

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

8th Report of Session 2017–19

Includes 4 Information Paragraphs on 4 Instruments

Ordered to be printed 24 October 2017 and published 26 October 2017

Published by the Authority of the House of Lords

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 Blackstone	Lord Haskel	Lord Sherbourne of Didsbury
Lord Faulkner of Worcester	Rt Hon. Lord Janvrin	Rt Hon. Lord Trefgarne (<i>Chairman</i>)
Baroness Finn	Lord Kirkwood of Kirkhope	Baroness Watkins of Tavistock
Lord Goddard of Stockport	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 hseclegscrutiny@parliament.uk.

Eighth Report

INSTRUMENTS OF INTEREST

Draft Drug Dealing Telecommunications Restriction Orders Regulations 2017

1. Following a report by the Police and National Crime Agency (NCA) in 2016,¹ these Regulations provide the police with a mechanism to tackle the issue of urban drug gangs expanding into rural areas by shutting down the phone lines that they use to sell their product. ‘County lines’ is the police term used to describe the approach taken by gangs originating in large urban areas, who travel to locations elsewhere, such as suburban, county or coastal towns, to establish new or take over existing drug markets and sell predominately Class A drugs. County lines gangs actively seek out, recruit and criminally exploit children, vulnerable young people and adults through deception, intimidation, violence, debt bondage and grooming. The phone lines that they use for dealing often cannot be linked to an individual to facilitate prosecution but the ability to disrupt the activity by disconnecting the phone is seen as a practical alternative. These Regulations allow the police or the NCA to apply directly to the civil courts for an order which can then be used to require a communications provider to close down particular phone lines or other communication devices in connection with drug dealing offences. Provision is made for the swift correction of any mistakes and any disabled phones will still be capable of calling emergency services. The NCA report indicates that the majority of these court orders will originate from five police force areas in the urban hubs of London and the North West of England.

Adoption and Children Act Register (Search and Inspection) Regulations 2017 (SI 2017/978)

2. The Department for Education (DfE) has laid these Regulations with an Explanatory Memorandum. DfE explains that the Adoption and Children Act Register (“the Register”) is a database that includes details of children waiting to be adopted and approved prospective adopters. DfE says that, rather than leaving adopters in a position where they might potentially wait for months to be matched with a child, the Government want to give adopters a more active role in identifying children for whom they might be suitable as adoptive parents. From July 2016 to spring 2017 DfE piloted adopter access to the Register with 29 specified adoption agencies, in an approach known as “adopter-led matching”. DfE says that the adopter access pilot was evaluated in 2017 and shown to be successful, with an increase in both the number and speed of matches.² These Regulations enable prospective adopters approved by any adoption agency to search and inspect the Register.

1 NCA, *County Lines Gang Violence, Exploitation & Drug Supply 2016*: <http://www.nationalcrimeagency.gov.uk/publications/753-county-lines-gang-violence-exploitation-and-drug-supply-2016/file> [accessed 25 October 2017]

2 The independent evaluation of the pilot was published on 23 October 2017 – see: <http://www.adoptionmatch.org.uk/wp-content/uploads/Summary-of-Evaluation-Adopter-Access-Pilot.pdf> [accessed 25 October 2017]

3. DfE says that adopters will only be able to access specified information about children, which will not enable them to identify or make any direct approaches to the child or their birth family. Adopters will continue to need to work closely with the Register staff, their own social worker, and subsequently the child's social worker, to follow up any links generated by their search. The final decision on whether the adopter is suitable to adopt the particular child will remain the responsibility of the adoption agency.

Criminal Justice (Sentencing) (Licence Conditions) (Amendment) Order 2017 (SI 2017/985)

4. When preparing for the release of a determinate sentenced offender, supervising officers will consider, on a case by case basis, whether to recommend any additional licence conditions. In order to be lawful, any licence condition, standard or additional, has to be necessary and proportionate to manage the offender's risk of reoffending and risk of harm. This instrument adds a new category of licence condition, concerning "the restriction of specified conduct or specified acts". This will be reflected in the Instructions to the Prison and Probation Services.³ Initially, the new licence conditions introduced will prohibit gambling, drinking alcohol, and visiting certain social media websites, each with the objective of giving offender managers an additional tool to try to reintegrate a prisoner safely back into the community and prevent further offending. To be legally enforceable the specific conditions set out in a prisoner's release plan must be approved by the Governor of the releasing prison, on behalf of the Secretary of State. Should the supervising officer require a condition which falls under the categories but is not included in the Instructions, it will be individually reviewed by the Public Protection Casework Section within Her Majesty's Prison and Probation Service.

Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 (SI 2017/995)

5. These Regulations mirror for Housing Benefits provision made for Universal Credit in an instrument referred to in our 31st Report of last session.⁴ They undertake not to claw back from state benefits any discounts offered by landlords to tenants who avoid rent arrears as part of an approved scheme. There is only one such scheme at present run by the East Lothian Housing Association. This instrument is intended to accommodate that scheme initially and any subsequent social housing incentive schemes approved by the Secretary of State. This instrument makes similar provision for monies paid by local authorities to people who are providing kinship care to children to be disregarded for the purposes of calculating their social security benefits. Additionally this instrument makes amendments in respect of "continuing care" payments in Scotland which were overlooked last year.

3 See Probation Instructions and Prison Service Instructions (shortly to be replaced by Prison Frameworks) at: <http://www.justice.gov.uk/offenders/probation-instructions> and <http://www.justice.gov.uk/offenders/psis> [accessed 25 October 2017]

4 See paragraph on Universal Credit (Tenant Incentive Scheme) Amendment Regulations 2017 (SI 2017/427) in our [31st Report](#), Session 2016–17 (HL Paper 154).

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft Drug Dealing Telecommunications Restriction Orders Regulations 2017

Draft Risk Transformation Regulations 2017

Draft instrument subject to annulment

Draft Modifications to the Conditions of the Smart Meter Communication Licences (Smart Meters No. 4 of 2017)

Instruments subject to annulment

- Cm 9508 Television Co-production Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China
- Cm 9509 Agreement on the Mutual Recognition of Degrees between the United Kingdom of Great Britain and Northern Ireland and the Republic of Colombia
- Cm 9510 Agreement on the Mutual Recognition of Qualifications and Degrees between the Republic of Chile and the United Kingdom of Great Britain and Northern Ireland
- SI 2017/972 Republic of Mali (European Union Financial Sanctions) Regulations 2017
- SI 2017/977 Agricultural Holdings (Units of Production) (England) Order 2017
- SI 2017/978 Adoption and Children Act Register (Search and Inspection) Regulations 2017
- SI 2017/979 Transfer of Functions (Secretary of State for Digital, Culture, Media and Sport) Order 2017
- SI 2017/985 Criminal Justice (Sentencing) (Licence Conditions) (Amendment) Order 2017
- SI 2017/986 Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 4) Regulations 2017
- SI 2017/987 Social Security (Qualifying Young Persons Participating in Relevant Training Schemes) (Amendment) Regulations 2017
- SI 2017/995 Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017
- SI 2017/999 Democratic People's Republic of Korea (European Union Financial Sanctions) (Amendment) (No. 5) Regulations 2017

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 October 2017, Members declared the following interests:

Draft Risk Transformation Regulations 2017

Lord Janvrin

Senior Adviser, HSBC Private Bank (UK) Ltd

Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 (SI 2017/995)

Baroness Blackstone

Chair, Orbit Group (housing associations)

Baroness Watkins of Tavistock

Non-executive Director, Aster Group Limited (charitable society providing affordable homes)

Member, Southern Housing Group Remunerations and Nominations Committee and Customer Services Committee

Attendance:

The meeting was attended by Baroness Blackstone, Baroness Finn, Lord Goddard of Stockport, Lord Janvrin, Baroness O'Loan, Lord Sherbourne of Didsbury, Lord Trefgarne and Baroness Watkins of Tavistock.