



House of Commons
Select Committee on
Statutory Instruments

**First Report
of Session 2010–11**

Drawing special attention to:

*Recovery of Import Duties and Export Duties (Andorra) Regulations 2010
(S.I. 2010/795)*

*Ordered by The House of Commons
to be printed 20 October 2010*

Current membership

Mr George Mudie MP (*Labour, Leeds East*) (Chairman)
Mr Robert Buckland MP (*Conservative, South Swindon*)
Michael Ellis MP (*Conservative, Northampton North*)
John Hemming MP (*Liberal Democrat, Birmingham, Yardley*)
Mr Ian Liddell-Grainger MP (*Conservative, Bridgwater and West Somerset*)
Toby Perkins MP (*Labour, Chesterfield*)

Powers

The full constitution and powers of the Committee are set out in House of Commons Standing Order No. 151, available on the Internet via www.parliament.uk/scsi.

The Select Committee on Statutory Instruments (SCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. It carries out the same duties as the Joint Committee on Statutory Instruments in respect of those instruments laid before and subject to proceedings in the House of Commons only.

The role of the SCSI, whose membership is drawn from the House of Commons, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of the House to any instrument on one or more of the following grounds:

- i. that it imposes, or sets the amount of, a charge on public revenue or that it requires payment for a licence, consent or service to be made to the Exchequer, a government department or a public or local authority, or sets the amount of the payment;
- ii. that its parent legislation says that it cannot be challenged in the courts;
- iii. that it appears to have retrospective effect without the express authority of the parent legislation;
- iv. that there appears to have been unjustifiable delay in publishing it or laying it before Parliament;
- v. that there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where the instrument has come into force before it has been laid;
- vi. that there appears to be doubt about whether there is power to make it or that it appears to make an unusual or unexpected use of the power to make;
- vii. that its form or meaning needs to be explained;
- viii. that its drafting appears to be defective;
- ix. or on any other ground which does not go to its merits or the policy behind it.

The Committee usually meets weekly when Parliament is sitting.

Publications

The reports of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee are available on the Internet from www.parliament.uk/scsi.

Committee staff

The current staff of the Committee are John Whatley (*Commons Clerk*) and Jennifer Steele (*Committee Secretary*). Advisory Counsel: Peter Davis and Peter Brooksbank.

Contacts

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Instruments reported

At the Committee's meeting on 20 October 2010 it scrutinised a number of instruments. It was agreed that the special attention of the House of Commons should be drawn to one of those considered in accordance with Standing Orders. The Instrument and the ground for reporting it is given below. The relevant Departmental memorandum is published as an appendix to this report.

1 S.I. 2010/795: Reported for defective drafting

<i>Recovery of Import Duties and Export Duties (Andorra) Regulations 2010 (S.I. 2010/795)</i>

1.1 The Committee draws the special attention of the House to these Regulations on the ground that they are defectively drafted in one respect.

1.2 Paragraph (2) of regulation 24 defines the expression "the date of recognition" for the purpose of that regulation. The expression does not appear elsewhere in that regulation or anywhere else in the instrument.

1.3 In a memorandum printed in the Appendix, HM Treasury explains that the expression was intended to have been used in regulation 24(1), instead of the words "the date on which the instrument permitting the enforcement has been directly recognised". The Department hopes to make an amending instrument at the earliest opportunity. **The Committee accordingly reports regulation 24 for defective drafting, acknowledged by the Department.**

Instruments not reported

The Committee has considered the instruments set out in the Annex to this Report, none of which were required to be reported.

Annex

Instruments requiring affirmative approval

H.C. 47	Police Grant Report (England and Wales) for 2010–11: Amending Report 2010–11
S.I. 2010/1914	Alcoholic Liquor Duties (Definition of Cider) Order 2010

Draft instruments requiring affirmative approval

Draft S.I.	Double Taxation Relief and International Tax Enforcement (Austria) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Belgium) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Cayman Islands) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Federal Republic of Germany) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Georgia) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Hong Kong) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Malaysia) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Mexico) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Oman) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Singapore) Order 2010
Draft S.I.	Double Taxation Relief and International Tax Enforcement (Switzerland) Order 2010
Draft S.I.	International Monetary Fund (Limit on Lending) Order 2010
Draft S.I.	International Tax Enforcement (Anguilla) Order 2010
Draft S.I.	International Tax Enforcement (Bahamas) Order 2010
Draft S.I.	International Tax Enforcement (Gibraltar) Order 2010
Draft S.I.	International Tax Enforcement (Liechtenstein) Order 2010
Draft S.I.	International Tax Enforcement (Turks and Caicos Islands) Order 2010
Draft S.I.	Parliamentary Standards Act (Staff Transfer) Order 2010
Draft S.I.	Qualifying Oil Fields Order 2010

Draft S.I. Tax Avoidance Schemes (Penalty) (Amendment) Regulations 2010

Instruments subject to annulment

S.I. 2010/794	Recovery of Foreign Taxes (Amendment) Regulations 2010
S.I. 2010/809	Exchange Gains and Losses (Bringing into Account Gains or Losses) (Amendment) Regulations 2010
S.I. 2010/814	Stamp Duty Land Tax (Alternative Finance Investment Bonds) Regulations 2010
S.I. 2010/835	Individual Savings Account (Amendment) Regulations 2010
S.I. 2010/919	Value Added Tax (Consideration for Fuel Provided for Private Use) Order 2010
S.I. 2010/920	Value Added Tax (Increase of Registration Limits) Order 2010
S.I. 2010/922	Registered Pension Schemes (Standard Lifetime and Annual Allowances) Order 2010
S.I. 2010/924	Landfill Tax (Amendment) Regulations 2010
S.I. 2010/925	Income Tax (Manufactured Overseas Dividends) (Amendment) Regulations 2010
S.I. 2010/1185	Value Added Tax (Small Non-Commercial Consignments) Relief (Amendment) Order 2010
S.I. 2010/1187	Financial Assistance Scheme (Tax) Regulations 2010
S.I. 2010/1642	Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2010
S.I. 2010/1677	Gaming Duty (Amendment) Regulations 2010
S.I. 2010/1783	Pool Betting Duty (Application of General Betting Duty Provisions) Regulations 2010
S.I. 2010/1818	Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations 2010
S.I. 2010/1819	Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 2) 2010
S.I. 2010/1824	Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) (Over the Counter) Regulations 2010
S.I. 2010/1897	Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 4) 2010
S.I. 2010/1904	Taxes (Definition of Charity) (Relevant Territories) Regulations 2010
S.I. 2010/2158	Tonnage Tax (Training Requirement) (Amendment) Regulations 2010
S.I. 2010/2236	Stamp Duty and Stamp Duty Reserve Tax (Investment Exchanges and Clearing Houses) Regulations (No. 5) 2010
S.I. 2010/2286	Capital Allowances (Energy-saving Plant and Machinery) (Amendment) Order 2010

Appendix

S.I. 2010/795: memorandum from HM Revenue & Customs

<p><i>Recovery of Import Duties and Export Duties (Andorra) Regulations 2010 (S.I. 2010/795)</i></p>
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1. The Select Committee has requested a memorandum to be submitted on the following points–

“Explain the purpose of regulation 24(2), given that the expression it defines does not appear elsewhere in the instrument.”

2. We are grateful to the Committee for bringing this to our attention. The defined expression ‘the date of recognition’ should have occurred in regulation 24(1), instead of the words ‘the date on which the instrument permitting the enforcement has been directly recognised’, but was omitted as the result of an oversight, for which we apologise. Subject to Ministerial approval, regulations to amend regulation 24(1) will be made and laid at the earliest opportunity. The effect of the error is limited to cases where the requested authorities fail to recognise the validity of a request within the requisite three months, and then only to prevent the accrual of interest from the end of those three months until the date of actual recognition. The Committee may wish to be aware that no such cases have yet occurred and, indeed, that no requests have so far been made under the instrument at all.

HM Treasury
20 July 2010