



House of Lords
House of Commons
Joint Committee on
Statutory Instruments

Fifty-seventh Report of Session 2017–19

Drawing special attention to:

Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573)

*Ordered by the House of Lords
to be printed 1 May 2019*

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Joint Committee on Statutory Instruments

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

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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](#), relating to Public Business.

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

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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.

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).

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Instruments reported

At its meeting on 1 May 2019 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. 2019/573: Reported for defective drafting

Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019

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

1.2 In regulation 25(1) of this instrument, sub-paragraphs (a) to (d) refer to a “third country”, and sub-paragraphs (e) to (h) refer to a “non-UK country”. Regulation 25(4) provides a definition of the latter expression but not of the former. In a memorandum printed as an Appendix, the Foreign and Commonwealth Office states that all eight sub-paragraphs should have referred to the latter expression.

1.3 Regulation 26(3) provides that a person who contravenes a specified prohibition commits an offence, but it is a defence for a person charged with that offence to show that—[followed by two circumstances listed as (a) and (b)]. The circumstances are not mutually exclusive, so that it is unclear whether it is necessary to show just one of them in order for the defence to apply. The Department states that the intention is that it will be a defence to show either (a) or (b).

1.4 The Department apologises for both of these errors and states that it will attempt to correct them with an amending instrument. Since the Committee raised the questions, the Department has corrected the errors (in the Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/843)). **The Committee accordingly reports regulations 25(1) and 26(3) for defective drafting, now corrected by the Department.**

Instruments not reported

At its meeting on 1 May 2019 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

Instruments requiring affirmative approval

- S.I. 2019/837 Rail Safety (Amendment etc.) (EU Exit) Regulations 2019
- S.I. 2019/855 Russia (Sanctions) (EU Exit) Regulations 2019

Instruments subject to annulment

- S.I. 2019/552 Social Security Benefits Up-rating Regulations 2019
- S.I. 2019/555 Social Security (Contributions) (Re-rating) Consequential Amendment Regulations 2019
- S.I. 2019/559 Environment (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019
- S.I. 2019/572 Transport Act 1985 (Amendment) Regulations 2019
- S.I. 2019/575 Port Services Regulations 2019
- S.I. 2019/577 Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019
- S.I. 2019/670 Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) (Amendment) Regulations 2019
- S.I. 2019/682 Social Housing Rents (Exceptions and Miscellaneous Provisions) (Amendment) Regulations 2019
- S.I. 2019/698 Customs (Revocation of Retained Direct EU Legislation, etc.) (EU Exit) Regulations 2019
- S.I. 2019/703 Radiation (Emergency Preparedness and Public Information) Regulations 2019
- S.I. 2019/713 Tax Credits and Child Trust Funds (Amendment) (EU Exit) Regulations 2019
- S.I. 2019/716 Merchant Shipping (Maritime Labour Convention) (Extension of Maritime Labour Certificate) (Amendment) Regulations 2019
- S.I. 2019/727 Childcare (Correction to Miscellaneous Amendments) (England) (EU Exit) Regulations 2019
- S.I. 2019/754 Bankruptcy (Financial Services and Markets Act 2000) Rules 2001 and the Insurers (Winding Up) Rules 2001 (Amendment) Rules 2019
- S.I. 2019/755 Financial Services and Markets (Insolvency) (Amendment of Miscellaneous Enactments) Regulations 2019

S.I. 2019/769 Agricultural Holdings (Units of Production) (England) Order 2019

S.I. 2019/859 European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) (No. 2) Regulations 2019

Instrument not subject to Parliamentary proceedings not laid before Parliament

S.I. 2019/743 Financial Guidance and Claims Act 2018 (Commencement No. 6) Regulations 2019

Appendix

S.I. 2019/573

Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019

1. On 3 April 2019, the Committee requested that the Foreign and Commonwealth Office (“FCO”) submit a memorandum on the following points:

(1) Explain the definition of “non-UK country” in regulation 25(4), given that the expression appears only in sub-paragraphs (e) to (h) of paragraph (1) and the expression “third country”, which appears in sub-paragraphs (a) to (d), is not defined.

(2) In regulation 26(3), is it intended to be a defence to show either (a) or (b), or must both be shown, and why is this not made clear?

2. The FCO is grateful for the Committee’s consideration of this instrument and responds as follows.

3. The use of “third country” in sub-paragraphs (a)-(d) of regulation 25(1) is an error. It should instead be “non-UK country”.

4. The intention in regulation 26(3) is that it is a defence to show either (a) or (b).

5. The FCO apologises for the error in regulation 25 and the lack of clarity in regulation 26(3), and will seek to correct both regulations with an amending instrument.

Foreign and Commonwealth Office

9 April 2019