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OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT MERCHANT SHIPPING (MARINE
EQUIPMENT) (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

Tuesday 19 February 2019

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The Committee consisted of the following Members:

Chair: Ms KAREN BUCK

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| † Day, Martyn (<i>Linlithgow and East Falkirk</i>) (SNP) | McFadden, Mr Pat (<i>Wolverhampton South East</i>) (Lab) |
| † Debonnaire, Thangam (<i>Bristol West</i>) (Lab) | † Mann, Scott (<i>North Cornwall</i>) (Con) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Paterson, Mr Owen (<i>North Shropshire</i>) (Con) |
| † Ghani, Ms Nusrat (<i>Parliamentary Under-Secretary of State for Transport</i>) | † Perkins, Toby (<i>Chesterfield</i>) (Lab) |
| † Harper, Mr Mark (<i>Forest of Dean</i>) (Con) | † Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| † Heapey, James (<i>Wells</i>) (Con) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † Hoare, Simon (<i>North Dorset</i>) (Con) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Jack, Mr Alistair (<i>Dumfries and Galloway</i>) (Con) | Kenneth Fox, <i>Committee Clerk</i> |
| † Lammy, Mr David (<i>Tottenham</i>) (Lab) | † attended the Committee |
| Lucas, Ian C. (<i>Wrexham</i>) (Lab) | |

Seventh Delegated Legislation Committee

Tuesday 19 February 2019

[Ms KAREN BUCK *in the Chair*]

Draft Merchant Shipping (Marine Equipment) (Amendment etc.) (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 (Marine Equipment) (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Ms Buck, on this glorious February morning. Made under section 8 of the European Union (Withdrawal) Act 2018, the regulations correct deficiencies in the Merchant Shipping (Marine Equipment) Regulations 2016 and related legislation that arise from the UK's withdrawal from the EU. "Marine equipment" is the collective term used to describe a ship's safety and pollution prevention equipment. Examples include lifejackets, fire extinguishers and navigation lights. Marine equipment is regulated globally by the International Maritime Organisation under three international conventions.

Mr Barry Sheerman (Huddersfield) (Lab/Co-op): I have served on many of these Committees—I will be on more, I would have thought, after yesterday's events—and the fact is that we come in and every Minister stands up and gabbles right through as though the measure is not important. The rate of knots at which this Minister is speaking means that I cannot follow. Could she slow down and articulate better, so that we can all hear? I am not blaming the Minister; it is the procedure that has been adopted—gabbling through. Please do not gabble.

The Chair: Order. The point has been made, Mr Sheerman; thank you.

Ms Ghani: I apologise for my speed of speech; I would probably put that down to my passion for the subject. If the hon. Member for Huddersfield would like me to slow down and extend the sitting, I will do so. I hope that I can now be heard by the hon. Gentleman—I can project my voice more if he so wishes—and even by my own colleagues, if they are not yet awake.

The three international conventions require flag state administrations to ensure that marine equipment complies with safety requirements as regards design, construction and performance standards. The UK's flag state administration for these purposes is the Maritime and Coastguard Agency. Historically, each EU maritime administration had its own systems for approving marine equipment, so the EU adopted legislation to harmonise the way in which EU member states implement International Maritime Organisation marine equipment

requirements. That legislation allows member states to designate conformity assessment bodies to issue an EU-wide approval for marine equipment.

The MCA, on behalf of the Secretary of State, has designated 10 conformity assessment bodies for the EU. The MCA intends to convert those 10 bodies from EU notified bodies to UK approved bodies after the UK's withdrawal from the EU. That will provide continuity in approval of marine equipment in the UK and ensure that the UK continues to meet its international obligations.

Mr Sheerman: We hear many Ministers telling us whom they have consulted. I chair the Transport Safety Commission, so I know a little about this area. The last time that I served on one of these Committees, it was about air safety, and I discovered that the Minister had met not one leader of note of an airline—a chairman or chief executive—and nor, he thought, had the Member of the House of Lords whom he said led on that territory. How many people in the industry—chairs and chief executives, even the ones who do not have any ships—has this Minister met?

Ms Ghani: I am grateful for the hon. Gentleman's intervention, because it allows me to explain the number of organisations that I have indeed met. I chair an inter-ministerial group for maritime, which reflects not only the views of Maritime UK, the UK Chamber of Shipping and all the large maritime ports in our country but the views of shipowners. Regular meetings take place, across the country. Indeed, if the hon. Gentleman follows my Twitter feed, he will see all the meetings that I have had at ports with shipowners and with the organisations that represent these people.

Mr Sheerman: The Minister is very generous to give way again. I talk to the Yorkshire ports people, and they say that they have not met her. There will be tremendous stress on the regional ports, but they have not met her. Could we have a list of the people whom Ministers have actually met—the names and dates?

Ms Ghani: The hon. Gentleman raises an interesting point. I would like to know which port has made that point, considering that—

Mr Sheerman: I said Yorkshire ports.

Ms Ghani: I spend considerable time at Associated British Ports and all the associated bodies that represent these ports, but if there is a port that feels that it has not had the appropriate attention from the maritime Minister I will, indeed, engage on that.

Mr Sheerman: That is a fair offer.

Ms Ghani: It is a fair offer.

The MCA regularly meets the 10 bodies—another bunch of meetings is reflected here—and it has kept them informed of the proposals, which they fully support. Similarly, the MCA regularly meets manufacturers of marine equipment and has received only positive feedback on the proposed regulations.

The regulations make changes that are essential to adapting the EU approval system to one that can function effectively as a UK system after exit. The regulations will allow ships to continue to use marine equipment that has been approved under the EU system. However, they also establish a new UK approval system, making simple changes that enable that system to work, for example by changing references to “member state” and “the Commission” to references to “Secretary of State” and “the United Kingdom”. The regulations establish a UK conformity mark for the UK system, and UK ships will carry equipment that bears either the EU’s wheel mark or that new UK mark.

The regulations also include important saving and transitional provisions. First, UK conformity assessment bodies that are, immediately before exit day, designated EU notified bodies will automatically be converted to UK approved bodies on and after exit day. Secondly, any application for conformity assessment lodged with a UK body before exit day for EU approval will be treated as an application for UK approval on and after exit day, so that a manufacturer will not need to make another application for conformity approval if it is not determined before exit day. Thirdly, existing conformity assessment certificates issued by EU notified bodies before exit day will be treated on and after exit day as if they had been issued by a UK approved body.

Importantly, and to clarify, the regulations do not change the design, construction and performance standards applicable to marine equipment, the methods for conformity assessment of that equipment, the requirements to become a designated conformity assessment body for that equipment, or the mechanisms for protecting the UK market against fraudulent or unsafe equipment. The only significant difference between the UK and EU approval systems is that the EU system requires a manufacturer established outside the EU to appoint an authorised representative in the EU and the UK system does not. An authorised representative fulfils responsibilities for the manufacturer in the EU—mainly those of retaining documents. The UK has made the appointment of an authorised representative voluntary to ensure that our system matures as quickly as possible. The EU took the same voluntary approach for nearly two decades to enable its system to mature.

Mr Sheerman: I have to say that the Minister is getting up her speed again. Does she agree that if something goes wrong in shipping after Brexit—if there is a cataclysmic collision or sinking and oil pollutes half of the coastal area of Britain—it will be a terrible environmental and human tragedy? Is she telling me that there has been no risk assessment of the transition and the equipment, which is so sensitive? Or is she telling me that a risk assessment by her highly paid officials has come to the conclusion that there is no risk?

Ms Ghani: The hon. Gentleman conflates many different scenarios. The MCA already undertakes work. All we are suggesting through the statutory instrument is that it will continue to do that, but it will work with UK bodies, as working with EU bodies will no longer be appropriate once we exit the EU. The MCA and the marine accident investigation branch are of world standard in their dealings with issues that arise on our waters.

The MCA has other mechanisms through which to obtain the same documents, either directly from the manufacturer or from the relevant approved body.

Mr Sheerman: Will the Minister give way?

Ms Ghani: I will—

Mr Sheerman: Again, I am sorry, but the Minister is talking about the MCA—

The Chair: Order. It is up to the Minister whether she decides to give way.

Ms Ghani: I will continue to conclude. Along with merchant shipping notice 1874, the regulations are supported by two user-friendly marine guidance notes on marine equipment market surveillance and procedures for designating UK approved bodies, and a plain English marine information note for industry stakeholders.

9.5 am

Karl Turner (Kingston upon Hull East) (Lab): It is an absolute pleasure to see you in the Chair, Ms Buck, and a privilege no doubt to serve under your chairmanship. I do not intend to detain the Committee long. As the Minister has already set out, the instrument seeks to maintain and update existing regulations covering the application of the international standards for marine equipment produced and certified in the UK and the EU used on UK and EU-registered ships after Brexit. The marine equipment covered includes life-saving appliances, crew accommodation and equipment for navigation, fire protection and marine pollution prevention.

Merchant shipping notice 1874 lists the bodies certified by the Maritime and Coastguard Agency to issue approval of marine equipment.

Mr Sheerman: I intervene on my hon. Friend because I could not get in to ask the Minister about the safety of vessels and whether there was a real problem with the danger of marine pollution. My hon. Friend knows well the port of Kingston upon Hull and the Yorkshire ports. I am getting feedback from them. They are extremely concerned about a major problem with this transfer. We have to remember that some of the worst disasters at sea were not predicted. They could very well happen in the turmoil post Brexit.

Karl Turner: My hon. Friend is right to raise safety issues, but I have to be honest. I am, indeed, the Member for Kingston upon Hull East, but it is not true to say that the port has approached me to raise safety issues with me. My hon. Friend has a great deal of knowledge in this area, and he is right to raise concerns about what happens once we leave the EU, but the reality is that the regulations continue to ensure safety standards in the UK when we leave the EU. I do not like the fact that we are leaving the EU; I have made my position on that matter very clear. But the truth is that we are leaving, and we need to ensure that safety regulations that already exist apply in domestic law once we have left.

MSN 1874 was reissued in June 2018. I note that paragraph 6.3 of the explanatory memorandum refers to a draft MSN 1874, but this does not appear to be available. The international market in marine equipment,

[Karl Turner]

especially for marine pollution prevention is likely to grow significantly in the coming years and will be accompanied by further regulations at IMO level.

Mr Sheerman: Does my hon. Friend agree that it is our job as the Opposition to make sure that we tell the British public the real danger of a major incident in the turmoil post Brexit, which could pollute the seas right round this wonderful island of ours? Is that not the case? The Government have not done a risk assessment, or published a risk assessment, and they should reassure the British public that the possibility of disasters has been assessed and they are okay.

Karl Turner: I am assured in various Committees on which I have served that various standards have been tested and safety provisions are in place. We can only rely on what Ministers tell us, but I have been assured on a number of occasions that those factors have definitely been considered.

Scott Mann (North Cornwall) (Con): Is the hon. Gentleman aware that under the EU directives some diesel ships are allowed to flush their tanks at sea, which creates a wax pollution that has washed up on our beaches? Some EU directives are not great, because they have led to that. Does he agree that there is much more we can do once we have left the EU to ensure that pollution does not happen on our blue flag beaches?

Karl Turner: The hon. Gentleman is extremely optimistic. Safety protections to guard against potential pollutants are better done collectively, in my view. We can always improve safety standards.

The instrument preserves the status quo for the shipping industry post Brexit, which is some reassurance to seafarers who rely on compliant equipment including in emergencies at sea, as my hon. Friend the Member for Huddersfield rightly mentioned. There are issues with the marketisation of marine equipment, especially safety and pollution prevention equipment, but they are deferred by the provision. Merchant shipping notice 1874 has not been made available as part of the process, although a draft version is referred to in the explanatory memorandum.

Mr Sheerman: I promise my hon. Friend that this is my last intervention on him. I have much more memory of this than the hon. Member for North Cornwall: until we were in the European Union and had European regulation, people swam in sewage all around the coast of Britain. It was a European regulation that cleared up our seas and oceans and made them decent. We stopped pumping sewage into the seas. Does my hon. Friend agree that the problem is that, without European regulation, we will be back in that situation and pollution will, again, make us the filthy man and woman of Europe?

Karl Turner: My hon. Friend is right that the regulations have improved standards. There is no doubt about that, in my view.

MSN 1874 was last issued in June, but a draft was not attached to the explanatory memorandum. When will the updated notice be distributed, and have the addresses

of UK-based notification bodies changed since June? The explanatory memorandum refers to “minor familiarisation costs” that will result for the public sector and for business. What will that mean in practical terms for the shipping industry and for seafarers who use the equipment?

Finally, can the Minister explain a little more about the instrument’s effect on the new IMO regulations that cover marine equipment that are introduced after the instrument come into effect and before any future trade deals between the UK and the EU are agreed and implemented?

9.13 am

Ms Ghani: As has been noted, the regulations will ensure continuity on EU exit for UK conformity assessment bodies and manufacturers wishing to gain access to the UK market. They make no changes to how conformity assessment bodies conduct conformity assessment activities or to the underpinning standards that marine equipment must meet before it is accepted on the UK market or placed on board UK ships. Therefore, the assumption that standards are somehow being lowered is incorrect. The standards will continue to be kept as we leave the EU.

Toby Perkins (Chesterfield) (Lab): I am grateful for the Minister’s reassurance. As regulations change in the EU after we have left, will we keep pace with those regulations or will we have to change our regulations off our own bat, alongside whatever the EU does?

Ms Ghani: The hon. Gentleman makes an important point. He will know that it is not just the EU that guides maritime. Maritime is a global sector, and the IMO, which has the highest standards, is just across the river from us. We are part of the high ambition coalition, so as a country we are a driving force on maritime regulations and standards. Given that we lead that group and are trying to bring the rest of the world up to our high standards, it would not make sense at any point to lower standards.

In response to another point about the reduction in standards, I mentioned in my opening statement that the regulations retain the existing international standards that apply to marine equipment. They in no way undermine, devalue or reduce standards, and I find it peculiar that the hon. Member for Huddersfield, who made a number of interventions, assumes that the act of Brexit alone will create a dire situation on our waters. I think he should come to terms with what we are trying to do.

Mr Sheerman: Will the Minister give way one last time to me?

Ms Ghani: I will just go a little bit further, thank you.

The hon. Member for Kingston upon Hull East asked whether the bodies had changed since 2018. The answer is no. He asked why MSN 1874 had not been published. MSN 1874 Amendment 3 was put to the House for sifting and will be published by the MCA on commencement. I will write to the hon. Gentleman to make him aware of the timeline.

Mr Sheerman: One last intervention, Minister?

Ms Ghani: If it is indeed the last intervention, I will give way to the hon. Gentleman.

The Chair: That is very gracious.

Mr Sheerman: I am sorry if the Minister does not like my interventions. We have been sitting for about 14 minutes, and the British public expect us to scrutinise this legislation. That is why I got up early this morning. It is my job to ask for my constituents and the people of this country what is going on. I have asked whether the Minister has evaluated the safety of these legislative and regulatory changes. She said that the IMO was just across the river. Has she been over there physically to talk to them? What steps has she taken?

The Chair: Order. The hon. Gentleman has made his point.

Ms Ghani: The hon. Gentleman has got out of bed on the wrong side this morning. The IMO is indeed across the way, and the secretary-general and I meet regularly on a number of issues. This morning seems to be turning into a discussion about whether we should or should not be leaving the EU, but that decision has been made and this morning we are ensuring that standards continue.

Mr Mark Harper (Forest of Dean) (Con): The Minister, as ever, is covering the regulations comprehensively. I have listened carefully to what the hon. Member for Huddersfield said about changes to the safety standards. My reading of the regulations is that they simply make sure that the existing standards and rules operate when we leave the EU. No one is changing or lowering safety standards. The hon. Gentleman says that he wants to scrutinise the regulations, but perhaps if he read them before asking his questions we would all be better informed.

Ms Ghani: It continues to be a glorious morning, as we can see by the amount of interventions that are being made. The regulations do indeed bring on board standards. We are one of the leading countries, helping the IMO to deliver even higher standards, and the hon. Gentleman will be pleased to know that ILO 188, which raises standards for seafarers and fishermen, was delivered by this country this year. We were the first country to deliver that ILO standard. Once again, the UK is the leading champion for our maritime sector.

The regulations make only necessary changes to adapt a system for marine equipment conformity assessments that was designed on behalf of the EU member states into a UK system. With your permission, Ms Buck, I commend the regulations.

Mr Sheerman: On a point of order, Ms Buck. The fact of the matter is that we are racing through this. There is almost resentment on the Government Benches; a feeling that we have to get through this, get out and get on with our day job. Our job as an Opposition is scrutiny, and I am not able as a Member of Parliament in this Committee to scrutinise the regulations sufficiently.

The Chair: Order. That is not a legitimate point of order. It was for the hon. Gentleman to make a speech if he wanted. We will move on. Has the Minister concluded her remarks?

Ms Ghani: I just wanted to make one final point. In case the point did not quite land, the UK was the first country to ratify ILO 188, which is about standards for seafarers and fishermen—once again leading the way in 2019.

Question put.

The Committee divided: Ayes 9, Noes 1.

Division No. 1]

AYES

Donelan, Michelle	Jack, Mr Alister
Ghani, Ms Nusrat	Mann, Scott
Harper, rh Mr Mark	Paterson, rh Mr Owen
Heappey, James	Tomlinson, Michael
Hoare, Simon	

NOES

Sheerman, Mr Barry

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Merchant Shipping (Marine Equipment) (Amendment etc.) (EU Exit) Regulations 2019.

9.21 am

Committee rose

