



HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

17th Report of Session 2021–22

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

Drawn to the special attention of the House:

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 16) Regulations 2021

**Oral evidence with Department for Transport on its
legislative backlog**

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

Includes information paragraphs on:

3 instruments relating to COVID-19

Eggs (England) Regulations 2021

Motor Vehicles (Driving Licences)
(Amendment) (No. 4) Regulations 2021 and
one related instrument

Competition Act 1998 (Carbon Dioxide)
(Public Policy Exclusion) Order 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

<u>Baroness Bakewell of Hardington Mandeville</u>	<u>Viscount Hanworth</u>	<u>The Earl of Lindsay</u>
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<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.

Seventeenth Report

INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

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

Published draft on which the Committee makes recommendations

Motor Vehicles (Driving Licences) (Amendment) Regulations 2022

1. These proposed Regulations would amend the Motor Vehicles (Driving Licences) Regulations 1999 to:
 - allow drivers who pass a driving test in certain categories of automatic vehicles also to drive a manual vehicle in that category, as long as they already have a licence to drive a manual vehicle in a different category; and
 - reduce the minimum motorcycle engine capacity that is needed for a standard motorcycle (subcategory A2) test from 395cc to 245cc.
2. We take the view that the proposal to reduce the size of engines for subcategory A2 motorcycle tests would benefit from an introductory paragraph in the Explanatory Memorandum (EM) setting out the different A test categories and why only one is being changed.
3. The proposal to allow flexibility to drivers who have a manual licence in one class if they pass a test in further classes of licence is in line with EU policy (Directive 2020/612 which the Department for Transport (DfT) had intended to implement before its transposition date of 1 November 2020).
4. The EM states that this instrument simply extends a relaxation made for the main category of lorries and buses in 2014 to subcategories, that is to smaller vehicles such as minibuses, and to vehicles with trailers. Paragraph 7.4 of the EM goes on to say: “There is no evidence to indicate that the changes made in 2014 compromised safety, and no objection was raised during the consultation exercise. The government has therefore concluded that it is safe to extend the principle to these other categories.”
5. We have two issues with this statement:
 - First, that again DfT is asserting that a change is safe without providing any evidence to support it¹ – if the relaxation for large lorries has been in force for more than six years, some evidence to underpin the assertion that it is safe ought to be available.
 - Second, the EM incorrectly reports the consultation response, stating at paragraph 7.4 of the EM that “There is no evidence to indicate that the changes made in 2014 compromised safety, and no objection was raised during the consultation exercise”. While the majority of respondents did not foresee any adverse outcomes from the proposal,

¹ See for example Draft Motor Vehicles (Driving Licences) (Amendment) (No. 2) Regulations 2021, [15th Report](#) (Session 2021–22, HL Paper 79).

315 (26%) of the 1,193 of those who responded to a question about road safety thought the change would reduce road safety, for example, because the gears are used in conjunction with brakes in large vehicles, and braking performance might be affected if someone failed to control the vehicle properly, or pointing to the different skills needed to operate clutch and gears, and that drivers can forget them if they have not used them recently.²

6. While we make no comment about the policy, we are disappointed with the quality of explanation provided, and recommend that DfT ensures that it is both complete and accurate before laying the instrument before Parliament.

Published draft on which the Committee makes no recommendations

- Train Driving Licences and Certificates (Amendment) Regulations 2022

2 755 (63%) respondents thought the proposal would have no significant impact on safety and 123 (10%) thought it would improve safety.

PROPOSED NEGATIVES UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

Consideration of proposed negative instruments under Schedule 8 to the European Union (Withdrawal) Act 2018

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

- Product Safety and Metrology etc. (Amendment) Regulations 2021
- UK Statistics (Amendment etc.) (EU Exit) Regulations 2021

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE:

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 16) 2021 (SI 2021/1179)

Date laid: 22 October 2021

Parliamentary procedure: negative

These Regulations change the conditions for “eligible travellers” (fully vaccinated) arriving in England to allow them to use a Lateral Flow Test, rather than the more accurate Polymerase Chain Reaction (PCR) test, to prove their COVID-19 status. Those who return a positive result will be required to isolate and take a PCR test provided at public expense. The Explanatory Memorandum focuses on the traveller’s experience and provides no analysis of the potential risk to the public as a result of this change, nor any explanation of why the taxpayer should subsidise the traveller in this way and how much it might cost. The House may wish to ask the Minister to provide more details to justify this change in policy and why the legislation was brought into immediate effect.

7. **These Regulations are drawn to the special attention of the House on the grounds that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument’s policy objective and intended implementation.**

Background

8. Under previous regulations,³ fully vaccinated arrivals to England, known as “eligible travellers”, are required to take a Day 2 Polymerase Chain Reaction (PCR) test but are not required to self-isolate, take a pre-departure test or Day 8 test, provided that they have not been in a Red List country in the previous ten days. All other arrivals from non-Red List countries are required to self-isolate for ten days and take each of the three tests.
9. This instrument amends the International Travel Regulations⁴ to introduce a further option allowing eligible travellers to complete a Lateral Flow Device (LFD) test on or before Day 2 after their arrival in England as an alternative to PCR testing. If the LFD test gives a positive or inconclusive result, the person will be required to isolate and take a mandatory PCR test, at no cost to the individual.
10. This instrument also introduces minimum standards for these LFD tests and for the private providers of LFDs. It introduces corresponding obligations, offences, penalties and reasonable excuses for eligible travellers and providers accordingly.
11. The Department of Health and Social Care (DHSC) states that this amendment is being implemented “with a view to making travel to England more accessible and affordable to eligible non-red list travellers given that fully vaccinated individuals benefit from a reduced risk of transmission.”

3 See Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 13) Regulations 2021 ([SI 2021 1107](#)) as amended by [SI 2021/1130](#) both in our [15th Report](#) of this session.

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

12. We note that since this instrument was laid, DHSC has also laid the No 17 Regulations⁵ (which are described on page 11 of this Report) that remove the last Red List countries and widen the scope of the eligible traveller category—thus making the pool of people potentially using the LFD test much bigger.

Risk factors

13. The Explanatory Memorandum (EM) focuses on the conditions applying to the traveller: it does not address any potential risk to the resident population. DHSC gives no assessment of the increased number of travellers to England that the Government anticipate, nor of the travellers' potential to transmit COVID-19. Although the Government publish data of various sorts, the EM makes no specific reference to it.⁶
14. It is known that even fully vaccinated individuals can catch and transmit COVID-19. A recent study reported in *The Lancet*⁷ put the risk of them transmitting the virus to other unvaccinated housemates at about 38%, which drops to 25%, if others in the household are also fully vaccinated.
15. Eligible travellers are only required to take a COVID-19 test on or before Day 2 after they land—so asymptomatic travellers may not be aware that they have the disease until after they have arrived. We asked DHSC for supplementary information on the reason for Day 2 testing:

“It is not possible to test for exposure to the virus. One needs to be exposed, incubate the infection and have virus being secreted in bodily fluids to be able to test for infection. A Day 2 test is a before 48 hours test with the aim of picking up virus if the person is actively secreting virus. This is aiming to identify people who are infected prior to travel. Therefore, testing at or before Day 2 is hugely important for surveillance of what volume and variants of the virus are being imported into the country. To emphasise, Day 2 or before, testing is for disease surveillance. Any infection that an individual is exposed to during the journey is unlikely to incubate or lead to active infection and virus secretion in that person until at least day 5 after arrival. This is why quarantine is in place for those who are not fully vaccinated in order to break potential chains of infection.”

16. We also enquired about any increased risk from the change in the type of test used. DHSC replied:

“A study by [Public Health England] PHE and the University of Oxford found the Innova LFD had an overall false positive rate of 0.32% (test specificity of 99.68%), although this was lowered to 0.06% in a lab setting. This compares to the test specificity for PCR of 99.8%. The

5 See Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 17) Regulations 2021 ([SI 2021/1210](#)) on page 11 of this Report and [SI 2021/1213](#) which amends it.

6 For example, UK Health Security Agency, ‘Data informing international travel traffic-light risk assessments: 7 October 2021’: <https://www.gov.uk/government/publications/data-informing-international-travel-traffic-light-risk-assessments-7-october-2021> and https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024061/RiskAssessment_Data_07_October_2021.ods.

7 The Lancet, ‘Community transmission and viral load kinetics of the SARS-CoV-2 delta (B.1.617.2) variant in vaccinated and unvaccinated individuals in the UK: a prospective, longitudinal, cohort study’: [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(21\)00648-4/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00648-4/fulltext) [accessed 02 November 2021].

false positive rate of LFDs and PCRs is therefore similar. Alternatively, the same study found that the Innova LFD had a false negative rate of 23.2% (test sensitivity 76.8%), compared to PCR sensitivity of 98.6%. This shows that LFDs are more likely to give false negatives compared to PCRs.⁸”

17. **This indicates that LFD tests have an error rate of more than 20% in identifying people who are infected with the disease.**
18. These Regulations are to encourage more people to come to England, but propose to use a less accurate test even though it is known that fully vaccinated individuals can still transmit the disease. **The House may wish to ask the Minister for further explanation setting out in detail the assessment of the risks involved that was used to inform this policy decision.**

Follow up tests at public expense

19. The rationale given for the change is to make travel to England more affordable for the eligible travellers. LFD tests are significantly cheaper to buy than PCR tests and so it is likely that most travellers will use this option.
20. However, these Regulations provide that if the Day 2 LFD test returns a positive result the traveller must self-isolate and take a PCR test “at no cost to the individual”. We asked DHSC about the rationale for this:

“Given that fully vaccinated individuals benefit from a lower Covid-19 transmission risk and are themselves less likely to become infected, it is anticipated that the number of PCR tests required to be publicly provided will be low.

This amendment was implemented with a view to making travel to the UK more accessible and affordable to eligible non-red list travellers by allowing them to use an LFD as an alternative to a PCR test on day 2. Therefore, the policy would not be able to achieve this principle aim if the use of an LFD required a follow-up PCR at cost to the traveller. Individuals must obtain, take and return a free follow up PCR test from NHS Test and Trace to confirm their result. This confirmatory PCR test can be obtained by visiting gov.uk/get-coronavirus-test or by calling 119. This test will be free of charge and sent as a home test kit.”

21. Even though the number of publicly-funded PCR tests required are predicted to be “low”, **this is essentially a transfer of cost from the individual traveller to the taxpayer to benefit the travel industry. In the absence of any cost/benefit analysis to illustrate the public benefits of this change, the House may wish to ask the Minister to explain this further.**

8 Oxford University, ‘Oxford University and PHE confirm lateral flow tests show high specificity and are effective at identifying most individuals who are infectious’: [Oxford University and PHE confirm lateral flow tests show high specificity and are effective at identifying most individuals who are infectious | University of Oxford](#) [accessed 02 November 2021].

Testing standards

22. We note that the Government are publishing a list of LFD test providers on the Gov.uk website.⁹ We also note that these Regulations include standards to be met and some form of approval by DHSC which will come into effect on 12 November, three weeks after the rest of the Regulations have taken effect. Given that the travel testing process has not been without its difficulties, and the bulk of the instrument deals with requirements for providers, we were surprised that there is no explanation of these aspects in the EM. We requested supplementary material from DHSC on how providers of the tests will be approved, and their compliance checked: this is included at Appendix 1.

Emergency legislation?

23. These Regulations were laid before Parliament at 1pm on Friday 22 October and brought into effect at 4am on Sunday 24 October. **We can see no justification for bringing them forward as emergency legislation.**
24. Eligible travellers can already come to England if they take a PCR test, these Regulations just provide a cheaper alternative. Most travellers would have booked a PCR test in advance and so may not be able to take immediate advantage of the relaxation. Emergency legislation should be used for genuine emergencies such as preventing the spread of infection. Here it appears to be being used to promote commercial interests. **The House may wish to ask the Minister to justify why this change was brought into immediate effect.**

9 Gov.UK, 'Find a coronavirus (COVID-19) travel test provider if you're arriving in England': <https://www.ox.ac.uk/news/2020-11-11-oxford-university-and-phe-confirm-lateral-flow-tests-show-high-specificity-and-are> [accessed 02 November 2021].

ORAL EVIDENCE WITH DEPARTMENT FOR TRANSPORT ON ITS LEGISLATIVE BACKLOG

Background

25. For several years, we have engaged with the Department for Transport (DfT) about instruments coming before us that have implemented international maritime legislation many years, sometimes decades, after their due date.¹⁰ DfT responded in correspondence by setting out a programme of some 40 statutory instruments (SIs) that were needed to eliminate this backlog (although, we should add, the date for its completion has kept slipping).¹¹ What prompted us to invite oral evidence from DfT, however, was the Air Navigation (Amendment) Order 2021 which was also long overdue—therefore raising a concern that an apparent culture of delay extended to more than just the maritime division of the Department.
26. We are grateful to Robert Courts MP, Parliamentary Under Secretary of State for Aviation, Maritime, Security and Civil Contingencies, and his officials who came before us not only to explain the problems we had identified but also to provide a plan for their solution. A full transcript is published on our webpage,¹² and a follow-up letter is set out in Appendix 2 to this report.

Aviation

27. Our chief concern about the Air Navigation Order 2021 was that legislation to address a safety recommendation from the Air Accident Investigation Branch made on 9 September 2014 had not been implemented for seven years.¹³ The explanation of the process offered by DfT for our 12th Report included long periods between the “decision points” that indicated a lack of a proper system of oversight. In evidence the Minister admitted that the Department could offer no adequate explanation for four years of the delay, and that there had been an internal review of procedures, with a new quarterly legislation board instituted at Ministerial level to monitor progress and to prevent the same thing happening again.¹⁴

Maritime

28. The Minister identified the factors that had contributed to the queue of maritime legislation awaiting implementation: insufficient specialist drafting resource, EU legislation queue jumping to pre-empt infraction proceedings, the continual addition of new obligations from international organisations and, more recently, the pressure to deal with Brexit and pandemic requirements.¹⁵ The Minister set out new arrangements that he was confident would deal with the backlog by the end of 2023.¹⁶

10 See for example Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 (SI 2020/501) [17th Report](#), (Session 2019–21, HL Paper 73).

11 See correspondence in [21st Report](#) (Session 2017–19, HL Paper 88), [17th Report](#) (Session 2019–21, HL Paper 73) and [11th Report](#), (Session 2021–22, HL Paper 52).

12 See transcript of oral evidence: ‘Air Navigation (Amendment) Order 2021’: <https://committees.parliament.uk/oralevidence/2844/html/> [accessed 1 November 2021].

13 See [12th Report](#), (Session 2021–22, HL Paper 63).

14 QQ1–3.

15 QQ5–6.

16 See also correspondence in our [11th Report](#), (Session 2021–22, HL Paper 52).

General

29. We asked the Minister whether other DfT sectors, such as road and rail, also suffered from implementation delays.¹⁷ In the follow-up letter sent after the evidence session, the Minister provided a detailed breakdown of the figures that he gave in evidence. It includes a table which sets out a total of 41 SIs:
- 13 maritime SIs classed as “international backlog”;
 - seven domestic maritime SIs that are delayed;
 - 12 maritime SIs in the programme awaiting implementation that are not overdue; and
 - Nine delayed SIs from other parts of DfT (two rail, five roads, two aviation).
30. We also sought an assurance from the Minister that the Department, particularly in the maritime sector, was not using guidance, such as Merchant Shipping Notices, as a substitute for legislation.¹⁸ The Minister explained that different types of notice have a distinct legal weight and character. Based on our recent observations of the blurring between legislation and guidance generally, we encourage DfT to ensure that those distinctions are made absolutely clear to the reader.

Way forward

31. We welcome both the Minister’s candid admission that DfT, particularly in the maritime sector, had made errors, and his assurance that, following a full audit of outstanding legislation, there is now a clear plan for remedying the deficiencies.
32. We also asked about the role of the Senior Responsible Owner (SRO) for secondary legislation in relation to the legislative programme.¹⁹ Louise Morgan, the DfT SRO, explained that she is fully involved in promoting legislative training and committed to improving DfT’s performance and capacity. She was, however, unable to assess what percentage of her job relates to the SRO role, as this fluctuates from week to week. We have a general concern that the SRO function may have been given to already busy people as an add-on: Departments need to ensure that this function is given adequate priority.
33. We have previously argued the need for oversight of departmental secondary legislative programmes to involve senior management,²⁰ so we will watch with interest to see how effective DfT’s new arrangements will be in clearing the backlog and staying on top of the regular influx of international obligations in the maritime and aviation sectors.
34. We are encouraged that DfT now appears to have a firm grip on its legislative programme, but the current impetus needs to be maintained. A key challenge for the Department will be ensuring continuity and some form of institutional memory, so that the problems we have identified do not re-emerge once the individuals who spoke with such conviction in oral evidence have moved on from their current posts.

17 Q9.

18 Q8.

19 QQ11-12.

20 See for example: Merits of Statutory Instruments Committee, [The Management of Secondary Legislation: follow up](#). (13th Report, Session 2007–08, HL Paper 70).

CORRESPONDENCE

Correspondence: Sunset provisions in statutory instruments dealing with COVID-19

35. 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, the Rt Hon. Jacob Rees-Mogg MP, to send us monthly updates so that they could be properly monitored. A further update has been received, which is published at Appendix 3.

INSTRUMENTS RELATING TO COVID-19

Changes to Benefits

Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2021 (SI 2021/1158)

36. The original regulations²¹ were brought into effect on 13 March 2020 to encourage people to self-isolate if they were infected with COVID-19. The pandemic legislation allowed them to be treated as not available for work and allowed benefits to be paid from the date of claim rather than imposing the statutory seven waiting days. The expiry date has since been extended twice and, as claims are still being received under this waiver, these Regulations extend the provisions for those claiming or entitled to Employment and Support Allowance from 12 November 2021 until 24 March 2022. (This instrument does not extend the provision for Universal Credit which is now dealt with under separate regulations.)²²

Travel

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 17) Regulations 2021 (SI 2021/1210)

37. These Regulations remove all countries and territories from Category 3 (the Red List) with effect from 1 November 2021: the final countries removed were Peru, Ecuador, Colombia, Panama, the Dominican Republic, Haiti, and Venezuela. The instrument also makes a number of consequential amendments, for example, to allow previously restricted terminals at Heathrow and Birmingham airports to receive arrivals from non-Red List countries with effect from 22 November 2021.
38. The “eligible traveller” category has been extended to include individuals who have participated in approved COVID-19 clinical trials. It will now also fully apply to individuals vaccinated in the British Overseas Territories and Crown Dependencies, and individuals certified in Scotland as clinically unable to receive vaccinations.
39. The requirement to have received a vaccine in a relevant country or the UK is being removed, but the requirement to have a vaccine certificate from a relevant country is maintained. Anyone who has received one of the four recognised vaccines anywhere in the world will qualify for eligible traveller status if they have received a vaccine certificate from a country where the UK recognises vaccine certification.

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 17) (Amendment) Regulations 2021(SI 2021/1213)

40. These Regulations correct an omission from regulation 5(3) of SI 2021/1210, described above, immediately before it came into effect. They add 12 countries to the list of “relevant countries” from which vaccine certificates are accepted: Lesotho, Peru, Rwanda, the Seychelles, Sierra Leone, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Tunisia, Uganda, and Uruguay.

21 Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 ([SI 2020/289](#)).

22 See: Social Security (Coronavirus) (Further Measures) Regulations 2020 ([SI 2020/371](#)).

INSTRUMENTS OF INTEREST

Draft Eggs (England) Regulations 2021

41. These draft Regulations propose changes to retained EU law²³ on marketing standards for eggs.²⁴ The changes would allow checks of marketing standards of imported Class A eggs²⁵ to continue to take place at the “point of destination”, such as packing centres and wholesale premises, where random and risk-based checks are currently undertaken by inspectors of the Animal and Plant Health Agency before eggs are released for retail sale or mass catering. Without the changes, the checks would have to be carried out at the border before customs clearance. The Department for Environment, Food and Rural Affairs (Defra) explains that because inspectors and enforcement procedures already exist at packing centres and wholesale premises, it is more efficient and practical to conduct the checks at these locations.
42. The checks on imported Class A eggs from the EU will start on 1 July 2022, once the current grace period for checks on EU imports has expired. While the draft Regulations only deal with England, Defra told us that the Welsh and Scottish Governments are taking forward equivalent legislation to ensure a consistent approach across Great Britain (GB). The Explanatory Memorandum refers to separate arrangements for Northern Ireland (NI), where EU law continues to apply under the NI Protocol. We asked Defra about the impact of these different arrangements on trade between GB and NI, and about the concerns that industry raised about this instrument during consultation, and how these have been addressed. We are publishing the Department’s response at Appendix 4.

Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021 (SI 2021/ 1154)

Draft Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2021

43. These instruments form part of a suite of three similarly titled instruments intended to come into force on 15 November 2021 with the objective of increasing test capacity and the number of HGV drivers.²⁶
44. The No 3 Regulations, SI 2021/1154, allow the large vehicle off-road manoeuvres to be conducted as a separate part of the test at a different location, prior to the on-road test being taken at a Driver and Vehicle Standards Agency (DVSA) test centre. It also allows for it to be conducted by third-party examiners that meet the DVSA requirements.
45. The No 4 Regulations remove the requirement for a person to first pass a driving test for “rigid” vehicles in category C (Heavy Goods Vehicles - HGVs) or category D (buses) before they are able to apply for the appropriate trailer test (category C + E or D + E respectively.) The Department for Transport

23 [Regulation \(EC\) No 589/2008](#).

24 Egg marketing standards cover aspects such as quality, weight, marking, labelling, packaging, stamping and farming methods (organic, free range, barn or caged) which aim to safeguard quality and consumer confidence.

25 Class A eggs are the highest grade and are sold as shell eggs. Class B eggs are broken out and pasteurised, while industrial eggs are for non-food use only, such as use in shampoo or soap. See: [Egg codes and quality](#).

26 See also Draft Motor Vehicles (Driving Licences) (Amendment) (No. 2) Regulations 2021 drawn to the special attention of the House in our [15th Report](#) (Session 2021–22, HL Paper 79).

(DfT) states that allowing both tests to be taken at the same time will free up driving examiner time equivalent to 900 additional HGV tests per month and reduce the time it takes for a driver to become qualified to drive the largest HGVs. DfT emphasises that the requirements of the HGV and trailer combination licence remain the same and that a driver must demonstrate the same required skills and knowledge to pass.

46. As the No 4 Regulations amend retained EU legislation, they would normally be required to be published first for comment for 28 days in accordance with the requirements of Schedule 8 to the European Union (Withdrawal) Act 2018. However, the Minister, Baroness Vere of Norbiton, has made an urgency statement that, in view of the current shortage of HGV drivers, these arrangements need to take effect more quickly to relieve supply chain pressure. The instrument therefore is subject simply to the affirmative procedure.

Competition Act 1998 (Carbon Dioxide) (Public Policy Exclusion) Order 2021 (SI 2021/1169)

47. This Order excludes temporarily certain agreements and practices between producers and distributors of commercial CO₂ from the application of the prohibition contained in Chapter I of Part I of the Competition Act 1998²⁷ to support a stable supply of commercial CO₂ in the UK. The Department for Business, Energy and Industrial Strategy (BEIS) explains that the UK's commercial CO₂ supply chain has been disrupted by rising natural gas prices, leading to CF Fertilisers UK Limited ("CF Fertilisers"), the UK's main supplier of commercial CO₂, stopping production. As a CO₂ shortage would have a significant impact across industry, including in relation to animal welfare, food processing, the nuclear industry and healthcare, the Government agreed in September to provide short term financial support to CF Fertilisers to ensure the continued production of CO₂ in the UK.
48. BEIS explains that as part of developing a solution to the disruption, it was necessary for CF Fertilisers and distributors to agree purchasing arrangements that would ensure that production of commercial CO₂ remained financially viable. This required CF Fertilisers and distributors to share information about costs, prices, expected purchase volumes, customers and contract term lengths. This Order disapplies competition law retrospectively in relation to these discussions during the period of 30 September to 12 October 2021. The Order also provides that any purchase contracts arising out of the discussions must expire at the end of 31 January 2022. The Department says that this will allow time for the market to stabilise and enable the negotiation of longer-term industry-led and market-based supply arrangements on normal commercial terms. As a contingency measure, the Order also exempts from competition law any further co-ordination and information sharing regarding stock shortages between CF Fertilisers and distributors for the period from 30 September until the coming into force of the Order (15 November) to ensure effective allocation of CO₂ supplies should there be further disruption. Any agreements between CF Fertilisers and distributors under this Order must be notified to the Secretary of State.

²⁷ Section 2 of the Competition Act 1998 prohibits agreements, decisions or concerted practices which may affect trade within the UK and which prevent, restrict or distort competition within the UK ("Chapter I prohibition"). The Secretary of State has the power, however, to exclude certain agreements from the application of the Chapter I prohibition where there are exceptional and compelling reasons of public policy to do so. Any exclusions may apply only in specified circumstances and may be retrospective.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Made instruments subject to affirmative approval

Draft	Age of Criminal Responsibility (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2021
Draft	Eggs (England) Regulations 2021
Draft	Local Audit (Appointing Person) (Amendment) Regulations 2021
Draft	Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2021

Instruments subject to annulment

SI 2021/1150	Occupational and Personal Pension Schemes (Disclosure of Information) (Statements of Benefits: Money Purchase Benefits) (Amendment) Regulations 2021
SI 2021/1152	Social Security (Amendment) Regulations 2021
SI 2021/1154	Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021
SI 2021/1158	Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2021
SI 2021/1168	Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) (No. 2) Regulations 2021
SI 2021/1169	Competition Act 1998 (Carbon Dioxide) (Public Policy Exclusion) Order 2021
SI 2021/1171	Phytosanitary Conditions (Amendment) (No. 2) Regulations 2021
SI 2021/1178	Payment and Electronic Money Institution Insolvency (England and Wales) Rules 2021
SI 2021/1210	Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 17) Regulations 2021
SI 2021/1213	Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 17) (Amendment) Regulations 2021

APPENDIX 1: HEALTH PROTECTION (CORONAVIRUS, INTERNATIONAL TRAVEL AND OPERATOR LIABILITY) (ENGLAND) (AMENDMENT) (NO. 16) (SI 2021/1179)

Additional material from the Department of Health and Social Care

Q1: The LFD user has to send the result to the provider and the provider has to send the result to UKHSA within 24 hours. How is that system to be monitored/inspected for compliance?

A1: The provider is responsible for verifying the result and reporting it to UKHSA and the individual. Where the test is positive, the provider must share the guidance from UKHSA regarding obtaining a confirmatory PCR. Providers will have 24 hours to report the test result of the LFD to UKHSA, and the individual, from the time that they are in receipt of the test result evidence. They must also provide daily sales and results reporting to UKHSA as required. In order to be allowed to provide LFD tests to individuals, the private provider will need to meet a number of minimum standards to align with the existing minimum standards required of PCR providers. The private provider will be subject to offences and penalties if they do not report in accordance with regulation or meet the minimum test or provider standards, without a reasonable excuse. The UKHSA will keep this under review to ensure that inspections and compliance measures are robust and proportionate.

Q2: Will Track and Trace monitor the compliance of all eligible travellers and engage with those who need to isolate? If not all, what percentage?

A2: Private providers will monitor the return of tests, individuals who have not returned a test will be referred to test and trace. Individuals who are required to isolate, and are suspected of not complying with either isolating or taking a day 2 test will receive a home visit.

Q3: Most of the regulations come into effect on 24 October but the requirements for DHSC to approve in writing that a provider meets the new standards come into effect on 12 November: could you explain the process envisaged - will providers have to apply for approval and/or inclusion on the published list?

A3: This only applies to changing the Day 2, 8 and Test to Release private provider PCR regulations and is in force as of 24 October for LFDs.

1 November 2021

APPENDIX 2: ORAL EVIDENCE FROM DFT

Letter from Robert Courts MP, Parliamentary Under Secretary of State for Aviation, Maritime, Security and Civil Contingencies at the Department for Transport to Lord Hodgson of Astley Abbotts, Chair of the Secondary Legislation Scrutiny Committee

Thank you for inviting me, and my officials, to give evidence to your Committee on 19th October 2021. I welcomed the opportunity to explain the delay in bringing forward regulations contained in the Air Navigation Order, and address concerns about the backlog of SIs from Maritime and Coastguard Agency (MCA).

I am writing to provide you with the further information that I committed to send after the session.

Definition of 'backlog'

I referred to a list of 20 maritime SIs delayed beyond their intended laying dates for various reasons. Amongst those were 13 that I referred to in particular as “backlog”. In this context, I define “backlog” as relating to SIs that have a date set by an external body by which they should have been made and that date has not been met.

These are SIs implementing changes to international maritime conventions which the UK has ratified. Once a country has ratified an international maritime convention, ordinarily there is an ongoing obligation to implement any subsequent amendments to that convention by the date the amendment enters into force internationally.

Where we have not implemented such an amendment by the date on which it comes into force, it is described as “backlog” and it is my Department’s priority to it ensure that these outstanding obligations are implemented.

The “backlog” is distinct from other outstanding maritime SIs delayed beyond our intended laying date for which there is no such international driver. Outstanding work might relate to domestic provisions, implementation of the Marine Accident Investigation Branch (MAIB) recommendations or when making preparation to ratify a new international convention.

SIs raised in the SLSC session on 19/10/2021 in comparison with my letter to the Committee on 05/07/2021

I have asked my officials to review the list of SIs raised in last week’s session against the list provided in a letter to the SLSC in July this year in order to provide you with a concise summary of our current maritime work programme, showing clearly which are “backlog”.

That list is provided as an annex to this letter.

There are no references to SIs that have already entered into force with the exception of the Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2021. This SI was one of the 13 backlog SIs that I referred to on 19 October. I am delighted to tell you that this entered into force on 22 October, reducing our backlog to 12.

During this checking process we discovered a duplicate SI listed in the letter of the 5 July, therefore I can confirm that there are 32 SIs in our current Maritime

work programme, which includes those that have been identified as “backlog” or delayed, and those that are not delayed.

SI Review

As I noted, officials undertook a targeted review which identified 29 delayed SIs across the Department and its agencies. For the purposes of this review, we define delayed SIs as any commitments or recommendations that are yet to be implemented i.e. live SIs. It does not include SIs that have already been laid and those that missed their laying date but were completed later.

The review identified SIs in the aviation, roads and rail sectors, as well as the existing maritime “backlog”. These outstanding SIs are also included in the annex to this the letter.

SI Training

There is a range of training available for within the Department to strengthen the breadth, and depth, of skills relating to Secondary Legislation:

- The Civil Service Learning platform offers training modules on secondary legislation which are available to all civil servants;
- Sessions facilitated by the Department’s Policy Profession in conjunction with our in-house Parliamentary and Legal teams, including regular legal awareness seminars; and
- Sessions drawing on expertise from across Whitehall, for example working with the Cabinet Office’s Parliamentary and Capability team, and the Parliamentary Business and Legislation Committee’s training programme aimed primarily at SI leads and policy teams. This covers the SI lifecycle, legislative perspectives, devolution, and impact assessments.

In addition, SI training is provided to the Department’s lawyers both centrally by Government Legal Department and locally by DfT Legal Advisers and the SI Hub (part of Cabinet Office Legal Advisers). DfT’s Legal Advisers run a monthly SI Focus workshop and the SI Hub run bite-sized training on SI drafting, checking, and validating.

I can assure you that staff development is taken very seriously, and we will strengthen our focus as we enhance the SI capability of the Department.

I hope this reassures the committee that we take the issue of any outstanding secondary legislation very seriously, and are taking steps to ensure we have greater resilience and capability to protect against this happening again.

Annex

The table in this Annex sets out a total of 41 SIs, this is broken down by:

- 13 maritime SIs classed as “international backlog” – numbers 1-13.
- 7 domestic SIs that are outstanding/delayed – numbers 14-20.
- 12 SIs that are part of the maritime SI programme that are not delayed or overdue – numbers 21-32.
- 9 SIs that were identified as delayed across the Department – numbers 33-41. This is made up of:
 - 2 SIs in rail

- 5 in roads and local transport
- 2 in aviation

Maritime SI Programme			
No	Title	Status	Finalisation Status
1	The Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2021	International Backlog	Enters into force 22 October 2021.
2	The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
3	The Merchant Shipping (Polar Code) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
4	The Merchant Shipping (Entry into Enclosed Spaces) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
5	The Merchant Shipping (Standards of Training, Certification and Watchkeeping) (Amendment) Regulations 2021	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
6	The Merchant Shipping (Nuclear Ships) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
7	The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022	International Backlog	Well progressed and at consultation or in the final stages prior to making and laying
8	The Merchant Shipping (Fire Protection) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023
9	The Merchant Shipping (Cargo and Passenger Ship Construction) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023

10	The Merchant Shipping (High Speed Craft) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023
11	The Merchant Shipping (Special Measures to Enhance Maritime Safety) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023
12	The Merchant Shipping (Carriage of Cargoes) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023
13	The Merchant Shipping (Carriage of Dangerous Goods) Regulations 2022	International Backlog	SIs are being prepared for consultation and are expected to be completed by end 2022 or early 2023
14	The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022	Outstanding Delayed Domestic (UK commitment to accede to a convention)	Well progressed and at consultation or in the final stages prior to making and laying
15	The Merchant Shipping (Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2021	Outstanding Delayed Domestic (Thames Inquiry)	Well progressed and at consultation or in the final stages prior to making and laying
16	Merchant Shipping (Inspections of Ro-Ro Passenger Ships and High-Speed Passenger Craft) Regulations 2022	Outstanding Delayed Domestic	Well progressed expected to be completed by mid 2022
17	The Merchant Shipping (Cargo Ship) (Bilge Alarm) (Amendment) Regulations 2022	Outstanding Delayed Domestic	Amendment identified by the JCSI following the laying of the Merchant Shipping (Cargo Ship) (Bilge Alarm) Regulations 2021
18	Merchant Shipping (Standards of Training, Certification and Watchkeeping) (Fishing vessels) Regulations 2022	Outstanding Delayed Domestic (MAIB recommendation)	Underway and are expected to be completed by the end of 2022

19	Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2022	Outstanding Delayed Domestic (MAIB recommendation)	Underway and expected to be completed in 2023
20	Merchant Shipping (Workboats) Regulations 2022 MAIB	Outstanding Delayed Domestic (MAIB Recommendation)	SI's are being prepared for consultation and are expected to be completed by end 2022 or early 2023
21	The Merchant Shipping (Seafarers' Documents) Regulations 2023	Domestic Not Overdue	Underway and are expected to be completed by the end of 2023
22	The Merchant Shipping (Fees for Seafarer Medical Fitness Certificates (ENG1) Regulations 2022	Domestic Not Overdue	SI being prepared for consultation expected to be completed by the end of 2022
23	Merchant Shipping (Official Logbooks) Regulations 2022	Domestic Not Overdue	In development expected completion by end of 2022
24	The Merchant Shipping (Crew Agreements, list of crew and discharge of seamen) Regulations 2022	Domestic Not Overdue	Early Development expected completion by the end of 2023
25	The Merchant Shipping (Seafarers' Documents) (Amendment) Regulations 2022	Domestic Not Overdue	Early stages of development. Completion expected late 2022
26	The Merchant Shipping (Health and Safety at Work) (Employment of Young Persons) (Amendment) Regulations 2022	Domestic Not Overdue	Project development started in 2020 . Expected completion by late 2022
27	Merchant Shipping Registration of Ships Regulations 2023	Domestic Not Overdue	Early stages of development. Expected completion by late 2023.
28	The Merchant Shipping (Fees) Regulations 2023	Domestic Not Overdue	Early stages of development. Expected completion by the end of 2023

29	The Red Ensign Group Yacht Code and Red Ensign Group (REG) Yacht Code, Part A	Domestic Not Overdue	Early stages of development. Expected completion early 2023
30	Seagoing Passenger Ship Regulatory Harmonisation/ Consolidation	Domestic Not Overdue	Early stages. Expected completion 2023
31	The Merchant Shipping (High Speed Offshore Service Craft) Regulations	Domestic Not Overdue	SI's are being prepared for consultation and are expected to be completed by end 2022 or early 2023
32	The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022	Domestic Not Overdue	SI being prepared for laying in draft by the end of 2021
Rail			
33	The Trans-European Transport Network (Amendment and Revocation) (EU Exit) Regulations Focused on rail but also covers road and waterways.	Delayed	Underway and are expected to be completed by the end of 2022
34	The Channel Safety Order Amendments	Delayed	Underway and are expected to be completed by Spring/ Summer 2022
Roads and Local Transport			
35	Public ChargePoint consumer experience regulations	Delayed	Underway and are expected to be completed by Spring/ Summer 2022
36	Further ChargePoint regulations	Delayed	Underway and are expected to be completed by Spring/ Summer 2022
37	Package of measures to improve the standard of motorcycle training	Delayed	Not yet determined, as it may require primary powers.
38	Driving Instructors (Registration) Act 2016	Delayed	Not been identified as a commitment to introduce by any given date

39	The Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provision) Regulations 2021	Delayed	Underway and are expected to be completed by Summer 2022
Aviation			
40	Air Navigation (Amendment) Order 2021 (SI 2021/879)	Delayed	This SI has now been laid
41	Aviation Safety (Amendment) (No. 3) Regulations 2021	Delayed	The legislation is due to be made and laid on 28th and 29th October 2021, with the majority of its provisions coming into force on 20th November 2021.

26 October 2021

APPENDIX 3: CORRESPONDENCE: SUNSET PROVISIONS IN STATUTORY INSTRUMENTS DEALING WITH COVID-19

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 monthly update of sunset provisions in statutory instruments (SIs) made in response to the pandemic for six months. As of 27 October the Government has laid 398 SIs that fall into this category, of which 36 have not yet expired or have been extended.

As discussed with your officials, the annexes of this month's update are presented in a different format. In the course of making these changes we have addressed some oversights in the information which was included in previous versions of the letter. I apologise for any inconvenience these have caused the Committee and hope that the new format and the updated information in this month's annexes will prove to be more useful in assisting your Committee's work.

Annex A sets out the SIs that have been laid in response to the pandemic that include a specific sunset provision and which are still in force or contain provisions which have been extended. Annex B contains temporary regulations which have been made permanent. Annex C contains a list of SIs which have expired.

Annex A - Provisions still in force

	Dept	Title	Sunset Provision
1	MoJ	The Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020	25/03/2022
2	MoJ	The Competition Appeals Tribunal (Coronavirus) (Recording and Broadcasting) Order 2020	25/03/2022
3	MoJ	The Secure Training Centre (Amendment) (Coronavirus) Rules 2020	25/03/2022
4	MoJ	The Wills Act 1837 (Electronic Communications) (Amendment) (Coronavirus) Order 2020	31/01/2022
5	MoJ	The Prison and Young Offender Institution (Coronavirus, etc.) (Amendment) (No. 3) Rules 2020	25/03/2022
6	CO	The Mayoral and Police and Crime Commissioner Elections (Coronavirus, Nomination of Candidates) (Amendment) Order 2021	28/02/2022

7	CO	The Local and Greater London Authority Elections (Coronavirus, Nomination of Candidates) (Amendment) (England) Rules 2021	28/02/2022
8	CO	The Representation of the People (Proxy Vote Applications) (Coronavirus) Regulations 2021	28/02/2022
9	DWP	The Universal Credit (Extension of Coronavirus Measures) Regulations 2021	31/07/2021 - These regulations have expired, except for Minimum Income Floor (MIF) provisions, which have been extended. See row below.
10	DWP	The Universal Credit (Coronavirus) (Restoration of the Minimum Income Floor) Regulations 2021	31/07/2022
11	DLUHC	The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2021	31/05/2021 - These regulations were extended. See row below.
12	DLUHC	The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) (No. 2) Regulations 2021	30/09/2021 - These regulations have expired, except the ability to apply longer notice periods. See row below.
13	DLUHC	The Coronavirus Act 2020 (Residential Tenancies and Notices) (Amendment and Suspension) (England) Regulations 2021	25/03/2022
14	DLUHC	The Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 3) Regulations 2020	31/03/2021 - These regulations were extended. See row below.
15	DLUHC	The Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) Regulations 2021	30/09/2021 - These regulations have been extended. See row below.
16	DLUHC	The Business Tenancies (Protection from Forfeiture: Relevant Period) (Coronavirus) (England) (No. 2) Regulations 2021	25/03/2022

17	DLUHC	The Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020	31/12/2020 - These regulations have been extended. See row 21.
18	DLUHC	The Town and Country Planning (Development Management Procedure) (England) Coronavirus (Amendment) Order 2020	31/12/2020 - These regulations have been extended. See row 21.
19	DLUHC	The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020	31/12/2020 - These regulations have been extended. See row 21.
20	DLUHC	The Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020	31/12/2020 - These regulations have been extended.
21	DLUHC	The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020	31/12/2021
22	DWP	The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020	12/11/2020 - These regulations were extended. See row below.
23	DWP	The Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2020	12/05/2021 - These regulations expired, except the Employment Support Allowance provisions, which were extended. See row below.
24	DWP	The Social Security (Coronavirus) (Miscellaneous Amendments) Regulations 2021	12/11/2021 - The Employment Support Allowance provisions are being further extended. See row below.
25	DWP	The Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2021	24/03/2022
26	DfE	The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020	31/01/2021 - These regulations were extended. See row below.

27	DfE	The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021	30/09/2021 - These regulations have been extended. See row below.
28	DfE	The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) (No. 2) Regulations 2021	30/09/2022
29	BEIS	The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2020	31/03/2021 - These regulations were extended. See row below.
30	BEIS	The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) Regulations 2021	30/06/2021 - These regulations were extended. See row below.
31	BEIS	The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Extension of the Relevant Period) (No. 2) Regulations 2021	30/09/2021 - These regulations were extended, with tapering measures introduced. See row below.
32	BEIS	The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) (No. 2) Regulations 2021	31/03/2022
33	BEIS	The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Change of Expiry Date) Regulations 2021	29/04/2022

34	BEIS	The Feed-in Tariffs (Amendment) (Coronavirus) (No. 2) Order 2020	These regulations contain multiple expiry dates depending on which provisions they apply to: Anaerobic digestion and wind installations - 31/03/2021 (expired) Community solar installations - 31/03/2021 (expired) Community anaerobic digestion and wind installations - 30/09/2021 (expired) Hydro installations - 31/03/2022 Community hydro installations - 30/09/2022
35	DfT	The Health Protection (Coronavirus, Public Health Advice for Passengers) (England) Regulations 2020	08/06/2021 - These have been extended. See row below.
36	DfT	The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021	16/05/2022

Annex B - Provisions that have been made permanent

Dept	Title
DLUHC	The Environmental Assessment of Plans and Programmes (Coronavirus) (Amendment) Regulations 2020 <i>was made permanent by</i> The Environmental Assessment of Plans and Programmes (Amendment) Regulations 2020
DLUHC	The Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 <i>was made permanent by</i> The Infrastructure Planning (Publication and Notification of Applications etc.) (Amendment) Regulations 2020
DfE	The Schools Forums (England) (Coronavirus) (Amendment) Regulations 2020 <i>was made permanent by</i> The School and Early Years Finance (England) Regulations 2021

DfT	The Traffic Order Procedure (England) (Coronavirus) (Amendment) Regulations 2020 <i>The transitional provisions to preserve continuity following the expiry of the amendments are in force permanently. Other provisions have expired.</i>
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Annex C - Expired Provisions

Dept	Title
DHSC	The Health Protection (Coronavirus) Regulations 2020 <i>This SI was revoked and replaced by the Coronavirus Act 2020</i>
DHSC	The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (Northern Ireland) Regulations 2020
DWP	The Social Security (Coronavirus) (Further Measures) (Northern Ireland) Regulations 2020
DWP	The Social Security (Coronavirus) (Prisoners) Northern Ireland Regulations 2020
DfE	The Adoption and Children (Coronavirus) (Amendment) Regulations 2020
DfE	The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020
BEIS	The Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020
BEIS	The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020
BEIS	The Patents, Trade Marks and Registered Designs (Fees) (Coronavirus) (Amendment) Rules 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020
DHSC	The 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	The Value Added Tax (Reduced Rate) (Hospitality and Tourism) (Coronavirus) Order 2020
MoJ	The Civil Procedure (Amendment No. 4) (Coronavirus) Rules 2020

DHSC	The 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	The 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	The Health Protection (Coronavirus, Restrictions) (Greencore) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (Bolton) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (Birmingham, Sandwell and Solihull) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (North East England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Very High) (England) (Amendment) Regulations 2020
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) Regulations 2020
DHSC	The Health Protection (Coronavirus, Local COVID-19 Alert Level) (Medium, High and Very High) (England) (Amendment) (No. 2) Regulations 2020
DHSC	The 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 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) (Amendment) Regulations 2020
MoJ	The 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	The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020

MoJ	The 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	The Health Protection (Coronavirus, International Travel) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, International Travel and Public Health Information) (England) (Amendment) Regulations 2020
DfT	The Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (England) (Amendment) Regulations 2021
DLUHC	The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) (Amendment) (England) Regulations 2021
DLUHC	The Parish and Community Meetings (Coronavirus) (Polls) (Amendment) (England) Rules 2020
HO	The Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) (No. 2) Regulations 2020
HO	The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020
MoJ	The Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020
DfT	The Motor Vehicles (Tests) (Amendment) Regulations 2020
DfT	The Motor Vehicles (Tests) (Amendment) (Coronavirus) (No.2) Regulations 2020
MoJ	The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2021
DfT/ DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020
MoJ	The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020
MoJ	The Public Health (Coronavirus) (Protection from Eviction) (England) (No. 2) (Amendment) Regulations 2021
DHSC	The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021
DHSC	The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020

DHSC	The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020
DHSC	The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020
DfE	The Education (Induction Arrangements for School Teachers) (England) (Coronavirus) (Amendment) Regulations 2021
DfE	The Education (School Teachers' Qualifications and Induction Arrangements) (England) (Coronavirus) (Amendment) Regulations 2020
DHSC	The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place and on Public Transport) (England) (Amendment) Regulations 2020
DfE	The Early Years Foundation Stage (Learning and Development and Welfare Requirements) (Coronavirus) (Amendment) (No. 2) Regulations 2020
DfE	The Education (Coronavirus, Remote Education Information) (England) (Amendment) Regulations 2021
MoJ	The Taking Control of Goods (Amendment) (Coronavirus) Regulations 2021
BEIS	The Personal Protective Equipment (Temporary Arrangements) (Coronavirus) (England) Regulations 2020
DHSC	The Safeguarding Vulnerable Groups Act 2006 (Regulated Activities) (Coronavirus) Order 2020
BEIS	The Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) Regulations 2021
BEIS	The Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) (No. 2) Regulations 2021
DfE	The Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020
DWP	The Social Security (Coronavirus) (Further Measures) Regulations 2020
DWP	The Social Security (Coronavirus) (Prisoners) Regulations 2020
DWP	The Social Security (Coronavirus) (Further Measures) (Amendment) and Miscellaneous Amendment Regulations 2020
DHSC	The Health Protection (Coronavirus, Restrictions) (Steps etc.) (England) (Revocation and Amendment) Regulations 2021

29 October 2021

APPENDIX 4: DRAFT EGGS (ENGLAND) REGULATIONS 2021

Additional material from the Department for Environment, Food and Rural Affairs

Q1: Paragraph 10.3 of the EM refers to separate arrangements for Northern Ireland (NI). What does that mean in practice—can eggs from Great Britain (GB) be put on the market in NI and vice versa? Do these eggs have to be checked before they can be put on the market in GB or NI?

A1: Due to the effect of the Northern Ireland Protocol, the Egg Marketing Standards Regulation (Reg 589/2008) continues to apply in NI as it does in the EU. Class A eggs imported into NI from third countries will continue to be checked at the time of customs clearance and prior to the release for free circulation, in accordance with Article 24(3) of Regulation 589/2008 as it has effect in the EU, while Class A eggs imported from third countries to GB will be checked at warehouses, packing and distribution centres.

If eggs are being moved from GB to NI these will be checked at the border to ensure the consignment contains either Class A or B eggs as at present. Ungraded eggs may not be moved from GB to NI as they are currently listed as prohibited. However, all eggs from NI will continue to have unfettered access to the UK market.

Q2: Paragraph 10.5 states that a majority of respondents disagreed with the proposals, and that a round table will be scheduled with industry. When does the Department expect to schedule the round table and how does the Department plan to mitigate the concerns raised? Given that a majority of consultees opposed the proposal, why did the Government go ahead anyway?

A2: In response to the consultation, Defra, Welsh Government and Scottish Government held a roundtable discussion on 24 September 2021 to address concerns raised by industry. Invited to the call were checking authorities who are responsible for egg marketing standard checks across GB: [Animal and Plant Health Agency] egg marketing inspectors, who operate in England in Wales, and Scottish Government poultry officers. In response to concerns expressed by industry that imported eggs should be subject to the same standard of checks as domestic eggs and produced to the same high health, welfare and food standards, Defra explained that checks will continue to be made on a risk basis as well as randomly, in line with Article 24(2) of Regulation 589/2008, and that food quality will not be impacted by this amendment.

Without the introduction of the proposed change, additional resource would be required to undertake checks at the border and might need to be diverted from other functions. At present, APHA and Scottish Government's poultry officers conduct risk-based and random checks on both domestic and imported eggs at warehouses, distribution centres and packing centres. In the event that resources were diverted to the border, this would have a significant impact on their routine inspections. It is likely that inspectors would be unable to maintain their normal rate of inspections on a risk and random basis on both domestic and imported eggs. However, the current resource is sufficient to continue to carry out checks at the point of destination, as proposed by this SI.

28 October 2021

APPENDIX 5: 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 2 November 2021, Members declared the following interests:

Product Safety and Metrology etc. (Amendment) Regulations 2021

The Earl of Lindsay

Chairman, United Kingdom Accreditation Service (UKAS)

Occupational and Personal Pension Schemes (Disclosure of Information) (Statements of Benefits: Money Purchase Benefits) (Amendment) Regulations 2021 (SI 2021/1150)

The Earl of Lindsay

Chairman, BPI Pension Trustees Limited

Attendance:

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