



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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# Fourth Report of Session 2014-15

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**Drawing special attention to:**

*Central African Republic (Sanctions) (Overseas Territories) Order  
2014 (S.I. 2014/1368)*

*Ordered by the House of Lords to be printed  
2 July 2014*

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2 July 2014*

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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*)

## 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 Simon Patrick (*Acting 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

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, 7 Millbank, London SW1P 3JA. The telephone number for general inquiries is: 020 7219 2026; the Committee's email address is: [jcsi@parliament.uk](mailto:jcsi@parliament.uk).

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## Instruments reported

At its meeting on 2 July 2014 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. 2014/1368: Reported for defective drafting

*Central African Republic (Sanctions) (Overseas Territories) Order 2014 (S.I. 2014/1368)*

1.1 **The Committee draws the special attention of both Houses to this Order on the ground that it is defectively drafted in two related respects.**

1.2 Article 4 of this Order creates an offence of dealing with certain funds or economic resources, article 7 creates offences relating to providing or carrying restricted goods, and article 8 creates an offence of providing assistance related to restricted goods. Each of these articles is expressed to be subject to article 5, which provides exemptions from article 4 but not articles 7 or 8.

1.3 In a memorandum printed as an Appendix, the Foreign and Commonwealth Office acknowledges that the reference to article 5 in articles 7 and 8 was an error, and undertakes to amend the Order at the earliest opportunity. **The Committee accordingly reports articles 7 and 8 for defective drafting, acknowledged by the Department.**

## Instruments not reported

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At its meeting on 2 July 2014 the Committee considered the Instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

- denotes written evidence has been submitted but not printed
- denotes voluntary memorandum printed with this report

## Annex

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### Draft Instruments requiring affirmative approval

- |                     |  |
|---------------------|--|
| <b>Draft S.I.</b>   | Road Safety (Financial Penalty Deposit) (Appropriate Amount) (Amendment) (No. 2) Order 2014  |
| <b>Draft S.I.</b>   | Contracts for Difference (Allocation) Regulations 2014   |
| <b>Draft S.I.</b>   | Contracts for Difference (Definition of Eligible Generator) Regulations 2014   |
| <b>Draft S.I.</b>   | Contracts for Difference (Electricity Supplier Obligations) Regulations 2014   |
| <b>Draft S.I.</b>   | Contracts for Difference (Standard Terms) Regulations 2014   |
| <b>Draft S.I.</b>   | Electricity Capacity Regulations 2014  |
| <b>Draft S.I.</b>   | Electricity Market Reform (General) Regulations 2014   |
| <b>Draft S.I.</b>   | Copyright and Rights in Performances (Extended Collective Licensing) Regulations 2014  |
| <b>Draft S.I.</b>   | Legal Services Act 2007 (Approved Regulator) (No. 2) Order 2014  |
| <b>Draft S.I.</b>   | Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014   |
| <b>Draft S.I.</b>   | Paternity and Adoption Leave (Amendment) Regulations 2014  |
| <b>Draft S.I.</b>   | Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 |
| <b>Draft S.I.</b>   | Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014  |
| <b>Draft S.I.</b>   | Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014  |
| <b>• Draft S.I.</b> | Terrorism Act 2000 (Code of Practice for Examining Officers and Review Officers) Order 2014  |

### Instruments subject to annulment

- **S.I. 2014/1230** Universal Credit (Transitional Provisions) Regulations 2014
- **S.I. 2014/1398** Flexible Working Regulations 2014
- S.I. 2014/1458** Value Added Tax (Section 55A) (Specified Goods and Excepted Supplies) Order 2014
- S.I. 2014/1459** Quality and Safety of Organs Intended for Transplantation (Amendment) Regulations 2014
- S.I. 2014/1492** Adoption and Children Act Register Regulations 2014
- S.I. 2014/1556** Adoption and Care Planning (Miscellaneous Amendments) Regulations 2014
- S.I. 2014/1557** Companies Act 2006 (Interconnection of Registers) Order 2014
- S.I. 2014/1562** Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Community Care) Regulations 2014
- S.I. 2014/1563** Adoption Support Services (Amendment) Regulations 2014
- S.I. 2014/1602** Companies (Striking Off) (Electronic Communications) Order 2014

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

- S.I. 2014/1531** Growth and Infrastructure Act 2013 (Commencement No.6) Order 2014
- S.I. 2014/1583** Welfare Reform Act 2012 (Commencement No. 17 and Transitional and Transitory Provisions) Order 2014

## Appendix 1

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### S.I. 2014/1368: memorandum from the Foreign and Commonwealth Office

***Central African Republic (Sanctions) (Overseas Territories) Order 2014 (S.I. 2014/1368)***

1. At its meeting on 18 June 2014, the Committee asked for a memorandum on the following point:

*Explain why articles 7 and 8 are expressed to be subject to article 5.*

#### Response

2. The reference to article 5 in articles 7 and 8 of the Order is a regrettable error and the Order will be amended at the earliest opportunity.

**Foreign and Commonwealth Office**

**24 June 2014**

## Appendix 2

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### Draft S.I.: voluntary memorandum from the Home Office

***Terrorism Act 2000 (Code of Practice for Examining Officers and Review Officers) Order 2014 (Draft S.I.)***

1. This memorandum is submitted to the joint committee to supplement the information about the draft Code of Practice in the explanatory memorandum laid with the draft Order. It amplifies the explanation given in that memorandum about provision in the draft Code regarding the training of officers who are to act as examining officers and review officers for the purposes of Schedules 7 and 8 to the Terrorism Act 2000 (“the Act”).
2. New paragraph 20K(9) of Schedule 8 to the Act states: “The code of practice must include provision about training to be undertaken by persons who are to act as review officers”.
3. To date there has been no designation of customs officers to act as examining officers. Under paragraph 1(1)(b) of Schedule 7 to the Act, immigration officers are not empowered to act as examining officers unless they are designated by the Secretary of State.

4. There are no proposals to designate either customs officers or immigration officers to act as examining officers in the foreseeable future. As no examinations will be carried out by these officers, it was not considered necessary to include provisions relating to their training as review officers in the Code of Practice.
5. Annex B of the Code nonetheless provides for a designation and training process for customs officers and immigration officers to act as examining officers. It does so in order to comply with the requirements of new paragraph 1A(1)(a) and (b) of Schedule 7 to the Act. The Home Office undertakes to revise Annex B either if it is proposed to designate customs officers or immigration officers as examining officers or, if sooner, when the Code is first revised for other reasons, to provide for training for customs and immigration officers who may be required to conduct reviews of the detention of persons by such officers should they be designated.

**Home Office**

**1<sup>st</sup> July 2014**