



House of Lords
House of Commons
Joint Committee on
Statutory Instruments

Twenty-Fifth Report of Session 2021–22

Drawing special attention to:

*Ozone-Depleting Substances (Grant of Halon Derogations) Regulations 2021
(S.I. 2021/1397)*

*Ordered by the House of Lords
to be printed 23 February 2022*

*Ordered by the House of Commons
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Joint Committee on Statutory Instruments

Current membership

House of Lords

[Lord Beith](#) (*Liberal Democrat*)

[Lord Chartres](#) (*Crossbench*)

[Baroness D'Souza](#) (*Crossbench*)

[Baroness Gale](#) (*Labour*)

[Lord Haskel](#) (*Labour*)

[Baroness Newlove](#) (*Conservative*)

[Lord Smith of Hindhead](#) (*Conservative*)

House of Commons

[Jessica Morden MP](#) (*Labour, Newport East*) (Chair)

[Dr James Davies MP](#) (*Conservative, Vale of Clwyd*)

[Paul Holmes MP](#) (*Conservative, Eastleigh*)

[John Lamont MP](#) (*Conservative, Berwickshire, Roxburgh and Selkirk*)

[Sir Robert Syms MP](#) (*Conservative, Poole*)

[Richard Thomson MP](#) (*Scottish National Party, Gordon*)

[Liz Twist MP](#) (*Labour, Blaydon*)

Powers

The full constitution and powers of the Committee are set out in [House of Commons Standing Order No. 151](#) and [House of Lords Standing Order No. 74](#), relating to Public Business.

Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each House to any instrument on one or more of the following grounds:

- i that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii that its parent legislation says that it cannot be challenged in the courts;
- iii that it appears to have retrospective effect without the express authority of the parent legislation;
- iv that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;

- v that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii that its form or meaning needs to be explained;
- viii that its drafting appears to be defective;
- ix any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

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The reports of the Committee are published by Order of both Houses. All publications of the Committee are on the Internet at www.parliament.uk/jcsi.

Committee staff

The current staff of the Committee are Sue Beeby (Committee Operations Officer), Apostolos Kostoulas (Committee Operations Officer), Luanne Middleton (Commons Clerk), Christine Salmon Percival (Lords Clerk). Advisory Counsel: Sarita Arthur-Crow, Klara Banaszak, Daniel Greenberg, and Vanessa MacNair (Commons); Nicholas Beach, James Cooper, and Ché Diamond (Lords).

Contacts

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, House of Commons, London SW1A 0AA. The telephone number for general inquiries is: 020 7219 7599; the Committee's email address is: jcsi@parliament.uk.

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Instruments reported

At its meeting on 23 February 2022 the Committee scrutinised a number of instruments in accordance with Standing Orders. It was agreed that the special attention of both Houses should be drawn to one of those considered. The instrument and the grounds for reporting it are given below. The relevant departmental memorandum is published as an appendix to this report.

1 S.I. 2021/1397: Reported for failure to comply with proper legislative practice

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

1.1 **The Committee draws the special attention of both Houses to these Regulations on the ground that they fail to comply with proper legislative practice in one respect.**

1.2 These Regulations, which are subject to the negative resolution procedure, grant derogations that permit military uses of halon-1301. They are made under Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (EUR 1005/2009, in its retained EU legislation form), which includes at Article 25D a requirement to consult persons “representative of the interests likely to be substantially affected” as well as any other appropriate persons before making regulations. The Committee asked the Department for Environment, Food and Rural Affairs whether consultation took place, and, if it did, why this was not stated in the preamble. In a memorandum printed as an Appendix, the Department confirms that it did comply with its statutory duty to consult and acknowledges that this should have been stated in the preamble. **The Committee accordingly reports the preamble for failure to comply with proper legislative practice, acknowledged by the Department.**

Instruments not reported

At its meeting on 23 February 2022 the Committee considered the instruments set out in the Annex to this Report, none of which was required to be reported to both Houses.

Annex

Instruments requiring affirmative approval

- | | |
|----------------------|---|
| S.I. 2022/123 | Russia (Sanctions) (EU Exit) (Amendment) Regulations 2022 |
| S.I. 2022/161 | Health Protection (Coronavirus, Restrictions) (Self-Isolation etc.) (Revocation) (England) Regulations 2022 |

Draft Instruments requiring affirmative approval

- | | |
|--------------|--|
| Draft | Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2022 |
| Draft | Agriculture (Financial Assistance) (Amendment) Regulations 2022 |
| Draft | Direct Payments to Farmers (Reductions) (England) Regulations 2022 |
| Draft | Commissioner for Patient Safety (Appointment and Operation) (England) Regulations 2022 |
| Draft | Electricity Supplier Payments (Amendment) Regulations 2022 |
| Draft | Human Medicines (Amendments Relating to the Early Access to Medicines Scheme) Regulations 2022 |

Instruments subject to annulment

- | | |
|-----------------------|---|
| S.I. 2021/1441 | Government Resources and Accounts Act 2000 (Estimates and Accounts) (Amendment) Order 2021 |
| S.I. 2021/1442 | Customs Importation (Miscellaneous Provisions and Amendment) (EU Exit) (Amendment) Regulations 2021 |
| S.I. 2021/1455 | Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2021 |
| S.I. 2022/8 | Personal Protective Equipment at Work (Amendment) Regulations 2022 |
| S.I. 2022/10 | Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2022 |
| S.I. 2022/14 | Public Lending Right Scheme 1982 (Commencement of Variation) Order 2022 |
| S.I. 2022/27 | School and Early Years Finance (England) Regulations 2022 |
| S.I. 2022/29 | Ammonium Nitrate Materials (High Nitrogen Content) Safety (Amendment) Regulations 2022 |

- S.I. 2022/41** Merchant Shipping (High Speed Offshore Service Craft) Regulations 2022
- S.I. 2022/54** Family Proceedings Fees (Amendment) Order 2022
- S.I. 2022/60** Universal Credit and Employment and Support Allowance (Claimant Commitment Exceptions) (Amendment) Regulations 2022

Draft Instruments subject to annulment

- Draft** Bedford (Electoral Changes) Order 2022

Instruments not subject to parliamentary proceedings not laid before Parliament

- S.I. 2022/48** Environment Act 2021 (Commencement No. 2 and Saving Provision) Regulations 2022

Appendix

S.I. 2021/1397

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

1. The Committee has asked the Department for Environment, Food and Rural Affairs for a memorandum on the following point:

Explain whether consultation took place as required by Article 25D and, if it did, why this is not stated in the preamble.

2. Consultation took place as required by Article 25D. The Explanatory Memorandum states that the Devolved Administrations were consulted. The only body or person with a substantial interest in the Regulations was the applicant for the derogation granted by the Regulations. The Department gathered information and evidence from the applicant.

3. The preamble to the Regulation should have stated that the consultation condition at Article 25D had been satisfied. The Department will request the SI Registrar to correct this point.

Department for Environment, Food and Rural Affairs

8 February 2022

Formal Minutes

Wednesday 23 February 2022

Virtual meeting

Members present:

Jessica Morden, in the Chair

Lord Beith

Baroness D’Souza

Lord Haskel

Paul Holmes

John Lamont

Lord Smith of Hindhead

Richard Thomson

Liz Twist

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.2 read and agreed to.

Annex agreed to.

A Paper was appended to the Report.

Resolved, That the Report be the Twenty-Fifth Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Adjourned till Wednesday 2 March at 3.40 p.m.