

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Tenth Delegated Legislation Committee

DRAFT DRIVERS' HOURS AND TACHOGRAPHS
(AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

Tuesday 5 February 2019

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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| † Allan, Lucy (<i>Telford</i>) (Con) | † Knight, Sir Greg (<i>East Yorkshire</i>) (Con) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † Mackinlay, Craig (<i>South Thanet</i>) (Con) |
| † Chishti, Rehman (<i>Gillingham and Rainham</i>) (Con) | † Norman, Jesse (<i>Minister of State, Department for Transport</i>) |
| † Clarke, Mr Simon (<i>Middlesbrough South and East Cleveland</i>) (Con) | Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Slaughter, Andy (<i>Hammersmith</i>) (Lab) |
| † Fletcher, Colleen (<i>Coventry North East</i>) (Lab) | † Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op) |
| † George, Ruth (<i>High Peak</i>) (Lab) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Heapey, James (<i>Wells</i>) (Con) | |
| † Henderson, Gordon (<i>Sittingbourne and Sheppey</i>) (Con) | Bradley Albrow, <i>Committee Clerk</i> |
| Kinnock, Stephen (<i>Aberavon</i>) (Lab) | † attended the Committee |

Tenth Delegated Legislation Committee

Tuesday 5 February 2019

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019

2.30 pm

The Minister of State, Department for Transport (Jesse Norman): I beg to move,

That the Committee has considered the draft Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Robertson. Following the UK's decision to leave the European Union after the referendum, the Government have been working hard to develop a positive future relationship with the EU, which has involved a significant amount of work by the Department for Transport to prepare for a range of possible outcomes in the Government's negotiations.

The European Union (Withdrawal) Act 2018 will retain directly applicable EU legislation in UK law on exit day, in order to provide continuity and certainty to industry and consumers without prejudice to the outcome of the negotiations. Some elements of the retained EU legislation are required to ensure that other legislation continues to function effectively once the UK has left the EU. The amendments in the draft regulations are technical and limited to what is needed for legislation to continue to function. As the Department responsible for commercial road transport, we have conducted intensive work to ensure that there continues to be a functioning legislative transport framework for this important sector in all dimensions of the economy.

For the benefit of Members who may not be aware, I will make a few remarks about the drivers' hours rules contained in the directly applicable EU regulation—Regulation No. 561/2006—which are central to keeping our roads safe. They set maximum driving times and minimum break and rest times for most commercial drivers of both lorries and coaches. For example, the rules mean that after four and a half hours of driving, a driver must take a 45-minute break, with daily driving time normally limited to nine hours. The consequences of driving any vehicle while fatigued can of course be catastrophic, and the risks are particularly severe if heavy commercial vehicles are involved. These rules are enforced by the Driver and Vehicle Standards Agency and by the police, via targeted roadside checks and visits to operators' premises.

The principal tool used by enforcement officers is the record generated by the tachograph, which is a device installed in relevant vehicles that records the driving, rest and break times of the vehicles and their drivers. The directly applicable EU regulation—Regulation No. 165/2014—mandates the use of tachographs by relevant

drivers. The draft regulations make the changes needed to ensure that this framework will continue to function correctly after exit day.

The draft regulations make amendments in three broad categories. First, they make changes to domestic law, under the European Communities Act 1972, to update the legal provisions that implement EU law ahead of exit day, so that the regime is fully effective and enforceable. In addition to the directly applicable rules I have already mentioned, EU law includes the obligation on member states to apply the wider United Nations AETR agreement on drivers' hours rules. With the UK outside the EU, that wider international agreement will in the future cover transport operations between the UK and the EU.

The majority of the changes under this heading are to ensure that there are explicit domestic provisions, including for offences and penalties, to fully implement the AETR. I emphasise that the AETR driving time and tachograph rules mirror the equivalent EU regulations, so this legal change does not affect the regulatory obligations on drivers and operators within the scope of the rules. Although the need for the amendments is especially relevant in the context of our EU exit, they are in any event legally required under the UK's international obligations.

Secondly, the draft regulations make changes to the retained EU regulations, using the powers conferred by the EU withdrawal Act. With the UK outside the EU, the retained EU regulations will cover the majority of domestic transport operations. Changes are required to make the two retained EU regulations suitable for a UK context, and to ensure that they continue to function properly after exit. For example, EU processes, such as the need for the UK to seek authorisation from the European Commission for exemptions from the rules, have been removed. Certain functions will also be transferred to the Secretary of State, such as the Commission's power to specify the technical requirements of the tachograph, which will become a domestic regulation-making power using the affirmative procedure.¹

Changes are also being made in order to retain the status quo in how the UK recognises incoming drivers or equipment from EU countries. For example, a tachograph that has been type approved by an EU country's authority remains valid for use in the UK, provided that other rules are complied with, which will help to avoid disruption to the current practices of the haulage and passenger transport industries. The policy area of drivers' hours is devolved with respect to Northern Ireland. Although this statutory instrument, for the sake of efficiency, amends the retained EU regulation on a UK-wide basis, that does not affect the devolved nature of the policy.

Thirdly, the regulations amend domestic legal provisions, using the powers of the EU withdrawal Act. Under the current EU regulations, member states themselves put in place effective and proportionate enforcement provisions. In Great Britain that has been done by means of criminal offences set out in primary legislation and a fixed penalty regime in secondary legislation. Important amendments need to be made to those domestic enforcement provisions to make them work in a non-EU context, which is necessary to ensure that the rules continue to be clear and fully enforceable after exit.

1. [Official Report, 19 February 2019, Vol. 654, c. 14MC.]

The Northern Irish devolved Administration are preparing equivalent amendments to Northern Irish law, which will be the subject of a separate statutory instrument. The amendments made under the EU withdrawal Act will come into force on exit day. Should a negotiated exit with an implementation period be agreed, the provisions made under the Act will be deferred until the end of the implementation period, and amended or revoked as necessary.

In summary, the regulations presented here are essential to ensuring that the EU regulations on drivers' hours, and on the tachographs that are used to enforce them, continue to work effectively in the UK from exit day. They are at the heart of the road safety regime for commercial vehicles, and I am sure that hon. Members across the Committee will share my desire to avoid any disruption to their proper functioning. I should like to be clear that these necessary legal amendments do not modify the substantive regulatory obligations placed on drivers and operators who are subject to the rules. On the contrary, they will help to provide clarity and certainty for the industry about the continuity of the policy framework through the EU exit process. For that reason, I hope that hon. Members will join me in supporting these regulations, which I commend to the Committee.

2.36 pm

Karl Turner (Kingston upon Hull East) (Lab): It is a pleasure to see you in the Chair, Mr Robertson, and a privilege to serve under your chairmanship. As the Minister has just mentioned, these regulations are part of the many aspects of EU law that will fall into UK law under the Government's European Union (Withdrawal) Act. The instrument ensures that the existing regulatory regime for drivers' hours and tachographs remains effective from exit day. Without this instrument, some of the existing legislation, which was drafted in the context of EU membership, would lack clarity or fail to operate effectively after we leave the European Union. This instrument is clearly needed, and I know the industry is supportive of it, so we, the Opposition, are supportive of it as well.

However, although it is supportive, the industry has real concerns about the prospect of the UK leaving the European Union without a deal, and tells me that that would be devastating for the haulage and freight industry, even with yesterday's announcement that customs checks are to be simplified in the event of no deal. The head of the Road Haulage Association warned:

"Business is simply not ready for a chaotic no-deal Brexit... The systems aren't in place, the staff are not trained, there isn't the time in the day for hauliers and businesses to do all the paperwork".

I wonder whether the Minister agrees with that assessment.

Can the Minister also tell us what discussions he has had with the haulage and freight industry on the impact of a no-deal situation? Does he agree that the Government could remove all this unnecessary uncertainty for the industry, and for business generally, by simply ruling out the prospect of a no-deal situation? It is utterly irresponsible of the Government to continue this pretence, and it is about time that Ministers took responsibility and said to business, "It's not going to happen; we're not that irresponsible; and we're not going to do that to the economy of this country."

2.39 pm

Alan Brown (Kilmarnock and Loudoun) (SNP): It is a pleasure to serve under your chairmanship, Mr Robertson. I will not say too much, but I certainly echo the words of the shadow Minister. I am not going to oppose the regulations, because they are needed, but this hardly seems like taking back control when all we are doing is copying regulations over from EU law into UK law. There are many more important things that the Government should be getting on with, such as ruling out no deal, as the shadow Minister said, or looking at extending article 50, which is now a priority as Brexit day approaches and possible carnage ensues.

Where are the Government on proper no-deal preparations, such as simplified customs checks? What would they mean for the ports, for businesses or for tailbacks at Dover? What would they mean for Seaborne Freight? Where are the Government on the emergency planning that will suddenly put ferries in place to take the heat off Dover, and what other contingencies do they have in place?

What measures do the Government have in place for addressing the shortage of heavy goods vehicle drivers, which is already critical, even without the implications of the UK crashing out without a deal? How many other instruments from the Department are required to come before Parliament? In particular, how many are scheduled for the week that was going to be the February recess before we realised that we will be inundated with legislation? Hopefully the Minister can address some of those points.

2.41 pm

Jesse Norman: I thank both hon. Gentlemen for their support for this important piece of secondary legislation. I will address the points that they have raised.

The hon. Member for Kingston upon Hull East asked whether I concur with his view that a no-deal scenario would be devastating for the haulage industry. We should be in no doubt that the Government do not minimise the disruption that would be caused by a no-deal scenario—that is perfectly clear. That is why we are pressing for a withdrawal agreement and why I encourage hon. Members of all parties to support the Government on that.

Alan Brown: Supposing Parliament supports the withdrawal agreement—it is a long shot—what would that mean for the transition period? All it does is kick things into that transition period. What is the timeframe for getting a free trade deal and agreeing a customs arrangement to go with it? What is the timeframe for developing the technology that is needed to prevent a hard border between Ireland and Northern Ireland?

The Chair: Order. The Minister did refer to no deal, but the debate is not about a deal or no deal as such; it is about drivers' hours. We need to narrow the scope a bit.

Jesse Norman: I apologise, Chair, for my natural courtesy, which led me astray in accommodating the hon. Gentleman. Of course, it is important to be aware of the rationale for the regulations, which is to be prepared for every eventuality. If there is an agreement,

[Jesse Norman]

as we think there will be, they will need to be amended or revoked, as necessary. The point is that we are seeking a deal and we expect to get one.

In answer to the hon. Member for Kingston upon Hull East, we have put in place plenty of contingency arrangements. As he knows, we have bilateral agreements and European Conference of Ministers of Transport permits in place. We also have what is already proving to be a highly pragmatic response from the different countries involved in responding to the situation. That is important, because it will help to mitigate any effects of this unusual and unexpected scenario.

The hon. Gentleman asked whether businesses are ready. I think that many haulage businesses have got the message and are preparing contingency arrangements. They do not necessarily think it will happen, but they think it is important to be prepared. We have worked closely with the Freight Transport Association and the Road Haulage Association, which are the industry bodies responsible.

The hon. Gentleman asked what discussions we have had, and the answer is that we have had extensive discussions, not just at ministerial and official level with the companies themselves, but with particular bottlenecks in the south-east, where we run an entirely separate process designed to ensure proper freight and traffic

flows in the event of some disruption at the border. Of course, that disruption at the border could conceivably occur as a result of a no-deal Brexit, but it could also occur for other reasons—for example, we had it in 2015 outside the context of any EU negotiations.

The hon. Member for Kilmarnock and Loudoun asked whether this was really taking back control. I will not go into that issue. He is right that we are taking over regulations, suitably amended, because those regulations had been outsourced to the EU over many years. To the extent that we are now reinstating them in our statute book, we are taking back control.

I have touched on our preparations, but the hon. Member for Kilmarnock and Loudoun also raised the important issue of the driver shortage, which we recognise. We have been working closely with the industry on its “Road to Logistics” package. It has taken some time to get that to a place where it is something that the Government can look closely at, but I am pleased to say that it is now of great interest. I recommend it to my colleagues and encourage them to work closely with the industry to try to crack the issue. Having said that, I invite the Committee to support the regulations.

Question put and agreed to.

2.46 pm

Committee rose.