



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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# Ninth Report of Session 2014-15

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**Drawing special attention to:**

*Energy Savings Opportunity Scheme Regulations 2014 (S.I. 2014/1643)*

*Pension Protection Fund (Entry Rules) (Amendment) Regulations 2014 (S.I. 2014/1664)*

*Ordered by the House of Lords to be printed  
22 October 2014*

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# Joint Committee on Statutory Instruments

## Current membership

### House of Lords

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

### House of Commons

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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 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 22 October 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 two of those considered. The Instruments and the grounds for reporting them, are given below. The relevant Departmental memoranda are published as an appendices to this report.

### 1 S.I. 2014/1643: Reported for defective drafting

*Energy Savings Opportunity Scheme Regulations 2014 (S.I. 2014/1643)*

**1.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they are defectively drafted in three respects.**

1.2 Schedule 2 to these Regulations sets out how a group of undertakings may comply with the scheme established by the Regulations. Paragraph 12 of Schedule 2 defines in sub-paragraph (a) the expression “franchise agreement”, and in sub-paragraph (b) the expression “franchise premises”. The latter expression does not appear anywhere else in the instrument. In a memorandum printed at Appendix 1, the Department of Energy and Climate Change accepts that the definition is not necessary and undertakes to amend the provision at the earliest opportunity.

1.3 Paragraph 12 of Schedule 4 refers to a period of 28 “calendar days”. The Department accepts that the addition of the word “calendar” is unnecessary and again undertakes to amend the provision at the earliest opportunity.

1.4 Paragraph 13 of Schedule 4 refers to the “appeal body”. This expression is not defined. The Department explains that the appeal body is, by virtue of regulation 48(2), the Planning Appeals Commission. The Committee agrees, but notes that paragraphs 9, 10, 11, 14 and 16 of Schedule 4 all refer to the Planning Appeals Commission by name. There is no apparent reason why paragraph 13 could not have done so as well – its inclusion therefore suggests a possible difference that does not exist.

**1.5 The Committee accordingly reports paragraph 12 of Schedule 2, and paragraphs 12 and 13 of Schedule 4 to these Regulations for defective drafting, acknowledged in part by the Department.**

### 2 S.I. 2014/1664: Reported for doubtful *vires*

*Pension Protection Fund (Entry Rules) (Amendment) Regulations 2014 (S.I. 2014/1664)*

**2.1 The Committee draws the special attention of both Houses to these Regulations on the ground that there is a doubt as to whether they are *intra vires*.**

2.2 Part 2 of the Pensions Act 2004 in outline provides for protection of pensioners in cases of an “insolvency event” on the part of controllers of their pension funds. Section 121 defines the expression “insolvency event” for the purposes of Part 2 of that Act. A number of events are listed in section 121 (2) to (4) for individuals, companies and partnerships, all

connected with actual or predictable inability to carry on business independently as a going concern, e.g. bankruptcy, receivership and administration.

2.3 Section 121(5) then provides that an insolvency event also occurs in relation to a person where an event occurs which is a prescribed event in relation to such a person. Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005 prescribed additional events as insolvency events for other types of body. These are all of a similar nature to those specified in section 121.

2.4 This instrument inserts a new regulation 5A into the 2005 Regulations. It purports to prescribe as an insolvency event the fifth anniversary of the date that insolvency proceedings of a specified description were commenced.

2.5 Given that the various events described in section 121 (and in regulation 5 of the 2005 Regulations) are all identifiable as things which actually happen, it appeared to the Committee to be strange to identify a particular anniversary of such an event as constituting an event itself. In a memorandum printed at Appendix 2, the Department for Work and Pensions sets out a full explanation of why, in its opinion, the fifth anniversary of an insolvency event can itself be an insolvency event.

2.6 The Committee, while impressed with the extent of research supporting the Department's justification, regards it as tenuous at best. Given the *ejusdem generis* principle – that where a list of items of a similar nature is followed by words such as “or any other item”, any other such item must be of a similar nature – one would have expected any prescribed insolvency event to be an event which actually happens at the present time rather than the annual return of something which happened in the past. No explanation has been given as to why that principle should not apply here. **The Committee accordingly reports these Regulations for doubt as to whether they are *intra vires*.**

## Instruments not reported

At its meeting on 22 October 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 and printed*

## Annex

### Draft Instruments requiring affirmative approval

<b>Draft S.I.</b>	Representation of the People (Scotland) (Amendment No. 2) Regulations 2014
<b>Draft S.I.</b>	Electoral Registration Pilot Scheme Order 2014
<b>Draft S.I.</b>	Jobseeker's Allowance (18-21 Work Skills Pilot Scheme) Regulations 2014
<b>Draft S.I.</b>	Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014
<b>Draft S.I.</b>	Legal Services Act 2007 (The Institute of Chartered Accountants in England and Wales) (Modification of Functions) Order 2014
<b>Draft S.I.</b>	Referral Fees (Regulators and Regulated Persons) Regulations 2014
<b>Draft S.I.</b>	Nursing and Midwifery (Amendment) Order 2014
<b>Draft S.I.</b>	Pensions Act 2014 (Consequential Amendments) (Units of Additional Pension) Order 2014
<b>Draft S.I.</b>	Representation of the People (England and Wales) (Amendment No. 2) Regulations 2014
<b>Draft S.I.</b>	Revenue Scotland and Tax Powers Act 2014 (Consequential Provisions and Modifications) Order 2014
<b>Draft S.I.</b>	Social Security (Contributions) (Amendment No. 5) Regulations 2014
<b>Draft S.I.</b>	Social Security Contributions (Limited Liability Partnership) Regulations 2014
<b>Draft S.I.</b>	Social Security Class 3A Contributions (Units of Additional Pension) Regulations 2014
<b>Draft S.I.</b>	Statutory Shared Parental Pay (Adoption from Overseas) Regulations 2014
<b>Draft S.I.</b>	Statutory Shared Parental Pay (Parental Order Cases) Regulations 2014

<b>Draft S.I.</b>	Employment Rights Act 1996 (Application of Sections 75A, 75B, 75G, 75H, 80A and 80B to Parental Order Cases) Regulations 2014
<b>Draft S.I.</b>	Employment Rights Act 1996 (Application of Sections 75G and 75H to Adoptions from Overseas) Regulations 2014
<b>Draft S.I.</b>	Maternity and Parental Leave etc. (Amendment) Regulations 2014
<b>Draft S.I.</b>	Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014
<b>Draft S.I.</b>	Paternity and Adoption Leave (Amendment) (No. 2) Regulations 2014
<b>Draft S.I.</b>	Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations 2014

#### Instruments subject to annulment

○ <b>S.I. 2014/1612</b>	Proscribed Organisations (Name Changes) Order 2014
<b>S.I. 2014/1616</b>	Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014
<b>S.I. 2014/1816</b>	Driving Theory Test Fees (Various Amendments) Regulations 2014
<b>S.I. 2014/1829</b>	Housing Renewal Grants (Amendment) (England) Regulations 2014
<b>S.I. 2014/1833</b>	Forest Reproductive Material (Great Britain) (Amendment) (England and Scotland) Regulations 2014
<b>S.I. 2014/1888</b>	Air Navigation (Amendment) (No. 2) Order 2014
<b>S.I. 2014/1890</b>	European Communities (Designation) (No. 2) Order 2014
<b>S.I. 2014/1892</b>	Scotland Act 1998 (Agency Arrangements) (Specification) Order 2014
<b>S.I. 2014/1920</b>	Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) Regulations 2014
<b>S.I. 2014/1921</b>	Childcare (Childminder Agencies) (Miscellaneous Amendments) Regulations 2014
<b>S.I. 2014/1922</b>	Childcare (Childminder Agencies) (Cancellation etc.) Regulations 2014
<b>S.I. 2014/1937</b>	Provision of Services (Amendment) Regulations 2014
<b>S.I. 2014/1942</b>	Control of Explosives Precursors Regulations 2014

<b>S.I. 2014/1966</b>	Home Loss Payments (Prescribed Amounts) (England) Regulations 2014
<b>S.I. 2014/2007</b>	Port Security (Port of Rosyth) Designation Order 2014
<b>S.I. 2014/2038</b>	Immigration and Nationality (Fees) (Consequential Amendments) Order 2014
<b>S.I. 2014/2040</b>	Judicial Appointments and Discipline (Addition of Office) Order 2014
<b>S.I. 2014/2045</b>	School Teachers' Pay and Conditions Order 2014
<b>S.I. 2014/2081</b>	Misuse of Drugs (Amendment No. 2) (England, Wales and Scotland) Regulations 2014
<b>S.I. 2014/2096</b>	Special Educational Needs (Miscellaneous Amendments) Regulations 2014
<b>S.I. 2014/2120</b>	Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2014
<b>S.I. 2014/2122</b>	Police Act 1997 (Criminal Records) (Amendment) (No. 3) Regulations 2014
<b>S.I. 2014/2123</b>	Control of Noise (Code of Practice on Noise from Audible Intruder Alarms) (Revocation) (England) Order 2014
<b>S.I. 2014/2128</b>	Tribunal Procedure (Amendment No. 3) Rules 2014
<b>S.I. 2014/2147</b>	Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014
<b>S.I. 2014/2158</b>	Independent Inspectorates (Education and Boarding Accommodation) Regulations 2014
<b>S.I. 2014/2169</b>	Prison and Young Offender Institution (Amendment) Rules 2014
<b>S.I. 2014/2172</b>	Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) (Amendment)
<b>S.I. 2014/2179</b>	Education (Prescribed Courses of Higher Education) (Information Requirements) (England) Regulations 2014
<b>S.I. 2014/2210</b>	Proscribed Organisations (Name Changes) (No. 2) Order 2014
<b>S.I. 2014/2216</b>	Motor Cars (Driving Instruction) (Amendment) Regulations 2014
<b>S.I. 2014/2309</b>	Social Security (Jobseeker's Allowance and Employment and Support Allowance) (Waiting Days) Amendment Regulations 2014



- S.I. 2014/2319** Childcare Providers (Information, Advice and Training) Regulations 2014
- S.I. 2014/2329** Intellectual Property Act 2014 (Amendment) Regulations 2014
- S.I. 2014/2338** Tuberculosis (Deer and Camelid) Slaughter and Compensation (England) Order 2014
- S.I. 2014/2339** Forest Law Enforcement, Governance and Trade (Amendment) (Fees) Regulations 2014
- S.I. 2014/2358** Vehicle Excise and Registration (Consequential Amendments) Regulations 2014
- S.I. 2014/2362** Building (Amendment) Regulations 2014
- S.I. 2014/2372** Police (Amendment) Regulations 2014
- S.I. 2014/2373** Police (Promotion) (Amendment) Regulations 2014
- S.I. 2014/2374** Education (Independent School Standards) (England) (Amendment) Regulations 2014
- S.I. 2014/2376** Appointment of Chief Officers of Police (Overseas Police Forces) Regulations 2014
- S.I. 2014/2378** Gas and Electricity Regulated Providers (Redress Scheme) (Amendment) Order 2014
- S.I. 2014/2397** Social Security (Contributions) (Amendment No. 4) Regulations 2014
- S.I. 2014/2411** Patents (Supplementary Protection Certificates) Regulations 2014
- S.I. 2014/2417** Licensing Act 2003 (Permitted Temporary Activities) (Notices) (Amendment) Regulations 2014
- S.I. 2014/2418** Public Interest Disclosure (Prescribed Persons) Order 2014
- S.I. 2014/2420** Plant Health (Forestry) (Amendment) (England and Scotland) Order 2014
- S.I. 2014/2437** Heavy Goods Vehicles (Charging for the Use of Certain Infrastructure on the Trans-European Road Network) (Amendment) Regulations 2014

#### **Draft Instruments subject to annulment**

- Draft S.I.** North West Leicestershire (Electoral Changes) Order 2014

- Draft S.I.** South Hams (Electoral Changes) Order 2014
- Draft S.I.** South Kesteven (Electoral Changes) Order 2014
- Draft S.I.** South Ribble (Electoral Changes) Order 2014
- Draft S.I.** Stratford-on-Avon (Electoral Changes) Order 2014

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

- S.I. 2014/2340** Closure of Prisons (No. 2) Order 2014

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

- S.I. 2014/1903** Barnet, Enfield and Haringey Mental Health National Health Service Trust (Establishment) Amendment Order 2014
- S.I. 2014/1904** London Ambulance Service National Health Service Trust (Establishment) Amendment Order 2014
- S.I. 2014/1905** National Health Service Trusts (Trust Funds: Appointment of Trustees) (Amendment) Order 2014
- S.I. 2014/1943** Immigration Act 2014 (Commencement No. 2) Order 2014
- S.I. 2014/2039** Inheritance and Trustees' Powers Act 2014 (Commencement) Order 2014
- S.I. 2014/2125** Anti-social Behaviour, Crime and Policing Act 2014 (Commencement No. 5) Order 2014
- S.I. 2014/2254** Special Educational Needs (Code of Practice) (Appointed Day) Order 2014
- S.I. 2014/2260** Offshore Installations (Safety Zones) (No. 2) Order 2014
- S.I. 2014/2270** Children and Families Act 2014 (Transitional and Saving Provisions) (No. 2) Order 2014
- S.I. 2014/2330** Intellectual Property Act 2014 (Commencement No. 3 and Transitional Provisions) Order 2014
- S.I. 2014/2337** Tuberculosis (Deer and Camelid) (England) Order 2014
- S.I. 2014/2377** Pensions Act 2014 (Commencement No. 2) Order 2014
- S.I. 2014/2379** Education and Skills Act 2008 (Commencement No. 10 and Transitory Provisions) Order 2014
- S.I. 2014/2380** Education and Inspections Act 2006 (Commencement No. 8) Order 2014

- S.I. 2014/2395** Finance Act 2009, Schedule 55 (Penalties for failure to make returns) (Appointed Days and Consequential Provision) Order 2014
- S.I. 2014/2439** Electoral Registration and Administration Act 2013 (Commencement No. 1) (Northern Ireland) Order 2014
- S.I. 2014/2444** Gambling (Licensing and Advertising) Act 2014 (Commencement No.1) Order 2014

# Appendix 1

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## S.I. 2014/1643: memorandum from the Department of Energy and Climate Change

<i>Energy Savings Opportunity Scheme Regulations 2014 (S.I. 2014/1643)</i>
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1. In its letter to the Department of Energy and Climate Change of 16<sup>th</sup> July 2014, the Joint Committee requested a memorandum on the following points:
  - (1) Given that the expression “franchise premises” does not appear elsewhere in this instrument, explain the purpose of paragraph 12(b) of Schedule 2.
  - (2) Why does paragraph 12 of Schedule 4 refer to “calendar days”?
  - (3) Explain what is meant by “the appeal body” in paragraph 13 of Schedule 4, and why there is no explanation in this instrument.
2. In response to the Committee’s first question, the purpose of paragraph 12(b) of Schedule 2 is to make clear that, in the case of a franchise undertaking, activities carried on at the premises described there are within scope of the calculation of total energy consumption which is required by regulation 22. The Department accepts that the term “franchise premises” is not used elsewhere in the instrument and is not necessary. The Department apologises for this error and will amend the provision at the earliest opportunity.
3. In response to the Committee’s second question, paragraph 12 of Schedule 4 refers to “calendar days” to make clear that non-working days are to be included in the calculation required by that provision. The Department accepts that the addition of the word “calendar” is unnecessary and will amend the provision at the earliest opportunity, but submits that the addition of the word does not affect the meaning of the provision.
4. In response to the Committee’s third question, the appeal body is the body to which a responsible undertaking may appeal, by virtue of regulation 48(1). The relevant appeal body in relation to responsible undertakings is defined in regulation 48(2). Paragraph 13, in Part 2 of Schedule 4, applies to appeals against determinations made, and enforcement and penalty notices issued, by the Chief Inspector (see paragraph 8 of that Part) and is therefore a reference to the Planning Appeals Commission by virtue of regulation 48(2)(c).

**Department of Energy and Climate Change**  
**22 July 2014**

## Appendix 2

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### S.I. 2014/1664: memorandum from the Department for Work and Pensions

***Pension Protection Fund (Entry Rules) (Amendment) Regulations 2014 (S.I. 2014/1664)***

1. In its letter to the Department of 16<sup>th</sup> July 2014, the Committee requested a memorandum on the following point:

*“Explain how the fifth anniversary of the commencement of insolvency proceedings can constitute an event for the purposes of section 121 of the Pensions Act 2004.”*

2. The Department’s response to the Committee’s point is outlined below.
3. The Department considers that the fifth anniversary of the commencement of insolvency proceedings can constitute an event for the purposes of section 121 of the Pensions Act 2004 for the following reasons.
4. The power requires that Regulations have to specify an “event”. There is no requirement that it be any particular type of event, for example it does not have to be connected to an insolvency event in any way. The Department has therefore interpreted “event” as having its natural English meaning.
5. Even if “event” should be interpreted in a narrower way, the Department has used the power in a similar way to existing uses of the power. The anniversary that is prescribed is closely connected with the insolvency of the employer, which is consistent with the nature of the events prescribed in section 121(3) of the Pensions Act 2004 and regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I. 2005/590).
6. The Shorter Oxford English Dictionary gives the primary meaning of “event” as “something that happens or is thought of as happening; an occurrence especially one that is significant or noteworthy”. An anniversary is commonly treated as something that happens: birthdays, recognition of the date a war started or ended, Christmas Day, etc. The common usage of “event” includes an anniversary.
7. Legislation has regularly provided that an anniversary constitutes an event. Paragraph 14 of Schedule 3ZB to the Taxes Management Act 1970 (c.9) describes an anniversary as being an event:

“14(2) The amount of ECPP tax attributable to the asset under paragraph 10(6) is payable in relation to whichever is the first to occur of the following events—  
 (a) the disposal of that asset ...,”

- (b) the tenth anniversary of the end of the migration accounting period,
    - or
    - (c) a relevant event.
  - (3) The date on which the amount is payable is—
    - (a) in a case falling within sub-paragraph (2)(a) or (b), the date of the event referred to...”.
8. Similarly, section 32(1) of the Trustee Act 1925 (c.19) applies to a trust that includes a gift payable "on his attaining any specified age or on the occurrence of any other event". This wording was considered in court in the case of *Garrett, Croft v Ruck* [1934] Ch 477. The issue was whether two conditions in a will (that the donee must attain the age of 21 and survive a prior beneficiary) could both fall within the meaning of the phrase “any other event” and therefore within s32(1). The Court held: “The legislature in enacting s. 32 intended to enlarge the powers of trustees and, in my view, it will be in accordance with a more natural reading of the section to construe the words "other event" as meaning an event other than the mere single event of attaining a specified age and as not excluding the compound event of the attainment of a specified age and survivorship by an infant.”.
  9. Outside of legislation, anniversaries are also commonly referred to as events. For example, as shareholder agreement said: “19. This agreement shall continue in full force and effect until the first to occur of the following events: 19.1 The fifth anniversary of this agreement;” (this shareholder agreement was considered by the court in *Westcoast (Holdings) Ltd v Wharf Land Subsidiary (No 1) Ltd* [2012] EWCA Civ 1003). As another example, a credit agreement said: “10.3 The Hire Charges together with interest thereon shall become immediately due and payable by the Hirer upon the occurrence of the earliest of the following events: 10.3.1 the first anniversary of this Agreement;” (this credit agreement was considered by the court in *Zoan v Rouamba* [2000] 2 All ER 620).
  10. In light of the use of “event” to include anniversaries in other legislation, the dictionary definition of “event”, the common usage of the word and the examples of usage in documents like shareholder agreements, the Department considers that the power to prescribe an “event” in section 121(5) of the Pensions Act 2004 includes the power to prescribe an anniversary. In addition, the anniversary that is prescribed as an “event” is closely connected with the insolvency of the employer, as it is under other uses of the power.

**Department for Work and Pensions**

**23 July 2014**

## Appendix 3

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### S.I. 2014/1612: memorandum from the Home Office

<b><i>Proscribed Organisations (Name Changes) Order 2014 (S.I. 2014/1612)</i></b>
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1. The JCSI has requested that a memorandum is submitted to explain the following point:

*“Given the urgency identified in paragraph 3.1 of the Explanatory Memorandum to justify coming into force one day after laying, explain why the instrument was laid 19 days after being made, rather than being laid immediately after being made and specifying a coming into force date the day after that.”*

2. The justification for breaking the 21 day rule in this case was to prevent the proscribed organisation listed in Schedule 2 to the Terrorism Act 2000 as both Al Ghurabaa and The Saved Sect (and also known as Al Muhajiroun) from being alerted to an impending change in the law which would provide that the organisation is also operating under the alternative names of Need4Khilafah, the Shariah Project and the Islamic Dawah Association. As was explained in paragraph 3.1 of the Explanatory Memorandum, were the 21 day convention to be observed in this case, this may have resulted in pre-emptive action by the group’s members designed to circumvent the provisions of the Terrorism Act 2000 and / or the criminal law. For example, having been made aware of the impending specification of the aliases when the instrument was laid, and before it came into force, the organisation could have publicly declared that the organisations specified in the Order are defunct, and assumed a new name under which to operate.
3. Whilst it is preferable for there to be no delay between the making and laying of Orders of this nature, if there is such a delay this does not affect the policy justification for bringing the Order into legal force immediately after it is laid, given the potential consequences outlined above. The urgency identified in paragraph 3.1 of the Explanatory Memorandum is in relation to eliminating the risks of these consequences rather than in relation to the making and laying of the instrument.

**Home Office**

**17 July 2014**