

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Eleventh Delegated Legislation Committee

DRAFT CRIMINAL JUSTICE (AMENDMENT ETC.)  
(EU EXIT) REGULATIONS 2019

*Wednesday 13 March 2019*

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**Sunday 17 March 2019**

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**The Committee consisted of the following Members:**

*Chair:* JAMES GRAY

† Foxcroft, Vicky (*Lewisham, Deptford*) (Lab)  
 † Frazer, Lucy (*Parliamentary Under-Secretary of State for Justice*)  
 † Hair, Kirstene (*Angus*) (Con)  
 † Hall, Luke (*Thornbury and Yate*) (Con)  
 † Hollinrake, Kevin (*Thirsk and Malton*) (Con)  
 † Huddleston, Nigel (*Mid Worcestershire*) (Con)  
 † Huq, Dr Rupa (*Ealing Central and Acton*) (Lab)  
 McFadden, Mr Pat (*Wolverhampton South East*) (Lab)  
 † McDonald, Stuart C. (*Cumbernauld, Kilsyth and Kirkintilloch East*) (SNP)

Mahmood, Shabana (*Birmingham, Ladywood*) (Lab)  
 † Milling, Amanda (*Cannock Chase*) (Con)  
 † Pawsey, Mark (*Rugby*) (Con)  
 † Philp, Chris (*Croydon South*) (Con)  
 † Qureshi, Yasmin (*Bolton South East*) (Lab)  
 † Shelbrooke, Alec (*Elmet and Rothwell*) (Con)  
 Sobel, Alex (*Leeds North West*) (Lab/Co-op)  
 † West, Catherine (*Hornsey and Wood Green*) (Lab)

Laura-Jane Tiley, Hannah Wentworth, *Committee Clerks*

† **attended the Committee**

# Eleventh Delegated Legislation Committee

Wednesday 13 March 2019

[JAMES GRAY *in the Chair*]

## Draft Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019

8.55 am

**The Parliamentary Under-Secretary of State for Justice (Lucy Frazer):** I beg to move,

That the Committee has considered the draft Criminal Justice (Amendment etc.) (EU Exit) Regulations 2019.

It is, as always, a pleasure to serve under your chairmanship, Mr Gray. The draft regulations form part of the Government's continuing work to ensure that there are functioning domestic laws in the event that the UK leaves the EU without a deal. The regulations relate solely to the Government's no-deal exit preparations in respect of five measures dealing with criminal justice.

First, the victims of crime compensation directive established that each EU member state should have a national scheme to provide compensation to victims of violent intentional crime. It also provided for liaison between the relevant authorities in each member state to facilitate the compensation of victims. The Criminal Injuries Compensation Authority manages the compensation scheme for England, Wales and Scotland. Northern Ireland has a separate scheme, but the Criminal Injuries Compensation Authority is the assisting authority for the whole UK, and it liaises with other member states to help victims to apply for compensation from them. The regulations will revoke the implementing legislation, because the system relies on mutual co-operation between member states, and we will no longer be a member state. However, our national schemes will continue.

Secondly, the directive on European protection orders provides a framework to allow certain kinds of protection order made in criminal proceedings in one member state to be transferred to another member state, where they can be recognised and enforced. This measure too operates only between EU member states. To protect people who are currently using the system, we will make a transitional provision to ensure that any order made prior to exit will continue to be enforceable until its conclusion, whenever that may be. I should mention that the system is seldom used: the courts of England and Wales received only four orders from EU member states in the three years of its operation.

Thirdly, European supervision orders make it possible to transfer certain supervision measures between EU member states: for example, bail granted subject to conditions issued in criminal proceedings in one member state can be transferred to another EU member state to be recognised and supervised there. Like the previous two measures, the system can operate only between EU member states. The scheme is seldom used, as noted in the explanatory memorandum and provisional impact assessment. I can update the figures today as some more requests for recognition were received recently. The latest figures show that the courts of England and Wales have issued three requests and received nine in

the four years since the framework decision was implemented. As the numbers remain small, we expect the impact of the changes made under the SI to be minimal.

The fourth measure concerns mutual recognition of financial penalties. Under the framework provided, certain financial penalties imposed in criminal proceedings in one member state may be forwarded to another EU member state for enforcement. Again, the provision allows for mutual recognition and enforcement between member states, so a transitional provision is being made, to allow domestic enforcement to continue finalising any request received prior to exit.

Finally, there is a measure that relates to taking account of convictions in EU member states in the course of new criminal proceedings in the UK. It requires known prior convictions in another EU member state to be taken into account—for example, when sentence is passed—to the extent that national law requires national convictions to be taken into account. That means that, on sentencing, the courts in any given member state treat convictions from another member state exactly as they would prior domestic convictions. After EU exit in a no-deal scenario, the SI will revoke the regulations to amend the implementing legislation to provide that, for proceedings that commence post-exit, individuals with prior convictions from EU member states will be treated in the same way as individuals with any other non-UK prior conviction. There are transitional provisions in place, which provide that for cases that are going on at the time of exit, the current rules will apply.

I will not go into the detail of what the SI does in respect of each EU measure or tool—I hope the regulations, the explanatory memorandum and the provisional impact assessment are clear about that—but I will deal briefly with several main points. If we leave without a deal for victims of crime, we will revoke the legislation relating to mutual assistance as it provides a system of intra-EU member state co-operation that will not be present in a no-deal scenario. As I mentioned, the regulations do not have an impact on our national compensation schemes, which will continue. Several of the other measures also rely on member state co-operation, so we will revoke them. The impact of the changes on citizens, businesses, public and voluntary sectors will be minimal. A provisional impact assessment was placed in the Libraries of both Houses before the debate.

We are taking these steps because we will no longer be a member state and will therefore not benefit from any reciprocity. Four of the five measures addressed by the regulations require reciprocity between the UK as a member state and another member state to operate. We cannot compel remaining EU member states to co-operate with us. The purpose of the regulations is to promote as orderly a withdrawal as possible in the circumstances. They aim to provide certainty for those who need to navigate the criminal justice landscape in a no-deal scenario. Importantly, they also provide clarity for those who are involved in action related to some of the EU measures covered by the regulations at the point of a no-deal exit, where that action is ongoing.

9.1 am

**Yasmin Qureshi (Bolton South East) (Lab):** It is a pleasure to serve under your chairmanship, Mr Gray. We will not divide the Committee on the regulations.

We understand the purpose behind them and the need for them. I will not go into the detail of what is being proposed—the Minister has adequately dealt with that—but I will draw the attention of the Minister and perhaps the Ministry of Justice to the fact that so far we have had no information regarding what the Government's proposal is in relation to the European arrest warrant, Europol and Eurojust. What will the agreements be in relation to them? They are important to ensure that our criminal justice system works efficiently and smoothly.

**Catherine West** (Hornsey and Wood Green) (Lab): Does my hon. Friend agree that it is little late in the day not to have clarity about those matters?

**Yasmin Qureshi:** I absolutely agree, which is why I am taking the opportunity to raise these important issues. The outline of the political declaration is vague on security and justice co-operation, which almost suggests that the Government have given up on trying to deal with key European Union security arrangements, such as the European arrest warrant.

The declaration talks about negotiating “swift and effective arrangements” on extradition, but not about remaining within the European arrest warrant. As everybody knows, that facilitates the extradition of wanted people across European Union borders and stops us having to go through the long and detailed extradition process that applies to countries that are not part of the EU. Hon. Members familiar with the workings of extradition know that, when it is applied to non-EU state members, our Government can be stuck for years trying to get people brought to this country or get people from this country extradited back for serious criminal offences.

Having access to Europol assists massively, in the sense that Europol police officers co-operate on many issues across the criminal justice system, as does having access to the European criminal records information system. I am told that at the last estimate, we used the information on that system about 500 million times in one year. That extensive database system exists across the European Union and has been of enormous help to

police and security agencies throughout the European Union and in our country. It would be helpful if the Minister or the Ministry were able to tell us what their proposals are in relation to those matters, whether any discussions have taken place, and whether any statutory instrument is in process. Essentially, we do not know what is happening.

Ironically, those issues have been raised in at least two Westminster Hall debates, to which I responded on behalf of the Opposition. We have raised those issues time and again. We are now two weeks away from 29 March, and we are no further forward in dealing with those important issues, which will ensure that the criminal justice system and the security and safety of our citizens are being dealt with properly and efficiently.

9.5 am

**Lucy Frazer:** I am grateful for the constructive approach that the hon. Member for Bolton South East has taken in not dividing the Committee on these important regulations. To deal with her points regarding the European arrest warrant and Europol, as she will be aware, the criminal justice measures before the Committee today are within the responsibility of the Ministry of Justice, so we lead on them. As I hope she is aware, the EAW and Europol are matters that the Home Office leads on, and therefore not within the primary responsibility of the Ministry of Justice. A separate SI has been laid before the House and debated in relation to no-deal arrangements, including the EAW. However, we would have had more certainty about these matters if a deal had been approved yesterday. That deal would have allowed for an implementation period and for continued arrangements regarding these important security matters, and would have continued to respect the importance of co-operation on those matters.

This SI deals, as I mentioned, with five matters relating to the criminal justice system. I commend them to the Committee.

*Question put and agreed to.*

9.7 am

*Committee rose.*





