

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Ninth Delegated Legislation Committee

DRAFT SOCIAL SECURITY (AMENDMENT)
(EU EXIT) REGULATIONS 2018

DRAFT SOCIAL SECURITY (AMENDMENT)
(NORTHERN IRELAND) (EU EXIT)
REGULATIONS 2018

Thursday 20 December 2018

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 24 December 2018

© Parliamentary Copyright House of Commons 2018

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: SIR EDWARD LEIGH

- | | |
|--|---|
| † Amesbury, Mike (<i>Weaver Vale</i>) (Lab) | † Pearce, Teresa (<i>Erith and Thamesmead</i>) (Lab) |
| † Burghart, Alex (<i>Brentwood and Ongar</i>) (Con) | † Sharma, Alok (<i>Minister for Employment</i>) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Trevelyan, Anne-Marie (<i>Berwick-upon-Tweed</i>) (Con) |
| † Ford, Vicky (<i>Chelmsford</i>) (Con) | † Villiers, Theresa (<i>Chipping Barnet</i>) (Con) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | † Whittaker, Craig (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Howell, John (<i>Henley</i>) (Con) | Williams, Dr Paul (<i>Stockton South</i>) (Lab) |
| † Jones, Graham P. (<i>Hyndburn</i>) (Lab) | Nina Foster, George James, <i>Committee Clerks</i> |
| † Knight, Julian (<i>Solihull</i>) (Con) | |
| † Lopez, Julia (<i>Hornchurch and Upminster</i>) (Con) | |
| McGovern, Alison (<i>Wirral South</i>) (Lab) | |
| O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) | † attended the Committee |

Ninth Delegated Legislation Committee

Thursday 20 December 2018

[SIR EDWARD LEIGH *in the Chair*]

Draft Social Security (Amendment) (EU Exit) Regulations 2018

11.30 am

The Minister for Employment (Alok Sharma): I beg to move,

That the Committee has considered the draft Social Security (Amendment) (EU Exit) Regulations 2018.

The Chair: With this it will be convenient to take the draft Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2018.

Alok Sharma: It is a particular pleasure to serve under your chairmanship, Sir Edward. I know all colleagues will be delighted, five days before Christmas, to be here discussing these draft regulations. They were originally laid before both Houses on 31 October. They enable the Government to make minor and technical changes to domestic legislation, to reflect that the UK will no longer be a member state of the European Union after exit day.

Before I move on to the details of the draft regulations, it may be useful if I provide some context. British domestic legislation contains various references to EU law and to the UK as a member state of the European Union, which will no longer be the case once the UK exits the European Union. It also includes a provision that allows the Secretary of State to implement reciprocal agreements.

The social security legislation that applies in Northern Ireland broadly mirrors that in Great Britain. We are making regulations that make analogous amendments to the corresponding Northern Ireland legislation. The Department for Communities in Northern Ireland has agreed the text of the draft regulations. The text follows the recommended approach of the EU exit statutory instruments policy handbook to make separate Northern Ireland statutory instruments that create a separate “transferable” body of Northern Ireland legislation made at Westminster in the absence of a functioning Northern Ireland Assembly.

Theresa Villiers (Chipping Barnet) (Con): I would be interested to hear the Minister expand on the constitutional position. Obviously, the Government have been very clear that they are not moving to direct rule, but we are proposing to legislate on social security matters for Northern Ireland, which is normally a devolved matter. Could he explain exactly how this fits into the overall picture of the current status of the Stormont institutions and the efforts to restore devolution?

Alok Sharma: My right hon. Friend raises an important point, and she is right: the UK Government remain committed to restoring devolution in Northern Ireland. That is particularly important in the context of EU exit, where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. Those actions include ensuring that the necessary legislative

corrections are made to ensure that the Northern Ireland statute book is ready for exit from day one, consistent with the action being taken at Westminster and the other devolved legislatures. That is why what is being done today is part of helping to keep a separate body of Northern Ireland law intact for when a functioning Executive and Assembly return.

The draft regulations are made using powers in the European Union (Withdrawal) Act 2018 to fix legal inoperabilities and other deficiencies in retained EU law that will arise on exit. That will ensure that the converted law continues to operate effectively after the UK’s exit and to allow consequential changes to be made. The approach to the amendments is in line with the policy and legal intent of the EU (Withdrawal) Act.

Broadly speaking, we are using these draft regulations to make two types of changes. First, where the UK is referred to as a member state of the EU, an amendment will be made to reflect the UK’s new status as a state independent of the EU. Secondly, we extend the scope of section 179 of the Social Security Administration Act 1992, to allow us to implement a social security agreement with a supranational organisation such as the EU. The ability to implement an international agreement with a supranational organisation such as the EU was not necessary as an EU member state. It is necessary that we make those consequential changes to our legislation, to reflect the UK’s position as independent of the EU and to allow us to implement fully any agreement in domestic law. The Northern Ireland regulations mirror the amendments, for Northern Ireland legislation.

11.35 am

Mike Amesbury (Weaver Vale) (Lab): It is of course a pleasure to serve under your chairmanship, Sir Edward. I am happy to confirm that we shall not be opposing the regulations—and I wish everyone a merry Christmas and happy new year. However, we seek assurances on the detail.

I thank my colleagues in the other place for their scrutiny of the regulations. As they and the Minister have noted, they enable the Government to make minor and technical changes to domestic legislation to reflect the fact that the UK will no longer be an EU member state after exit day. I do not want to speculate at this stage about the likelihood of such an outcome, or the manner of arriving at it, but it is reasonable that the Government prepare as is necessary and appropriate. As shadow Employment Minister, however, I cannot help but reflect that, while we need to undertake the specific task before us today, the social security system needs far more than minor or technical changes. It is a shame that we are spending the last sitting day before Christmas discussing the odd word here and there, rather than delivering a wholesale stop, reform and fix of universal credit and the flawed managed migration approach and timetable.

As my colleague Lord McKenzie has noted, “these instruments fall into two groups. They amend various provisions in UK domestic legislation that contain references to the UK as a member state of the EU, or of the EEA. Further, they amend Section 179 of the Social Security Administration Act 1992 and its Northern Ireland equivalent to enable social security-related reciprocal agreements to be entered into with international organisations.”—[*Official Report, House of Lords*, 4 December 2018; Vol. 794, c. 954.]

In that regard, Lord McKenzie noted that the explanatory memorandum “instances the EU”, but asked whether the Minister could state what other international organisations might be “in contemplation”. Baroness Buscombe responded that she would write with more detail. Has that response been sent, or can the Minister provide a brief update? In a similar vein, Baroness Buscombe also promised to write in relation to any existing reciprocal arrangements with the EU, and we would welcome an update from the Minister about that.

There are also concerns about how the regulations apply to Northern Ireland, as other hon. Members have noted. The explanatory memorandum claims that the legislation will be progressed

“in close consultation with the Northern Ireland departments.”

We must remember that the voters of Northern Ireland are represented by politicians of different parties and traditions. In the absence of a functioning Executive, we are keen to hear further about what processes have been undertaken to ensure full, broad consultation.

The explanatory memorandum also confirms that the Minister states that, given that the Equality Act 2010 does not extend to Northern Ireland, he has given

“due regard to the need to eliminate discrimination, harassment and victimisation”.

Again, while we do not seek to contest that, we would welcome some detail on why he is comfortable in stating that it does so, to assure us that the decision has been arrived at in a reasonable manner.

As has been mentioned, the regulations make minor, technical amendments and we do not intend to oppose them. However, they are further evidence, if more were needed, of the technical complexity of Brexit. I am sure that there will be many more such Committees in the near future and we would welcome clarification from the Minister as to what plans and engagement are in place, through the Department for Work and Pensions, to ensure that services continue appropriately and that people are made aware of any changes to their entitlements in the case of no deal.

I finish as I began, by reflecting that the social security system that we are discussing deserves parliamentary attention and change beyond what is on the agenda today. We will support these regulations in so far as they are necessary to ensure an appropriate exit from the EU when that time comes, but we do so believing that we should be having a different debate on a more wide-ranging and substantive piece of legislation—to stop, fund and fix universal credit and our broken social security system. We hope that the new year brings that opportunity.

11.40 am

Alok Sharma: I thank my right hon. Friend the Member for Chipping Barnet for her very important intervention with regard to Northern Ireland and I hope that I gave her some assurances with regard to that.

The shadow Minister has of course raised a number of issues. First, I am delighted that he is not seeking to oppose these regulations and I am also pleased that he acknowledged that it is reasonable for Government to prepare; that is precisely what we are doing.

The shadow Minister talked about the wider changes to social security. Obviously, we are not debating those

today and given that we are five days away from Christmas, I have no wish to introduce rancour into this debate. I will only say to him that, in the spirit of good will, I hope that in the new year, when we make further changes that are positive for recipients of welfare, he and his colleagues will support us in the House.

The shadow Minister raised a number of important issues with regard to section 179 and he referred to Baroness Buscombe’s interaction with Lord McKenzie of Luton in the other place. A letter has been prepared; in fact, I have a draft of it in front of me here. I will ensure that when it is sent, if the shadow Minister would like me to, I will send a copy to him as well.

On the substantive point that the shadow Minister made, I will just make it clear that the amendment to section 179 to include international organisations relates to the European Union, as it is currently the only supranational institution authorised by the Governments of its member states to conclude international agreements on their behalf. No other international organisations are being contemplated for inclusion at this stage.

The shadow Minister asked what happens in a no-deal scenario. Again, that is not part of the remit of this particular Committee, but I will just say to him that the Government published our immigration White Paper yesterday and I understand that today we will be laying the draft Social Security Coordination (EU Withdrawal) Bill in the House. That Bill is primarily about provision that will allow amendments to be made subsequent to any changes that are agreed. Again, I point him to the White Paper, which says that,

“the Government is proposing that in the future persons subject to immigration control will not routinely be able to access the benefits system. This means that EU citizens moving to the UK after the immigration system has changed should make significant contributions to the UK economy before they are able to access certain benefits. Full access to our benefits system will only be available after settled status is granted under the immigration rules, usually after five years.”

I highly recommend that he spends Christmas reviewing that document, as indeed will I.

In conclusion, the Government are committed to ensuring that the social security system works for everyone post-exit date and these regulations will help to do that by making minor and technical changes to existing Department for Work and Pensions legislation and corresponding Northern Ireland domestic legislation. I commend these regulations to the House.

May I also take this opportunity, Sir Edward, to wish you and all colleagues here a very merry and happy Christmas?

Question put and agreed to.

DRAFT SOCIAL SECURITY (AMENDMENT) (NORTHERN IRELAND) (EU EXIT) REGULATIONS 2018

Resolved,

That the Committee has considered the draft Social Security (Amendment) (Northern Ireland) (EU Exit) Regulations 2018.—(*Alok Sharma.*)

The Chair: There you are, you see: the Christmas spirit; a meaningful vote on the EU; and the debate is over within 15 minutes. Happy Christmas.

11.44 am

Committee rose.

