



House of Lords
House of Commons
Joint Committee on
Statutory Instruments

**Eighth Report
of Session 2017–19**

Drawing special attention to:

*Police (Conduct, Complaints and Misconduct and Appeal Tribunal)
(Amendment) Regulations 2017 (S.I. 2017/1134)*

*Ordered by the House of Lords
to be printed 10 January 2018*

*Ordered by the House of Commons
to be printed 10 January 2018*

**HL 60
HC 542-viii**

Published on 12 January 2018
by authority of the House of Lords
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-Beddoe](#) (*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*)

[Lee Rowley MP](#) (*Conservative, North East Derbyshire*)

[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.

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.

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, Peter Brooksbank, Philip Davies and Vanessa MacNair (Commons); James Cooper, Nicholas Beach and John Crane (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.

Contents

Instruments reported	3
1 S.I. 2017/1134: Reported for defective drafting	3
Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017	3
Instruments not reported	4
Annex	4
Draft instruments requiring affirmative approval	4
Instruments subject to annulment	4
Instruments not subject to Parliamentary proceedings not laid before Parliament	5
Appendix	6
S.I. 2017/1134	6
Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017	6

Instruments reported

At its meeting on 10 January 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 one of those considered. The Instrument and the ground for reporting it is given below. The relevant Departmental memorandum is published as an appendix to this report.

1 S.I. 2017/1134: Reported for defective drafting

Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017

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 Regulation 17(b) amends rule 8(2) of the Police Appeals Tribunal Rules 2012 by inserting after “officer” the words “or other former police officer”. Rule 8(2) contains the word “officer” twice: once in the phrase “other police officer” and once in the phrase “chief officer of police”. The amendment does not specify which of these phrases is intended to be amended.

1.3 In a memorandum printed as an Appendix, the Home Office acknowledges that this was a drafting error, and that regulation 17(b) should have specified unambiguously where the text was to be inserted. The Department observes that the context makes it easy to identify where the insertion was intended to be. The Committee agrees with the Department: the phrase “chief officer or other former police officer of police” cannot conceivably have been intended. **The Committee accordingly reports regulation 17(b) for defective drafting, acknowledged by the Department.**

Instruments not reported

At its meeting on 10 January 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

Draft instruments requiring affirmative approval

Draft S.I.	Gambling Act 2005 (Amendment of Schedule 6) Order 2018
Draft S.I.	Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018
Draft S.I.	Human Fertilisation and Embryology (Amendment) Regulations 2018
Draft S.I.	Human Tissue (Quality and Safety for Human Application) (Amendment) Regulations 2018
Draft S.I.	Investigatory Powers (Codes of Practice) Regulations 2018
Draft S.I.	Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018
Draft S.I.	Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018
Draft S.I.	Investigatory Powers (Technical Capability) Regulations 2018

Instruments subject to annulment

S.I. 2017/1091	Franchising Schemes and Enhanced Partnership Plans and Schemes (Provision of Information) Regulations 2017
S.I. 2017/1092	Franchising Schemes and Enhanced Partnership Schemes (Application of TUPE) (England) Regulations 2017
S.I. 2017/1093	Franchising Schemes and Enhanced Partnership Schemes (Pension Protection) (England) Regulations 2017
S.I. 2017/1137	Town and Country Planning (Operation Stack) Special Development (Amendment) Order 2017
S.I. 2017/1147	Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment No. 2) Regulations 2017
S.I. 2017/1148	Civil Procedure Act 1997 (Amendment) Order 2017
S.I. 2017/1151	State Pension Revaluation for Transitional Pensions Order 2017
S.I. 2017/1152	State Pension Debits and Credits (Revaluation) (No. 2) Order 2017
S.I. 2017/1173	Payment Systems and Services and Electronic Money (Miscellaneous Amendments) Regulations 2017

S.I. 2017/1174	National Insurance Contributions (Application of Part 7 of the Finance Act 2004) (Amendment) Regulations 2017
S.I. 2017/1220	Plant Health (England) (Amendment) (No. 2) Order 2017
S.I. 2017/1222	Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984) (Amendment) Order 2017
S.I. 2017/1223	Proceeds of Crime Act 2002 (Administrative Forfeiture Notices) (England and Wales and Northern Ireland) Regulations 2017
S.I. 2017/1226	Administrative Forfeiture of Terrorist Cash and Terrorist Money Held in Bank and Building Society Accounts (Cash and Account Forfeiture Notices) Regulations 2017
S.I. 2017/1232	Charitable Incorporated Organisations (Conversion) Regulations 2017
S.I. 2017/1233	Index of Company Names (Listed Bodies) Order 2017
S.I. 2017/1234	Renewables Obligation (Amendment) Regulations 2017
S.I. 2017/1237	Civil Legal Aid (Procedure) (Amendment) (No. 2) Regulations 2017
S.I. 2017/1242	Immigration Act 2016 (Consequential Amendments) (Immigration Bail) Regulations 2017
S.I. 2017/1243	Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017
S.I. 2017/1244	Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017
S.I. 2017/1247	Companies Act 1989 (Financial Markets and Insolvency) (Amendment) Regulations 2017
S.I. 2017/1250	Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017
S.I. 2017/1254	Tuberculosis (Non-bovine animals) Slaughter and Compensation (England) Order 2017

Instruments not subject to Parliamentary proceedings not laid before Parliament

S.I. 2017/1183	Finance Act 2014, Section 300 (Local Loans) (Appointed Day) Order 2017
S.I. 2017/1184	Income Tax (Indexation) Order 2017
S.I. 2017/1228	National Citizen Service Act 2017 (Commencement No. 1) Regulations 2017
S.I. 2017/1230	Charities Act 2011 (Commencement No. 3) Order 2017
S.I. 2017/1246	Annual Tax on Enveloped Dwellings (Indexation of Annual Chargeable Amounts) Order 2017
S.I. 2017/1249	Policing and Crime Act 2017 (Commencement No. 6 and Transitional Provisions) Regulations 2017

Appendix

S.I. 2017/1134

Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017

1. By letter dated 13 December 2017, the Joint Committee on Statutory Instruments has requested a memorandum on the following point:

Given that the word “officer” appears twice in rule 8(2) of the Police Appeals Tribunal Rules 2012, why does regulation 17(b) insert text in that provision after “officer” without indicating more precisely where the text is to be inserted?

2. We are grateful to the Committee for drawing our attention to this, which is a drafting error in regulation 17(b) of these Regulations (S.I. 2017/1134). We apologise for this error.

3. The intention was to insert a short phrase of new text (“or other former police officer”) after the first use of the word “officer”. The new words are therefore inserted after the words “other police officer”, rather than in the middle of the phrase “chief officer of police”. As a matter of English language, rule 8(2) of the Police Appeals Tribunal Rules 2012, as amended by regulation 17(b), can only make sense if the amendment is inserted after the first mention of “officer” in that rule, so we consider that the proper position of the amendment can be easily identified. We recognise, however, that regulation 17(b) should have specified unambiguously where the text was to be inserted.

Home Office

18 December 2017