

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 13th Report of Session 2021–22

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

#### **Proposed Negative Instruments**

Drawn to the special attention of the House:

#### **Town and Country Planning (Napier Barracks)**

#### **Special Development Order 2021**

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

4 instruments relating to COVID-19

Draft National Security and Investment Act  
2021 (Notifiable Acquisitions) (Specification  
of Qualifying Entities) Regulations 2021

Meat Preparations (Amendment and  
Transitory Modification) (England) (EU Exit)  
(Amendment) (No. 2) Regulations 2021

Public Health England (Dissolution)  
(Consequential Amendments) Regulations  
2021

Transfer of Undertakings (Protection of  
Employment) (Transfer of Public Health  
England Staff) Regulations 2021

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## *Secondary Legislation Scrutiny Committee*

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

To report on draft instruments published under paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018; to report on draft instruments and memoranda laid before Parliament under sections 8 and 23(1) of the European Union (Withdrawal) Act 2018 and section 31 of the European Union (Future Relationship) Act 2020.

And, to scrutinise –

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

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

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

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

## *Members*

<a href="#"><u>Baroness Bakewell of Hardington Mandeville</u></a>	<a href="#"><u>Viscount Hanworth</u></a>	<a href="#"><u>Lord Lisvane</u></a>
<a href="#"><u>Rt Hon. Lord Chartres</u></a>	<a href="#"><u>Lord Hodgson of Astley Abbotts</u></a>	<a href="#"><u>Lord Sherbourne of Didsbury</u></a>
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<a href="#"><u>Lord German</u></a>	<a href="#"><u>The Earl of Lindsay</u></a>	<a href="#"><u>Rt Hon. Lord Hutton of Furness</u></a>

## *Registered interests*

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

## *Publications*

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

## *Committee Staff*

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

# Thirteenth Report

## PROPOSED NEGATIVES UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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

- Markets in Financial Instruments, Benchmarks and Financial Promotions (Amendment) (EU Exit) Regulations 2021
- Social Security (Amendment) Regulations 2021

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

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### Town and Country Planning (Napier Barracks) Special Development Order 2021 (SI 2021/962)

*Date laid: 27 August 2021*

*Parliamentary procedure: negative*

*This instrument would extend the planning permission for the Napier Barracks in Folkestone to allow them to continue to be used as asylum accommodation until September 2026. We appreciate that the asylum accommodation at Napier Barracks was set up very quickly and has had some operational difficulties in consequence. However, the information that, in the opinion of several authorities including the High Court, the site was unsuitable and significant improvement was required should have been disclosed to Parliament given that the purpose of the instrument is to enable continued operation at that site for a further five years.*

*The date that the current planning permission expires has been known for 12 months: we found unconvincing the Home Office's reasons for laying a potentially controversial instrument when Parliament was not sitting, particularly as the Home Office also states that the site may be used to pilot new models for "reception centres".*

*In supplementary evidence the Home Office has explained the improvements it has introduced at the site, but **the House may wish to satisfy itself whether these changes are sufficient to bring Napier Barracks up to the required standard.***

**This Order is drawn to the special attention of the House on the ground that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation.**

1. This instrument would extend the planning permission for the Napier Barracks in Folkestone with effect from 21 September 2021, to allow them to continue to be used as asylum accommodation until 20 September 2026.

#### *Insufficient information*

2. The Explanatory Memorandum (EM) accompanying this instrument is thin, focusing on general issues about the immigration housing estate as a whole. We understand that the coronavirus pandemic has slowed applicants' progress through the asylum system and that greater accommodation capacity is needed as a result. However, the EM gives no indication of the number of people or conditions at this specific site. In supplementary information, the Home Office informed us that in its current configuration there is capacity for 308 service users at Napier Barracks and that they are not detained there.
3. Paragraph 7.8 of the EM refers to a further programme of improvements to the living accommodation and amenities to be carried out at the site. But in response to questions about what changes were intended the Home Office replied:

*"We are assessing a programme of refurbishment works to the existing internal accommodation. We will also consider additional works under Permitted Development rules for Crown land. As far as the current*

conditions of the barracks are concerned, the government’s assessment can be found in the government response to the recent HMIP report.”<sup>1</sup>

This was the first indication that any concerns had been raised about the operation and suitability of the site.

*Concerns raised by external groups*

4. We subsequently received a submission from the Jesuit Refugee Service,<sup>2</sup> which raises a number of serious questions about the operation of the Napier Barracks site. In particular:
  - There has been criticism from the Independent Chief Inspector of Borders and Immigration (ICIBI) and HM Inspectorate of Prisons (HMIP) about the running of Napier Barracks which concluded that the accommodation was unsuitable for long-term use and that the numbers living at the camp when it was full made social distancing impossible.
  - **There was a recent High Court judgement against the Home Office<sup>3</sup> in which standards and operational systems at Napier Barracks were found to be unlawful;**
  - There have been two COVID-19 outbreaks at the site, following the use of dormitory accommodation contrary to the advice of Public Health England (PHE). The second outbreak is ongoing.
5. We asked the Home Office for further information on each of these concerns. Its response is published in full on our website.<sup>4</sup> In summary the Home Office said:
  - The various criticisms from the ICIBI and HMIP about the running of Napier Barracks have been addressed, in part, by reducing the number of service users and in part by improved communication between the Home Office and their contractor. Work to improve fire safety has been prioritised and a COVID-19 testing regime set up.
  - The High Court judgement against the Home Office agreed with the complainants on three grounds:
    - the accommodation did not comply with the minimum standards set out in the Immigration and Asylum Act 1999;

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1 Independent Chief Inspector of Borders and Immigration, *An inspection of contingency asylum accommodation: HMIP report on Penally Camp and Napier Barracks* (22 July 2021): <https://www.gov.uk/government/publications/an-inspection-of-contingency-asylum-accommodation-hmip-report-on-penally-camp-and-napier-barracks> [accessed 14 September 2021].

Home Office, *Response to an inspection of contingency asylum accommodation* (22 July 2021): <https://www.gov.uk/government/publications/response-to-an-inspection-of-contingency-asylum-accommodation/response-to-an-inspection-of-contingency-asylum-accommodation-accessible-version> [accessed 14 September 2021].

2 Published in full on our website: ‘Scrutiny evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 15 September 2021].

3 In the case of *R (NB & Ors) v Secretary of State for the Home Department* [2021] EWHC 1489 (Admin), 3 June 2021.

4 Published in full on our website: ‘Scrutiny evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/> [accessed 15 September 2021].

- the selection process for choosing people to be accommodated at Napier Barracks was flawed and did not apply the Home Secretary's criteria (there also needed to be a better system for identifying people whose suitability for the accommodation, especially their mental health, deteriorated during their stay); and
- that a letter issued in connection with the first COVID-19 outbreak intended to explain the need for self-isolation, instead amounted to a breach of Article 5 of the European Convention on Human Rights (right to liberty).

The Home Office states it has taken measures to address the issues raised (these are explained in the full response).

- There have been two COVID-19 outbreaks at the site, the second isolation period ended on 9 September with no new cases detected. The Home Office accepts that dormitory accommodation is less than ideal, and it has worked with PHE to improve infection control measures at Napier Barracks.
6. **We remain concerned that a rotating population at the facility may not have been properly vaccinated and may therefore represent an increased risk to the local residents. It appears to us that better arrangements for physical and mental health care are a matter of urgency and the House may wish to press the Minister on this matter.**
7. We have also been contacted by the APPG on Immigration Detention which is currently conducting an Inquiry into “quasi detention”, in which evidence from those who have lived or worked at Napier Barracks features prominently. The interim report (mainly the written and oral evidence) concludes:<sup>5</sup>

“They reported many issues and concerns, including unsanitary, crowded, ‘prison-like’ conditions at the sites; chronic levels of sleep deprivation; ineffective safeguarding; inadequate access to legal advice and healthcare; problematic changes in the processing of residents’ asylum claims; and intimidation and mistreatment of both residents and NGO workers supporting them. Much of the evidence provided during the sessions also highlighted the profoundly negative impacts the sites were having on the mental health of residents, many of whom were already vulnerable.”<sup>5</sup>

#### *Piloting new processes*

8. Paragraph 7.7 of the EM states that “the Napier site may also form part of the Home Office’s longer-term plans to reform the asylum system, as set out in the New Plan for Immigration published on 24 March 2021.”<sup>6</sup> In supplementary information the Home Office stated that: “The continued use of the Napier site may enable the new processes to be tested and piloted, and so inform the final design of how accommodation centres will operate.” It is not clear whether this piloting would happen at Napier itself or the

5 All-Party Parliamentary Group on Immigration Detention, *Inquiry into quasi-detention - Interim report* (9 September 2021) <https://appgdetention.org.uk/wp-content/uploads/2021/09/210907-APPG-Inquiry-Interim-report-Summary-of-oral-evidence-sessions.pdf?x76491>.

6 HM Government, *New Plan for Immigration - Policy Statement*, CP 412 (March 2021) p 19-20: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972517/CCS207\\_CCS0820091708-001\\_Sovereign\\_Borders\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972517/CCS207_CCS0820091708-001_Sovereign_Borders_Web_Accessible.pdf).

additional capacity at Napier would allow sufficient leeway in the overall estate for piloting to happen elsewhere.

9. Nor do the responses of the Home Office make the explicit link to the potentially controversial nature of these pilot programmes. The section indicated in the New Plan refers to the intention to introduce “reception centres”:

“To help speed up processing of claims and the removal of people who do not have a legitimate need to claim asylum in the UK, we plan to introduce new asylum reception centres to provide basic accommodation and process claims. We will also maintain the facility to detain people where removal is possible within a reasonable timescale. The use of hotels to accommodate new arrivals who have entered the UK illegally will end.

The reception centre model, as used in many European countries including Denmark and Switzerland, would provide basic accommodation in line with our statutory obligations, and allow for decisions and any appeals following substantive rejection of an asylum claim to be processed fairly and quickly onsite. We will set in legislation a new fast-track appeals process—with safeguards to ensure procedural fairness.”

### *Timing*

10. Paragraph 6.3 of the EM says: “The extension of permission through a Special Development Order has been chosen because it allows permission to be secured in a timely manner, in view of the urgent need to continue to use Napier for asylum seekers who would otherwise be destitute when the current planning permission expires.” **Since the date that the current planning permission expires has been known for 12 months, we found this reason for laying a potentially controversial instrument when Parliament was not sitting unconvincing.**
11. We also asked why, given the criticisms about the suitability of the premises, the extension was being sought for five years rather than a shorter period. In their supplementary response the Home Office stated:

“An extension for a five-year period enables the Home Office certainty of occupation and will allow the Department to plan for and invest in the site. There have been significant improvements to the Napier site over the past year in response to the previous criticisms. The investment programme will allow the Home Office to refurbish the accommodation and ensure it will continue to be fit for purpose.”

### *Conclusion*

12. We appreciate that the asylum accommodation at Napier Barracks was set up very quickly and has had some operational difficulties in consequence. However, the information that, in the opinion of several authorities, including the High Court, the site was unsuitable and significant improvement was required, should have been disclosed to Parliament given that the purpose of the instrument is to enable continued operation at the site for a further five years. The APPG Inquiry is evidence of parliamentary concern about its operation, that the EM fails to address.

13. **In supplementary evidence the Home Office has explained the improvements it has introduced at the site, but the House may wish to satisfy itself whether these changes are sufficient to bring Napier Barracks up to the required standard.**



## INSTRUMENTS RELATING TO COVID-19

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### Business practice and regulation

#### *Television Multiplex Services (Renewal of Multiplex Licences) Order 2021 (SI 2021/941)*

14. This Order amends the Broadcasting Act 1996 to enable Ofcom to renew five national multiplex licences on the digital terrestrial television platform (Freeview)<sup>7</sup> until 2034. The licences would otherwise expire in 2022 and 2026. The amendments also allow Ofcom to revoke the multiplex licences, if they are renewed for a further period until 2034, for spectrum management reasons, on the condition that there is a five-year notice period and that revocation cannot take effect before the end of 2030. The Order also streamlines the licencing renewal process, so that licence holders will not have to submit new technical plans or marketing proposals. The Department for Digital, Culture, Media and Sport (DCMS) says that while such submissions were relevant in the early days of digital terrestrial television, they are no longer needed now that the service is mature. The Order also removes Ofcom's power to set a Percentage of Multiplex Revenue (PMR),<sup>8</sup> which has consistently been set at zero for current licensees, and ensures that a Multiplex 2<sup>9</sup> licence is contingent on Public Service Broadcaster (PSB) status which requires the Multiplex 2 licensee to be controlled by a PSB.
15. DCMS says that without the power to renew licences, Ofcom would be required to hold an open competition to award new licences which would require a two-year lead time, resulting in increased uncertainty and costs for the sector. The Department adds that the competitive bid process is outdated, and that primary legislation would be needed to update it. DCMS concludes that an open competition would not be in the interest of the sector or consumers at this time, given the current challenges and uncertainty caused by the pandemic.

### Travel

#### *Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 10) Regulations 2021 (SI 2021/1003)*

16. This instrument changes the "bubble" requirements in the International Travel Regulations<sup>10</sup> so that amateur and international sportspersons can compete at the same event. As currently framed, the isolation provisions of paragraph 44 of Schedule 4 prevent non-elite sportspersons from attending a domestic competition against international counterparts who may attend by virtue of the elite sports exemption. The urgency of this change is due to an upcoming international fixture taking place on 9 September with an elite international team and a non-elite domestic team which, if it could not take place, would have implications as to the British team's participation in the Deaf Olympics in 2022.

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7 Digital terrestrial television licences give licensees the right to use certain radio frequencies (spectrum) to transmit television services across the UK in a digital format.

8 PMR is a tax based on revenue to reflect the benefits of holding a licence that the licensee may be required to pay to HM Treasury over the course of the licence term.

9 Multiplex 2 is licensed to a joint ITV and Channel 4 subsidiary and carries commercial PSB channels ITV/STV, Channel 4 and Channel 5, as well as some of the PSB portfolio channels, such as ITV 2, Film 4 and More4.

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

**Public services***School Discipline (Pupil Exclusions and Reviews) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2021 (SI 2021/953)*

17. These Regulations deal with arrangements for the exclusion of pupils from school during the pandemic. They extend temporary measures implemented by three earlier instruments, so that they apply to exclusions occurring between 25 September 2021 and 24 March 2022.<sup>11</sup> Without the extension the temporary measures would expire on 24 September 2021.
18. The extension will have the effect that meetings of responsible bodies<sup>12</sup> and independent review panels (IRP) can continue to take place virtually to consider exclusions, if it is not reasonably practicable for the meeting to take place in person because of the pandemic, if participants agree to meet remotely and if certain conditions are met to ensure procedural fairness. Where the conditions for a virtual meeting have not been met, the timescale for the meeting will be extended by “such longer period as is reasonably necessary for a reason related to the incidence or transmission of coronavirus”.
19. The instrument does not extend provisions included in the earlier instruments for a longer application window of 25 school days within which a parent, carer or adult pupil can apply for an independent review. This period will revert to the original statutory timeframe of 15 school days. The Department for Education (DfE) says that it has considered scientific advice and views of stakeholders from across the education sector, including teachers, governors, unions, local authorities and stakeholders representing parents and pupils. According to DfE, parents and carers have not been making use of the extension for requesting an independent review and organisations which advocate for parents and carers did not raise concerns about the reinstatement of the statutory timeframe during discussions.

*School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) (No. 2) Regulations 2021 (SI 2021/992)*

20. This instrument extends until 30 September 2022 the period during which more flexible rules apply to school admissions appeals. The revised rules were introduced by an earlier instrument in 2020<sup>13</sup> and subsequently extended.<sup>14</sup> Without this second extension, they would expire on 30 September. The extension allows admission appeals to continue to be conducted effectively during the pandemic, when self-isolation measures remain in place for those testing positive for COVID-19, and while there remains a risk that further restrictions may be applied should there be a resurgence in infection rates or a new variant of concern. The instrument allows appeal panels to consider appeals as a panel of two (rather than three) and hearings to be held remotely

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11 School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020 ([SI 2020/543](#)), School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) (No. 2) Regulations 2020 ([SI 2020/908](#)) and School Discipline (Pupil Exclusions and Reviews) (England) (Coronavirus) (Amendment) Regulations 2021 ([SI 2021/204](#)).

12 The ‘responsible body’ is the governing body in the case of a maintained school, the management committee in the case of a pupil referral unit, and the proprietor (Academy Trust) in the case of an Academy.

13 School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2020 ([SI 2020/446](#)).

14 School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021 ([SI 2021/14](#)).

on the basis of written submissions (rather than in person). It also provides more flexibility in relation to the deadlines for the determination of appeals.

21. The Department for Education (DfE) says that these flexibilities will be used only as contingency: when it is reasonably practicable to comply with the usual appeal requirements, admission authorities will have to do so. A survey of key stakeholders showed unanimous support for the further extension and, according to DfE, the new expiry date of 30 September 2022 should allow sufficient time to deal efficiently with the next annual peak in appeals in relation to children starting new schools at the beginning of the 2022/23 academic year, which will be heard between April and July 2022.

## **INSTRUMENTS OF INTEREST**

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### **Draft National Security and Investment Act 2021 (Notifiable Acquisition) (Specification of Qualifying Entities) Regulations 2021**

22. The National Security and Investment Act 2021 (“the Act”) has provided the Government with new powers to scrutinise and intervene in certain acquisitions of UK companies by foreign businesses and investors to protect national security. The Act provides for a mandatory notification and pre-approval requirement for those sectors of the economy where it is considered that national security risks are most likely to arise. Any acquisitions subject to mandatory notification will not be allowed to proceed without Government approval, and any acquisition that is not notified to the Secretary of State and cleared will be void. These draft Regulations specify 17 sectors and activities within those sectors which will be in scope of the new mandatory notification regime.
23. The 17 areas are: Advanced Materials, Advanced Robotics, Artificial Intelligence, Civil Nuclear, Communications, Computing Hardware, Critical Suppliers to Government, Cryptographic Authentication, Data Infrastructure, Defence, Energy, Military and Dual-Use, Quantum Technologies, Satellite and Space Technologies, Suppliers to the Emergency Services, Synthetic Biology and Transport.
24. The Department for Business, Energy and Industrial Strategy (BEIS) says that following feedback received during consultation, the scope of these sectors has been narrowed to make them as targeted and proportionate as possible. We note, however, that the specified sectors will still cover a significant number of companies, including many small businesses, and that the Department will need to ensure that all businesses are informed of the new notification requirements, as many may otherwise not be aware of the new rules. BEIS also says that the Government will keep the list under review so that it reflects changes in national security risks and technology. We take the view that it is important that the Government also review the wider impact of the new oversight regime under the National Security and Investment Act 2021 on the relevant sectors and foreign investment into the UK.
25. Separate draft Regulations<sup>15</sup> have been laid alongside this instrument to make provision, for example in relation to how turnover is to be assessed, to enable fines to be calculated that can be issued against businesses that commit offences under the Act.

### **Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) (Amendment) (No. 2) Regulations 2021 (SI 2021/972)**

26. This instrument extends until 31 December 2021 the temporary suspension of a prohibition on importing chilled meat preparations, such as raw sausages, hamburgers, meatballs and peppered steak, from the European Economic Area (EEA) into England, that would otherwise have expired on 30 September. The instrument also extends the temporary suspension of a requirement for such imports to be deep frozen. Without the extensions,

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<sup>15</sup> Draft National Security and Investment Act 2021 (Monetary Penalties) (Turnover of a Business) Regulations 2021: <https://www.legislation.gov.uk/ukdsi/2021/9780348226942/introduction>.

it would be illegal for traders to import chilled meat preparations from the EEA from 1 October. The Department for Environment, Food and Rural Affairs (Defra) says that the extension will ensure relevant products remain available, and that it is a proportionate measure to ensure trade continuity, as there are no public health concerns and chilled meat products from the EEA present a low biosecurity risk. We note, however, the absence of a level playing field for businesses from Great Britain (GB): because the EU has not reciprocated these temporary measures, GB businesses have been banned from exporting chilled meat preparations, such as raw sausages, to the EU since 1 January 2021.

27. This is the second extension.<sup>16</sup> Asked about permanent arrangements, the Department told us that:

“Defra commissioned the [Food Standards Agency] and [Animal and Plant Health Agency] to carry out risk assessments to determine whether there is a scientific basis to support the application of P&Rs [prohibitions and restrictions] for trade between the EU and UK. The risk assessments were finalised at the end of August and are now being analysed by Defra. Further risk assessment may have to be carried out to determine the risk from non-EU countries. Defra is aiming to develop a permanent policy as soon as all necessary risk assessments have been carried out. Relevant stakeholders including business will be consulted for the development of a permanent policy to ensure that they are prepared to deal with any changes.”

28. While not part of this instrument, we also asked Defra about the arrangements for the rest of the UK. The Department told us that Scotland and Wales have made equivalent legislation to allow for chilled meats to be imported from the EU until 31 December 2021. With regard to Northern Ireland (NI), Defra explained that:

“The UK Government was successful in agreeing a temporary derogation for movements from GB-NI until the 30 September 2021 with the EU, permitting movements to continue until that date. However, the Government further proposed to the EU on 23 July a ‘standstill’ arrangement to maintain the operation of the Protocol on the current basis, and to pause current legal actions, to provide space for discussions on those proposals. Following on from this, to provide space for potential further discussions, and to give certainty and stability to businesses while any such discussions proceed, the Government will continue to operate the Protocol on the current basis. This includes the grace periods and easements currently in force allowing the movement of chilled meat preparations from GB to NI.”

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<sup>16</sup> The temporary measures were first introduced until 31 March 2021 by the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) Regulations 2020 ([SI 2020/1666](#)) and subsequently extended until 30 September 2021 by the Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) (Amendment) Regulations 2021 ([SI 2021/366](#)).

**Public Health England (Dissolution) (Consequential Amendments) Regulations 2021 (SI 2021/974)**

**Transfer of Undertakings (Protection of Employment) (Transfer of Public Health England Staff) Regulations 2021 (SI 2021/975)**

29. As a result of lessons learned during the pandemic the Government decided in August 2020 to restructure public health provision in England. This includes the dissolution of Public Health England (PHE) and the establishment of a new Department of Health and Social Care (DHSC) executive agency, the UK Health Security Agency (UKHSA). With effect from 1 October 2021:
- the health protection capabilities of PHE and NHS Test & Trace (currently part of DHSC) will be carried out by the UKHSA;
  - a new Office for Health Promotion will sit within DHSC incorporating PHE's functions that directly support national health improvement policy; and
  - the rest of PHE's health improvement and healthcare public health functions will move to NHS England, NHS Digital and the Care Quality Commission.<sup>17</sup>
30. These regulations are concerned with the transfer of staff to the receiving organisations and making appropriate consequential changes to legislation that currently refers to PHE.

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<sup>17</sup> This information was subsequently corrected by DHSC, the CQC is not taking on any functions from PHE - see correspondence published in our [14th Report](#), Session 2021-22, HL 76.

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

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

National Security and Investment Act 2021 (Monetary Penalties) (Turnover of a Business) Regulations 2021

National Security and Investment Act 2021 (Notifiable Acquisition) (Specification of Qualifying Entities) Regulations 2021

### **Instruments subject to annulment**

- SI 2021/875 Family Procedure (Amendment No. 2) Rules 2021
- SI 2021/941 Television Multiplex Services (Renewal of Multiplex Licences) Order 2021
- SI 2021/953 School Discipline (Pupil Exclusions and Reviews) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2021
- SI 2021/972 Meat Preparations (Amendment and Transitory Modification) (England) (EU Exit) (Amendment) (No. 2) Regulations 2021
- SI 2021/974 Public Health England (Dissolution) (Consequential Amendments) Regulations 2021
- SI 2021/975 Transfer of Undertakings (Protection of Employment) (Transfer of Public Health England Staff) Regulations 2021
- SI 2021/978 Infrastructure Planning (Prescribed Consultees and Interested Parties etc.) (Amendment) Regulations 2021
- SI 2021/984 Financial Assistance for Environmental Purposes Order 2021
- SI 2021/987 Crime (International Co-operation) Act 2003 (Freezing Order) (England and Wales and Northern Ireland) Regulations 2021
- SI 2021/992 School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) (No. 2) Regulations 2021
- SI 2021/1003 Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 10) Regulations 2021

## **APPENDIX 1: INTERESTS AND ATTENDANCE**

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <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 14 September 2021, Members declared no interests.

### **Attendance:**

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