



Factsheet L7 Legislative Series

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House of Commons Information Office

Statutory Instruments

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Statutory Instruments (SIs) are a form of legislation which allow the provisions of an Act of Parliament to be subsequently brought into force or altered without Parliament having to pass a new Act. They are also referred to as secondary, delegated or subordinate legislation. This **Factsheet** discusses the background to SIs, the procedural rules they must follow, and their parliamentary scrutiny. It also looks at the other types of delegated legislation.

This factsheet is available on the internet at:
http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm

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Introduction

This Factsheet looks at Statutory Instruments (SIs). In particular, it describes what they are and also the parliamentary procedures related to them. The Factsheet also looks at other delegated legislation including regulatory reform orders, human rights orders and orders in council. The last section of the Factsheet gives guidance on where to find information on SIs.

Statutory Instruments

What is a Statutory Instrument?

Major laws in the UK pass through Parliament in the form of bills. Once bills have progressed through all of their stages they become Acts of Parliament. Acts of Parliament often confer powers on Ministers to make more detailed orders, rules or regulations by means of statutory instruments. The scope of these powers varies greatly, from the technical (e.g. to vary the dates on which different provisions of an Act will come into force, to change the levels of fines or penalties for offences or to make consequential and transitional provisions) to much wider powers such as filling out the broad provisions in Acts. Often, Acts only contain a broad framework and SIs are used to provide the necessary detail that would be considered too complex to include in the body of an Act. Secondary legislation can also be used to amend, update or enforce existing primary legislation.

Statutory Instruments are just as much a part of the law of the land as an Act of Parliament. The Courts can question whether a Minister, when issuing an SI, is using a power he or she has actually been given by the parent Act but cannot question the validity of the Statutory Instrument for any other reason.

Drafting

Statutory Instruments are usually drafted by the legal office of the Government Department concerned, often following consultations with interested bodies and parties whilst the SI is in draft. They are then "made" in the name of the person (usually a Secretary of State or Minister) authorised by the parent Act. Each is given a number in the SI series, which runs from number 1 each calendar year, and is quoted in the form: SI 2005/1234. There are about three and a half thousand SIs each year, varying in size from a single sheet to several hundreds of pages. Like Acts of Parliament, some SIs apply to the whole of the UK, some to the individual countries only. SIs can also be issued in draft requiring the approval of both Houses of Parliament. These do not have a number until this approval is given (see below, 'Affirmative Procedure').

Preamble

Each Order has a preamble stating the authority or the primary legislation for its production. For example the *Gaming Act (Variation of Monetary Limits) Order 1999* states:

"In exercise of the powers conferred on me by Section 20(3) and (8) and 51(4) of the Gaming Act 1968, I hereby make the following Order ..."

Explanatory Notes

All general Statutory Instruments have an **explanatory note**, which explains their scope and purpose. The Explanatory Note for the Gaming Order simply reads *"This Order increases the monetary limits specified in the Gaming Act 1968 for the prizes, stakes and other matters mentioned ..."*. The explanatory note has no legal force; an SI's legitimacy rests on what is stated in the originating Act of Parliament where the power to make secondary legislation is granted (the citation clause).

Explanatory Memoranda

All Statutory Instruments that are subject to parliamentary procedure must now be accompanied by an **explanatory memorandum** (EM). This is a short document, which should explain in plain English what the SI does and why. Where it is linked to other SIs or fulfils the requirements of an Act the EM should set this out. The EM is made freely available to the public via the Office of Public Sector Information (OPSI) website <http://www.opsi.gov.uk/stat.htm>.

The EM should also include consideration of the costs of the measure and the outcome of the public consultation exercise, although to do this it may simply refer to a **Regulatory Impact Assessment** (RIA) which should also be available to the public. For SIs that implement European legislation a **Transposition Note** may be available, setting out which piece of UK legislation implements each of the provisions of the Directive.

Parliamentary procedure on SIs

Whether an instrument is subject to parliamentary procedure is determined by the parent Act. Some SIs are not laid and as such are not subject to any parliamentary procedure and simply become law on the date stated in them. Such Instruments are, in general, not contentious. Commencement Orders (see below) generally fall into this category, as do Orders in Council.

Frequently used terms

Made - a Statutory Instrument is 'made' when signed by minister (or person with authority under the Act); in other words the instrument is not in draft.

Laid - the procedure that constitutes the laying of a Statutory Instrument is set out in House of Commons SO 159. Basically for an SI to be laid before the House of Commons a copy of the Instrument must be 'laid on the table of the House'; this actually means placing a copy of the Instrument with the Votes and Proceedings desk in the Journal Office. Most SIs are laid in both Houses and a similar procedure applies in the House of Lords (see also Appendix on page 14).

Coming into force – when the provisions in the Statutory Instrument take effect.

Many SIs are subject to parliamentary control; these SIs will follow one of the procedures laid down in the *Statutory Instruments Act 1946*. The type of parliamentary control will usually be prescribed in the parent Act. An instrument is laid before Parliament either in draft form or after the instrument has been made. According to the procedure applied to them, most SIs fall into one of the classes shown below:

Instruments subject to negative resolution procedure

Such instruments become law unless there is an objection from the House

- (i) The instrument is laid in draft and cannot be made if the draft is disapproved within 40 days (draft instruments subject to the negative resolution are few and far between).
- (ii) The instrument is laid after making, subject to annulment if a motion to annul (known as a 'prayer') is passed within 40 days.

Instruments subject to affirmative resolution procedure

These instruments cannot become law unless they are approved by both Houses.

- (i) The instrument is laid in draft but cannot be made unless the draft is approved by both Houses (the Commons alone for financial SIs).
- (ii) The instrument is laid after making but cannot come into force unless and until it is approved.
- (iii) The instrument is laid after making and will come into effect immediately but cannot remain in force unless approved within a statutory period (usually 28 or 40 days).

Other Procedures

- (i) The instrument is required to be laid before parliament after being made but does not require parliamentary scrutiny.
- (ii) The instrument is not required to be laid (and is therefore not subject to Parliamentary procedure).

Negative Procedure

Some SIs become law on the date stated on them but will be annulled if either House (or the Commons only, in the case of instruments dealing with financial matters) passes a motion calling for their annulment within a certain time. This time period is usually 40 days *including* the day on which it was laid. No account is taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. A motion calling for annulment is known as a *prayer*, couched in such terms as:

"That an humble address be presented to Her Majesty praying that the Asylum Seekers (Interim Provisions) Regulations 1999 ... be annulled".

In the House of Commons any Member may put down a motion to annul an SI subject to the Negative Procedure. In practice such motions are now generally put down as Early Day Motions (EDMs), which are motions for which no time has been fixed and, in the vast majority of cases, for which no time is likely to be available (see **Factsheet P3**). A motion put down by the Official Opposition will often be accommodated although there is no absolute certainty of this. An annulment motion put down by a backbencher is unlikely to be dealt with but a debate may be arranged if there are a large number of signatories to the EDM. In the House of Lords prayers can be tabled by an individual Member and are usually debated, although rarely put to the vote. A recent example of a successful motion to annul occurred on 22 February 2000, when the House of Lords rejected the *Greater London Authority Elections Rules* (SI 2000/208). The House of Commons last annulled a Statutory Instrument on 24th October 1979 (the *Paraffin (Maximum Retail Prices) (Revocation) Order 1979* (S.I. 1979, No. 797)). Further information about the rejection of SI's can be found in a later paragraph.

Affirmative Procedure

This is less common than the negative procedure, currently representing about 10% of instruments subject to Parliamentary procedure, but provides more stringent parliamentary control since the instrument must receive Parliament's approval before it can come into force or to remain in force.

Most SIs subject to the affirmative procedure are laid in the form of a draft Order, which is later printed and added to the numerical run of SIs when it has been approved by both Houses. Such orders cannot be **made** unless the draft order is approved by Parliament. To do this, a motion approving it has to be passed by both Houses (or by the Commons alone if deals with financial matters). The responsibility lies with the minister, having laid the Instrument, to move the motion for approval.

Some Instruments are **laid** after making and will come into effect immediately but require subsequent approval within a statutory period, usually 28 days (or occasionally 40 days) to remain in force. This again excludes periods when Parliament is dissolved, prorogued or adjourned for more than four days. Again, the motion is generally prepared by the relevant minister, who is also responsible for ensuring that the motion is discussed within the necessary time limit.

The last time a draft Statutory Instrument subject to affirmative procedure was not approved by Resolution of the House of Commons was on 12th November 1969 when House agreed to Motions that the draft *Parliamentary Constituencies (England) Order 1969*, the draft *Parliamentary Constituencies (Wales) Order 1969*, the *Parliamentary Constituencies (Scotland) Order 1969* and the *Parliamentary Constituencies (Northern Ireland) Order 'be not approved'*.

It is important to note that SIs cannot, except in extremely rare instances where the parent Act provides otherwise, be amended or adapted by either House. Each House simply expresses its wish for them to be annulled or passed into law, as the case may be.

The parent Act (sometimes referred to as enabling Act) indicates which of the above procedures will apply to an SI. An appendix to the *Votes and Proceedings* of the House (see **Factsheet P16**) records the day on which an Instrument is laid.

Rejection of Statutory Instruments

As mentioned, the last occasion that the House of Commons annulled an SI was in 1979 and the House of Lords rejected the Greater London Authority Elections Rules instrument in 2000. The Joint Committee on Conventions produced a recent report in which they discussed the extent to which both Houses can reject an instrument¹:

“The Parliament Acts do not apply to delegated legislation. So delegated legislation rejected by the Lords cannot have effect even if the Commons have approved it.”

The report also includes details of the evidence that was submitted and the Clerk of Parliaments states: “There is no generally accepted convention restricting the powers of the Lords on secondary legislation”. Furthermore, the report contains a paragraph in which the Clerk explains what happens when an instrument is defeated: *“If it is affirmative, it may be re-laid, though it must be slightly different. If it is negative, it may be re-laid with a new title. If the Lords reject*

¹ Joint Committee on Conventions, *Conventions on the relationship between the two Houses of Parliament*, 31 October 2006, HC1212/HL 265, 2005-06

it again (which has never happened), the Government could in the last resort embody it in a Bill."

The Committee concludes: *"On the basis of the evidence, we conclude that the House of Lords should not regularly reject Statutory Instruments but that in exceptional circumstances it may be appropriate for it to do so. This is consistent with past practice and represents a convention recognised by the opposition parties."* And goes on to say: *"In the absence of a power to amend SIs, the most constructive way for the Lords, as the revising chamber, to reject an SI is by motion (or amendment) incorporating a reason, making it clear both before and after the debate what the issue is."*

Joint Committee on Statutory Instruments

To aid parliamentary examination of SIs there is a Joint Committee of both Houses on Statutory Instruments (sometimes called the Scrutiny Committee). The Commons Members of this committee sometimes sit separately. They have the services of Counsel to the Speaker and the Lord Chairman of Committees available to them during their deliberations. They may, like other Select Committees, take oral or written evidence from the responsible Government Department on instruments they are considering. Some Statutory Instruments (e.g. local orders not laid before Parliament) are not scrutinised by the Committee. Other instruments, which are not technically Statutory Instruments but which may need an affirmative resolution, such as reports on local government finance special grants, draft codes of practice which have legislative effect and orders subject to special parliamentary procedure under the *Statutory Orders (Special Procedure)* Acts of 1945 and 1946 (see **Factsheet L9**) are looked at.

These Committees do not consider the merits of any SI. They are responsible for ensuring that a Minister's powers are being carried out in accordance with the provisions of the enabling Act. They report to the House any instance where the authority of the Act has been exceeded, or any which reveal an "unusual or unexpected" use of the powers, or have been drafted defectively, or where the instrument might require further explanation. These Reports are printed as House of Commons and House of Lords papers and their publication is noted in the *Weekly Information Bulletin* (see **Factsheet P17**).

The Lords Committee on the Merits of Statutory Instruments.

This Committee was first appointed on 17 December 2003 and has eleven members. Its work complements that of the Joint Committee on Statutory Instruments. Whereas the JCSI considers technical matters about the legality of proposals, the Merits Committee's task is to consider the policy implications of Statutory Instruments.

The Merits Committee's terms of reference are wide-ranging. Its remit is to consider whether the special attention of the House should be drawn to a Statutory Instrument on any of the following grounds:

- (a) that it is politically or legally important or gives rise to issues of public policy likely to be of interest to the House;
- (b) that it is inappropriate in view of the changed circumstances since the passage of the parent Act;
- (c) that it inappropriately implements EU legislation;
- (d) that it imperfectly achieves its policy objectives.

Like the JCSI, the Committee meets weekly, both to ensure that consideration of negative instruments is undertaken within the 40 day "praying time" and to enable the Committee to keep

pace with the volume of documents it is required to consider. The Committee is advisory and does not have a scrutiny reserve. The full text of all reports is placed on the website:

http://www.parliament.uk/parliamentary_committees/merits.cfm

The Committee meets on a Tuesday and its reports are generally published two days later. As well as alerting the House to any interesting instruments or instruments on which there may be concerns, the Merits Committee's reports often publish additional information presented in response to the Committee's questions, which may be of wider interest in the House.

The creation of the Merits Committee is part of the reform of the House and, on a recommendation of the Procedure Committee, its terms of reference will be reviewed in due course.

Debates on SIs in the House of Commons

In recent decades, the number of SIs considered in some form by the House of Commons has risen considerably. As a result the House has found it difficult to make enough time available for the debate of SIs. Debates, normally on Motions to approve or annul instruments, may take place on the floor of the House (usually late in the parliamentary day), or in Delegated Legislation Committees. These were first set up as Standing Committees on Statutory Instruments in the 1973-74 session in order to relieve pressure of time in the House itself. Their title was changed at the beginning of the 1995-96 session to Standing Committees on Delegated Legislation, and again in 2006-07 to Delegated Legislation Committees. Debates on the floor of the House on Statutory Instruments constitute exempted business under Standing Order No 15, and if taken after the **moment of interruption**² may generally be debated for an hour and a half. Prayers (see above) cannot be debated beyond an hour and a half after this time.

In the House of Lords the length of debate is dictated by the number of speakers putting their name down and discussions by "the usual channels"

Delegated Legislation Committees

Delegated Legislation Committees (DLCs) are commonly composed of 17 members, though any Member may attend and speak (but only the original members of the Committee are entitled to vote).

SIs under the affirmative procedure are automatically referred to DLC. SIs under the negative procedure are only referred to a DLC if a Minister puts a Motion to the House of Commons in the form:

"That the Education (Budget Statements and Supplementary Provisions) Regulations 1999 be referred to a Delegated Legislation Committee"

If more than 20 Members object to the Motion, then the SI cannot go to a DLC. In such circumstances, the government business managers have to decide how to proceed with the SI.

A Delegated Legislation Committee can only consider an SI on the motion "That the Committee has considered the instrument". The debate can take up to 1½ hours, or 2½ hours if the instrument relates exclusively to Northern Ireland. Reports of the debates are published by the Stationery Office, normally the following day.

² 10.00pm on Monday and Tuesdays; 7.00pm on Wednesdays; 6.00pm Thursdays

Appendix A shows the number of times each procedure was used in the most recent complete session.

Other types of delegated legislation

In addition to the general procedure described above, Statutory Instruments are created in a variety of other forms, of which the more common are discussed below. The list below is not comprehensive; there are various types of Instrument outside the scope of these notes. These include those by which most primary legislation for Northern Ireland has of late been embodied (see **Factsheet L8**), and those subject to the *Statutory Orders (Special Procedure) Act 1945* (see **Factsheet L9**). The Northern Ireland equivalent of an SI is called a Statutory Rule (SR).

Regulatory Reform Orders

The passing of the *Regulatory Reform Act 2001* enabled the Government to make an order, known as a regulatory reform order, to amend or repeal a provision in primary legislation which is considered to impose a burden on business or others, as long as it can be reduced or removed without removing necessary protection. This Act extended the provisions of the *Deregulation and Contracting Out Act 1994* under which the orders were known as deregulation orders.

In 2006, the *Legislative and Regulatory Reform Act* was passed which like the *Regulatory Reform Act 2001* gives Ministers certain powers to make orders (legislative reform orders) that remove or reduce burdens resulting directly or indirectly from legislation. Section 2 of *Legislative and Regulatory Reform Act* makes similar provision in relation to orders that promote principles of better regulation. Section 3 of the Act sets out facts that the Minister proposing to make a legislative reform order has to address. They include positive tests (need for legislation, proportionality and fair balance of interests) and negative ones (no removal of necessary protection, no unreasonable interference with rights and freedoms, no constitutional significance). The Minister can only proceed if satisfied that all relevant section 3 tests are passed. Before a Minister may make a legislative reform order, he or she must:

- consult widely with those affected by the proposals
- lay before Parliament a draft order and explanatory document, and allow time for Parliamentary consideration
- obtain Parliament's sanction for making the order

Only after all of these steps have been successfully completed may the order become law.

When the draft order is laid before Parliament, the Minister must recommend one of three possible parliamentary procedures for dealing with it:

- The negative resolution procedure, under which the order may be made unless Parliament either disagrees within 40 days of laying or (within 30 days) recommends one of the procedures;
- The affirmative resolution procedure, under which both Houses of Parliament must expressly approve the draft order before the order can be made. They have 40 days to consider it first. They can also (within 30 days) recommend upgrading the procedure to super-affirmative;
- The super-affirmative procedure, which requires the Minister to have regard to representations, House of Commons and House of Lords resolutions, and Committee

recommendations that are made within 60 days of laying, in order to decide whether to proceed with the order and (if so) whether to do so as presented or in an amended form.

In practice, the House of Commons delegates the decisions on whether to upgrade the procedure and whether to approve or disapprove the draft order to the Regulatory Reform Committee. It can also go further than disapproval by recommending a veto (which can be rejected by a resolution of the House in the same session).

The Committee considers whether the proposed order meets all the criteria laid down by the *Legislative and Regulatory Reform Act* and by the standing order that governs the Committee's work. Once the Committee is satisfied that it has all the information it requires, it makes a substantive report to the House assessing the proposal against all the relevant criteria.

Debates on Regulatory Reform Orders

The final stage of the parliamentary process in respect of legislative reform orders that are subject to the affirmative or super-affirmative procedures is the consideration by each House of a motion to approve the draft order. The Lords generally debate all such Orders but procedure in the Commons (which is governed by standing order no.18) varies according to the report of the Regulatory Reform Committee:

- if the recommendation of the Committee was for approval, without a division in committee, then the Question for approval by the House must be put forthwith (i.e. without debate);
- if the recommendation of the Committee was for approval, but the Committee divided on the recommendation, then the Motion to approve the Order may be debated by the House for up to one and a half hours;
- if the recommendation of the Committee was that the draft Order should not be approved, but the Government wish to proceed, then: the Government have to table a Motion to disagree with the Committee's report, which may be debated for up to 3 hours. If that Motion is approved by the House, then the Question on the draft order is put forthwith.

Once the draft orders are approved by both Houses, they are made by the Minister responsible and are then printed and published as Statutory Instruments by the Stationery Office.

The dates of all stages in both Houses and publication of the reports by the Committees are noted in the *Weekly Information Bulletin* (see **Factsheet P17**).

Remedial Orders

Under the *Human Rights Act 1998*, if a court makes a declaration of incompatibility with the European Convention on Human Rights in relation to a statute, the Government is able to propose draft Orders or make Orders to amend primary legislation in order to remove any incompatibility. The procedure followed is similar to that for regulatory reform orders.

First, a Minister must lay a proposal for a draft remedial order before Parliament. The proposal must be accompanied by an explanation of the circumstances that led to the need for the proposal. The same 60 day period as for regulatory reform orders applies during which representations may be made on the order. Also, during this period, the Joint Committee on Human Rights must report on whether an order in the same terms as the proposal should be laid.

At the end of this first sixty day period, the Minister may lay a draft remedial order. This must be accompanied by a statement on representations received and any changes made to the proposal following these representations. There is then a further 60 days period (calculated in the same way) after which a motion may be moved to approve the draft order. Again, the Joint Committee must report on whether the draft order should be approved.

Once this order is approved by both Houses the Order may be made and brought into effect.

There is also an urgent procedure for remedial orders where the order is made at the same time as it is laid before Parliament. There then follows a 60-day period where representations including any report from the Joint Committee may be submitted. After this period, the Minister must report any representations to both Houses and may choose to make and lay a replacement order.

The original order or the replacement order must then be approved by motions of both Houses within 120 days of the making of the original order (including usual adjustments) otherwise it will cease to have effect. If the Joint Committee reported that the original order should be replaced by a new one, it is expected to report on the replacement order as well.

Commencement orders

Commencement orders (or appointed day orders) are a form of Statutory Instrument designed to bring into force the whole or part of an Act of Parliament which for some reason it is not desired to put into effect immediately upon Royal Assent (see **Factsheet L1**). There may be more than one per Act (the *Town and Country Planning Act 1971* had 75 such Orders) and there is in general no requirement as to the time after Royal Assent in which such an order must be brought in - e.g. the *Easter Act 1928* (which stipulates a fixed date for Easter) has not yet had a commencement order made, though it is open to the Home Secretary to make one if general agreement on fixing a date is reached. These are generally not subject to Parliamentary procedure and are simply laid.

Orders in Council

Orders in Council are issued "by and with the advice of Her Majesty's Privy Council", and are usually classified as secondary legislation (although some can be primary legislation), and are made under powers given in a parent Act. They can be used for a wide variety of purposes but most frequently when an ordinary Statutory Instrument would be inappropriate such as transferring responsibilities between Government Departments or where it effects the constitution by extending legislation to the Channel Islands, for example. An example of the former is the *Transfer of Function (International Development) Order 1997*, which transferred responsibility for international development from the Foreign and Commonwealth Office to the Department of International Development (SI 1997/1749). An example of the latter is the *Afghanistan (United Nations Sanctions) (Channel Islands) Order 1999* (SI 1999/8134), which gave the Channel Islands legal authority to implement sanctions on Afghanistan.

Orders in Council were also used to transfer powers from Ministers of the UK government to those of the devolved assemblies. Examples of these are the *Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006* SI 2006/304 and the *Draft Welsh Ministers (Transfer of Functions) Order 2008*.

Orders of Council

Orders of Council are made by the Privy Council in exercise of powers conferred upon them alone and usually relate to the regulation of professions or professional bodies. An example of this type of SI is the *General Optical Council (Maximum Penalty) Order 1994* (SI 1994/3327) which increased the maximum penalty that could be made by the GCOs Disciplinary Committee from £1,000 to £1,600.

Local SIs

Some SIs are local in character and are classified as such if its provisions are in the nature of a local and personal or private Act (see **Factsheet L4**). Very few are subject to Parliamentary procedure but this does not mean that a local SI is only issued under the authority of a local and personal or private Act; many public and general Acts have provisions which result in a local SI. This has had major implications with respect to publishing and distribution of the SI (see below).

Finding out about SIs

The issue of an SI is noted on the day following its publication in the Stationery Office Daily List. SIs subject to parliamentary approval appear in an Appendix to the daily *Votes and Proceedings* and a list of them, compiled by the Journal Office, with number of 'praying' days remaining, is issued each week. Both of these are available on the Parliament Internet site or the House of Commons Information Office can make information available from them on request.

Debates on SIs to be held in the following week are noted with other business in the appropriate sections of the *Weekly Information Bulletin*, depending on whether the debate is to be taken on the floor of the House or in a Delegated Legislation Committee.

Publication and Bibliographic Control

Until 1891, there was no formal arrangement for the printing and publication of delegated legislation. In 1891, an official volume was produced that contained all the public and general rules and regulations made in 1890 under the title *Statutory Rules and Orders (SR & O)*. This was the first of an annual series that is still in production today which, since 1948, is published under the title *Statutory Instruments*.

Generally, all Instruments other than local Instruments, are required to be printed and put on sale by the Stationery Office. Some local SIs are, however, sold by the Stationery Office. Drafts of Statutory Instruments laid under the affirmative procedure are also usually on sale at the Stationery Office but these are not included in the numbered series until after approval by Parliament. The Statutory Publications Office produces a numerical Table to Statutory Instruments together with an Index to those in force in three volumes, approximately every two years, and the general Statutory Instruments for each year are issued in a number of volumes for permanent record purposes. The Table indicates whether an Order is still in force and how it was amended or revoked. Local SIs are excluded from these volumes and as a result discovering whether a local SI is in force is extremely difficult (as is the case with a Local Act - see Factsheet L12). However, since January 2003 the numerical lists of SIs have included every number in the series. Where instruments are locals, and the text is unavailable, there will be a link to whoever can supply the copy. Where an SI is withdrawn, that fact will be noted against the number.

The Stationery Office also issues monthly and annual Lists of Statutory Instruments, available on subscription. These include publishing details, the effect of each instrument on other legislation,

details on its commencement and comprehensive subject indexing.

The full texts of all Statutory Instruments from 1987 are now available at the web address:

<http://www.opsi.gov.uk/stat.htm>

All those instruments laid since June 2004 which are subject to Parliamentary procedure appear on the OPSI website next to an Explanatory Memorandum that explains in plain English more about what the instrument does and why.

Appendix A

Statistics on delegated legislation and deregulation orders

Session 2006-07

A. Instruments laid before the House

Instruments subject to different forms of parliamentary procedure

<i>Procedure applicable to Instruments</i>	<i>Laid before the House</i>
Instruments subject to affirmative procedure:-	
Made	12
Draft	193 ¹
Northern Ireland	19
Instruments subject to negative procedure:-	
Made	1090
Draft	0
Northern Ireland	45
Number prayed against	19
Instruments subject in part to affirmative and in part to negative procedure	0
Instruments not subject to parliamentary proceedings laid before Parliament:-	
Made	2
Special Procedure Orders	0
Bills or Acts of the Northern Ireland Assembly	0
 TOTAL	 1380

1. of which 33 were withdrawn

B. Instruments considered by the Joint and Select Committees on Statutory Instruments
Instruments subject to different forms of parliamentary procedure

<i>Procedure applicable to Instruments</i>	<i>Joint Committee</i>	<i>Select Committee</i>
Instruments subject to affirmative procedure:-		
Made	6	13
Draft	156	13
Instruments subject to negative procedure:-		
Made	950	105
Draft	1	0
Northern Ireland	50	0
Instruments not subject to parliamentary proceedings laid before Parliament:-		
Made	29	0
Instruments not laid before Parliament	253	0
Order subject to special Parliamentary Procedure.	0	0
TOTAL	1445¹	131²

1. of which 152 were identified as having derived from EU obligations

2. of which 7 were identified as having derived from EU obligations

Special attention of the House

<i>Ground upon which special attention was invited*</i>	<i>Joint Committee</i>	<i>Select Committee</i>
Drafting appears to be defective	52	2
Form or purport calls for elucidation	4	0
Doubtful vires	3	0
Unusual or unexpected use of powers	8	0
Failure to comply with proper drafting practice	7	0
Other grounds	5	0
TOTAL	79	2

* An instrument may be reported on more than one ground.

Source: Sessional Returns 2006-07 HC 1

<http://www.publications.parliament.uk/pa/cm200708/csession/1/101.htm>

Appendix B

Comprehensive summary table of what can and cannot be presented or laid during recesses.

Type of paper or Instrument	Sitting day	Adjournment recess	Prorogation	Dissolution	“Swearing in” day at start of Parliament
Statutory Instruments (SIs)					
Draft SI	Yes	No	No	No	Yes
SI subject to affirmative resolution <u>before</u> coming into force	Yes	No	No	No	Yes
“Made” SI subject to affirmative resolution <u>after</u> coming into force	Yes	Yes	Yes	No	Yes
Any other “Made” SI (including negative resolution instruments)	Yes	Yes	Yes	No	Yes
Special Procedure Order (for compulsory purchase of certain categories of land)	Yes	No	No	No	No
Legislative reform order	Yes	No	No	No	No
Instruments made under Act other than Statutory Instruments Act 1946 – mostly Oxford or Cambridge Statutes or Naval and Marine Pay and Pensions – can come in non standard formats	Yes	Yes	Yes	No	Yes
Papers					
Command Paper, that is a paper laid by command of Her Majesty, white or green papers, departmental annual reports and treaties	Yes	Yes	Yes	No	Yes
Act Paper printed by order of the House (and has a “HC” number)	Yes	No	No	No	No
Any other Act Paper	Yes	Received but treated as laid on the first sitting day after the recess; the receipt sheet should be stamped and endorsed: “To be recorded as laid on (first sitting date after the recess)”		No	As for recess and prorogation; will be minuted as having been laid on the first day of the session
Returns					
Return	Yes	No	No	No	No
Other documents					
Church of England Measures	Yes	Yes	Yes	No	Yes

Further Reading

Procedure Select Committee, 4th report, 1995-96. Delegated Legislation (HC 152 1995-96)

Procedure Select Committee, 1st report 1999-2000. Delegated Legislation (HC 48 1999-2000)

Procedure Select Committee, 1st report 2002-03. Delegated Legislation: Proposals for a Sifting Committee (HC 501 2002-03)

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Factsheet L7 Statutory Instruments

It would help greatly to ensure that Factsheets fulfil their purpose if users would fill in and return this brief pre-addressed questionnaire, or email a response. Negative responses can be as useful as positive.

For your purposes, did you find this Factsheet

- | | | | | | |
|----------------|--------------------------|------------------|--------------------------|----------------|--------------------------|
| 1. Very useful | <input type="checkbox"/> | Fairly useful | <input type="checkbox"/> | Not much use | <input type="checkbox"/> |
| 2. Too long | <input type="checkbox"/> | The right length | <input type="checkbox"/> | Too short | <input type="checkbox"/> |
| 3. Clear | <input type="checkbox"/> | Not always clear | <input type="checkbox"/> | Rather unclear | <input type="checkbox"/> |

Any comments?

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