

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT MERCHANT SHIPPING (RECOGNISED
ORGANISATIONS) (AMENDMENT) (EU EXIT)
REGULATIONS 2019

Wednesday 12 December 2018

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The Committee consisted of the following Members:

Chair: SIR CHRISTOPHER CHOPE

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| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Goodwill, Mr Robert (<i>Scarborough and Whitby</i>) (Con) |
| Berger, Luciana (<i>Liverpool, Wavertree</i>) (Lab/Co-op) | † Hair, Kirstene (<i>Angus</i>) (Con) |
| † Cowan, Ronnie (<i>Inverclyde</i>) (SNP) | † Huq, Dr Rupa (<i>Ealing Central and Acton</i>) (Lab) |
| Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab) | † Swayne, Sir Desmond (<i>New Forest West</i>) (Con) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Thomson, Ross (<i>Aberdeen South</i>) (Con) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Farrelly, Paul (<i>Newcastle-under-Lyme</i>) (Lab) | |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | |
| † Garnier, Mark (<i>Wyre Forest</i>) (Con) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † George, Ruth (<i>High Peak</i>) (Lab) | |
| † Ghani, Ms Nusrat (<i>Parliamentary Under-Secretary of State for Transport</i>) | † attended the Committee |

Fourth Delegated Legislation Committee

Wednesday 12 December 2018

[MR CHRISTOPHER CHOPE *in the Chair*]

Draft Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019

8.55 am

The Parliamentary Under-Secretary of State for Transport (Ms Nusrat Ghani): I beg to move,

That the Committee has considered the draft Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Sir Christopher. Recognised organisations play an important part in ensuring that ships are built and maintained so that they can operate in compliance with national and international standards on safety and the prevention of marine pollution. ROs are organisations with experience and expertise in the surveying, inspection and certification of ships. They carry out those functions on behalf of maritime nations such as the United Kingdom.

Globally, the International Maritime Organisation develops rules on ROs. The IMO introduced the recognised organisations code, which updated and consolidated existing requirements, and entered into force in 2015. The code contains criteria against which ROs are approved, authorised and assessed, and gives guidance on how flag states should monitor ROs. As in many other areas, the European Union has adopted legislation to harmonise the way in which member states implement IMO requirements. EU regulation 391/2009 and related legislation established a system for approving ROs, criteria for assessing RO performance based on IMO criteria, monitoring measures, and remedial measures if ROs are underperforming, including fees, penalties and, finally, the removal of RO status.

The regulations before the Committee are made under the European Union (Withdrawal) Act 2018. The Department expects to lay approximately 65 EU exit statutory instruments. The Act retains EU legislation that is directly applicable in UK law, such as that on ROs.

Michael Fabricant (Lichfield) (Con): Does my hon. Friend—*[Interruption]*—yes, and possible future Prime Minister, as my hon. Friend the Member for Wyre Forest says—believe that these regulations are a good example of contingency planning in the event of no deal, but also the planning that has to go ahead following our withdrawal from the EU?

Ms Ghani: Absolutely. My hon. Friend hits the nail on the head. The Department for Transport has always been, and continues to be, thorough in preparing legislation for all scenarios, including no deal.

Michael Fabricant: Bravo.

Ms Ghani: I thank my hon. Friend.

The regulations make provision under section 8 of the 2018 Act to correct deficiencies in such EU legislation as arise from the UK leaving the European Union. We need to amend retained EU legislation on ROs for the legislation to function correctly in future. The regulations will therefore amend EU regulation 391/2009 and subsidiary EU legislation, which comprises Commission regulation 788/2014 on rules for fines, penalty payments and the withdrawal of recognition, and Commission decision 2009/491 on criteria for member states to use when judging whether an RO's performance is unacceptable. The regulations also revoke Commission implementing regulation 1355/2014.

Under EU legislation, member states may delegate the inspection and survey of ships to EU authorised ship inspection and survey organisations, or EU ROs. At present, there are 12 EU ROs, six of which have been authorised to act on behalf of the UK. The regulations will make the necessary changes to adapt an EU system for ROs to one that can function as a UK system after exit. It is the Maritime and Coastguard Agency's intention that the six EU ROs that are currently authorised on behalf of the UK would continue to remain authorised and recognised as UK ROs following our exit from the EU.

To enable the legislation to continue to work as part of UK law, the regulations will change references to "the member state" and "the Commission" to "the Secretary of State" or "the United Kingdom" where appropriate. Changes to definitions and other wording in the legislation have been made to reflect the UK's position outside the EU, and redundant reporting requirements have been removed.

Certain powers have been transferred from the European Commission to the Secretary of State for Transport. That will enable us to keep up to date with changes to the IMO rules that apply to ROs in relation to standards and the criteria for assessing RO performance. Those criteria are used to measure the effectiveness of the rules, procedures and performance of recognised organisations in relation to safety and the environment.

The regulations will also enable the Secretary of State to make rules in relation to the imposition of fines and penalties and the withdrawal of recognition; the establishment of criteria for assessing ROs' performance and the effectiveness of their rules; the amendment of the criteria that ROs must follow and the interpretation of those criteria; and the amendment of the criteria for use of port state control inspection data for assessing unacceptable levels of performance by ROs. Other changes include transferring powers to review fines and penalties from the European Court to the UK courts by way of a statutory appeals procedure.

The regulations will be accompanied by merchant shipping notice 1672, which provides information to the industry on the standards that ROs apply and on requirements for recognising, authorising and assessing ROs. I should also mention directive 2009/15, which governs the relationship between states and ROs and includes the authorisation of ROs. That directive was implemented administratively through formal agreements between the Maritime and Coastguard Agency and each RO. The directive will not be saved in UK law after exit, but the MCA will put in place new agreements with each RO when the regulations come into force.

Those arrangements will be very similar to the previous agreements between the MCA and the ROs but will reflect the changes made in these regulations.

The regulations make necessary changes to ensure that the existing regulatory framework for recognition, authorisation and monitoring of recognised organisations is retained and operates effectively. They will ensure that the law on recognising, authorising and monitoring ROs continues to function after the UK's withdrawal from the European Union, enabling the UK to continue to comply with its international obligations as established by the International Maritime Organisation. The regulations are fully supported by the Government and I commend them to the Committee.

9.2 am

Karl Turner (Kingston upon Hull East) (Lab): It is a pleasure to see you in the Chair, Sir Christopher. I will be brief.

As the Minister outlined, the regulations bring a series of EU Commission decisions and regulations on merchant shipping marine pollution into UK law under the Government's European Union (Withdrawal) Act 2018. They aim to ensure that international criteria for the performance of private sector companies—so-called recognised organisations—contracted to survey regulatory compliance in merchant shipping continue to apply after Brexit.

The areas of compliance are the five key UN conventions underpinning international maritime regulation. Those various regulations and decisions were implemented to tackle marine pollution. Studies show that ships contribute between 2% and 3% of the world's greenhouse gas emissions. Roughly 14 million annual cases of childhood asthma are estimated to be related to global ship pollution using current fuels. I am sure the whole Committee agrees that that is shocking. We welcome steps to deal with that problem.

Mr Robert Goodwill (Scarborough and Whitby) (Con): Is the hon. Gentleman aware that under IMO rules there are annex VI areas, including many of the affected coastal areas in our country, where heavy marine fuels cannot be used and ships have to switch to diesel? The problem has been mitigated by the IMO in many sea areas, including the English channel and the Baltic sea.

Karl Turner: I am grateful to the right hon. Gentleman for his intervention. I accept that there are some mitigations, but the research clearly shows that this is still a real problem.

The Opposition are supportive of this instrument and do not intend to divide the Committee, but I would like to put on the record and raise some points with the Minister. As ever, I certainly do not expect a detailed answer now, given the constraints of the Committee. I would, however, be grateful if she responded in writing in due course.

First, will the Minister clarify the post-Brexit arrangements with the European Maritime Safety Agency for access to its inspection database ahead of the new

IMO restrictions on the sulphur content of shipping fuels coming into force on 1 January 2020? Although we of course welcome action aimed at reducing sulphur emissions from shipping for environmental and health reasons, there are significant challenges for short sea shipping and ferry operators. What recent discussions has the Minister held with UK ferry operators and shipping companies on meeting those restrictions?

Secondly, I would be grateful if the Minister clarified how the international convention on standards of training, certification and watchkeeping for seafarers and the maritime labour convention are included in the responsibilities for the ROs authorised by the Maritime and Coastguard Agency to carry out inspection and survey work on its behalf. Also, how does all that tie in with the Government's 25-year environment plan? I have a note with those questions that I am happy to hand to the Minister and her civil servants and I would be very grateful if they responded to these points in due course.

9.6 am

Ms Ghani: I am grateful to the hon. Gentleman for his contribution to this morning's debate, and to the Opposition for their support. This debate has shown that the Committee appreciates the important part that ROs play in ensuring maritime safety and environmental protection.

The regulations will ensure continuity for ROs and the shipping companies that rely on their services. It is not our intention to make changes to how ROs operate, or to the relationship between the MCA and ROs. The regulations only adapt a system for ROs designed on behalf of the EU member states into a UK system. The MCA has already taken steps to promote continuity in discussions with the ROs.

The regulations are essential to ensure that legislation on ROs, which are a crucial part of the regulatory framework for shipping, continues to work effectively in the UK from day one after our EU exit. I am grateful that the hon. Gentleman will allow me to respond in writing to some of the issues that he raised. However, I remind him that we are part of the high ambition coalition driving the IMO's standards not only on greenhouse gas emissions but on other emissions into our waters.

I am in the middle of preparing the Government's 30-year strategy, "Maritime 2050", which will look not only at the training and rights of seafarers but at environmental impacts. I am more than happy to give more detail as I take that forward. I established the clean maritime council to ensure that we not only deliver on our country's ambitions but lead the way in the world. I hope the Committee has found this morning's sitting informative and will join me in supporting the regulations.

Question put and agreed to.

9.8 am

Committee rose.

