

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Twenty-third Delegated Legislation Committee

HEAVY COMMERCIAL VEHICLES IN KENT (NO. 2)
ORDER 2019

Tuesday 8 October 2019

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The Committee consisted of the following Members:

Chair: JOAN RYAN

- | | |
|---|---|
| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Scully, Paul (<i>Sutton and Cheam</i>) (Con) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | Smith, Owen (<i>Pontypridd</i>) (Lab) |
| Cooper, Rosie (<i>West Lancashire</i>) (Lab) | Streeting, Wes (<i>Ilford North</i>) (Lab) |
| † Green, Chris (<i>Bolton West</i>) (Con) | † Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| † Heaton-Harris, Chris (<i>Minister of State,</i>
<i>Department for Transport</i>) | † Vara, Mr Shailesh (<i>North West Cambridgeshire</i>)
(Con) |
| † Heaton-Jones, Peter (<i>North Devon</i>) (Con) | † Vickers, Martin (<i>Cleethorpes</i>) (Con) |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | † Zeichner, Daniel (<i>Cambridge</i>) (Lab) |
| † Lucas, Ian C. (<i>Wrexham</i>) (Lab) | Masrur Ahmed, Medha Bhasin, <i>Committee Clerks</i> |
| † Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) | |
| † Pursglove, Tom (<i>Corby</i>) (Con) | † attended the Committee |

The following also attended (Standing Order No. 118(2)):

Elphicke, Charlie (*Dover*) (Ind)

Twenty-third Delegated Legislation Committee

Tuesday 8 October 2019

[JOAN RYAN *in the Chair*]

Heavy Commercial Vehicles in Kent (No. 2) Order 2019

2.30 pm

The Minister of State, Department for Transport (Chris Heaton-Harris): I beg to move,

That the Committee has considered the Heavy Commercial Vehicles in Kent (No. 2) Order 2019.

It is a pleasure to serve under your chairmanship, Mrs Ryan. It is the first time that I have experienced that pleasure, so I hope that I do not cause too much distress to you—or, indeed, to Joe Lenihan, who is a new Doorkeeper just two days into his job. We are expecting a feisty debate, so we may need someone who can take a Member outside and sort them out.

The Chair: I sincerely hope not, Minister.

Chris Heaton-Harris: I really hope not, too.

The order is the second in a series of three, along with the draft Heavy Commercial Vehicles in Kent (No. 1) Order 2019 and the snappily named Heavy Commercial Vehicles in Kent (No. 3) Order 2019. Order No. 1 was debated at 8.55 am today—the hon. Member for York Central and I enjoyed our 45 minutes together—but order No. 2 should be considered as part of the whole package. Together, the orders support the effective management of Operation Brock and strengthen the enforcement regime that underpins it. Some hon. Members present heard my speech in the debate on the first order, but for the benefit of those who did not, I will repeat some of what I said—not all of it, I promise, although I do happen to have the previous debate pack handy in case they want to hear the whole thing.

As many hon. Members know, the Government have supported partners in Kent to develop Operation Brock: a co-ordinated multi-agency response to situations of cross-channel travel disruption when capacity for heavy goods vehicles to leave the UK through the port of Dover or the channel tunnel is significantly restricted. We have been preparing to use Brock should cross-channel disruption occur in a no-deal Brexit, but it could also be deployed to address disruption resulting from bad weather or industrial action. Brock replaces Operation Stack and is specifically designed to keep the M20 in Kent open in both directions, retaining junction access even if disruption is severe and protracted.

Operation Brock consists of three phases. The first—Brock M20—has a contraflow queuing system on the M20 between junctions 8 near Maidstone and 9 near Ashford. The contraflow system allows cross-channel heavy goods vehicles to be stored on the coast-bound carriageway, while letting all other traffic travel in both directions of the M20 on the London-bound carriageway. If the M20 queuing system were reaching capacity,

the second phase—Brock Manston—would be activated, and cross-channel heavy goods vehicles bound for the port of Dover would be diverted to Manston airport. If needed, the third phase—Brock M26—could be used to store trucks on the M26 heading to Europe via the channel tunnel.

The Kent Resilience Forum, which comprises bodies such as the county council and the local police force, owns the Operation Brock plans. Any decisions relating to the activation and timing of the different phases of Operation Brock will be taken by Kent police as the gold command, in consultation with the Kent Resilience Forum. Although we are working hard to inform traders and hauliers of any new requirements resulting from our departure from the European Union, should there be widespread non-compliance it could lead to serious congestion on Kent's roads, as was experienced back in 2015 when Operation Stack was deployed for 31 days. At that time, nearly a third of cross-channel HGVs avoided the traffic system, causing serious traffic problems on the local road network, with part of Kent becoming completely gridlocked.

The Department has engaged regularly over the past year, and continues to do so, with the forum and other stakeholders in Kent, who are very keen that measures be introduced to strengthen the enforcement of Brock, and that gaps in the legislative framework be addressed. All three orders will therefore need to be brought into force in time for a potential no-deal Brexit, to ensure that the scheme can operate as efficiently as possible and to reduce the impact on businesses and local communities in Kent. I am therefore grateful that time has been found for debates on the orders to take place quickly; I am also grateful for the speed with which the Joint Committee on Statutory Instruments has scrutinised them.

We consulted on the package of measures over the summer. We targeted, among others, key stakeholders such as the county council, the port of Dover and Eurotunnel. The responses received were broadly supportive, while providing helpful points of detail that assisted us in drafting the orders, as well as raising wider points on the deployment of operation Brock. My thanks go out to those who responded.

I shall now briefly set out, as I did earlier today, details of the order we are considering and the other two orders, to give Members the complete picture. Order No. 2, which we are debating now, prohibits cross-channel heavy goods vehicles from using local roads in Kent, other than those on the approved operation Brock routes. To facilitate traffic flow, the legislation also requires cross-channel heavy goods vehicles to remain in the nearside left-hand lane when using dual carriageway local roads that form part of the operation Brock routes.

Appropriate exceptions to that prohibition have been provided after consultation with the Kent resilience forum and freight associations. For example, a vehicle on a cross-channel journey can make a local collection or delivery, provided that the driver can provide information sufficient to satisfy a constable or traffic officer that the vehicle is being driven on a particular road for that purpose alone.

I remind the Committee that order No. 1 confers new powers on traffic officers in Kent, which would enable officers to require the production of documents to

establish the vehicle's destination and readiness to cross the border, direct drivers to proceed to a motorway—removing the vehicle from the local road network—and direct drivers not to proceed to the channel tunnel or the port of Dover, except via a specified road or route.

Document checks, to help ensure that a haulier has the right documents on the M20, will be carried out by temporary traffic officers, contracted and directly supervised by Highways England. Broader traffic management and enforcement will be dealt with by permanent staff and the police.

This order also sets the amount of the financial penalty deposit—a penalty that will be issued and taken immediately at the roadside by enforcement authorities. If a driver cannot pay the deposit, the vehicle will be immobilised. As I described in the earlier debate, that does not mean that it will be left immobile on the motorway. It will be stickered and escorted to a different location where the matter can be sorted, away from where it was causing any blockage.

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve under your chairmanship, Mrs Ryan. The Minister mentioned temporary traffic officers. Will he explain where those people will be found? When the A14 in my constituency was undergoing huge works recently, it was quite impossible for local police to recruit or find such people.

Chris Heaton-Harris: I was unaware of the issues that the hon. Member for Cambridge and his authority experienced. We have been building a recruitment drive for the past few months because we were expecting Brexit to happen a bit earlier this calendar year. We are also looking to give Kent County Council officers powers to help with this. We have surged staff and recruited more staff and we have options to add extra people to help. That is where these people have come from.

Charlie Elphicke (Dover) (Ind): It would be a particular issue if a lorry were to stray off the strategic road network and try to rat run, as it is colloquially known, for instance, out at the Courtwood interchange at the A20, down Folkestone road, and try to sneak through the town of Dover. There is a risk that there may not be traffic officers available to put a stop to such nefarious activities by hauliers. Can I propose that the Department urgently takes forward measures, not only to give Kent County Council powers as traffic officers but to allow district councils, such as Dover District Council, which has lots of staff who would be very happy to be traffic officers, to ensure that anyone rat running or parking on a box junction could be dealt with appropriately?

Chris Heaton-Harris: My hon. Friend, whose constituency is obviously affected by everything we debate today, is assiduous in these matters. He raised this particular point in the debate this morning. As I said, we are considering going only to the point of county council officers, but I have heard what he said, as have my officials. I promise to take that away and, if need be, we will look at his suggestion as well.

Ian C. Lucas (Wrexham) (Lab): Will the Minister clarify who will pay the cost of the additional officers? Will they be paid for by the Government or will the local authority be expected to bear the cost?

Chris Heaton-Harris: The Government pick up the tab for all sorts of Brexit-related activity and, as ever, that will be the case in this instance.

If a driver cannot pay the deposit, their vehicle will be immobilised. The amount of the deposit for breaching the traffic restrictions introduced by the other two instruments or for failing to comply with a traffic officer exercising the new powers is set at £300.

To complete the picture for the Committee, order No. 3, which has been laid using the negative procedure, prohibits cross-channel heavy goods vehicles from accessing the coastbound carriageway of the M20 between junctions 9 and 13, unless the driver is displaying a permit. That permit will be issued in the Brock queue between junctions 8 and 9, enabling a driver to demonstrate that they have followed the approved Brock route and have complied with any border document checks that may be undertaken in the queue. The order also prohibits cross-channel heavy goods vehicles joining the M20 contraflow between junctions 8 and 9 of the London-bound carriageway. It sets out the amount of the fixed penalty for offences relating to this series of instruments.

The new powers and traffic restrictions in the orders will cease to have effect—a sunset clause is included—at the end of 31 December 2020, which coincides with the end of planning permission for Manston airport to hold HGVs. Manston is of course an integral part of the Brock system, so that is a suitable and consistent date for those powers to cease to have effect.

Crucially, the instruments introduce powers that allow for an enforceable border readiness check to be conducted. If the Brock queues are stationary, we propose conducting border readiness checks on the M20 and at Manston airport. A haulier who is deemed ready to cross the border will be given a permit that allows them to go to their port. Unready hauliers who try to go to the port without a permit could be stopped, directed to the back of the Brock queues and given the proposed on-the-spot £300 fine by the police or DVSA.

The orders are needed to allow sensible traffic management in Kent. It is vital that we show that we are absolutely ready and that Brock is ready and will be fully operational and enforceable on day one should it be needed to deal with the impact of cross-channel disruption.

2.42 pm

Rachael Maskell (York Central) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mrs Ryan. This is the second order in the trilogy of heavy commercial vehicles in Kent, and I look forward to debating the third in due course. This order is about the movement of HGVs through Kent and highlights the exemptions that are to be applied to order No. 1, which was debated this morning. The Committee will be pleased to hear that I will not repeat much of what I said this morning, but I wish to make a number of points.

If traffic officers announce severe disruption and heavy traffic is already travelling along the non-designated route within a two-hour period of the announcement, vehicles will be exempt from any fines. Can the Minister confirm, however, that hauliers will not receive a penalty if, when making their way to the designated route, the traffic is so bad that it takes longer than the two-hour set period?

[*Rachael Maskell*]

Lorries will be allowed to travel to make local connections and deliveries and for the purposes of refuelling as provided for by their documentation. How can that documentation be made available? Can it be electronic or does it have to be written documentation, particularly as local HGVs will be making assignments to local companies so they would not have the particular permits that are required under order No. 1?

If a cab is making its way to a port but does not carry any load, the legislation is silent about what restrictions will apply. Since the cab would be travelling to the port to collect an assigned load, it would not therefore have documentation to highlight the destination of the load. How will that matter be treated? Will the same restrictions apply and what documentation will be needed? The order is silent on that.

Again, on documentation, article 3(d) states that if an HGV is being driven on a local road network, the driver must produce

“information sufficient to satisfy the specified person”.

Will the Minister explain exactly what that means? There should be greater clarity in the order about what “sufficient to satisfy” means. That should be far more transparent, because it seems that it is down to the person’s discretion. Local lorries in Kent will be required to get a haulier’s permit from Kent County Council. I wonder how widely information about that additional requirement has been spread.

I have a further question about the welfare of drivers who need to use local routes. The conditions of those working in the haulage industry who have to park at the side of a motorway or on an airfield will still be unacceptable. I heard what the Minister said this morning about there being facilities—internet access, printers and other facilities—at Manston airfield, but drivers could be expected to wait for hours, possibly a day, or even more at the roadside, where suitable conditions are not available, without a decent resting place apart from their cab. If they need a shower or healthcare, how are they meant to access that?

The physical and mental health of drivers must be a priority but, sadly, it has not been. It is not clear from article 3(e)(i) whether there are any restrictions on what happens if drivers move themselves from the main carriageway to address, say, their personal health concerns or needs. I am particularly concerned about the mental wellbeing of drivers. Being away from home for extended periods, being late for family or community events and being isolated already take their toll, and prolonging such situations will have a profound impact. How is the Minister considering that? It seems that not all scenarios have been planned for. It is regrettable that the order was rushed out without consideration being given to these important matters. How will they be accommodated?

How would road repairs or a road closure due to a road traffic accident on the M20 or some other designated route be accommodated? Are contingency arrangements in place? We could end up with a combination of events, such as congestion at the ports leading to the full Operation Brock being put in place, followed by a severe weather event. These measures could be trialled from 31 January or 1 February, when we know the weather conditions may not be that pleasant, so how would such a combination of events be accommodated?

Finally, I wish to make a point about the cost of this whole operation, which my hon. Friend the Member for Wrexham touched on. Can the Minister tell the Committee, and therefore the taxpayer, how much these measures will cost? We have heard about the recruitment of additional staff. Are taxpayers aware that these measures, let alone all the other costs that will be incurred, all add to the escalating cost of a no-deal Brexit? I look forward to the Minister’s response on these important matters.

2.48 pm

Chris Heaton-Harris: I will pick up a couple of other points before I come to the questions asked by the hon. Member for York Central. I say in response to my hon. Friend the Member for Dover and the hon. Member for Cambridge that 125 contractors will be designated as temporary traffic officers to operate in the queue on the M20 to do checks of border documents. Training is already under way for those individuals.

My hon. Friend the Member for Dover also asked who will stop people rat running. As I mentioned, we are considering local traffic officers. However, enforcement will need to be undertaken by the police or the Driver and Vehicle Standards Agency, which have expanded resources to support compliance on Kent’s roads.

Charlie Elphicke: The Minister talks about the police being responsible for enforcement; in fact, the Department for Transport has the power to extend the enforceability to other officers. Long experience in Kent teaches us that the police are not always very interested in enforcing on the motorways or the roads—particularly in east Kent; they are more interested in west Kent. Will the Minister enable wider enforcement powers to be given to local authority officers, as has been done in a pilot scheme in Ashford?

Chris Heaton-Harris: As my hon. Friend knows, we are actively looking at these matters, but I cannot give him a definite yes because I very much hope that we will not need to be in that situation.

Charlie Elphicke: I completely agree with the Minister. None of us wants to be in that situation; all Government Members want a deal. However, in the unfortunate event of a no deal due to the intransigence of the European Union—egged on, sadly, by Members of the Labour party—might we not have £39 billion to help us with the cost of it?

The Chair: Minister, perhaps we could remain within the scope of the order.

Chris Heaton-Harris: I somehow guessed, Ms Ryan, that you would pull us back to the subject. It is a wise thing to do. I do not want to get too excited about that issue, because I really want to answer the points that the hon. Member for York Central made and stress how important it is to everybody in Kent that we get this exactly right. My hon. Friend the Member for Dover makes some very sensible, straightforward political points, and we can have a battle about them another time. I just want to make sure this item is scrutinised correctly.

The hon. Member for York Central asked me a number of questions—nine, I think—and I shall try to answer them all. What happens to lorries travelling down the route or trying to get back on to the route

when the two-hour window applies? Well, I am always told that the first rule of policing is common sense. Common sense will apply, and we would like to think that police officers and those enforcing will use it in that time period.

What sort of paperwork would be required to demonstrate that people are driving on local routes? The production of a delivery notice for an address in the local area with the appropriate goods on board will absolutely demonstrate that. That is a relatively straightforward, “as things are now” answer.

I think the hon. Lady’s third question was: what happens to empty lorries? Some restrictions apply, and they will have to join the Brock queues. We know that 30% of containers on trucks heading back to France are empty, but those trucks will have to join the queue like anyone else, because it is very difficult to distinguish them from any other lorry.

Rachael Maskell: Often a lorry is a cab without a trailer. Will the same restrictions apply despite there being no load on board?

Chris Heaton-Harris: I will double-check, but I think the answer is yes. In Kent, that is a very rare occurrence, because the type of movements across the channel are roll-on roll-off movements, and so they take the container with them. My officials are scrawling away. I will lengthen my other replies, and hopefully I can get the definitive answer within the course of the debate, but I believe that what I have said is correct.

The hon. Lady asked what paperwork would be required to satisfy the specified person if an HGV driver was trying to say that they were going down a local route. As I said in my previous answer, they should have a delivery slip—that is not the correct word—or a delivery manifest that demonstrates that the load on their lorry, or part of it, is going to a local address. There is no real discretion; they should have something that demonstrates that what they say is the case.

The hon. Lady asked about local permits being issued by Kent County Council. I have been in meetings where I have been told that they have been very well publicised locally, so haulage companies in Kent absolutely know where to get them. After this Committee, I am going to a meeting with the gentleman who is in charge of these issues for Kent County Council, and I will ask him that exact question. If the answer is not as I have said, I will come back to the hon. Lady.

On welfare, strangely enough, I am with the hon. Lady. As I alluded to in the earlier debate, I used to import wholesale fruit and veg—hauliers were the lifeblood of that business. Without them, I would not have been able to do half the things I was able to do. The job has never been as valued as it should be. We have been working with the industry to determine what might be required for drivers’ health. She made the point about mental health; there is a whole industry focus on the mental health of drivers, because there is a recruitment and retention problem in the industry. It is really important that these things are addressed properly and professionally.

We do not want drivers to get stuck in Brock and, because of something else that is going on, to stay in Brock, when they can move on and get on with their

lives. I mentioned earlier that we looked at all the different welfare things that we should and could provide, from printers to toilets to food and water. We do not want to make a community centre out of Manston airport, but we want it to be a functioning workplace where people are treated with the appropriate respect.

Rachael Maskell: I am grateful for the clarity that the Minister has given on many of my concerns. If lorries are parked along the motorway carriageway, could he say how frequent the spacing out of toilets will be?

Chris Heaton-Harris: Very frequent. I believe we know the designated spacing and the answer is coming to me. The toilets will be every kilometre. Going back to the point about the vehicle without the container, restrictions will apply to HGVs over 7.5 tonnes.

On the hon. Lady’s seventh question, this is a contingency plan for something that we do not want to happen. The reason we have a massive communications campaign up and down the country as we speak is to ensure that the drivers and traders who use haulage companies are ready. If they are ready, as I hope and believe they will be, there will be no issues with flow and Brock will not need to be stood up. There has been a huge amount of investment on the French side, at the ports of Calais, Coquelles and Boulogne, to ensure flow continues over there as long as we have drivers in a place where the paperwork is ready. Hopefully, this is a contingency that will not need to be stood up.

The hon. Lady asked about road traffic issues—what happens if there is a crash or unexpected emergency roadworks? It is very helpful that the Kent Resilience Forum leads on all that, which is a combination of local councils, the police and highways authorities—a whole host of different agencies and people. They are working together now and their lead police officer, Peter Ayling, is in charge of co-ordinating that. Nothing should happen that they are not prepared for, but they have extensive plans for everything including severe weather and other events that may be concurrent with problems with flow at the port. *[Interruption.]* I have just been corrected on the spacing of portable toilets—they are at one-mile intervals, not one-kilometre intervals. I will always be more imperial than metric.

Finally, the hon. Lady asked about costs. There is a political point to make here: if the hon. Lady and her political party had voted for the deal, there would not be the extra costs of planning for a no-deal Brexit. However, a responsible Government have to do exactly that. In 2018-19, the cost was £59.9 million, and in 2019-20 it will be about £40 million, although there are still some costs to come as and when Brock gets stood up. I hope that has answered all the hon. Lady’s questions. If I have missed any, I shall write to her, if that is okay. I hope I have answered everybody else’s points.

Question put and agreed to.

Resolved,

That the Committee has considered the Heavy Commercial Vehicles in Kent (No. 2) Order 2019.

3 pm

Committee rose.

