



House of Lords
House of Commons
Joint Committee on
Statutory Instruments

**Seventh Report of
Session 2021–22**

Drawing special attention to:

European Union and European Atomic Energy Community (Immunities and Privileges) Order 2021 (Draft S.I.)

Dart Harbour and Navigation Harbour Revision Order 2021 (S.I. 2021/129)

British Nationality (Maldives) Order 2021 (S.I. 2021/523)

*Public Procurement (Agreement on Government Procurement)
(Amendment) Regulations 2021 (S.I. 2021/573)*

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Joint Committee on Statutory Instruments

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The full constitution and powers of the Committee are set out in [House of Commons Standing Order No. 151](#) and [House of Lords Standing Order No. 74](#), relating to Public Business.

Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

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Instruments reported

At its meeting on 30 June 2021 the Committee scrutinised a number of instruments in accordance with Standing Orders. It was agreed that the special attention of both Houses should be drawn to four of those considered. The instruments and the grounds for reporting them are given below. The relevant departmental memoranda are published as appendices to this report.

1 Draft S.I.: Reported for requiring elucidation and for defective drafting

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

1.1 The Committee draws the special attention of both Houses to this Order on the grounds that it requires elucidation in one respect and it is defectively drafted in two respects.

1.2 This Order, which is subject to the draft affirmative resolution procedure, implements the international agreement providing for the privileges and immunities to be enjoyed by the delegation of the European Union to the UK. This includes the privileges and immunities to be enjoyed by family members of staff of the delegation. For these purposes, “Family Member” is defined in article 2 of the Order to include children aged between 18 and 25 years who are financially dependent on the staff member and who are in full time education at “an educational establishment registered with the United Kingdom Government”. There is nothing in the instrument or the Explanatory Memorandum to identify the register of educational institutions which is being referred to in the definition. In a memorandum, printed at Appendix 1, the Foreign, Commonwealth and Development Office explains that it is the register of educational institutions which are licensed as sponsors of migrant students. It is stated that it has long been the Government’s policy that, in order to be considered as a family member of a staff member of a diplomatic mission, a child aged between 18 and 25 must intend to study full-time at such an institution; and that this is well understood by the diplomatic community. **The Committee accordingly reports article 2 for requiring elucidation, provided in the Department’s memorandum.**

1.3 Article 2 of the Order contains a definition of the term “High Representative” although that term is not used anywhere else in the Order. In its memorandum, the Department acknowledges that the definition was included in error. It was included because the term appears in the international agreement which is being given effect to by the Order. However, the term is used in a provision of that agreement which is not being implemented in the Order. The Department commits to put the error right at the earliest opportunity. **The Committee accordingly reports article 2 for defective drafting, acknowledged by the Department.**

1.4 Article 2 defines “Premises” as meaning “building(s) ... maintained, occupied or used by the Delegation”. The Committee asked the Department to explain why the reference to “building(s)” uses brackets around the “s” to indicate that it includes both the singular and plural, having regard to section 6 of the Interpretation Act 1978 which (when read together with section 23) provides for words in the singular to include the plural and

words in the plural to include the singular. In its memorandum, the Department explains that the definition in the Order was copied from the definition in the international agreement. The Department acknowledges that the form of drafting used in the Order was unnecessary in the light of section 6, and it commits to amending the definition at the earliest opportunity. In the view of the Committee, the error does not simply involve the doing of something that is unnecessary. The rule in section 6 applies “unless the contrary intention appears”. By expressly providing for the reference to buildings to include the singular as well as the plural, it gives rise to a doubt as to whether section 6 is intended to apply for the purposes of the Order generally. **The Committee accordingly reports article 2 for a second instance of defective drafting, acknowledged by the Department.**

2 S.I. 2021/129: Reported for requiring elucidation and for defective drafting

Dart Harbour and Navigation Harbour Revision Order 2021

2.1 The Committee draws the special attention of both Houses to this Order on the grounds that it requires elucidation in one respect and is defectively drafted in two respects.

2.2 This Order, which is subject to the negative resolution procedure, confers new powers on the harbour authority and the harbour master to make directions for the regulation and management of Dart Harbour.

2.3 The harbour authority may make general directions that apply to vessels, vehicles, designated persons, part or all of the harbour, and some or all of the time. The harbour master may give special directions in respect of vessels anywhere in the harbour. Article 7 makes it an offence for a person to fail to comply with a general or special direction. The Committee was unsure who would be liable for failure to comply with a general direction that does not apply to a designated person, or for failure to comply with a special direction (particularly since this Order does not, in contrast to at least some similar instruments, require a special direction to specify a person to whom it is addressed). The Committee asked the Marine Maritime Organisation to explain.

2.4 In a memorandum printed at Appendix 2, the Department explains that general directions are published and made available to harbour users in a similar way to byelaws and states that “in failing to comply with a general direction a person may be liable under article 7”. It explains that special directions “may only be issued ... to a person”, in practice are often “given as a vocal instruction to deal with on the spot issues”, and “will be given to the most appropriate individual on the vessel or in the harbour depending on the circumstances of the activity taking place”: that person may be liable for failing to comply with the direction.

2.5 The Committee finds these explanations helpful. Taken together with the defence of taking reasonable precautions and exercising due diligence to avoid committing the offence in article 7(2), the Committee is satisfied that individuals will not in practice be found criminally liable for failing to comply with directions not expressly addressed to them in the manner described in the Department’s memorandum. As this is criminal legislation it would have been preferable to articulate an express connection between a direction and

one or more specified individuals, but in the circumstances, **the Committee is content to report article 7 for requiring elucidation, provided in part by the Department's memorandum.**

2.6 Articles 4 and 5 require notices to be given, published or displayed in specified circumstances and to specified people; no provision expressly requires a notice to be served. Article 13 makes further provision about the notices required by articles 4 and 5 but refers both to notices being “given” and to notices or documents being “sent” or “served” and to the time of “service”. The Committee asked the Department to explain the intended difference in meaning between these expressions. In its memorandum, the Department acknowledges that no difference of meaning is intended and undertakes to ensure consistency in future instruments. **The Committee accordingly reports article 13 for defective drafting, acknowledged by the Department.**

2.7 The Committee also asked the Department to confirm that to make grammatical sense of article 4(7)(b)(iii), the word “which” in the chapeau to article 4(7)(b) should be “if” (with appropriate consequential amendments to other paragraphs). In its memorandum, the Department acknowledges the defect and undertakes to ensure that such errors do not arise in future. **The Committee accordingly reports article 4(7)(b)(iii) for defective drafting, acknowledged by the Department.**

3 S.I. 2021/523: Reported for deficiency in the Explanatory Memorandum

British Nationality (Maldives) Order 2021

3.1 **The Committee draws the special attention of both Houses to this Order on the ground that the Explanatory Memorandum is deficient in one respect.**

3.2 This Order, which is subject to the negative resolution procedure, amends Schedule 3 to the British Nationality Act 1981 to add the Maldives to the list of countries whose citizens are Commonwealth citizens. The Explanatory Memorandum does not include a statement that the Order is compatible with Convention rights; it states at paragraph 5.1 that “no statement is required” because “the instrument . . . does not amend primary legislation”, which is not the case. The Committee asked the Home Office to explain. In a memorandum printed at Appendix 3, the Department agrees that a compatibility statement ought to have been included and notes that a revised Explanatory Memorandum has now been laid and published. **The Committee accordingly reports paragraph 5.1 of the Explanatory Memorandum to this instrument for deficiency, acknowledged by the Department.**

4 S.I. 2021/573: Reported for requiring elucidation and for defective drafting

Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2021

4.1 **The Committee draws the special attention of both Houses to these Regulations on the grounds that they require elucidation in one respect and are defectively drafted in one respect.**

4.2 These Regulations, which are subject to the negative resolution procedure, amend several pieces of procurement legislation to give effect to the United Kingdom's obligations under the Agreement on Government Procurement (the "GPA").

4.3 Several of the regulations refer to the United Kingdom's Appendix 1 to the GPA and its Annexes. Regulation 2(4), for example, inserts a new legal obligation that applies to a contracting authority that is "covered by Annexes 1 or 2 to [the Appendix] in respect of a procurement that is covered by Annexes 4 to 7 to that Appendix". Given that the content of the Appendix is necessary to understand the effect of the provisions that cite it, the Committee asked the Cabinet Office to identify the location where it can be accessed. In a helpful memorandum printed at Appendix 4, the Department explains that at the date of laying this instrument, the Appendix was in the process of being updated. The updated version is now in force and will be laid as a Command Paper, and the location will be included in the six instruments amended by these Regulations. In the meantime, the Department provides a link to the updated Appendix and related information for contracting authorities. **The Committee accordingly reports the Regulations for requiring elucidation, provided in the Department's memorandum.**

4.4 Regulation 3 amends the Concession Contracts Regulations 2016 (S.I. 2016/273); regulation 6 amends the Utilities Contracts (Scotland) Regulations 2016 (S.S.I. 2016/49); and regulation 7 amends the Concession Contracts (Scotland) Regulations 2016 (S.S.I. 2016/65). Regulations 3(4), 6(6) and 7(4) replace the definition of "relevant time" in each of those instruments. The Committee noticed that the inserted definitions differ from the definitions they replace: in regulations 3(4) and 7(4), the inserted definitions refer to different parties and different elements of the procurement process from those in the amended instruments; regulation 6(6) inserts an entirely new definition (like that in the Utilities Contracts Regulations 2016 (S.I. 2016/274)). The Committee asked the Department to explain the discrepancies. In its memorandum, the Department explains that regulation 6(6) intentionally creates consistency between the Scottish and UK instruments but acknowledges that the definitions inserted by regulations 3(4) and 7(4) are wrong and undertakes to correct them. **The Committee accordingly reports regulations 3(4) and 7(4) for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 30 June 2021 the Committee considered the instruments set out in the Annex to this Report, none of which was required to be reported to both Houses.

Annex

Draft Instruments requiring affirmative approval

Draft	Medical Devices (Coronavirus Test Device Approvals) (Amendment) Regulations 2021
Draft	Fisheries Act 2020 (Scheme for Financial Assistance) (England) Regulations 2021
Draft	European Union (Future Relationship) Act 2020 (References to the Trade and Cooperation Agreement) Regulations 2021
Draft	Medical Devices (Northern Ireland Protocol) Regulations 2021
Draft	Electricity Capacity (Amendment) Regulations 2021
Draft	Motor Fuel (Composition and Content) and the Biofuel (Labelling) (Amendment) (No. 2) Regulations 2021
Draft	Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021
Draft	Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021

Instruments subject to annulment

S.I. 2021/630	Child Benefit (General) (Coronavirus) (Amendment) Regulations 2021
S.I. 2021/631	National Health Service Pension Schemes and Injury Benefits (Amendment) Regulations 2021

Instruments not subject to parliamentary proceedings laid before Parliament

Draft	Mid Devon (Electoral Changes) Order 2021
Draft	New Forest (Electoral Changes) Order 2021

Instruments not subject to parliamentary proceedings not laid before Parliament

S.I. 2021/525	Global Anti-Corruption Sanctions (Overseas Territories) Order 2021
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S.I. 2021/620 Pension Schemes Act 2021 (Commencement No. 1) Regulations 2021

Appendix 1

Draft S.I.

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

1. On 16 June 2021, the Committee requested that the Foreign, Commonwealth and Development Office (“FCDO”) submit a memorandum on the following points:

(1) Explain which educational establishments are included in the reference to “an educational establishment registered with the United Kingdom government” in the definition of “Family Members” in article 2, and what process of registration it is referring to.

(2) Explain why a definition of “High Representative” has been included in article 2 despite the fact that the term is not used elsewhere in the Order.

(3). Explain why, having regard to section 6 of the Interpretation Act 1978, the definition of “Premises” in article 2 refers to “building(s)”, using brackets around the “s” to indicate that it includes both the singular and plural.

(4) Explain the circumstances in which a person is liable to be subject to arrest or detention where a civil action is brought against them as a result of a motor vehicle accident, so as to require the exemption from immunity for arrest or detention that would otherwise be conferred by article 18(1).

2. The FCDO is grateful for the Committee’s consideration of this Order and responds as follows.

3. In response to the Committee’s first question, dependent children of those posted to a diplomatic mission in the UK who are over the age of 18 and up to the age of 25 may qualify to be considered as a family member if they are in full-time education. Home Office policy states that, to be considered as a family member in this way, they must intend to study full-time in the UK at a ‘licensed educational institution’, and provide evidence of confirmed UK study. This long-standing policy is well understood by the diplomatic community and is detailed in both Home Office policy guidance and on the FCDO’s Protocol Directorate website, which diplomatic missions and international organisations (including the European Union) all have access to. A list of educational institutions is set out publically on gov.uk <https://www.gov.uk/government/publications/register-of-licensed-sponsors-students> and details of the registration process for licensed educational institutions is available online here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/939672/Student_Sponsor_Guidance_-_Doc_1_-_Applying_for_a_licence_2020.pdf.

4. In response to the Committee’s second question, the Committee is correct that the term “High Representative” is not used elsewhere in the Order and therefore the definition is unnecessary. The term and definition is used in the Establishment Agreement itself,

however the relevant provisions do not require implementation in domestic legislation. This was an oversight in the drafting and checking process, which we will seek to put right at the earliest opportunity.

5. In response to the Committee's third question, the definition of "Premises" refers to "building(s)" because this is how it was drafted in the Establishment Agreement. However, as the Committee rightly points out, it was not necessary to use such drafting in the Order. We accept that this should have been picked up during the drafting and checking process and will seek to put it right at the earliest opportunity.

6. In response to the Committee's fourth question, a person may be subject to arrest or detention in the course of civil proceedings if enforcement action is taken against them (for example, for non-payment of a fine) or if they are held to be in contempt of court. In relation to the latter, Part 81 of the Civil Procedure Rules sets out that a court may impose a period of imprisonment for contempt of court and attach a power of arrest to a committal order. Accordingly, it is appropriate to provide for the exemption from immunity for arrest or detention in respect of certain civil actions at article 18(3)(b) of the Order.

Foreign, Commonwealth and Development Office

22 June 2021

Appendix 2

S.I. 2021/129

Dart Harbour and Navigation Harbour Revision Order 2021

1. By letter dated 16 June 2021, the Joint Committee on Statutory Instruments has requested a Memorandum on the following points:

(1) Confirm that in order to make grammatical sense of article 4(7)(b)(iii) the word “which” in the chapeau to article 4(7)(b) should be “if” (with appropriate consequential amendments to other sub-paragraphs).

(2) For the purposes of the offence under article 7, explain who is intended to be liable for failure to comply with a general direction that does not apply to any designated person or with a special direction and why the Order does not require a special direction to specify a person to whom it is addressed (as in, e.g., S.I. 2011/1347 and S.I. 2017/601).

(3) In relation to article 13, explain how the meaning of references in paragraph (2) to a notice or document being “sent”, in paragraph (4) to the time of “service” and in paragraph (5) to a notice or document being “served” are intended to differ from references to a notice or document being “given”.

2. The Marine Management Organisation (MMO) confirm that for the sub-paragraphs which follow the chapeau in article 4(7)(b) to make grammatical sense, the word “which” should be “if” with appropriate consequential amendments made to paragraphs (i) and (ii). The MMO regret this oversight and will take steps to ensure that this does not arise again in future Orders.

3. The MMO understand point (2) to refer to circumstances where a person may be liable for failure to comply with a general or special direction and to explain how they may be liable under article 7 in the absence of a specific provision which requires the direction to specify a person to whom it is addressed (as in, e.g., S.I. 2011/1347 and S.I. 2017/601).

4. General directions, when made in accordance with the scope in article 3 and the procedure in article 4, will set out in respect of each direction made as to whom it applies. General directions, once made, are published (article 5) and made available to harbour users in much the same way as byelaws. In failing to comply with a general direction a person may be liable under article 7.

5. A special direction may only be issued by the harbour master (and authorised deputies and assistants) to a person for the purposes set out in article 6(1) and may be given in any manner considered appropriate (article 6(2)). In practice special directions are often given as a vocal instruction to deal with on the spot issues in the harbour. The special direction will be given to the most appropriate individual on the vessel or in the harbour depending on the circumstances of the activity taking place. In failing to comply with a special direction given by the harbour master, that person may be liable for the purposes of article 7.

6. Each application for an Order is considered on its own merits. Whilst some harbour authorities favour the use of a provision such as those within S.I. 2011/1347 and S.I. 2017/601 and may incorporate it into their Order, the MMO understand that not all harbour authorities may consider it necessary to include such a provision and will draft bespoke provisions that meet the specific requirements of their respective harbour.

7. The MMO will endeavour to discuss the merits of inclusion of a provision as in, e.g., S.I. 2011/1347 and S.I. 2017/601 with applicants on future Orders.

8. With regard to point (3) the references to a notice or other document being “given” in article 13 is not intended to differ from the references in paragraphs (2) “sent”, (4) “service” and (5) “served” respectively. The MMO regret this oversight and will take steps to ensure that in future Orders, the words used are consistent throughout the provision.

Marine Management Organisation

22 June 2021

Appendix 3

S.I. 2021/523

British Nationality (Maldives) Order 2021

1. In its letter of 16 June 2021 to the Department, the Joint Committee on Statutory Instruments has asked for a memorandum on the following point on S.I. 2021/523:

Given that this instrument amends Schedule 3 to the British Nationality Act 1981, explain why paragraph 5.1 of the EM states that “no statement is required” as to compatibility with Convention rights because “the instrument ... does not amend primary legislation.

2. The Department agrees with the Committee that a statement as to compatibility with Convention rights is required at paragraph 5.1 of the Explanatory Memorandum(EM) because the instrument amends Schedule 3 to the British Nationality Act 1981.

3. The omission of the statement at 5.1 occurred due to an error when the EM was re-formatted prior to being laid. The EM which should have been laid included the correct statement, as approved by the Parliamentary Under Secretary of State for Future Borders and Immigration.

4. The Department is grateful to the Committee for alerting it to this error which has since been rectified. On 17 June 2021, the Department withdrew the EM to SI 2021 No. 523 and re-laid a revised version of the EM before Parliament. The revised EM includes the statement made by the Parliamentary Under Secretary of State for Future Borders and Immigration as to compatibility of the instrument with Convention rights. The Department notes that the revised EM is the version which now appears on the legislation website ([The British Nationality \(Maldives\) Order 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)).

5. We enclose a copy of the revised EM for the Committee’s reference and apologise for any inconvenience caused by this error. The Department has internal processes in place for checking instruments and EMs before they are laid and will consider whether these processes should be reviewed or updated as a result of this error.

Home Office

21 June 2021

Appendix 4

S.I. 2021/573

Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2021

1. The Committee has requested a memorandum on the following points:

(1) Identify the location where the United Kingdom's Appendix 1 to the GPA (as referred to in, and necessary to understand the effect of, regulations 2 to 7) can be accessed.

(2) Explain—

(a) why the new definitions of “relevant time” inserted by regulations 3(4), 6(6) and 7(4) are not consistent with the definitions of “relevant time” in the instruments those provisions amend (e.g. references to “the contracting authority”, “a call for competition” and “the contract cf. “the contracting authority or utility” or “the contracting entity”, “a concession notice” and “the concession contract”); and

(b) if regulation 6(6) is intended to correct an error in the way “relevant time” was defined in regulation 100(5) of the Utilities Contracts (Scotland) Regulations 2016 (S.S.I. 2016/49), whether the SI Registrar was consulted as to use of the free issue procedure.

Response to (1)

2. The original definition of “GPA” found in regulation 2 of the Public Contracts Regulations 2015, the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts Regulations 2016 and the Utilities Contracts (Scotland) Regulations 2016 included the following footnote:

All the substantive provisions of the Agreement were substituted by the Protocol which was approved, on behalf of the EU, by Council Decision 2014/115/EU (OJ No L 68, 7.3.2014, p1), to which the text of the Protocol is attached (at OJ No L 68, 7.3.2014, p2). In accordance with Article 3 of the Protocol, the Protocol has entered into force for the EU.

3. The Official Journal of the European Union referenced in the footnote contains a copy of the EU's Appendix 1 which included the UK's Annexes as in force when the UK participated in the GPA as an EU member state.

4. The effect of the amendments made by the Public Procurement (Agreement on Government Procurement) (Amendment) Regulations 2021 removes the footnote as the reference to the Official Journal was made obsolete as a result of the UK exiting the EU and gaining independent membership to the GPA on 1 January 2021.

5. The UK's Appendix 1 to the GPA is currently located on the WTO website [here](#),¹ however as of the date of laying this instrument the Annexes to the Appendix were in the process of being updated. As part of the accession decision to enable the UK to accede to the GPA as an independent member, the GPA Committee stipulated that the lists of entities detailed in the UK's Annexes be updated. The update was required because the existing UK Annexes (under EU membership) had not been updated since before 2010. As an interim measure, pending the update, the UK's market access schedule included a new footnote² to ensure that successor entities to those listed in Annex 1 were deemed to be central government entities for the purposes of the Annex and were accordingly subject to the central government threshold.

6. In March 2021 the UK notified GPA Parties of the update to its list of entities. This update has now come into force and can be found [here](#).³ Although these updates do not engage the process in section 20 of the Constitutional Reform and Governance Act 2010, our intention is to lay a complete and up-to-date copy of the UK's Appendix 1 to the GPA as a Command Paper. The six sets of procurement regulations being amended by this instrument will be further amended by a second SI made under section 1 of the Trade Act 2021 ("GPA SI No. 2") to reflect the updated GPA Annex 1 list of central government bodies. At the same time we will take the opportunity to clarify where the UK's Appendix 1 can be accessed. Both of these actions are being progressed and we anticipate they will be completed in July. This will provide legal certainty and clarity to the point you raise.

7. In the interim, Procurement Policy Note 02/21⁴ provides the necessary information to contracting authorities on continuity, stating:

The UK previously participated in the GPA through its membership of the EU. Contracting authorities should therefore be aware that the requirements relating to the GPA set out in this PPN represent a continuation of current practices.

8. The PPN also explained the operation of the footnote and the commitment to update the list of central government bodies:

The UK has committed to update the list of central Government entities in Annex 1 of its coverage schedules now that it has acceded to the agreement as an independent party. The update to the list, once made, will reflect the fact that several central Government entities have merged, moved, transferred functions or changed name since the list was originally written. As an interim measure pending this update, the UK's market access schedule includes a new footnote to ensure that successor entities to those listed in Annex 1 are covered as central government entities (and subject to the central government threshold) where functions have transferred from one entity to another entity.

1 <https://e-gpa.wto.org/en/Agreement/Latest>

2 The footnote is published [here](#) and states "Where the functions of an entity listed in this Annex have been or are transferred to another entity, which is itself a contracting authority, the successor entity shall be deemed to be included in this Annex (for sub-central contracting authorities, only for those functions)."

3 https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?DataSource=Cat&query=Symbol=%22WT/Let/1552%22%20OR%20@Symbol=%22WT/Let/1552/*%22&Language=English&Context=ScriptedSearches&languageUIChecked=true

4 <https://www.gov.uk/government/publications/procurement-policy-note-0221-the-wto-gpa-and-the-uk-eu-tca>

Response to (2)

9. The Cabinet Office thanks the JCSI Committee for pointing out the inconsistency in the definition of “relevant time” as inserted by regulations 3(4) and 7(4) of the instrument and accepts that this is an error. Amendments will be made to regulation 51A of the Concession Contracts Regulations 2016 and regulation 51A of the Concession Contracts (Scotland) Regulations 2016 to correct this error via the GPA SI No. 2 that is being laid imminently (as referred to above).

10. In respect of the definition of “relevant time” inserted by regulation 6(6), which amends the Utilities Contracts (Scotland) Regulations 2016 (“UC(S)Rs”), this was not an error nor a correction of a previous error. There was an inconsistency between the original definitions of “relevant time” in the UC(S)Rs and the Utilities Contracts Regulations 2016. While both definitions functioned adequately, the view was taken that consistency between the two sets of regulations was desirable in respect of this provision and that the version in the UK regulations was preferable. As such, and because we were replacing the definition regardless, the opportunity was taken to use the definition from the UK regulations in the UC(S)Rs as well.

11. Accordingly, we do not believe the free issue procedure is relevant, although we will consider this in respect of the GPA SI No. 2.

Cabinet Office

22 June 2021

Formal Minutes

Wednesday 30 June 2021

Virtual Meeting

Members present:

Jessica Morden (*in the Chair*)

Dr James Davies	Baroness Newlove
Baroness D’Souza	Lord Rowe-Beddoe
Baroness Gale	Baroness Scott of Needham Market
Lord Haskel	Lord Smith of Hindhead
Paul Holmes	Richard Thomson
John Lamont	Liz Twist

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 4.4 read and agreed to.

Annex agreed to.

Papers were appended to the Report as Appendices 1 to 4.

Resolved, That the Report be the Seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

[Adjourned till Wednesday 7 July at 3.40 p.m.]