



HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

16th Report of Session 2021–22

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

Correspondence: Reforming the Framework for Better Regulation

Includes information paragraphs on:

2 instruments relating to COVID-19

Statement of changes in Immigration Rules

Motor Vehicles (Driving Licences)
(Amendment) Regulations 2021

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HL Paper 85

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>The Earl of Lindsay</u>
<u>Rt Hon. Lord Chartres</u>	<u>Lord Hodgson of Astley Abbotts</u>	<u>Lord Lisvane</u>
<u>Rt Hon. Lord Cunningham of Felling</u>	(Chair)	<u>Lord Sherbourne of Didsbury</u>
<u>Lord German</u>	<u>Rt Hon. Lord Hutton of Furness</u>	<u>Baroness Watkins of Tavistock</u>

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.

Sixteenth Report

PROPOSED NEGATIVES UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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

- Animal Health, Plant Health, Seeds and Seed Potatoes (Miscellaneous Amendments) Regulations 2021
- Trade Marks and International Trade Marks (Amendment) (EU Exit) Regulations 2021

CORRESPONDENCE

Correspondence: Reforming the Framework for Better Regulation

1. Our 14th Report included correspondence with Paul Scully MP, the Minister responsible for government policy on Impact Assessments,¹ from which we learned that the Government's approach to them is under review. Mr Scully's letter of 7 October referred to a consultation on reforming the framework for better regulation.² We wrote to the official in charge of the review, Christopher Carr, to explain our key points of concern. Our letter is published at Appendix 1. We have received reassurances that our views will be included in the review despite being received after the deadline.

1 SLSC, *14th Report* (Session 2021–22, HL 79) Appendix 1.

2 Department for Business, Energy and Industrial Strategy, 'Reforming the Framework for better regulation': <https://www.gov.uk/government/consultations/reforming-the-framework-for-better-regulation> [accessed 27 October 2021].

INSTRUMENTS RELATING TO COVID-19

Travel

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 15) Regulations 2021 (SI 2021/1155)

2. This instrument amends the International Travel Regulations³ to facilitate the travel of domestic elite sportspersons. It allows those who are required to self-isolate because they have been in a Category 3 (“Red List”) country to travel directly to compete in an event in a Category 2 country and to travel back directly to their place of self-isolation. They will still need to complete the Passenger Locator Form (PLF) and possess evidence of a negative pre-departure test. This provision will be of particular help to professional football players, as it will allow them to fulfil their commitments at a domestic and European level, and their international commitments in the run up to the World Cup.
3. Separately, the instrument removes the requirement for passengers to provide their seat number on the PLF as contact tracing authorities now rely on vessel manifest information instead.

Changes to business practice and regulation

Competition Act 1998 (Football Broadcasting Rights) (Public Policy Exclusion) Order 2021 (SI 2021/1148)

4. This Order uses powers under the Competition Act 1998 to allow the Premier League to renew its current domestic broadcasting rights agreements without carrying out a competitive tender process, and without the risk of facing a third-party challenge or regulatory investigation due to an alleged breach of competition law. According to the Department for Business, Energy and Industrial Strategy (BEIS), the renewal of broadcasting rights will enable the Premier League to guarantee until the end of the 2024/25 football season the level of funding it currently provides to English football, including non-professional clubs and community and charitable organisations (the so-called “football pyramid”), at a time when the sport has been left vulnerable as a result of the pandemic. The Department says that the Premier League and its clubs experienced financial losses of approximately £1 billion in the 2019/20 season because of the pandemic, including a reduction in matchday revenues, and that the losses are expected to have continued in the 2020/21 season.
5. The renewal of domestic broadcasting rights without a competitive tender is expected to deliver a minimum of £1.6 billion in funding to the football pyramid over three years, including at least £100 million of additional funding for particularly vulnerable areas of the sport, such as non-league and women’s football. BEIS says that the Premier League requested the intervention, and that the current holders of the broadcasting rights, including British Telecom and Sky UK, were closely involved in the process and support the intervention.

3 Health Protection (Coronavirus, International Travel) (England) Regulations 2020 ([SI 2020/568](#)).

INSTRUMENTS OF INTEREST

Motor Vehicles (Driving Licences) (Amendment) Regulations 2021 (SI 2021/1128)

6. Ambulance drivers must pass the driving test for medium size lorries (category C1) before being given further specialised training. Demand from all sectors for HGV tests is currently very high and so these Regulations make two changes that allow ambulance driver testing to continue at pace and free up further test slots at Driver and Vehicle Standards Agency (DVSA) test sites for HGV logistics drivers. First, it allows NHS ambulance services to appoint invigilators to conduct theory tests and examiners to conduct manoeuvres, practical and unitary tests for their employees. Second, it allows the other emergency services and the Ministry of Defence, which all already have their own examiners, to “cross-test”, that is, to conduct tests for each other. To ensure that test standards are maintained all delegated examiners at the emergency services are trained by the DVSA and are regularly checked to ensure their skills and standards are at the required level.

Statement of changes in Immigration Rules (CP 542)

7. These changes to the Immigration Rules were laid on 11 October and brought into immediate effect. They allow up to 5,500 poultry workers and 4,700 people to undertake haulage driving for the food industry to come to the UK temporarily using the Seasonal Worker immigration route. Applications from poultry workers must be made before 15 November 2021 as the scheme permission ends on 31 December 2021. Applications from haulage drivers for the food industry must be made before 1 December 2021 so they can be in the UK for a meaningful amount of time before their permission ends on 28 February 2022. This instrument does not set any vaccination requirements as those are to be determined separately by the Department of Health and Social Care.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Made instruments subject to affirmative approval

SI 2021/1146 Republic of Belarus (Sanctions) (EU Exit) (Amendment)
(No. 2) Regulations 2021

Instruments subject to annulment

SI 2021/1110 Radiation Emergency and Consultation Regulations 2021

SI 2021/1122 Local Government (Assistants for Political Groups)
(Remuneration) (England) Order 2021

SI 2021/1125 Civil Enforcement of Parking Contraventions Designation
Order 2021

SI 2021/1127 Financial Services and Markets Act 2000 (Exemption)
(Amendment) Order 2021

SI 2021/1128 Motor Vehicles (Driving Licences) (Amendment) Regulations
2021

SI 2021/1129 Social Security (Information-sharing in relation to Welfare
Services etc.) (Amendment) Regulations 2021

SI 2021/1132 Jobseeker's Allowance and Employment and Support
Allowance (Amendment) Regulations 2021

SI 2021/1148 Competition Act 1998 (Football Broadcasting Rights) (Public
Policy Exclusion) Order 2021

SI 2021/1149 Packaged Retail and Insurance-based Investment Products
(UCITS Exemption) (Amendment) Regulations 2021

SI 2021/1155 The Health Protection (Coronavirus, International Travel
and Operator Liability) (England) (Amendment) (No. 15)
Regulations 2021

CP 542 Statement of changes in Immigration Rules

APPENDIX 1: CORRESPONDENCE: REFORMING THE FRAMEWORK FOR BETTER REGULATION

Letter from Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee, to Christopher Carr, Director of the Better Regulation Executive

I am writing as Chair of the Secondary Legislation Scrutiny Committee (SLSC). The role of the SLSC is to scrutinise all statutory instruments laid before Parliament which are subject to a parliamentary procedure.

The Committee has only just learned of your consultation exercise on Reforming the Framework for Better Regulation from correspondence with the Minister Paul Scully MP. I understand that we have missed the formal consultation period. I hope however that there is still time for the Committee to offer three broad observations:

- 1. If it is to assist effective parliamentary scrutiny of secondary legislation, it is essential that an Impact Assessment (IA) should be made available at the same time that an instrument is laid. Where departments deposit an IA after laying, not only does this inhibit effective scrutiny but it is difficult to avoid the conclusion that information on impact was not used in the formulation of policy as it should be, but was treated as an after-thought.
- 2. Whether as part of an IA (when required) or included in the Explanatory Memorandum, it would assist parliamentary scrutiny if instruments were accompanied by a broad overview of potential impacts. This should include not only financial bottom line but also a thorough analysis of all potential consequences of the legislative change proposed, thereby enabling Parliament to weigh up the pros and cons of the policy change being effected.
- 3. Finally, we would welcome greater emphasis on post-implementation review. It would enhance transparency and accountability, if, when considering amendments to existing legislation, information was provided about the success or otherwise of the policy implemented by the original regulations.

18 October 2021

APPENDIX 2: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 26 October 2021, Members declared no interests.

Attendance:

The meeting was attended by Lord Chartres, Lord Cunningham of Felling, Lord German, Viscount Hanworth, Lord Hodgson of Astley Abbotts, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne and Baroness Watkins of Tavistock.