

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT MOTOR VEHICLES (COMPULSORY
INSURANCE) (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

Monday 4 March 2019

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Friday 8 March 2019

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The Committee consisted of the following Members:

Chair: MR CHARLES WALKER

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| † Bridgen, Andrew (<i>North West Leicestershire</i>) (Con) | † Norman, Jesse (<i>Minister of State, Department for Transport</i>) |
| † Campbell, Mr Ronnie (<i>Blyth Valley</i>) (Lab) | † Paterson, Mr Owen (<i>North Shropshire</i>) (Con) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Philp, Chris (<i>Croydon South</i>) (Con) |
| † Drax, Richard (<i>South Dorset</i>) (Con) | † Stevens, Jo (<i>Cardiff Central</i>) (Lab) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † George, Ruth (<i>High Peak</i>) (Lab) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Gibson, Patricia (<i>North Ayrshire and Arran</i>) (SNP) | Mike Winter, <i>Committee Clerk</i> |
| † Harrison, Trudy (<i>Copeland</i>) (Con) | |
| † Heapey, James (<i>Wells</i>) (Con) | |
| † Jones, Darren (<i>Bristol North West</i>) (Lab) | |
| † Jones, Graham P. (<i>Hyndburn</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Monday 4 March 2019

[MR CHARLES WALKER *in the Chair*]

Draft Motor Vehicles (Compulsory Insurance) (Amendment etc.) (EU Exit) Regulations 2019

4.30 pm

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

That the Committee has considered the draft Motor Vehicles (Compulsory Insurance) (Amendment etc.) (EU Exit) Regulations 2019.

It is an honour to serve under your chairmanship, Mr Walker. The draft regulations will be made under the powers of the European Union (Withdrawal) Act 2018 and will be needed if the UK leaves the EU in March—this month—without a deal. The Government seek reciprocal arrangements on motor insurance following this country's exit from the EU, but in the event of no deal, we are under an obligation to ensure that the country has a functioning statute book.

The draft regulations will amend various pieces of domestic legislation to correct deficiencies in the legal framework for compulsory motor insurance arising from the UK's leaving the EU without a deal. The draft instrument seeks to maintain the status quo on compulsory motor insurance, including the requirement for all third-party motor insurance policies to cover the European economic area, along with making technical changes to ensure that insurance requirements for vehicles in the UK are preserved. It will also amend redundant references to the UK's being an EU member state.

The draft regulations will remove specific obligations on the UK's Motor Insurers Bureau under the protection of visitors scheme, which is commonly referred to as the visiting victims scheme. If these changes are not made, the obligations would remain unilaterally on the MIB in the event of no deal. The changes will come into effect on exit day.

While the draft instrument was initially laid as a proposed negative instrument, we agreed with recommendations from the sifting Committees and the Joint Committee on Statutory Instruments to re-lay the draft instrument using the affirmative procedure, acknowledging their concerns about the impact of the changes on UK citizens. I thank the Committees for their work in considering the draft SI.

It may be helpful to give the Committee some background on the legislation that is being changed. In 1930, the UK Government introduced a law requiring every person who used a vehicle on the road to have at least third-party insurance. Today, compulsory motor insurance requirements are governed at EU level by the consolidated motor insurance directive, which was implemented in the UK through the Road Traffic Act 1988 and subordinate legislation.

The amendments in the draft instrument are necessary to uphold motor insurance requirements as they currently stand in the UK if we leave the EU without a deal. The draft instrument will also deal with requirements under the codified EU motor insurance directive for member states to make arrangements to allow victims injured in a road accident in an EEA country other than their home state to claim compensation when they return home. This is facilitated through insurance undertakings, with member states appointing in all other member states a claims representative to handle and settle claims by victims injured in accidents abroad.

Each member state must also appoint a compensation body responsible for providing compensation in certain circumstances in which insurance undertakings through the claims representative fail to do so. Those circumstances include, for example, where there is no claims representative or where the claims representative fails to provide a reasoned response to a claim within three months. The MIB currently fulfils the compensation body role for the UK and is reimbursed by its foreign counterparts under the directive.

The amendments made by the draft instrument will be twofold. First, it will make amendments to reflect that, once the UK is no longer an EU member state, the motor insurance directive will no longer apply to the UK. If we do not make this change, which relieves the MIB of obligations under the visiting victims scheme, the MIB would be required to continue to reimburse its foreign counterparts in respect of EU27 visitors injured in the UK. It would also have cost exposure for claims made by UK residents injured in the EU, without being able to seek reimbursement from its foreign counterparts.

There will no longer be an obligation under the motor insurance directive on insurance companies based in the EEA to appoint a claims representative in the UK, as is currently required. The MIB could therefore face the additional cost of handling claims that would previously have been dealt with by claims representatives. That additional cost burden would most likely be passed on to its members—UK-based insurance companies—through its membership levies. Those members could in turn be expected to pass the costs on to UK motorists through higher insurance premiums.

The proposed change under the statutory instrument will therefore relieve the Motor Insurers Bureau of obligations under the visiting victims scheme and remove the potential cost burden that would fall on it if the legislation remained as it is. In future, without visiting victims provisions, UK residents injured in road traffic accidents in the EEA will still be able to make a claim, but they may need to do so outside the UK.

The rest of the amendments make technical changes to domestic legislation that are limited to what is needed for the legislation to continue to function effectively once the UK has left the EU. They maintain the status quo in respect of compulsory motor insurance requirements.

Jo Stevens (Cardiff Central) (Lab): My question is about existing victims who have litigation under way—for example, someone who has suffered a brain injury in a hit-and-run accident in France and has litigation under way. If we leave on 29 March, the limitation period for bringing cases will change—pre 29 March compared with post 29 March—so what will happen to UK litigants after 29 March in that circumstance?

Jesse Norman: I am glad that the hon. Lady asked that question. The visiting victims provisions will be maintained beyond exit day for open cases in which legal proceedings were begun before the day on which EU law ceases to apply. After that, UK residents injured in a road traffic accident in the EEA will still be able to make a claim, but they will need to do so outside the UK.

On Northern Ireland, the UK Government remain committed to restoring devolution, but with exit day less than a month away and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing. In the interests of legal certainty in Northern Ireland, therefore, the UK Government are taking through the necessary secondary legislation for Northern Ireland at Westminster. The draft regulations therefore amend the Northern Irish legislation to make equivalent provision for Northern Ireland as for Great Britain. That is being done in close consultation with the Northern Ireland civil service.

In summary, we aim for a comprehensive agreement on motor insurance following the UK's exit from the EU, but the draft regulations are essential to ensure that in the event of no deal, the UK's legal framework for motor insurance is clear and fully enforceable. The rules on compulsory motor insurance are at the heart of the road safety regime. We must avoid any disruption to their proper functioning if we can.

4.37 pm

Karl Turner (Kingston upon Hull East) (Lab): It is a pleasure to see you in the Chair, Mr Walker; it is always an absolute privilege to serve under your chairmanship.

As the Minister has explained, the draft regulations amend various deficiencies in the statutory framework for compulsory motor insurance that will arise when we leave the European Union. I have some concerns about the statutory instrument that I hope he will be able to address.

Access to justice is a right, and it should never be a privilege. My real worry is that leaving the European Union threatens that right, and that UK residents injured abroad might be denied compensation. As we have heard, as things stand, if a UK resident is injured in a road traffic accident in the European Union or the European economic area and the injury is caused by the negligence of another person, the injured person may pursue a claim for compensation in the UK. That makes the process simple, because people can claim in their own language, with a local solicitor, as they would do had the accident happened here in the UK. In a situation in which the foreign insurer fails to appoint a claims representative or to respond to a claim, people may go through the Motor Insurers Bureau. The MIB then recoups the cost from its counterpart in the country where the incident occurred.

In the frankly unlikely event that the Prime Minister's deal gains the support of the House, my understanding is that during the transition period that agreement will continue. If we get to the end of that transition period, however, there will be no obligation to appoint a claims representative in the UK. Will the Minister address this issue: is he seeking to negotiate exactly the same arrangements as we have now when the transition period comes to an end? In the event that we crash out of the

European Union in a disastrous no-deal arrangement on 29 March, what work have his Department and the MIB done with the EEA countries, as part of a no-deal contingency, to ensure that a bilateral agreement is in place?

In the most serious cases, someone injured in a road traffic incident may not be able to work again and compensation will be needed to pay for personal care. Other EU member states' legal systems may not be as effective and efficient as our own, and an injured person may not be able to afford delays to any claim. What support will the Government put in place to assist people in processing these incredibly important claims?

Most of the uncertainty can be taken off the table if the Government agree that a no-deal situation is disastrous for the country. It would put to bed all this certainty if the Government were prepared to do that. Unless the Minister is prepared to give proper assurances on my concerns, I am afraid I cannot support the statutory instrument.

4.41 pm

Patricia Gibson (North Ayrshire and Arran) (SNP): I will keep my remarks brief. Everybody will appreciate that the draft regulations are very important to protect motorists. In fact, they are far too important to be considered with just over three weeks until Brexit. Once again, it is a pity that we find ourselves scrambling at the last minute to bring in some damage limitation.

The UK Government's retention of EU policy in so many areas is a testament to the regulatory excellence of the arrangements we already have, which some people in this Parliament would like to reject. I ask the Minister to offer reassurance on some concerns that have been expressed. The main point—I know it has been made, but it is important—is that the Department for Transport and the Motor Insurers Bureau must work together to ensure that bilateral agreements are in place with EEA countries, in order to guarantee that UK residents who have the misfortune to be injured abroad in road traffic accidents continue to have a straightforward route to justice.

As we have heard, currently when a UK national is injured in a road traffic accident in the EEA and the injury is caused by another's negligence, the injured person can pursue a claim in the UK in their own language, with a local solicitor. After the UK's withdrawal from the EU, any such UK resident will have to make their claim in the country in which the injury occurred.

It is obvious how that could create difficulties for UK citizens, since there may well be language barriers. A solicitor would need to be found and any such claimant would need to pay for their legal advice and representation, which may not be recoverable. They may need to visit the country in which the accident took place in order to fully pursue the claim, with all the extra costs that may be incurred. For far too many people with legitimate claims, that may be prohibitively expensive. Depending on the severity of the injuries suffered, it may not even be possible. There is also concern that such claims may take many years to be heard, never mind settled. What reassurance can the Minister offer for those concerns?

I am sure the Minister will understand that confidence in this Government has been profoundly shaken with regard to Brexit-related transport issues, given the cancelling

[Patricia Gibson]

of the boatless ferry firm Seaborne Freight. The fact that a ferry firm with no boats could ever have been awarded a ferry contract has left many deeply concerned about post-Brexit transport issues, which I am sure he will understand.

4.44 pm

Jesse Norman: I thank hon. Members for their comments and questions. The hon. Member for Kingston upon Hull East rightly emphasises the importance of access to justice. It is a fundamental principle of our rule of law.

Andrew Bridgen (North West Leicestershire) (Con): Will the Minister give way on the matter of access to justice?

Jesse Norman: I would be delighted to.

Andrew Bridgen: Some 90% of hauliers bringing goods into our country are EU-registered, with steering wheels on the wrong side for our roads, giving them a different blind spot from our HGV drivers, particularly when approaching islands. Those hauliers are seven times more likely to be involved in a road accident than UK-registered hauliers, and according to the Road Haulage Association 20% of those accidents are never settled through insurance. Does the Minister agree that, when we have left the EU, we will be able to create a level playing field for haulage in the UK, which will reduce the incidence of accidents on our roads involving foreign drivers for which insurance is never paid out?

Jesse Norman: I cannot comment on the facts that my hon. Friend gives, but I certainly confirm that the Government are thoroughly hostile to insurance claims that are not able to be made or that are not properly settled, whomever they may involve. That is also, in its own way, an access to justice issue.

Returning to the point made by the hon. Member for Kingston upon Hull East on whether we seek to negotiate the same arrangement, there are two scenarios to be considered. The first is that we come out without a deal. As he will be aware, the Government and the MIB already have very close relationships with all the corresponding entities. That contact has been maintained and the discussions about that unlikely contingency are very much in view, as it were.

Secondly, if the deal is accepted and goes through next week, or whenever it may be, there will be two sets of circumstances to think about after the transition period—of course, in the case of a deal there will be a transition period. The first regards what might be called uninsured or untraced drivers, for which we would again have to go to bilateral agreements, because they cannot be legislated for in their own right. The second regards drivers who are insured in the normal way, which we expect to be part of the future economic partnership. It is a measure of that discussion that they will be, I think, an important part of that. The hon. Gentleman is absolutely right to raise that issue.

The hon. Member for Kingston upon Hull East also asked whether there will be Government support, which in a way bears on the question from the hon. Member for North Ayrshire and Arran. I think the answer is that, if it turns out to be a material issue, the Government will of course look closely at how people claiming abroad can be supported in that environment.

Karl Turner: What discussions has the Minister had with the Association of Personal Injury Lawyers, which represents a great number of personal injury solicitors in this country? I wonder what it has said about the proposals and what concerns it might have raised with the Government on this issue.

Jesse Norman: I have not spoken to that association, but I am happy to do so. I have no doubt that, in the course of preparing the draft instrument, my officials spoke to the association or were well aware of its concerns, which are well tabled and understood.

On the apparent lack of notice that the hon. Member for North Ayrshire and Arran touched on, she will be aware that the timetable is not of our choosing in every case. We have had to operate within a timetable that is in part based on the speed at which EU member states and their insurers, compensation bodies and so on are willing to go. It is not always the case that we can determine the timetable ourselves.

I hope that the hon. Member for Kingston upon Hull East and his party will not vote against the draft instrument, which we laid in order to avoid additional burdens on the UK insurance industry, and therefore on drivers. Those burdens would inevitably be quite regressive on the least well-off drivers if they were passed on in the form of insurance payments, which I am sure he would not want. It is only in the public interest that we laid the draft instrument in the first place.

Karl Turner: I am afraid that I am not persuaded by the Minister. For that reason, the Opposition cannot support the draft instrument. We need to go much further, and the Minister needs to make an awful lot more progress on these issues for us to be satisfied.

Question put.

The Committee divided: Ayes 9, Noes 7.

Division No. 1]

AYES

Bridgen, Andrew	Norman, Jesse
Donelan, Michelle	Paterson, rh Mr Owen
Drax, Richard	Philp, Chris
Harrison, Trudy	Tomlinson, Michael
Heapey, James	

NOES

Campbell, Mr Ronnie	Jones, Graham P.
Foxcroft, Vicky	Stevens, Jo
George, Ruth	
Jones, Darren	Turner, Karl

Question accordingly agreed to.

4.50 pm

Committee rose.

