

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT BUILDING SOCIETIES LEGISLATION
(AMENDMENT) (EU EXIT) REGULATIONS 2018

Monday 5 November 2018

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

Campbell, Mr Ronnie (*Blyth Valley*) (Lab)

† Cowan, Ronnie (*Inverclyde*) (SNP)

† Docherty, Leo (*Aldershot*) (Con)

† Glen, John (*Economic Secretary to the Treasury*)

† Harper, Mr Mark (*Forest of Dean*) (Con)

Hill, Mike (*Hartlepool*) (Lab)

† Kwarteng, Kwasi (*Spelthorne*) (Con)

McGinn, Conor (*St Helens North*) (Lab)

† Mercer, Johnny (*Plymouth, Moor View*) (Con)

† Pursglove, Tom (*Corby*) (Con)

† Reynolds, Jonathan (*Stalybridge and Hyde*) (Lab/
Co-op)

Rimmer, Ms Marie (*St Helens South and Whiston*)
(Lab)

† Rowley, Lee (*North East Derbyshire*) (Con)

† Smith, Jeff (*Manchester, Withington*) (Lab)

† Tredinnick, David (*Bosworth*) (Con)

† Walker, Thelma (*Colne Valley*) (Lab)

† Whittaker, Craig (*Lord Commissioner of Her
Majesty's Treasury*)

Gail Poulton, *Committee Clerk*

† **attended the Committee**

Second Delegated Legislation Committee

Monday 5 November 2018

[STEWART HOSIE *in the Chair*]

Draft Building Societies Legislation (Amendment) (EU Exit) Regulations 2018

6 pm

The Economic Secretary to the Treasury (John Glen): I beg to move,

That the Committee has considered the draft Building Societies Legislation (Amendment) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Hosie. The draft regulations are another statutory instrument to form part of the Treasury's work to ensure that there continues to be a functioning legislative and regulatory regime for financial services in a scenario in which the UK leaves the European Union without a deal or an implementation period. These regulations fix deficiencies in UK law relating to building societies. They have been drafted using the same approach taken across all the financial services SIs that I have had the pleasure of introducing, laid under the European Union (Withdrawal) Act 2018.

The Building Societies Act 1986 and related legislation contain various provisions governing how building societies must act. Those include requirements relating to the UK's membership of the European economic area. For example, one provision ensures that loans secured on UK land and loans secured on EEA land are treated equally. That has important consequences for building societies, as loans secured on land are used when defining who counts as a building society member in the original legislation. Loans secured on land are also used when calculating a building society's lending limit—a legal requirement that ensures that building societies focus on their core business of mortgage lending. Other parts of the 1986 Act ensure that EEA bodies and UK companies are treated in the same way regarding transfers of business from a building society to a commercial company.

In a no-deal scenario, however, the UK would be outside the EEA, and outside the EU's legal, supervisory and financial regulatory framework. UK legislation relating to building societies therefore needs to be updated to reflect that, and to ensure that the provisions would work properly in such a scenario. The original legislation treats members of the EEA differently from other third countries in certain respects. Given that that will no longer be appropriate after exit day, the draft regulations will amend the 1986 Act and related legislation to equalise the treatment of EEA countries and other third countries after exit day.

To take the example that I have already set out, this draft SI amends the original legislation to ensure that new mortgages on properties in non-EEA states and in EEA states are treated the same after exit day. Members should note, however, that the instrument maintains pre-exit legal treatment of mortgages on properties in EEA states, providing contractual continuity for those building society members who have an existing mortgage

on a property in an EEA state. Building societies will have to take that treatment into account when calculating lending limits and defining building society members. Members of the Committee should also note that no existing building society members will have their mortgages, savings or membership rights affected by the changes in this statutory instrument, and that no building society currently lends on property outside the UK—only a handful have done so in the past.

The original legislation also allows building societies to transfer business to and from companies and mutuals in EEA states, but not in countries outside the EEA. The draft SI will amend the legislation so that such transfers are no longer allowed, equalising treatment of EEA firms with other third countries. Members should note that no building society has yet used the provisions that are being removed; to date, all transfers of engagement have taken place between UK companies and mutuals.

The draft regulations replace several references to EU directives with equivalent references to the Prudential Regulation Authority's rulebook, and ensure that the existing relationship between the UK and the Channel Islands, the Isle of Man and Gibraltar are maintained.

There are some potential costs for business linked to the restriction of the ability of building societies to lend on properties in the EEA. That is because the provisions in the draft SI will prevent building societies from diversifying too far into EEA lending, should they wish to. Members should note, however, that there will be no direct impact on building society balance sheets resulting from this instrument—no building societies are offering mortgages outside the UK, and only a handful have done so in the past. Any potential costs are therefore expected to be minimal.

As I emphasised this afternoon, in an earlier Delegated Legislation Committee sitting, if we enter an implementation period when we leave in March 2019, access to each other's markets will remain the same, and the legislation will continue to apply as at present for the duration of the implementation period. However, the draft regulations contain practical measures necessary to ensure that the legislation governing building societies functions appropriately if the UK leaves without a deal or an implementation period. I hope that Members will join me in supporting the draft regulations, which I commend to the Committee.

6.5 pm

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): It is lovely to see you in the Chair this evening, Mr Hosie. As the Minister has said, this is one of a large number of financial services SIs relating to preparations for a potential no-deal Brexit—about 70 are expected between now and February. The Minister and I broached some of the first of these, relating to the temporary permissions regime, on 24 October, and we look forward to returning to Committee frequently over the coming months.

The Opposition have voiced our concerns on the adequacy of this process already, but I will state them again for the record. The number of Treasury SIs and the speed with which they are set to unfold is deeply concerning with regard to ensuring that the Government are properly held to account. As the Opposition, we commit to make every effort to do so, but this is a constitutionally unprecedented and enormously resource-intensive task

that leaves room for error, as much as we appreciate the time that the Minister, his staff and the civil service have taken to brief us.

Turning to the substance of the legislation, I ask the Minister to reiterate the reassurances that his colleague Lord Bates gave when the matter was debated recently in the other place: namely, that there is no intention to change the material situation affecting building societies, other than bringing references to EU member states onshore. In addition, could he further reassure me that these regulations will not apply in the event that a deal on financial services is struck with the EU?

May I also query what engagement has taken place with the building society sector about these arrangements? In the other place, my colleague Lord Tunnicliffe interrogated the Government on the status of mortgage contracts on EEA properties for UK owners after Brexit—I think he gave the example of a British citizen owning a property in Spain using a mortgage that has been provided from a building society. Lord Bates conceded in response:

“The SI will act to prevent building societies diversifying too far into EEA-based mortgage lending in future”.—[*Official Report, House of Lords, 17 October 2018; Vol. 793, c. GC19.*]

It may be the case that historically EEA lending for building societies has been limited. That is not something that I am personally aware of, and certainly most UK building societies that I am familiar with are focused predominantly on the UK market. However, if the Minister could just provide a little insight into what exactly Lord Bates was referring to in his response, that would be welcome.

That is all I wish to raise today, other than to thank the Minister and to say that our building society sector is trusted by millions of Britons and, of course, it is vital that its integrity is protected in the event of a no-deal Brexit.

6.7 pm

John Glen: I am keen to try to address the points raised by the hon. Gentleman. First, I reiterate that the Government believe that the draft regulations are necessary

to ensure that the legislation governing building societies functions appropriately if the UK leaves the EU without a deal or an implementation period. There is no intention whatsoever to make any policy change with respect to the governance and law surrounding building societies.

I note the hon. Gentleman’s reference to the issue raised by Lord Tunnicliffe in the other place and the comment on restricting the ability of building societies to lend on properties in the EEA post-exit. I think that issue was also raised in the impact assessment, which led to the question being asked in the Lords.

The change to the definition of loans secured on land means that building societies will be restricted from diversifying too far into EEA lending. This is a function of the lending limit that will apply, which requires building societies to secure at least 75% of their assets on residential property. Clearly, if they were continuing to lend in the EEA, that would not contribute to that 75%, which would really practically impact them, and therefore they would probably find it an undesirable lending decision to make. Also, as I said in my opening remarks, no building societies are currently proactively offering products for properties in the EEA.

As for the consultation, in line with the general approach to onshoring, the building society sector was not consulted on this SI. However, officials consulted extensively with the PRA, which has in-depth knowledge of each individual building society within the sector, when drafting the SI. Furthermore, the SI was shared with the Building Societies Association on its publication over the summer, and the BSA had no comments on it.

In conclusion, this SI does nothing to affect existing building society contracts. On exit day, all contracts between a building society and its customers, such as mortgage contracts, will remain unchanged. I hope that gives the hon. Gentleman the reassurance he seeks and answers the points he has raised. I commend the regulations to the Committee.

Question put and agreed to.

6.10 pm

Committee rose.

