

HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

24th Report of Session 2024–25

Drawn to the special attention of the House:

Draft Contracts for Difference (Miscellaneous Amendments) (No. 2) Regulations 2025

Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2025

Includes information paragraphs on:

Russia (Sanctions) (EU Exit) (Amendment)
Regulations 2025

Syria (Sanctions) (EU Exit) (Amendment)
Regulations 2025

Ordered to be printed 6 May 2025 and published 8 May 2025

Published by the Authority of the House of Lords

HL Paper 117

Secondary Legislation Scrutiny Committee

The Committee's terms of reference, as agreed on 29 July 2024, 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 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 Bethell](#)

[Baroness Harris of Richmond](#)

[Lord Kempson](#)

[Lord Kerr of Kinlochard](#)

[Baroness Lea of Lymm](#)

[Lord Pack](#)

[Baroness Ritchie of Downpatrick](#)

[Lord Russell of Liverpool](#)

[Lord Thomas of Cwmgiedd](#)

[Lord Watson of Invergowrie](#) (Chair)

[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), India Kearsley (Adviser), Philipp Mende (Adviser), Chris Smith (Adviser) and Kezia Williamson (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/ukxi>.

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 h1seclegscrutiny@parliament.uk.

Twenty Fourth Report

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Contracts for Difference (Miscellaneous Amendments) (No. 2) Regulations 2025

Date laid: 2 April 2025

Parliamentary procedure: affirmative

*These draft Regulations propose to extend the Contracts for Difference (CFD) scheme, the Government's main mechanism for supporting low carbon electricity generation in Great Britain, to existing large-scale biomass electricity generators. The aim is to prevent security of supply risks after 2027 when current support schemes for many biomass generators expire. Material that has been published separately by the Department for Energy Security and Net Zero (DESNZ) makes clear that the main financial beneficiary of the proposed new arrangements would be the Drax power station in Yorkshire ("Drax"), by far the largest biomass generator in the UK. **We regret that this was not made clear in the Explanatory Memorandum which fails to mention Drax.** External submissions we received questioned the sustainability of biomass power generation and the effectiveness of the existing compliance and assurance regime, reflecting strong concerns raised by the House of Commons Public Accounts Committee. **While we welcome the commitment made by the Government to strengthen this regulatory regime, the House may wish to seek further assurance from the Minister that the planned enhancements will be sufficiently robust.***

The draft Regulations are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.

1. These draft Regulations propose to extend the Contracts for Difference (CFD) scheme, the Government's main mechanism for supporting low carbon electricity generation in Great Britain, to existing large-scale biomass electricity generators. The aim is to prevent security of supply risks after 2027 when current support schemes for many biomass generators expire.

Background

2. Biomass generators use wood/plants or food waste to generate power or heat. The Department for Energy Security and Net Zero (DESNZ) says that large-scale biomass generators, converted from coal to the use of wood pellets, currently contribute around 5% of the UK's electricity generation. The Drax Power Ltd power station in Yorkshire ("Drax") is by far the largest biomass generator in the UK, with a generating capacity of 2,580 megawatts (MW), followed by Lynemouth power station in Northumberland with a capacity of 420 MW. There are also smaller biomass generators, including domestic generators.
3. The UK does not have sufficient biomass, especially forest, to meet current demand and depends on imported wood, the majority of which, according to the DESNZ, is a byproduct of the US timber industry. The National Audit

Office (NAO) estimates that the UK imported 9.1 million tonnes of wood pellets for use in energy production in 2021, of which around 60% came from the US, 18% from the EU and 16% from Canada.¹ The NAO also found that since 2002, businesses and households using biomass for power and heat generation have received over £22 billion of financial support, including £6.5 billion of funding for Drax alone.² Under the CFD scheme, financial support for generators is ultimately paid for by consumers through their energy bills.

4. The DESNZ has overall responsibility for the Government's policy on supporting biomass and sets the sustainability criteria for biomass and the approach to making sure generators meet these criteria. Meanwhile, Ofgem, as the independent energy regulator, is responsible for enforcement and the assurance process which generators use to demonstrate compliance.

Policy rationale

5. The DESNZ says that after current support for some biomass generators expires in 2027, there will not be enough incentives for them to continue generating electricity, leading to security of supply risks. This instrument would therefore enable continued support for Drax and for any other existing large-scale generators through bespoke contracts for the period 2027 to 2031, if they provide value for money and meet the eligibility criteria of the CFD scheme. While the CFD scheme operates across Great Britain (but not in Northern Ireland), there are no large-scale biomass generators in Scotland or Wales.
6. The DESNZ says that alternatives to large-scale biomass generators are limited given their scale and dispatchability (that is, the ability to generate electricity on demand to meet market needs) and the timescales involved. According to the DESNZ, maintaining biomass electricity generation will increase resilience and support security of supply. We note that biomass can provide a potentially important element of inertia in the electricity grid.³ The DESNZ also says that using the CFD scheme will provide better value for money than other financial support schemes, such as the Renewables Obligation,⁴ and that the policy is “consistent with the government's wider strategic approach to the role of biomass set out in the Clean Power 2030 action plan”.⁵
7. According to the DESNZ, CFD agreements with individual generators under the new arrangements will include strengthened sustainability criteria: these increase the proportion of biomass that must be sustainably sourced from

1 National Audit Office (NAO), *The government's support for biomass* (Session 2023–24, HC 358).

2 Ibid, pp 21–22.

3 Inertia means that because biomass generators use turbines to generate electricity, these turbines will continue to spin and generate electricity even if the fuel supply is cut off suddenly, until they are turned off or stop because of friction. Such inertia does not occur with some other forms of electricity generation, for example solar power.

4 The Renewables Obligation was designed to support renewable electricity generation assets during the earlier stages of development and generation, and to allow high capital costs to be recovered. The scheme closed to new projects in April 2017.

5 Department for Energy Security and Net Zero (DESNZ), *Clean Power 2030 Action Plan* (13 December 2024): <https://www.gov.uk/government/publications/clean-power-2030-action-plan> [accessed 7 May 2025].

70% to 100%, reduce the supply chain emission threshold,⁶ and exclude material sourced from primary and old growth forests from receiving support payments. The Government has also committed to consult separately on developing a “strengthened common sustainability framework later this year” to reflect that the science underpinning biomass sustainability continues to evolve. This instrument includes provisions to allow the sustainability obligations in the new CFD agreements with individual generators to be modified, but not to be reduced, to reflect any potential future changes arising from “wider government sustainability work”.

Scrutiny of an earlier version of the instrument

8. We considered an earlier version of this instrument, which was laid on 11 March 2025, at our meeting on 1 April and commented on it in our 22nd Report.⁷ The DESNZ withdrew this earlier version on 2 April and laid a corrected version on the same day. Our scrutiny of a piece of secondary legislation usually ends once we have considered an instrument and have commented on it or have listed it without a comment in our weekly report. In this case, however, a corrected and therefore different version of the original instrument was laid before Parliament and our scrutiny starts afresh. While the corrections that have been made do not change the policy set out in the instrument, new issues and concerns have been brought to our attention which require further scrutiny, and which are considered below.

The role of the Drax power station

9. The Explanatory Memorandum (EM) describes the purpose of the draft Regulations as enabling support through CFD for existing large-scale biomass generators in general terms. It is clear from other published material,⁸ however, that the main purpose of the instrument is to enable continued support specifically for Drax for which ‘Heads of Terms’ have already been agreed. The DESNZ told us that the new CFD arrangements “could apply to any large scale generator, subject to a value for money assessment, that meets the eligibility criteria”, adding that while it currently had only agreed Heads of Terms with Drax, it was continuing discussions with Lynemouth power station, “to see if there is an agreement with them that is in consumers’ interests”, and that if a value for money deal could be reached, “then this SI [Statutory Instrument] would also enable that support”. **A good quality EM should provide a clear and full explanation of the policy changes made by an instrument and set out the practical impact of the changes. In this case, the EM refers to financial support for biomass generators through CFD only in general terms, without mentioning Drax. We regret this lack of transparency and failure to make clear that the main and immediate financial beneficiary of the proposed new arrangements would be Drax.**

6 At present, the Renewables Obligation and Contracts for Difference schemes require that the supply chain emissions from biomass-generated electricity do not exceed a set threshold, target or ceiling. According to the DESNZ, this supply chain emission threshold for financial support will be reduced from 55.6 gCO₂e/MJ to 36.6 gCO₂e/MJ under the new arrangements, aligning it with international best practice, including the EU Renewable Energy Directive III.

7 SLSC, *22nd Report* (Session 2024–25, HL Paper 106).

8 See, for example, Statement by the Secretary of State for Energy Security and Net Zero, 10 February 2025, [UIN HLWS422](#).

Concerns about biomass electricity generation and the current regulatory approach

10. We note that the House of Commons Public Accounts Committee (PAC) published a report on 25 April 2025 which criticised the Government's current approach to supporting biomass power generation. The report highlights weaknesses in the current assurance and enforcement processes with regard to the sustainability of biomass and questions the value for money of the proposed financial support for Drax. The PAC report also refers to concerns from stakeholders about the impact of biomass production on biodiversity, forest stocks and the environment more generally, highlighting that some stakeholders question whether biomass "can genuinely be considered a low-carbon fuel" which will contribute to the UK's net zero ambitions.⁹
11. Such concerns were also expressed during a recent consultation on a potential future mechanism to support the transition of large-scale biomass generators to using carbon capture and storage technology.¹⁰ Many responses to the consultation disagreed with the description of biomass generation as low carbon due to the CO₂ that is released when biomass is burned for energy generation, the foregone carbon sequestration in forests (that is the loss of carbon absorption capacity when forests are depleted) and the emissions generated when wood is harvested and transported.
12. We received three submissions which raised similar concerns about this instrument. We have published the submissions and the Department's response in full on our website.¹¹ The following considers some of the concerns raised.
13. A submission from Mr Robert Palgrave questioned why the strengthening of sustainability criteria for biomass in the new CFD arrangements from 2027 could not also be adopted for current contracts with generators. The DESNZ responded:

"Sustainability criteria are in place across different biomass sectors, including the power sector to ensure government only supports sustainable biomass and that it can be considered low carbon. They include requirements on environmental protections (including sustainable forest management) and supply chain emissions thresholds. However, we continue to review the sustainability requirements to make relevant updates in line with evolving evidence.

The current sustainability criteria will continue to apply for existing contracts/arrangements that previous administrations and generators signed up to in good faith, recognising that businesses have committed to investment decisions on this basis."
14. We agree that existing commitments should be honoured but welcome that the proposed new arrangements include provisions to allow the sustainability obligations in a CFD agreement to be updated to reflect any significant changes which may arise from the Government's sustainability work.

9 Committee of Public Accounts, *Government's support for biomass* (22nd Report, Session 2024–25, HC 715).

10 Department for Energy Security and Net Zero (DESNZ), 'Transitional support mechanism for large-scale biomass electricity generators' (10 February 2025): <https://www.gov.uk/government/consultations/transitional-support-mechanism-for-large-scale-biomass-electricity-generators>: [accessed 7 May 2025].

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

15. The DESNZ says that the CFD scheme will offer better value for money than other support schemes, such as the Renewables Obligation, and that under the new arrangement Drax will only be supported to operate for a maximum of 27% of the time, less than half as often as it currently does, and “equivalent to a saving of nearly £6 per household per year”. The PAC questioned the Department’s claim that the new arrangements will reduce consumer subsidies to Drax and estimates that Drax “will be paid £113 per megawatt hour (in 2012 prices) for the electricity it generates - far more than will be paid to offshore windfarms and other renewable generators under recent CFD”. A submission by Mr Ian Gregory/Abzed Political and Media Relations also criticised that Drax subsidies would be paid “far in excess of those given to genuine renewable power generators”.
16. Asked for further information about the value for money of the proposed new arrangements, the Department responded:
- “The proposed CfD with Drax reflects a significantly cheaper total subsidy cost than under current support arrangements; we estimate the annual subsidy cost to be around half of Drax’s current annual subsidy cost.
- The proposed CfD would incentivise Drax to target its generation when the system most needs its electricity. Drax would be incentivised to run at the times of lower wind conditions—when that generation has the highest value to the system. When Drax isn’t generating we’ll rely on cheaper intermittent renewables like wind and solar. Unlike Drax, those weather dependent intermittent assets are not able to operate in a dispatchable way and respond to market signals. The strike price has increased slightly to reflect the need to spread a set amount of fixed costs over a smaller volume of generation compared to existing arrangements.”
17. We note that while Drax will provide power more flexibly, it will still receive a higher unit price than some renewable power generators, and that this price difference could increase further if other forms of energy become cheaper over time. **The House may wish to press the Minister on the justification for the price difference.**
18. The PAC and the submissions questioned the low carbon nature and sustainability of biomass and expressed concerns about the arrangements for monitoring and enforcing the sustainability criteria for biomass and the supply chains. A submission by Mr James Hewitt/ Biofuelwatch challenged, for example, whether “burning imported wood pellets from supply chains such as those currently relied on is consistent with decarbonising the national grid and Net Zero”. We asked the DESNZ for further explanation of how sustainability would be enforced in practice under the new arrangements, and how the Department could be confident that Drax would meet the new sustainability criteria, in particular given that Drax was investigated by Ofgem in relation to its sustainability reporting and was found to lack “adequate data governance and controls”.¹²

12 Ofgem, ‘Drax investigation and renewables obligation subsidies’ (12 March 2025): <https://www.ofgem.gov.uk/publications/ofgem-statement-drax-investigation-and-renewables-obligation-subsidies> [accessed 7 May 2025].

19. The Department responded:

“Compliance with existing sustainability criteria requires bioenergy feedstocks to comply with the UK Timber Regulations (UKTR) which prohibits the placing of illegally harvested timber and timber products on the GB market.

Ofgem’s investigation into Drax’s compliance with sustainability criteria and reporting was completed in August 2024. It found no evidence that Drax had incorrectly received subsidy payments, and no subsidies were issued for unsustainable biomass. However, Drax accepted the findings of the investigation and made a redress payment of £25m. Ofgem’s investigation was detailed and included careful review of the KPMG reports, as well as a wider review of over 3,000 other documents. Both Government and Ofgem are confident in this conclusion.

Moreover, Ofgem has required Drax to undertake a full, international audit of the profiling data from its supply chain, and associated data reporting for 2023/24. This will be a robust and comprehensive exercise, carried out by an independent auditor, to ensure that profiling data is accurate, reliable and underpinned by appropriate processes and controls.

The audit will be submitted to Ofgem for independent assessment and the findings will be published. The audit will be a significant undertaking, covering 98% of Drax’s global supply chain for 2023/24.”

20. **We note that key documents, such as Ofgem’s investigation of Drax and KPMG’s review of Drax’s supply chain processes and reporting practices have not been published. We therefore support the recommendation of the PAC regarding KPMG’s review that the “full report should be made available for Parliamentary scrutiny”. We consider that this should happen before this instrument is debated and before Parliament completes its scrutiny of the draft Regulations. We welcome that Ofgem has required an independent audit, the findings of which will be published. We consider that Parliament should also be informed of the outcome.**

21. Pressed further on how the strengthened sustainability criteria would be monitored and enforced, the Department responded:

“We are enhancing sustainability criteria in line with the latest evidence. These sustainability criteria will be incorporated into the contract. Drax will only receive subsidy for electricity generation from biomass sourced in line with these enhanced criteria.

We are working closely with Ofgem and LCCC [Low Carbon Contracts Company]¹³ colleagues to develop a strengthened compliance and assurance regime for the new contract, with significant disincentives and penalties if sustainability requirements are not met.

This Government is committed to the process of continuous improvement of sustainability criteria and will develop a Biomass Sustainability Common Framework, subject to consultation later this year. We have also

13 The government-owned Low Carbon Contracts Company enters into and manages Contracts for Difference with low carbon electricity generators.

announced the appointment of an independent sustainability advisor, who will (pending final terms of reference) offer advice and challenge on biomass sustainability policy and delivery, primarily relating to biomass electricity, ensuring it remains aligned with the science and international best practice.”

22. **We welcome that the Department and Ofgem have committed to strengthening the compliance and assurance regime for the new arrangements. However, given the strong concerns raised about the sustainability and value for money of large-scale biomass electricity generation in the UK, in particular in relation to Drax, and the company’s compliance record, we remain concerned about the ability of Ofgem and the Department to hold Drax to account. The House may wish to seek further assurance from the Minister that the intended enhanced compliance and assurance regime will be sufficiently robust.**
23. **We are also concerned that while the DESNZ says that CFD subsidies for Drax will depend on meeting strengthened sustainability criteria, it is not clear which environmental standards will apply to the electricity generated by Drax outside the CFD scheme, and how Ofgem will enforce any sustainability standards outside the CFD agreement. The House may wish to press the Minister further on this.**

Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2025 (SI 2025/505)

Date laid: 24 April 2025

Parliamentary procedure: negative

*This instrument sets out the fee to be charged for the “large vehicle off-road manoeuvres test” when conducted by a Driver and Vehicle Standards Agency (DVSA) examiner and the fee payable to a third-party provider, when the test is conducted by a third-party examiner. This corrects a situation whereby these fees had been charged inappropriately because there was no statutory authority to charge them. This issue arose when the off-road test was established as a separate test from the on-road test in 2021, in response to pressures on supply chains as a result of heavy goods vehicle driver shortages. A statutory instrument (SI) was intended to be made in 2022 to provide statutory authority to charge these fees. The DVSA says that this SI was not made due to usual processes being put aside when responding to the “unprecedented national emergency” and a loss of institutional memory. **While we understand the pressures resulting from responding to such situations, we are concerned that this led to departmental responsibilities being put aside. The House may wish to ask the Minister how they will ensure the department’s responsibilities are fulfilled when responding to any future emergency situations.***

*We welcome that the Explanatory Memorandum (EM) to these Regulations largely follows the guidelines that we published last year with regard to the information that should be provided for correcting instruments such as this. However, the EM did not include any indication as to whether these fees have continued to be charged since the unlawfulness came to light. **While the DVSA has since provided such information, we regret that it was not included in the EM.***

*This instrument adds to the growing list of those we have considered so far in this session which deal with (potentially) unlawful government practices, covering different policy areas and government departments. **The House may wish to explore with the Minister what steps the Government is taking to oversee the correction of such issues.***

These Regulations are drawn to the special attention of the House on the ground that they are politically or legally important and give rise to issues of public policy likely to be of interest to the House.

Background

24. This instrument sets out the fee to be charged for the “large vehicle off-road manoeuvres test” when conducted by a Driver and Vehicle Standards Agency (DVSA) examiner and the fee payable to a third-party provider, when the test is conducted by a third-party examiner. These changes correct a situation whereby these fees had been charged inappropriately because there was no statutory authority to charge them.
25. In 2021, the Department for Transport (DfT) laid Regulations to allow the off-road elements of the practical driving test for large vehicles or vehicles with heavy trailers to be conducted separately from the on-road parts of the practical driving test.¹⁴ It also allowed for the off-road test to be conducted by approved third-party examiners. The aim was to increase test capacity to address the shortage of heavy goods vehicle (HGV) drivers, which was impacting supply chains at that time.
26. The Explanatory Memorandum (EM) to the 2021 Regulations confirmed that a subsequent statutory instrument (SI) would be made in 2022 to set the maximum fee for the off-road test, as well as the fee for the approval of third-party examiners. However, the EM to these Regulations confirms that “due to an administrative oversight a statutory instrument was not made in 2022”.

Fees

27. Since November 2021, the DVSA has charged a fee of £40 per off-road test. The DVSA has allowed third-party providers to charge a fee of between £30 and £40, which the DVSA says accounts for the varying ways in which providers offer their off-road tests, for example, as a single test or part of an overall training package. The DVSA added that in practice, “it is reasonable to conclude that the majority of third-party providers would have factored in a cost of the maximum of £40 to conduct the test”. This instrument sets out that a maximum fee of £40 can be charged by DVSA examiners and third-party providers.
28. Between November 2021 and February 2025, DVSA examiners conducted approximately 24,000 off-road tests and third-party examiners conducted around 200,000 tests. This equates to around £1 million charged in fees by DVSA examiners and £8 million in fees charged by third-party providers during this period. In supplementary material, the DVSA told us that there are currently 222 organisations approved to provide off-road tests with a total of 595 examiners employed across these organisations approved to conduct the off-road test.

¹⁴ See the Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021 ([SI 2021/1154](#)) in SLSC, [17th Report](#) (Session 2021–22, HL Paper 88).

29. The EM to the 2021 Regulations stated that the subsequent SI planned for 2022 would also have set the fee for the approval of third-party examiners and any costs associated with maintaining that approval. As the EM to these Regulations makes no mention of this fee, we asked the DVSA for further explanation. The DVSA confirmed that these fees have not been set in these Regulations as they have never been charged. It added that “this new administration fee will be included as part of DVSA’s current review of vocational testing fees and charges” and that the “introduction of any new fee would be subject to consultation and secondary legislation”.

How the issue came to light

30. The EM states that the lack of statutory authority to charge these fees was identified by the DVSA following an internal review of its fee structure at the end of 2024. In supplementary material, the DVSA said that this review was part of a wider project on fee reform, which “was started because DVSA’s fees structure [had] not been updated for a number of years, and not because DVSA had any reason to suppose that any of its fees were being charged inappropriately.” The DVSA says it began work on this instrument to regularise the situation as soon as it became aware of the issue.

DVSA processes

31. The EM states that an SI was not made in 2022 due to an “administrative oversight”. We enquired further as to the nature of this; the DVSA responded:

“As stated, DVSA’s intention had been to make a subsequent fees SI in 2022 and this was initially included as part of DVSA’s fee reform project. It should be noted that this reform project was not progressed to its original timeline for [a] number of practical reasons.

In addition, a number of key policy and legal team personnel left DVSA and DfT in 2021/2022 and the institutional memory of that original intention was lost. The 2021 Amendment Regulations were made at pace and in response to an unprecedented national emergency. The circumstances did not allow for the usual record-keeping and handover processes that would normally apply in this sort of situation.”

32. We asked whether DVSA processes concerning the making of secondary legislation are adequate. The DVSA said:

“DVSA considers that there are adequate DVSA/departmental processes and safeguards in place. [...]

At the time DVSA and DfT’s focus was on ensuring the delivery of legislation considered necessary to maintain critical national supply chains. In view of the highly unusual circumstances in which these 2021 Amendment Regulations came to be made, DVSA does not consider that the fact that this issue arose is representative of any wider deficiency in DVSA or departmental processes and safeguards.”

33. Asked what the DVSA is doing to prevent any similar oversights in future, it replied:

“DVSA and DfT has conducted an interim lessons-learned exercise to identify improvements that can be made either if a similar situation were to recur, or more generally.

DVSA has improved and bolstered its policy capability since 2022. It is also working to improve hand over processes when policy team members leave or move teams, and when new team members join.”

34. **We would welcome the publication of the results of this “interim lessons-learned exercise”, which may be helpful to other government departments in preventing similar situations arising, given that there have been several instances this session where the charging of fees has been found to be, or potentially be, unlawful. While we recognise the need to work at pace to deal with unprecedented events, we consider it to be important that record-keeping and handover processes are more, rather than less, robust in these circumstances. The House may wish to ask the Minister how they will ensure routine processes are not put aside when responding to unprecedented events in the future.**

Lapse of time between charging fees and establishing statutory authority

35. The 2021 Regulations came into force in November 2021 and the subsequent fees SI was intended to be laid in 2022, suggesting there was originally intended to be a gap between the charging of fees and the establishment of the necessary statutory backing to charge those fees. The EM states that “at that time the Department considered that the fees were acceptably charged”. That lapse of time has increased considerably, and the Department now considers that those fees have been charged inappropriately. We asked for further explanation, as we were unclear as to how the fees could be both acceptable and inappropriate in the absence of statutory backing. The DVSA told us:

“DVSA, DfT and DfT Legal Advisers (DfTLA) were aware at the time of a small, anticipated gap between the making of the Amendment Regulations and the proposed 2022 fees regulations. The Committee will be aware that the 2021 Amendment Regulations came to be made in a specific context, when there was significant concern as to the viability of critical national supply chains as economic activity resumed after lockdown, which no longer applies.”

36. **While we acknowledge the need that existed at that time to address the chronic shortage of HGV drivers, we question whether this obviated the Government’s responsibility to ensure that its activities (in this case the charging of fees) were lawful from the point that it began doing so.**

Continued charging of fees

37. In our 4th Report of this session, following several cases of instruments correcting situations of (potentially) unlawful government practices that were accompanied by especially poor EMs, we published guidelines for the information to be included in EMs for instruments which correct such situations.¹⁵ One element of this information is whether fees have continued to be charged once the unlawfulness came to light, and, if so, why this course of action was taken.
38. Asked about this, the DVSA confirmed that it has continued to charge fees and allowed third-party providers to continue to charge fees since the absence

15 See SLSC, *4th Report* (Session 2024–25, HL Paper 28).

of statutory authority was identified. The DVSA explained its justification for this choice:

“Suspending the fee would have jeopardised the viability of the testing regime (with potential knock-on consequence for supply chains dependant on the availability of qualified HGV drivers) since third-party providers could not reasonably be expected to subsidise the cost of conducting [the] test out of their own pocket nor could DVSA have accommodated the additional tests that it would have to administer if third party providers had refused to continue to provide tests.”

39. **This information should have been included in the EM and we regret that it was not. We remind departments that for any future instances where an instrument is correcting a situation whereby a government activity has been found to be (or potentially be) unlawful, the EM should make clear whether this activity continued after the potential lack of statutory authority was identified and, if so, why.**

Rectifying the issue

40. The EM states that the DVSA will announce “as soon as practicable” what next steps it intends to take in respect of fees charged prior to this instrument coming into force, but that it is considering “all options” including restitution schemes and retrospective legislation. When pressed further on this, the DVSA told us:

“In order to regularise fees charged since 2021, it is intended to introduce retrospective primary legislation to correct this issue. This is a priority for DVSA and DfT, and the necessary legislation will be introduced as soon as parliamentary time allows. DVSA and DfT are not yet in a position to set out the timeframes.”

41. **We welcome that the DfT has decided on a course of action to regularise the situation retrospectively. As the timescales are currently unclear, the House may wish to ask the Minister for an update.**

Other cases of (potentially) unlawful government practices

42. So far in this session, we have considered nine instruments which deal with cases of (potentially) unlawful government practices in a range of policy areas.¹⁶ These Regulations add to that growing list. In our 22nd Report, we noted that the Cabinet Office was monitoring known situations of (potentially) unlawful government practices and departments’ actions to rectify such situations. We considered that there was a case for oversight at the centre of government to ensure consistency in remedial actions taken and to learn lessons. **The House may wish to ask for an update on any such oversight activity.**

Conclusion

43. While it is regrettable that fees for off-road tests have been charged without the necessary statutory authority to do so, it is right that the situation is now being corrected. **However, we are disappointed that the EM to these Regulations did not explain whether these fees have continued to be charged. We understand the pressures resulting from responding to national emergencies, but we remain concerned that this led to departmental responsibilities being put aside.**

16 For a list of these instruments, see Appendix 1, SLSC, *22nd Report* (Session 2024–25, HL Paper 101).

INSTRUMENTS OF INTEREST

Russia (Sanctions) (EU Exit) (Amendment) Regulations 2025 (SI 2025/504)

44. These Regulations impose further trade sanctions on Russia aimed at encouraging Russia to cease its invasion of Ukraine. The Foreign, Commonwealth and Development Office (FCDO) says that in response to existing sanctions, Russia has resorted to extensive, elaborate and costly means to try to work around them, in order to import and export the products needed to drive its war effort. The FCDO says that further sanctions are needed to prevent this and to build up pressure on Russia over time. The sanctions in these Regulations are aligned with the UK's allies "as far as possible".
45. The Regulations prohibit further categories of chemicals, plastics, metals, machinery and electronics which have military and industrial uses, such as video game controllers,¹⁷ from being exported to Russia. They also prohibit transfers of technological information, such as intellectual property and trade secrets, related to goods that have already been sanctioned, and broaden prohibitions on transfers of software in an intangible format, for example by download. The Regulations prohibit imports of synthetic Russian diamonds to prevent Russia from circumventing existing sanctions on the import of natural Russian diamonds, and of helium, to prevent Russia from scaling up production as a source of revenue.

Syria (Sanctions) (EU Exit) (Amendment) Regulations 2025 (SI 2025/507)

46. These Regulations amend UK sanctions policy towards Syria, following the fall of the al-Assad regime from power on 8 December 2024. The Regulations update legislation to reflect that the al-Assad regime is no longer in place, revoke certain trade sanctions and retain certain designations to provide accountability for human rights violations committed by members of the former al-Assad regime. The revocation of trade sanctions lifts certain import and export prohibitions, including those linked to energy production and financial services, to facilitate investment and support Syria's economic recovery. Where sanctions remain in place, they now apply to the governing authority of Syria. The changes ensure that the Secretary of State can introduce new designations to target individuals and entities if there is further oppression of the Syrian people or a return to conflict. The UK's allies, including the EU and US, have also begun to gradually lift sanctions since the fall of the al-Assad regime.¹⁸
47. Syria's interim president is the former leader of Hayat Tahrir al-Sham, a proscribed terrorist organisation by the UK. Asked whether these changes amount to lifting sanctions against a proscribed terrorist group, the Foreign, Commonwealth and Development Office (FCDO) responded:

"Although some members of the new Syrian Government have a history of association with Hayat Tahrir al-Sham (HTS), the two entities are distinct. The new Government includes representation from the Alawite,

17 BBC News, 'UK bans video game controller exports to Russia' (24 April 2025): <https://www.bbc.co.uk/news/articles/crkx14jykn8o> [accessed 29 April 2025].

18 BBC News, 'UK lifts sanctions on Syrian defence ministry' (24 April 2025): <https://www.bbc.co.uk/news/articles/c2ewv7y32r1o> [accessed 30 April 2025].

Druze, Christian and Kurdish communities, and a strong cohort from the Cabinet are technocratic appointments. We are lifting sanctions to help facilitate essential investment into Syria, and to ensure the Syrian Government has the resources and access necessary to provide economic and security assurances to the Syrian people, not in support of HTS. Now is the right moment to pursue this policy; the Syrian transition is still delicately balanced and could tip towards stability or a collapse that benefits Iran and Daesh. It is firmly in the UK's national interest to keep engaging the Syrian Government to this end, and to promote stability through economy recovery.”

48. The FCDO added that the impact of lifting some sanctions may be affected by other legal constraints such as HTS's UK proscription and that “it is essential that both individuals and businesses conduct their own due diligence to ensure that they do not breach any existing sanctions”.

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

Draft instruments subject to affirmative approval

Draft Pollution Prevention and Control (Fees) (Miscellaneous
 Amendments) Regulations 2025

Made instruments subject to affirmative approval

SI 2025/504 Russia (Sanctions) (EU Exit) (Amendment) Regulations 2025

SI 2025/507 Syria (Sanctions) (EU Exit) (Amendment) Regulations 2025

Made instruments subject to annulment

SI 2025/498 Oil and Gas Authority (Carbon Storage) (Retention of
 Information and Samples) Regulations 2025

SI 2025/503 Gambling Act 2005 (Gaming Tables in Casinos) (Definitions)
 (Amendment) Regulations 2025

SI 2025/510 Ivory Prohibitions (Exemptions) (Process and Procedure)
 (Amendment) Regulations 2025

SI 2025/514 Energy (Euratom Decisions and Miscellaneous Provisions)
 (Amendment and Revocation) Regulations 2025

SI 2025/522 Public Procurement (Revocation) Regulations 2025

APPENDIX 1: INTERESTS AND ATTENDANCE

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 6 May 2025, Members declared the following interests:

Draft Contracts for Difference (Miscellaneous Amendments) (No. 2) Regulations 2025

Lord Kerr of Kinlochard
Former Director of Scottish Power

Lord Watson of Wyre Forest
*Non-executive Director and adviser on future energy requirements,
Windward Global Limited*

Attendance:

The meeting was attended by Baroness Harris of Richmond, Lord Kerr of Kinlochard, Baroness Lea of Lymm, Lord Pack, Baroness Ritchie of Downpatrick, Lord Russell of Liverpool, Lord Thomas of Cwmgiedd, Lord Watson of Invergowrie and Lord Watson of Wyre Forest.