

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

24th Report of Session 2021–22

Further information on the draft Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No 2) Regulations 2021

**Drawn to the special attention of the House:
Draft Revision of the Highway Code—
Introduction and Rules to improve Road Safety
for Cyclists, Pedestrians and Horse Riders 2021**

Includes information paragraphs on:

5 instrument relating to COVID-19
Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021

Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021
Import and Export Licensing (Miscellaneous Amendments) Regulations 2021

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HL Paper 130

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/uksi>

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.

Twenty Fourth Report

FURTHER INFORMATION ON THE HEALTH AND SOCIAL CARE ACT 2008 (REGULATED ACTIVITIES) (AMENDMENT) (CORONAVIRUS) (NO 2) REGULATIONS 2021

Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2021

1. Our 21st Report of this session drew the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No 2) Regulations 2021 to the special attention of the House.¹ These Regulations will require all those working for the NHS (including volunteers) who have direct, face to face contact with a service user to be fully vaccinated and, in our Report, we were critical of the lack of supporting material, especially about the potential effects of the policy.
2. The motion to approve the Regulations is being debated on Tuesday, 14 December. To assist members participating in the debate, we are publishing a list of additional information which has been made available in the last few days. **There is over 100 pages of new material to assess immediately before the debate. We reiterate our view that effective parliamentary scrutiny is not possible unless all supporting material is published when the instrument is laid.**

Impact Assessment

3. The Department of Health and Social Care (DHSC) has now provided an Impact Assessment.² It does provide supporting evidence for some assertions previously made but has been “Red Rated” by the Regulatory Policy Committee (RPC).³ The summary of the RPC’s findings says:

“The Impact Assessment (IA) on these proposals has been rated NOT FIT FOR PURPOSE (red) on both the assessment of the equivalent net direct costs to business (EANDCB) and the small and micro-business assessment (Samba). Our opinion is based on a comparison with the levels of evidence provided in other IAs that we considered fit for purpose. The opinion also finds that the IA’s cost-benefit analysis, wider impacts and monitoring and evaluation plan were weak, but the discussion of rationale and options was satisfactory.”

1 Secondary Legislation Scrutiny Committee, *21st Report* (Session 2021–22 HL Paper 109).
2 Department of Health and Social Care, *Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2021—Impact Assessment* (12 November 2021): <https://www.legislation.gov.uk/ukdsi/2021/9780348228861/impacts> [accessed 13 December 2021].
3 Regulatory Powers Committee, *COVID-19 Vaccination as a Condition of Deployment: RPC Opinion* (8 December 2021): <https://www.gov.uk/government/publications/covid-19-vaccination-as-a-condition-of-deployment-rpc-opinion> [accessed 13 December 2021].

Departmental response to the RPC's comments

4. DHSC has since published a response to two of the RPC's comments: the concerns about unsupported assumptions and the need for further consideration of impacts to small businesses.⁴

Revised Explanatory Memorandum

5. On 10 December DHSC also published a revised Explanatory Memorandum⁵ that updates some of the statistics, and responds to our 21st Report, although it does not necessarily resolve the issues we raised:

- Paragraphs 6.11 and 6.12 provide a clearer statement of the employment conditions that apply at various stages of the implementation of the Regulations.
- Paragraphs 7.2 and 7.3 set out updated vaccination uptake statistics.
- Paragraphs 7.9 to 7.12 are a new section on the comparative effectiveness of the vaccines, which includes the statement: “For the Alpha and Delta COVID-19 variants there is clear evidence that vaccines are effective at preventing infection. Uninfected individuals cannot transmit the virus.”
- Paragraph 7.14 includes a new figure: “There are over 95,000 NHS workers who remain unvaccinated.”
- Paragraphs 8 to 8.10 are a new section on exemptions, includes clarification on the exemption for pregnant women and addresses interactions with various faith groups.
- Paragraphs 8.13 to 8.18 set out further material on DHSC's efforts to encourage vaccine uptake and includes the figure of an “overall net increase of staff vaccinated with a first dose of over 50,000” since September when the policy was announced.
- Paragraph 8.17 relates to the previous care home regulations⁶ and states: “Contrary to what some feared we are not aware of any care home closures where vaccination as a condition of deployment has been the primary cause.”
- Paragraph 11.10 states: “This policy is not a first step in introducing wider vaccination requirements for the general population, the Government has been clear that is not the intention.”

4 Department of Health and Social Care, ‘Impact assessment—DHSC further analysis and information’: <https://www.gov.uk/government/consultations/making-vaccination-a-condition-of-deployment-in-the-health-and-wider-social-care-sector/outcome/impact-assessment-dhsc-further-analysis-and-information> [accessed 13 December 2021].

5 Department of Health and Social Care, *Draft Explanatory Memorandum to the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) (No. 2) Regulations 2021*: <https://www.legislation.gov.uk/ukdsi/2021/9780348228861/memorandum/contents> [accessed 13 December 2021].

6 Health and Social Care Act 2008 (Regulated Activities) (Amendment)(Coronavirus) Regulations 2021, see Secondary Legislation Scrutiny Committee, *10th Report* (Session 2021–22, HL Paper 50).

- Paragraph 12 states that guidance on implementation in the healthcare sector has been published by NHS England.⁷ Parallel guidance for the adult social care sector is to follow.

⁷ NHS, 'Vaccination as a condition of deployment (VCOD) for healthcare workers: Phase 1—Planning and preparation': <https://www.england.nhs.uk/coronavirus/publication/vaccination-as-a-condition-of-deployment-for-healthcare-workers-phase-1-planning-and-preparation/> [accessed 13 December 2021].

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Revision of the Highway Code—Introduction and Rules to improve Road Safety for Cyclists, Pedestrians and Horse Riders 2021

Date laid: 1 December 2021

Parliamentary procedure: negative

These proposed revisions of The Highway Code aim to improve safety for cyclists, pedestrians and horse riders when using the highway. The changes establish a hierarchy of road users with pedestrians taking priority in most situations, although the revisions emphasise that pedestrians also have responsibilities. The proposals recommend safe passing distances for vehicles overtaking cyclists or horse riders and give them priority at junctions when travelling straight ahead: vehicles should not turn across their path.

*While the proposed changes appear sensible, **improvements to the way those changes are communicated to the public need to be addressed urgently.** We strongly support the principles of good law which include that the law must be accessible to all.*

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

6. The Government take the view that promoting walking and cycling could reduce air and noise pollution from car use, mitigate traffic congestion, increase levels of physical activity and lead to more sustainable communities. The Department for Transport (DfT) has identified that one of the greatest barriers for people choosing to cycle or walk is safety, and perceptions of safety: these changes therefore aim to improve safety for cyclists, pedestrians and horse riders when using the highway.
7. These proposed revisions of The Highway Code:⁸
 - introduce a hierarchy of road users which sets out that those who can do the greatest harm have the greatest responsibility to reduce the danger or threat they may pose to other road users: pedestrians take priority in most cases;
 - clarify that only pedestrians may use the pavements (this includes people using wheelchairs and mobility scooters, but not, for example, electric scooters);
 - clarify that drivers and riders must give way to pedestrians at zebra crossings and should give way to pedestrians waiting to cross the road at junctions; but pedestrians have a responsibility to remain aware of their surroundings and cross roads where they can be seen;

⁸ Department for Transport, *Table of changes to The Highway Code*, (December 2021):https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037306/table-of-change-to-the-highway-code.pdf [accessed 14 December 2021].

- set out guidance on safe passing distances for vehicles overtaking cyclists or horse riders, and give them priority at junctions when travelling straight ahead, vehicles should not turn across their path;
 - advise cyclists against passing to the left of a large vehicle unless it is stationary and reaffirm that cyclist must not cross the stop line when traffic lights are red.
8. These proposals are laid as a draft and may only be made law after 40 days if there is no resolution against them. **We commend the Department for conducting extensive consultation during the formulation of these proposals.** Concerns have been raised with us, however, about the feasibility of some of the recommended passing distances in narrow country lanes, so what should be done in those situations needs to be clearly explained.

Publication

9. The Explanatory Memorandum (EM) says that the need for effective communication of the changes was a common theme throughout the consultation responses. We also raised this issue recently, in our 8th Report, in relation to the last set of proposed changes to the Highway Code.⁹ We were therefore disappointed that the information in EM about publicity was limited to: “we will implement a robust education and behaviour change campaign ensuring the changes are effectively communicated to the public”.
10. We regret to say that no member of this Committee has noticed any publicity for the previous changes about what to do in the event of a breakdown on a SMART motorway. We therefore asked DfT for more detail on their publicity plans. They replied:
- “Our well-established THINK! campaign will be developing a communications campaign to support implementation of the changes to The Highway Code, both at launch and beyond, timed seasonally to support times of increased active travel. We are also working with key stakeholders and have created a Highway Code Communications Working Group in order to exploit as many communications channels as possible as we recognise the need to ensure that the changes are publicised widely and that they are communicated effectively.”
11. This is encouraging, **but this particular change will need a special communications strategy since it needs to inform groups that do not habitually consult The Highway Code, such as pedestrians and cyclists, about their responsibilities.** DfT’s publicity also needs to reach those people who use the pavements who should not, such as cyclists and people riding electric scooters.
12. We are particularly concerned about the timing of the revised Code’s physical publication. In supplementary material DfT told us that:
- “once the 40 day laying period ends, the changes will come into effect immediately. DVSA [the Driver and Vehicle Standards Agency] have produced a revised version of the Highway Code so they will update the online version on GOV.UK immediately, with a new hard copy due to be published in the spring.”

9 Secondary Legislation Scrutiny Committee, *8th Report* (Session 2019–21, HL Paper 40).

13. This is a principle that we have raised before—while most people appear to access information online, it is discriminatory to certain groups, particularly the elderly and disadvantaged, who may not have IT equipment of their own, to bring law into effect before they can have access to it.
14. The Department explained their logistical difficulties in more detail:

“DVSA are in charge of publication of The Highway Code, but have to be mindful of the costs of production. The price has been fixed at £2.50 since 2007 but retailers report that the Recommended Retail Price (RRP) is now too low for many of them to be able to afford to stock it. Acute paper shortages, particularly in the recycled grades required by government buying standards, have also significantly driven up the publisher’s costs of production and increased their lead times.

DVSA therefore try to be proportionate about when they publish a new hard copy of the Code, but recognise it will be needed soon to incorporate our changes and the smart motorway / high speed road alterations that were approved in September. That said, the GOV.UK version of The Highway Code is produced to particularly high standards of accessibility and usefulness. Users rate the rules in the free format on GOV.UK between 64% and 93% for usefulness which is higher than the average for other GOV.UK pages.”

Conclusion

15. While the proposed changes appear sensible, **improvements to the way those changes are communicated to the public need to be addressed urgently**. We strongly support the principles of good law which include that the law must be accessible to all. These changes affect large numbers of people who do not routinely have to consult The Highway Code, so safety messages need to be disseminated more widely, in particular to those groups whose behaviour these changes seek to correct.

INSTRUMENTS RELATING TO COVID-19

Restrictions on businesses and public gatherings

Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 5) Regulations 2021 (SI 2021/1382)

16. These changes are intended to provide greater consistency between the Self-Isolation Regulations¹⁰ and the International Travel Regulations. They mean that a person who has been vaccinated outside the UK will be exempt from self-isolation if identified as a close contact of a positive COVID-19 case if their vaccine status is recognised for the purposes of international travel rules. **This exemption does not currently apply to contacts of a confirmed or suspected case of the Omicron variant.**

Health Protection (Coronavirus, Wearing of Face Coverings) (England) (Amendment) Regulations 2021 (SI 2021/1400)

17. This instrument amends the Face Coverings Regulations¹¹ to expand the current legal requirement to wear face coverings in shops and on public transport to certain indoor settings in England, including, banks, cinemas, casinos, libraries, theatres, museums, places of worship, public areas in hotels and hostels, tourist sites, theme parks and inside a vehicle when having a driving lesson or test. People will not be required to wear face coverings in hospitality settings or gyms. The list of reasonable excuses for not wearing a face covering has been extended to include singing as part of a choir or during a service. However, those not wearing a mask who do not have a reasonable excuse can be refused entry to a location and may receive a fixed penalty.
18. The Regulations were laid at 5pm on 9 December and came into force just after midnight on 10 December 2021: **we are unclear how the public were notified of those changes in the short time available.** The previous Regulations were due to lapse on 21 December, but these Regulations extend the expiry date to 26 January 2022.

Travel

Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 23) Regulations 2021 (SI 2021/1371)

19. This instrument amends the International Travel Regulations¹² to update pre-departure test requirements. All individuals aged over 12 arriving in England from outside the common travel area are now required to possess a notification of a negative coronavirus test. The obligation applies regardless of whether the individual qualifies as an ‘eligible traveller’, and the test must have been taken within two days of the scheduled time of departure to England (down from three days). Consequential changes are also made to update the wording to be used by operators to inform passengers of the pre-departure test requirements, and to correct errors in SIs 2021/1107

10 Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (SI 2020/1045 as amended).

11 Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021 (SI 2021/1340).

12 Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (SI 2021/582).

and 2021/1130. **The instrument came into effect at 4am on Tuesday 7 December—before it was laid before the House.**

Public services

Local Authorities (Funds) (England) (Amendment) (Coronavirus) Regulations 2021 (SI 2021/1343)

20. This instrument makes provision in relation to three new local authorities which assumed responsibility for local tax collection fund deficits accrued by their predecessor authorities in 2020–21 following the economic impact of the pandemic. Specifically, the instrument enables North Northamptonshire Council, West Northamptonshire Council and the West Yorkshire Combined Authority to repay those deficits over the financial years 2022–23 and 2023–24 in the same way that their predecessor authorities would have done, rather than repay them over one year. The extended repayment period was introduced in 2020,¹³ as part of a package of measures to support local government during the pandemic.¹⁴

National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 (SI 2021/1346)

21. These Regulations amend a number of previous instruments to require pharmacy contractors to participate in a pandemic response programme if requested to do so, and to defer the publication of the next pharmaceutical needs assessments to October 2022. They also lay the ground for ordering and distributing a potential COVID-19 antiviral medication in the community by means of vouchers. In addition, they address some discrepancies in the scheme for medical and maternity prescription charge exemption certificates that will enable the piloting and national roll out of a digital process.

13 Local Authorities (Collection Fund: Surplus and Deficit) (Coronavirus) (England) Regulations 2020 (SI 2020/1202).

14 Ministry of Housing, Communities and Local Government, ‘Press Release: Comprehensive new funding package for councils to help address coronavirus pressures and cover lost income during the pandemic’ (2 July 2020): <https://www.gov.uk/government/news/comprehensive-new-funding-package-for-councils-to-help-address-coronavirus-pressure-and-cover-lost-income-during-the-pandemic> [accessed 16 December 2021].

INSTRUMENTS OF INTEREST

Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021 (SI 2021/1312)

22. This instrument strengthens the enforcement powers of HM Revenue and Customs (HMRC) by giving effect to a legal requirement for goods imported into Great Britain (GB) to go for a check at an Inland Border Facility (IBF) if selected for inspection. HMRC explains that from 1 January 2022, when full customs controls will apply to goods moving from the EU to GB, ‘risk profiles’ will be applied to customs declarations. As a result, a small proportion of imports will be checked for fiscal or security risks, product safety or other matters. These physical checks will take place at IBFs where ports and other border locations have limited space and infrastructure to hold goods on arrival and to conduct the checks, especially in Dover, the Eurotunnel terminal at Cheriton and Holyhead. The checks will mainly apply to goods imported in Heavy Goods Vehicles that arrive in GB by ferry or Channel Tunnel train.
23. We asked HMRC how it will ensure in practice that imported goods that have been selected for inspection and are on their way to an IBF are not tampered with on the way there. HMRC told us that amongst other measures, it will work alongside Border Force and use “risk-based and targeted checks to detect, prevent and respond to fraud and other deliberate non-compliant activity; including tampering”, and that HMRC will be “monitoring the risk of tampering through intelligence-led activity and where appropriate seek to respond to any identified evidence on the presentation of goods at the IBF through compliance interventions”. HMRC also highlighted the importance of “traders and those involved in the transporting of goods [conducting] appropriate due diligence on their supply chain to ensure they are aware of their responsibilities”. HMRC added that in the longer-term it is “exploring technological solutions and other compliance measures which will enable [it] to better monitor and secure movements between the port and inland facilities, including mitigating instances of tampering”.
24. We note the additional information provided by HMRC which we are publishing in full at Appendix 1. **We remain concerned, however, about the risk of fraud and goods being tampered with on the way from ports to the new IBFs.**

Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 (SI 2021/1316)

25. These Regulations implement changes in the International Convention for the Safety of Life at Sea, 1974 (“SOLAS”) dating back to 1 July 2002. The changes relate to radiocommunications for ships on international voyages, including requirements to provide an update of the ship’s position at four hourly intervals, and for the testing of satellite emergency position beacons, rescue transmitters and other elements of the Global Maritime Distress and Safety System. To avoid further delays in implementation the Regulations also set up an “ambulatory reference” to Chapter IV of SOLAS to give all future amendments of this type automatic effect in the UK. **We are pleased**

to see that the Department for Transport has made a good start on reducing its backlog of maritime legislation.¹⁵

Import and Export Licensing (Miscellaneous Amendments) Regulations 2021 (SI 2021/1358)

26. This instrument revokes the requirement for general licences for imports of rice and ethanol of agricultural origin and export licences for rice, as set out in retained EU law.¹⁶ Under the current system, a licence is required for imports of various rice types over 1000 kg and ethanol of agricultural origin over 100 hl, and exports of various rice types over 500 kg. According to the Department for Environment, Food and Rural Affairs (Defra), the licenses were introduced under the EU’s market monitoring policy to track imports into the single market and to set rice tariffs. Defra says that after EU Exit, the licences no longer serve a policy function and burden importers with unnecessary administrative and financial costs: traders have to lodge a financial security for every licence they apply for and, once they have used the licence, they have to apply for the release of the security. As the Explanatory Memorandum states that this can be a significant sum for those trading in large volumes without providing any financial information, we asked Defra for an estimate of the impact of the current licence requirements on business. The Department responded that:
27. “Imports from the EU into the UK are required to be covered by a licence post EU Exit. This has resulted in the Rural Payments Agency (RPA) issuing significantly more licences, many to traders who are having to apply for licences for the first time. In 2019/20 the RPA issued an average of 3,124 general licences, whereas, up to June 2021 they have already issued 3,154 due to the volume of newly impacted trade from the EU. Across all rice and ethyl alcohol licences issued in 2021, over £17 million was lodged in securities by over 500 traders.”
28. Separate arrangements apply in Northern Ireland (NI): while the EU has removed the export licence requirement for rice, the import licence requirement remains in place. Defra says that this is “unlikely to have a significant impact” on NI importers because imports into NI from the EU will not require a licence and very few licences have been issued for third country imports. We asked whether imports of rice and ethanol from Great Britain (GB) into NI require a licence under these arrangements. The Department explained that:
29. “Rice which is sent to NI from GB is likely to be milled rice for retail sale as we are not aware of any rice mills in NI. As a result, we expect consignments to be below the volume threshold and so would not require a licence. Equally, given that the majority of ethyl alcohol imports are from the EU, we do not expect many consignments to be impacted. If a shipment of either product above the threshold were moved, it may require a licence. However, the Government is in intensive discussions with the EU with the aim of delivering significant changes to the NI Protocol. As discussions progress, this may impact how the Northern Ireland Protocol is applied in relation to this matter.”

15 See the discussion and list in our 17th Report: Secondary Legislation Scrutiny Committee, *17th Report* (Session 2021–22 HL Paper 88).

16 Commission Delegated Regulation (EU) (2016/1237) and Commission Implementing Regulation (EU) (2016/1239).

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

- | | |
|-------|--|
| Draft | Motor Vehicles (Driving Licences) (Amendment) Regulations 2022 |
| Draft | Small Business, Enterprise and Employment Act 2015 and Pubs Code etc. (Amendment) Regulations 2021 |
| Draft | Train Driving Licences and Certificates (Amendment) Regulations 2022 |

Made instruments subject to approval

- | | |
|--------------|---|
| SI 2021/1382 | Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 5) Regulations 2021 |
| SI 2021/1400 | Health Protection (Coronavirus, Wearing of Face Coverings) (England) (Amendment) Regulations 2021 |

Draft instruments subject to annulment

- | | |
|-------|-----------------------------------|
| Draft | Bury (Electoral Changes) Order |
| Draft | Gosport (Electoral Changes) Order |

Instruments subject to annulment

- | | |
|--------------|--|
| SI 2021/1312 | Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021 |
| SI 2021/1316 | Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 |
| SI 2021/1319 | State Pension Revaluation for Transitional Pensions Order 2021 |
| SI 2021/1320 | State Pension Revaluation for Transitional Pensions Order 2021 |
| SI 2021/1343 | Local Authorities (Funds) (England) (Amendment) (Coronavirus) Regulations 2021 |
| SI 2021/1346 | National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 |
| SI 2021/1348 | Education (Student Fees, Awards and Support) (Amendment) (No. 3) Regulations 2021 |
| SI 2021/1353 | Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Office for Environmental Protection) Regulations 2021 |
| SI 2021/1357 | Littering From Vehicles Outside London (Keepers: Civil Penalties) (Amendment) Regulations 2021 |
| SI 2021/1358 | Import and Export Licensing (Miscellaneous Amendments) Regulations 2021 |

- SI 2021/1370 Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) (EU Exit) Regulations 2021
- SI 2021/1371 Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) (No. 23) Regulations 2021
- SI 2021/1379 Coroners (Inquests) (Amendment) Rules 2021

APPENDIX 1: CUSTOMS IMPORTATION (MISCELLANEOUS PROVISIONS AND AMENDMENT) (EU EXIT) REGULATIONS 2021

Additional information from HM Revenue and Customs

Q: How will HMRC ensure that goods are not tampered with en route to IBFs? Apart from the deterrent of penalties, how will HMRC ensure that this does not happen in practice? For example, will HGVs be sealed when they leave the ferry so that it is clear that they have not been tampered with? What happens if a driver needs a comfort break and stops en route to the IBF? How will HMRC ensure that someone does not tamper with the goods when the driver might not be aware? There are practical concerns about the length of the route to some IBFs, for example near Holyhead, which could provide opportunities to tamper with the goods being transported.

A: The Government's priority is to keep goods moving and avoid delays at the border. As the customs authority, HMRC will act to ensure that border processes are as smooth as possible, without compromising security. HMRC will continue to use a risk based, intelligence-led response to compliance issues working alongside Border Force.

HMRC has a strong track record in tackling all kinds of avoidance, evasion and non-compliance. Beyond the introduction of a civil penalty for failure to comply with these requirements acting as an upstream compliance tool to minimise non-compliance, HMRC will continue to employ an end-to-end approach to tackling customs risks. This includes:

- risk-based pre- and post-clearance checks to identify and follow up potential non-compliance,
- regular monitoring by HMRC officers of the books and records of riskier traders and their supply chains to identify any potentially illicit trade,
- providing education to traders on risks and issues identified, as well as advising on the correct processes to be compliant

HMRC has sought to mitigate any fiscal risks in a number of ways, including working alongside Border Force to maintain compliance at the border through risk-based and targeted checks to detect, prevent and respond to fraud and other deliberate non-compliant activity; including tampering.

HMRC will be monitoring the risk of tampering through intelligence-led activity and where appropriate seek to respond to any identified evidence on the presentation of goods at the IBF through compliance interventions.

In the longer-term HMRC are exploring technological solutions and other compliance measures which will enable us to better monitor and secure movements between the port and inland facilities, including mitigating instances of tampering.

Goods are subject to the control of an HMRC officer from the time of importation until they are discharged from the free-circulation procedure. It is important traders and those involved in the transporting of goods conduct appropriate due diligence on their supply chain to ensure they are aware of their responsibilities.

HMRC will continue to ensure that everyone plays by the same rules, safeguarding public trust by creating a level playing field for individuals and businesses.

13 December 2021

APPENDIX 2: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 14 December 2021, Members declared the following interests:

Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) Regulations 2021

The Earl of Lindsay

President of the Chartered Trading Standards Institute

Small Business, Enterprise and Employment Act 2015 and Pubs Code etc. (Amendment) Regulations 2021

Lord Hodgson of Astley Abbots

Previously director of Marston's PLC

Attendance:

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord Chartres, Lord German, Lord Hodgson of Astley Abbots, Lord Hutton of Furness, the Earl of Lindsay, Lord Lisvane, Lord Sherbourne of Didsbury and Baroness Watkins of Tavistock.