



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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# Twenty-fifth Report of Session 2017–19

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**Drawing special attention to:**

*Police Pension Schemes and Additional Voluntary Contributions  
(Amendment) (England and Wales) Regulations 2018 (S.I. 2018/530)*

*Public Service (Civil Servants and Others) Pensions (Amendment) Regulations  
2018 (S.I. 2018/537)*

*Ordered by the House of Lords  
to be printed 6 June 2018*

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

### Current membership

#### House of Lords

[Baroness Bloomfield of Hinton Waldrist](#) (*Conservative*)

[Lord Lexden](#) (*Conservative*)

[Baroness Meacher](#) (*Crossbench*)

[Lord Morris of Handsworth](#) (*Labour*)

[Lord Rowe-Beedoe](#) (*Crossbench*)

[Lord Rowlands](#) (*Labour*)

[Baroness Scott of Needham Market](#) (*Liberal Democrat*)

#### House of Commons

[Derek Twigg MP](#) (*Labour, Halton*) (Chair)

[Dan Carden MP](#) (*Labour, Liverpool, Walton*)

[Vicky Foxcroft MP](#) (*Labour, Lewisham, Deptford*)

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

[John Lamont MP](#) (*Conservative, Berwickshire, Roxburgh and Selkirk*)

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

[Sir Robert Syms MP](#) (*Conservative, Poole*)

### 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. 73, 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 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 Mike Winter (Commons Clerk), Jane White (Lords Clerk) and Liz Booth (Committee Assistant). Advisory Counsel: Daniel Greenberg, Klara Banaszak, Peter Brooksbank, Philip Davies and Vanessa MacNair (Commons); James Cooper, Nicholas Beach, John Crane and Ché Diamond (Lords).

#### **Contacts**

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, House of Commons, London, SW1A 0AA. 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

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At its meeting on 6 June 2018 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 appendices to this report.

## 1 S.I. 2018/530: Reported for defective drafting

### *Police Pension Schemes and Additional Voluntary Contributions (Amendment) (England and Wales) Regulations 2018*

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

1.2 This instrument amends regulations relating to police pension schemes in relation to family leave, voluntary exit and additional voluntary contributions. Regulation 1(1) contains a general commencement provision for the instrument and regulation 1(2) and (3) set out different commencement dates for specific regulations.

1.3 The Committee asked the Home Office to explain why regulation 1 makes provision for regulation 8 to have effect from a specific date but does not make equivalent provision in relation to regulation 2 (a similar provision which, like regulation 8, introduces the regulations which follow it). The Committee also asked the Department why it was not thought necessary to make provision for the date from which regulation 4 has effect.

1.4 In a memorandum printed at Appendix 1, the Department accepts that the inclusion of regulation 8 in regulation 1(2) is an error. In relation to regulation 4, the Department explains that it was not thought necessary to make provision for the date from which it has effect as this regulation is not retrospective and therefore, like regulation 8, should be subject only to the arrangements for commencement set out in regulation 1(1).

1.5 The Committee accepts the explanation in relation to regulation 4. **The Committee reports regulation 1(2) for defective drafting, acknowledged by the Department.**

## 2 S.I. 2018/537: Reported for failure to comply with proper legislative practice

### *Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2018*

2.1 The Committee draws the special attention of both Houses to these Regulations on the ground that they fail to comply with proper legislative practice in one respect.

2.2 These Regulations amend the Public Service (Civil Servants and Others) Pensions Regulations 2014 which established a scheme for the payment of pensions and other

benefits to civil servants and other eligible persons. The amendments correct errors and resolve anomalies that have been identified in those regulations and reflect new policy relating to certain types of statutory leave associated with the birth or adoption of a child.

2.3 As this instrument corrects drafting errors and introduces new provisions, the Committee asked the Cabinet Office if it had agreed with the Statutory Instrument Registrar whether free replacement copies ought to be provided in accordance with paragraph 4.7.6 of Statutory Instrument Practice (5th Edition, November 2017). In a memorandum printed at Appendix 2, the Department undertakes to consult the Statutory Instrument Registrar in accordance with the guidance in paragraph 4.7.6. **The Committee accordingly reports these Regulations for failure to comply with proper legislative practice, acknowledged by the Department.**

## Instruments not reported

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At its meeting on 6 June 2018 the Committee considered the Instruments set out in the Annex to this Report, none of which were required to be reported to both Houses.

## Annex

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### Draft instruments requiring affirmative approval

<b>Draft S.I.</b>	Digital Government (Disclosure of Information) Regulations 2018
<b>Draft S.I.</b>	Nursing and Midwifery (Amendment) Order 2018
<b>Draft S.I.</b>	European Union (Definition of Treaties) (Canada Trade Agreement) Order 2018
<b>Draft S.I.</b>	Official Statistics Order 2018
<b>Draft S.I.</b>	Police and Criminal Evidence Act 1984 (Codes of Practice) (Revision of Codes C, E, F, and H) Order 2018
<b>Draft S.I.</b>	Information Sharing Code of Practice: Code of Practice for public authorities disclosing information under Chapters 1, 3 and 4 (Public Service Delivery, Debt and Fraud) of Part 5 of the Digital Economy Act 2017
<b>Draft S.I.</b>	Research Code of Practice and Draft Accreditation Criteria
<b>Draft S.I.</b>	Data Sharing Code of Practice: Code of practice for civil registration officials disclosing information under section 19AA of the Registration Service Act 1953
<b>Draft S.I.</b>	Statistics Statement of Principles and Draft Code of Practice on changes to data systems

### Instruments subject to annulment

<b>S.I. 2018/592</b>	Road Vehicles (Construction and Use) (Amendment) Regulations 2018
<b>S.I. 2018/593</b>	Enterprise Act 2002 (Turnover Test) (Amendment) Order 2018
<b>S.I. 2018/597</b>	Trade Secrets (Enforcement, etc.) Regulations 2018
<b>S.I. 2018/607</b>	Higher Education and Research Act 2017 (Cooperation and Information Sharing) Regulations 2018
<b>S.I. 2018/618</b>	Immigration and Nationality (Requirements for Naturalisation and Fees) (Amendment) Regulations 2018

### Instrument subject to annulment (Northern Ireland)

<b>S.R. 2018/121</b>	Personal Independence Payment (Amendment) Regulations (Northern Ireland) 2018
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# Appendix 1

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## S.I. 2018/530

### ***Police Pension Schemes and Additional Voluntary Contributions (Amendment) (England and Wales) Regulations 2018***

1. By letter of 16 May 2018, the Committee has requested a memorandum on the following point:

*Explain (a) why regulation 1 makes provision for regulation 8 to have effect from a specific date but does not make equivalent provision in relation to regulation 2; and (b) why it was not thought necessary to make provision for the date from which regulation 4 has effect.*

2. Regrettably, the inclusion of regulation 8 in regulation 1(2) is an error. Regulation 8 introduces the amendments made by regulations 9 to 13 to the Police Pensions Regulations 2006 S.I. 2006/3415. It is otherwise of no substantive effect. The amendments made by regulations 9 to 13 are retrospective and therefore have effect as provided for by regulation 1(2).

3. The Department thanks the Committee for drawing the error to its attention. The Department is taking steps to avoid a repetition of such an error.

4. It was not thought necessary to make provision for the date from which regulation 4 has effect as this provision is not retrospective and therefore, like regulation 8, should be subject only to the arrangements for commencement set out in regulation 1(1).

**Home Office**

**22 May 2018**

## Appendix 2

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### S.I. 2018/537

#### ***Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2018***

1. The Committee has requested a memorandum on the following point:

*As this instrument corrects drafting errors and introduces new provisions, did the Department agree with the Statutory Instrument Registrar as to whether free replacement copies ought to be provided (paragraph 4.7.6 of Statutory Instrument Practice (5th Edition, November 2017))?*

2. The Regulations amended the Public Service (Civil Servants and Others) Pensions Regulations 2014 (the 2014 Regulations) (S.I. 2014/1964). The Regulations included amendments to reflect new policy, as well as corrections and clarifications. Given the balance between these different types of amendments, and the passage of time since the 2014 Regulations, the Cabinet Office did not consider the procedure for free issue. However, having reviewed the guidance in paragraph 4.7.6, the Cabinet Office will now consult the SI Registrar about the best way to proceed.

**Cabinet Office**

**22 May 2018**