

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

1st Report of Session 2016–17

Includes 2 Information Paragraphs on 3 Instruments

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Secondary Legislation Scrutiny Committee

The Committee was established on 17 December 2003 as the Merits of Statutory Instruments Committee. It was renamed in 2012 to reflect the widening of its responsibilities to include the scrutiny of Orders laid under the Public Bodies Act 2011.

The Committee's terms of reference are set out in full on the website but are, broadly, to scrutinise —

(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 these specified grounds:

(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;

(e) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

(f) that there appear to be inadequacies in the consultation process which relates to the instrument.

The Committee may also consider such other general matters relating to the effective scrutiny of secondary legislation as the Committee considers appropriate, except matters within the orders of reference of the Joint Committee on Statutory Instruments.

Members

Baroness Andrews	Lord Hodgson of Astley Abbots	Baroness Stern
Lord Bowness	Baroness Humphreys	Rt Hon. Lord Trefgarne (<i>Chairman</i>)
Lord Goddard of Stockport	Rt Hon. Lord Janvrin	
Lord Haskel	Baroness O'Loan	

Registered interests

Information about interests of Committee Members can be found in the last Appendix to this report.

Publications

The Committee's Reports are published on the internet at www.parliament.uk/seclegpublications

The National Archives publish statutory instruments with a plain English explanatory memorandum on the internet at <http://www.legislation.gov.uk/uksi>

Information and Contacts

Any query about the Committee or its work, or opinions on any new item of secondary legislation, should be directed to the Clerk to the Secondary Legislation Scrutiny Committee, Legislation Office, House of Lords, London SW1A 0PW. The telephone number is 020 7219 8821 and the email address is hlseclegscrutiny@parliament.uk.

First Report

INSTRUMENTS OF INTEREST

Copyright (Free Public Showing or Playing) (Amendment) Regulations 2016 (SI 2016/565)

1. The Copyright, Designs and Patents Act 1988 (“the 1988 Act”) includes certain exceptions to copyright, which permit third parties to carry out certain acts without infringing copyright in a work. Section 72(1) of the 1988 Act allows organisations which do not charge for admission to show broadcasts without needing permission from some (but not all) of the owners of copyright in those broadcasts. In particular, it means that such organisations do not need permission from owners of “film” copyright. The definition of “film” in the 1988 Act includes all audio-visual recordings, not only films made to be shown in cinemas.
2. These Regulations, laid by the Department for Business, Innovation and Skills (BIS), amend the 1988 Act to remove section 72 (1) (c) which allows the free public showing or playing of a film included in a broadcast. In the Explanatory Memorandum to the Regulations, BIS explains that the amendment is being made following a series of decisions in a case brought by the Football Association Premier League Limited, against pubs which were using unauthorised satellite decoder systems to show live Premier League football matches, and firms supplying these satellite decoder systems. Responses to consultations carried out in 2015 and 2016 supported this change to the law, in the interests of clarity and of creating a more level playing-field for those pubs and other organisations that take out legitimate television subscriptions.

Universal Credit Regulations (Northern Ireland) 2016 (SR 2016/216) Personal Independence Payment Regulations (Northern Ireland) 2016 (SR 2016/217)

3. As part of the Stormont Agreement and Implementation Plan, the main political parties agreed a new approach to implementing welfare reform in Northern Ireland. The Welfare Reform (Northern Ireland) Order 2015¹ was made on 9 December 2015 and regulations stemming from that Order are now being brought forward to implement, in Northern Ireland, a restructuring of benefits equivalent to the Welfare Reform Act 2012.
4. These are the two principal items in a group of 15 instruments² which provide for the introduction in Northern Ireland of Universal Credit, the abolition of income-based Jobseeker’s Allowance and income-related Employment and Support Allowance, and the introduction of Personal Independence Payments to replace Disability Living Allowance. The structure will be essentially the same as in Great Britain with some agreed local differences: for example, although Universal Credit will still be assessed monthly, it will be paid fortnightly in Northern Ireland and the maximum sanction for repeated non-compliance with its terms and conditions will be 18 months (as opposed to three years in Great Britain). Instruments also set up the infrastructure

1 See our [16th Report](#), Session 2015–16 (HL Paper 63).

2 SRs 216-230 – the full list is given on Page 4.

to administer the benefits, for example by enabling online claims and by requiring the Executive to determine broad geographical areas containing sufficient properties to enable it to determine local housing allowances so Housing Benefit may be paid at the appropriate rate. Unlike the Housing Benefit arrangements which apply in Great Britain, the identification of broad market rent areas will not extend to the social rented sector because in Northern Ireland such rents are already scrutinised by the Executive.

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

Access to Justice Act 1999 (Destination of Appeals) Order 2016
 Contracts for Difference (Miscellaneous Amendments)
 Regulations 2016

Draft instruments subject to annulment

Modifications to the Standard Conditions of Electricity and Gas Supply Licenses, the Standard Conditions of Electricity Distribution Licences and the Smart Energy Code (Smart Meters No. 5 of 2016)

Pensions Regulator's draft Code of Practice 13: Governance and administration of occupational trust-based schemes providing money purchase benefits

Instruments subject to annulment

- | | |
|-------------|--------------------------------------------------------------------------------------------------------------|
| SI 2016/518 | Approval of Code of Management Practice (Residential Management) (Service Charges) (England) Order 2016 |
| SI 2016/543 | Universal Credit (Care Leavers and Looked after Children) Amendment Regulations 2016 |
| SI 2016/544 | Social Security (Claims and Payments) Amendment Regulations 2016 |
| SI 2016/546 | Magistrates' Courts (Psychoactive Substances Act 2016) (Transfer of Proceedings) Rules 2016 |
| SI 2016/554 | Psychoactive Substances Act 2016 (Consequential Amendments) Regulations 2016 |
| SI 2016/555 | Information as to Provision of Education (England) Regulations 2016 |
| SI 2016/556 | Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016 |
| SI 2016/557 | Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2016 |
| SI 2016/559 | Patents (Isle of Man) (Amendment) Order 2016 |
| SI 2016/561 | Civil Legal Aid (Procedure) (Amendment) (No. 2) Regulations 2016 |
| SI 2016/564 | Town and Country Planning (Operation Stack) Special Development (Amendment) Order 2016 |
| SI 2016/565 | Copyright (Free Public Showing or Playing) (Amendment) Regulations 2016 |

- SI 2016/571 Companies (Bodies Concerned with Auditing Standards etc.) (Exemption from Liability) Regulations 2016
- SI 2016/578 Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) Regulations 2016
- SR 2016/216 Universal Credit Regulations (Northern Ireland) 2016
- SR 2016/217 Personal Independence Payment Regulations (Northern Ireland) 2016
- SR 2016/218 Jobseeker's Allowance Regulations (Northern Ireland) 2016
- SR 2016/219 Employment and Support Allowance Regulations (Northern Ireland) 2016
- SR 2016/220 Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016
- SR 2016/221 Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016
- SR 2016/222 Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016
- SR 2016/223 Social Security (Payments on Account of Benefit) Regulations 2016
- SR 2016/224 Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016
- SR 2016/225 Social Security (Loss of Benefit) (Amendment) Regulations (Northern Ireland) 2016
- SR 2016/226 Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016
- SR 2016/227 Personal Independence Payment (Transitional Provisions) Regulations (Northern Ireland) 2016
- SR 2016/228 Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations (Northern Ireland) 2016
- SR 2016/229 Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations (Northern Ireland) 2016
- SR 2016/230 Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2016

APPENDIX 1: 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 Parliamentary Archives.

For the business taken at the meeting on 24 May 2016 Peers declared no interests.

Attendance:

The meeting was attended by Lord Bowness, Lord Goddard of Stockport, Lord Hodgson of Astley Abbotts, Baroness Humphreys, Baroness O'Loan, Baroness Stern and Lord Trefgarne.