

HOUSE OF LORDS

Merits of Statutory Instruments Committee

28th Report of Session 2010-11

Drawing special attention to:

**Oral Evidence Session
with Chris Grayling MP,
Minister for Employment,
Department for Work and
Pensions, Regarding
Recent DWP Statutory
Instruments**

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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) remedial orders, and draft remedial orders, under section 10 of the Human Rights Act 1998;
 - (b) draft orders under sections 14 and 18 of the Legislative and Regulatory Reform Act 2006, and subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001;
 - (c) 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.

Members

The members of the Committee are:

Rt Hon. the Baroness Butler-Sloss GBE	The Lord Methuen
The Lord Eames OM	Rt Hon. the Baroness Morris of Yardley
Rt Hon. the Lord Goodlad (<i>Chairman</i>)	The Lord Norton of Louth
The Baroness Hamwee	The Lord Plant of Highfield
The Lord Hart of Chilton	Rt Hon. the Lord Scott of Foscote
The Lord Lucas	

Registered interests

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

Declared interests for this Report are in Appendix 2.

Publications

The Committee's Reports are published by the Stationery Office by Order of the House in hard copy and on the internet at www.parliament.uk/parliamentary_committees/merits.cfm

Contacts

If you have a query about the Committee or 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; fax 020-7219 2571; email merits@parliament.uk. The Committee's website, www.parliament.uk, has guidance for the public on how to contact the Committee if you have a concern or opinion about any new item of secondary legislation.

Statutory instruments

The National Archives publishes statutory instruments on the internet on behalf of the Government at www.legislation.gov.uk/ukxi, together with an explanatory memorandum (a short, plain-English explanation of what the instrument does) for each instrument.

Twenty-eighth Report

REPORT ON THE ORAL EVIDENCE SESSION WITH RT HON CHRIS GRAYLING MP, MINISTER FOR EMPLOYMENT, DEPARTMENT FOR WORK AND PENSIONS, REGARDING RECENT DWP STATUTORY INSTRUMENTS

1. In our 27 previous reports this session, 7 DWP instruments have featured as major items: frequently for failing to provide an adequate explanation of the policy intention or to provide evidence that the regulations will work as intended.
2. In reviewing recent DWP regulations, as well as the immediate information requirements for good parliamentary scrutiny, we had in mind the long-standing principles of good regulation promulgated by the Better Regulation Executive in BIS, which state that any regulation should be:
 - Transparent
 - Accountable
 - Proportionate
 - Consistent and
 - Targeted – only at cases where action is needed.¹
3. These are criteria that successive governments have endorsed and with which all regulations are supposed to comply. However, the Committee has found that a number of recent DWP regulations have not provided sufficient evidence to meet the standards expected, and the Merits Committee therefore asked the Minister for Employment, the Rt Hon Chris Grayling MP, to give evidence and fill in some of the gaps.² We thank the Minister for his assistance. Much of the meeting was taken up with discussion of a new Mandatory Work Activity Scheme for certain individuals on Jobseeker's Allowance, introduced by SI 2011/688 and reported by the Committee in its 27th report (HL Paper 126).

¹ <http://www.bis.gov.uk/policies/better-regulation>

² The meeting took place on Tuesday 5 April 2011. The transcript of the oral evidence session is available here: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/merits-of-statutory-instruments-committee/publications/>

A webcast of the meeting is available here:

<http://www.parliamentlive.tv/Main/Player.aspx?meetingId=8176>

Transparent

4. In its 27th report the Committee noted that the purpose of the Mandatory Work Activity Scheme was not stated consistently, veering between “work related activity with a view to assisting the customer to improve their prospects of obtaining employment”; and “a mandatory programme in order to reorient their [claimants’] mindset”³ – which a number of commentators had perceived as a punitive regime.⁴
5. When the Committee asked Mr Grayling to clarify the aim of the Mandatory Work Activity Scheme he said that its origins lay in the grassroots desire of Jobcentre staff to have a tool to deal with claimants who had become detached from the working environment (Q 2). Still uncertain about the purpose of the scheme, the Committee asked for examples of what those nominated might be asked to do, and what skills they might gain from the activity. The Minister suggested that activities might include working in a charity shop or with a conservation group (QQ 3-4). Despite these suggestions, the Committee remains unclear about the full range of activities to which people might be assigned, and how quality of content will be assured, particularly given that a very wide degree of local variation is integral to the scheme.

Accountable

6. The Committee was also concerned about how the scheme was to be assessed as to whether it represented value for money. In evidence the Minister said the budget would initially be £8m (including the costs of evaluation) (QQ 22-23). Because of the range of activities being considered no per capita spend or unit cost information is currently available. After the evidence session, DWP responded to a question about the possible ‘offset’ savings from this scheme:

“We have not explicitly estimated savings from Mandatory Work Activity however evidence to support the impact of mandatory activity on the likelihood of jobseekers finding employment is provided the Intensive Activity Period (IAP) stage of New Deal 25+ (ND25+) becoming mandatory for jobseekers aged 25 to 49 from April 2010 and a pilot making the IAP stage of ND25+ mandatory for jobseekers aged 50 years and over.

The evaluation of IAP found that putting customers onto a mandatory programme increased jobseekers time off benefit by 34 days. If MWA had a similar impact then we would expect to generate £1.30 of savings for the Exchequer for every £1 spent. This includes both AME (benefit) and fiscal savings.”

7. As is their frequent practice DWP, despite the degree of political and media attention attracted by many of their initiatives, did not provide a formal Impact Assessment with the Mandatory Work Activity Scheme, nor even basic information on its financial costs and benefits. The Minister justified this on the grounds that the initial scope of the scheme was such that its

³ Quotes from paragraph 2 of the Explanatory Memorandum to the MWAS Regulations, and paragraph 2.2 of the Departmental memorandum to the Social Security Advisory Committee (SSAC) respectively

⁴ See for example the report by the SSAC published with the instrument: <http://www.official-documents.gov.uk/document/other/9780108510403/9780108510403.asp>

impact would be limited (Q 31). However, the Regulations have been drawn up so that the DWP do not need to return to Parliament in order to expand the scheme – they can simply make the changes administratively. Therefore the time for DWP to have assessed the likely impact of their scheme, and to have presented detailed information to Parliament to help it to perform its essential scrutiny function, was when these Regulations were laid before Parliament.

8. The EM states that the scheme is intended “to assist the customer to improve their prospects of obtaining employment” but sets no definition of how success is to be measured. The plans for monitoring and review set out in paragraph 12 of the EM are sketchy, simply saying that there would be “an assessment of the impact of mandatory work activity on employment and benefit outcomes, subject to identification of suitable comparison group”. This is mentioned as part of a wider review of the pre-Work programme, and the Committee is not clear how the specific impacts of this scheme will be separately identified. Furthermore, unlike the Work For Your Benefit Scheme proposed at the end of the last government, this is not a structured pilot, but a variety of provision that will be designed differently in different areas, with no control group identified as part of the scheme’s design (QQ 20-21).
9. It seems poor practice that the Department should have almost concluded the tender process without having thought through the evaluation criteria for the scheme. In particular the Committee is concerned that without an Impact Assessment there is no defined benchmark against which the outcome, whatever it is, can be measured. The Committee has in the past commented that DWP has seemed to confuse activity with effectiveness:⁵ robust data is the best defence against that accusation.
10. The Minister said that DWP “will track and evaluate on the basis of the propensity to be in work or otherwise. We have plenty of comparators to use within our existing databases” (Q 30) – yet the Department chose not to publish more specific detail in the EM. This is a theme that we have come back to more than once with DWP instruments in this policy area. When the Committee took evidence from a previous DWP Minister in January 2010 on the draft Jobseeker’s Allowance (Skills Training Conditionality Pilot) Regulations⁶, which show a number of similarities with the current proposal, we stated:

“In our report on the original Flexible New Deal Regulations (2009/480) we commented on the lack of a clear plan for evaluation and the lack of baseline information against which progress could be tested. The EM to the Skills Conditionality Regulations is equally vague about how progress is to be assessed...”

11. The Social Security Advisory Committee (SSAC) has expressed concerns about whether “workfare” and mandatory activity is effective in helping people to find jobs, particularly during periods of high unemployment, and has cited studies which call this into question.⁷ It would have provided a degree of reassurance if the Department had outlined more specific plans for

⁵ 5th Report of Session 2009-10, HL Paper 32, para 34

⁶ 5th Report of Session 2009-10, HL Paper 32, made as SI 2010/696

⁷ SSAC report on SI 2011/688, paragraph 4.2.

an early evaluation of outcomes, and it is disappointing that DWP did not choose to do this.

Proportionate and targeted

12. The Committee was also surprised that no clear estimate was given of the number of places required. The Minister said that 10,000 places had been commissioned initially and that this was expected to increase (Q 17). When asked if there was a potential for waste from places not being filled, the Minister said he thought it unlikely as the frontline staff themselves had recommended the scheme (Q 19). Beyond this, the Committee has not been made aware of any rigorous assessment by the Department of the scale of need for the Mandatory Work Activity Scheme.
13. The targeting of the Mandatory Work Activity Scheme is to be left almost entirely to the discretion of Jobcentre Advisers, and the Minister is sanguine that there will be local variation and a lack of consistency in the way that the Advisers apply their judgment (Q 7). The Minister said he did not envisage the Mandatory Work Scheme targeting those people moving off ESA or Incapacity Benefit, but rather being aimed at the conventional claimant on Jobseeker's Allowance (Q 12). However, the Regulations before the Committee would allow such people to be caught by the Scheme; the guidance for Advisers is not published; and the Advisers will have very significant discretion, so it is impossible to be sure that this will be the case.

Consistent

14. The selection criteria for candidates for the Mandatory Work Activity Scheme are not in the Regulations but will be given in intranet guidance to Jobcentre Advisers. This guidance is not available for Parliamentary scrutiny now and can be changed without any further consideration by Parliament. We asked the Minister to justify DWP taking this degree of flexibility. The Minister said that the degree of flexibility was in reaction to previous prescription from the centre that simply had not worked, that local teams had to have the flexibility to meet local circumstances, and that "we have to trust the professionals. We have to make sure they are well trained, but we have to trust their judgment" (Q 6). While the Committee has some sympathy for the Minister's concern that staff should be able to respond to local conditions, this needs to be offset by clear accountability. We were not clear how local practice would be monitored to prevent unjustified inconsistency, and the Minister seemed unworried by the potential for an increase in tribunal cases from claimants alleging unequal treatment (Q 7).
15. The Committee recently considered changes to the Work Capability Assessment in the Employment and Support Allowance.⁸ Although DWP has assured the Committee that its staff are fully trained and briefed, external information challenges this: in its 23rd report (HL Paper 105), the Committee noted that 40% of appeals against the ESA Work Capability Assessment are upheld; and, last week, the Commons Justice Select Committee deplored the drain on legal aid from the volume of DWP tribunal cases – of which 34% (23,100 cases) were successful in Quarter 2 2010-11.⁹ The Committee suggests that the high proportion of Jobcentre Advisers'

⁸ Employment and Support Allowance (Limited capability for Work and Limited Capability for Work Activity) (Amendment) Regulations (SI 2011/228); 23rd Report of this Session, HL Paper 105

⁹ House of Commons Justice Committee, *Government's proposed reform of legal aid*, 3rd report (HC 681-I), chapter 4

decisions currently overturned by tribunals might indicate the need to restrict Advisers' discretion, rather than increase it.

16. In mitigation, the Committee did note that, when handling disputes arising from people directed to work-related activity or the Jobseeker's Allowance as a result of a Work Capability Assessment, a Jobcentre Adviser was working at a significant disadvantage. This is because a tribunal has access to the claimant's medical information, but the Adviser does not, thus making variation in some decisions almost inevitable. The Minister acknowledged these difficulties but said that the Department was changing its approach and requiring the Decision-makers, who are discrete DWP staff who form the first stage of the appeal system, to look at a broader range of evidence when reviewing the Adviser's decision. This made him confident that the number of decisions overturned at tribunal would be significantly reduced (QQ 14-15). While this should mean that disputed recommendations will in future be resolved more quickly, this does not address the concern that the Adviser's initial decision to require someone to undertake a work-related activity may be ill-informed and the claimant may receive a benefit sanction in consequence.

The right information at the right time

17. DWP can set its own legislative timetable, but several times recently the Department has laid regulations that external commentators described as premature.¹⁰ The Mandatory Work Activity Scheme came before us with no practical information on how candidates would be selected, nor any real indication of what the schemes would involve. This is a vague and insubstantial basis on which to expect the Committee to assess whether the regulations will achieve their objective - and it appears that more precise information will not be available for some time.
18. In its Explanatory Memoranda the DWP too often fails to explain the rationale for its decisions. For example, the Social Fund Maternity Grant Regulations lacked any adequate explanation of why the proposed solution was chosen over two apparently similar ones. Memoranda frequently claim that there is no impact from the legislation proposed on the voluntary sector, but we are aware of the cumulative burden that it imposes on organisations like Citizens' Advice or charities helping the disadvantaged - and we would wish the Department properly to explain the basis for this assumption.
19. We have therefore asked the DWP Minister to make certain that, in future, regulations from his Department include in the Explanatory Memorandum or Impact Assessment all the necessary information, baseline data and explanation of assumptions to facilitate proper scrutiny of the proposal both by this Committee and by the House (QQ 25-29). The Committee intends to keep the situation under review.

¹⁰ For example the Social Security Maternity Grant (see our 20th Report of this Session, HL Paper 95) or the amendments to the Work Capability Assessment (see our 23rd Report of this Session, HL Paper 105)

OTHER INSTRUMENTS OF INTEREST

Draft Ministerial and Other Salaries Act 1975 (Amendment) Order 2011 and three Transfer of Functions Orders¹¹

20. A number of minor administrative instruments have been considered this week that may be of interest to the House. The Ministerial and Other Salaries Act 1975 (Amendment) Order implements the agreement that Government Ministers and other post holders from all parties will receive 5% less salary than their immediate predecessor and adjusts their pension contributions accordingly. Three Transfer of Functions Orders confirm the machinery of government changes that transfer the spending of the Big Lottery Fund and responsibility for the report on the Civil Estate to Cabinet Office, and responsibility for competition and policy issues relating to the media, broadcasting, digital and telecoms sectors to the Department for Culture Media and Sport.

Draft Taxation of Equitable Life (Payments) Order 2011

21. This draft instrument makes provision for payments which the Treasury authorise in cases where persons have been adversely affected by maladministration in the regulation before December 2011 of the Equitable Life Assurance Society. It provides for authorised payments to be disregarded for the purposes of Capital Gains Tax, Corporation Tax, Income Tax and for Tax Credits. The draft instrument also provides that the value of rights to, or interests in, an authorised payment will not be treated as part of the estate of a deceased person in cases where the payment is made in respect of a person who died before the payment is made; similarly in determining the value of relevant property comprised in a settlement and liable to a ten-year anniversary charge, the value of rights to, or interests in, an authorised payment will be disregarded if the payment was made after the ten-year anniversary.

Home Energy Efficiency Scheme (England) (Amendment) Regulations 2011 (SI 2011/833)

22. Earlier Regulations provide the legal basis for the payment of grants for the provision of energy efficiency measures, known as 'Warm Front'. The Warm Front scheme enables the administering agency to accept applications for the payment of grants for energy efficiency assistance from people who are entitled to certain benefits (and who are considered to be vulnerable to fuel poverty), and to install heating and insulation measures that will improve the thermal efficiency of their homes. The Committee drew an earlier set of regulations amending the Warm Front scheme to the special attention of the House (7th Report, HL Paper 33). The EM to the current Regulations says that Warm Front was afforded £1.1 billion of funding for the spending period 2008-11, and the Spending Review 2010 committed funding for a smaller, targeted scheme - £110 million in 2011/12 and £100 million in

¹¹ Transfer of Functions (Big Lottery Fund) Order 2011 (SI 2011/739); Transfer of Functions (Report on the Civil Estate) Order 2011 (SI 2011/740) and Transfer of Functions (Media and Telecommunications etc) Order 2011 (SI 2011/741).

2012/13 (paragraph 7.3). As a result, the Government has consulted on and revised the Fuel Poverty Strategy, under which the Warm Front scheme sits. The Government has refined the eligibility criteria and introduced an energy efficiency threshold (EM paragraph 2.2). The effect of the changes is significant – the number of households eligible for assistance will be narrowed from 4.3 million to 1.5 million households (EM paragraph 3.1). These regulations have been laid with an Impact Assessment which includes an Equality Impact Assessment for the various policy options.

Egypt (Asset-Freezing) Regulations 2011 (SI 2011/887)

23. These Regulations make provision relating to the enforcement of Council Regulation (EU) No. 270/2011 of 21 March 2011 (“the Council Regulation”) concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt. The measures include the freezing of funds and economic resources of such persons, and ensuring that funds and economic resources are not made available to them or for their benefit. The Council Regulation has direct effect but these Regulations provide for penalties for breach of the asset freezing measures contained in the Council Regulation. The EM to the Regulations explains that guidance on the asset freezing measures in relation to Egypt is available on the Treasury’s website, and that they operate a free subscription email service alerting subscribers on changes to the asset freezing regime, and on other financial sanctions measures (paragraph 9).

Tunisia (Asset-Freezing) Regulations 2011 (SI 2011/888)

24. These Regulations make provision relating to the enforcement of Council Regulation (EU) No. 101/2011 of 4 February 2011 (“the Council Regulation”) concerning restrictive measures directed against persons, entities and bodies in view of the situation in Tunisia. The measures include the freezing of funds and economic resources of such persons and ensuring that funds and economic resources are not made available to them or for their benefit. The Council Regulation has direct effect but these Regulations provide for the penalties for breach of the asset freezing measures. The Explanatory Memorandum says that guidance on the asset freezing measures in relation to Tunisia is available on the Treasury’s website, and they operate a free subscription email service alerting subscribers on changes to the asset freezing regime. These Regulations have been laid before Parliament less than 21 days before they come into force; the Explanatory Memorandum suggests that this urgency is because of the seriousness of the risks addressed by the Council Regulation and the need to get the penalties in place. However, there has been some delay since the Council Regulation was published in the Official Journal on 5 February 2011 and the Treasury has therefore provided an explanation (see Appendix 1). The House may be interested to note that the Treasury has worked with the Ministry of Justice to abbreviate their scrutiny of such instruments, the result being that when sanctions were agreed for Libya and Egypt, penalties were put in place the same day.

Apprenticeship (Issue of Apprenticeship Certificates) (England) Regulations 2011 (SI 2011/900)

25. These regulations prescribe the manner to be used by an applicant when applying to the English certifying authority for the issue of an Apprenticeship certificate. The regulations authorise the English certifying authority to charge a fee for the issue of an Apprenticeship certificate and specifies the maximum fee which may be charged for the certificate. The regulations also make provision to authorise the English certifying authority to supply copies of an Apprenticeship certificate and to charge a fee for the supply subject to a maximum amount.

Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (Revocation) Regulations 2011 (SI 2011/989)

26. These Regulations revoke the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2010 (“the 2010 Regulations”) which are not yet in force. The 2010 Regulations, which were identified as an instrument of interest by the Committee (17th Report, HL Paper 80), widened one of the conditions under which certain employees may request a contract variation in their working practice. The right applied to employees with parental responsibility for children aged under 17, or aged under 18 in the case of disabled children – the 2010 Regulations extended the right to include employees with parental responsibility for children aged under 18. The EM explains that the Government concluded that the 2010 Regulations should be revoked in the context of the growth review undertaken in preparation for the Budget, as employers need to be able to focus on growth and job creation, and there is a risk that the extension of this right would distract from the goal (paragraph 7.1). The 2010 Regulations were due to come into force on 6 April. The EM explains that these Regulations breach the “21 day rule” in order to ensure that the changes made by the 2010 Regulations do not come into force.

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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 subject to affirmative approval

Draft Greenhouse Gas Emissions Trading Scheme (Nitrous Oxide) Regulations 2011

Draft Ministerial and other Salaries Act 1975 (Amendment) Order 2011

Draft Pensions Appeal Tribunals Act 1943 (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2011

Draft Pensions Appeal Tribunals Act 1943 (Time Limit for Appeals) (Amendment) Regulations 2011

Draft Taxation of Equitable Life (Payments) Order 2011

Instruments subject to annulment

- SI 2011/593 Mutual Societies (Electronic Communications) Order 2011
- SI 2011/739 Transfer of Functions (Big Lottery Fund) Order 2011
- SI 2011/740 Transfer of Functions (Report on the Civil Estate) Order 2011
- SI 2011/741 Transfer of Functions (Media and Telecommunications etc.) Order 2011
- SI 2011/817 Accounts and Audit (England) Regulations 2011
- SI 2011/828 Airport Byelaws (Designation) Order 2011
- SI 2011/830 Social Security Benefits Up-rating Regulations 2011
- SI 2011/832 Aerodromes (Designation) (Detention and Sale of Aircraft) (England and Wales) (Amendment) Order 2011
- SI 2011/833 Home Energy Efficiency Scheme (England) (Amendment) Regulations 2011
- SI 2011/868 Workmen's Compensation (Supplementation) (Amendment) Scheme 2011
- SI 2011/869 Social Security (Industrial Injuries) (Dependency) (Permitted Earnings Limits) Order 2011
- SI 2011/881 Animal By-Products (Enforcement) (England) Regulations 2011
- SI 2011/883 Friendly Societies (Proxy Voting) Regulations 2011
- SI 2011/887 Egypt (Asset-Freezing) Regulations 2011
- SI 2011/888 Tunisia (Asset-Freezing) Regulations 2011
- SI 2011/889 British Waterways Board (Kennet and Avon Canal) (Reclassification) Order 2011
- SI 2011/900 Apprenticeships (Issue of Apprenticeship Certificates) (England) Regulations 2011
- SI 2011/901 Apprenticeships (Transitional Provision for Existing Vocational Specifications) (England) Order 2011
- SI 2011/907 Asylum Support (Amendment) Regulations 2011
- SI 2011/909 M1 Motorway (Junctions 25 to 28) (Variable Speed Limits) Regulations 2011
- SI 2011/915 Medicinal Products (Herbal Remedies) (Amendment) Regulations 2011
- SI 2011/935 Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011
- SI 2011/989 Flexible Working (Eligibility, Complaints and Remedies) (Amendment) (Revocation) Regulations 2011

**APPENDIX 1: TUNISIA (ASSET-FREEZING) REGULATIONS 2011 (SI 2011/888):
FURTHER INFORMATION**

Further Information from HM Treasury

When Council Regulation EU 101/2011 came into effect there were no reported Tunisian assets located in the UK. This lessened the risk of any breach and efforts were at the time focused on the situation in Egypt and Libya. The Ministry of Justice's scrutiny of our use of criminal penalties also meant that the SI could not be passed for a further two weeks.

As a result of this experience, we have worked closely with colleagues in MOJ to abbreviate this scrutiny process and ensure that the Treasury is able to promptly implement new asset freezing measures (all the more important when the UK has taken a lead in pushing for multilateral action). The result of these new processes is that when Libya and Egypt sanctions were agreed we were able to put penalties in place the same day. We continue to work closely with MOJ in this regard going forward.

March 2011

APPENDIX 2: INTERESTS AND ATTENDANCE

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

For the meeting on 5 April 2011 Members declared no interests on any of the instruments of interest.

Attendance:

The meeting was attended by B. Butler-Sloss, L. Eames, L. Goodlad, B. Hamwee, L. Hart of Chilton, L. Lucas, L. Methuen, B. Morris of Yardley, L. Plant of Highfield and L. Scott of Foscoate.