

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

THE ENTERPRISE ACT 2002
(SPECIFICATION OF ADDITIONAL SECTION 58
CONSIDERATION) ORDER 2020

Wednesday 8 July 2020

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The Committee consisted of the following Members:

Chair: IAN PAISLEY

† Brine, Steve (*Winchester*) (Con)
 † Doyle-Price, Jackie (*Thurrock*) (Con)
 † Gideon, Jo (*Stoke-on-Trent Central*) (Con)
 † Graham, Richard (*Gloucester*) (Con)
 † Gullis, Jonathan (*Stoke-on-Trent North*) (Con)
 † Hammond, Stephen (*Wimbledon*) (Con)
 † Moore, Damien (*Southport*) (Con)
 Osamor, Kate (*Edmonton*) (Lab/Co-op)
 † Powell, Lucy (*Manchester Central*) (Lab/Co-op)
 Smith, Nick (*Blaenau Gwent*) (Lab)
 Tarry, Sam (*Ilford South*) (Lab)

Thompson, Owen (*Midlothian*) (SNP)
 Timms, Stephen (*East Ham*) (Lab)
 † Timpson, Edward (*Eddisbury*) (Con)
 † Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)
 † Twist, Liz (*Blaydon*) (Lab)
 † Zahawi, Nadhim (*Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy*)

Yohanna Sallberg, *Committee Clerk*

† **attended the Committee**

Fifth Delegated Legislation Committee

Wednesday 8 July 2020

[IAN PAISLEY *in the Chair*]

The Enterprise Act 2002 (Specification of Additional Section 58 Consideration) Order 2020

2 pm

The Chair: Before we begin, I remind Members about the social distancing regulations. Members may wish to remove their jackets if they feel very warm or overcome. I also remind Members that if they make speeches, they should email them to *Hansard*, who would appreciate it. I call the Minister to move the motion.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Nadhim Zahawi): I beg to move,

That the Committee has considered the Enterprise Act 2002 (Specification of Additional Section 58 Consideration) Order 2020 (S.I., 2020, No. 627).

The order was made and laid before the House on 22 June 2020 under the affirmative process. As ever, it is a delight to serve under your chairmanship, Mr Paisley. I will explain clearly the rationale behind the order.

Today's debate focuses on the addition of a public interest consideration to the Enterprise Act 2002—specifically, the need to maintain in the UK the capability to combat and mitigate the effects of public health emergencies. As Committee members know, the Government have done everything in their power to protect UK citizens, UK businesses and the UK economy during the pandemic, but the crisis has exposed a gap in those powers that the order seeks to fill. In short, it helps to ensure that critical public health and crisis mitigation capabilities can be preserved in the United Kingdom to safeguard the welfare of the British people.

I turn briefly to the Act as a whole, which enables the Government to intervene in qualifying mergers and acquisitions on specified public interest grounds. There were three grounds for such interventions in the Act: national security, media plurality and financial stability. The last was added in 2008, following the financial crisis.

The order added a fourth public interest consideration to the list: public health emergency capability. The addition does not change our belief in an open economy or the many benefits that result from investment in the United Kingdom. In 2018 alone, more than 57,000 jobs were created thanks to foreign investment, and such investment will continue to be vital as we power our economy and our recovery from the pandemic.

Our belief in an open economy is reflected in our history of interventions under the Act. To date, there have been 20 interventions: 12 on the grounds of national security, seven on media plurality and one on financial stability. Not one has resulted in a blocked merger. However, the covid-19 pandemic has caused us to step

back and review the circumstances under which it is proper for the Government to intervene in takeovers, and that work has led to the order under consideration.

I turn briefly to the detail of the order. All Committee members will recognise the hard work, dedication and commitment of firms in their constituencies up and down the country that have been involved in our covid-19 response. Those companies have helped us to weather the pandemic storm and their capabilities, including their expertise and knowledge, will be just as crucial as we rebuild our economy. However, the very qualities that made those firms critical to our response put them at risk from opportunistic investors. Although the vast majority of investors are an immense boon to the country, a small and unscrupulous minority seek to use UK expertise to advance their own agenda at the expense of the British people.

In the past months, we have seen attempts across the world to buy priority access to vaccines, to control the flow of personal protective equipment or to limit the availability of certain drugs. The Government have been clear that they will not allow that to happen to UK firms as a result of qualifying takeovers. This order creates the legislative framework to allow us to do so.

Companies directly involved in combating public health emergencies, such as drugs companies, are most at risk. However, astute Members will have noted that the order also allows intervention to maintain UK capability in mitigating the effects of a public health emergency. That might be necessary if there were a risk to firms in our food supply chain, for example, or to companies that allow us to work safely during a pandemic, helping slow the spread of the virus while allowing us to mitigate the impact on our economy. Such companies might include internet providers, for example, whose fibre broadband allows people across the country to work from home, order food and essentials from their living room, and keep in touch with their loved ones.

In conclusion, this is a reasonable and proportionate measure, allowing the Government to intervene to maintain the UK's capability to combat and mitigate the effects of public health emergencies. The need for such a measure has been illuminated by the covid-19 pandemic, but it does not alter our appetite or enthusiasm for genuine investment into this country, which will always be encouraged and welcomed. I hope all Members will support this measure to ensure the UK remains open for business, but not for exploitation, and I commend the order to the House.

2.6 pm

Lucy Powell (Manchester Central) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Paisley. We noted during this morning's statutory instrument Committee that many Members had made use of their local enterprises over the past few days to get their hair done. I note that some have not yet done so, although I think the Minister was the first in the queue on Saturday—*[Laughter.]* He got his hair coiffed to its usual high standard.

The Opposition support these measures. It is important to protect critical public health and crisis mitigation infrastructure from aggressive takeovers. Many usually successful businesses of all sizes that are supporting our communities to tackle the effects of covid-19 are suffering

from short-term impacts on their profitability and share prices, and might therefore be more vulnerable to takeovers than would otherwise be the case. We support the addition to section 58 of the Enterprise Act of a capability to combat and mitigate the effects of public health emergencies as a new public interest consideration, placing it alongside the existing provisions for interventions on the grounds of “national security”, “media plurality” and

“the stability of the UK financial system”.

As the Minister has said, the Labour Government used an order similar to the one we are considering today to add the stability of the UK financial system to that list back in 2008, following the financial crisis. There is no doubt that that provision will also play an important role in the months and years ahead.

I appreciate that swift action is required in these times, and the Government have moved quickly to act in this instance. However, the Labour Government did manage to conduct an impact assessment and lay it before the House alongside the 2008 order, so I ask the Minister to consider doing something similar in quite short order, or maybe conduct a formal review of the changes at some point so that we can understand their long-term impacts. That said, we are happy to support the order today.

2.9 pm

Nadhim Zahawi: I am grateful to the shadow Minister for the support of the Opposition. Of course, the National Security and Investment Bill will be coming forward, in which we can look in the round at what we have in place to protect the UK economy from predatory behaviour.

2.10 pm

Richard Graham (Gloucester) (Con): The Minister has laid out the case for why there needs to be a public interest addition to section 58 of the Enterprise Act 2002, and he mentioned the context: of the 20 interventions so far, none has been carried out.

None the less, the impact of this change is in the direction of growing protectionism. We are seeing that trend across the world, and it can only have a negative impact on inward, and indeed outward, investment. Will the Minister tell us the extent to which some of the

partners with whom we are trying to do free trade agreements have similar provisions in place—in other words, specific considerations of public health emergencies added to their public interest constraints on buying companies? To what extent does he believe that that trend is going to grow?

In an earlier statement, the Minister said:

“It is difficult to imagine that the need to maintain critical UK public health and crisis mitigation capabilities will become less important over time.”

That implies that there will be more intervention, rather than less. It would be valuable if we were all clear about the direction of travel, given that this party of Government believes strongly in creating a global Britain that allows our businesses to go overseas and, if need be, to buy companies to help expand British interests overseas. As the Minister said, we benefit hugely from inward investment.

The Chair: We get a double portion of the Minister.

2.11 pm

Nadhim Zahawi: I am grateful to colleagues for listening so intently and for their presence. I hope they will see fit to support the order.

My hon. Friend the Member for Gloucester raises an important point about other countries and our experience of how they have dealt with the pandemic. Our European allies, Australia and Japan, have also moved to protect their economies and companies similarly. He also raised scope creep, which would not go down well. Let me be clear: this is not a wider public interest test brought in through the back door. My hon. Friend is rightly concerned about that, and he would want to hold the Government to account if that were true, but it is not. I hope I can allay his fears.

The Government continue to welcome genuine investment from around the world. I repeat this for the last time: our economy can thrive only when the health of the British people is protected.

Question put and agreed to.

2.13 pm

Committee rose.

