



House of Commons  
European Committee on  
Statutory Instruments

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**Nineteenth Report of  
Session 2017–19**

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**Documents considered by the Committee on 26  
February 2019**

**Drawing attention to:**

The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment)  
(EU Exit) Regulations 2019

The European University Institute (EU Exit) Regulations 2019

*Report, together with formal minutes*

*Ordered by the House of Commons  
to be printed 26 February 2019*

## 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

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

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

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

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

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

[Rt Hon 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

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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](http://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](mailto:esic@parliament.uk).

You can follow the Committee on Twitter using [@CommonsESIC](https://twitter.com/CommonsESIC).



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## Meeting summary

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1.1 At its meeting on 26 February 2019 the Committee noted and welcomed the Government's confirmation that it had accepted the Committee's recommendations and would lay the following instruments under the affirmative procedure:

- i. HMT – The Financial Services (Miscellaneous) (Amendment) (EU Exit) Regulations 2019.

## Instruments recommended for the affirmative procedure

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At its meeting on 26 February 2019 the Committee considered proposed negative instruments laid by the Government and has recommended that the appropriate procedure for the following instruments is for a draft of them to be laid before, and approved by a resolution of, each House of Parliament before they are made (i.e. the affirmative procedure).

### 2 The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019

2.1 This instrument seeks to ensure that, in the fields of trade in animals and animal products, production of animal feed, plant health, and the marketing of seed potatoes, unlisted seed vegetable varieties and fruit propagating material, retained direct EU legislation and domestic legislation implementing certain EU Directives will remain operable after the UK has left the EU.

2.2 The Explanatory Memorandum states that the instrument only makes amendments which are “legally necessary” to achieve its objectives and does not represent changes of policy, nor will it “produce any impact on businesses or the public”.

2.3 However, the instrument makes extensive amendments to two EU Exit statutory instruments - the Plant Health (Amendment) (England) (EU Exit) Regulations 2019 and the Plant Health (EU Exit) Regulations 2019 - that were laid in draft under the affirmative procedure.

2.4 The Committee believes that it will usually be appropriate to use the affirmative procedure when amending EU Exit instruments which were themselves originally subject to the affirmative procedure.

**2.5 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 that it is of political and legal importance.**

### 3 The European University Institute (EU Exit) Regulations 2019

3.1 This statutory instrument concerns the UK’s participation in the European University Institute (EUI) Convention. It removes any rights, powers, liabilities, obligations, restrictions, remedies and procedures (“rights etc.”) from domestic law, which might derive from the UK’s membership of the EUI Convention. The explanatory memorandum states that the UK will “automatically fall out” of the treaty regulating the EUI, when leaving the EU. However, the EUI is not an EU institution but based on a separate Convention designated in domestic law as an “EU Treaty”.

3.2 The explanatory memorandum states that the Department will explore “options for ongoing engagement with the EUIC”. The Committee is concerned that the explanatory



memorandum fails to set out what such options could be. The basis for continued participation of the UK in the EUI is an issue that should be subject to debate in the House.

3.3 The Government estimates that there is “no, or no significant” impact on business, charities, voluntary bodies or the public sector, and further states that it will “work to ensure that UK students currently at the EUI, and any who are successful in their applications for places in the 2019/2020 academic year, will be able to complete their studies”. This statement offers no clarity to current or future students and no guidance has yet been prepared for them.

3.4 The Committee believes that the issues around rights relating to international higher education post-Brexit are important.

**3.5 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 that it is of political and legal importance.**

## Instruments recommended for the negative procedure

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**At its meeting on 26 February 2019 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 Aquatic Animal Health and Alien Species in Aquaculture (Amendment etc.) (EU Exit) Regulations 2019

The Bilateral Investment Agreements (Transitional Arrangements and Framework for Managing Financial Responsibility) (Revocation) (EU Exit) Regulations 2019

The Civil Procedure Rules 1998 (Amendment) (EU Exit) Regulations 2019

The Creative Europe Programme and Europe for Citizens Programme (Revocation) (EU Exit) Regulations 2019

The Criminal Procedure (Amendment) (EU Exit) Regulations 2019

The Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019

The Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019

The Food (Amendment) (EU Exit) Regulations 2019

The Food and Feed Hygiene and Safety (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

The Regulated Products (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

The Teachers' Pension Schemes (Amendment) (EU Exit) Regulations 2019

# Formal Minutes

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**Tuesday 26 February 2019**

Members present:

Rt Hon Sir Patrick McLoughlin, in the Chair

Kirsty Blackman	Ian C. Lucas
Rt Hon Mr Philip Dunne	Bridget Phillipson
Ms Angela Eagle	Mary Robinson
Rt Hon Sir David Evennett	Andrew Selous
Patrick Grady	Jo Stevens
Julia Lopez	Liz Twist

Draft Report (*Nineteenth 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 1.1 to 3.5 agreed to.

*Ordered*, That the Report be the Nineteenth Report of the Committee to the House.

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

[Adjourned till 5 March at 3.30pm]