Merits of Statutory Instruments Committee

First Report of Session 2006-07

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HL Paper 4
The Select Committee on the Merits of Statutory Instruments

The Committee has the following terms of reference:

(1) The Committee shall, subject to the exceptions in paragraph (2), consider—

(a) every instrument (whether or not a statutory instrument), or draft of an instrument, which is laid before each House of Parliament and upon which proceedings may be, or might have been, taken in either House of Parliament under an Act of Parliament;

(b) every proposal which is in the form of a draft of such an instrument and is laid before each House of Parliament under an Act of Parliament,

with a view to determining whether or not the special attention of the House should be drawn to it on any of the grounds specified in paragraph (3).

(2) The exceptions are—

(a) Orders in Council, and draft Orders in Council, under paragraph 1 of the Schedule to the Northern Ireland Act 2000;

(b) remedial orders, and draft remedial orders, under section 10 of the Human Rights Act 1998;

(c) draft orders (including draft subordinate provisions orders) under section 1 of the Regulatory Reform Act 2001, subordinate provisions orders under that Act and proposals in the form of a draft order under that Act;

(d) Measures under the Church of England Assembly (Powers) Act 1919 and instruments made, and drafts of instruments to be made, under them.

(3) The grounds on which an instrument, draft or proposal may be drawn to the special attention of the House are—

(a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;

(b) that it may be inappropriate in view of changed circumstances since the enactment of the parent Act;

(c) that it may inappropriately implement European Union legislation;

(d) that it may imperfectly achieve its policy objectives.

(4) The Committee shall also consider such other general matters relating to the effective scrutiny of the merits of statutory instruments and arising from the performance of its functions under paragraphs (1) to (3) as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Current Membership

The Members of the Committee are:

Lord Armstrong of Ilminster  Lord Filkin (Chairman)  Baroness Morgan of Drefelin
Lord Boston of Faversham  Lord Jopling  Earl of Northesk
Viscount Colville of Culross  Baroness Maddock  Lord Tunnicliffe
Viscount Eccles  Lord Methuen

Registered Interests

Members’ registered interests may be examined in the online Register of Lords’ Interests at www.publications.parliament.uk/pa/ld/lpreg.htm. The Register may also be inspected in the House of Lords Record Office and is available for purchase from the Stationery Office.

Publications

The Committee’s Reports are published by the Stationery Office by Order of the House. All publications of the Committee are on the internet at:

www.parliament.uk/parliamentary_committees/merits.cfm

Contacts for the Merits of Statutory Instruments Committee

If you have any queries regarding the Committee and its work, please contact the Clerk of the Merits of Statutory Instruments Committee, Delegated Legislation Office, House of Lords, London SW1A 0PW; telephone 020-7219 8821; facsimile 020-7219 2571; email merits@parliament.uk.
First Report

OVERVIEW OF ACTIVITY THIS WEEK

1. Although the House has not yet appointed a Select Committee on the Merits of Statutory Instruments this session, our orders of appointment from last session remain in force under Standing Order No. 65 (Sessional Committees). We have thus met to consider a number of instruments to ensure that the Committee continues to report on all instruments in good time. This week, there is no instrument which we wish to draw to the special attention of the House but members may wish to be aware of the following.

2. The draft Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 have been laid by HM Treasury under the Compensation Act 2006 (“the 2006 Act”). Mesothelioma is a cancer of the lining of the lungs or abdomen, which is almost always caused by exposure to asbestos. The 2006 Act includes provision to reverse the effect of the House of Lords judgment in Barker v. Corus, so as to enable victims to claim full compensation from any persons liable in negligence, or in breach of statutory duty, for having exposed them to asbestos. The person who has paid the compensation may then seek a contribution from other negligent persons. The draft Regulations provide the Financial Services Authority with an additional power to make rules for the Financial Services Compensation Scheme, which will be used to introduce changes to that Scheme that have become necessary as a result of provisions in the 2006 Act. The changes should avoid delay in compensation being paid to claimants until the Scheme’s involvement is established.

3. The Social Security (National Insurance Numbers) Amendment Regulations 2006 (SI 2006/2897) amend the way that national insurance numbers are issued so as to require the applicant to provide proof that they have the right to work in the United Kingdom. This addresses a criticism of the previous arrangements made by the House of Commons Home Affairs Committee in their report on immigration control.

4. HM Treasury have made the Social Security (Contributions) (Amendment No. 6) Regulations 2006 (SI 2006/2924) which partially implement the announcement by the Secretary of State for Defence on 10 October 2006 that an operational allowance (a non-taxable operational bonus) would be paid to eligible Service personnel deployed to specified operational locations, from 1 April 2006. The Regulations provide a disregard in the computation of relevant national insurance contributions, for payments of operational allowances to members of Her Majesty’s forces, and these changes are intended to complement the income tax position of those personnel.

5. The Statement of Changes to Immigration Rules (HC 1702) make changes to the rules relating to the Highly Skilled Migrant Programme, which allows free access to the labour market in the United Kingdom and can be a route to settlement. These are a step towards the “points” system announced earlier this year, which aims to increase objectivity and transparency in the decision-making process. It includes a mandatory requirement for a certain proficiency in English Language to aid integration.
The changes also require better documentary evidence of the qualifications claimed and allow officers greater flexibility to refuse an application where there is reasonable doubt that the documents are invalid. The **Immigration (Leave to Remain) (Prescribed Forms and Procedures) Amendment No 2) Regulations (SI 2006/2899)** make the corresponding changes to the application forms.

**INSTRUMENTS NOT REPORTED**

The Committee has considered the instruments set out below and has determined that the special attention of the House need not be drawn to them.

**Draft Instruments requiring affirmative approval**

Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006
Extradition Act 2003 (Amendment to Designations) Order 2006
Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2006
Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc.) (No. 3) Order 2006

**Instruments subject to annulment**

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<td>SI 2006/2835</td>
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<td>Youth Justice and Criminal Evidence Act 1999 (Application to Standing Civilian Courts) Order 2006</td>
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<td>Immigration (Leave to Remain) (Prescribed Forms and Procedures) (Amendment No. 2) Regulations 2006</td>
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<td>SI 2006/2901</td>
<td>General Optical Council (Continuing Education and Training) (Amendment No 2) Rules Order of Council 2006</td>
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<td>SI 2006/2907</td>
<td>Cosmetic Products (Safety) (Amendment) (No. 3) Regulations 2006</td>
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SI 2006/2912 M53 Motorway (Bidston Moss Viaduct) (50 Miles per Hour Speed Limit) Regulations 2006
SI 2006/2914 Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
SI 2006/2915 National Lottery Distributors Dissolution Order 2006
SI 2006/2916 Dangerous Substances and Preparations (Safety) Regulations 2006
SI 2006/2917 Royal Marines Terms of Service Regulations 2006
SI 2006/2918 Royal Navy Terms of Service (Ratings) Regulations 2006
SI 2006/2919 National Health Service (Pension Scheme and Compensation for Premature Retirement) Amendment Regulations 2006
SI 2006/2920 Civil Courts (Amendment No. 2) Order 2006
SI 2006/2921 Rice Products (Restriction on First Placing on the Market) (England) Regulations 2006
SI 2006/2922 Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) (No. 3) Regulations 2006
SI 2006/2924 Social Security (Contributions) (Amendment No. 6) Regulations 2006
Draft Code of Practice 10: Modification of subsisting rights, laid under the Pensions Act 1995
HC 1702 Statement of Changes in Immigration Rules

Instruments subject to annulment (Northern Ireland)
SR 2006/424 Energy (Amendment) Order (Northern Ireland) 2006
SR 2006/425 Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006