary declaration for all Roll-on/Roll-off (RoRo) movements, and all movements of empty pallets, containers and modes of transport being moved under a transport contract, from GB to territories where such a declaration was not required before EU Exit, from 30 June to 30 September 2021. HM Revenue and Customs explains that these extensions are being introduced in response to feedback from industry that the pressures arising from the pandemic have affected their readiness for the introduction of full customs controls from 1 July 2021, as previously proposed. **We note that while this instrument extends the waivers on the GB side, the EU has not reciprocated, so that GB businesses trading with the EU will still have to meet the customs requirements on the EU side.**

### Changes to benefits

#### *Child Benefit (General) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/630)*

15. This instrument amends Child Benefit legislation to protect a claimant's entitlement where a young person they are responsible for finishes education earlier than usual due to the national cancellation of examinations this year. HM Revenue and Customs explains that in the final year of payment, individuals usually continue to receive Child Benefit until 31 August unless another relevant change of circumstances occurs and as long the young person the claimant is responsible for is in education after 31 May. Because of the national cancellation of examinations this year as a consequence of the pandemic, some young persons are finishing education before 31 May when they would not have otherwise done so. This instrument is needed to protect an individual's entitlement to Child Benefit in these cases.

## **INSTRUMENTS OF INTEREST**

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### **Draft Introduction and the Import of Cultural Goods (Revocation) Regulations 2021**

16. We recommended these Regulations, which propose to revoke EU Regulation 2019/880 on the introduction and import of cultural goods, should be upgraded to the affirmative procedure when they were initially laid before Parliament as a proposed negative instrument. The Department for Digital, Culture, Media and Sport (DCMS) explains that Article 3(1) of the EU Regulation prohibits the import of non-EU cultural goods which have been unlawfully removed from the country in which they were created or discovered. According to DCMS, this “general prohibition” provision applies to the EU’s customs territory and has become legally deficient after the UK’s exit from the EU.
17. The Department has chosen to revoke the EU Regulation, rather than amend the provision, because it considers that even if corrected, the general prohibition “would not add anything new to the existing obligations on businesses and importers to ensure the legal provenance of cultural goods which they bring into the [UK], or to the measures already available to the [UK]’s border authorities to prevent cultural goods being brought into the [UK] when there is information or evidence that they have been unlawfully removed from another country”. DCMS says that this is “in line with our existing commitments and obligations as a member of international organisations such as the World Customs Organisation and Interpol and in international law, including the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.” When we considered the instrument as a proposed negative, we asked DCMS for further information on the international and domestic legislation that applies in this area. We welcome that this information has been included in the Explanatory Memorandum.
18. We recommended that the instrument should be subject to the affirmative procedure because we were concerned that, despite other legal obligations, the revocation of the EU Regulation by this instrument could have the potential of weakening the legal prohibition currently provided by Article 3(1). In its De Minimis Assessment of the impact, the Department acknowledges that the revocation is “likely to be criticised by those who consider that the UK needs to do more to prevent the import into the UK of cultural goods which have been stolen, looted and/or unlawfully exported from other countries”, and that there “could be a perception that we are watering down our commitment to protect cultural property from illicit trade which we will need to robustly counter.” These are issues that the House may wish to examine further.

### **Draft Space Industry Regulations 2021**

#### **Draft Spaceflight Activities (Investigation of Spaceflight Accidents) Regulations 2021**

#### **Draft Space Industry (Appeals) Regulations 2021**

19. The draft Space Industry Regulations 2021 will enable the licensing and regulation of spaceflight activities, spaceports and range control services within the UK or operated from a UK- registered ship. The draft Regulations

are designed to enable UK launches by the early 2020s and promote growth, innovation and sustainability whilst protecting public safety, security and the UK's international relations. The two associated instruments establish a spaceflight accident investigation body and indicate how it will conduct accident investigations, and create an appeals body, stating which decisions may be appealed and the procedures and timescales.

20. Once the Space Regulations 2021 are in force, they will function alongside the Space Industry Act 2018 and the Outer Space Act 1986 (which regulates the launch overseas of an object into space by a UK entity). They will also work alongside other legislation such as aviation and health and safety legislation (for example, the established requirements for aviation crew are being applied to space crew).
21. In line with best practice, guidance documents are published alongside these draft Regulations that give more detail about applying for a license to operate a spaceport and various other operational functions.<sup>6</sup>

### **Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021 (SI 2021/592)**

22. These Regulations implement a recommendation of a report by the Marine Accident Investigation Branch (MAIB), of July 2009, into the flooding of the grab hopper dredger Abigail H in the Port of Heysham in November 2008. Crew were asleep at the time of sinking and the recommendation stated that bilge alarms should be installed that are capable of waking crew in all accommodation spaces with sufficient time for appropriate action to be taken.
23. As we have noted earlier in this Report, the Department for Transport (DfT) has an acknowledged backlog of international marine legislation it has yet to implement. As this recommendation in relation to bilge alarms comes from a UK source, it would appear that there is also a separate backlog of domestic legislation yet to be implemented.
24. When we asked why it had taken more than 11 years to legislate on this safety issue, DfT explained that the Marine and Coastguard Agency continually reviews the priority of the regulatory changes needed: "As only a relatively small number of vessels are in scope of this proposal, it was initially viewed as disproportionate to advance this regulatory package on its own."
25. The Explanatory Memorandum notes that there are 425 ships listed on the UK Ships Register of this type, and that there have been nine instances of flooding on such ships reported to the MAIB since 1996. We do not regard 425 as a negligible number of ships and crews **and it is a matter of concern that the DfT has failed to follow up promptly the MAIB's safety recommendations.**

### **Regulation of Investigatory Powers (Criminal Conduct Authorisations) (Amendment) Order 2021 (SI 2021/601)**

26. The use of covert human intelligence sources (CHIS) in order to prevent or secure prosecutions for serious crimes including terrorism, drugs and

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<sup>6</sup> DfT and UK Space Agency, 'Spaceport and spaceflight activities: regulations and guidance' (29 July 2020): <https://www.gov.uk/government/consultations/spaceport-and-spaceflight-activities-regulations-and-guidance> [accessed 4 June 2021].

firearms offences, and human trafficking is well established. The recent Covert Human Intelligence Sources (Criminal Conduct) Act 2021 amended existing legislation to improve the authorisation system for occasions when CHIS may need to participate in criminality in order to be deemed credible or gain the trust of those under investigation. This instrument makes consequential changes to who can authorise a covert asset to participate in criminal conduct and to the records that need to be kept. The changes will come into effect on 10 August 2021.

### **Food (Amendment and Transitional Provisions) (England) Regulations 2021 (SI 2021/616)**

27. Amongst other changes, this instrument removes mutual recognition clauses from regulations dealing with food products, such as bread and flour, jam, meat products, spreadable fats, milk and milk products. The Department for Environment, Food and Rural Affairs (Defra) explains that after EU Exit, the mutual recognition principle no longer applies to UK exports to the EU/ European Economic Area and that it would therefore not be appropriate to unilaterally recognise EU rules after the UK has left the Single Market, and that under the World Trade Organisation's Most Favoured Nation rules, the UK cannot allow preferential market access for imports which do not meet national rules. To give businesses time to prepare for these changes, the instrument introduces an adjustment period until 30 September 2022 for products such as bread and flour, and until 12 December 2021 for meat products, with a further instrument to be introduced later to extend this period until 30 September 2022.
28. The changes apply only to England. Defra says that without equivalent changes in Scotland, Wales and Northern Ireland (NI) the rules will not be aligned across the UK, but that new market access principles introduced in the United Kingdom Internal Market Act 2020 (UKIM), including for mutual recognition of goods, are expected to mitigate any potential impacts of divergent rules on trade within the UK. According to Defra, this will ensure that relevant goods produced in or imported into England, Scotland or Wales can continue to be sold across Great Britain (GB), as long as they meet the relevant regulations in either England, Scotland or Wales. Goods from NI may be sold in GB if they are qualifying NI goods under UKIM, but, under the NI Protocol, products originating in GB will have to comply with relevant rules in NI to be sold there.

### **Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2021 (SI 2021/617)**

29. This instrument makes changes to the way flags may be displayed in England. The instrument clarifies that 'double flagging', that is, the flying of two flags from the same flagpole, is allowed without the need for express consent from the local planning authority. The Ministry of Housing, Communities and Local Government (MHCLG) says that this will make it easier to fly the Union Flag in conjunction with, for example, a national flag on a national saints' day or the Pride flag, where there is only one flagpole available, as long as the Union Flag is flown in a superior position. The instrument also removes the EU flag from the list of international flags which may be flown without express consent, following the UK's departure from the EU. MHCLG told us that in practice, however, because the Council of Europe flag and the EU flag are the same, it will still be possible to display the

Council of Europe flag without consent, as the UK is a member of that organisation. Finally, the instrument adds flags with the logo of the NHS to those which may be flown in a wider range of circumstances without the need for express consent.

**Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (England) Regulations 2021 (SI 2021/619)**

30. These Regulations make changes in relation to tenancy agreements in England governed by the Agricultural Holdings Act 1986 (“the 1986 Act”). According to the Department for Environment, Food and Rural Affairs (Defra), around a third of agricultural land in England is rented, and some 19,400 farms operate with tenancy agreements under the 1986 Act.
31. The instrument establishes a new dispute resolution process where a tenant requests a landlord’s consent to an activity that is restricted by the terms of their tenancy agreement, or to a variation of the terms, so that the tenant can apply for new financial assistance schemes delivered under the Agriculture Act 2020 or meet a new statutory obligation. This is to address the fact that some old tenancy agreements include restrictive clauses that may prevent tenants from accessing future financial assistance schemes or meeting new statutory obligations. According to Defra, the instrument incentivises tenants and landlords to come to a negotiated agreement to avoid the costs of dispute resolution, while providing a legislative backstop for those tenants who cannot reach a reasonable agreement with their landlord.
32. The instrument also introduces updated suitability test criteria that the relevant Tribunal<sup>7</sup> will have to consider when determining whether an applicant tenant is a suitable person to succeed to a tenancy agreement. According to Defra, the new criteria will apply from 1 September 2024 and will help deliver greater professionalism and productivity by including business management experience and training alongside farming experience and training.

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7 First-tier Tribunal (Property Chamber) Agricultural Land and Drainage Chamber.

## **INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE**

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### **Draft instruments subject to affirmative approval**

Contracting Out (Functions in Relation to Space) Order 2021

Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021

Customs Safety and Security Procedures (EU Exit) Regulations 2021

European Union and European Atomic Energy Community (Immunities and Privileges) Order 2021

Introduction and the Import of Cultural Goods (Revocation) Regulations 2021

Local Elections (Northern Ireland) (Amendment) Order 2021

Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) (No. 2) Order 2021

Scotland Act 2016 (Social Security) (Consequential Provision) (Miscellaneous Amendment) Regulations 2021

Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021

Space Industry Regulations 2021

Space Industry (Appeals) Regulations 2021

Spaceflight Activities (Investigation of Spaceflight Accidents) Regulations 2021

Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2021

### **Draft instruments subject to annulment**

Mid Devon (Electoral Changes) Order 2021

New Forest (Electoral Changes) Order 2021

### **Instruments subject to annulment**

SI 2021/586 Export Control (Amendment) Order 2021

SI 2021/592 Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021

SI 2021/595 Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Civil Aviation Authority) Regulations 2021

SI 2021/600 Immigration (Control of Entry through Republic of Ireland) (Amendment) Order 2021

- SI 2021/601 Regulation of Investigatory Powers (Criminal Conduct Authorisations) (Amendment) Order 2021
- SI 2021/611 Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2021
- SI 2021/614 Aviation Safety (Amendment) (No. 2) Regulations 2021
- SI 2021/616 Food (Amendment and Transitional Provisions) (England) Regulations 2021
- SI 2021/617 Town and Country Planning (Control of Advertisements) (England) (Amendment) Regulations 2021
- SI 2021/619 Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (England) Regulations 2021
- SI 2021/626 Magistrates' Courts (Amendment No.2) Rules 2021
- SI 2021/630 Child Benefit (General) (Coronavirus) (Amendment) Regulations 2021
- SI 2021/631 National Health Service Pension Schemes and Injury Benefits (Amendment) Regulations 2021
- SI 2021/645 Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) (No. 2) Regulations 2021

## APPENDIX 1: INTERESTS AND ATTENDANCE

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 8 June 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, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.