

find out more about cookies below, otherwise by continuing to use t

I want to find out more

UK Parliament, n.d.

ment

 www.parliament.uk

You are here:

- [Parliament home page](#)
- [About Parliament](#)
- [How Parliament works](#)
- [Making laws](#)
- Secondary legislation

Secondary legislation

Secondary legislation is law created by ministers (or other bodies) under powers given to them by an Act of Parliament.

It is used to fill in the details of Acts (primary legislation). These details provide practical measures that enable the law to be enforced and operate in daily life.

Secondary legislation can be used to set the date for when provisions of an Act will come into effect as law, or to amend existing laws.

For example, governments often use secondary legislation to ban new substances in response to new information about their dangers by adding them to a list under the Misuse of Drugs Act 1971.

Statutory instruments

Statutory Instruments (SIs) are documents drafted by a government department to make changes to the law. They are published with an explanatory memorandum, which outlines the purpose of the SI and why the change is necessary.

SIs are the most frequently used type of secondary legislation, with approximately 3,500 made each year, although only about 1,000 need to be considered by Parliament.

They usually have either rule, order or regulation in their title.

For more information about SIs, read the [Commons Library Background Paper: Statutory Instruments](#).

Parliament's role

Parliament can either approve or reject an SI, but cannot amend it. Parliament's role in considering an SI varies depending on what is stated in its parent Act.

The [Joint Committee on Statutory Instruments \(JCSI\)](#) checks SIs to make sure the law they contain is clear and follows the powers given by the parent Act.

When the JCSI identifies an issue, they publish recommendations on the SI. In the House of Lords, affirmative SIs cannot be debated before the JCSI make their recommendations.

The JCSI generally only takes evidence from the government department who wrote the SI. They can consider submissions from the public but only on points of law.

If an SI deals with financial matters it is only considered by the members of the committee from the Commons (Select Committee on Statutory Instruments).

How Parliament considers SIs depends on whether they follow the negative or affirmative procedure, which is outlined in the parent Act.

Members of the public cannot table a motion to object to or stop an SI. They must contact a member of either House and ask them to do it.

Affirmative procedure

Draft affirmative SIs laid in Parliament need to be approved by Parliament before they can be made (signed into law) and brought into effect as law.

Most SIs subject to this procedure must be debated and approved by both Houses. Some SIs dealing with tax or financial matters only need approval from the House of Commons.

Draft affirmative SIs can be stopped if either House votes against or rejects the Government's motion calling for the SI to be approved. In the House of Lords, Members may propose an amendment to the Government's motion, formally stating that the House declines to approve the instrument.

For example, the House of Lords debated an amendment to the Government's motion seeking approval of the draft Legal Aid, Sentencing and Punishment of Offenders Act 2012 (amendment of Schedule 1) Order 2012.

The amendment said that the House declined to approve the instrument, and gave reasons for the disagreement. This amendment was agreed to in a vote. As the House of Lords had not approved the instrument, it could not then become law.

In an emergency, certain Acts can allow the government to use the made affirmative procedure. This brings an SI into effect immediately and gives Parliament a set time to approve it (normally 28 or 40 days). It stops being law if Parliament does not approve the SI within that time.

This emergency procedure is only allowed by a few Acts when it's important for the government to make changes quickly. For example, to stop an outbreak of foot and mouth disease or to ban a terrorist organisation.

About 20% of SIs are laid under the affirmative procedure.

Negative procedure

Negative SIs do not need active approval by Parliament. Usually negative SIs are made (signed by the minister) before being laid in Parliament.

They will automatically come into effect as law unless either House stops (annuls) them within a fixed period after they have been laid (usually 40 sitting days). The motion to annul is called a prayer motion.

It is more likely for negative SIs to be debated in the House of Lords. Though, they can be debated in the House of Commons if there is significant opposition to them.

A successful motion to stop the SI is rare. The House of Commons last did this in 1979 and the House of Lords in 2000.

About 80% of SIs are laid under the negative procedure.

How each House considers SIs

Unlike bills, both Houses can consider an SI at the same time and there is no rule that one House must go first. However, the way they consider an instrument is slightly different in each House.

- [House of Commons procedure](#)
- [House of Lords procedure](#)

SIs currently being considered by Parliament

- [Find statutory instruments and follow their progress](#)
- [List of statutory instruments in the Commons](#)
- [House of Lords Business Paper](#)

The full text of SIs and related explanatory memoranda are published on legislation.gov.uk.