



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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# Twenty-first Report of Session 2014-15

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**Drawing special attention to:**

*Mobile Homes (Site Rules) (England) (Amendment) Regulations 2014*  
**(S.I. 2014/3073)**

*Ordered by the House of Lords to be printed*  
*4 February 2015*

*Ordered by the House of Commons to be printed*  
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# Joint Committee on Statutory Instruments

## Current membership

### House of Lords

Baroness Humphreys (*Liberal Democrat*)  
Lord Kennedy (*Labour*)  
Lord Lyell (*Conservative*)  
Baroness Mallalieu (*Labour*)  
Lord Selkirk (*Conservative*)  
Baroness Stern (*Crossbench*)  
Lord Walpole (*Crossbench*)

### House of Commons

Mr George Mudie MP (*Labour, Leeds East*) (Chairman)  
Michael Ellis MP (*Conservative, Northampton North*)  
John Hemming MP (*Liberal Democrat, Birmingham, Yardley*)  
Mr Ian Liddell-Grainger MP (*Conservative, Bridgwater and West Somerset*)  
Toby Perkins MP (*Labour, Chesterfield*)  
Rt Hon Andrew Robathan MP (*Conservative, South Leicestershire*)

## 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, available on the Internet via [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

## 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

The reports of the Committee are published by The Stationery Office by Order of both Houses. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

## Committee staff

The current staff of the Committee are Joanna Welham (*Commons Clerk*), Jane White (*Lords Clerk*) and Liz Booth (*Committee Assistant*). Advisory Counsel: Peter Davis, Peter Brooksbank, Philip Davies and Daniel Greenberg (*Commons*); Nicholas Beach, Peter Milledge and John Crane (*Lords*).

## Contacts

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## Instruments reported

At its meeting on 4 February 2015 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. 2014/3073: Reported for failure to comply with Statutory Instrument Practice

*Mobile Homes (Site Rules) (England) (Amendment) Regulations 2014 (S.I. 2014/3073)*

**1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they fail to comply with Statutory Instrument Practice.**

1.2 These Regulations amend the Mobile Homes (Site Rules) (England) Regulations 2014 (S.I. 2014/5). The Explanatory Note to the Regulations explains that the sole purpose of the amendment is to correct an error. The Committee accordingly asked the Department for Communities and Local Government why the free issue procedure in paragraphs 3.4.11 to 3.4.14 of Statutory Instrument Practice was not used. In a memorandum printed at Appendix 1, the Department acknowledges that free copies of the instrument should have been made available, apologises for the oversight and explains that arrangements are being made to rectify it. **The Committee accordingly reports the Regulations for a breach of Statutory Instrument Practice, acknowledged by the Department.**

## Instruments not reported

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At its meeting on 4 February 2015 the Committee considered the Instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

\* Voluntary memorandum submitted in connection with the draft instrument is printed at Appendix 2

## Annex

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### Instrument requiring affirmative approval

**S.I. 2015/24**      Electrically Assisted Pedal Cycles (Amendment) Regulations 2015

### Draft Instruments requiring affirmative approval

- \* **Draft S.I.**      Single Use Carrier Bags Charges (England) Order 2015
- Draft S.I.**      Police and Crime Commissioner Elections Order 2015
- Draft S.I.**      Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2015
- Draft S.I.**      Special Immigration Appeals Commission (Procedure) (Amendment) Rules 2015
- Draft S.I.**      Crime and Courts Act 2013 (Consequential Amendments) (No. 2) Order 2015
- Draft S.I.**      Companies Act 2006 (Amendment of Part 17) Regulations 2015
- Draft S.I.**      Social Security (Contributions) (Re-rating and National Insurance Funds Payments) Order 2015
- Draft S.I.**      Social Security (Contributions) (Limits and Thresholds) (Amendment) Regulations 2015
- Draft S.I.**      Employment Allowance (Care and Support Workers) Regulations 2015
- Draft S.I.**      Proceeds of Crime Act 2002 (Investigative Powers of Prosecutors: Code of Practice) (England and Wales) Order 2015
- Draft S.I.**      Financial Services and Markets Act 2000 (Banking Reform) (Pensions) Regulations 2015
- Draft S.I.**      Human Transplantation (Wales) Act 2013 (Consequential Provision) Order 2015
- Draft S.I.**      Industrial Training Levy (Construction Industry Training Board) Order 2015
- Draft S.I.**      Industrial Training Levy (Engineering Construction Industry Training Board) Order 2015

<b>Draft S.I.</b>	Electricity and Gas (Market Integrity and Transparency) (Criminal Sanctions) Regulations 2015
<b>Draft S.I.</b>	Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015
<b>Draft S.I.</b>	Renewables Obligation Closure (Amendment) Order 2015
<b>Draft S.I.</b>	National Minimum Wage Regulations 2015

#### Instruments subject to annulment

<b>S.I. 2014/3248</b>	Mines Regulations 2014
<b>S.I. 2014/3280</b>	Tax Credits (Exercise of Functions) Order 2014
<b>S.I. 2014/3296</b>	Family Procedure (Amendment No. 4) Rules 2014
<b>S.I. 2014/3298</b>	Civil Jurisdiction and Judgments (Protection Measures) Regulations 2014
<b>S.I. 2014/3307</b>	Legal Services Act 2007 (Commencement No. 12, Supplementary and Transitory Provision) Order 2014
<b>S.I. 2014/3308</b>	Greater London Authority (Consolidated Council Tax Requirement Procedure) Regulations 2014
<b>S.I. 2014/3314</b>	Government Resources and Accounts Act 2000 (Estimates and Accounts) (Amendment) Order 2014
<b>S.I. 2014/3317</b>	Fire and Rescue Authorities (National Framework) (England) (Revision) Order 2014
<b>S.I. 2014/3318</b>	Clean Air (Miscellaneous Provisions) (England) Regulations 2014
<b>S.I. 2014/3322</b>	Deduction from Wages (Limitation) Regulations 2014
<b>S.I. 2014/3347</b>	Police (Conduct) (Amendment) Regulations 2014
<b>S.I. 2014/3349</b>	Yemen (European Union Financial Sanctions) Regulations 2014
<b>S.I. 2015/3</b>	Aircraft Operators (Accounts and Records) (Amendment) Regulations 2015
<b>S.I. 2015/5</b>	Local Government (Electronic Communications) (England) Order 2015
<b>S.I. 2015/15</b>	Motor Vehicles (Driving Licences) (Amendment) Regulations 2015
<b>S.I. 2015/20</b>	Neighbourhood Planning (General) (Amendment) Regulations 2015
<b>S.I. 2015/27</b>	Transport Levying Bodies (Amendment) Regulations 2015
<b>S.I. 2015/36</b>	Hydrocarbon Oil (Marking and Designated Markers) (Amendment) Regulations 2015

#### Instruments not subject to Parliamentary proceedings not laid before Parliament

<b>S.I. 2014/3320</b>	Water Act 2014 (Commencement No. 2 and Transitional Provisions) Order 2014
<b>S.I. 2014/3321</b>	School Admissions Code (Appointed Day) Order 2014
<b>S.I. 2014/3323</b>	Financial Services Act 2012 (Commencement No. 6) Order 2014
<b>S.I. 2015/4</b>	Public Service Pensions Act 2013 (Commencement No. 6, Saving Provision and Amendment) Order 2015

## Appendix 1

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### **S.I. 2014/3073: memorandum from the Department for Communities and Local Government**

<b><i>Mobile Homes (Site Rules) (England) (Amendment) Regulations 2014 (S.I. 2014/3073)</i></b>
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1. The Committee has requested a memorandum on the following point:

*Explain why the free issue procedure in paragraphs 3.4.11 to 3.4.14 of Statutory Instrument Practice was not used for this instrument having regard to the explanation in the Explanatory Note that its sole intention is to correct an error.*

2. The Department acknowledges that the sole purpose of this instrument is to correct an error and that free copies of the instrument should therefore have been made available, in accordance with the procedure as set out in Statutory Instrument Practice. The Department apologises for this oversight and has been in touch with SI Registrar in order to make arrangements to rectify this.

**Department for Communities and Local Government**

**26 January 2015**

## Appendix 2

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### **Draft S.I.: voluntary memorandum from the Department for Environment, Food and Rural Affairs**

<b><i>Single Use Carrier Bags Charges (England) Order 2015 (Draft S.I.)</i></b>
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1. In response to the Committee's letter of 14<sup>th</sup> January requesting a memorandum on the above draft instrument, the Department for Environment, Food and Rural Affairs has, in response to the questions raised in paragraphs 2 to 4, withdrawn the draft instrument and is relaying a new one.
2. The Department anticipates that the Committee might renew its request in paragraph 1 for an explanation as to why the duties imposed by article 18(1) are thought to fall within the scope of the powers conferred by the enabling provisions mentioned in the preamble to the draft Order. It offers this memorandum to assist the Committee in its deliberations.

3. In the event that the Committee is minded to draw article 18(1) to the special attention of both Houses, this memorandum contains all that the Department wants to say about the issue of article 18(1) and the powers under which it is made. We would not therefore want to take advantage of the opportunity to comment further on the point which is ordinarily afforded to departments by virtue of House of Commons Standing Order 151(9).
4. Paragraph 1 of Schedule 6 to the Climate Change Act 2008 (“the CCA”) (see also section 90(5)) says: “The relevant national authority may make provision by regulations about charging by sellers of goods for the supply of single use carrier bags.” There is an associated power to make supplementary and incidental provision in section 90(3) of the CCA.
5. The Department’s view is that article 18(1) is supplementary or incidental to the main provisions of the Order, seeking (as it does) to establish whether there is an appropriate industry standard that could form the basis of a further exclusion in paragraph 2 of Schedule 2 to the Order.
6. As an alternative to relying on the CCA, the Department maintains that section 14A of the Interpretation Act 1978 provides the basis for article 18(1). Section 14A(2)(a) and (4) allows Ministers to review the effectiveness of the whole Order or parts of it; section 14A(5) allows for incidental and supplementary provision. The draft Order makes provision for exclusions from the obligation to charge for carrier bags: Schedule 2, para. 2. The purpose of article 18(1) is to require Ministers to conduct (ahead of the general review demanded by article 18(2)) a review of industry standards for the biodegradability of plastic bags to see if there is an appropriate industry standard to form the basis of a further exclusion. Section 14A provides the *vires* for this review. The fact that the Order (apart from article 18(1)) is not due to come into force until October 2015 doesn’t prevent a review of the Order’s effectiveness being completed before its coming into force. Article 18(1) is also supplementary or incidental to the general review referred to in article 18(2) and (3). The existence (or not) of an appropriate industry standard needs to be established prior to the general review in order for it to determine whether the charging requirement is unnecessarily burdensome in so far as it requires charges for biodegradable bags. If the results of the Department’s industry-wide review in article 18(1) could produce a more effective piece of legislation, we cannot see that Parliament would – when enacting section 14A - have wished to deny the Minister the opportunity to commit to such a review by relying on the powers in section 14A.