



House of Commons
European Statutory
Instruments Committee

**Second Report
of Session 2017–19**

**Documents considered by the Committee on
12 September 2018**

Drawing attention to:

The Cat and Dog Fur (Control of Import, Export and Placing on the Market)
(EU Exit) Regulations 2018

Report, together with formal minutes

*Ordered by the House of Commons
to be printed 12 September 2018*

European Statutory Instruments Committee

The European Statutory Instruments Committee is appointed by the House of Commons to examine and report on:

(i) any of the following documents laid before the House of Commons in accordance with paragraph 3(3)(b) or 17(3)(b) of Schedule 7 to the European Union (Withdrawal) Act 2018—

- (a) a draft of an instrument; and
- (b) a memorandum setting out both a statement made by a Minister of the Crown to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament (the negative procedure) and the reasons for that opinion, and

(ii) any matter arising from its consideration of such documents.

Current membership

[Sir Patrick McLoughlin MP](#) (*Conservative, Derbyshire Dales*) (Chair)

[Kirsty Blackman MP](#) (*Scottish National Party, Aberdeen North*)

[Nic Dakin MP](#) (*Labour, Scunthorpe*)

[Mr Philip Dunne MP](#) (*Conservative, Ludlow*)

[Ms Angela Eagle MP](#) (*Labour, Wallasey*)

[Sir David Evennett MP](#) (*Conservative, Bexleyheath and Crayford*)

[Vicky Ford MP](#) (*Conservative, Chelmsford*)

[Patrick Grady MP](#) (*Scottish National Party, Glasgow North*)

[Trudy Harrison MP](#) (*Conservative, Copeland*)

[Julia Lopez MP](#) (*Conservative, Hornchurch and Upminster*)

[Ian C. Lucas MP](#) (*Labour, Wrexham*)

[Bridget Phillipson MP](#) (*Labour, Houghton and Sunderland South*)

[Mary Robinson MP](#) (*Conservative, Cheadle*)

[Andrew Selous MP](#) (*Conservative, South West Bedfordshire*)

[Jo Stevens MP](#) (*Labour, Cardiff Central*)

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

Powers

The Committee's powers are set out under a Temporary Standing Order of 16 July 2018.

Publications

The reports of the Committee are published in print by Order of the House. All publications of the Committee are available on the Internet from www.parliament.uk/esic.

Committee staff

The current staff of the Committee are Mike Winter (Clerk), Yohanna Sallberg (Second Clerk), Paul Simpkin (Senior Committee Assistant) and Zsofia Kiss (Committee Assistant). Advisory Counsel: Daniel Greenberg, Klara Banaszak and Vanessa MacNair.

All correspondence should be addressed to the Clerk of the European Statutory Instruments Committee, House of Commons, London SW1A 0AA. The telephone number for general inquiries is: 020 7219 7597; the Committee's email address is: esic@parliament.uk.

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Instruments recommended for the affirmative procedure

At its meeting on 12 September 2018 the Committee considered proposed negative instruments laid by the Government and has recommended that the appropriate procedure for the following instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before they are made (i.e. the affirmative procedure).

1 The Cat and Dog Fur (Control of Import, Export and Placing on the Market) (EU Exit) Regulations 2018

1.1 The Cat and Dog Fur (Control of Import, Export and Placing on the Market) (EU Exit) Regulations 2018 are intended to maintain the existing prohibition on the import, export and placing of cat and dog fur on the market in the United Kingdom, as well as maintaining the criminal penalties currently in place for individuals breaching this prohibition, after the UK leaves the EU. The Regulations are required to amend or remove references to the EU, the European Commission and EU laws that will no longer be appropriate in the UK after exit.

1.2 The current EU regulation allows the Commission, by way of derogation, to adopt measures allowing the placing on the market or the import or export of cat and dog fur or products containing such fur for educational and taxidermy purposes. Paragraph 4 of Schedule 1 of the Regulations confers a power on the Secretary of State to make regulations (by negative resolution procedure) which maintain these powers.

1.3 It is arguable that the effect of transferring the powers to make regulations in this area, from the Commission to the Secretary of State, constitutes the creation or amendment of a power to legislate, which would make it mandatory for these Regulations to be subject to the draft affirmative resolution procedure as set out in Paragraph 1(2) of Schedule 7 to the European Union (Withdrawal) Act 2018.

1.4 The Committee believes that, regardless of whether the mandatory statutory requirement has been met or not, the inclusion in regulations of a power for the Secretary of State to legislate by negative procedure warrants as a general rule the use of the draft affirmative resolution procedure for the enabling instrument.

1.5 The Committee therefore recommends that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made (i.e. the affirmative procedure), on the ground it is of political and legal importance.

Instruments recommended for the negative procedure

At its meeting on 12 September 2018 the Committee considered proposed negative instruments and has recommended that the appropriate procedure for the following instruments is for them to be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).

The Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) (Amendment) (EU Exit) Regulations 2018

The Public Lending Right Scheme 1982 (Amendment) (EU Exit) Regulations 2018

The Special Fissile Materials (Right of Use and Consumption) (EU Exit) Regulations 2018

Formal Minutes

Wednesday 12 September 2018

Members present:

Rt Hon Sir Patrick McLoughlin, in the Chair

Kirsty Blackman	Trudy Harrison
Mr Philip Dunne	Ian C Lucas
Sir David Evennett	Bridget Phillipson
Ms Angela Eagle	Andrew Selous
Vicky Ford	Jo Stevens
Patrick Grady	Liz Twist

Draft Report (*Second Report*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 1.5 agreed to.

Ordered, That the Report be the Second Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Tuesday 16 October at 3.30pm]