

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 20th Report of Session 2023–24

Drawn to the special attention of the House:

#### Statement of changes in Immigration Rules (HC 590)

#### Includes information paragraphs on:

Social Security and Universal Credit  
(Migration of Tax Credit Claimants and  
Miscellaneous Amendments) Regulations  
2024

Homelessness (Suitability of Accommodation)  
(England) (Amendment) Order 2024

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### *Secondary Legislation Scrutiny Committee*

The Committee's terms of reference, as agreed on 8 November 2023, are set out on the website but are, in summary:

To report on draft instruments and memoranda laid before Parliament under section 23(1) of the European Union (Withdrawal) Act 2018 and sections 11, 12 and 14 of the Retained EU Law (Revocation and Reform) Act 2023.

And, 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 the grounds specified in the terms of reference.

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*

[Lord De Mauley](#)

[Baroness Harris of Richmond](#)

[Lord Hunt of Wirral](#) (Chair)

[Baroness Lea of Lymm](#)

[Lord Powell of Bayswater](#)

[Baroness Randerson](#)

[Baroness Ritchie of Downpatrick](#)

[Lord Rowlands](#)

[Lord Russell of Liverpool](#)

[Lord Thomas of Cwmgiedd](#)

[Lord Watson of Wyre Forest](#)

### *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 <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/>

### *Committee Staff*

The staff of the Committee are Jen Mills (Clerk), Philipp Mende (Adviser), Chris Smith (Adviser), Jane White (Adviser) and Riona Millar (Committee Operations Officer).

### *Further Information*

Further information about the Committee is available at <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/>

The progress of statutory instruments can be followed at <https://statutoryinstruments.parliament.uk/>

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

### *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](mailto:hlseclegscrutiny@parliament.uk).

# Twentieth Report

## PROPOSED NEGATIVE INSTRUMENTS LAID FOR SIFTING UNDER THE RETAINED EU LAW (REVOCATION AND REFORM) ACT 2023

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### Proposed negative instrument about which no recommendation to upgrade is made

- Retained EU Law (Revocation and Reform) Act 2023 (Environment, Food and Rural Affairs) (Revocation) Regulations 2024

## DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Statement of changes in Immigration Rules (HC 590)

*Date laid: 14 March 2024*

*Parliamentary procedure: negative*

*This Statement makes further changes to the immigration rules that are intended to reduce immigration and encourage UK employers to invest in the resident workforce. The changes include substantial increases to the general salary threshold that employers must pay to sponsor an immigrant worker, and to the Minimum Income Requirement (MIR), which is the income that a British citizen or settled resident must have to be able to bring a partner to the UK.*

*The Home Office said that an Impact Assessment (IA) and an Equalities Impact Assessment (EIA) for the Statement, also covering an earlier Statement of Changes laid in February, have been prepared. However, the Home Office has failed to publish these documents and has not responded to some of our questions on matters that should be contained in them. **This is unacceptable: we cannot do our job of giving advice to the House, and the House cannot do its job of scrutinising the legislation, if Government does not provide adequate information.** Our concerns about the IA are compounded by a lack of consultation on these changes, which might have helped to shed light on the real-world impact of the policies. **These failures follow our repeated criticisms of the Home Office’s explanatory material. Accordingly, we held an evidence session with the Home Office Minister, Lord Sharpe of Epsom, on 26 March and will provide a summary of that session in a forthcoming Report.***

*We also note that the rationale for the increase in the MIR in this Statement has not been well explained, as it appears to be intended to cover a number of aims which may not be entirely consistent.*

**This Statement is drawn to the special attention of the House on the ground that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument’s policy objective and intended implementation.**

#### *Background*

1. This Statement makes a number of changes to immigration rules, including:
  - Increasing the general salary threshold that employers must pay to sponsor an immigrant worker in an occupation eligible for the Skilled Worker visa, from £26,200 to £38,700, and making commensurate increases for ‘going rates’ for specific occupations where the threshold is higher.
  - Increasing the Minimum Income Requirement (MIR), which is the income required for British citizens and settled residents to bring a partner to the UK, from £18,600 to £29,000.
2. The Home Office states that the changes are intended to reduce immigration and to “support the Government’s wider ambition for the UK to be a high-wage, high-productivity, high-skill economy” by encouraging UK businesses to “invest in the resident workforce”.

3. The changes are linked to an earlier Statement of Changes (HC 556), laid in February 2024, which included measures to narrow the eligibility criteria for those people entering the UK as health and social care workers, and to remove the provision for dependants to accompany or join people entering the UK as workers in these occupations.<sup>1</sup>
4. We have received two submissions on the MIR changes in this Statement, one jointly from the Immigration Law Practitioners' Association and Reunite Families UK and one from Laura Devine Immigration. These submissions, and the Government's responses to our questions that cover issues raised in them, have been published on our website.<sup>2</sup>

*Changes to salary thresholds for Skilled Worker visas*

5. To be eligible for a Skilled Worker visa to enter the UK, three criteria must be met:
  - the job must be on the list of those eligible for the visa;<sup>3</sup>
  - the employer must be approved by the Home Office; and
  - the job must pay at least the 'minimum salary' for that type of work.
6. The minimum salary must be the highest of three options:
  - the general salary threshold, currently set at £26,200 per year, being the 25th percentile of UK earnings in eligible occupations. The threshold is rising to £38,700 (the 50th percentile, the median) as a result of this Statement;
  - the 'going rate' for specified occupations. Going rates are also rising from the 25th percentile of earnings in each occupation to the median;<sup>4</sup> and
  - £10.75 per hour.
7. For certain occupations, lower thresholds apply. These include health and social care workers, for whom the threshold will remain at the 25th percentile, with the level updated from £26,200 to £29,000. There is also currently a 'Shortage Occupation List', jobs on which have a 20% discount to the general thresholds or going rates. The Statement replaces this with an 'Immigration Salary List', with a refreshed set of qualifying occupations based on "where the Government considers it sensible to offer a discounted salary threshold, rather than being a list of all occupations experiencing labour shortages". We asked the Home Office what this change in criteria meant in practice. The Home Office replied that it would exclude, for example, occupations that increased the risk of labour market exploitation and those where placing the occupation on the list would make little difference to the employer's ability to recruit overseas labour.

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1 Statement of Changes in Immigration Rules (HC 556); see *16th Report* (Session 2023–24, HL Paper 78), paras 1–29.

2 SLSC, 'Scrutiny evidence': <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/>.

3 Home Office, 'Skilled Worker visa: eligible occupations' (7 August 2023): <https://www.gov.uk/government/publications/skilled-worker-visa-eligible-occupations> [accessed 26 March 2024].

4 Home Office, 'Skilled Worker visa: going rates for eligible occupations' (7 August 2023): <https://www.gov.uk/government/publications/skilled-worker-visa-going-rates-for-eligible-occupations> [accessed 22 March 2024].

8. Posts on the Immigration Salary List will retain a 20% discount to the general salary thresholds, but the 20% discount to going rates is being removed. The new list has been “informed” by a “rapid review” by the Migration Advisory Committee (MAC)<sup>5</sup> and the Home Office said that a further full MAC review would follow later in 2024.

*Increasing the minimum income requirement*

9. The MIR is the income required for British citizens and settled residents to bring a partner to the UK. The Statement increases the level from £18,600 to £29,000, as part of a plan to increase the MIR to £38,700 by “early 2025”. The requirement will, however, no longer be further increased if the applicant is accompanied by dependent children who do not have British citizenship: this is a change to the current system, under which a sponsor must earn an extra £3,800 a year for the first child and £2,400 a year for each child thereafter. Those unable to meet the MIR may still be granted leave if they meet the unchanged ‘exceptional circumstances’ test.

*Rationale for the MIR increase*

10. The Home Office states that the changes are because the MIR “has not been increased for over a decade and no longer reflects the level of income required by a family to ensure they are self-sufficient and do not need to rely on public funds”.
11. However, the new thresholds are based on percentiles of the earnings distribution for jobs eligible for Skilled Worker visas. We were not clear how the policy intention of ensuring that families with migrants are self-sufficient is met by placing the threshold at the median level of earnings for a certain subset of jobs. We asked the Home Office for further information on this point. The Home Office replied that:

“The new minimum income requirement level of £38,700 is based on the median income for people in high skilled jobs and is a long-overdue move to bring the previous level (which had not been updated in more than a decade). By tethering the MIR to the general salary threshold for skilled workers, it ensures that migration policy is supportive of the wider ambition for the UK to be a high-wage, high-productivity, high-skill economy. The increase to the MIR will ensure that families will make a net positive impact on the economy, as well as contributing to the government target to lower net migration.”

12. We can understand each of these points in isolation. However, there seems to be a lack of clarity about what the policy is designed to achieve. The Home Office has mentioned at least five aims: restoring a value that has not been increased for many years; ensuring that families are self-sufficient; supporting an ambition to transform the UK economy; making a positive impact on the economy; and lowering migration. **These aims may all point in the same direction, but they could imply different appropriate levels for the threshold. The Home Office should be clear about exactly what is its intended outcome and then set policy accordingly.**

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<sup>5</sup> Migration Advisory Committee, ‘Rapid review of the Immigration Salary List’ (23 February 2024): <https://www.gov.uk/government/publications/rapid-review-of-the-immigration-salary-list> [accessed 25 March 2024].

13. If the intention is to ensure that families are self-sufficient and reduce immigration, it is not clear why the child element of the threshold has been abolished, as families with children are likely to need greater resources than those without. **The Home Office did not respond to our question on this point and the House may wish to enquire further.**
14. One of the submissions we received argued that, to mitigate some of the adverse effects of the MIR increase on British families, the Home Office should introduce measures such as: allowing migrants to rely on the income of the partner currently overseas (for example, through a UK job offer); allowing “credible promises” of third-party support in a wider range of cases; and allowing greater flexibility to combine sources of income and savings to meet the MIR. We asked the Home Office if it had considered such steps; the Home Office stated that “aspects of the rules in relation to meeting the financial requirement remain unchanged” and provided more detailed explanations why each of the proposals was not being adopted (see Question 14 in the Q&A on our website).<sup>6</sup>

*Lack of impact assessment*

15. The Explanatory Memorandum (EM) to the Statement says that a “full” Impact Assessment (IA) “has been prepared”. The IA covers the changes in this Statement relating to Skilled Worker visas and the MIR and also the changes in the February Statement around health and social care worker visas.
16. However, the IA was not published at the time this Statement was laid and, indeed, has still not been published to date, more than five weeks after the February statement was laid before Parliament. When we asked the Home Office why this was, the Home Office replied:
- “The impact assessment on the net migration package is currently going through formal clearance processes. While this was planned for publication alongside the laying of the Immigration Rules, the complexity of analysis has meant we were not able to do so and are working at pace to ensure this is published promptly so the impact of changes can be assessed.”
17. In our comments on the earlier Statement of Changes (HC 556), in our 16th Report,<sup>7</sup> we strongly criticised the Home Office’s late provision of impact information. **A failure to provide impact information, and on a timely basis, makes it impossible for Parliament to scrutinise the legislation properly.** Moreover, impact information should be a useful tool in the policymaking process, helping departments to refine and improve their proposals. **It appears to us that, instead, the Home Office too often tacks on impact analysis as an afterthought.**
18. In our 16th Report, we said that we would be writing to the Minister (Tom Pursglove MP) to ask for additional information in relation to the impact of HC 556. We sent that letter on 6 March but have still not had a substantive reply. **This is unacceptable: we cannot do our job of giving advice to the House if Government does not provide us with adequate information.** As a result, we invited the Home Office to provide oral evidence on its

6 SLSC, ‘Scrutiny evidence’: <https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/8/scrutiny-evidence/>.

7 *16th Report* (Session 2023–24, HL Paper 78), paras 1–29.

approach to impact analysis. The session took place on 26 March, and we will provide a summary in a forthcoming Report.

*Lack of consultation*

19. In our 16th Report, we also criticised the Government for not consulting on the changes in HC 556. We noted significant concern in the care sector about the impact on labour supply. We also questioned the consistency of the Government’s reasons for not consulting, which the Home Office said was to avoid a rush of applications pre-empting the rules changes. However, we noted that the Rules changes were publicly announced on 4 December 2023, four months before they come into effect, and that we would expect that an announcement in Parliament to have at least as much effect on applications as a consultation.
20. The EM to this Statement also gave little justification for the absence of any consultation. In relation to the salary thresholds for Skilled Worker visas, the Home Office said this was because they were being made “to contribute towards the Government’s manifesto commitment to reduce overall levels of immigration”. In relation to the MIR changes, the Home Office said only that consultation “would be disproportionate given the nature of the changes”.
21. In the past, we have seen many examples of where consultations improve a department’s understanding of the impact of policies. For example, the Home Office itself had to revoke legislation to license a chemical when an industry body told the Home Office that the chemical was used by more than a hundred times the number of firms the Home Office had originally believed.<sup>8</sup> **We do not believe that the Home Office can fully understand the effects of its policies if it does not consult those who will be impacted.** Indeed, the EM itself notes that “any significant impacts on business are likely to be indirect as a result of business decisions on how to respond to these changes” but does not seek to find out or report what those business decisions might be. In this case the Home Office has not even sought advice from the MAC, as it did when introducing the MIR. **This lack of consultation compounds our concerns about the use and quality of impact information.**

*Lack of an Equalities Impact Assessment and the role of Article 8*

22. Our 16th Report, commenting on HC 556, also criticised the lack of an Equalities Impact Assessment (EIA), which is intended to assess the impact of policy proposals on individuals with protected characteristics. The Home Office told us that an EIA had been prepared and would be published alongside the IA. **We noted that the EIA is another important part of the supporting information on a policy change that should be available when an instrument is laid and not at some indefinite point thereafter.**
23. In the case of this Statement, the submissions we received argued that the increase in the MIR was discriminatory; for example, because it disproportionately affects those with lower incomes, who are more likely to be female, be from ethnic minorities, be young or old, and be from certain parts

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<sup>8</sup> Misuse of Drugs (Amendment) (Revocation) (England, Wales and Scotland) Regulations 2022 ([SI 2022/559](#)) in [4th Report](#) (Session 2022–23, HL Paper 20).



of the country. For example, considering the regional dimension, in April 2023 average earnings in the UK ranged from the equivalent of £41,392 in London to £31,928 in the North East.<sup>9</sup> Thus, in the North East, the MIR threshold put in place by this Statement will be only just below average earnings, and when the further increase to £38,700 is implemented the MIR is likely to be well above average earnings. In contrast, in London, the MIR is, and is likely to remain, below average earnings. **The House may wish to probe further on how it is fair that families in some regions are much more likely to be entitled to reunite than those in other areas, and how this is consistent with the Government’s levelling up agenda.**

24. Questioned on this topic, the Home Office replied that the increase will “maintain the elements of direct discrimination on the basis of age currently within the Immigration Rules” but that this is permitted if authorised in legislation. Further, the Home Office said such discrimination is not unlawful if it is “a proportionate means of achieving a legitimate aim”, which is to ensure that migrants “provide a net positive contribution to the UK and are not a burden on the taxpayer”.
25. The Home Office agreed that there may be indirect discrimination on the basis of age, disability, race, religion and sex, because of differential rates of pay amongst these groups. The Home Office said such discrimination was mitigated “as far as possible” by providing access to the UK in circumstances where denying this would breach the person or family’s rights under Article 8 of the European Convention on Human Rights (the right to respect for private and family life). Pressed further on the number of Article 8 applications that might result from the increase in the MIR, the Home Office said that “there remains considerable uncertainty” in this area.
26. The submissions we received argue that the changes may not cut migration as intended, partly because of a substantial increase in Article 8 claims, and that this will also lead to further backlogs and delays in processing claims. **The House may wish to explore the area of discrimination and potential for a large increase in Article 8 claims further with the Minister, given the absence of an EIA.**

### *Conclusion*

27. This Statement of Changes is a yet further example of the Home Office failing to provide adequate information to Parliament to allow informed scrutiny; in this case, a clear-cut failure to publish an Impact Assessment, including for significant measures laid more than five weeks ago.
28. We have criticised the Home Office’s explanatory material with such frequency that we are concerned there may be a systemic or cultural issue that is preventing the Home Office from getting it right. Accordingly, we held an evidence session with the Home Office Minister, Lord Sharpe of Epsom, on 26 March and will provide a summary of that session in a forthcoming Report. **In the meantime, the House may wish to consider further questions to the Minister about the impact of recent changes to immigration rules.**

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<sup>9</sup> Office for National Statistics, ‘Earnings and hours worked, place of residence by local authority: ASHE Table 8’ (1 November 2023): <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/placeofresidencebylocalauthorityashtable8> [accessed 27 March 2024], Table ‘Full-Time’.

## INSTRUMENTS OF INTEREST

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### Social Security and Universal Credit (Migration of Tax Credit Claimants and Miscellaneous Amendments) Regulations 2024 (SI 2024/341)

29. These amendments underpin Government plans to close down Tax Credits and move claimants to Universal Credit by the end of the 2024–25 financial year.<sup>10</sup> They also: amend how student finance (particularly Scottish grants) is handled in the calculation of means-tested benefits; respond to a court case to ensure that advance payments of Universal Credit can only be made to persons in possession of a National Insurance number; and ensure children placed for adoption are treated as part of a Universal Credit claimant’s household.

### Homelessness (Suitability of Accommodation) (England) (Amendment) Order 2024 (SI 2024/371)

30. This Order extends by one year, from 1 June 2024 to 1 June 2025, temporary provisions that were initially introduced in 2022<sup>11</sup> and subsequently extended by a year in 2023,<sup>12</sup> to make it easier for local authorities in England to find accommodation for homeless families arriving from Ukraine and Afghanistan and for other new arrivals. New arrivals are those who make a homeless application within two years of their arrival in the UK.
31. The extension means that, if there is no accommodation available locally, local authorities only need to consider family caring responsibilities as a factor before deciding to place a newly arrived household out of area. They will not have to consider other factors, such as disruption to education or work. Another temporary provision which currently allows local authorities to use Bed and Breakfast accommodation for homeless new arrivals for longer than six weeks is not being extended and will expire on 1 June 2024.
32. According to the Department for Levelling Up, Housing and Communities (DLUHC), the further extension is necessary to ease pressures on local authorities, particularly in areas of high demand such as London, the South East and other metropolitan areas. DLUHC says that, as of 24 March 2024, 655 Ukrainian households were in temporary accommodation, and that over 25,000 people had arrived from Afghanistan since the evacuation in 2021, with more arrivals anticipated and further pressures expected due to a significant number of asylum applications.

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10 Department for Work and Pensions, ‘Completing the move to Universal Credit’ (6 June 2022): <https://www.gov.uk/government/publications/completing-the-move-to-universal-credit/completing-the-move-to-universal-credit--2> [accessed 27 March 2024].

11 Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022 (SI 2022/521), see: *2nd Report* (Session 2021–22, HL Paper 6).

12 Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2023 (SI 2023/509), see: *41st Report* (Session 2022–23, HL Paper 202).

## INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Draft instruments subject to affirmative approval

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| Draft | Immigration (Leave to Enter and Remain) (Amendment) Order 2024   |
| Draft | Sea Fisheries (International Commission for the Conservation of Atlantic Tunas) (Amendment) (No. 2) Regulations 2024 |

### Instruments subject to annulment

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|-------------|--|
| SI 2024/280 | Merchant Shipping (Special Measures to Enhance Maritime Safety) Regulations 2024   |
| SI 2024/306 | Social Security (Contributions) (Amendment No. 3) Regulations 2024   |
| SI 2024/327 | Recovery of Costs (Remand to Youth Detention Accommodation) (Amendment) Regulations 2024   |
| SI 2024/341 | Social Security and Universal Credit (Migration of Tax Credit Claimants and Miscellaneous Amendments) Regulations 2024                           |
| SI 2024/345 | Personal Injuries (Civilians) Scheme (Amendment) Order 2024  |
| SI 2024/346 | Export Control (Amendment) Regulations 2024  |
| SI 2024/347 | Armed Forces and Reserve Forces (Compensation Scheme (Amendment) Order 2024  |
| SI 2024/349 | Child Trust Funds (Amendment) Regulations 2024   |
| SI 2024/354 | Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) (Amendment) Regulations 2024 |
| SI 2024/362 | Animals (Scientific Procedures) Act 1986 (Fees) Order 2024   |
| SI 2024/364 | Tribunal Procedure (Amendment) Rules 2024  |
| SI 2024/366 | Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2024  |
| SI 2024/371 | Homelessness (Suitability of Accommodation) (England) (Amendment) Order 2024   |
| SI 2024/376 | First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2024   |
| SI 2024/377 | Social Security (Class 2 National Insurance Contributions) (Consequential Amendments and Savings) Regulations 2024                               |
| SI 2024/386 | Social Security Benefits Up-rating Regulations 2024  |

## **APPENDIX 1: INTERESTS AND ATTENDANCE**

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 26 March 2024 and included in this report, Members declared no interests.

### **Attendance**

The meeting was attended by Lord de Mauley, Baroness Harris of Richmond, Lord Hunt of Wirral, Baroness Lea of Lymm, Baroness Randerson, Baroness Ritchie of Downpatrick, Lord Rowlands, Lord Russell of Liverpool and Lord Thomas of Cwmgiedd.