

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

---

### 26th Report of Session 2021–22

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

#### **Drawn to the special attention of the House:**

**Building Regulations etc. (Amendment) (England) Regulations  
2021**

**Town and Country Planning (General Permitted Development  
etc.) (England) (Amendment) (No. 3) Order 2021**

**Prison and Young Offender Institution (Coronavirus)  
(Amendment) Rules 2022**

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

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

4 instruments relating to COVID-19

Draft Passenger, Crew and Service

Information (Civil Penalties) (Amendment)  
Regulations 2022

Ozone-Depleting Substances (Grant of Halon  
Derogations) Regulations 2021

Nuclear Safeguards (Fees) Regulations 2021

Statement of changes in Immigration Rules

---

Ordered to be printed 19 January 2022 and published 20 January 2022

---

Published by the Authority of the House of Lords

HL Paper 146

## *Secondary Legislation Scrutiny Committee*

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

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

And, to scrutinise –

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

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

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

## *Members*

|   |   |  |
|---|---|--|
| <a href="#"><u>Baroness Bakewell of Hardington Mandeville</u></a> | <a href="#"><u>Viscount Hanworth</u></a>              | <a href="#"><u>The Earl of Lindsay</u></a>           |
| <a href="#"><u>Rt Hon. Lord Chartres</u></a>                      | <a href="#"><u>Lord Hodgson of Astley Abbotts</u></a> | <a href="#"><u>Lord Lisvane</u></a>                  |
| <a href="#"><u>Rt Hon. Lord Cunningham of Felling</u></a>         | (Chair)   | <a href="#"><u>Lord Sherbourne of Didsbury</u></a>   |
| <a href="#"><u>Lord German</u></a>                                | <a href="#"><u>Rt Hon. Lord Hutton of Furness</u></a> | <a href="#"><u>Baroness Watkins of Tavistock</u></a> |

## *Registered interests*

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

## *Publications*

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

## *Committee Staff*

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

## *Further Information*

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/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](mailto:hlseclegscrutiny@parliament.uk).

# Twenty Sixth Report

## INSTRUMENTS UNDER THE EUROPEAN UNION (WITHDRAWAL) ACT 2018

---

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

*Proposed negative instrument about which no recommendation to upgrade is made*

- European Qualifications (Health and Social Care Professions Amendment etc. (EU Exit) Regulations 2022

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

---

### Building Regulations etc. (Amendment) (England) Regulations 2021 (SI 2021/1391)

*Date laid: 15 December 2021*

*Parliamentary procedure: negative*

*These Regulations makes changes to Building Regulations, with the key aim of increasing the energy efficiency standards for buildings as part of a staged implementation of new standards from 2025. While the Explanatory Memorandum (EM) that has been laid before Parliament sets out briefly how the instrument fits into the staged implementation of the Future Homes Standard and Future Buildings Standard and provides links to further material, including Impact Assessments and consultation responses, as a stand-alone document it fails to provide Parliament, those affected by the changes and the wider public with a clear and accessible explanation of the effect of the instrument and how it is intended to operate. We therefore ask the Department to revise the EM.*

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

1. These Regulations have been laid by the Department for Levelling Up, Housing and Communities (DLUHC) with an Explanatory Memorandum (EM). According to DLUHC, the instrument makes changes to the Building Regulations 2010 (“the Building Regulations”) to provide a “meaningful and achievable” increase to the energy efficiency standards for buildings, to revise the way in which performance is measured, and, as the first stage of a two-stage approach, to support industry in preparing for the implementation of a new Future Homes Standard (for new dwellings) and Future Buildings Standard (for new non-domestic buildings) from 2025.
2. According to DLUHC, the changes are being delivered through this instrument and through changes to the Approved Documents,<sup>1</sup> which provide statutory guidance on ways to meet the Building Regulations. Impact Assessments (IAs) that cover the changes made by this instrument and other changes have been published separately, but these have not been laid before Parliament.<sup>2</sup> The following sets out the key changes made by this instrument.

#### *Introduction of a new performance metric*

3. The EM states that the instrument provides for a new way of measuring energy efficiency, using a new performance metric. As the EM does not provide further explanation, we asked the Department how the new approach will differ from the current one. DLUHC told us that:

---

1 Department for Levelling Up, Housing and Communities, ‘Approved Documents’: <https://www.gov.uk/government/collections/approved-documents> [accessed 19 January 2022].

2 DLUHC, ‘Impact assessment 2021 uplift to energy efficiency standards, improved ventilation and new overheating requirement’: <https://www.gov.uk/government/publications/2021-uplift-to-energy-efficiency-standards-improved-ventilation-and-new-overheating-requirement> [accessed 19 January 2022].

“The new performance metric is the primary energy rate. Primary energy is energy from renewable and non-renewable sources which has not undergone any conversion or transformation process. It is a measure of the total energy used in a building, for example through its lighting, heating and hot water, and it includes energy losses from extraction, processing, conversion and transportation.

We have made considerable progress in reducing the carbon intensity of the electricity grid, and it will continue to decarbonise over time. This means that, when a new building uses electricity, carbon dioxide will become a less useful way of measuring the actual energy efficiency of the building. A primary energy target enables us to set an energy performance target which drives the energy efficiency of the building fabric regardless of the heat source.

Once the instrument comes into force, newly constructed buildings must be measured against the new primary energy target as well as (as is currently the case) a CO<sub>2</sub> emissions target and for new dwellings, minimum standards for fabric efficiency.

The primary energy metric provides a measure of the total energy use in the building and takes account of the energy needed to create and transport different power sources.”

4. On request, the Department also clarified that the new primary energy metric will be used for both new residential and new non-residential buildings.

*Regulation of on-site electricity generation*

5. The instrument changes the way on-site electricity generation systems are regulated. The EM does not provide any further explanation of how this regulation will work or how it will be different from the current approach. Asked for further information, DLUHC told us that:

“The Building Regulations 2010 previously did not regulate on-site electricity generation for the purposes of the conservation of fuel and power. This instrument introduces such regulation for the first time. This fills a gap in standards to make sure that when on-site electricity generation is installed it is installed well, benefiting consumers.

When the instrument comes into effect, any on-site electricity generation must be appropriately sized for the site and available infrastructure; have effective controls; and must be commissioned by testing and adjusting as necessary to ensure that it produces the maximum electricity that is reasonable in the circumstances. A notice confirming the commissioning must be provided to the local authority (or building inspector) and information about the on-site generation system must be given to the building owner. Commissioning’ in this context refers to the process for services and controls in buildings being tested and adjusted properly after installation to ensure the generation system works as it should.”<sup>3</sup>

---

3 Guidance is provided in Approved Document L, volume 1: dwellings and in Approved Document L, volume 2, buildings other than dwellings: DLUHC, ‘Statutory guidance Conservation of fuel and power: Approved Document L’: <https://www.gov.uk/government/publications/conservation-of-fuel-and-power-approved-document-l> [accessed 19 January 2022].

6. Asked about oversight and enforcement of these new arrangements, the Department explained that:

“Building control bodies have a general duty to see that building work complies with the applicable requirements in the Building Regulations. This might be a local authority building control service or a private building control service.

Alternatively, a tradesperson registered with a Competent Person Scheme can certify that their work installing on-site electricity generation is compliant with Building Regulations. In order to be registered with a Competent Person Scheme tradespeople must have demonstrated competence in carrying out work in compliance with Building Regulations.

Ensuring that building work complies with all applicable requirements of the Building Regulations is the responsibility of those carrying out the work, for example, agents, designers, builders, installers and the building owner.

Local authorities have enforcement powers they can use if work does not comply with the Building Regulations.”

#### *Changes in relation to overheating*

7. The instrument introduces changes to addresses the risk of overheating in new residential buildings. According to DLUHC, this is to ensure that new homes and other residential buildings can cope with the warmer climate of the future. While the EM provides figures to illustrate the seriousness of the challenge, including an estimated increase in the number of heat-related deaths from 2,000 per year in England and Wales to over 7,000 by the middle of the century, it does not set out what practical changes will be made to the Building Regulations to reduce overheating. Asked for further information, the Department told us that:

“The instrument introduces a new overheating requirement in the Building Regulations 2010 to reduce the risk of overheating in new residential buildings. This means that new residential buildings, including houses, flats, residential care homes, student accommodation, and children’s homes must be designed in such a way as to reduce overheating. This requirement is met by designing and constructing the building to achieve both of the following:

- Limiting unwanted solar gains in summer.
- Providing an adequate means of removing excess heat from the indoor environment.

Two potential routes to compliance have been set out in statutory guidance (Approved Document O: Overheating):<sup>4</sup>

- The ‘simplified method’ has maximum glazing areas and for buildings in the identified high-risk location (set out in the Approved Document),

---

<sup>4</sup> DLUHC, ‘Statutory guidance: Overheating: Approved Document O’: <https://www.gov.uk/government/publications/overheating-approved-document-o> [19 January 2022].

minimum shading standards. The method also includes minimum standards for removing excess heat in buildings in all areas.

- The ‘dynamic thermal modelling method’ allows computer modelling to demonstrate that the building will not overheat. This method allows for more design freedom.

Given the Government’s net zero commitment, our preferred means of mitigating overheating is through passive means (i.e., means which require low or no energy). While mechanical cooling, such as air conditioning, can be used to meet the standard, this should only be where passive means cannot sufficiently mitigate against overheating.”

### *Changes in relation to ventilation*

8. Finally, the instrument makes provision in relation to ventilation standards in new and existing dwellings and non-domestic buildings where building work is carried out to which “Part L” applies. The EM does not provide any further explanation of what Part L does and why the changes made by the instrument are necessary. Asked for further information, the Department explained that:

“Good ventilation is important for the health of the building occupants, for example preventing internal air pollution and mould. [...]

‘Part L’ refers to Part L of Schedule 1 to the Building Regulations which requires that reasonable provision must be made in buildings for the conservation of fuel and power. This requirement will be relevant to any building work that changes the energy efficiency of a building.

Building work that makes the building more energy efficient will often increase airtightness and reduce useful ventilation. New Regulations 4(4) and 4(5) (inserted into the Building Regulations by Regulation 4 of this instrument) provide that where building work is carried out to which Part L is relevant, the building must continue to meet the ventilation standard in the Regulations. It is sufficient to show that the ventilation wasn’t made worse by the building work where it did not meet that standard before the work started.”

### *Impact*

9. The changes made by this instrument are impactful and appear to be of wider public interest: according to DLUHC, they aim to provide a “meaningful and achievable” increase to the energy efficiency standards for buildings, and consultations in 2019/20 and 2021 on the changes made by this instrument and other changes received over 3,000 and 700 responses respectively. The expected impact of the legislative and non-legislative changes has been assessed collectively. The EM estimates that the impact on business of the changes to the Building Regulations relating to energy performance and the accompanying statutory guidance relating to Part L for new and existing dwellings will be an increase in costs of £475 million per year over the 10-year policy period. While the EM states that these costs will be largely capital costs incurred by developers, we expect that they will be passed on to consumers.

*Conclusion*

10. The EM sets out briefly how this instrument and the changes to the accompanying Approved Documents fit into the staged approach of implementing the Future Homes Standard and Future Buildings Standard from 2025. The EM also provides links to the Approved Documents, consultation responses and Impact Assessments which include further information. We take the view, however, that this is not sufficient.
11. The purpose of an EM is to provide Parliament, those affected by changes in the law and the wider public with a clear and accessible, stand-alone explanation of the effect of an instrument and how it is intended to operate. This EM, as currently drafted, assumes an extensive understanding of the current Building Regulations, how they operate and how they are being developed further. We have had to obtain substantial additional information from the Department. **The reader should not have to consult a range of different supporting documents to get an understanding of the changes made by an instrument, especially where, as in this case, the policy is complex and technical, and some of the supporting documents go beyond the scope of the instrument itself.**
12. **We therefore regret that in this case, the Department has failed to meet the expected standard: we ask the Department to revise the EM, and we draw the Regulations to the special attention of the House on the ground that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation.**



**Town and Country Planning (General Permitted Development etc.)  
(England) (Amendment) (No. 3) Order 2021 (SI 2021/1464)**

*Date laid: 20 December 2021*

*Parliamentary procedure: negative*

*This Order introduces new permitted development rights to support the modernisation and development of the Defence estate. It also extends or makes permanent existing permitted development rights which were introduced in 2020 and 2021 on a temporary basis to support the response of businesses, local authorities and health bodies to the pandemic. We regret that some of these temporary measures which were originally introduced in response to an emergency, and which could have a potentially adverse impact on members of the public, are being made permanent through this negative statutory instrument and therefore without the guarantee of robust parliamentary scrutiny and debate that primary legislation would provide.*

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

13. This Order has been laid by the Department for Levelling Up, Housing and Communities (DLUHC) with an Explanatory Memorandum (EM) that has been prepared by DLUHC and the Ministry of Defence (MOD). The Order introduces new permitted development rights to support the modernisation and development of the Defence estate. It also extends or makes permanent existing permitted development rights which were introduced in 2020 and 2021 on a temporary basis to support the response of businesses, local authorities and health bodies to the pandemic. The key changes made by this instrument are set out below.

*Development by the Crown on a closed defence site*

14. A **new permanent** permitted development right is introduced to allow the MOD to extend and alter existing buildings and erect additional buildings on the Defence estate within the perimeter of a site. The EM states that the new right “will enable MOD to achieve its infrastructure development plans faster, and with more certainty as well as giving Defence the agility to amend and adjust plans to meet changes in requirement as the capability needs in Defence change”. The new right will be subject to certain limitations and conditions, including in relation to the size, height and location of the development.

*Moveable structures in the curtilage of pubs, cafes, restaurants, and historic visitor attractions*

15. A time-limited permitted development right which was introduced in 2021<sup>5</sup> and allows one moveable structure in the curtilage of pubs, cafes, restaurants and historic visitor attractions without the requirement to submit a planning application is made **permanent**. According to DLUHC, this allows, for example, for a marquee providing additional space in a pub garden or a gazebo in the grounds of a national trust site for entrance and ticketing. The Department says that the existing temporary right has had a positive impact, and that making it permanent will support the economic recovery

---

<sup>5</sup> Town and Country Planning (General Permitted Development) (England) (Amendment) (Coronavirus) Order 2021 ([SI 2021/467](#)).

of hospitality businesses and heritage attractions. The arrangements do not give permission for change of use of land or structures on public highways or pavements and are separate from temporary changes to pavement licenses which were introduced in 2020 and allow hospitality businesses to place furniture, such as tables and chairs, on the highway outside their premises.

16. According to DLUHC, a consultation on the changes made by this instrument from 5 September to 14 November 2021 sought views about the permanency of this right and potential restrictions and conditions on its use. While the Government's response to the consultation or a detailed analysis of the responses has not yet been published, the Department says that those supporting permanency (more than half of the organisations which responded and around a third of responses from individuals) highlighted the benefit to local high streets and town centre recovery, while those who were opposed, including two thirds of individuals who responded, expressed concerns about noise and the impact on the appearance and access to heritage assets.
17. The restrictions and conditions on the use of the new permitted development right include a height limit of three metres, a two-metre boundary buffer where next to residential development, and a size threshold of no more than 50% of the existing footprint of the building on site or 50 square metres, whichever is the lesser. The right also maintains the current protections for Scheduled Monuments and prevents the use of moveable structures for the display of an advertisement. Where the site is a historic visitor attraction or listed building, a moveable structure may only be allowed for up to 120 days in a 12-month period, and there is a requirement to consult Historic England and to reinstate the land to its original condition once the moveable structure is removed. There is no time limit for the use of a moveable structure in relation to pubs, cafes and restaurants.
18. The EM states that because the Licensing Act 2003 regime will apply to licensed premises, and the environmental health statutory nuisance regime will apply to all premises, there will be "effective mitigation and avenues of redress for local residents against harm to local amenity from noise or public nuisance". DLUHC told us that licensing authorities can consider the effect of issues such as noise nuisance, light pollution and litter from licensed activities on those living or working near the premises, and that under the Licensing Act 2003, where a concern is raised, a local authority can review a premises licence and may modify the conditions of the licence, for example by attaching terminal hours to outdoor use, or revoke the licence in the most serious of cases. The public is also consulted prior to the grant or variation of a licence. In addition, under the Environmental Protection Act 1990, local authorities are responsible for investigating complaints about issues which could be deemed a statutory nuisance, such as smoke, odour, accumulations and other issues, in addition to noise. If they agree that there is a statutory nuisance, councils must serve an abatement notice, usually on the person responsible.
19. We note the assurance provided by the Department about the limits and conditions on the new permanent development right. **We remain concerned, however, about its potential impact on members of the public and that those who may have concerns about a development will no longer be able to raise these through the planning process.**

*Markets held by or on behalf of local authorities*

20. A time-limited permitted development right which was introduced in 2020 and extended in 2021<sup>6</sup> and which allows markets to be held by or on behalf of local authorities for an unlimited number of days without the requirement to submit a planning application is made **permanent**. While there will be restrictions in relation to the location of these markets, the right does not include any other requirements or conditions, for example in relation to noise or traffic. DLUHC told us, however, that as the right can only be used by local authorities or on their behalf, “we would expect the relevant local authority to consider the most appropriate locations and sizes for markets”.

*Development by Local Authorities and Health Service Bodies*

21. A time-limited permitted development right that was originally introduced in 2020 and subsequently extended<sup>7</sup> is **extended** by a further 12 months until 31 December 2022 to allow local authorities and health service bodies to facilitate the development and change of use of premises in response to the pandemic without the requirement to submit a planning application. According to DLUHC, this right has been used widely to deliver the Nightingale Hospitals and to provide additional buildings to support the rollout of the vaccination programme.

*Conclusion*

22. While we acknowledge the intention to support the economic recovery from the pandemic, **we are concerned that some of the temporary measures which were originally introduced in response to an emergency, and which could have a potentially adverse impact on members of the public, are being made permanent through this negative instrument, and therefore without the guarantee of robust parliamentary scrutiny and debate that primary legislation would provide.** Under the new arrangements, members of the public who may have concerns about a development will no longer be able to raise their concerns through the planning process. **We regret that the Department has not yet published the Government’s response to the consultation, especially as we were told that two thirds of individuals who responded to the consultation were opposed to making the permitted development right permanent in relation to moveable structures.**
23. **We have raised similar concerns before:<sup>8</sup> this is yet another example of impactful and permanent changes being made under the pretext of the pandemic and under the authority of an Act of Parliament, but under circumstances which could hardly have been anticipated when the original primary legislation was passed.**

---

6 Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 ([SI 2020/632](#)), subsequently extended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations ([SI 2020/1243](#)).

7 Town and Country Planning (General Permitted Development) (Coronavirus) (England) (Amendment) Order 2020 (SI 2020/412), subsequently extended by the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations ([SI 2020/1243](#)).

8 See, for example; Secondary Legislation Scrutiny Committee [52nd Report](#) (Session 2019-21, HL Paper 268) and SLSC, [25th Report](#) (Session 2019-21, HL Paper 123).

**Prison and Young Offenders Institution (Coronavirus) (Amendment)  
Rules 2022 (SI 2022/4)**

*Date laid: 5 January 2022*

*Parliamentary procedure: negative*

24. *The original Rules set up provision for prisons and Young Offender Institutions to apply a stricter regime to prevent the transmission of coronavirus in their populations, which might include inmates spending longer hours in isolation, being denied visits and the cancellation of education and rehabilitation classes. We were particularly concerned about the effects of such a regime on the mental health of all inmates and on the education of young offenders. To manage the threat of Omicron, these amending Rules extend to 24 March 2022 the period in which the coronavirus regime may be applied. We remain concerned about its effects if applied over long periods, but this report includes helpful material from the Ministry of Justice setting out how the scheme has been operating, and how prisons have been monitoring and seeking to mitigate the negative effects.*
25. **These Rules are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.**

*Background*

26. To manage the threat of Omicron, these Rules (“the new Rules”) amend the Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020 (“the original Rules”) to change the definition of the “transition period” from “three months from the end of a transmission control period” (which would end on 27 January 2022) to a period ending 24 March 2022 (thus extending it to five months).
27. The original Rules set up provision for prisons and Young Offender Institutions to apply a stricter regime to prevent the transmission of coronavirus in their populations, which might include inmates spending longer hours in isolation, being denied visits and the cancellation of education and rehabilitation classes. We were particularly concerned about the effects of such a regime on the mental health of all inmates and on the education of young offenders.<sup>9</sup>
28. The original Rules also provided that once the Secretary of State for Health declared the end of the transmission control period, the subsequent transition period would initially last three months, with the Secretary of State for Justice being able to extend this for up to one month at a time, to a maximum of six months in total. Both we and the Joint Committee on Statutory Instruments<sup>10</sup> criticised this “rolling extension” provision, and it was subsequently limited to three months by amending regulations.<sup>11</sup>
29. Although the new Rules use the appropriate legislative vehicle, and the Explanatory Memorandum (EM) makes clear that the extension provides a facility that Governors should use only if necessary, the effect of the extension is almost to double the length of the transition period. The EM is thin on practical detail about how the regime has operated so far, we therefore asked

9 Prison and Young Offender Institution (Coronavirus) (Amendment) (No.2) Rules 2020 ([SI 2020/508](#)). SLSC [16th Report](#) (Session 2019-21, HL Paper 68).

10 Joint Committee on Statutory Instruments, [15th Report](#) (Session 2019-21, HC Paper 75, HL Paper 81).

11 Prison and Young Offender Institution (Coronavirus, etc.) (Amendment) (No. 3) Rules 2020 ([SI 2020/1077](#)).

the Ministry of Justice (MOJ) to provide further information on how the scheme has been operating and how prisons have been monitoring and seeking to mitigate the negative effects:

**Restrictions to inmate regime during the pandemic:** “Her Majesty’s Prison and Probation Service (HMPPS) has taken advice from the UK Health Security Agency (UKHSA – formerly Public Health England) and Public Health Wales on reducing the risks associated with outbreaks of coronavirus in prisons throughout the pandemic. This has required necessary changes to regime delivery, enabled by the temporary Prison Rule modifications that this SI seeks to extend.

The use of these restrictions has been kept under regular review throughout the pandemic and restrictions have been lifted as soon as it has been deemed safe to do so, in line with public health advice. These decisions have been guided by the ‘Covid-19: National Framework for Prisons,<sup>12</sup> which describes five ‘Regime Stages’ with varying degrees of restrictions. Where regime restrictions have been necessary, mitigations have been in place to support wellbeing, for example, video calls and additional phone credit to support social contact.

During periods of lower infection rates and reduced risk, prisons have been able to provide more expansive regimes with fewer restrictions. During the summer of 2020 and from April 2021, for example, restrictions on social visits were lifted as soon as possible. By December 2021, the majority of prisons were operating at ‘Stage 1’ of the National Framework. This is the least restrictive Stage in which the majority of the regime runs as normal alongside a set of core infection controls (e.g. quarantining of new entrants, asymptomatic testing of prisoners and staff, ventilation, handwashing).

The emergence of the Omicron variant has required the reintroduction and ongoing use of some regime restrictions to manage the risk of infection, which is why the extension has been sought via this SI.”

**“Transmission control period” and “transition period”:** “The same temporary Rule changes introduced during the transmission control period apply during the transition period. The purpose of the transition period is to give prisons more time to deal with the higher Covid risk from the new variant, and transition back to normal operations. The extension is required in direct response to the threat posed by Omicron and the requirement to reintroduce more restricted regimes in order to control the transmission risk and threat to health and life.

The provisions set out in the SI are designed to give Governors the flexibility they need to respond to the coronavirus pandemic; they do not mandate that prisons must follow a more restricted regime. As the situation has evolved throughout the course of the pandemic, regime restrictions have been eased at the earliest opportunity, on the basis of public health advice. Where they are no longer required to ensure the health of prisoners and staff, the restrictions that are currently in place

---

<sup>12</sup> Ministry of Justice, ‘COVID-19: National Framework for Prison Regimes and Services’: <https://www.gov.uk/government/publications/covid-19-national-framework-for-prison-regimes-and-services> [accessed 19 January 2022].

to support our response to Omicron will be eased as soon as possible, as appropriate to the circumstances of each prison.”

**Effects of restricted regime on prisoners’ mental health:**

“Throughout the pandemic HMPPS has been capturing and sharing lessons learned from our ongoing response to Covid.<sup>13</sup> Our evidence shows that, as with the wider community, prisoners and staff have experienced continuing and increasing emotional and mental health strain. The House of Commons Justice Select Committee<sup>14</sup> and HM Inspectorate of Prisons<sup>15</sup> have also highlighted the impact of restricted regimes on the mental health of prisoners.

Maintaining safety and the mental health and wellbeing of prisoners remains a priority, as it has throughout the pandemic. We acknowledge that, while the restrictions we have put in place have been necessary to save lives, for some individuals there have been negative consequences, as in the community. Every effort has been made to minimise the associated harms from regime restrictions in terms of wellbeing and mental health.

In April 2020 a range of mitigations were introduced to support prisoners while regimes have been restricted. We have adapted their use depending on the degree of restriction in place over time, but currently prisons are operating with supplementary phone credit for prisoners, additional secure video calls, as well as a number of other mitigations that prisons can draw on depending on their local requirements (e.g. prisoner pay, removal of TV rental charge etc).

We have also made a Wellbeing Fund available to Governors equivalent to £10 per prisoner which can be put towards additional resources and materials to support prisoners’ mental health and wellbeing, based on local needs and priorities.

During the pandemic we have provided tailored guidance for supporting specific groups of people in prison whose wellbeing may be more impacted by restrictions to regime and have produced a range of products to support Governors in devising and implementing local safety and welfare plans. This has included resources for staff assisting prisoners who might be struggling, in-cell activity materials for prisoners aimed at improving wellbeing, and work with the Samaritans to ensure the Listener peer support scheme continues to function effectively. For prisoners with severe mental health issues, we are doing everything we can to ensure that the process for transfer to hospital continues as normal.”

---

13 Insights Group, ‘Learning as we Deliver Prison and Probation Services Through a Pandemic’: <https://www.hmppsinsights.co.uk/learning-as-we-deliver-prison-and-probation-services-through-a-pandemic/> [accessed 19 January 2022].

14 Justice Committee, *Coronavirus (Covid-19): The impact on prisons*, (Fourth Report, Session 2019-21, HC Paper 299).

15 HM Inspectorate of Prisons, *What Happens to Prisoners in a Pandemic? (February 2021)*: <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf> [accessed 19 January 2022].

### Conclusion

30. From the start of the pandemic<sup>16</sup> we have expressed concerns about the effects of such a restrictive regime on the mental health, education and rehabilitation of offenders. The documents helpfully provided by MOJ indicate that our concerns were well founded, and that, while some mitigations have been effective, others have not; and the long-term effects on prisoners have yet to be evaluated. The documents also indicate negative effects on staff health and welfare from the restrictive coronavirus regime. While we appreciate that MOJ is in a difficult position, we would hope that it will encourage Governors to use the “lockdown” provisions allowed by this legislation very sparingly.

---

16 SLSC *16th Report* (Session 2019-21, HL Paper 68).

## **CORRESPONDENCE**

---

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

31. 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. We asked for these updates to continue in 2022 while pandemic measures remain in place. Our request and a further update are published at Appendix 1.



## INSTRUMENTS RELATING TO COVID-19

---

### Changes to business practice and regulation

*Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2022 (SI 2022/5)*

*Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2022 (SI 2022/9)*

32. These two instruments enable employers with fewer than 250 employees to apply to HM Revenue and Customs for a refund of the cost of paying Statutory Sick Pay (SSP) to their employees, where an employee's incapacity for work is related to coronavirus. This includes employees who are unwell with coronavirus or are self-isolating or shielding. The temporary scheme is part of the Government's support package to help businesses deal with the impact of the Omicron variant.<sup>17</sup> While SI 2022/5 applies to Great Britain, SI 2022/9 makes provision in relation to Northern Ireland. The maximum amount which an employer may receive as a refund for a single employee is £192.70, the equivalent of two weeks of SSP at the current rate. The refunds will be paid for days of incapacity for work occurring between 21 December 2021 and 24 March 2022, and any claims must be made no later than 24 March 2022.

### Travel

*Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) Regulations 2022 (SI 2022/11)*

33. This instrument amends the International Travel Regulations<sup>18</sup> to remove a number of the temporary border measures introduced to delay the arrival of the Omicron variant. As Omicron is now the dominant variant domestically, importation from international arrivals is no longer a significant factor in transmission. This amendment removes the requirement for eligible travellers to carry out a pre-departure test and to self-isolate until the receipt of a negative COVID-19 Day 2 test result on the grounds that these measures are no longer proportionate. It also reintroduces the option for eligible travellers to take a Day 2 Lateral Flow Device (LFD) test instead of a Day 2 Polymerase Chain Reaction (PCR) test. Where a Day 2 LFD test is positive, the eligible traveller will still be required self-isolate in accordance with the Self-Isolation Regulations and take a confirmatory PCR test. Additionally, the Regulations expand the lists of approved vaccines and recognised countries for the purposes of vaccine certification.

### Public Services

*Official Controls (Temporary Measures) (Coronavirus) (Amendment) (No. 3) Regulations 2021 (SI 2021/1491)*

34. This instrument extends until 1 July 2022 legislation which allows competent authorities in Great Britain to maintain existing temporary measures related to official controls which are conducted to ensure the application of food and feed law, rules on animal health and welfare, plant health

---

17 HM Treasury, 'COVID-19 economic support package': <https://www.gov.uk/government/publications/covid-19-economic-support-package> [accessed 19 January 2022].

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

and plant protection products while addressing disruptions arising from the pandemic. According to the Department for Environment, Food and Rural Affairs (Defra), the instrument will extend current powers allowing control authorities to authorise, within strict parameters, natural persons to undertake official controls and official activities under their instruction by any available means of communication; to allow control authorities to conduct checks on electronically submitted documents rather than hard copies, and to undertake such checks away from the border; and to allow control authorities to conduct meetings with operators by using remote communications. **The instrument came into force before being laid before Parliament.** Defra says that this was necessary because of the time needed over the Christmas period to obtain consent from the Scottish and Welsh Governments.

## INSTRUMENTS OF INTEREST

---

### Draft Passenger, Crew and Service Information (Civil Penalties) (Amendment) Regulations 2022

35. The original Regulations imposed a civil penalty of £10,000 for each offence on rail, air and ferry companies that failed to send accurate and timely information on passengers, crew and services to the Home Office before their arrival or departure from the UK. No such fines have ever been imposed as the deterrent has been effective. To prevent the legislation lapsing at the end of March 2022, these Regulations remove a sunset clause so as **to make the legislation permanent**. While we welcome the legislation's success, we disagree with the Home Office's assumption that the sunset clause was only there to see if the policy operated as intended initially. Sunset clauses are also intended as a mechanism for ensuring regular reviews of a piece of legislation to assess whether it remains effective as circumstances and technology change over time.

### Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2021 (SI 2021/1397)

36. This instrument grants derogations requested by the Ministry of Defence (MOD) for the use of halon-1301 for the protection of engine nacelles and auxiliary power units in new Apache helicopters and Boeing E7 Wedgetail aircraft. The Department for Environment, Food and Rural Affairs (Defra) explains that halons are a type of ozone-depleting substance which have a very limited use in the UK that is tightly controlled and monitored and only permitted in essential applications where no alternatives are available, such as fire extinguishers in ships and aircraft, laboratory and analytical uses, and as feedstock for other chemicals. Imports and exports must be licensed and annual reports on production and consumption must be submitted to the UN Ozone Secretariat. Before Brexit, the European Commission undertook most of the control functions on behalf of the UK, including granting derogations in the case of critical uses of halons. These functions are now carried out by the UK Government.
37. The Explanatory Memorandum states that the derogation granted by this instrument applies to Great Britain only and that EU law continue to apply in Northern Ireland (NI). We asked Defra whether equivalent derogations exist under EU law in NI and if not, whether this will impact on the operation of Apache helicopters or Boeing Wedgetails in NI. The Department told us that: "The ability to grant such derogations is the same under EU law. However, no derogation has been sought by the MOD from the European Commission for the purpose covered by this SI. MOD don't plan to operate the aircraft out of NI, so there is no need for them to seek such a derogation from the Commission."
38. As the Boeing Wedgetail is based on a commercial aircraft (Boeing 737), we asked Defra whether the derogation for the use of halon-1301 was also needed for commercial models of that plane which have been in use for many years. The Department explained that the rules require a derogation only for equipment which qualifies as "new equipment" and that:

"The 'cut-off date' for halon-based fire suppression systems used to protect engine nacelles and auxiliary power units is 31 December

2014. The different variants of the commercial 737 fall under the same type certification, which was originally issued several decades ago and therefore before the cut-off date. This means they do not fall within the term ‘new equipment’ and so do not require a derogation.

The Wedgetail aircraft that are the subject of this derogation are considered to fall within the term ‘new equipment’. A new type certification for the military Wedgetail aircraft is required as the design and use is different from the civilian version already in service and the Wedgetail’s military type certification (and the MOD’s procurement contract signature) occurred after the relevant cut-off date. Therefore, the Wedgetail falls within the term ‘new equipment’ and so requires a derogation.”

39. The Department also states that the use of halon-1301 is required because there are currently no technically and economically feasible alternatives available. We remain concerned, however, about the environmental impact of using this ozone depleting substance.

#### **Nuclear Safeguards (Fees) Regulations 2021 (SI 2021/1406)**

40. This instrument introduces a cost recovery scheme for the regulation of nuclear safeguards.<sup>19</sup> The new scheme allows the Office for Nuclear Regulation (ONR) to charge industry for most of the regulatory nuclear safeguards activities it undertakes, including monitoring compliance, inspection and assessment, accountancy, and management activities.
41. The Department for Business, Energy and Industrial Strategy (BEIS) explains that while the UK was part of the Euratom nuclear safeguards regime, industry did not pay for regulation as this was paid for by taxpayers through the UK’s contribution to the EU’s Multiannual Financial Framework. Following the UK’s exit from the EU and the Euratom Treaty, the UK replaced the Euratom safeguards arrangements with a new domestic regime, with the ONR as the UK regulator of nuclear safeguards. The new safeguards regime came into effect on 31 December 2020 and the Government funded the cost of its operation for the first 15 months to ease the transition for industry. This funding will end on 31 March 2022 and the new cost recovery mechanism will start on 1 April, with an estimated equivalent annual net direct cost to business of less than £4 million. The Government will continue to fund some international reporting activities, and there will be exemptions for “qualifying nuclear facilities with limited operation”. Asked whether NHS hospitals or universities which use nuclear material for medical or research purposes would benefit from the exemption, BEIS told us that:

“We anticipate that examples of the types of business that could benefit from the exemption will vary and will range from organisations providing independent research, environmental research, engineering and consulting services; universities; laboratories; to healthcare services providers. However, as the definition is based on the quantity (less than one effective kilogram) and type of qualifying nuclear material held, and the operations undertaken, we cannot say all these types of businesses

---

<sup>19</sup> Nuclear safeguards are the accounting, inspection and verification mechanisms which enforce international nuclear non-proliferation commitments that the UK’s civil nuclear material is not unlawfully diverted into military use.

will be exempt from paying a fee to ONR for the regulatory functions ONR carry out related to their business. In order to benefit from the exemption, each business is considered on a case-by-case basis in order to determine whether they fall within the definition of a “qualifying nuclear facility with limited operation”.

42. BEIS added that:

“Prior to becoming the domestic safeguards regulator, ONR worked closely with Euratom to facilitate their safeguards activities in the UK. As a result, ONR has long-term and comprehensive knowledge of the organisations subject to safeguards regulation. ONR has confirmed to BEIS that all universities/research establishments and hospitals who are subject to safeguards regulation in the UK do qualify for the exemption from cost recovery.”

BEIS also told us that the policy was tested through a twelve-week public consultation as well as more targeted engagement, including with the Association of University Radiation Protection Officers. BEIS says that one NHS Teaching Hospital Trust responded to the public consultation and agreed with the proposed approach.

### **Statement of changes in Immigration Rules (HC 913)**

43. This instrument clarifies the eligibility criteria for the Afghan Relocations and Assistance Policy (ARAP), makes clear that dependants can be refused where the main ARAP applicant is refused, and removes the requirement for dependants to be Afghan nationals, so that families can be kept together. It was brought into immediate effect on the day of laying, 14 December 2021, but the House has 40 days from then to pass a resolution if it has concerns.
44. The Home Office states that ARAP is open to employees of HM Government (HMG) and a few others who have worked with or alongside HMG in exceptional circumstances. Those eligible must have worked alongside, indirectly or in partnership with HMG, in a meaningful, exposed role, and made a material positive contribution to HMG’s national security (including counter-terrorism, counter-narcotics and anti-corruption) or military objectives.
45. The Home Office indicates that the changes will not have a great impact on the numbers admitted. The Ministry of Defence has received many more applications than will be eligible. However, those applications refused under the updated Rules would also have been refused under the previous Rules. The effect of the updated Rules is to make clearer the basis on which an application has been refused, so as to make it easier for an applicant to understand and for HMG to defend their decisions in the event of legal challenges.

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

---

### Draft instruments subject to affirmative approval

|       |  |
|-------|--|
| Draft | Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2022                         |
| Draft | Microchipping of Dogs (England) (Amendment) Regulations 2022                           |
| Draft | Money Laundering and Terrorist Financing (Amendment) Regulations 2022                  |
| Draft | Passenger, Crew and Service Information (Civil Penalties) (Amendment) Regulations 2022 |

### Instruments subject to annulment

|              |   |
|--------------|---|
| SI 2021/1397 | Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2021  |
| SI 2021/1406 | Nuclear Safeguards (Fees) Regulations 2021  |
| SI 2021/1455 | Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021  |
| SI 2021/1469 | Transfer of Functions (Vaccine Damage Payments) Order 2021  |
| SI 2021/1491 | Official Controls (Temporary Measures) (Coronavirus) (Amendment) (No. 3) Regulations 2021                           |
| SI 2021/5    | Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) Regulations 2022                               |
| SI 2021/9    | Statutory Sick Pay (Coronavirus) (Funding of Employers' Liabilities) (Northern Ireland) Regulations 2022            |
| SI 2022/11   | Health Protection (Coronavirus, International Travel and Operator Liability) (England) (Amendment) Regulations 2022 |
| HC 913       | Statement of changes in Immigration Rules   |

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

---

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

Thank you for your letter of 30 November in which you explained that the December update will be the final one, in line with a commitment you gave the Committee earlier this year. We discussed your letter at our most recent meeting. We recognise that these updates take time to put together, but we believe that further monthly updates next year would be helpful to the House and wider public while the pandemic is ongoing and new statutory instruments are being laid which include sunset provisions. We note that there are more than a dozen statutory instruments currently in force which will expire in 2022, with sunset provisions ranging from January to September 2022.

I would be grateful if we could receive the next update by 12 noon on Monday, 10 January to enable us to share it with the Committee at our first meeting after Christmas Recess on 11 January, and further updates at the beginning of each month thereafter.

**8 December 2021**

### **Letter from the Rt Hon. Jacob Rees-Mogg MP to Lord Hodgson of Astley Abbotts**

Thank you for your letter of 8 December 2021. Given recent developments in the pandemic and the emergence of the Omicron Coronavirus variant, I am sympathetic to your request for further updates on Coronavirus-related statutory instruments (Sis) containing sunset provisions. As of 5 January 2022, the Government has laid a total of 424 Coronavirus-related Sis, of which 44 containing a specific sunset provision have not yet expired or have been extended.

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.

Since my previous letter dated 30 November, further Sis with specific sunset dates have been laid in response to the threat posed by the Omicron Coronavirus variant. These, and where applicable their antecedents, can be found in Rows 35–44 of Annex A.

*Annex A- Provisions still in force*

|   | <b>Dept</b> | <b>Title</b>  | <b>Sunset Provision</b>   |
|---|-------------|---|---|
| 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. |



|    | <b>Dept</b> | <b>Title</b>  | <b>Sunset Provision</b>  |
|----|-------------|---|--|
| 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 were extended. See row below.  |
| 18 | DLUHC       | The Town And Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020                      | 31/12/2021 -These regulations have been extended. See row below.   |

|    | <b>Dept</b> | <b>Title</b>   | <b>Sunset Provision</b>   |
|----|-------------|--|---|
| 19 | DLUHC       | The Town And Country Planning (General Permitted Development Etc.) (England) (Amendment) (No. 3) Order 2021  | 31/12/2022 - Provisions relating to the use of buildings to support the vaccination programme.<br><br>This SI also makes some previously temporary provisions permanent. See Annex B. |
| 20 | DWP         | The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020             | 12/11/2020 - These regulations were extended. See row below.  |
| 21 | 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.   |
| 22 | DWP         | The Social Security (Coronavirus) (Miscellaneous Amendments) Regulations 2021                                | 12/11/2021 -The Employment Support Allowance provisions have been further extended. See row below.  |
| 23 | DWP         | The Employment and Support Allowance and Universal Credit (Coronavirus Disease) (Amendment) Regulations 2021 | 24/03/2022  |
| 24 | DfE         | The School Admissions (Appeals Arrangements) (England) (Amendment) (Coronavirus) Regulations 2020            | 31/01/2021- These regulations were extended. See row below.   |
| 25 | DfE         | The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021            | 30/09/2021-These regulations have been extended. See row below.   |
| 26 | DfE         | The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) (No. 2) Regulations 2021    | 30/09/2022  |

|    | <b>Dept</b> | <b>Title</b>   | <b>Sunset Provision</b>   |
|----|-------------|--|---|
| 27 | 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.   |
| 28 | 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.   |
| 29 | 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.  |
| 30 | BEIS        | The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) (No. 2) Regulations 2021         | 31/03/2022  |
| 31 | BEIS        | The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Change of Expiry Date) Regulations 2021                    | 29/04/2022  |
| 32 | BEIS        | The Feed-in Tariffs (Amendment) (Coronavirus) (No. 2) Order 2020   | <p>These regulations contain multiple expiry dates depending on which provisions they apply to:</p> <p>Anaerobic digestion and wind installations - 31/03/2021 (expired)</p> <p>Community solar installations - 31/03/2021 (expired)</p> <p>Community anaerobic digestion and wind installations - 30/09/2021 (expired)</p> <p>Hydro installations - 31/03/2022</p> <p>Community hydro installations - 30/09/2022</p> |

|    | <b>Dept</b> | <b>Title</b>  | <b>Sunset Provision</b>  |
|----|-------------|---|--|
| 33 | DIT         | The Health Protection (Coronavirus, Public Health Advice for Passengers) (England) Regulations 2020               | 08/06/2021 -These have been extended. See row below.             |
| 34 | Dff         | The Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021       | 16/05/2022   |
| 35 | DEFRA       | The Official Controls (Temporary Measures) (Coronavirus) (Amendment) Regulations 2021                             | 01/07/2021 -These regulations were extended. See row below.      |
| 36 | DEFRA       | The Official Controls (Temporary Measures) (Coronavirus) (Amendment) (No. 2) Regulations 2021                     | 31/12/2021-These regulations have been extended. See row below.  |
| 37 | DEFRA       | The Official Controls (Temporary Measures) (Coronavirus) (Amendment) (No. 3) Regulations 2021                     | 01/07/2022   |
| 38 | DHSC        | The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020                     | 27/09/2021 -These regulations have been extended. See row 40.    |
| 39 | DHSC        | The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020                              | 17/01/2021 -These regulations have been extended. See row below. |
| 40 | DHSC        | The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 3) Regulations 2021 | 24/03/2022   |
| 41 | DHSC        | The Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021                         | 20/12/2021 -These regulations have been extended. See row below. |
| 42 | DHSC        | The Health Protection (Coronavirus, Wearing of Face Coverings) (England) (Amendment) Regulations 2021             | 26/01/2022   |

|    | Dept | Title   | Sunset Provision |
|----|------|---|------------------|
| 43 | DHSC | The Health Protection (Coronavirus, Restrictions) (Entry to Venues and Events) (England) Regulations 2021 | 26/01/2022       |
| 44 | DWP  | The Statutory Sick Pay (Medical Evidence) Regulations 2021  | 26/01/2022       |

*Annex B- Provisions that have been made permanent*

| Dept  | Title   |
|-------|---|
| DLUHC | The Environmental Assessment of Plans and Programmes (Coronavirus) (Amendment) Regulations 2020 was made permanent by The Environmental Assessment of Plans and Programmes (Amendment) Regulations 2020   |
| DLUHC | The Infrastructure Planning (Publication and Notification of Applications etc.) (Coronavirus) (Amendment) Regulations 2020 was made permanent by The Infrastructure Planning (Publication and Notification of Applications etc.) (Amendment) Regulations 2020   |
| DfE   | The Schools Forums (England) (Coronavirus) (Amendment) Regulations 2020 was made permanent by The School and Early Years Finance (England) Regulations 2021   |
| DIT   | The Traffic Order Procedure (England) (Coronavirus) (Amendment) Regulations 2020 The transitional provisions to preserve continuity following the expiry of the amendments are in force permanently. Other provisions have expired.   |
| DLUHC | The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 - [only provisions in relation to moveable structures within the curtilage of pubs, cafes, restaurants, etc.] The Town and Country Planning (General Permitted Development) (England) (Amendment) (Coronavirus) Order 2021- [only provisions in relation to markets by or on behalf of Local Authorities] have been made permanent by The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2021 |

*Annex C- Expired Provisions*

| <b>Dept</b> | <b>Title</b>   |
|-------------|--|
| DHSC        | The Health Protection (Coronavirus) Regulations 2020<br>This SI was revoked and replaced by the Coronavirus Act 2020 |
| 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                 |

| <b>Dept</b> | <b>Title</b>  |
|-------------|---|
| 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                            |
| MoJ         | The Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020                           |

| <b>Dept</b>  | <b>Title</b>  |
|--------------|---|
| 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  |
| DIT          | 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  |
| Dff          | The Motor Vehicles (Tests) (Amendment) Regulations 2020   |
| Dff          | The Motor Vehicles (Tests) (Amendment) (Coronavirus) (No.2) Regulations 2020  |
| MoJ          | The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2021  |
| Dff/<br>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   |



| Dept  | Title  |
|-------|--|
| 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   |
| DLUHC | The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020 |
| DLUHC | The Town and Country Planning (Development Management Procedure) (England) Coronavirus (Amendment) Order 2020  |

| <b>Dept</b> | <b>Title</b>  |
|-------------|---|
| DLUHC       | The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020     |
| DLUHC       | The Town and Country Planning (Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 |

**7 January 2022**

## APPENDIX 2: INTERESTS AND ATTENDANCE

---

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

For the business taken at the meeting on 18 January 2022, Members declared the following interests.

### **Building Regulations etc. (Amendment) (England) Regulations 2021**

The Earl of Lindsay

*Chairman, United Kingdom Accreditation Service (UKAS)*

### **Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021**

The Earl of Lindsay

*Chairman, United Kingdom Accreditation Service (UKAS)*

### **Attendance:**

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