



# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 12th Report of Session 2021–22

Drawn to the special attention of the House:

**Air Navigation (Amendment) Order 2021**

**Drivers' Hours and Tachographs (Temporary Exceptions) (No. 2) Regulations 2021**

**Public Interest Merger Reference (Cobham Ultra Acquisitions Ltd. and Ultra Electronics Holdings plc) (Pre-emptive Action) Order 2021**

**Correspondence: Sunset Provisions in statutory instruments dealing with COVID-19**

#### Includes information paragraphs on:

8 instruments relating to COVID-19

Draft Food (Promotion and Placement)  
(England) Regulations 2021

Occupational Pension Schemes (Climate  
Change Governance and Reporting)  
(Miscellaneous Provisions and Amendments)  
Regulations 2021

Republic of Belarus (Sanctions) (EU Exit)  
(Amendment) Regulations 2021

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Ordered to be printed 7 September 2021 and published 9 September 2021

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Published by the Authority of the House of Lords

### *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*

|                                                   |                                       |                                       |
|---------------------------------------------------|---------------------------------------|---------------------------------------|
| <u>Baroness Bakewell of Hardington Mandeville</u> | <u>Viscount Hanworth</u>              | <u>Lord Lisvane</u>                   |
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### *Registered interests*

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

### *Publications*

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

### *Committee Staff*

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

# Twelfth Report

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE:

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### Air Navigation (Amendment) Order 2021 (SI 2021/879)

*Date laid: 28 July 2021*

*Parliamentary procedure: negative*

*The Order requires the Civil Aviation Authority to be notified of existing or planned obstacles in flight paths, changes to the height or presence of obstacles en-route and the fitting or removal of warning lights, with non-compliance subject to a Level 4 fine (£2,500). The Order brings these changes into effect from 6 September 2021, which is seven years after the Air Accident Investigation Board (AAIB) investigation into the helicopter which crashed into a crane on a tower being constructed in Vauxhall. **We found the Department for Transport’s explanation for the delay unconvincing, in particular the long gaps between the individual decision points.** We draw the attention of the House to the Department’s failure to implement both the original EU legislation and the recommendations of the accident investigation. **We will be seeking further explanation from the responsible minister in oral evidence.***

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

1. Among a number of minor consequential changes (for example, implementing Space Act 2018 provisions concerning rocket authorisation and protected zones around space sites), this instrument includes provision to require the notification of tall structures in flight paths.
2. The Order requires the Civil Aviation Authority (CAA) to be notified of existing or planned obstacles en-route, changes to the height or presence of en-route obstacles and the fitting or removal of warning lights, with non-compliance subject to a Level 4 fine (£2,500).
3. The Order brings these changes into effect from 6 September 2021, which is seven years after the Air Accident Investigation Board (AAIB) investigation into the helicopter which crashed into a crane on a tower being constructed in Vauxhall. The AAIB report recommended a better notification system be implemented.<sup>1</sup> It is also 11 years after Commission Regulation (EU) 73/2010 of 26 January 2010 for the single European Sky laid down requirements on the “accuracy, resolution and integrity of aeronautical data”: the AAIB recommendation refers directly to this Regulation.

“Safety Recommendation 2014–027: It is recommended that the Department for Transport implement, as soon as practicable, a mechanism compliant with Regulation (EU) 73/2010 and applicable to the whole of the UK for the formal reporting and management of

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<sup>1</sup> AAIB, *Aircraft Accident Report 3/2014 - Agusta A109E, G-CRST on 16 January 2013* (9 September 2014): <https://www.gov.uk/aaib-reports/aar-3-2014-g-crst-16-january-2013> [accessed 8 September 2021].

obstacle data, including a requirement to report data relating to newly permitted developments.

Date Safety Recommendation made: 9 September 2014”.

4. The Explanatory Memorandum (EM) states that “Currently the UK aims to meet those standards through the Ministry of Defence’s Defence Geographic Centre (DGC) database of en-route obstacles. However, this information is collected through best endeavour practices, such as military pilots’ reports and research, and is not complete.” (EM para 7.8)

*Reasons for the delayed implementation*

5. The Committee asked the Department for Transport (DfT) why it had taken so long to take action. The Department said:

“Whilst SI 879 introduces a straightforward ANO provision, establishing that an ANO amendment was the optimal way forward to address the AAIB recommendation was less straightforward and some time elapsed whilst the DfT investigated options to address the recommendation before it was decided to proceed with an ANO amendment. Investigations involved the DfT consulting with other government departments, and HSE to consider whether an appropriate solution should fall under the remit of the Health and Safety at Work Act. Other parties are also considered to have some interest or authority in this area or are directly involved in the en-route obstacle notification process (e.g. DGC, OS [Ordinance Survey] plus construction and renewables sectors) and engagement was required with all these stakeholders. During this time the CAA provided advice to the DfT on potential industry consultation and implementation issues and impacts arising from proposed solutions.

Despite much work by the DfT and CAA, a solution to address the AAIB recommendation was not forthcoming and the issue was identified on the CAA’s corporate risk register. To address this, the DfT confirmed that it would support the CAA’s proposal of an ANO Amendment introducing a mandatory requirement for notification of en-route obstacles. Once this decision had been made the CAA was able to begin scoping the task and liaising more closely with key stakeholders such as the MoD, OS and industry. This required much informal consultation which resulted in feedback that was critical in enabling the CAA to propose the resourcing and technical requirements that would be needed to manage the anticipated increase in workload following an ANO amendment.

The DfT accepted the CAA proposal and an ANO amendment was targeted for submission at the October 2019 ANO session. However, the submission was not made in October 2019 and this can be attributed to conflicting events (e.g. Thomas Cook collapse, post-transition BREXIT preparations etc) which took priority both CAA and DfT which meant that other projects such as this ANO amendment were delayed. Aligned to establishing the ANO amendment was the need for the CAA to recruit and train new resources, develop and implement a new system for the notification of obstacles, and to conduct effective stakeholder communication. Progressing these activities has also been a challenge for the CAA since late 2019.

In conclusion it is the shared view of the CAA and the DfT that the time taken to implement a solution to the AAIB recommendation results from the due diligence necessary to identify an appropriate solution, the complexity of stakeholder engagement required, the logistical challenges around implementation, and the impact to scheduled priorities caused by unforeseen events.”

### *Conclusion*

6. **We found DfT’s explanation for the delay unconvincing, in particular the long gaps between the individual decision points.** This is a serious matter of aviation and public safety that has been handled in a “best endeavours” fashion which the DfT acknowledges is incomplete.
7. We draw the attention of the House to the Department’s failure to implement both the original EU legislation and the recommendations of the accident investigation. We will be seeking further explanation from the responsible minister in oral evidence. Considering our extensive correspondence with the Maritime Division of DfT about its delays in implementing legislation, we may also press the Department on the way it prioritises its legislative programme.

## Drivers' Hours and Tachographs (Temporary Exceptions) (No. 2) Regulations 2021 (SI 2021/921)

*Date laid: 6 August 2021*

*Parliamentary procedure: negative*

*To ensure critical supply chains are maintained, these Regulations have been laid by the Department of Transport (DfT) to extend to 4 October 2021 certain relaxations of the normal rules on Heavy Goods Vehicles Drivers' hours, which were brought in administratively on 12 July. The net effect of which is to increase the fortnightly driving limit from 90 hours to 99 hours. These relaxations are not restricted to essential supplies, however, and those consulted were evenly divided on whether these measures would reduce supply chain pressure.*

*Our 44th Report of last session drew attention to similar Regulations, which were debated in March, because we were concerned that drivers might feel under pressure to use this extension in hours. Data in this report from recent DVSA sampling shows that there are fairly high levels of non-compliance with the drivers' hours regime, and DfT was unable to distinguish whether or not those in breach had applied to use these extensions. We reiterate our concern that the normal restrictions on drivers' hours are based on accident statistics, so for safety reasons we would not wish to see their relaxation repeatedly extended. **The House may therefore wish to ask DfT what other strategies it proposes to increase the number of HGV drivers trained and operating in Britain to provide a permanent solution.***

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

8. These Regulations were laid by the Department for Transport (DfT) on 6 August 2021 and brought into effect on 9 August to extend similar administrative provisions which had been in place since 12 July. The extension is for eight weeks, ending on 4 October.
9. DfT states that, the temporary exceptions permit either:
  - “the normally permitted increase to the daily driving limit from 9 hours to 10 hours (allowed up to twice in one week) to be replaced with a permitted increase to the daily driving limit from 9 hours to 11 hours (allowed up to twice in one week). All other daily driving limits remain at 9 hours; or
  - the requirement to take at least one regular weekly rest period of at least 45 hours in a 2-week period is replaced with an alternative pattern of weekly rest periods, as specified, and an increase to the fortnightly driving limit from 90 hours to 99 hours. This enables two reduced weekly rest periods of at least 24 hours to be taken in consecutive weeks. The alternative pattern of weekly rest periods may be taken as follows:
    - (a) both weekly rest periods in a 2-week period (which can under the normal rules be one of at least 45 hours and one of at least 24 hours) can be replaced by two reduced weekly rest periods of at least 24 hours
    - (b) following this, two regular weekly rest periods of at least 45 hours must be taken. However, any reduction in weekly rest shall be compensated

for in the normal way by an equivalent period of rest taken before the end of the third week following the week in question

(c) in addition, any rest taken as compensation for a reduced weekly rest period shall be attached to a regular weekly rest period of at least 45 hours (which can be split over two regular weekly rest periods)."

*Reasons for permitting longer hours*

10. These provisions are complex but mirror the relaxation of hours applied from December 2020 to March 2021 by previous Regulations.<sup>2</sup> The earlier Regulations lapsed on 31 March 2021. However, it was found necessary to make another administrative exemption to allow these relaxations from 12 July to 8 August while the current Regulations were prepared. In supplementary material DfT explained why :

"The SoS for Transport received an official request for temporary exceptions to the Drivers' Hours rules from the Secretary of State for Environment, Food, and Rural Affairs ("SoS EFRA") on 26 June 2021. This was in response to evidence provided by their stakeholders of the impact to their industry resulting from an acute shortage of lorry drivers on supply chains. In addition, stakeholders had verbally indicated the likelihood of additional supply chain pressures with the planned end of the England lockdown on 19 July 2021 and the summer holiday period. Based on the evidence and the industry request supported by the SoS EFRA, the SoS for Transport decided to grant temporary exceptions. Given the time required to lay an SI, officials advised initially granting temporary exceptions administratively for four-weeks, as this could be put in place to cover the anticipated additional pressures.

During the initial four-week administrative temporary exceptions, officials conducted a targeted stakeholder Call for Evidence as part of considering whether the temporary exceptions should be extended beyond the initially planned end date of 8 August 2021. Based on the results of the Call for Evidence and considering other inputs received (updated evidence from supply chain stakeholders, over 400 notifications from operators intending to use the initial temporary exceptions, the risk of drivers being required to self-isolate), the SoS for Transport decided to extend the temporary exceptions for a further eight-weeks. To ensure that there was no gap between the end of the initial temporary exceptions period and the extension, officials worked to a severely compressed timeline to get the necessary SI laid on 6 August 2021. There was no opportunity to lay the SI any earlier."

11. The description in the Explanatory Memorandum (EM) of the consultation exercise shows that the outcome was fairly evenly divided: 47% of respondents agreed or strongly agreed that the exceptions would reduce supply chain pressure, while 43% disagreed or strongly disagreed.

*Risk to road safety*

12. DfT argues that safety will not be compromised because "enforcement of compliance with the Drivers' Hours Regulation is managed by the Driver and Vehicle Standards Agency (DVSA). DVSA will be undertaking targeted

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2 'Drivers' Hours and Tachographs (Temporary Exceptions) Regulations 2021 (SI 2021/58)', [44th Report](#), Session 2019–21 (HL Paper 220).

checks at the roadside and at operator premises to ensure compliance with the requirements of the temporary exceptions.”

13. In our 44th Report, in relation to the previous Regulations we said:

“The House may wish to ask for an analysis of the outcome of the DVSA checks to be reported to Parliament so that members can form a view as to whether the system has been abused.”

14. **We were disappointed to see that the EM to this second instrument did not provide any evidence of how the regime operated under the previous Regulations.** We therefore asked for information on the DVSA’s checks, the DfT responded:

“Between the period of 12 July and 5 August 2021, the DVSA have conducted 1,425 checks of drivers’ hours records for lorries registered in Great Britain. During those checks, 411 drivers’ hours offences were identified to have taken place either on the day in question or the previous 28 days. This led to the issuance of 140 fixed penalties at the road. There were a total of 28 prohibitions (i.e. an ongoing offence) identified where the driver has either exceeded the maximum number of hours they can drive in a period, or has failed to take sufficient rest periods. Note that there is no system in place to identify how many (if any) of those prohibitions were for a driver operating under the temporary exceptions.”

15. Of 1425 roadside checks, 411 offences were identified (29%). Of these 140 offences (9.8% of the total number stopped) were sufficiently bad to warrant the issuing of a penalty, including 28 penalties (2%) that required the driver to be prohibited from continuing his journey. These are not insignificant figures.

16. It seemed an obvious oversight that there was no system in place to identify how many of those penalties were for a driver operating under the temporary exceptions. DfT has told us:

“As of 9 August 2021, the DVSA have introduced an additional check as part of their roadside encounters to ask the lorry driver if they are operating under a drivers’ hours temporary exception. This is checked against records of operators that have notified us of their intent to make use of the temporary exceptions as part of assessing whether a drivers’ hours offence has occurred.

In addition, the DVSA have begun off-road checks on operators that have notified us of their intent to use the temporary exceptions. The DVSA are conducting checks on approximately 20% of operators using a risk-based process, contacting higher risk operators first. These checks include asking the operator what mitigations they have put in place to address driver welfare and road safety concerns when using the temporary exceptions. If they fail to respond or the DVSA are not satisfied with the response, the DVSA will undertake further checks.”

### *Conclusion*

17. We note that a significant percentage of drivers stopped were exceeding their permitted hours, although DVSA is unclear whether their employer had

applied for an extension under these rules. **We question how effectively DfT can legislate without a good understanding of what is happening on the roads.**<sup>3</sup> It is not clear to us whether this permissive scheme is effective or just adds to the administrative burden on obedient firms while their competitors fail to comply.

18. This is the second relaxation of the drivers' hours rules this year, and we remain concerned that this should not become an accepted norm. **The House expressed similar concerns during a debate on the previous relaxation regulations.**<sup>4</sup> Although, in paragraph 7.7 of the EM, DfT states that its published guidance reminds employers that they have a duty to ensure the driver does not drive when tired, the employers are also subject to a number of commercial pressures. We have noted the number of recent media reports of significant lorry crashes and the House may wish to ask how many of these can be attributed to overtired drivers. **We reiterate our concern that the normal restrictions on drivers' hours are based on accident statistics so, for safety reasons, we would not wish to see their relaxation repeatedly extended.**
19. Although the EM refers to "critical supply chains", we note that the legislation makes no distinction between food and fuel supplies and other goods. Recent news reports indicate that supermarkets and medical supplies are being affected by the UK shortage of lorry drivers which is now reported to be around 100,000.<sup>5</sup> **The House may therefore wish to ask DfT what other strategies it proposes to increase the number of HGV drivers trained and operating in Britain to provide a permanent solution.**

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3 BBC News, 'How serious is the shortage of lorry drivers?' (2 September 2021): <https://www.bbc.co.uk/news/57810729> [accessed 8 September 2021].

4 There were three separate motions on the previous Regulations which were debated together: HL Deb, 18 March 2021, [cols 482-496](#).

5 BBC News, 'Tesco and Iceland bosses warn over Christmas supplies' (25 August 2021): [https://www.bbc.co.uk/news/business-58329439?at\\_medium=RSS&at\\_campaign=KARANGA](https://www.bbc.co.uk/news/business-58329439?at_medium=RSS&at_campaign=KARANGA) [accessed 8 September 2021]; BBC News, 'NHS stops some blood tests due to vial shortages' (26 August 2021): <https://www.bbc.co.uk/news/business-58324108> [accessed 8 September 2021].

**Public Interest Merger Reference (Cobham Ultra Acquisitions Ltd. and Ultra Electronics Holdings plc) (Pre-emptive Action) Order 2021 (SI 2021/944)**

*Date laid: 18 August 2021*

*Parliamentary procedure: negative*

*This Order intervenes in the proposed takeover of UK defence company Ultra Electronics Holdings plc (“Ultra”) by US owned Cobham Ultra Acquisitions Limited on the ground of national security. The Competition and Markets Authority (CMA) will investigate the proposals and report to the Secretary of State by 18 January 2022 who will then decide whether to clear the merger or refer it to the CMA for a more in-depth review. The Order uses powers under the Enterprise Act 2002 to prevent pre-emptive actions by the parties to the merger, such as the transfer of information relating to goods or services supplied by Ultra to the Government or armed forces. New takeover rules under the National Security and Investment Act 2021 will come into force on 4 January 2022. Given the commercial significance of the proposed takeover and the national security implications that will be considered following the Department’s intervention, the House may wish to explore with the Minister the approach the Government have taken with this Order.*

**The Order is drawn to the special attention of the House on the ground that it gives rise to issues of public policy likely to be of interest to the House.**

20. The Department for Business, Energy and Industrial Strategy (BEIS) has laid this Order with an Explanatory Memorandum (EM). The purpose of the instrument is to intervene in the proposed takeover of UK defence company Ultra Electronics Holdings plc (“Ultra”) by Cobham Ultra Acquisitions Limited (“Cobham”), which is owned by US private equity company Advent International (“Advent”), on the ground of national security. The Government previously cleared the takeover of UK defence company Cobham plc by AI Convoy Bidco Limited, an indirect subsidiary of Advent, in 2019.<sup>6</sup>

*Background*

21. According to BEIS, the Secretary of State for Business, Energy and Industrial Strategy has the power under section 42 of the Enterprise Act 2002 (“the 2002 Act”), to issue a notice intervening in certain merger transactions where, amongst other things, a specified public interest consideration may be relevant. National security is a specified public interest consideration; other specified public interest considerations relate to media plurality and financial stability.
22. Under paragraph 2 of Schedule 7 to the 2002 Act, the Secretary of State also has the power, where an intervention notice is in force, to make an order prohibiting or restricting actions which the Secretary of State considers would constitute “pre-emptive action” and imposing obligations regarding the continuing of activities or the safeguarding of assets.

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<sup>6</sup> BEIS, *Proposed acquisition of Cobham PLC by AI Convoy Bidco Limited: decision notice* (20 December 2019): <https://www.gov.uk/government/publications/proposed-acquisition-of-cobham-plc-by-ai-convoy-bidco-limited-decision-notice> [accessed 7 September 2021].

23. While the 2002 Act refers to a “relevant merger situation” which constitutes two or more enterprises ceasing to be distinct, this may be a mutual decision of two companies to combine or one company purchasing another. In this specific merger situation, the intervention relates to a proposed takeover of Ultra by Cobham.
24. New rules about takeovers which could harm the UK’s national security were introduced by the National Security and Investment Act 2021 which received Royal Assent on 29 April 2021. The new rules will come into force on 4 January 2022.

*Use of powers under the 2002 Act*

25. Following the issuing of an intervention notice under the 2002 Act, the Competition and Markets Authority (CMA) will now have until 18 January 2022 to investigate the proposed takeover of Ultra by Cobham, and to report to the Secretary of State on its national security implications and any relevant competition issues. The Secretary of State will then decide whether to clear the proposed merger, including by accepting any undertakings from the merger parties that would seek to mitigate any national security risks, or refer the merger to a more detailed Phase 2 investigation by the CMA under section 45 of the 2002 Act. In the meantime, the Order prevents any disclosure or transfer of information relating to goods or services supplied by Ultra to the UK Government or the armed forces or to other persons that are used in goods and services provided to the UK Government or armed forces, pending the outcome of the public interest intervention.

*Commercial and national security context*

26. The EM states that for national security reasons, “it would not be appropriate to provide any further detailed information regarding the grounds for the intervention, nor the specific actions which are prevented by the making of this Order”. We asked the Department, however, for further information about the commercial significance and national security aspects of the proposed takeover. BEIS told us that:

“Ultra Electronics Holdings plc (Ultra) employ over 4,600 people worldwide, with c. 1,700 in the UK across at least 10 main sites. We believe that over 1,000 of their UK jobs are in manufacturing and engineering, the remainder in sales and support. Ultra’s business units include maritime & communications, and critical detection and control. For the financial year ended 31 December 2020, revenue for the Ultra Group was £860 million, of which 64 per cent. was generated from sales to North America and 18 per cent. was generated from sales to the UK.

Ultra provides a range of important goods and services to the UK Government including to the Ministry of Defence and armed forces. Possible national security risks could arise from maintaining the supply of those goods and services and preserving the confidentiality of the details of the goods and services provided.”

*Timing of the instrument*

27. The Order was made and came into force before being laid before Parliament. The Department says that this was necessary to protect national security by preventing the parties to the merger from taking any actions that might

undermine the purpose and effectiveness of the Order. As required,<sup>7</sup> BEIS notified the Lord Speaker when the Order was made of the fact that copies of the Order had yet to be laid before Parliament and explained the reasons for this approach.

### *Conclusion*

28. There has been considerable interest in past takeovers of UK defence businesses by foreign companies, including the takeover of Cobham which the Government cleared at the end of 2019, and in the context of new takeover rules under the National Security and Investment Act 2021 which will come into force on 4 January 2022. Given the commercial significance of the proposed takeover and the national security implications that will be considered following the Department's intervention, the House may wish to explore with the Minister the approach the Government have taken with this Order. **The Order is drawn to the special attention of the House on the ground that it gives rise to issues of public policy likely to be of interest to the House.**

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<sup>7</sup> The National Archives, *Statutory Instrument Practice: 5th edition* (November 2017): [http://www.legislation.gov.uk/pdfs/StatutoryInstrumentPractice\\_5th\\_Edition.pdf](http://www.legislation.gov.uk/pdfs/StatutoryInstrumentPractice_5th_Edition.pdf) [accessed 8 September 2021].

## **CORRESPONDENCE: SUNSET PROVISIONS IN STATUTORY INSTRUMENTS DEALING WITH COVID-19**

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29. We have noted in previous reports that many statutory instruments that relate to the coronavirus pandemic included sunset provisions. To assist the House in scrutinising the legislation, we asked the Lord President of the Council and Leader of the House of Commons to send us monthly updates so that they could be properly monitored. A further update has been received, which is published at Appendix 1.

## INSTRUMENTS RELATING TO COVID-19

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### Changes to business practice and regulation

#### *Draft Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2021*

30. During the pandemic the reallocation of airport slots<sup>8</sup> has been suspended. This instrument amends the 80:20 airport slot usage rule to cover the slot scheduling season which runs from 31 October 2021 until 26 March 2022 (the “Winter 2021” season). The Regulations make three changes in relation to slots for the Winter 2021 season which will affect reallocation of the same slots for the equivalent period from October 2022 to March 2023:
- the required percentage usage rate is reduced from 80% to 50%; they enable an air carrier to retain rights to a series of slots if it returned the complete series to the slot coordinator for reallocation on or before 7 September 2021;
  - they expand the list of reasons for which non-utilisation of slots can be justified, to include certain government-imposed measures related to COVID-19 which severely reduce the viability of, or demand for, passenger travel on the route in question.

### Travel

#### *Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 6) Regulations 2021 (SI 2021/865)*

31. This instrument amended the International Travel Regulations<sup>9</sup> with effect from 19 July to introduce an exemption to the self-isolation and day 8 test requirements for individuals fully vaccinated in the UK arriving from an Amber List country who have not been in either a Red List country or mainland France (including Corsica) in the 10 days prior to arrival in England. It also made consequential updates to the provisions for private test providers and introduced a requirement for operators to carry out the necessary evidence checks on passengers seeking to benefit from this relaxation and for operators to establish appropriate systems and records. It added a corresponding requirement for such passengers to show their evidence if asked by an operator or immigration officer.
32. The instrument also amended the Green List to remove the Balearic Islands and British Virgin Islands and add Bulgaria, Croatia, Hong Kong and Taiwan. It also added Cuba, Indonesia, Myanmar and Sierra Leone to the Red List and permitted direct flights from Cuba and Indonesia only if they arrive at the dedicated Red List terminals.

#### *Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 7) Regulations 2021 (SI 2021/914)*

33. With effect from 2 August, this instrument extended the regime allowing exemption from self-isolation for fully vaccinated individuals arriving from

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8 An airport ‘slot’ is a permission to use all necessary airport infrastructure to operate an aircraft at a specified date and time for take-off or landing. Under normal conditions to retain a slot an airline must use them at least 80% of the time.

9 The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 ([SI 2021/582](#)).

Amber List countries (see SI 2021/865 above) to those who have been fully vaccinated in the United States, the EU and other relevant countries.

34. Additionally, this instrument excluded transport crew from the requirement to undertake workforce tests if they do not disembark in England, and, from 23 August, made improvements to test result reporting including requiring day 8 tests to be genome sequenced (to identify variants of concern).

*Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 8) Regulations 2021 (SI 2021/923)*

35. The instrument further amended the International Travel Regulations with effect from 8 August to:
- Remove additional restrictions on individuals arriving from France, who will now be subject to the same travel rules as arrivals from any other Amber List country.
  - Add Austria, Germany, Latvia, Norway, Romania, Slovakia and Slovenia to the Green List.
  - Remove Bahrain, India, Qatar and the United Arab Emirates from the Red List.
  - Add Georgia, Mayotte, Mexico, and La Reunion to the Red List—in addition direct flights from Georgia and Mexico may only land at designated terminals in London Heathrow and Birmingham airports.
  - Update the list of exempt sporting events in Schedule 5.
  - Ensure that UK civil servants fully vaccinated abroad under the overseas staff programme qualify for the relaxed inbound requirements when arriving from an Amber List country.
  - Extend to all parts of the UK the agreement that children arriving from a Red List country to attend boarding school may serve their quarantine at their school.

*Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 9) Regulations 2021 (SI 2021/966)*

36. These Regulations further update the International Travel Regulations:
- to add Montenegro and Thailand to the Red List with direct flights only allowed to land at the designated airports, and to move Denmark, Lithuania, Finland, Switzerland, Liechtenstein, the Azores, and Canada to the Green List;
  - to add Newcastle airport to the list of designated Red List ports under Schedule 11 to increase capacity to safely manage the volume of returning international students in the autumn;
  - to introduce exemptions from the international travel requirements, apart from the obligation to possess a negative result from a pre-flight test for all persons facilitating or attending the Climate Change Conference in Glasgow (COP 26), to be held from 31 October-12 November, and the World Leaders Summit on 1 to 2 November;

- for London Fashion Week there is an exemption from self-isolation requirements for invitees arriving from Amber List countries (this applies to about 130 fashion professionals who will be required to isolate when not attending events);
- to introduce a duty for an unaccompanied minor arriving from a Red List country to have a booking for managed quarantine both for themselves and for a nominated adult to join them there; (although those arriving for educational purposes may quarantine in the educational institution's accommodation); and
- to update reporting mechanisms to require minimum standards and reporting times from private providers, and to introduce penalties so that there is a comprehensive compliance mechanism covering all private testing providers, not just those governed by the Health Protection Regulations.

37. **We are pleased to note that the Department of Health and Social Care has appointed different start dates according to the comparative urgency of the changes proposed.**<sup>10</sup>

### Public services

#### *Education (School Inspection) (England) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/845)*

38. This instrument extends temporarily the prescribed interval for routine Ofsted inspections of most state-funded schools and of inspections of collective worship and denominational education in voluntary-aided and foundation faith schools. The aim is to take account of a period in which such inspections were suspended due to the coronavirus pandemic. The suspension was announced in March 2020<sup>11</sup> and formalised from 1 May 2020, with the relevant inspection duties being disapplied through monthly notices using powers in the Coronavirus Act 2020.<sup>12</sup> The Department for Education says that the extension made by this instrument provides the necessary time and flexibility to enable inspection to resume following the suspension.
39. Under the new arrangements a school that would have been due a routine inspection by the end of the summer term 2020 will now require one before the end of the summer term 2022, and once that takes place, its next routine five-yearly inspection will be due by the end of the summer term 2027. In relation to faith schools, a school that would have been due an inspection in the summer term 2020 will now be due that inspection by the end of the summer term 2023. If that inspection takes place in the summer term 2023, the school's next routine inspection will be due before the end of the summer term 2028.

10 See reg 1, *The Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 9) Regulations 2021*.

11 DfE, 'Routine Ofsted inspections suspended in response to coronavirus' (17 March 2020): <https://www.gov.uk/government/news/routine-ofsted-inspections-suspended-in-response-to-coronavirus> [accessed 8 September 2021].

12 Section 38(1) of, and paragraph 5 of Schedule 17 to, the *Coronavirus Act 2020*.

*Education (Pupil Registration) (England) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/852)*

40. This instrument enables schools to continue to record when a pupil is not attending in circumstances relating to coronavirus. This category of non-attendance was introduced in the 2020/21 academic year<sup>13</sup> and is extended by this instrument, so that it will also apply during the 2021/22 academic year. The category applies to all schools, except those where all pupils are boarders. The Department for Education (DfE) explains that the category recognises where pupils do not attend because they are following public health guidance to shield or because they are quarantining after returning from abroad, self-isolating or staying at home due to local restrictions or a national lockdown, without unfairly categorising them as absent, which would negatively affect their school attendance record. The category does not apply where a pupil is not attending because they are unwell with COVID-19: pupils who are unable to attend due to illness are recorded under a separate category. DfE says that the category helps schools and local authorities to identify and understand the impact of COVID-19 on pupil groups with different characteristics and to target their catch-up and recovery efforts effectively.

*Education (School Performance Information) (England) (Coronavirus) (Amendment) Regulations 2021 (SI 2021/932)*

41. This instrument extends to the 2021/22 school year a change in the definition of ‘reporting school year’ that was made by an earlier instrument<sup>14</sup> with regard to the reporting of an annual phonics assessment in the 2020/21 school year. The Department for Education (DfE) explains that a phonics screening check (PSC) is usually carried out for all children in Year 1, and for children in Year 2 who did not take the check or did not meet the required standard in Year 1. The aim of the assessment is to understand whether a child has learned phonic decoding to an age-appropriate standard and to identify students who may need additional support. The results are reported to the Department and published.
42. Following the cancellation of the summer 2021 primary assessments due to the pandemic, DfE will run a Year 2 PSC in the autumn term of the 2021/22 school year, instead of the cancelled June 2021 Year 1 PSC, to ensure that Year 2 pupils who need support are not missed. DfE says that while schools will be required to report the results of the 2021/22 autumn term Year 2 PSC to the Department, the data will not be published because of the ongoing disruption caused by the pandemic. This instrument extends to the 2021/22 school year a change made in the previous school year which enabled the reporting of results to DfE despite the absence of published results.

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13 Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No.2) Regulations 2020 ([SI 2020/816](#)).

14 Education (National Curriculum Assessment Arrangements, Attainment Targets and Programmes of Study) and (Pupil Information and School Performance Information) (Amendment) (England) Regulations 2020 ([SI 2020/844](#)).

## INSTRUMENTS OF INTEREST

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### Draft Food (Promotion and Placement) (England) Regulations 2021

43. To tackle child obesity, this instrument would restrict the promotion of high fat, sugar and salt (HFSS) products in medium and large businesses (50 or more employees) that sell food or drink in England. It does not apply to corner shops. From 1 October 2022 foods such as cakes, chocolate, ice cream, pastries, sweet biscuits, breakfast cereals, yoghurts, pizza, ready meals, crisps, savoury snacks, and soft drinks that meet the criteria<sup>15</sup> may no longer be promoted with “buy-one-get-one-free” or “3 for 2” offers. Nor may they be displayed at store entrances, aisle ends and checkouts. Equivalent restrictions apply to online grocery shopping (for example, these foods may not be displayed on the shopping basket or payment pages). The restrictions will also apply to free refills of sugar-sweetened drinks in restaurants, coffee shops etc.
44. We have received a submission from the Food and Drink Federation (FDF) expressing concerns about the practicalities of this instrument, in particular, about smaller manufacturers’ abilities to apply the Nutrient Profiling Score for their products. The FDF also emphasises the need for the government guidance to be developed in collaboration with the retail sector so that the scope of the legislation is absolutely clear, and makes a plea that products that have been reformulated to reduce calorie content should not be penalised in this way. The Department of Health and Social Care (DHSC) has responded and the proposed guidance was put out for informal consultation with the industry on 9 August. The FDF’s letter and DHSC’s response are published in full on our website.<sup>16</sup> We note the FDF’s disappointment that products that have been reformulated to reduce their calorie content are not excluded from this measure. **We also support their view that these Regulations should have included a sunset clause which would require the effectiveness of this instrument to be properly evaluated.**

### Occupational Pension Schemes (Climate Change Governance and Reporting) (Miscellaneous Provisions and Amendments) Regulations 2021 (SI 2021/857)

45. This instrument applies some of the changes made by section 124 of the Pension Schemes Act 2021 to require trustees in scope to have knowledge and understanding of the identification, assessment and management of risks and opportunities for occupational pension schemes resulting from climate change. In the case of corporate trustees, the Regulations require the company to ensure that trustees have the appropriate knowledge and understanding of these matters or to train them accordingly.
46. From 2022 pensions schemes in scope will be required to report climate change risks in line with the Task Force on Climate-related Financial Disclosures’ (TCFD) recommendations.<sup>17</sup> These Regulations also require information on the TCFD report, including a website address where it is

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15 The 2004/2005 Nutrient Profiling Model will be used to define whether a product is HFSS.

16 Secondary Legislation Scrutiny Committee, ‘Scrutiny evidence’ <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 8 September 2021].

17 TCFD, *Final Report: Recommendations of the Task Force on Climate-related Financial Disclosures* (June 2017): <https://www.fsb-tcfd.org/publications/final-recommendations-report/> [accessed 8 September 2021].

published, to be included in the scheme’s annual report, benefit statements and the funding statements sent to scheme members.

47. We welcome the intention behind these new requirements but note that trustees of occupational pensions are already required to have knowledge of a large number of fiscal, financial and governance requirements. We question whether the growing number of requirements may reduce the supply of suitable candidates.

**Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2021 (SI 2021/922)**

48. In response to the escalation of serious human rights violations in Belarus, including the forced diversion of the Ryanair flight FR4978 to Minsk on 23 May 2021 in order to arrest a journalist, these Regulations extend the existing sanctions regime against Belarus and designated individuals.<sup>18</sup> In particular, they allow new prohibitions on technical assistance relating to aircraft, and restrictions on loans, finance and insurance, and on trade in interception and monitoring technology, petroleum products and potash. A new Part 5A is also added that confers powers on the Secretary of State, air traffic control and airport operators to make directions for the purpose of preventing certain aircraft from entering UK airspace or landing in the UK. The Regulations were brought into effect on 9 August but follow the “made affirmative” procedure which means they must be approved by Parliament to stay in force after 19 October.

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<sup>18</sup> The Belarus (EU Exit) (Sanctions) Regulations 2019 (SI 2019/600) reapplied the previous EU-wide sanctions following Brexit.

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

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

Capital Requirements Regulation (Amendment) Regulations 2021

Food (Promotion and Placement) (England) Regulations 2021

Internal Market Information System Regulation (Amendment etc.) Regulations 2021

Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2021

Water and Sewerage Undertakers (Exit from Non-household Retail Market) (Consequential Provision) Regulations 2021

### **Made instruments subject to affirmative approval**

SI 2021/922 Republic of Belarus (Sanctions) (EU Exit) (Amendment) Regulations 2021

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

East Staffordshire (Electoral Changes) Order 2021

Norfolk (Electoral Changes) Order 2021

Rochdale (Electoral Changes) Order 2021

### **Instruments subject to annulment**

SI 2021/841 Home Loss Payments (Prescribed Amounts) (England) Regulations 2021

SI 2021/845 Education (School Inspection) (England) (Coronavirus) (Amendment) Regulations 2021

SI 2021/849 Criminal Procedure (Amendment No. 2) Rules 2021

SI 2021/852 Education (Pupil Registration) (England) (Coronavirus) (Amendment) Regulations 2021

SI 2021/855 Civil Procedure (Amendment No. 4) Rules 2021

SI 2021/857 Occupational Pension Schemes (Climate Change Governance and Reporting) (Miscellaneous Provisions and Amendments) Regulations 2021

SI 2021/865 Health Protection (Coronavirus, International Travel and Operator Liability)(England) (Amendment) (No. 6) Regulations 2021

SI 2021/872 Public Procurement (Agreement on Government Procurement) (Amendment) (No. 2) Regulations 2021

|              |                                                                                                                             |
|--------------|-----------------------------------------------------------------------------------------------------------------------------|
| SI 2021/873  | Medical Devices (Amendment) (EU Exit) Regulations 2021                                                                      |
| SI 2021/875  | Family Procedure (Amendment No. 2) Rules 2021                                                                               |
| SI 2021/896  | Union Civil Protection Mechanism (Revocation) (EU Exit) Regulations 2021                                                    |
| SI 2021/897  | Misuse of Drugs and Misuse of Drugs (Designation) (Amendment) (England, Wales and Scotland) Regulations 2021                |
| SI 2021/904  | REACH etc. (Amendment) Regulations 2021                                                                                     |
| SI 2021/912  | Safety of Sports Grounds (Designation) (Amendment) (England) Order 2021                                                     |
| SI 2021/914  | Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 7) Regulations 2021 |
| SI 2021/920  | Benchmarks (Provision of Information and Documents) (Amendment) Regulations 2021                                            |
| SI 2021/923  | Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 8) Regulations 2021 |
| SI 2021/924  | Ecodesign for Energy-Related Products and Energy Information (Amendment) (Northern Ireland) (EU Exit) Regulations 2021      |
| SI 2021/929  | Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2021                                           |
| SI 2021/932  | Education (School Performance Information) (England) (Coronavirus) (Amendment) Regulations 2021                             |
| SI 2021/ 966 | Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 9) Regulations 2021 |

## APPENDIX 1: CORRESPONDENCE: SUNSET PROVISIONS IN STATUTORY INSTRUMENTS DEALING WITH COVID-19

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### Letter from the Rt Hon. Jacob Rees-Mogg MP, Lord President of the Council and Leader of the House of Commons, to Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee

In my letter of 14 June 2021 I committed to continuing to provide a regular monthly update of sunset provisions in statutory instruments (SIs) made in response to the Coronavirus pandemic.

As of 17 August the Government has laid 381 SIs that fall into this category, of which 53 still include a specific sunset provision which has not expired or been revoked.

Annex A sets out the SIs that have been laid in response to the pandemic which include a specific sunset provision, along with the timing of that provision. This information is also included in the Explanatory Notes of each SI. The inclusion of a sunset provision is always carefully considered. Following your suggestion to divide the table, Annex B now sets out a list of the SIs where the sunset provisions have expired or been revoked.

I hope that this information is helpful to the Committee. This letter has been copied to the Leader of the House of Lords and the Chairman of the Joint Committee on Statutory Instruments.

25 August 2021

### Annex A

**Table 1: SIs that have been laid in response to the pandemic which include a specific sunset provision and the timing of that provision**

|   | Dept  | Title                                                                                                    | Sunset Provision                                              |
|---|-------|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| 1 | DHSC  | Health Protection (Coronavirus) Regulations 2020                                                         | 10/02/2022                                                    |
| 2 | DHSC  | The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020              | 17/10/2021                                                    |
| 3 | MHCLG | Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020 | 31/12/2020 - These provisions have been extended. See row 39. |
| 4 | DWP   | Universal Credit and Employment Support Allowance Amendment Regulations 2020                             | 12/11/2020 - These provisions have been extended. See row 32. |
| 5 | DWP   | Social Security (Coronavirus) (Further Measures) Regulations 2020                                        | 12/11/2020 - These provisions have been extended. See row 53. |

|    | <b>Dept</b> | <b>Title</b>                                                                                                                    | <b>Sunset Provision</b>                                                                                                                                                                     |
|----|-------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6  | DWP         | The Social Security (Coronavirus) (Prisoners) Regulations 2020                                                                  | 12/11/2020 - These provisions have been extended. See row 53.                                                                                                                               |
| 7  | DfE         | The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020                               | 31/01/2021 - These regulations have been extended. See row 40.                                                                                                                              |
| 8  | DfE         | The Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020 | 01/09/2020 - These regulations have been extended. See row 9.                                                                                                                               |
| 9  | DfE         | The Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations                      | 01/09/2021                                                                                                                                                                                  |
| 10 | MHCLG       | The Town and Country Planning (Development Management Procedure) (England) Coronavirus) (Amendment) Order 2020                  | 31/12/2020 - These provisions have been extended. See row 39.                                                                                                                               |
| 11 | MoJ         | Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020                                              | 25/03/2022                                                                                                                                                                                  |
| 12 | DfT         | The Traffic Order Procedure (England) (Coronavirus) (Amendment) Regulations 2020                                                | 30/04/2021 - Most provisions have expired. However, the regs contain transitional provisions to preserve continuity following the expiry of the amendments. These are in force permanently. |
| 13 | DfE         | The Schools Forums (England) (Coronavirus) (Amendment) Regulations 2020                                                         | 01/04/2021 - These provisions have been made permanent                                                                                                                                      |
| 14 | DfT         | The Health Protection (Coronavirus, Public Health Advice for Passengers) (England) Regulations 2020                             | 08/06/21 - These have been extended. See row 50.                                                                                                                                            |
| 15 | MoJ         | Competition Appeals Tribunal                                                                                                    | 25/03/2022                                                                                                                                                                                  |

|    | Dept  | Title                                                                                                                                             | Sunset Provision                                                                                                                                                                                                                                                                                                                                          |
|----|-------|---------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | MOJ   | The Secure Training Centre (Amendment) (Coronavirus) Rules 2020                                                                                   | 25/03/2022                                                                                                                                                                                                                                                                                                                                                |
| 17 | MHCLG | Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020                                                   | 31/12/2020 - These provisions have been extended. See row 39.                                                                                                                                                                                                                                                                                             |
| 18 | MHCLG | Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020                                               | 31/12/2020 - These provisions have been extended. See row 39.                                                                                                                                                                                                                                                                                             |
| 19 | MHCLG | Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020                            | 31/12/2020 - These provisions have been made permanent.                                                                                                                                                                                                                                                                                                   |
| 20 | MHCLG | The Environmental Assessment of Plans and Programmes (Coronavirus) (Amendment) Regulations 2020                                                   | 31/12/2020 - These provisions have been made permanent.                                                                                                                                                                                                                                                                                                   |
| 21 | DHSC  | The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020 | 27/08/2021                                                                                                                                                                                                                                                                                                                                                |
| 22 | BEIS  | Feed-in Tariffs (Amendment) (Coronavirus) (No. 2) Order 2020                                                                                      | The regulations contain multiple sunset provisions depending which elements they apply to: Hydro installations–31/03/22<br>Community hydro installations–30/09/22<br>Anaerobic Digestion and wind installations- 31/03/21 (expired)<br>Community anaerobic digestion and wind installations–30/09/21<br>Community solar installations–31/03/21 (expired). |

|    | Dept | Title                                                                                                                               | Sunset Provision                                                                                                                                                 |
|----|------|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 | BEIS | The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020              | 18/09/2021                                                                                                                                                       |
| 24 | DfE  | Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020                                                            | 30/09/21                                                                                                                                                         |
| 25 | DfE  | Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020 | 31/08/2021                                                                                                                                                       |
| 26 | DHSC | The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020                    | 18/09/2021                                                                                                                                                       |
| 27 | MoJ  | Wills Act 1837 (Electronic Communications) (Amendment) (Coronavirus) Order 2020                                                     | 31/01/2022                                                                                                                                                       |
| 28 | DWP  | Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2020                            | 12/05/2021 - Employment Support Allowance provisions -extended to 12/11/21 Job Seekers Allowance/Carer's allowance and Prisoners provisions extended to 31/8/21. |
| 29 | MoJ  | Prison and Young Offender Institution (Coronavirus, etc.) (Amendment) (No. 3) Rules 2020                                            | 25/03/2022                                                                                                                                                       |
| 30 | DWP  | Social Security (Coronavirus) (Further Measures) (Amendment) and Miscellaneous Amendment Regulations 2020                           | 12/05/2021 - these provisions have been extended. See row 53.                                                                                                    |
| 31 | BEIS | Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2020              | 31/03/2021 - these provisions have been extended. See row 48.                                                                                                    |

|    | Dept  | Title                                                                                                                                                    | Sunset Provision                                                                                                                                                                                                                                                                                                                   |
|----|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32 | BEIS  | Personal Protective Equipment (Temporary Arrangements) (Coronavirus) (England) Regulations 2020                                                          | <p>These regulations contain two sunset provisions.</p> <p>30/06/2021 is the provision for COVID-19 related PPE being purchased by the Government/ NHS for use by health workers.</p> <p>31/03/2021 is the provision for other COVID-19 related PPE which can be manufactured or imported and sold on the UK Market - expired.</p> |
| 33 | MHCLG | Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 3) regulations 2020                                        | 31/03/2021 - these provisions have been extended. See row 53.                                                                                                                                                                                                                                                                      |
| 34 | MHCLG | Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 | 31/12/2021                                                                                                                                                                                                                                                                                                                         |
| 35 | DfE   | The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021                                                        | 30/09/2021                                                                                                                                                                                                                                                                                                                         |
| 36 | BEIS  | Corporate Insolvency and Governance Act 2020 (Coronavirus) (Change of Expiry Date) Regulations 2021                                                      | 29/04/2022                                                                                                                                                                                                                                                                                                                         |
| 37 | BEIS  | The Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) Regulations 2021                                                   | 30/04/2021 - these provisions have been extended. See row 49.                                                                                                                                                                                                                                                                      |
| 38 | CO    | Mayoral and Police and Crime Commissioner Elections (Coronavirus, Nomination of Candidates) (Amendment) Order 2021                                       | 28/02/2022                                                                                                                                                                                                                                                                                                                         |

|    | <b>Dept</b> | <b>Title</b>                                                                                                          | <b>Sunset Provision</b>                                                                                                          |
|----|-------------|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 39 | CO          | Local and Greater London Authority Elections (Coronavirus, Nomination of Candidates) (Amendment) (England) Rules 2021 | 28/02/2022                                                                                                                       |
| 40 | CO          | Representation of the People (Proxy Vote Applications) (Coronavirus) Regulations 2021                                 | 28/02/2022                                                                                                                       |
| 41 | DfE         | Education (Coronavirus, Remote Education Information) (England) (Amendment) Regulations 2021                          | 31/08/2021                                                                                                                       |
| 42 | BEIS        | Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) Regulations 2021        | 30/09/2021                                                                                                                       |
| 43 | BEIS        | Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) (No. 2) Regulations 2021            | 30/09/2021                                                                                                                       |
| 44 | DfT         | Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021               | 16/05/2022                                                                                                                       |
| 45 | DWP         | Universal Credit (Extension of Coronavirus Measures) Regulations 2021                                                 | 31/10/2021                                                                                                                       |
| 46 | DWP         | Social Security (Coronavirus) (Miscellaneous Amendments) Regulations 2021                                             | Employment Support Allowance provisions - 12/11/21<br>Job Seekers Allowance/Carer's allowance and Prisoners provisions - 31/8/21 |
| 47 | MHCLG       | The Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) Regulations 2021         | 31/09/2021                                                                                                                       |
| 48 | MHCLG       | Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2021         | 31/09/2021                                                                                                                       |

|    | Dept  | Title                                                                                                                  | Sunset Provision |
|----|-------|------------------------------------------------------------------------------------------------------------------------|------------------|
| 49 | MoJ   | Taking Control of Goods (Amendment) (Coronavirus) Regulations 2021                                                     | 30/06/2021       |
| 50 | MoJ   | Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021  | 30/09/2021       |
| 51 | BEIS  | Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2021 | 30/09/2021       |
| 52 | MHCLG | Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 2) Regulations 2021      | 30/09/2021       |
| 53 | DHSC  | Health Protection (Coronavirus, Restrictions) (Steps etc.) (England) (Revocation and Amendment) Regulations 2021       | 27/09/21         |

*Annex B***Table 2: SIs where the sunset provisions have expired or been revoked**

| Dept | Title                                                                                        |
|------|----------------------------------------------------------------------------------------------|
| DHSC | The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020             |
| DHSC | Health Protection (Coronavirus, Restrictions) (England) Regulations 2020                     |
| DWP  | Northern Ireland equivalent to above                                                         |
| DWP  | Social Security (Coronavirus) (Further Measures) Northern Ireland Regulations 2020           |
| DWP  | The Social Security (Coronavirus) (Prisoners) Regulations 2020 Northern Ireland              |
| DfE  | The Adoption and Children (Coronavirus) (Amendment) Regulations 2020                         |
| DfE  | The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020      |
| BEIS | Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020      |
| DHSC | Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020 |

| Dept | Title                                                                                                                           |
|------|---------------------------------------------------------------------------------------------------------------------------------|
| DHSC | Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020                                    |
| BEIS | The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020                                             |
| BEIS | Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020                                         |
| DHSC | Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020                                                      |
| DHSC | Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020                                                |
| HMRC | The Value Added Tax (Zero Rate for Personal Protective Equipment) (Extension) (Coronavirus) Order 2020                          |
| HMRC | Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020                                               |
| MoJ  | Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020                                                                      |
| DHSC | Health Protection (Coronavirus, Restrictions) (Blackburn with Darwen and Luton) Regulations 2020                                |
| DHSC | The Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) Regulations 2020                             |
| DHSC | Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) Regulations 2020                     |
| DHSC | The Health Protection (Coronavirus, Restrictions on Gatherings) (North of England) (Amendment) (No. 2) Regulations 2020         |
| DHSC | Health Protection (Coronavirus, Restrictions) (Greencore) Regulations 2020                                                      |
| DHSC | Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020                                                         |
| DHSC | Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020                              |
| DHSC | The Health Protection (Coronavirus, Restrictions) (North East England) Regulations                                              |
| DHSC | The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020                          |
| DHSC | Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) (Amendment) Regulations 2020                  |
| DHSC | Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) Regulations 2020 |

| Dept  | Title                                                                                                                                                                   |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DHSC  | Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 2) Regulations 2020                                 |
| DHSC  | Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 3) Regulations 2020                                 |
| DHSC  | The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020                                                                       |
| DHSC  | The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium) (England) Regulations                                                                          |
| DHSC  | Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020                                                                                        |
| DHSC  | Health Protection (Coronavirus, Restrictions) (All Tiers) (England) (Amendment) Regulations 2020                                                                        |
| MoJ   | Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) Regulations 2021                                                                               |
| DHSC  | The Health Protection (Coronavirus, Restrictions) (No. 3) and (All Tiers) (England) (Amendment) Regulations 2021                                                        |
| DHSC  | Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020                                                                                        |
| MoJ   | Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020                                                           |
| MoJ   | The Public Health (Coronavirus) (Protection from Eviction) (England) Regulations 2021                                                                                   |
| DHSC  | Health Protection (Coronavirus, International Travel) (England) Regulations 2020                                                                                        |
| DHSC  | The Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020                                          |
| DfT   | Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021                                                    |
| MHCLG | Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) (Amendment) (England) Regulations 2021 |
| MHCLG | Parish and Community Meetings (Coronavirus) (Polls) (Amendment) (England) Rules 2020                                                                                    |
| HO    | Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) (No. 2) Regulations 2020                                                 |
| HO    | Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020                                                                |

| Dept         | Title                                                                                                                           |
|--------------|---------------------------------------------------------------------------------------------------------------------------------|
| MoJ          | The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020                                                   |
| DfT          | The Motor Vehicles (Tests) (Amendment) Regulations 2020                                                                         |
| DfT          | The Motor Vehicles (Tests) (Amendment) (Coronavirus) (No.2) Regulations                                                         |
| MoJ          | Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2021                                        |
| DfT/<br>DHSC | The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020                   |
| DHSC         | Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020                       |
| MoJ          | Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020                                        |
| MoJ          | Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) (Amendment) Regulations 2021                           |
| DHSC         | Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021                                                |
| DHSC         | The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020 |

## APPENDIX 2: INTERESTS AND ATTENDANCE

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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 7 September 2021, Members declared the following interests:

### **Drivers' Hours and Tachographs (Temporary Exceptions) (No. 2) Regulations 2021**

The Earl of Lindsay

*Wife has an HGV licence*

### **Occupational Pension Schemes (Climate Change Governance and Reporting) (Miscellaneous Provisions and Amendments) Regulations 2021**

The Earl of Lindsay

*Chairman, BPI Pension Trustees Limited*

### **Attendance:**

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