



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

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# Transparency and Accountability in Subordinate Legislation: Government Response to First Special Report

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**Second Special Report of Session  
2017–19**

*Ordered by the House of Lords  
to be printed 12 September 2018*

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and the House of Commons

## 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 Jeanne Delebarre (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).

## Second Special Report

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**On 12 June 2018 the Committee published its First Special Report: Transparency and Accountability in Subordinate Legislation. The response from the Government was received on 10 September 2018. The response is appended below.**

### Appendix: Government Response: Letter to Chair of JCSI from the Leader of the House of Commons

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Thank you for your letter of 20 June, following the publication of the Committee's report on Transparency and Accountability for Statutory Instruments. I am grateful to the Committee for its work and I have asked that the report be circulated to all Government departments so that colleagues are aware of the issues raised by the Committee.

I am writing to provide an update on the specific recommendation in the report referenced in your letter. At paragraph 3.25 of the report the Committee states in relation to the free issue procedure:

*A more effective and appropriate modern procedure would probably be to allow readers to register for email or text alerts when a statutory instrument is replaced for the purpose of rectifying errors. The Committee invites the Government to consider whether a process of this kind should be instituted and aligned to the existing free issue procedure.*

My office has been liaising with the Legislation team at the National Archives who, on behalf of the Queen's Printer, welcome the report. The team have asked me to convey that transparency and accountability are cornerstones of the work that they undertake to publish legislation. With approximately two million users accessing [www.legislation.gov.uk](http://www.legislation.gov.uk) per month they understand that their role is also closely associated with the rule of law and public access to the laws of the land.

The legislation website currently offers a range of RSS feeds that users can access so that they are notified of publishing events such as new legislation and draft legislation (by type) as well as any amendments to specific items of legislation that the user may have an interest in following. There is not currently a feed for legislation that is published under the free issue procedure but, having reflected on the report from the Committee, the National Archives can see the benefits that such a feature would provide for users. They are therefore actively investigating options for making information regarding the reissuing of statutory instruments more easily accessible to users of [legislation.gov.uk](http://legislation.gov.uk) as part of their ongoing work to enhance this service in order to meet users needs.

My office will put your Clerks in contact with an official at the National Archives so that the Committee can be updated as this work progresses.

I am copying this letter to the Leader of the House of Lords.