



House of Lords  
House of Commons  
Joint Committee on  
Statutory Instruments

---

**Sixth Report  
of Session 2009-10**

---

**Drawing special attention to:**

*Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2010 (Draft SI)*

*Ordered by the House of Lords to be printed  
27 January 2010*

*Ordered by the House of Commons to be printed  
27 January 2010*

**HL Paper 46  
HC 3-vi**

Published on 2 February 2010  
by authority of the House of Lords  
and the House of Commons  
London: The Stationery Office Limited  
£0.00

# Joint Committee on Statutory Instruments

## Current membership

### House of Lords

Lord Campbell of Alloway (*Conservative*)  
Lord Clinton-Davis (*Labour*)  
Baroness Jones of Whitchurch (*Labour*)  
Lord Kimball (*Conservative*)  
Countess of Mar (*Crossbench*)  
Earl of Mar and Kellie (*Liberal Democrat*)  
Lord Walpole (*Crossbench*)

### House of Commons

David Maclean MP (*Conservative, Penrith and The Border*) (Chairman)  
Dr Roberta Blackman-Woods MP (*Labour, City of Durham*)  
Mr Peter Bone MP (*Conservative, Wellingborough*)  
Mr Nigel Dodds MP (*Democratic Unionist, Belfast North*)  
Jeff Ennis MP (*Labour, Barnsley East and Mexborough*)  
Judy Mallaber MP (*Labour, Amber Valley*)  
Chris Ruane MP (*Labour, Vale of Clwyd*)

## Powers

The full constitution and powers of the Committee are set out in House of Commons Standing Order No. 151 and House of Lords Standing Order No. 74, available on the Internet via [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

## Remit

The Joint Committee on Statutory Instruments (JCSI) is appointed to consider statutory instruments made in exercise of powers granted by Act of Parliament. Instruments not laid before Parliament are included within the Committee's remit; but local instruments and instruments made by devolved administrations are not considered by JCSI unless they are required to be laid before Parliament.

The role of the JCSI, whose membership is drawn from both Houses of Parliament, is to assess the technical qualities of each instrument that falls within its remit and to decide whether to draw the special attention of each 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. 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 both Houses. All publications of the Committee are on the Internet at [www.parliament.uk/jcsi](http://www.parliament.uk/jcsi).

## Committee staff

The current staff of the Committee are John Whatley (*Commons Clerk*), Kath Kavanagh (*Lords Clerk*) and Jennifer Steele (*Committee Assistant*). Advisory Counsel: Peter Davis, Peter Brooksbank and Christine Cogger (*Commons*); Allan Roberts and Peter Milledge (*Lords*).

## Contacts

All correspondence should be addressed to the Clerk of the Joint Committee on Statutory Instruments, Delegated Legislation Office, 7 Millbank, London SW1P 3JA. The telephone number for general inquiries is: 020 7219 2026; the Committee's email address is: [jcsi@parliament.uk](mailto:jcsi@parliament.uk).

# Contents

---

<b>Report</b>	<i>Page</i>
<b>Instruments reported</b>	<b>2</b>
1 Draft S.I: Reported as requiring consolidation	2
<b>Instruments not reported</b>	<b>3</b>
<b>Annex</b>	<b>3</b>
<b>Appendix 1</b>	<b>5</b>
Draft SI: memorandum from the Department for Communities and Local Government	5

## Instruments reported

---

At its meeting on 27 January 2010 the Committee scrutinised a number of Instruments in accordance with Standing Orders. It was agreed that the special attention of both Houses should be drawn to one those considered. The Instrument and the ground for reporting it is given below. The relevant Departmental memoranda is published as an appendix to this report.

### 1 Draft S.I: Reported as requiring consolidation

<p><i>Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2010 (Draft SI)</i></p>
---

1.1 The Committee draws the special attention of both Houses to these draft regulations on the ground that they further amend regulations which need to be consolidated.

1.2 These regulations amend the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989. Though the power under which the 1989 regulations were made has been repealed, the 1989 regulations continue in force under section 2 of the Planning (Consequential Provisions) Act 1990 as if made under section 303 of the Town and Country Planning Act 1990. They have been amended on over a dozen occasions, and have, since the enactment of the Government of Wales Act 1998, been amended separately for England and for Wales.

1.3 There is an obvious need for consolidation. The Secretary of State is now the appropriate person to make regulations under section 303 only in relation to England. In a memorandum printed as the Appendix the Department for Communities and Local Government accepts the need for consolidation and says it intends to consolidate the next time changes are needed to the 1989 regulations. The Committee welcomes this statement and draws it to the attention of both Houses.

## Instruments not reported

---

At its meeting on 27 January 2010 the Committee considered the Instruments set out in the Annex to this Report, none of which were required to be reported.

## Annex

---

### Instruments to which the Committee does not draw the special attention of both Houses

- denotes that the written evidence submitted in connection with the instrument is printed with this Report
- denotes written evidence has been submitted but not printed

### Draft Instruments requiring affirmative approval

<b>Draft S.I.</b>	Access to the Countryside (Coastal Margin) (England) Order 2010
<b>Draft S.I.</b>	Child Trust Funds (Amendment) Regulations 2010
<b>Draft S.I.</b>	CRC Energy Efficiency Scheme Order 2010
<b>Draft S.I.</b>	Data Protection (Monetary Penalties) Order 2010
<b>Draft S.I.</b>	Employment Relations Act 1999 (Blacklists) Regulations 2010
<b>Draft S.I.</b>	Health and Social Care Act 2008 (Consequential Amendments) Order 2010
<b>Draft S.I.</b>	Health Protection (Local Authority Powers) Regulations 2010
<b>Draft S.I.</b>	Health Protection (Part 2A Orders) Regulations 2010
<b>Draft S.I.</b>	Occupational Pension Schemes (Levy Ceiling) Order 2010
<b>Draft S.I.</b>	Pension Protection Fund (Pension Compensation Cap) Order 2010
<b>Draft S.I.</b>	Serious Organised Crime and Police Act 2005 (Disclosure of Information by SOCA) Order 2010
<b>S.I. 2010/0086</b>	Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2010

### Instruments subject to annulment

<b>S.I. 2010/0001</b>	Earnings Percentage Increase) Order 2010
<b>S.I. 2010/0003</b>	National Employment Savings Trust Corporation Naming and Financial Year Order 2010
<b>S.I. 2010/0004</b>	Employers' Duties (Implementation) Regulations 2010
<b>S.I. 2010/0005</b>	Employers' Duties (Registration and Compliance) Regulations 2010
<b>S.I. 2010/0006</b>	Transfer Values (Disapplication) Regulations 2010

<b>S.I. 2010/0007</b>	Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2010
<b>S.I. 2010/0008</b>	Application of Pension Legislation to the National Employment Savings Trust Corporation Regulations 2010
<b>S.I. 2010/0009</b>	National Employment Savings Trust (Consequential Provisions) Order 2010
<b>S.I. 2010/0017</b>	National Lottery (Annual Licence Fees) Regulations 2010
<b>S.I. 2010/0029</b>	Overhead Lines (Exempt Installations) (Consequential Provisions) Order 2010
<b>S.I. 2010/0031</b>	Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010
<b>S.I. 2010/0032</b>	Trade Marks (International Registration) (Amendment) Order 2010
<b>S.I. 2010/0033</b>	Patents and Patents and Trade Marks (Fees) (Amendment) Rules 2010
<b>S.I. 2010/0040</b>	First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2010
<b>S.I. 2010/0041</b>	Tribunals, Courts and Enforcement Act 2007 (Miscellaneous Provisions) Order 2010
<b>S.I. 2010/0042</b>	First-tier Tribunal (Gambling) Fees Order 2010
<b>S.I. 2010/0044</b>	Tribunal Procedure (Amendment No. 2) Rules 2010

#### **Instruments subject to annulment (Northern Ireland)**

<b>S.R. 2009/429</b>	Prison and Young Offenders Centre (Amendment) Rules (Northern Ireland) 2009
----------------------	---

#### **Instruments not subject to Parliamentary proceedings not laid before Parliament**

<b>S.I. 2009/3276</b>	Designation of Schools Having a Religious Character (Independent Schools) (England) (No. 3) Order 2009
<b>S.I. 2010/0002</b>	National Lottery Act 2006 (Commencement No. 5) Order 2010
<b>S.I. 2010/0010</b>	Pensions Act 2008 (Commencement No. 5) Order 2010
<b>S.I. 2010/0023</b>	Health and Social Care Act 2008 (Commencement No. 14) Order 2010
<b>S.I. 2010/0030</b>	Health Act 2009 (Commencement No. 1) Order 2010
<b>S.I. 2010/0037</b>	Perpetuities and Accumulations Act 2009 (Commencement) Order 2010

# Appendix

---

## Draft SI: memorandum from the Department for Communities and Local Government

***Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2010 (Draft SI)***

1. The Committee has requested a memorandum on the following points –

*“In view of the need for consolidation of the regulations about fees for applications, acknowledged by the government in the Explanatory Memorandum to SI 2008/958, why are the changes to be made by these regulations not contained in a draft of regulations consolidating (with amendments) the regulations applicable in England?”*

*When is the review referred to in paragraph 7.5 of the Explanatory Memorandum to these regulations to be completed?”*

2. The Government continues to accept the need to consolidate the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (S.I. 1989/193) (“the Fees Regulations). In paragraph 3.4 of the explanatory memorandum to S.I. 2008/958 the Department indicated that it was hoped to schedule the task of consolidation to coincide with a review of the impact of the increases in 2009. That review has been carried out but it has been decided not to make any changes to existing fees as a result of that review because of the current economic climate.
3. The changes made by these Regulations will, if approved by Parliament, result in a decrease of fees payable for applicants wishing to make a non-material changes to a planning permission or seeking a grant of replacement planning permission which is subject to a new time limit. The fee at regulation 2(6) corrects a mistake in existing legislation and provides for a decrease in the level of fees for applications under Part 2, Schedule 1 to the Fees Regulations. Lack of resources meant that it was not possible to consolidate the Fees Regulations at this time but it was considered very desirable to make the changes in any event.
4. The Department intends to consolidate the Fees Regulations the next time those Regulations are amended.

19<sup>th</sup> January 2010

Department for Communities and Local Government