

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT LICENSING OF OPERATORS AND INTERNATIONAL ROAD HAULAGE (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

Monday 11 March 2019

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The Committee consisted of the following Members:

Chair: DAVID HANSON

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| † Aldous, Peter (<i>Waveney</i>) (Con) | † Heapey, James (<i>Wells</i>) (Con) |
| † Costa, Alberto (<i>South Leicestershire</i>) (Con) | † Hepburn, Mr Stephen (<i>Jarrow</i>) (Lab) |
| † Cowan, Ronnie (<i>Inverclyde</i>) (SNP) | † Hoey, Kate (<i>Vauxhall</i>) (Lab) |
| † Crabb, Stephen (<i>Preseli Pembrokeshire</i>) (Con) | † Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) |
| † Davies, Chris (<i>Brecon and Radnorshire</i>) (Con) | † Norman, Jesse (<i>Minister of State, Department for Transport</i>) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | † Western, Matt (<i>Warwick and Leamington</i>) (Lab) |
| † Fysh, Mr Marcus (<i>Yeovil</i>) (Con) | |
| † Grant, Mrs Helen (<i>Maidstone and The Weald</i>) (Con) | Mike Winter, <i>Committee Clerk</i> |
| † Green, Kate (<i>Stretford and Urmston</i>) (Lab) | † attended the Committee |

Fourth Delegated Legislation Committee

Monday 11 March 2019

[DAVID HANSON *in the Chair*]

Draft Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019

6 pm

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

That the Committee has considered the draft Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Hanson. Laid before Parliament on 5 February and made under powers in the European Union (Withdrawal) Act 2018, the regulations are designed to provide a framework for the road haulage market as regards licensing of both UK operators and foreign hauliers coming to this country. The statutory instrument amends EU regulations 1071/2009 and 1072/2009 so that they will operate correctly as retained EU legislation after the UK's exit from the European Union.

The regulations before the Committee make minimal changes to the two EU regulations and include consequential amendments to domestic legislation that are necessary to ensure that road haulage markets continue to operate effectively. European regulation 1071/2009 provides a common framework for the licensing of transport operators in both the haulage and the public passenger transport industry across all member states of the EU. Under that framework, operators are licensed by national authorities—in Great Britain by the traffic commissioners, and in Northern Ireland by the Department for Infrastructure. Operators are assessed against four criteria: a stable establishment as an operator; good repute; financial standing; and professional competence. The regulations before the Committee will ensure that those standards continue to be applied to UK hauliers—both those operating domestically and those operating internationally. Hauliers from the 27 member states of the EU will, as at present, require a Community licence issued by their own national licensing authority to prove that they meet the regulations' requirements.

European regulation 1072/2009 sets out common rules for access to the EU road haulage market. It allows appropriately licensed hauliers from EU member states to operate in other member states without further formalities. The retained version of the regulation will continue to provide access to UK markets for EU hauliers, on the same basis as at present.

We of course cannot legislate for what other countries will allow UK hauliers to do in their territory. However, the regulations before the Committee provide for UK hauliers to hold a UK licence for the Community—a new document that will look very similar to the Community licence that hauliers currently hold when operating internationally, and which will be issued according to

the same criteria. The European Commission has published draft legislation that would apply to UK hauliers operating in the EU for the first nine months after exit if we should leave without a deal. The Commission's proposal is based on the UK reciprocating. Although not specifically designed with those proposals in mind, the regulations before the Committee will enable reciprocal conditions for EU hauliers operating in the UK after exit day. The regulations will also aid the negotiation of the future EU-UK roads relationship. As with licences, the regulations ensure that the UK is able to reciprocate as regards any access granted under a future road agreement.

The regulations before the Committee apply to the United Kingdom. Road operator licensing is a devolved matter in Northern Ireland. The statutory instrument recognises that the traffic commissioners do not operate there, and makes consequential amendments to Northern Irish legislation as well as that for Great Britain.

The common access rules set out by EU regulation 1072/2009 include provisions for hauliers from one member state, after having made an international delivery in another member state, to undertake a limited number of domestic haulage deliveries in that state as part of their return trip. That provision, known as cabotage, is retained in the UK version of the regulation. However, an important modification is that the Government may suspend cabotage if, say, it disrupts the domestic market. In the EU version of the regulation, member states have to apply to the European Commission to suspend cabotage.

My right hon. Friend the Secretary of State for Transport has indicated that he would be prepared to suspend cabotage if reciprocal arrangements were not accorded to UK hauliers. The EU has unilaterally proposed permitting UK hauliers, after the UK's exit from the EU, to engage in cabotage operations in a limited capacity under its draft legislation. Under this statutory instrument, it would be feasible for the UK to apply similar limitations to EU hauliers operating in the UK.

The draft regulations also make a number of consequential amendments to domestic legislation, mainly to ensure that references to the two EU regulations point to either the EU version or the retained version, as appropriate. We are also amending the Goods Vehicles (Licensing of Operators) Act 1995 to remove a provision that exempts holders of Community licences from the requirement to possess a UK-issued operator's licence, and reinserting the exemption made in the Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996 under the 1995 Act. We are making those amendments now so that when we come to agree future haulage arrangements with the EU, we can act without having to wait for a primary legislation slot to embody those arrangements in domestic law.

The draft regulations will ensure three things after exit day. First, they will allow the UK to continue to license its road haulage and passenger transport operators to high standards. Secondly, they will provide UK hauliers with appropriate documentation to facilitate their operations in EU member states. Thirdly, they will allow EU member state haulage operators to continue to operate in this country, supporting our industry with imports and exports. I commend the draft regulations to the Committee.

6.6 pm

Rachael Maskell (York Central) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Hanson.

The draft Licensing of Operators and International Road Haulage (Amendment etc.) (EU Exit) Regulations 2019, which will amend EU regulations 1071/2009 and 1072/2009, aim to address the impact of leaving the EU. Without an agreement, the UK would be required to leave the Community licence scheme. In debates on previous regulations relating to road haulage permits and trailer licensing, I urged the Minister to address the issue, but much time has passed since then. At the time, the Minister could not set out whether we would remain in the Community licence scheme, and now, with just 18 days until the UK is due to leave the European Union, we are still discussing this very important issue, which has a real impact on the road haulage industry. Hauliers are clearly worried, because mechanisms for granting and withdrawing licences need to be in place and EU road hauliers need to plan their logistics operations; the same is true for industry and businesses. If things are changed, that will be impossible in such a short timescale.

The draft regulations also address the rules on cabotage operations. Any disruption to current arrangements will bring our country to a grinding halt. Industry is worried, so why has the Minister left it so late to introduce the regulations? EU hauliers are currently permitted to carry out up to three cabotage operations within a seven-day period. It is intended that that should continue under the regulations, but I am disturbed to hear that the Secretary of State alone will have the power to suspend such operations. Such a suspension would be disruptive to businesses not only in the EU but in the UK.

In the UK, there are clear processes, for which responsibility sits with the EU, for applying for a Community licence, and for dealing with changes in circumstance or penalties for infringements. EU hauliers operating in the UK under a Community licence are exempt in domestic legislation from the obligation to hold an operator's licence, so the draft regulations will have an impact across the UK and the 27 nations.

The regulations aim to make a minimum of change to the logistics sector, but if we leave the EU, the UK will no longer be able to issue Community licences, so road hauliers will have to apply to the EU for a Community licence. The regulations will address that deficit, so that instead of applying for a Community licence, UK hauliers will need to apply for a UK licence for the Community. It is expected that reciprocal arrangements can be made for EU hauliers to operate in the UK, but perhaps the Minister could clarify the point, since many of our goods are transported by EU hauliers.

The transfer of these powers will mean that the ability to determine their operation will move from the EU to the UK—to the Secretary of State for Transport in Great Britain and the Minister in the Department for Infrastructure in Northern Ireland. Are those operations ready to work in both Ministries, either in 18 days' time or by the end of this year? It would be really helpful to have clarity on the deadline to which the Minister is working. How many staff have been recruited for the operations in each jurisdiction? What has been the cost? Clearly this is about the duplication of functions that we currently have.

The traffic commissioners for Great Britain and the Department for Infrastructure in Northern Ireland have responsibility for ensuring that EU operators and those

of third countries operate lawfully in the UK, so can the Minister set out those bodies' full functions, how they will operate, and the cost of running those new responsibilities in the UK, including how many people have been recruited to ensure that operators are compliant with the law? How will hauliers be inspected, so that we know that they are compliant with the relevant documentation?

Although the UK has declared that it will continue to recognise the EU Community licence, crucially it is still unclear whether the UK licence for the Community will be fully recognised within the EU. What assurances has the Minister been given? Where have they been confirmed? Have they been written in any legal format? That is a pivotal point that the Minister must answer. The guidance talks about an "expectation", but with just 18 days left before we leave the EU, an expectation of reciprocal arrangements is clearly not enough; we need legal guarantees.

Likewise, there is a lot of uncertainty about cabotage arrangements. What will happen if the EU decides to suspend cabotage for UK hauliers? Reciprocating that could well damage UK business. Again, that will have a massive impact on road hauliers and raises questions, the answers to which must be backed up with EU legal guarantees that there will be no less favourable terms than those that would be in place if we remained in the EU. If there is any variance to that, we need to see agreement reached in a withdrawal agreement before we will be able to agree to the regulations. Can the Minister state that EU hauliers will be able to continue, without jeopardy, with the cabotage arrangements in the UK that they currently enjoy?

The EU has made temporary provision until the end of this year—31 December 2019. Is that legally in place? If not, what are the options of what could happen? Clearly, we need to know what will happen beyond 31 December 2019, which in all negotiating timeframes is just around the corner. As there has been, in the Government's words, "no need" for consultation with the road haulage sector, what discussions has the Minister had with the sector following the publication of the regulations?

Although there is an intention to recognise the Community licence in the UK, what guarantee does the Minister have from the EU that it will recognise those who currently hold a Community licence, and for what period will it remain valid? Will it reach beyond 31 December 2019, if it is valid currently? That is, will it last for the duration of the licence, or only for a limited time—and is that guaranteed?

Also on cabotage, has the EU categorically agreed that there will be no changes to road hauliers engaging in further operations in EU member states after the 29th of this month? It will be no good the Minister stating that the only way to get those guarantees is to support the Prime Minister's deal tomorrow. We all know that nothing has changed, and that her deal is sunk—and the Government with it. The reckless way in which things have been managed has put our country in real jeopardy.

The road haulage industry needs clear answers from the Minister today. Without certainty, Labour will be unable to support the regulations; however, we recognise

[*Rachael Maskell*]

the pressures on the road haulage sector, so although they are totally unsatisfactory in their drafting, we will not let the industry struggle further.

6.13 pm

Jesse Norman: I thank the hon. Member for York Central for her barrage of questions, to which I am very happy to respond. She deplores the time that it has taken to introduce the measure. All I would say to her is that the measure makes virtually no changes to the operating arrangements for UK hauliers, and indeed no changes for EU hauliers. It is therefore not something that has required enormous wrenching change of any kind. Essentially, we are tweaking, very slightly, the domestic regime in this area, in order to address legal concerns arising from the UK's separation from the EU.

The hon. Lady asked whether there will be additional staff costs. I can tell her that as this is a minimal set of changes, there are minimal costs associated with it. There are no additional staff.

In response to another question the hon. Lady raised, we do not expect any additional enforcement, because the existing enforcement agencies function extremely well, as matters stand. She will be aware that the Treasury has agreed to fund any additional costs—up to the limits described—associated with any additional force that may be required, but we do not expect wrenching change in this area.

The hon. Lady will also be aware that these regulations come at this time not only because these things are always subject to negotiations, and we are just one half of a set of negotiators, but because we started out with a high level of alignment, and there has been a high level of mutual understanding and trust between officials in this country and in the EU, as well as in member states.

The hon. Lady raised a question about the Secretary of State having the power under these regulations to suspend operations. I point out to her that that is only for a limited period. Any further extension of the requirement to suspend operations would be subject to proper parliamentary process, as would be appropriate

for the exercise of a power of this kind. That is the counterpart of the very liberal approach we are taking towards the EU's cabotage rights in this opening period.

Rachael Maskell: I am grateful to the Minister for the clarity of his response. Could he set out the timeframe for bringing forward more permanent legislation, which is what I understand he is saying will happen? How will that be brought forward?

Jesse Norman: As I recall, the Secretary of State has the capacity to suspend operations for a period of six months and then for another period of six months, after which the matter must come before Parliament. That is an appropriate use of the power. The purpose of it is to ensure that UK hauliers get a square deal in terms of cabotage, and so enable the rather liberal approach we have taken with regard to the EU. It is an index of how modest the change is that for UK hauliers, the Community licence is changing, in this country, to a UK licence for the Community. It is a very modest change indeed.

The hon. Lady asks whether there have been consultations with industry. My officials are having very close discussions with the industry. That process has been under way for many long months. I also meet regularly with representative bodies of the industry to ensure that we are closely aligned. Many of the measures that we have put forward have been welcomed by them, recognising the fact that the situation is not one that hauliers would have originally voted for or supported at the time of the referendum, but that is up to them.

As to negotiations beyond 2019, the hon. Lady will be aware that the European Commission has already made it clear that for the first nine months after exit, the draft legislation would apply. That legislation, as I have described, based on UK reciprocity, permits a relatively benign environment to continue. After that, the matter is subject to negotiations. Having addressed all those matters, I commend the regulations to the Committee.

Question put and agreed to.

6.19 pm

Committee rose.