

# HOUSE OF LORDS

## Secondary Legislation Scrutiny Committee

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### 1st Report of Session 2024–25

Drawn to the special attention of the House:

## **Building (Amendment) (England) Regulations 2024**

### Includes information paragraphs on:

Draft Human Fertilisation and Embryology  
(Amendment) Regulations 2024

Draft Renewable Transport Fuel Obligations  
(Sustainable Aviation Fuel) Order 2024

Draft Separation of Waste (England) (No 2.)  
Regulations 2024 and one related instrument

Draft Students' Unions (Freedom of Speech)  
(Monetary Penalties) (England) Regulations  
2024

Draft Vehicle Drivers (Certificates of  
Professional Competence) (Amendment)  
Regulations 2024

Sentencing Act 2020 (Special Procedures for  
Community and Suspended Sentence Orders)  
Regulations 2024

Financial Services and Markets Act 2000  
(Commodity Derivatives and Emission  
Allowances) (Amendment) Order 2024

Medicines (Gonadotrophin-Releasing  
Hormone Analogues) (Emergency  
Prohibition) (England, Wales, and Scotland)  
Order 2024 and one related instrument

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## *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 De Mauley](#)

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## *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 Clayton Gurney (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 [hseclegscrutiny@parliament.uk](mailto:hseclegscrutiny@parliament.uk).

# First Report

## IMPACT OF DISSOLUTION ON STATUTORY INSTRUMENTS

1. The instruments considered in this Report are mainly those laid by the previous Government just before Dissolution. Once formally laid, instruments continue between Parliaments, so to ensure transparency we are scrutinising them in the usual way.
2. The passage of time however does mean that some of these instruments will run into procedural problems - for example where the instrument is due to come into effect in August but needs to be debated first, there is not enough Parliamentary time available to complete that process by the date printed on it. If the new Government wishes to continue with the policy, it will have to take action to amend or replace such instruments to make them viable. Conversely, there may also be instances where the new Government does not wish to continue with a policy, or intends to reconsider it, in which case it may choose to withdraw the instrument. Where any such issues arise they are noted in this Report alongside our normal commentary.

**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**

- Companies Act 2006 (Recognition of Third Country Qualifications and Practical Training) (Amendment) Regulations 2024<sup>1</sup>

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<sup>1</sup> The 10-day sifting period for this proposed negative instrument expired on 22 July 2024. The Department for Business and Trade told us, however, that it would still welcome the Committee's views on the proposed negative procedure.

## INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

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### Building (Amendment) (England) Regulations 2024 (SI 2024/645)

*Date laid: 15 May 2024*

*Parliamentary procedure: negative*

*This instrument was laid before Dissolution. It amends the Building Regulations 2010 to require that all new non-domestic buildings in England have separate single-sex toilets. Fully enclosed universal toilets can be provided in addition to single-sex toilets where space allows; and they may be provided exclusively where there is not sufficient space for single-sex toilets. The instrument includes several exemptions, including for care homes, custodial facilities and schools, and does not require existing toilets to be changed retrospectively unless building work takes place or there is a material change of use of the building. According to the Department, the changes are needed because of concerns that increasing numbers of publicly accessible toilets are being converted into gender neutral facilities with shared waiting and hand-washing facilities, causing safety and privacy concerns for women.*

*Press articles about the installation of new gender neutral toilets in The Old Vic theatre in London suggest that the conversion of single-sex into gender neutral toilets is controversial. Concerns have been raised about the safety of both women and trans/non-binary people. Against this background, we regret that the Department does not have data about the scale of such conversions. Without such data, it is not possible to understand fully the scale of the problem that the Department seeks to address. **The Department may wish to consider whether the number of conversions of single-sex into gender neutral toilets should be monitored.** While the instrument was signed by a minister in the previous Government, the Department has not given any indication that, following the election, changes will be made to the policy. **The House may wish to pursue the issues raised in this report with the new minister.***

**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.**

3. This instrument was laid by the previous Government before Dissolution. It amends the Building Regulations 2010 (“the Building Regulations”) to require that all new non-domestic buildings in England have separate single-sex toilets, with single-sex shared or individual hand-washing facilities. Universal toilets<sup>2</sup> can be provided in addition to single-sex toilets where space allows. Where there is not sufficient space for single-sex toilets, fully enclosed universal toilets may be provided. The then Department for Levelling Up, Housing and Communities (DLUHC, now the Ministry of Housing, Communities and Local Government or MHCLG) said that because there was no previous policy, the provision of single-sex or universal toilets was at the developer’s discretion. The previous Government first announced the new policy in a Written Ministerial Statement in July 2022.<sup>3</sup>

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<sup>2</sup> A universal toilet is self-contained and fully enclosed toilet room with a wash hand basin for individual use.

<sup>3</sup> Building Regulations, 4 July 2022, [UIN HLWS169](#) [Lords written ministerial statement].

4. The instrument includes exemptions for ensuite facilities in individual rooms for residential purposes, residential rooms in care homes, cells in custodial facilities and premises used for early years provision and schools. The changes do not require existing toilets to be changed retrospectively unless building work or material changes of use take place. Building work includes new construction, extensions or material alterations of existing buildings, while material change of use applies where there is a change in the purposes for which a building is used, for example a building being used as a shop, where previously it was not. The changes are supported by new statutory guidance.<sup>4</sup>
5. The instrument does not specify a space threshold, for example square footage, below which a universal toilet may be installed instead of separate single-sex toilets. DLUHC told us that “all buildings are different and it would be for a developer/owner to demonstrate to a Building Control inspector that their building work meets the functional requirements of the policy”.
6. The instrument does not change the law on the provision of toilets for people with disabilities. According to the Department, this is set out in separate legislation:

“The general duty to make reasonable adjustments and not to discriminate against a disabled person is set out at section 20 of the Equality Act. Accordingly, businesses and providers of public services and buildings have a duty to make reasonable adjustments for disabled individuals; i.e. to make a reasonable provision of accessible toilet facilities. Failure to do so will expose them to legal risk. Requirements to provide access to a building and its facilities (including sanitary conveniences) is already contained in Part M of the Building Regulations 2010 and continues to apply. Section 5 of Approved Document M<sup>5</sup> contains statutory guidance on the design of a wheelchair-accessible unisex toilet, and a WC cubicle for an ambulant disabled individual.”

### *Policy rationale and evidence base*

7. According to DLUHC, the new rules are needed because of “concerns that increasing numbers of publicly accessible toilets were being converted into ‘gender neutral’ facilities with shared waiting and hand-washing facilities, causing safety and privacy concerns, especially for women”. The Department explained that women “need safe spaces considering their biological, health and sanitary needs” and are also “less likely to feel comfortable using mixed sex facilities”. As there was no specific provision for single-sex or universal toilets in the current Building Regulations, the new rules will, according to DLUHC, ensure the safety, privacy and dignity of toilet users.
8. We asked the Department about the scale of the conversion of single sex publicly accessible toilets into gender neutral facilities which this instrument seeks to address. DLUHC replied:

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4 Department for Levelling Up, Housing and Communities (DLUHC), *Statutory guidance: Toilet accommodation: Approved Document T* (15 May 2024): <https://www.gov.uk/government/publications/toilet-accommodation-approved-document-t> [accessed 30 July 2024].

5 DLUHC, *Statutory guidance: Access to and use of buildings: Approved Document M* (15 May 2024): <https://www.gov.uk/government/publications/access-to-and-use-of-buildings-approved-document-m> [accessed 30 July 2024].

“Government does not hold data on the number of publicly accessible toilets which have been converted to gender neutral toilets. However, these changes have been widely reported in the media.”

9. **We regret that there is no data available. Given the concerns, the Department may wish to consider whether the number of such conversions should be monitored, for example through the planning system. The House may wish to press the Minister further on the scale of conversions.**
10. To illustrate the media coverage, the Department provided three articles from 2019 about the installation of new gender neutral toilets in The Old Vic theatre in London. Two of the articles are by the same author. They criticise that, following a fundraising campaign which was launched to support the renovation of the building and to double the number of toilets for women, The Old Vic removed all female toilets and instead installed 26 gender neutral toilets and 18 urinals.<sup>6</sup> Drawing on this refurbishment, the articles set out concerns about the conversion of single sex into gender neutral toilets and the negative impact this has on women, especially in relation to their privacy and safety. The third article reports on the divisive debate that followed the publication of the article criticising the refurbishment of The Old Vic.

*Feedback to a call for evidence and public consultation*

11. The Department did not provide any further evidence or data regarding the conversion of single-sex into gender neutral toilets but referred to a technical call for evidence on toilet provision in October 2020<sup>7</sup> which received 17,589 responses, and to a public consultation in August 2023 which received 1,096 responses.<sup>8</sup> According to DLUHC, 83% of responses to the call for evidence were read to be supportive of gender neutral toilets, while of the 1,088 respondents to Question 5 of the public consultation (*Do you support the government’s intent to ensure provision of single-sex and/or universal toilet accommodation for building works in buildings other than dwellings?*), 887 (81%) supported the proposal and 201 (18%) opposed it.
12. We note that the biggest group of respondents to the call for evidence (83%) appeared to support gender neutral toilets. Question 5 of the public consultation asked about support for both, single-sex and gender-neutral toilet provision, so it seems that supportive responses to the question cannot be interpreted as being in favour of only single-sex toilet provision. Asked for further explanation, the Department told us that the analysis of the responses to both the call for evidence and public consultation had to be seen in the

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6 See: ‘The theatre of inconvenience—The Old Vic’s abolition of women’s toilets is an outrage’, *The Critic Magazine*, Sarah Ditum (29 October 2019): <https://thecritic.co.uk/issues/november-2019/the-theatre-of-inconvenience/> and ‘The Stage accused of ‘cowardice’ after removing comment articles on theatre’s gender-neutral toilets’, *The Press Gazette*, Charlotte Tobitt (7 October 2019): <https://pressgazette.co.uk/news/the-stage-accused-of-cowardice-after-removing-comment-articles-on-theatres-gender-neutral-toilets/>. The third article, ‘The Old Vic’s gender-neutral toilets leave women worse off’, *The Spectator*, Sarah Ditum (7 October 2019): available <https://www.spectator.co.uk/article/the-old-vic-s-gender-neutral-toilets-leave-women-worse-off/>.

7 DLUHC, *Call for evidence outcome: Toilet provision for men and women: call for evidence* (23 August 2023): <https://www.gov.uk/government/calls-for-evidence/toilet-provision-for-men-and-women-call-for-evidence> [accessed 30 July 2024].

8 DLUHC, *Consultation outcome: Toilet provision in buildings other than dwellings: technical consultation* (15 May 2024): <https://www.gov.uk/government/consultations/toilet-provision-in-buildings-other-than-dwellings-technical-consultation> [accessed 30 July 2024].

context of the supporting evidence that many respondents provided. For example, DLUHC explained that of the 887 respondents who responded positively to Question 5, 843 provided supporting evidence highlighting the safety, privacy, dignity, comfort and hygiene of women and girls as the motivating factor for their response. The Department further clarified:

“Paragraphs 13 & 14 of the consultation response (under the sub-heading “interpretation of responses and analysis”) explain how it was evident in supporting evidence that respondents had interpreted the policy proposal in different ways. Therefore, the headline yes/no statistic should be taken in conjunction with the breakdown of the supporting evidence i.e. the percentages noted for the 843 respondents who provided supporting evidence in Question 5. If you look at this breakdown for Q5, you will see as well as 33% of those who provided supporting evidence stating that “single-sex toilets should be provided”, 21% also thought “universal toilets should only be provided in addition to single-sex toilets.” Throughout the consultation, including in the breakdown of the supporting evidence, generally more respondents supported the provision of single-sex toilets with fewer supporting provision of universal toilets as the primary form of provision.

It should also be noted that 81% of total respondents agreed with the Secretary of State’s intention for separate single-sex facilities (Question 10) and 82% of total respondents agreed with the intention to provide universal toilets where space allows (Question 12). In the breakdown of responses who provided further supporting evidence for Question 12 (626 respondents), 52% stated “universal toilets should be provided only in addition to single-sex toilets.” [ ... ]

As you say, 83% of total respondents in the call for evidence said they were supportive of non-gendered toilets. However, when interpreting these numbers, it should be noted that respondents to the call for evidence were not answering specific questions: they were making their own choices about what issues to comment on. It should also be noted that the call for evidence did not say whether each toilet type might be considered as the only type to be provided or as an additional provision alongside other toilet types. For example, only 2% of respondents actively noted they were supportive of disabled person’s toilets, and it would be reasonable to suggest that more than 2% of the respondents would be supportive of disabled person’s toilets.”

13. The Department added:

“The Equality Impact Assessment<sup>9</sup> provides further evidence and analysis too. The policy aims to ensure that there should be balanced consideration of how the needs of all those with protected characteristics should be accommodated. We believe, the requirement as set out, constitutes a proportionate means of achieving a legitimate aim, that is to ensure the safety, privacy and dignity of all toilet users. The policy offers a proportionate and viable approach to ensuring the widest possible range of toilets depending on the available space and allows

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9 DLUHC, *Equality impact assessment for the provision of toilets* (15 May 2024): <https://www.gov.uk/government/consultations/toilet-provision-in-buildings-other-than-dwellings-technical-consultation/outcome/equality-impact-assessment-for-the-provision-of-toilets> [accessed 30 July 2024].



some discretion for building owners to provide provision for their building users. Ultimately, the Minister's decision reflects the aim of trying to achieve clarity (which was needed following the consultation responses) as well as providing a proportionate choice."

14. We note that 86% of responses to the call for evidence cited safety concerns for identified groups of toilet users, with 79% of responses mentioning safety concerns for trans/non-binary people and 75% mentioning such concerns for women. More than 12,000 responses (68%) raised specific concerns around menstruation, family use, disabled use and medical conditions.

### *Conclusion*

15. It is clear from the press coverage of the refurbishment of The Old Vic that conversions of single-sex into gender neutral toilets are controversial. In this debate, concerns have been raised about the safety of both women and trans/non-binary people. Against this background, we regret that the Department was unable to provide data about the scale of these conversions. In the absence of such data, it is not possible to understand fully the scale of the problem that this instrument seeks to address. **The Department may wish to consider whether the number of conversions of single-sex into gender neutral toilets should be monitored.** While the instrument was signed by a minister in the previous Government, the Department has not given any indication that, following the election, changes will be made to the policy. **Given the wider public interest in the provision of publicly accessible toilets, the House may wish to pursue the issues raised in this report with the new minister.**

## INSTRUMENTS OF INTEREST

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### Draft Human Fertilisation and Embryology (Amendment) Regulations 2024

16. This instrument implements recommendations of the National Advisory committee for the safety of blood, tissues and organs (SaBTO) to make two amendments to the Human Fertilisation and Embryology Act 1990:
- First it creates a new definition of partner-donated eggs enabling female same sex couples wishing to donate eggs to each other to undergo the same testing requirements as heterosexual couples, as evidence shows that there are no microbiological grounds for the more rigorous tests which have applied until now.
  - Second, it allows people living with an undetectable viral load of HIV to donate to friends, family or a person they have been introduced to by a third party for the purpose of conceiving (“known recipients”). The Regulations set certain conditions: donors must demonstrate that they have a sustained undetectable HIV viral load of no more than 200 copies per millilitre and have been undergoing antiretroviral therapy for at least six months prior to the date of donation; the recipient must be aware of the HIV diagnosis, understand the health risks involved with the donation and consent to be treated.

### Draft Renewable Transport Fuel Obligations (Sustainable Aviation Fuel) Order 2024

17. In line with the ‘polluter pays’ concept, this Order removes sustainable air fuel (SAF) from the Renewable Transport Fuels Scheme, so car drivers will not be cross-subsidising aviation decarbonisation. Instead, from 1 January 2025, the Order will establish a parallel system of tradeable certificates for aviation fuel to be administered by the same unit of the Department for Transport (DfT).
18. DfT state that, compared with kerosene jet fuel, SAF can reduce greenhouse gas (GHG) emissions by 70% over its lifecycle. The Order introduces a specific obligation on aviation fuel suppliers to blend a proportion of SAF into the UK aviation fuel mix, which gradually increases from just over 2% in 2025 (calendar year) to just under 24% in 2040 (see table in regulation 3(7)). The Order also increases the percentage of power-to-liquid SAF<sup>10</sup> required, as a stimulus to encourage its commercial production and further innovation. Suppliers are awarded standard certificates for producing SAF that meets a minimum GHG emissions saving threshold (also to be increased over time). Suppliers must redeem SAF certificates to meet their obligation or pay the buy-out price which will be higher for power-to-liquid fuels to incentivise their supply. (DfT laid a revised Order on 24 July 2024 that corrected drafting errors in an earlier version.)

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<sup>10</sup> Power-to-liquid (PtL) fuels are made when carbon is made into fuel using a process powered by renewable (except biomass) or nuclear energy: these fuels provide the greatest GHG emissions reductions.

### Draft Separation of Waste (England) (No. 2) Regulations 2024

#### Separation of Waste (England) Regulations 2024 (SI 2024/666)

19. These two instruments were laid before Dissolution to help implement the previous Government's Simpler Recycling policy, which aims to make recycling in England clearer and easier, so that people no longer need to check what waste materials their council accepts for recycling. The policy will be supported by compulsory packaging labelling that will be introduced separately through the Extended Producer Responsibility (EPR) for packaging scheme. EPR will make clear what is and what is not recyclable material. The Department for Environment, Food and Rural Affairs (Defra) explained that while the current household recycling rate of 44%-45% has not risen over the last five years, Simpler Recycling would increase both the quantity of materials collected for recycling and the quality of recyclable waste.
20. Six recyclable waste streams must currently be collected separately in England, unless this is not technically or economically practicable or there is no significant environmental benefit: plastic, paper and card, glass, metal (also referred to collectively as "dry recyclable waste"), food waste and garden waste (collectively referred to as "organic waste"). The **draft Regulations** propose two exemptions from this requirement. First, the instrument would allow all dry recycling waste to always be collected together. Food and garden waste would also be allowed to be collected together. However, dry recycling waste would still need to be collected separately from organic and residual (non-recyclable) waste to prevent contamination. Second, the instrument proposes to exempt businesses with fewer than ten staff (micro-firms) from the recycling requirements until 31 March 2027. We note that because of the summer recess, Parliament will not be able to debate and approve the instrument before the intended coming into force date of 31 August 2024. While Defra is aware of this problem, the Department told us that no decision has yet been made on the next steps.
21. **SI 2024/666** specifies the types of materials that will be in each of the six recyclable waste streams to ensure that a consistent set of materials is collected. While the current rules apply to households and some non-domestic premises, such as schools and hospitals, the instrument designates additional non-domestic premises including places of worship, penal institutions and charity shops.
22. Under the current timetable, Simpler Recycling will be implemented in stages between March 2025 and March 2027. Defra told us that from 1 April 2027 all relevant parties will have to comply with the Simpler Recycling requirements (except for transitional arrangements for some local authorities to avoid contract-breaking), plastic films will be added to all kerbside collections and mandatory labelling on packaging under EPR will be required.

### Draft Students' Unions (Freedom of Speech) (Monetary Penalties) (England) Regulations 2024

23. These Regulations would have set (at £50,000) the maximum monetary penalty that the Office for Students (OfS) could impose on students' unions for breaching their freedom of speech duties under the Higher Education (Freedom of Speech) Act 2023 ("the Act"). The Regulations would also

have set the factors for the OfS to consider when deciding on the penalty in any particular case.

24. The Regulations were laid on 14 May 2024 and were due to come into force on 1 August 2024, leading to the procedural issues described in the Editorial in this Report. A further complication arises because commencement orders have already been made to bring the relevant parts of the Act (section 3, setting freedom of speech duties for students' unions, and section 7, setting out the functions of the OfS in this area) into force on 1 August 2024.<sup>11</sup> In this case, the new Government has withdrawn the Regulations and revoked the commencement regulations, thereby pausing further implementation of the Act.

#### **Draft Vehicle drivers (Certificates of Professional Competence) (Amendment) Regulations 2024**

25. This instrument proposes a simplified way for professional HGV and bus drivers in the UK to maintain their Driver Certificate of Professional Competence (DCPC), renewal of which requires 35 hours' further professional training every five years. Currently such drivers need the International DCPC (IDCPC) for both national and international journeys. European legislation requires all 35 hours of training to be completed before the certificate can be renewed and specifies training courses must be at least seven hours long, that a split course has to be completed on two consecutive days, and that e-learning is limited to a maximum 12 hours of the total.
26. This instrument introduces a national alternative for use by professional drivers within the UK, the "N-DCPC". It is more flexible, allowing course units of 3.5 hours. From 1 February 2025 it will also offer a seven hour 'return to driving' course to allow them to recommence driving professionally in the UK, which must then be followed by 28 hours further training within 12 months. It is hoped that these changes improve driver shortages in the UK, However, they will still need the IDCPC to drive vehicles internationally.

#### **Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2024 (SI 2024/654)**

27. These Regulations add a fourth venue to the pilots of 'Intensive Supervision Courts' (ISCs), which provide certain less serious offenders with an intensive oversight system aimed at addressing their individual needs. Policy aims include reducing reoffending and the use of custody. The new pilot is in Bristol and will focus on substance misusers.
28. We drew the Regulations introducing the first three pilots to the special attention of the House.<sup>12</sup> We noted concerns that there were fewer than the maximum of five pilots specified in the parent Act; **we welcome the addition of a fourth, but note there is still scope for a further site.** The Ministry of Justice (MoJ) told us that, in the 11 months between the launch of the original pilots in June 2023 and the end of March 2024, 102 offenders were recruited across the three sites, compared with MoJ's original estimate of "approximately 400" cases for the full 18-month pilot. **The rate**

11 Higher Education (Freedom of Speech) Act 2023 (Commencement No. 2) Regulations 2024 (SI 2024/566).

12 Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2023 (SI 2023/559), see *43rd Report* (Session 2022–23, HL Paper 207).

**of recruitment of cases will need to increase for even the project’s somewhat modest ambitions to be achieved.**

29. Our earlier Report also expressed concerns that the MoJ was not providing any additional resource dedicated to the programme. In response to questions on these Regulations, the MoJ said that it was providing funding of around £1.55 million to support probation teams and employ a project coordinator at each site, but that the pilots were intended to “test a version of ISCs which could be scalable and replicable across the country”. **We understand the resource constraints, but encourage reviews of the pilots to consider the possible impact of a greater up-front commitment.** Since the election the MoJ has confirmed their intention to publish an interim report on the pilots in “summer 2024”, a “final report” in summer 2025 and a cost/benefit analysis “around two years after the conclusion of the pilot”.

**Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) (Amendment) Order 2024 (SI 2024/719)**

30. This instrument prevents the changes set out in an instrument in March 2023<sup>13</sup> from coming into force on 1 January 2025, as previously envisaged. The measures would have simplified the system for determining when a firm trading commodity derivatives or emission allowances as an ‘ancillary activity’ does, or does not, need to be authorised as an investment firm, by replacing the EU-derived statistical tests with a more ‘principles-based’ approach. Following the 2023 instrument, the Financial Conduct Authority (FCA) consulted on the details of the regime, but feedback raised “significant concerns” with a principles-based approach. HM Treasury said this suggested the regime as envisaged “presented sufficient risk to require re-assessment”. HM Treasury stated that it will now “work with the FCA and engage further with the market”, with the aim of implementing a redesigned regime by 1 January 2027. **We note this as an example of the value of a meaningful consultation for identifying issues with the design of a policy: respondents raised significant concerns but HM Treasury pressed ahead regardless, and as a result the implementation of the policy will be delayed by at least two years.**

**Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (England, Wales and Scotland) Order 2024 (SI 2024/727)**

**National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Amendment) Regulations 2024 (SI 2024/728)**

31. These two instruments prohibited new prescriptions to under-18s of certain gonadotrophin-releasing drugs that can be used for puberty suppression. The prohibition responds to the publication in April 2024 of the *Cass Review*,<sup>14</sup> which indicated that the use of these drugs for the treatment of young people with gender dysphoria or incongruence is not evidence-based and should change. The Cass Review concluded that because of the limited evidence, and potential risks to patient safety, gonadotrophins should only be used for this purpose under a research protocol or with the agreement

13 Made as the Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) Order 2023 (SI 2023/548), see *36th Report* (Session 2022–23, HL Paper 183).

14 The Cass Review, *Final Report* (April 2024): <https://cass.independent-review.uk/home/publications/final-report/> [accessed 30 July 2024].

of the national multi-disciplinary team. These regulations implemented those recommendations: **SI 2024/728** by limiting NHS prescriptions for gonadotrophins to adults (where they are used for the treatment of prostate and breast cancers or fertility issues); **SI 2024/727** by imposing a temporary prohibition until 2 September 2024 on dispensing private prescriptions and those from European Economic Area countries for these drugs, to allow for further research. The position will then be reconsidered.

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

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### Draft instruments subject to affirmative approval

Draft	Armed Forces Act 2006 (Continuation) Order 2024
Draft	Companies and Limited Liability Partnerships (Protection and Disclosure of Information and Consequential Amendments) Regulations 2024 ( <i>withdrawn on 18 July due to timing issues</i> )
Draft	Energy Act 2023 (Consequential Amendments) Regulations 2024 ( <i>approved 24 May under suspension of Standing Orders</i> )
Draft	European Forest Institute (Immunities and Privileges) Order 2024
Draft	Global Combat Air Programme International Government Organisations (Immunities and Privileges) Order 2024 ( <i>approved 29 July under suspension of Standing Orders</i> )
Draft	Government of Wales Act 2006 (Devolved Welsh Authorities) (Amendment) Order 2024
Draft	Human Fertilisation and Embryology (Amendment) Regulations 2024
Draft	Information Sharing (Disclosure by the Registrar) Regulations 2024
Draft	Ivory Act 2018 (Meaning of “Ivory” and Miscellaneous Amendments) Regulations 2024
Draft	Insurance and Reinsurance Undertaking (Prudential Requirements) (Amendments and Miscellaneous Provisions) Regulations 2024
Draft	Magistrates’ Courts Fees (Amendment) Order 2024
Draft	Registrar (Identity Verification and Authorised Corporate Service Providers) Regulations 2024
Draft	Renewable Transport Fuel Obligation (Sustainable Aviation Fuel) Order 2024 ( <i>revised version laid 24 July</i> )
Draft	Reporting on Payment Practices and Performance (Amendment) (No.2) Regulations 2024 ( <i>withdrawn on 18 July due to timing issues</i> )
Draft	Separation of Waste (England) (No.2) Regulations 2024
Draft	Students’ Unions (Freedom of Speech) Monetary Penalties (England) Regulations 2024 ( <i>withdrawn on 26 July</i> )
Draft	Vehicle Drivers (Certificate of Professional Competence) (Amendment) Regulations 2024

### Made instruments subject to affirmative approval

SI 2024/643	Sanctions (EU Exit) (Miscellaneous Amendments and Revocations) Regulations 2024 ( <i>approved on 24 May under suspension of Standing Orders</i> )
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- SI 2024/677 Syria (Sanctions) (EU Exit) (Amendment) Regulations 2024  
 SI 2024/695 Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2024

### Draft instruments subject to annulment

- Draft Modifications to the Smart Energy Code (Smart Meters No.[2] of 2024)

### Instruments subject to annulment

- SI 2024/614 Armed Forces (Civilians Subject to Service Discipline) (Amendment) Order 2024  
 SI 2024/619 Armed Forces (Appeals Against Review of Sentence) Regulations 2024  
 SI 2024/635 Financial Services and Markets Act 2000 (Overseas Funds Regime) (Equivalence) (European Economic Area) Regulations 2024  
 SI 2024/636 Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024  
 SI 2024/637 Merchant Shipping (Carriage of Cargoes) Regulations 2024  
 SI 2024/638 Markets in Financial Instruments (Equivalence) (United States of America) (Commodity Futures Trading Commission) Regulations 2024  
 SI 2024/640 Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2024  
 SI 2024/641 Weights and Measures (Intoxicating Liquor) (Amendment) Regulations 2024  
 SI 2024/642 Green Gas Support Scheme (Amendment) Regulations 2024  
 SI 2024/644 Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2024  
 SI 2024/647 Allocation of Housing and Homelessness (Eligibility)(England) and Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Regulations 2024  
 SI 2024/654 Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2024  
 SI 2024/666 Separation of Waste (England) Regulations 2024  
 SI 2024/668 Cremation, Coroners and Notification of Deaths (England and Wales) (Amendment) Regulations 2024  
 SI 2024/669 Education (Student Fees, Awards and Support) (Amendment) (No. 2) Regulations 2024  
 SI 2024/670 Tertiary Education and Research (Wales) Act 2022 (Consequential Amendments) (No. 2) Order 2024  
 SI 2024/683 M621 Motorway (Speed Limit) Regulations 2024



- SI 2024/685 Food Additives and Novel Foods (Authorisations and Miscellaneous Amendments) and Food Flavourings (Removal of Authorisations) (England) Regulations 2024
- SI 2024/700 Electricity (Individual Exemption from the Requirement for a Transmission Licence) (Seagreen) (Scotland) Order 2024
- SI 2024/702 Glue Traps (Licensing) Regulations 2024
- SI 2024/708 Code of Practice (Dismissal and Re-engagement) Order 2024
- SI 2024/717 Education (Penalty Notices) (England) (Amendment) (No. 2) Regulations 2024
- SI 2024/719 Financial Services and Markets Act 2000 (Commodity Derivatives and Emission Allowances) (Amendment) Order 2024
- SI 2024/721 Dangerous Dogs (Exemption Schemes) (England and Wales) (Amendment) Order 2024
- SI 2024/723 Immigration (Exemption from Control) (Amendment) Order 2024
- SI 2024/727 Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (England, Wales and Scotland) Order 2024
- SI 2024/728 National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) (Amendment) Regulations 2024
- SI 2024/809 Electricity (Individual Exemption from the Requirement for a Supply Licence) (Green Volt) (Scotland) Order 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 30 July 2024, Members declared the following interests:

### **Draft Students' Unions (Freedom of Speech) (Monetary Penalties) (England) Regulations 2024**

Baroness Randerson

*Chancellor (formerly Pro Chancellor), Cardiff University*

Lord Thomas of Cwmgiedd

*Chancellor, Aberystwyth University*

### **Attendance**

The meeting was attended by Baroness Harris of Richmond, Lord Hunt of Wirral, Baroness Lea of Lymm, Baroness Randerson, Baroness Ritchie of Downpatrick, Lord Rowlands, Lord Thomas of Cwmgiedd and Lord Watson of Wyre Forest.