HOUSE OF LORDS

Secondary Legislation Scrutiny Committee

2nd Report of Session 2024–25

Drawn to the special attention of the House:

Draft Human Medicines (Amendments Relating to Naloxone and Transfers of Functions) Regulations 2024

Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024

Infected Blood Compensation Scheme Regulations 2024

Illegal Migration Act 2003 (Amendment) Regulations 2024

Social Fund Winter Fuel Payment Regulations 2024

Correspondence: Further information on Universal Credit Administrative Earnings Threshold

Statutory Instruments (Amendment) Bill

Includes information paragraphs on:

Draft Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024

Draft Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024

Human Medicines (Amendments relating to the Windsor Framework) Regulations 2024

M6 Motorway (Junctions 21a to 26) (Variable Speed Limits) Regulations 2024

Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (Extension) Order 2024

Draft Pensions Regulator's Defined Benefit Funding Code of Practice 2024

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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.

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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), India Kearsley (Adviser), Philipp Mende (Adviser), Chris Smith (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 hlseclegscrutiny@parliament.uk.

Second Report

INSTRUMENTS DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft Human Medicines (Amendments Relating to Naloxone and Transfers of Functions) Regulations 2024

Date laid: 30 July 2024

Parliamentary procedure: affirmative

The main purpose of this instrument is to make naloxone, a treatment for opioid overdose, more widely available. Deaths from opioids have risen sharply in the last few years and easy access to an antidote has been recommended to combat this. Although the Department of Health and Social Care (DHSC) provides good evidence to support this initiative, we found the Explanatory Memorandum short on information about its implementation; for example, on the scale of the problem, any risks from the use of naloxone, the likely costs and where they would fall. This Report includes additional information from the DHSC that should provide the House with a broader overview of the implications of the policy in preparation for the required debate.

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

1. Products containing naloxone or its salts, esters or stereoisomeric forms are used in the diagnosis and treatment of cases of acute overdose or intoxication caused by natural or synthetic opioids. Currently these 'naloxone products' are prescription-only medicines and there is a limited exemption from that restriction for people working in drug treatment services to supply naloxone hydrochloride in an emergency to save a life.

2. These Regulations extend both the range of naloxone products that can be supplied and the range of people who may use them: the new list includes people working for the police, prison service, probation services and youth justice services and a range of registered health care professionals, provided each has undergone appropriate training.

3. Provision is UK-wide and requires specified national bodies to set national standards for training in the storage and supply of naloxone products.

4. Under the new arrangements, the basis for exemption is changed from emergency to precautionary. Naloxone may also be supplied on a "take-home" basis to a family member or friend of a person who is known to be using opioids as a contingency for use in case of a future overdose. Professionals such as police officers or outreach workers for the homeless may carry naloxone products with them in case they are needed in the course of their duties (see regulations 3 and 7).

5. The policy is supported by a number of academic studies, in particular by the Advisory Council on the Misuse of Drugs,[1] and evidence from pilot projects in Scotland and other countries.

Scale of the problem

6. The Department of Health and Social Care (DHSC) states in the Explanatory Memorandum (EM) that drug misuse deaths have doubled since 2012 and opioid-related deaths make up the largest proportions of drug-related deaths across the UK. However, no specific figures are included.

7. In supplementary information published in full on our website,[2] the DHSC states that there are an average of 40 opioid poisoning deaths per week in England.[3] There were 4,907 deaths related to drug poisoning registered in England and Wales in 2022, the highest number since records began in 1993. The rate of drug-poisoning deaths has increased every year since 2012 and was 81.5% higher in 2022 than it was in 2012.

8. Opioid deaths are a UK-wide problem. In 2022, opioids were involved in 73% of drug-misuse deaths in England, 60% of such deaths in Wales, 82% in Scotland and 60% in Northern Ireland—a total of approximately 3,000 opioid-related deaths across the UK. The DHSC is also currently monitoring the emerging threat posed by highly potent synthetic opioids, such as nitazenes, which are leading to increased deaths in the UK.

9. The DHSC expects that by increasing the number of services that can buy and stock naloxone, more lives will be saved. However, because the Regulations are permissive, the DHSC states that estimates of extra overdose deaths prevented are not possible because it depends on the number of organisations that take up the opportunity.

Costs

10. The objective of these Regulations is to facilitate wider availability of the medicine but the EM gives no indication of likely cost. The DHSC argues that this is simply enabling legislation and, as it does not mandate the use of naloxone, no costs are imposed. However, that is an overly simplistic assessment.

11. In response to our questions, the DHSC explained that naloxone products have a three-year shelf life if not used, and are currently available for use in the community in three forms:

    - Ethypharm's Prenoxad, intramuscular (IM) injection, usual price is £18. Each pre-filled syringe contains 5 x 0.4mg doses of naloxone, a total of 2mg.

    - Napp's Nyxoid intranasal (IN) spray, usual price is £26. Each pack contains two applicators each with a single dose of 1.8mg naloxone,

1 Advisory Council on the Misuse of Drugs, 'ACMD review of the UK Naloxone implementation': https://www.gov.uk/government/publications/acmd-naloxone-review/acmd-review-of-the-uk-naloxone-implementation-accessible [accessed 20 August 2024].

2 SLSC, 'Correspondence': https://committees.parliament.uk/committee/255/secondary-legislation-scrutiny-committee/publications/3/correspondence/ [accessed 4 September 2024].

3 Office for National Statistics, 'Deaths related to drug poisoning in England and Wales: 2022 registrations': https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2022registrations [accessed 20 August 2024].

roughly equivalent to 0.4mg IM in the first 10 minutes (but reaching a higher plasma concentration thereafter, closer in equivalence to 0.8mg IM).

- Accord's Naloxone 1.26mg Nasal Spray, usual price is £25. Each pack contains two applicators, with a lower dose of 1.26mg naloxone in each but also considered to be broadly equivalent to 0.4mg IM initially and 0.8mg in the longer term.

12. Asked about where the costs might fall, the DHSC said:

> "Local authorities are responsible for commissioning drug treatment services as part of their public health responsibilities, and they provide funding for naloxone supplied through drug treatment services based on their assessment of local need. Although local authority public health will want to support wider provision of naloxone, their resources are limited and additional services and organisations that want to provide take-home naloxone may need to pay for it through their own funding streams."

Risks

13. Because naloxone is currently a prescription-only drug, we had assumed that there might be side effects from administering it. However, the DHSC told us that the World Health Organisation (WHO) has stated that 'naloxone has virtually no effect in people who have not taken opioids'.[4] Side effects are limited to confusion in the person if the overdose is reversed too sharply and occasional respiratory effects, but these are noted in less than 1% of cases.

14. The DHSC went on to say that several countries (for example, Australia, Canada and Italy), as well as some US states, have introduced naloxone as an over-the-counter medication and have also started proactive distribution in communities. **The House may therefore wish to enquire of the Minister why these Regulations only introduce a more limited availability.**

15. We also asked if there would be any risk to the person administering the antidote, either directly or from legal liability. In supplementary information, the DHSC stated that risk is limited to occasional confusion or aggression from the person treated, and possible needle stick injuries if the product is handled incorrectly. In terms of legal liability the department does not foresee much because, even when used by a lay person, naloxone is very safe, these Regulations tie the ability to obtain and use the antidote to specific training on how to administer it, and "the courts are reluctant to hold rescuers liable when they have acted in a way that in all the circumstances is reasonable".

Encouraging addiction?

16. We also asked how the DHSC would respond to the suggestion that providing a widely available antidote may encourage addicts to overdose. The DHSC replied:

> "We are not aware of any significant body of evidence that indicates naloxone provision encourages increased drug use or overdose. In fact,

4 World Health Organisation, 'Opioid Overdose': https://www.who.int/news-room/fact-sheets/detail/opioid-overdose [accessed 20 August 2024].

> some studies have shown that naloxone results in decreased drug use (Seal et al., 2005; Wagner et al., 2010)."
>
> "Having an opioid overdose reversed by naloxone is a negative, and sometimes unpleasant, experience as naloxone can cause opioid withdrawal symptoms."

17. The DHSC reaffirmed that naloxone is intended to be used as part of a structured drug recovery strategy, and making it more widely available could substantially reduce the number of deaths resulting from opioid overdose. The WHO notes that this is particularly relevant for people with opioid use disorders leaving prison, as they have very high rates of opioid overdose during the first four weeks after release.

18. The DHSC concluded that "one of the main drivers for this work is the rise in synthetic opioids in the UK's illicit drug market. We want as many people as possible to be able to access naloxone if/when they may need it as this will allow better national response and preparedness if we see something like the rise in fentanyl in America."

Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024 (SI 2024/844)

Date laid: 17 July 2024

Parliamentary procedure: laid as draft affirmative; made on 30 July 2024

This Order reduces the proportion of their sentence that most offenders will spend in custody, from 50% of sentence length to 40%. It is being introduced in order to free up prison places, in the face of very low spare capacity in jails and the resulting risk of a "collapse" in the criminal justice system.

We accept that the Order represents the best approach to tackling the issue, while recognising that it brings risks, including that some of those released may reoffend when they would otherwise have been in jail. However, we are concerned about the impact on services that provide support to released offenders; including, but not limited to, the Probation Service. ***The Ministry of Justice (MoJ) should monitor the effects of the change carefully and be prepared to react accordingly.***

The Order has received truncated scrutiny; for example, it has been debated in both Houses prior to this report and that of the Joint Committee on Statutory Instruments. ***This makes it even more important that the promised review of the policy is fully transparent, to enable Parliament and the public to understand the effects of the changes and the extent to which the risks materialise in practice.***

This Order is drawn to the special attention of the House on the ground that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House.

Introduction

19. For the majority of prison sentences in England and Wales, the offender is eligible for automatic release from custody part-way through their sentence. The remainder of the sentence is spent 'on licence', meaning that they are under supervision and subject to certain conditions. The offender may be recalled to prison if they breach the conditions of their licence.

20. In most cases, prior to this Order, the point of automatic release was 50% of the sentence (higher proportions apply to some more serious offences). This Order reduces that release point from 50% to 40%, meaning that offenders spend less time in prison and more time on licence in the community.

21. The rationale for the change is to reduce the current acute pressure on prison places. The Lord Chancellor, the Rt Hon. Shabana Mahmood MP, has said that prisons are "on the point of collapse" and that without action "we face the collapse of the criminal justice system. And a total breakdown of law and order".[5] She further stated, in relation to these changes, that "there is now only one way to avert disaster. I do not choose to do this because I want to […] let me be clear, this is an emergency measure. This is not a permanent change".

5 Ministry of Justice, 'Lord Chancellor sets out immediate action to defuse ticking prison 'time-bomb'' (12 July 2024): https://www.gov.uk/government/news/lord-chancellor-sets-out-immediate-action-to-defuse-ticking-prison-time-bomb [accessed 29 August 2024].

22. We note, however, that the Ministry of Justice (MoJ) has not indicated how long the measure will be in place for, and did not include a sunset clause in the Order. Addressing this issue in the House of Lords debate on the Order, the Minister of State at the MoJ, Lord Timpson, said that "given the scale of the crisis, placing an artificial time limit on this measure would be irresponsible. We have taken the very deliberate decision not to reverse this measure until we are certain that prison capacity has stabilised".[6]

23. A number of offences are excluded from the change, with the automatic release point remaining at 50%. These are listed in paragraph 4.3 of the Explanatory Memorandum (EM) to the Order. The Order also makes provisions for circumstances such as prisoners serving multiple consecutive or concurrent sentences.

24. The policy will be implemented in two initial tranches, which the EM says is to "balance addressing capacity pressures whilst ensuring the volume of releases is manageable for providers of services for offenders in the community". The first tranche, commencing on 10 September 2024, will comprise prisoners with eligible sentences of less than five years. The second tranche will commence eight weeks later, on 22 October 2024, and will apply to sentences of five years or more.

25. The Order was laid as a draft affirmative. It was debated by the House of Commons on 25 July 2024[7] and by the House of Lords on 29 July 2024.[8] It was made on 30 July 2024.

Availability of post-release services

26. Our main concern with the policy is around the availability of services for the large number of additional offenders who will move to being under supervision in the community. The Probation Service, which supervises offenders on licence, is key to this transition; other stakeholders include local authorities (particularly in relation to providing accommodation where necessary), the police (who would apprehend offenders if licence conditions are breached), substance misuse services, the NHS and the welfare system.

27. In its Impact Assessment accompanying the Order, the MoJ notes that it is providing an additional £22 million per annum to the Probation Service, as well as £4 million to support accommodation costs in the first year only. Steps to relieve pressure on the Probation Service include: recruiting 1,000 new probation officers; reducing the degree to which lower-risk offenders are subject to active supervision after the completion of their full sentence (in other words, after the licence period expires); and targeting active supervision where the MoJ believes it is most needed, which is during the first two-thirds of an offender's licence period.

28. The MoJ told us that it has set up an "Implementation Task Force […] to meet with partners, including healthcare, DWP and local government, in order to anticipate, identify and work through any issues that emerge". The MoJ also said that the approach of releasing offenders in tranches (as described above) would "lessen the burden" on probation and other post-release services, and that "predictability in the timing of releases" would "help with the allocation and prioritisation of existing resources".

6 HL Deb, 29 July 2024, cols 849–50 [Lords Chamber].
7 HC Deb, 25 July 2024, cols 831–55 [Commons Chamber].
8 HL Deb, 29 July 2024, cols 848–60 [Lords Chamber].

29. Nevertheless, significant concerns have been expressed about the ability of support services to cope. For example, the Chief Probation Officer, Martin Jones, is reported as saying that it is "inevitable that things will go wrong" because those in charge of monitoring released offenders lack the resources to cope.[9] Mr Jones was also reported as warning that "the overcrowding crisis in prisons was likely to be followed by a similar crisis in probation unless there were significant changes". Further, it would appear that, apart from the funding for probation and accommodation, no additional resources are being made available to other support services.

30. We asked the MoJ whether it had considered a longer gap between release tranches, to allow 'lessons learned' from the first tranche to be implemented during the second. The MoJ replied that this was not possible because "the second tranche needs to take place by 22 October to avoid critical capacity being reached".

31. Given the urgency of the situation, we recognise there are limits to the preparations that can be undertaken prior to implementation of this policy. **However, it is imperative that the MoJ monitors the changes closely in order to address issues that arise, learns from experiences as the policy develops and considers allocating further resources to post-release services if necessary.**

Public safety

32. We note concerns that the policy may have an adverse effect on public safety; for example, because some of those released may reoffend during periods that they would otherwise have been in jail. For example, Martin Jones was reported as saying that "it was only realistic" to expect such reoffending to happen.[10] Asked about this, the MoJ told us that its central estimate for the outcome of the policy assumes no increase in reoffending, because anyone reoffending following their release at 40% of sentence length would have been likely to do so anyway after release at 50%.

33. The MoJ was unable to provide us with evidence either way on this issue. Time will reveal whether it is a significant risk. **It is therefore an area we expect to see covered in the published findings of the review of the policy (see below). More generally, the Chief Probation Officer has stressed the importance of learning from mistakes during the rollout, and we agree with him that this will be important**.

Impact

34. The Home Office estimates that the change will free up between 4,900 and 6,200 prison places. The Impact Assessment accompanying the Order estimates that the policy will save £3.9 billion of public expenditure over ten years, primarily because of a reduction in need for additional prison building. **However, we note that the policy is described as temporary and, if reversed as is the intention, these notional savings will not arise**.

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9 'Early prison release 'rolls the dice' on crime' *The Times* (28 August 2024): https://www.thetimes.com/uk/politics/article/early-prisoner-releases-are-roll-of-the-dice-warns-probation-head-j76kgwbg3 [accessed 29 August 2024].

10 *Ibid.*

Review of the policy

35. In the EM, the MoJ states there will be a review of the changes in 18 months' time. In response to a question about whether this review would be published, the MoJ committed to announcing the "outcome". **This is somewhat ambiguous. The findings of the review should be published in full. The MoJ should also avoid making any further changes to automatic release dates until the review is complete.**

Conclusion

36. We recognise the need for action to address the intense pressure on prison places. We accept the Lord Chancellor's explanation that the approach in this Order is the only (or at least the best) way to address the challenges, but we also agree with the Chief Probation Officer that the changes bring risks.

37. Given the truncated scrutiny during the policy's introduction, it is even more important that later stages of the process are fully transparent. **In particular, we expect the full findings of the review of the reduction of minimum custodial periods to be published, to enable Parliament and the public to understand the effects of the changes and the extent to which the risks materialise in practice**.

Infected Blood Compensation Scheme Regulations 2024 (SI 2024/872)

Date laid: 23 August 2024

Parliamentary procedure: made affirmative

These Regulations establish the first tranche of the Infected Blood Compensation Scheme, to compensate those directly and indirectly infected with contaminated NHS blood, blood products or tissue. Further regulations to compensate those affected, but not infected, will follow. The scheme is being delivered in response to the recommendations of the Infected Blood Inquiry.

The compensation scheme is complex, and we found the Explanatory Memorandum (EM) to be of poor quality, using overly technical language and lacking basic information about the policy, such as: how those infected can apply and from when; how long claims will take to be processed; when successful applicants can expect payments to be made; the basis on which each claim will be assessed; and impact information including on overall costs and the number of people eligible for payments. ***The complexity of the scheme means it is even more important that those impacted can understand how it will operate. The lack of basic information also makes it difficult for Parliament and the public to scrutinise the Regulations properly.*** *When asked for further information on the Regulations, the Cabinet Office directed us to a Gov.uk webpage containing a helpful policy paper explaining the scheme in plainer language, but this clear explanation and additional information should have been included in the EM.*

The Regulations empower the Infected Blood Compensation Authority (IBCA) to begin assessing claims and making payments, which the Government expects will start by the end of this year. We recognise the need for speed in making compensation payments, however, there are concerns over whether the Government will be able to meet this deadline.

These Regulations are 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

38. These Regulations set out the basis for a statutory compensation scheme for those who contracted certain serious diseases as a result of a transfusion of infected blood, blood products or tissue ("infected blood") as part of NHS treatment given between 1970 and 1991.

39. Following the publication of the Infected Blood Inquiry Report[11] on 20 May 2024, the then Prime Minister, the Rt Hon Rishi Sunak MP, confirmed that the Government would pay comprehensive compensation to those who have been infected and affected. These Regulations allow for persons that have been directly or indirectly infected by NHS blood, blood products or tissue contaminated with HIV or Hepatitis C, have developed a chronic infection from blood contaminated with Hepatitis B or died of acute Hepatitis B, to be eligible to claim compensation under the scheme. Where an infected person has died but would have been eligible, compensation will be paid to their estate.

11 Infected Blood Inquiry, 'The Inquiry Report' (20 May 2024): https://www.infectedbloodinquiry.org.uk/reports/inquiry-report [accessed 30 August 2024].

40. Subsequent regulations will extend the compensation scheme to people who were affected–usually close relatives of the infected–as well as establishing a further route for those infected to claim supplementary payments where they do not believe the core compensation adequately covers their particular circumstances. When asked about the timeline for the second set of regulations, the Cabinet Office told us that they will be laid "when Parliamentary time allows" but it is intended that compensation payments to those affected can begin in 2025.

41. These Regulations set out the compensation available across several different categories:

- the injury impact award (to compensate for past and future physical and mental injury);
- the social impact award (to compensate for past and future social consequences including stigma and social isolation);
- the autonomy award (to compensate for distress, suffering and interference with a person's family and private life);
- the financial loss award (which comprises of a basic award for notional expenses such as travel to medical appointments and insurance, and an additional award for past and future financial loss in earnings); and
- the care award (to compensate for losses resulting from past or future care required).

Complexity and lack of information

42. We found the Explanatory Memorandum (EM) to the Regulations overly complex and technical, while lacking basic information about the policy such as how those infected can apply and from when, how long claims will take to be processed, when successful applicants can expect payments to be made, and the basis on which each claim will be assessed.

43. When asked for further clarity on the Regulations, the Cabinet Office directed us to a Gov.uk webpage containing a helpful policy paper summarising the Infected Blood Compensation Scheme,[12] which we found to be more informative and easier to understand than the EM. It is regrettable that the EM did not adopt the document's plain English explanation of the scheme. We have previously raised concerns over the clarity of language used in EMs, noting that the use of plain language is essential to ensure proper public and Parliamentary scrutiny.[13] **The basis for compensation set out in these Regulations is complex, the EM does not explain this in a sufficiently clear manner and is missing basic information about the policy.** We expect the EM to the second set of regulations to explain what the regulations do in plain language and include basic information about how the policy will work in practice.

12 Gov.uk, 'Infected Blood Compensation Scheme Summary: August 2024' (23 August 2024): https://www.gov.uk/government/publications/infected-blood-compensation-scheme-summary-august-2024/infected-blood-compensation-scheme-summary-august-2024 [accessed 29 August 2024].

13 SLSC, 42nd Report (Session 2022–23).

Infected Blood Compensation Authority

44. These Regulations are made under Part 3 of the Victims and Prisoners Act 2024 which set up the Infected Blood Compensation Authority (IBCA), which will administer the scheme and make the payments. Given the IBCA was only set up three months ago, we asked the Cabinet Office how established it is and when it expects to start making payments. The Cabinet Office told us:

> "The Government expects the IBCA to begin making the first payments by the end of this year. The exact timings depend on how quickly the IBCA can build a service that balances speed with ease of use and data security […]
>
> The IBCA [currently] has an interim chief executive, an interim chair and directors who are in the process of establishing the organisation and the workforce […]
>
> The estimated processing time for a claim will be dependent on IBCA processing times once operational."

45. We welcome the commitment to speed in making compensation payments, however we are concerned that there is no clarity on when applications can be made from and what the processing time for payments will be. The media reports on charities' concerns that "it will be nigh on impossible for the first payments to be made by the end of the year".[14] **Given there are less than four months until the end of this year, the House may wish to ask the Government what steps it and the IBCA are taking to ensure that payments will be made by the deadline.**

Burden of proof

46. The Regulations define an eligible infected person as someone diagnosed with HIV or Hepatitis B or C as a result of infected blood treatment within specified dates.[15] The cut-off dates are those which the scheme acknowledges as the introduction of screening of blood, blood products and tissue. Those infected after this point may still be eligible but the evidence requirements will be higher. The EM states that "the burden of proof sits with the applicant, with decisions taken based on the balance of probabilities".

47. Given that the latest case date specified in the Regulations is more than 30 years ago, we asked the Cabinet Office what certainty there is that medical records will still be available. The Cabinet Office agreed that this could be an issue. It is reassuring that the Government recognises this, but the decision making process around unavailable medical records remains unclear. This could lead to more appeals against decisions made by the IBCA. **The House may wish to seek further clarity from the Minister on the decision-making processes of the IBCA.**

14 BBC News, 'Infected blood victims 'very cautious' over compensation payouts' (16 August 2024): https://www.bbc.co.uk/news/articles/cx295p2vr02o [accessed 30 August 2024].

15 For a person diagnosed with HIV, 1 January 1982 to 1 November 1985; for a person diagnosed with Hepatitis C, 1 January 1952 to 1 September 1991; and for a person diagnosed with Hepatitis B, 1 January 1952 to 1 December 1972.

Cost

48. The EM does not provide any impact information in terms of the number of people expected to apply to the scheme, the number of people expected to be eligible for compensation, or the estimated total cost of compensation. In response to our questions, the Cabinet Office told us that there are an estimated 30,000 victims who were directly infected with contaminated blood products, but that there is considerable uncertainty over the number of people with indirect infections and others affected.

49. We also asked about the expected cost of the compensation scheme. The Cabinet Office told us that "the costs of compensation will be recognised in the Autumn Budget", expected on 30 October 2024. In order to calculate the cost of compensation, the Government presumably has some estimates of how many people it expects to be eligible. However, Parliament only has until 22 October to consider the Regulations. **We are concerned that the Cabinet Office is withholding information on the impact and cost of the Regulations until after the time for Parliamentary scrutiny has passed, which is unacceptable and circumvents proper scrutiny of the Regulations. We have not been given a reason why the costs could not be published ahead of the budget. The House may wish to pursue the issue of costs further.**

Consultation

50. The EM states that public consultation was not possible in the statutory three month timetable for making the Regulations, and that the Government undertook an engagement exercise with Sir Robert Francis KC, now interim chair of the IBCA, and representatives from those impacted, on the proposed scheme. When asked for further details about the reaction of stakeholder groups to the scheme, the Cabinet Office pointed us to a media report containing the views of just one (supportive) stakeholder group as an example,[16] and also said:

> "Stakeholders have largely welcomed the establishment of the scheme, with many focused on the urgency of providing payment as quickly as possible. Many points of feedback are in relation to the amount individuals will receive from the compensation scheme, specifically based on the different types of eligibility (e.g. HIV/Hepatitis C)."

51. This is somewhat ambiguous and does not provide sufficient clarity on the nature of those "points of feedback". We note, for example, that the Hepatitis C Trust has concerns over the disparities in proposed compensation for people who contracted Hepatitis C, Hepatitis B and HIV.[17] **The House may wish to explore further with the Minister what the responses of those impacted and stakeholder groups have been.**

Other issues

52. We asked the Cabinet Office questions in a number of other areas relating to the operation of the scheme that were missing from the EM; for example:

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16 'Victim's of UK's infected blood scandal to start receiving payouts by end of year' *The Guardian* (24 August 2024): https://www.theguardian.com/uk-news/article/2024/aug/24/victims-of-uks-infected-blood-scandal-to-start-receiving-payouts-by-end-of-year [accessed 30 August 2024].

17 The Hepatitis C Trust, 'Infected blood compensation legislation established' (23 August 2024): https://www.hepctrust.org.uk/blog/2024/08/infected-blood-compensation-legislation-established/ [accessed 30 August 2024].

why the payment tariffs differ for HIV and Hepatitis B and C; the criteria for being recognised as indirectly infected; whether care compensation will fully reflect cases in which care has been paid for; the complex interactions with existing financial assistance schemes; and the status of other recommendations of the Infected Blood Inquiry. These questions, and the Cabinet Office's responses, can be found in Appendix 1.

Conclusion

53. The infected blood scandal dates back to 1970 and these Regulations are an important milestone, as they provide those infected with the first opportunity to seek full compensation. **Given the importance and complexity of these Regulations, it is disappointing that the Government omitted a clear explanation and key information from the EM and did not provide impact information in response to our request. Paying compensation quickly is of paramount importance, but it is unclear whether the Government will be able to meet its commitment to begin making payments by the end of the year.**

Illegal Migration Act 2023 (Amendment) Regulations 2024 (SI 2024/815)

Date laid: 23 July 2024

Parliamentary procedure: negative

These Regulations are intended to remove certain retrospective elements from the Illegal Migration Act 2023 ("the Act"). The Home Office states that the complexity resulting from the current arrangements creates a barrier that prevents the Home Office from processing some asylum claims. The Home Office believes the resumption of processing these claims will save significant amounts of public money that would otherwise be spent on asylum seeker support.

We welcome that steps are being taken to sort out this issue. ***However, it should not have arisen in the first place: it is lamentable that the Home Office put forward an Act of Parliament that it has simply not been able to implement.*** *We also wonder how much public money has been wasted on efforts to implement the Act to date.* ***This is not the first time that we have raised serious questions about the Home Office's policymaking processes. In this light, the House may wish to explore further how this situation arose and what steps are being taken to prevent further recurrence.*** *The issues with the Act also illustrate the need to take the time to get legislation right rather than rushing it through Parliament, particularly in complex policy areas.*

The Home Office appears to have given reasonable consideration to, and taken some steps to address, the wider implications of the changes; for example, a possible increase in homelessness due to more cases exiting the asylum backlog. The House may wish to explore how the Home Office intends to monitor and report on the outcomes in practice.

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

Background

54. These Regulations are intended to remove a barrier that is currently preventing the Home Office from processing some asylum claims, by removing certain retrospective elements and complexity from the Illegal Migration Act 2023 ("the Act"). The Home Office states that the resumption of processing will save significant amounts of money being spent on support for asylum seekers prior to their claims being decided; for example, on accommodation.

55. The relevant measures in the Act, which were intended to deter illegal immigration to the UK, include:

- A **Duty to Remove**, which would require the Home Secretary to remove migrants who arrived via irregular means promptly to either their home or a safe third country, where any protection claims raised would be processed.

- **Permanent bans against obtaining lawful immigration status** ("the bans"), which prevent irregular arrivals who meet the conditions of the Duty to Remove from obtaining immigration status in the UK.

56. Asked to clarify the interaction between the two measures, the Home Office said that:

> "Rather than being a reason to remove an individual, the bans were intended to deter irregular arrival by being a consequence that severely limited the ability of irregular arrivals from being able to remain in or return to the UK.
>
> There is clearly an interaction between the Duty to Remove and the bans, but their intended purpose supported the principle of a Duty to Remove rather than being a reason to remove in and of themselves."

Coming into force dates and effective dates of the measures

57. The issues that the Home Office is trying to address arise from the different coming into force and effective dates of the above measures.

58. The Act received Royal Assent on 20 July 2023. The bans came into force on the same date, but were retrospective so that they applied to anyone who arrived in the UK from 7 March 2023, the date on which the Illegal Migration Bill (which became the Act) was introduced to Parliament.

59. The Duty to Remove is currently not in force. It is required to be brought into force by regulations, which have not been brought forward. However, if brought into force, the Duty would have retrospective effect from 20 July 2023, the date of Royal Assent of the Act.

60. Asked why these various different dates were included in the Act, the Home Office told us that the aim had been to "maintain an element of the intended deterrent effect whilst also ensuring that the new system for removing individuals from the UK did not start to operate with an immediate backlog of cases".

Issues with implementation of the Act

61. In its Explanatory Memorandum (EM), the Home Office explains that the differing dates in the Act have meant that it has not been able to implement the bans, despite their being in force:

> "The retrospective effect of the Act, and the differing dates underpinning their effect, created complexity for the operation of the immigration system. It resulted in the creation of different cohorts, who were subject to some or all of the measures in the Act depending on date of arrival. As a result, different operational processes would have been required to process these cohorts in line with the legislative provisions they were subject to. The complexity was further exacerbated because although the bans, and their retrospective effect, were commenced on Royal Assent of the Act they were not able to be implemented."

62. In response to our questions on precisely why the bans could not be implemented, the Home Office expanded further:

> "As part of the attempt to operationalise the legislative provisions of the Act, it was identified that systemic change at all levels of the Home Office was needed. This included necessary changes to policies, guidance, processes, training, organisational structures, and systems. The scale

> of the changes required meant that work to deliver was ongoing, but immediate or quick delivery of the bans was not possible.
>
> As a result, it was not possible to assess and record whether irregular arrivals met the four conditions of the Duty to Remove from the point of commencement of the bans; and therefore, whether individuals should be subject to the measures contained within the Act at that time."

63. The Home Office stated that, because it has not been able to implement the Act in its internal processes, if it attempted to process asylum claims for those arriving after 7 March 2023 it risked reaching decisions that were contrary to the Act. For example, it might grant leave to remain to someone who should be subject to the bans. To avoid the risk of acting illegally, the Home Office says that it has had to "pause decision-making across a number of immigration routes".

64. The effect of the Regulations would be to change the coming into force date of both the Duty to Remove and the bans, including removing the retrospectivity, so that they both come into force at the same time, on the date that the Duty to Remove comes into force. The intention is to remove the complexity and the legal risks, so that asylum processing can recommence on the basis of the provisions in place prior to the Act's passing.

65. It is welcome that steps are being taken to sort out this issue. **However, it should not have arisen in the first place: it is lamentable that the Home Office put forward an Act of Parliament that it has simply not been able to implement. We also wonder how much public money has been wasted on efforts to implement the Act to date.**

Effectiveness of wider preparations

66. If the Regulations have their intended effect, there will be a significant increase in the number of asylum cases processed. While this is welcome, concerns have been expressed that it could lead to knock-on issues; for example, increased homelessness because those granted asylum must leave their previous accommodation, provided by the Home Office while a claim is being processed, within 28 days.[18] We therefore asked the Home Office what preparations it had made for the impact of the changes. The Home Office replied:

> "All individuals who have received a positive decision on their asylum claim remain on support and in their accommodation for at least 28 days from when their decision is served. Individuals should make plans to move on from asylum support as soon as they are served their asylum decision.
>
> Once an asylum seeker is granted refugee status, they are able to work and become eligible to receive mainstream benefits. They may also be eligible to receive housing assistance from their local authority.
>
> Following notification of a service of decision, accommodation providers notify LAs [Local Authorities] within two days, thereby giving LAs as close to a minimum of 26 days to begin their own processes

18 For example: 'Huge rise in refugees facing homelessness' *The Times* (8 August 2024): https://www.thetimes.com/uk/politics/article/huge-rise-in-refugees-facing-homelessness-rwd978b55 [accessed 28 August 2024].

> for accommodating those who may seek this. We are working with accommodation providers to ensure that this is applied consistently and in a timely manner across all areas.
>
> We offer support to all individuals through Migrant Help or their partner organisation in doing this. This includes providing advice on accessing the labour market, on applying for Universal Credit and signposting to local authorities for assistance with housing. Newly recognised refugees entitled to housing assistance from their local authority are treated as a priority need if they have children or are considered vulnerable. Moreover, individuals do not need to wait for their Biometric Residence Permit to make a claim for benefits and are encouraged to do so as early as possible, if they require them.
>
> We are also testing a role of Home Office Liaison Officers (HOLOs) for asylum applicants, to replicate part of the Afghan resettlement move on process in targeted areas, supporting service users with 'move on' and supplementing the support Migrant Help provide.
>
> Finally, the Home Office regularly engage with LAs, LGA [the Local Government Association] (and Devolved Government counterparts) to share experience and explore issues with Move On. We have increased data shared with LAs to help then plan effectively. Heatmap data on outstanding asylum cohorts are shared with LAs via the Place Based Visibility Tool (PBVT). The Discontinuation Prediction Tool (DPT) is also shared weekly which provides a real time view of discontinuation notices likely to be served in the next 4-6 weeks and the volume of people (including whether it is families, single males or single females) who may seek LA assistance following a positive decision."

67. It is encouraging that the Home Office appears to have considered the wider implications of its changes. Initiatives such as HOLOs appear potentially helpful. **The House may wish to explore how the Home Office intends to monitor and report on the outcomes in practice**. An overview of the steps being taken should also have been included in the EM as these are important aspects of the overall policy.

Breach of the 21-day rule and lack of consultation

68. The Regulations breach the convention that a negative instrument should be laid in Parliament at least 21 days before it comes into effect: indeed, due to an "administrative error", they came into force even before laying.

69. The Home Office told us that in its view, the breach was justified by the need to ensure the department was operating in a lawful manner, and that this view was supported by legal advice. The Home Office also referred to the need to resume asylum decision-making as soon as possible to avoid adding further cases to the backlog, to provide legal certainty to affected persons and to reduce support costs.

70. We accept the need for the Government to be operating lawfully as an explanation for the breach of the 21-day rule, although this should have been more clearly explained in the relevant section of the EM. **There is, however, no excuse for an "administrative error" such as described above. The Home Office has assured us that it has conducted a "lessons learned**

review" and reminded relevant teams of the requirements; in light of which, we hope not to have to return to this subject.

71. In the EM, the Home Office gave no credible explanation for the absence of a consultation. In response to our further questions, the Home Office again cited the need to bring the changes into force as soon as possible to avoid acting unlawfully, which a consultation would have hindered. **Again, this reasoning should have been explained in the EM, along with any measures the Home Office has taken to mitigate the risks of not consulting with interested parties and practitioners outside government.**

72. We asked the Home Office whether, having rectified the issues with the Act, it now intends to bring the Duty to Remove and the bans into force. The Home Office replied that it "is considering all the options and implications associated with ending the partnership with Rwanda and the future of the Illegal Migration Act". **The House may wish to explore further the Home Office's actual intentions in this area.**

Impact of the Regulations

73. In its Impact Assessment (IA) for the Regulations, the Home Office states that the main financial implication is a reduction in accommodation costs and other elements of support for asylum seekers before their claims are processed. It estimates the overall net present value of the changes to be £7.7 billion over a ten-year period.

74. The IA also states that 126,106 people made asylum applications between 7 March 2023 and 16 July 2024. Some of these claims have been decided, but there are additionally cases in the backlog from prior to 7 March 2023. As a result, the overall backlog of cases at 16 July 2024 stood at 89,985 cases relating to 125,385 people.

Conclusion

75. This instrument is intended to allow the resumption of processing of certain asylum claims, an outcome that we welcome. However, the need for the Regulations only arises because the Home Office cannot implement provisions of its own Act, passed just last year. **This raises serious questions about the Home Office's policymaking processes, an issue we have raised before.**[19] **The House may wish to explore further how this situation arose and what steps are being taken to prevent a further recurrence.**

76. More generally, we note this as an example of how rushing legislation in complex policy areas can lead to sub-optimal outcomes. It is important to take the time to get legislation right to avoid the need for later clarifications and corrections.

19 For example, see 21st Report (Session 2023–24, HL Paper 98), paras 80–89.

Social Fund Winter Fuel Payment Regulations 2024 (SI 2024/869)

Date laid: 22 August 2024

Parliamentary procedure: negative

Since 1998 the Winter Fuel Payment has been given to all in receipt of the state pension regardless of other income. These Regulations introduce a means test, by limiting the payment to those of pensionable age in England and Wales who also receive specified benefits. We found the Explanatory Memorandum (EM) lacking in information about the expected impact of the policy change. In supplementary material, the Department for Work and Pensions told us it estimates that only 1.5 million individuals will now be eligible for the payment, down from 10.8 million who received it in winter 2023–24.

We are unconvinced by the reasons given for the urgency attached to laying these Regulations and are particularly concerned that this both precludes appropriate scrutiny and creates issues with the practicalities of bringing in the change at short notice.

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

Background

77. Since 1998, the Winter Fuel Payment has been given to all in receipt of the state pension regardless of their other income. These Regulations introduce a means test by limiting the payment to those of pensionable age on the third Monday in September in any year, who also:

- are ordinarily resident in England and Wales and entitled to Income Support, income-based Jobseeker's Allowance, State Pension Credit, income-related Employment and Support Allowance or Universal Credit ("relevant benefits") or an award of Child Tax Credit or Working Tax Credit of not less than £26 in respect of the tax year 2024–25; or

- are habitually resident in one of the countries listed in Schedule 1 to the Regulations, demonstrate an entitlement to a benefit in that country and are able to demonstrate a genuine and sufficient link to the UK. The provisions for payments in the European Economic Area and Switzerland will expire on 1 April 2025.

78. The amount of a Winter Fuel Payment is by household: £300, for a person or couple where at least one party has reached the age of 80 in or before the qualifying week, and £200 in any other case. This money is tax-free and does not affect other benefits.

Impact

79. The Explanatory Memorandum (EM) makes clear that the policy objective is to make savings to the public finances, estimated at £1.3 billion in 2024–25 and around £1.5 billion in subsequent years, but does not explain the number of people affected on which that estimate is presumably based.

80. In supplementary material, the Department for Work and Pensions (DWP) told us that the estimated number of claimants in England and Wales for 2024–25 is expected to be 1.5 million individuals in 1.3 million households.

This represents a decrease of 9.3 million individuals and 6.3 million households from the 10.8 million individuals in 7.6 million households who claimed in 2023–24.

Take up of Pension Credit

81. The Explanatory Memorandum (EM) refers to the aim of "retaining support for pensioner households on the lowest incomes", and the policy directly links eligibility to the receipt of the relevant benefits. However, the group of pensioner households on low incomes is potentially far larger than just those who claim benefits.

82. For example, DWP statistics show that only six out of every ten (60%) households entitled to Pension Credit in fact claim it;[20] this is equivalent to 880,000 households who could receive Pension Credit but do not. **We are concerned that the Regulations may cause potential inequalities between low income pensioners claiming benefits and low income pensioners not claiming benefits, and it is not clear whether DWP has assessed this risk.**

83. The announcement of the policy as part of the *Fixing the Foundations: public spending audit 2024–25*[21] highlighted that the Government is taking steps to encourage take up of Pension Credit, including because it represents a gateway to the receipt of other benefits including the Winter Fuel Payment. The DWP also told us that its estimates for the number of Winter Fuel Payment claimants for 2024–25 assume that the take-up of Pension Credit will increase by five percentage points in response to the change to Winter Fuel Payments (so, presumably, from 60% to 65%). To deliver this increase in take up, the Government plans to bring together the administration of Pension Credit and Housing Benefit so that pensioner households receiving Housing Benefit will also receive any Pension Credit to which they are entitled. The DWP also plans to encourage take up through communication campaigns and supporting people with their claims. **These initiatives are welcome. However, the House may wish to ask the Minister what the cost (including administrative costs) of the estimated additional five percentage point take up in Pension Credit is expected to be.**

Practicalities of bringing the change in at short notice

84. We had a number of questions about the practicalities of bringing in this change at short notice. We are surprised that the EM does not mention this aspect or even refer to the relevant page of the Gov.uk website that provides more detail.[22] The Winter Fuel Payment webpage sets out that:

- those on certain benefits (Pension Credit, Income Support, income-related Employment and Support Allowance, and income-based Jobseeker's Allowance) do not need to claim for the Winter Fuel

20 Department for Work and Pensions, 'Income-related benefits: estimates of take-up: financial year ending 2022' (26 January 2024): https://www.gov.uk/government/statistics/income-related-benefits-estimates-of-take-up-financial-year-ending-2022/income-related-benefits-estimates-of-take-up-financial-year-ending-2022. [accessed 29 August 2024].

21 HM Treasury, 'Fixing the foundations: public spending audit 2024-25' (2 August 2024): https://www.gov.uk/government/publications/fixing-the-foundations-public-spending-audit-2024-25/fixing-the-foundations-public-spending-audit-2024-25-html [accessed 5 September 2024]

22 GOV.UK, 'Winter Fuel Payment': https://www.gov.uk/winter-fuel-payment. [accessed 29 August 2024]

Payment which will normally be paid automatically, and will receive a letter of notification in October or November; and

- those on Universal Credit or who live abroad may need to make a claim for the Winter Fuel Payment. The deadline for making a claim for 2024–25 is 31 March 2025, and claims can be made by post from 16 September 2024 or by phone from 10 October 2024.

85. It has been reported that claims for Pension Credit are currently facing up to nine week delays as a result of the campaign to encourage take up.[23] When asked whether low income pensioners not currently on benefits would be able to claim the Winter Fuel Payment for 2024–25, DWP told us that:

> "Claims to Pension Credit may be backdated for up to three months, provided the entitlement conditions are met from the intended date of claim and throughout the backdating period. The latest that someone could make a successful backdated claim [for Pension Credit] to qualify for the 2024–25 Winter Fuel Payment is therefore 21 December."

86. **Given the reported delays in processing Pension Credit claims, the House may wish to ask the Minister whether this timetable will provide claimants with sufficient reassurance that their Winter Fuel Payment will be paid, so that they feel confident to put their heating on when needed.**

Double hit for pensioners

87. The impact of these Regulations is also concerning when considered in the context of the recent announcement by Ofgem that from 1 October to 31 December 2024, the cost of energy (electricity and gas) for a typical household will rise by £149 per year, an increase of 10%.[24] The media has reported on warnings from charities that pensioners will be hit by a "double energy price hit" this winter, as the changes to Winter Fuel Payment eligibility come into effect.[25] **The House may wish to ask the Minister whether they have taken the impact of these two coinciding changes on pensioners into account. We also note that, as a result of the freezing of personal allowances in recent and forthcoming years, more pensioners have to pay income tax.**

Urgency?

88. It is generally regarded as poor practice to implement major policy changes during a Parliamentary recess. The EM states the DWP is doing so because the Regulations need to come into force on the first day of the qualifying week, 16 September 2024, otherwise they would not be able to supersede the previous ones. Yet, it would surely have been possible to delay or remove the existing trigger date and then present the replacement scheme at a later date, which would have afforded greater time for scrutiny in Parliament and elsewhere.

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23 'Thousands of pensions could miss out on winter fuel payment when cold hits', The Independent, https://inews.co.uk/inews-lifestyle/money/pensions-and-retirement/thousands-pensioners-receive-winter-fuel-payment-too-late-3240093. [accessed 29 August 2024].

24 Ofgem, 'Changes to energy price gap between 1 October to 31 December 2024' https://www.ofgem.gov.uk/news/changes-energy-price-cap-between-1-october-31-december-2024 [accessed 29 August 2024].

25 BBC News, 'Energy price cap: Charities fear double hit for pensioners': https://www.bbc.co.uk/news/articles/cy5409qq5xyo [accessed 29 August 2024].

89. All benefits regulations are required by law to be considered by the independent Social Security Advisory Committee (SSAC). This is generally done in advance of the legislation being laid. In this case, the Minister has opted for the urgency provision that allows SSAC consideration to be retrospective. Since this might be perceived as bypassing SSAC scrutiny, we asked the DWP what, if any, effect an adverse report from that Committee would have after the Regulations have already come into effect. DWP responded that, in line with their legal duty, ministers would lay the report before Parliament, and should the report contain recommendations, lay a statement before Parliament alongside the report. **It remains unclear what the practical impact of any statement might be on Regulations which will have already come into effect.**

Conclusion

90. These Regulations implement the DWP's policy of restricting the Winter Fuel Payment to those over pension age who are in receipt of the listed benefits. **However, the policy seems to be being introduced at a pace that does not permit appropriate scrutiny, particularly given that key information is missing from the EM and the SSAC has not been pre-consulted**.

CORRESPONDENCE: FURTHER INFORMATION ON UNIVERSAL CREDIT ADMINISTRATIVE EARNINGS THRESHOLD

Background

91. To receive Universal Credit, working claimants have to accept a "Claimant Commitment" which sets out what obligations the claimant has agreed with their Work Coach to improve their work prospects or earnings. The degree of work search required depends on whether the claimant's earnings are above or below the Administrative Earnings Threshold (AET). Those earning below the AET enter the Intensive Work Search (IWS) regime, whereas those earning above the AET enter the Light Touch regime.

92. The AET is calculated as a number of hours times the current National Living Wage (NLW) hourly rate. A series of three Statutory Instruments doubled the AET between September 2022 and May 2024 from nine hours x NLW to 18 hours x NLW, bringing approximately half a million more people into the IWS regime.[26] Our concern was that the Department for Work and Pensions (DWP) did not appear to have evaluated the effects on the claimants of this significant change in their conditions.

Correspondence

93. In correspondence in January 2023 the then Minister responsible, Guy Opperman MP, confirmed that the DWP's focus had been limited to the administrative side of the process:[27]

> "Our internal Management Information measures the process of moving claimants impacted by the AET rise from the Light Touch regime into the IWS regime, rather than looking at outcomes."

94. Mr Opperman added that "we have robust evidence (which we plan to publish soon) that the IWS regime can support the lowest earning Universal Credit claimants to boost their earnings". Yet the evidence promised had not appeared by the time further regulations were laid in April 2024.

95. On 14 May 2024, when we took oral evidence from the then Minister, Jo Churchill MP, it was still not ready. Under pressure from the Committee she agreed to publish the material by the end of June 2024,[28] but the Dissolution of Parliament interrupted that.

Published evidence

96. On 28 August 2024, over 18 months after the ministerial commitment to publish information "soon", the DWP published *Universal Credit and Earnings Progression: Evidence from a Regression Discontinuity Design* ("RDD study").[29]

97. The RDD study compares the change in earnings of claimants who enter Universal Credit just below and just above the AET, and therefore estimates

26 Explained in more detail in our 26th Report (Session 2023–24, HL Paper 120), paras 1–23.
27 Published in Appendix 2 to SLSC 27th Report (Session 2022–23).
28 Q 11.
29 Department for Work and Pensions, 'Universal Credit and earnings progression: evidence from a regression discontinuity design' (28 August 2024): https://www.gov.uk/government/publications/universal-credit-and-earnings-progression-evidence-from-a-regression-discontinuity-design [accessed 29 August 2024].

the impact of work search requirements on the earnings progression of working claimants. The study also splits the sample claimant group into subgroups to examine the impact along dimensions such as age and sex.

98. The study shows that claimants who enter Universal Credit on earnings just below the AET, and who are therefore in the IWS regime, have earnings of approximately £100 more per month, after 12 months, than claimants who enter Universal Credit on earnings just above the AET and who are therefore in the Light Touch regime. The subgroup analysis, which the study notes is tentative and should be treated with some caution, suggests that men and younger claimants may experience higher earnings progression as a result of being in the IWS regime, compared with women and older claimants, who may experience lower earnings progression.

99. The RDD study states that the impact on earnings progression may diminish for claimants earning more. The doubling of the AET pulls more claimants earning higher incomes into the IWS regime. **This suggests that those entering IWS as a result of the increases to the AET may have experienced a lesser impact on their earnings progression.** Furthermore, the study says that raising the AET would increase the number of meetings held between Work Coaches and claimants, which would require an increase in departmental expenditure.

100. The RDD study was based on research conducted between 2017 and 2020, with a sample range from 2,359 to 6,947 claimants who were earning just above or below the AET, then set at approximately nine hours x NLW. **So whilst the study shows some evidence that placing claimants in the IWS regime led to higher earnings progression compared with the Light Touch regime at that time, it is of limited relevance to the series of three instruments which doubled the AET to 18 hours x NLW.** Indeed, the study itself notes that the larger the increase in the AET, the less confidence there is in applying the results from the study.

Further evidence expected

101. During the oral evidence session, Ms Churchill indicated that all the qualitative data that we sought would be in a longitudinal study that is due to be published in 2025. We commented that that is of little use to Parliament, which has 40 days to scrutinise new Regulations, and offers members no means to hold the DWP to account for any negative effects or unintended consequences in the previous two phases. **The Committee therefore asked the Minister for an undertaking that the AET would not be raised again until the appropriate evidence about how the policy has affected claimants is in the public domain, which she gave.**[30] We wish to draw that undertaking to the attention of the new Minister, Alison McGovern MP.

102. Despite the publication of the RDD study, we remain concerned by DWP's approach in this matter:

- First, because without proper evaluation, there is a risk of certain groups of claimants being disadvantaged, particularly those in part-time work who also claim benefits because they have health issues or caring responsibilities.

30 Q 17.

- Second, because the DWP has maintained a monopoly on the information about this policy's impact on claimants. The Department's failure to publish the data alongside SI 2024/536 prevented Parliament, and other interested groups, from performing their legitimate scrutiny functions.

- Third, because of the concerns it raises about the DWP's relationship with this Committee and with Parliament more generally, because undertakings given to provide information were left unfulfilled for unsatisfactorily long periods of time.

103. We are grateful for Ms McGovern's decision to publish the RDD study and trust that further appropriate evidence on the policy (the longitudinal study) will be considered and published before any further legislation on the AET is brought forward.

STATUTORY INSTRUMENTS (AMENDMENT) BILL

104. Lord Thomas of Gresford's private member's Bill, the Statutory Instruments (Amendment) Bill, seeks to provide the House of Lords with a mechanism to encourage the House of Commons to re-consider a draft affirmative statutory instrument (SI) based on concerns raised by the Lords. It allows the House of Lords to agree a motion expressing concerns about a draft affirmative SI, whether or not the House of Commons has already approved the instrument. The Commons then has a choice. It may either:

    (a) reject those concerns, in which case the Lords may either approve or reject the draft SI in the usual way; or

    (b) request that the Minister amend the draft SI. The Minister must then do one of the following: (i) withdraw the SI without replacement, (ii) withdraw it and replace it with a revised version, or (iii) withdraw it and relay the same version. The Lords would then consider the relaid SI in the usual way, but could not use the 'think again' mechanism a second time.

105. In our report *Government by Diktat: A call to return power to Parliament*, we noted: "secondary legislation cannot be amended and so the two Houses have only an "all or nothing" choice—to accept or reject the legislation in its entirety, even if members of either House may wish to object only to parts of an instrument".[31] This Bill provides an "intermediate" option, and we note the principle of such an option was supported by the Delegated Powers and Regulatory Reform Committee in their report *Democracy Denied? The urgent need to rebalance power between Parliament and the Executive*.[32]

106. We welcome the opportunity the Bill provides for discussion of this issue, which is fundamental to Parliament's scrutiny of government legislation, and look forward to the debate on second reading.

107. We also note that clause 2 of the Bill is intended to codify the existing guidance relating to the correction of minor errors in SIs currently set out in Statutory Instrument Practice.[33]

31 SLSC, *Government by Diktat: A call to return power to Parliament* (20th Report, Session 2021–22, HL Paper 105), paragraph 18.

32 Delegated Powers and Regulatory Reform Committee, *Democracy Denied? The urgent need to rebalance power between Parliament and the Executive* (12th Report, Session 2021–22, HL Paper 106), para 33.

33 The National Archives, 'Statutory Instrument Practice' (November 2017): https://www.legislation.gov.uk/pdfs/StatutoryInstrumentPractice_5th_Edition.pdf [accessed 4 September 2024].

INSTRUMENTS OF INTEREST

Draft Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024

108. The purpose of this instrument is to enable future payments to be made to natural gas-fired power plants which are fitted with carbon capture usage and storage technology (power CCUS). According to the Department for Energy Security and Net Zero (DESNZ), power CCUS will be needed to provide non-weather-dependent on-demand low-carbon electricity, strengthen energy security and reduce reliance on unabated fossil fuels. Any future payments would be made through Dispatchable Power Agreements (DPA) under the Contracts for Difference scheme, the Government's main mechanism for supporting low-carbon electricity generation and would be funded through a levy on electricity suppliers which may pass on the costs of the levy to their customers.

109. While the Explanatory Memorandum does not refer to these costs, the Impact Assessment (IA) states that any price increase would be "small", adding that a cost analysis has not been provided "as any accurate approach to estimation would reveal the government's expectation around the value of the DPA payments and they are still to be negotiated". Given public concerns about high energy bills, we asked the Department for further information. The DESNZ explained that the purpose of the IA was to consider the cost effectiveness of implementing the policy rather than the final impact on consumers, but the Department provided an indicative cost estimate of £5-£15 per year for an average household electricity bill. The DESNZ emphasised the uncertainty of any cost estimates and highlighted that without power CCUS, alternative scenarios would have higher system costs. The Department's full response is included in Appendix 2 .

Draft Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024

110. The Financial Ombudsman Service (FOS) considers customer complaints against financial services firms. These Regulations would allow FOS to charge fees to Claims Management Companies (CMCs) and legal professionals bringing cases to the FOS on behalf of complainants. The aims include: recognising that such intermediaries gain an economic benefit from bringing a case (typically, a share of any redress paid); and improving behaviour amongst some CMCs—for example, by reducing the volume of poorly evidenced complaints. HM Treasury notes that consumers always have the option of bringing complaints directly to FOS, without using an intermediary company.

111. The Financial Services and Markets Act 2023 enabled these changes by allowing the Government to add to the list of persons to whom the FOS can charge fees, with the express intention that FOS could levy fees on intermediaries. However, the final decision on whether to levy such fees, and at what level, is left to FOS. In May 2024, FOS consulted[34] on a proposal that the fee should be £250, but reduced to £75 if FOS finds in favour of

34 Financial Ombudsman Service, 'Charging Claims Management Companies and other professional representatives: Consultation paper' (23 May 2024): https://www.financial-ombudsman.org.uk/files/324432/Consultation-charging-claims-management-companies-and-other-professional-representatives.pdf [accessed 27 August 2024].

the claimant. FOS argued that the changes should not result in increases to the fees paid by consumers, because CMCs are subject to a price cap (introduced in 2022 as part of the Financial Conduct Authority's existing supervision of CMCs), with most CMCs already charging at this maximum level, and the cap would not be increased in response to the new fees.

Human Medicines (Amendments relating to the Windsor Framework) Regulations 2024 (SI 2024/832)

112. When the Northern Ireland Protocol was agreed, medicines were included in Annex 2 to the Protocol, which meant that EU medicines regulations applied in full in Northern IreIand. This caused regulatory barriers to the supply of medicines from Great Britain to Northern Ireland. In addition, the application of the EU's Falsified Medicines Directive created a further disincentive for suppliers, because it applied specific packaging, barcoding and scanning requirements in Northern Ireland but not in Great Britain.

113. Facilitated by the Windsor Framework, from 1 January 2025, these Regulations reestablish a UK-wide licensing regime overseen by the Medicines and Healthcare products Regulatory Agency (MHRA). This regime includes novel medicines, such as cancer medicines, which previously had to be authorised for use in Northern Ireland by the European Commission. The EU rules around Falsified Medicines are permanently disapplied in Northern Ireland, meaning that the same medicinal products, in the same packs with the same labels, will be available across the whole UK, although all medicines on the UK market will have to be labelled as 'UK Only'.

M6 Motorway (Junctions 21a to 26) (Variable Speed Limits) Regulations 2024 (SI 2024/841)

114. A report by the House of Commons' Transport Select Committee in November 2021 raised a number of safety concerns about the operation of smart motorways.[35] The then Secretary of State for Transport accepted all the report's recommendations including suspending the rollout of further smart motorways until five years' worth of safety data had been collected. In April 2023, the Government announced that no new smart motorways would be built.[36] Two schemes that were nearly complete at the time were excepted: these Regulations enable the variable speed limits that are essential to the operation of the second of those schemes.

115. Our 5th Report of Session 2022–23[37] was sharply critical of the regulations for the first excepted scheme because the Explanatory Memorandum (EM) made no mention of the Transport Committee's report or the safety concerns. In contrast, the EM to the current Regulations sets out all the issues clearly, noting, for example, that this 10 mile section of the M6 will now include 22 Emergency Areas all spaced within the three quarters of a mile maximum recommended by the Transport Committee, and Stopped Vehicle Detection will be in place when it opens.

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35 House of Commons Transport Committee, Rollout and safety of smart motorways (Third Report, Session 2021–22, HC 26).

36 GOV.UK, 'All new smart motorways scrapped' https://www.gov.uk/government/news/all-new-smart-motorways-scrapped [accessed 29 August 2024].

37 House of Lords Secondary Legislation Scrutiny Committee, *M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022* (Fifth Report, Session 2022–23, HL paper 28) called attention to M56 Motorway (Junctions 6 to 7) (Variable Speed Limits) Regulations 2022 (SI 2022/607).

116. So far, three years' worth of safety data has been published.[38] A separate comparison of accidents on the roads before and after the smart motorway adaptions notes that most smart motorway schemes have seen a reduction in serious injury rates:[39]

> "Based on available data so far, most ALR [All lane running], DHS [Dynamic Hard Shoulder] and controlled motorway schemes (25 out of 37) have seen a reduction in PIC [Personal injury collision] rates after they were constructed both against the before and the counterfactual. Most schemes (32 out of 37) have also seen a reduction in FWI [fatal and weighted injury] rates. This has also been the case for most schemes (29 out of 37) for the KSI [killed and seriously injured] rates."

117. **This implies that (depending on category of injury) between 13% and 32% of schemes have not seen improvements in their serious injury rates: the House may wish to pursue the safety of existing smart motorways further with the Minister.**

Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (Extension) Order 2024 (SI 2024/868)

118. This made affirmative instrument extends, for another three months, the ban on dispensing private prescriptions and those issued in European Economic Area countries for certain drugs to be used to suppress puberty in under 18s. The original Order[40] was in force from 3 June to 2 September 2024 in Great Britain: this new Order extends the same restrictions until 26 November 2024 and also covers Northern Ireland. The prohibition was made because the independent review of gender identity services for children and young people, the Cass Review,[41] found that the use of these medicines for the treatment of gender dysphoria or gender incongruence was not supported by a reliable evidence base. After careful consideration, the new Secretary of State has decided to renew the banning Order and to consult on making these restrictions permanent. The Department told us that it had issued a targeted consultation to circa 100 representative organisations of those potentially impacted by a permanent order on 20 August 2024. The consultation will run for six weeks until 1 October 2024.

Draft Pensions Regulator's Defined Benefit Funding Code of Practice 2024

119. This revised Code for Defined Benefit Pensions follows up Regulations laid earlier this year.[42] In particular, the revised Code recognises that most of the 5,000 defined benefits schemes are now closed with maturing assets worth

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38 National Highways, Smart motorways stocktake : Third year progress report September 2023 (September 2023) p 44 onwards: https://nationalhighways.co.uk/media/rarb00qi/smart-motorways-third-year-progress-report-final.pdf [accessed 27 August 2024].

39 National Highways, Smart motorways – scheme safety (June 2023) p 4: https://nationalhighways.co.uk/media/m0hjg0j0/before-vs-after-safety-analysis-for-all-smart-motorways-final.pdf [accessed 27 August 2024].

40 Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibition) (England, Wales and Scotland) Order 2024 (SI 2024/727) mentioned in Secondary Legislation Scrutiny Committee, *1st Report Session 2024–25* , (1st Report, Session 2024-25, HL Paper 3) final item.

41 Cass Review, 'Final Report' https://cass.independent-review.uk/home/publications/final-report/ [accessed 27 August 2024].

42 The Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2024 (SI 2024/462) See also Secondary Legislation Scrutiny Committee, *Thirteenth Report of Session 2023–24*, (13th Report, Session 2023–24, HL Paper 65).

approximately £1.3 trillion. The law now explicitly requires these schemes to have a Funding and Investment Strategy setting out how members' benefits are to be funded over the long term. **We are pleased to note that the Code has been subject to extensive consultation and clarified to assist the industry in complying with The Pensions Regulator's expectations, as we remain concerned about the cumulative burden of so much regulation on schemes**. Once in force, the Code will replace the 2014 version of the Code,[43] for valuations with effective dates on or after 22 September 2024.

120. The Code is required to lay before Parliament in draft for 40 days before it can be brought into effect. Because of Dissolution, there will be a gap between the date when the requirements of the previous Regulations start applying and when the revised Code can come into force. We have been told by the Department for Work and Pensions that The Pensions Regulator will communicate with affected schemes and take a reasonable regulatory approach to them.

43 The Pensions Regulator, 'Funding defined benefits' https://www.thepensionsregulator.gov.uk/en/document-library/code-of-practice/funding-and-investment/funding-defined-benefits [accessed 27 August 2024].

INSTRUMENTS NOT DRAWN TO THE SPECIAL ATTENTION OF THE HOUSE

Draft instruments subject to affirmative approval

Draft	Carbon Dioxide Transport and Storage (Determination of Turnover for Penalties) Regulations 2024
Draft	Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024
Draft	Financial Services and Markets Act 2000 (Ombudsman Scheme) (Fees) Regulations 2024
Draft	Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2024
Draft	Social Security (Scotland) Act 2018 (Disability Assistance) (Consequential Modifications) Order 2024

Made instruments subject to affirmative approval

SI 2024/833	Syria (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2024
SI 2024/834	Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2024

Draft instruments subject to annulment

Draft	Calderdale (Electoral Changes) Order 2024
Draft	Gloucestershire (Electoral Changes) Order 2024
Draft	Pensions Regulator's Defined Benefit Funding Code of Practice 2024
Draft	Staffordshire (Electoral Changes) Order 2024
Draft	Surrey (Electoral Changes) Order 2024

Made instruments subject to annulment

SI 2024/819	Electricity (Class Exemptions from the Requirement for a Licence) (Amendment) Order 2024
SI 2024/822	Social Security (Contributions) (Amendment No. 4) Regulations 2024
SI 2024/830	Goods Vehicles (Licensing of Operators and International Road Transport Permits) (Amendment) Regulations 2024
SI 2024/831	Employment (Allocation of Tips) Act 2023 (Code of Practice on Fair and Transparent Distribution of Tips) Regulations 2024
SI 2024/832	Human Medicines (Amendments relating to the Windsor Framework) Regulations 2024
SI 2024/838	National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2024
SI 2024/839	Civil Procedure (Amendment No. 3) Rules 2024

SI 2024/840	Digital Markets, Competition and Consumers Act 2024 (Water Mergers) (Consequential Amendments) Regulations 2024
SI 2024/841	M6 Motorway (Junctions 21a to 26) (Variable Speed Limits) Regulations 2024
SI 2024/842	Criminal Procedure (Ammendment No. 2) Rules 2024
SI 2024/843	Statutory Paternity Pay and Statutory Adoption Pay (Parental Orders and Prospective Adopters) (Amendment) Regulations 2024
SI 2024/868	Medicines (Gonadotrophin-Releasing Hormone Analogues) (Emergency Prohibiton) (Extension) Order 2024

APPENDIX 1: ADDITIONAL INFORMATION FROM THE CABINET OFFICE

Infected Blood Compensation Scheme Regulations 2024 (SI 2024/872)

Q1: How have the circumstances in which an indirectly infected person can be eligible been decided? For example, sexual transmission is limited to those in a long-term relationship– why is this, as the indirectly affected person suffers in exactly the same way and for the same underlying reason regardless of the length of the relationship. And do definitional issues arise, for example, how is "long-term" defined?

A1: The basis for eligibility for the indirectly infected was how this is handled by the existing Infected Blood Support Schemes. Regarding direct vertical transmission from mother to child, this definition is used to cover the three routes that a mother may transfer an infection to a baby: breastfeeding, transmission during childbirth, and transmission in utero.

Regarding accidental needlestick injury, this is intended to cover situations where someone (perhaps a close family member) has accidentally pricked their skin with a hypodermic needle that has previously been used on someone who was directly infected. For example, a mother who was using the needle on a small child.

Regarding transmission via close proximity, this was drafted with Hepatitis B - which is much more virulent than either Hepatitis C or HIV - in mind. It is possible to transfer Hepatitis B through close contact and sharing a living space (for example, through bodily fluids on surfaces). We felt it was important to cover this eventuality, particularly given that other routes may not be covered.

Regarding sexual transmission, the definition for a "long term relationship" is provided at regulation 7(10). In summary, it covers individuals who are married, in a civil partnership, or cohabiting and living as though they were either married or civil partners. We are aware that this will not cover all avenues of sexual transmission, such as short term relationships or single instance sexual encounters and consideration was given as to whether these could be adequately covered. We opted for a narrower definition on evidentiary grounds. It was not clear to officials how a person who alleges that they received an infection from, for example, a one-off sexual encounter with a stranger would evidence that. Furthermore, having such instances in scope was deemed to materially increase the risk of fraud.

Q2: The payment tariffs for Hepatitis B and C are consistently lower than for HIV–can you please explain the rationale for that?

A2: There are 4 severity bandings for people who are infected with Hepatitis C. The Severity Bands have been designed in line with clinical diagnostic markers (i.e. recognised health conditions, for example, liver damage) and have been informed by the work of the Expert Group.

The reason for using a single severity band is that HIV is a lifelong infection. The vast majority of people infected with HIV through blood products have experienced progression to advanced symptomatic HIV disease including AIDS conditions and have died as a consequence of their infection. Those who have survived will continue to be severely impacted by their infection. It was the view of the Expert Group that it would be disproportionately complex and onerous to disaggregate the category into different experiences.

This contrasts with Hepatitis where there is a wider range of experiences, including both acute infections with limited long-term impacts and very serious and ultimately fatal infections. For example, according to WHO data around 30% of individuals with a Hepatitis C infection clear the virus within six months without treatment. We did not consider it acceptable to compensate such an individual in the same manner as someone with a chronic infection who carried the virus for potentially decades.

Q3: In the care award, amounts are reduced by 25% to reflect that care may not have been paid for. What about in circumstances where care was paid for?

A3: This will be covered in the supplementary route, which will be established through the second set of regulations. If individuals can evidence higher care costs then these will be compensated for, though policy is still under development in this area.

Q4: The EM states that the 'IBSS route' will be available to those who are registered with the IBSS on or before 31 March 2025. Can eligible persons apply to the IBSS now ahead of that deadline?

A4: Yes, the Infected Blood Support Schemes (IBSS) remain open for people who are eligible to register. The eligibility of the IBSS is not the same as the Infected Blood Compensation Scheme - which is based on the recommendations of the Infected Blood Inquiry.

Q5: Why is it necessary to have different routes for those registered with IBSS and those not (Explanatory Memorandum (EM) paras 5.8 and 5.9)? And in practice what is the difference in payouts?

A5: The 'IBSS-route' was developed following the recommendations of Sir Robert Francis KC, who undertook engagement with key representatives of the infected blood community. A key concern raised by members of the infected blood community was around the continuation of the IBSS.

Following Sir Robert's recommendations, the Government has agreed that support scheme payments will continue for life, for those registered on a support scheme on or before 31 March 2025, as part of the compensation package.

Q6: Why are payments under some existing schemes deducted (EM para 5.8.6) and some not (EM para 5.26)?

A6: Support scheme payments made before 1 April 2025 are always considered ex gratia, regardless of what scheme they were made under. Interim payments are deducted because they were intended as interim payments of compensation whilst the final scheme was brought into law.

Q7: If payments under IBSS are ignored, does this mean that two people in exactly the same circumstances could end up with different total payments depending on whether they did or did not previously join IBSS? If so, why is that fair?

A7: As the Government set out, IBSS payments before 1 April 2025 are not counted towards compensation, these payments were historically made by the government on an ex gratia basis and the Government has decided that it is right that this ex-gratia basis should be honoured until the end of this financial year. During the engagement exercise the infected blood community was very clear that they do not consider support scheme payments as compensation and that deducting

them from awards would be unjust. It is inaccurate to suggest that someone who received payments made on an ex-gratia basis is receiving more compensation than someone who didn't. Support scheme payments received after 31st March 2025, will be taken into account when the Infected Blood Compensation Authority assesses an applicant's future financial loss and care awards. This assessment will not reduce the value of support payments which will continue to be paid for life.

Q8: Are there any respects in which the approach differs from that recommended by the Inquiry/Expert Group? If so, please explain what these are and why a different approach has been taken.

A8: The Infected Blood Inquiry recommendations have formed the basis of the Infected Blood Compensation Scheme. We have worked hard to accept as many of Sir Brian Langstaff's recommendations as fully as we can and to work with the spirit of the recommendations where full acceptance is not possible. We have deviated in some instances from the recommendations in the second interim report: for example, in order to prioritise delivering for the infected blood community as efficiently as possible and to ensure proper accountability of Government to Parliament. The Infected Blood Inquiry Response Expert Group was appointed in January 2024 to provide technical advice to the Cabinet Office on responding to the Infected Blood Inquiry's recommendations on compensation. Although the Group did not provide formal recommendations, their work was central to informing the development of the Infected Blood Compensation Scheme. The Government's proposed Scheme has been improved following an engagement exercise carried out by Sir Robert Francis KC, Interim Chair of the Infected Blood Compensation Authority, to take on board feedback from people who will access the Scheme. The Government accepted 69 of the 74 recommendations made by Sir Robert.

Q9: There are further recommendations in the Inquiry report–what is the Government's timetable to implement them?

A9: The Infected Blood Inquiry recommended that within 12 months of the publication of its Report (20 May 2024) the Government should consider and either commit to implementing the recommendations, or give sufficient reason why it is not considered appropriate to implement any one or more of them. During that period, and before the end of the year, the Government should report back to Parliament as to the progress made on considering and implementing the recommendations. The Government has committed to reporting back to Parliament on progress by the end of the year.

29 August 2024

APPENDIX 2: ADDITIONAL INFORMATION FROM THE DEPARTMENT FOR ENERGY SECURITY AND NET ZERO

Draft Contracts for Difference (Electricity Supplier Obligations) (Amendment) Regulations 2024

Q: The EM does not explain that the costs of the Dispatchable Power Agreement (DPA) will be passed on to consumers. The Impact Assessment (IA) refers to this at para 42, stating that the increase in energy bills for consumers is expected to be small. The IA then explains that the cost analysis has not been included as "any accurate approach to estimation would reveal the government's expectation around the value of the DPA payments and they are still to be negotiated". We understand the commercial sensitivity, but the lack of any information on this is unsatisfactory, given that Parliament has been asked to approve the Regulations and there are concerns about the impact of high energy prices on households. Would you be able to provide any figures that give an indication of the costs, for example an annual average costs per consumer that the Department would consider low? Even a broad range of costs would be helpful.

A: The proposed Regulations enable a Contracts for Difference (CfD) counterparty to raise funds from licensed electricity suppliers to provide a payment to enable it to pay future natural gas fuelled generating stations with CCUS technology (power CCUS). In common with the CfD scheme, of which the Dispatchable Power Agreement (DPA) is a type, it is proposed that the costs of the DPA will be borne by electricity suppliers. Suppliers would be able to pass the costs onto their consumers who use the electricity system, should the suppliers elect to do so.It is important to note that the Regulations do not in themselves commit to any awarding of future financial support to any party, rather, this amendment is enabling creation of the regulatory ability to raise related funds calculated in an alternative method to what is already provided. Any decision to offer support to a power CCUS project will be decided by Ministers, following completion of successful negotiations with any agreement subject to the government's value for money and subsidy control assessment processes.

As such, the Impact Assessment for this legislation considered the cost effectiveness of implementing the policy through designating the Low Carbon Contracts Company (LCCC) as the DPA counterparty in order to collect the payments through the powers set out within the proposed Regulations rather than the final impact on consumers.

The first power CCUS project is being bilaterally negotiated by the Department with Net Zero Teesside Power Ltd. If negotiations are successful, the project will enter into a DPA and the LCCC will use the powers within the Regulations to raise funds from Electricity Suppliers to provide the DPA payments to the project. The negotiations are targeted to reach agreement this year and any payments due as a consequence of the agreement will commence in 2028 at the earliest, at which point electricity suppliers (and thus consumers) would see an impact.

The overall cost to electricity consumers of supporting gas CCUS will be determined by the cost of future gas CCUS subsidy agreements. We cannot reveal the cost of this DPA agreement until the negotiation has concluded, and it will not necessarily be indicative of the cost of future DPA agreements given expected changes in the cost of gas CCUS over time, as well as other project-specific factors likely to affect the cost of each negotiated deal. Indicatively, we would expect each DPA agreement to add in the region of £5 - £15/year to the average household electricity bill, noting this is an indicative estimate range. These costs

are not additional; in the absence of Gas CCUS, our modelling shows alternative scenarios would have a higher system cost and could result in an increased cost to the consumer.

Low carbon flexible generation technologies like Power CCUS are vital for matching demand and supply within our electricity system, and are necessary to achieve the Mission 2030 clean electricity system ambition. Our 2021 modelling for the Net Zero Strategy suggested up to 10 GW of Power CCUS capacity would be required by 2035 to achieve the lowest cost pathways to decarbonisation.

Cost estimates have a degree of uncertainty attached given the potential for cost reductions as the sector develops with increased market competition and the associated maturity of supply chains, the variety in scale and type of Power CCUS plants (including new build plants and retrofitting of existing plants) and the reduction in capacity market costs. Costs are additionally related to the successful completion of negotiations and reliant on private providers committing to engaging, meaning there is inherent uncertainty within the process. Cost reductions have been seen in the development of offshore wind and solar generation technology for example.

21 August 2024

APPENDIX 3: 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 3 September 2024, Members declared the following interests:

Social Fund Winter Fuel Payment Regulations 2024

Recipients of Winter Fuel Payments

Baroness Harris of Richmond, Lord Hunt of Wirral, Baroness Lea of Lymm, Lord Powell of Bayswater, Baroness Randerson, Baroness Ritchie of Downpatrick, Lord Rowlands, Lord Russell of Liverpool and Lord Thomas of Cwmgiedd.

Attendance:

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