

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

PUBLIC HEALTH (CORONAVIRUS) (PROTECTION
FROM EVICTION AND TAKING CONTROL OF
GOODS) (ENGLAND) REGULATIONS 2020

Monday 7 December 2020

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

Cadbury, Ruth (*Brentford and Isleworth*) (Lab)

† Chalk, Alex (*Parliamentary Under-Secretary of State for Justice*)

† Charalambous, Bambos (*Enfield, Southgate*) (Lab)

† Clarkson, Chris (*Heywood and Middleton*) (Con)

† Crosbie, Virginia (*Ŷnys Môn*) (Con)

† Fuller, Richard (*North East Bedfordshire*) (Con)

Hillier, Meg (*Hackney South and Shoreditch*) (Lab/Co-op)

† Jones, Fay (*Brecon and Radnorshire*) (Con)

† Kyle, Peter (*Hove*) (Lab)

McDonnell, John (*Hayes and Harlington*) (Lab)

Millar, Robin (*Aberconwy*) (Con)

Miller, Mrs Maria (*Basingstoke*) (Con)

Osamor, Kate (*Edmonton*) (Lab/Co-op)

† Pursglove, Tom (*Corby*) (Con)

† Roberts, Rob (*Delyn*) (Con)

Whitley, Mick (*Birkenhead*) (Lab)

† Wood, Mike (*Dudley South*) (Con)

Chloe Freema, *Committee Clerk*

† **attended the Committee**

Second Delegated Legislation Committee

Monday 7 December 2020

[SIR DAVID AMESS *in the Chair*]

Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020

4.30 pm

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): I beg to move,

That the Committee has considered the Public Health (Coronavirus) (Protection from Eviction and Taking Control of Goods) (England) Regulations 2020 (S.I., 2020, No. 1290).

It is, as always, a pleasure to serve under your chairmanship, Sir David. The statutory instrument prevents enforcement agents—bailiffs, in plain English—from entering residential premises in England to execute a writ or warrant of possession until 11 January, except in the most serious circumstances.

The purpose of the measure is to protect public health by preventing people from being evicted from their homes by enforcement agents at a time when the risk of virus transmission is high and when local authorities and NHS services are typically under additional strain over the Christmas period. The instrument builds on the Government's previous guidance on enforcement activity during the national lockdown in England, which was introduced by the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020, and on the intention to have a winter pause on evictions, which the Government announced on 10 September. The instrument before the Committee also prevented enforcement agents from entering residential properties to take control of goods during the national lockdown that ended on 2 December. It applies to enforcement action in England only.

The Government took unprecedented action to ensure that renters were protected from eviction at the height of the coronavirus pandemic, including by providing significant financial support and agreeing with the courts to use powers relating to court procedure to stay possession proceedings for a total of six months, until 20 September. That stay could only ever be temporary, however; the civil justice system and the rules that underpin it must be accessible, fair and efficient for tenants and landlords alike.

Ahead of the end of the stay on possession cases in the courts, the Government put in place a number of measures to manage the resumption of cases carefully, so that the courts were not overwhelmed and could make decisions; so that the most vulnerable could get the help and support they needed; and, in particular, so that tenants could have access to legal advice and support. The Government also worked with the judiciary and others to put in place new court arrangements to ensure appropriate support to all parties. Those court arrangements are in place and are working well, and I pay tribute to the working group convened by the Master of the Rolls and chaired by Mr Justice Knowles for the key role that it has played.

In addition, the Government took legislative action. The Minister for Housing laid a statutory instrument on 28 August to amend schedule 29 to the Coronavirus Act 2020 to require landlords to provide tenants with six months' notice in all but the most serious cases. That approach ensures that tenants will remain safe and have additional time to find new accommodation, while empowering landlords to take action where necessary—if a tenant's antisocial behaviour is severely affecting their neighbours' quality of life, for example.

We have also taken some targeted action on the enforcement of evictions to protect public health during the extraordinary circumstances of the coronavirus pandemic. In September, guidance was issued to bailiffs to request that the enforcement of possession orders did not proceed in areas where local lockdown regulations restricted gatherings in residential properties, to prevent tenants being forced out of their homes at an unsettling time in areas where public health risks could be greater.

The Government also announced in September that we would take steps to prevent eviction action taking place over the Christmas period, ensuring that vulnerable tenants are not forced from their homes at a time when public and local authorities may be dealing with the usual level of increased demand on services. Bailiffs were issued guidance that they should not enforce writs or warrants of possession, other than in the most serious circumstances, between 11 December and 11 January, during the winter pause I mentioned. That is the necessary context—forgive me for setting it out in some detail, Sir David, but it is important.

At the beginning of November, following the introduction of the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020, enforcement agents were asked not to enforce evictions nationally at a time when the risk of transmitting the virus was high and a number of significant restrictions were in force. As the national restrictions were set to end just before the end of the national winter pause, the Government decided that it was appropriate to build on the guidance not to enforce evictions in England during that time with the legislative measure before the Committee. We therefore laid this instrument in Parliament on 16 November, to come into force on 17 November. We were able to do so because it was an urgent matter taken under the public health legislation. Today's proceedings are now required to ensure that this made affirmative legislation continues to have effect.

The instrument is consistent with the policy that the Government have adopted since the start of the pandemic. It aims to strike a balance between prioritising public health and supporting the most vulnerable, while ensuring that landlords can access and exercise their right to justice in the most serious cases. For that reason, the instrument contains some limited exemptions from the ban on the enforcement of evictions. These exceptions relate to circumstances where the Government feel that the health risk is lower, or the competing interests of preventing harm to third parties or taking action against egregious behaviour are sufficient to outweigh the public health risks in enforcing eviction.

The instrument provides the following exemptions to the restrictions on enforcing evictions: first, where the claim is against trespassers who are persons unknown, and secondly, where the order for possession was made wholly or partly on the grounds of antisocial behaviour

or nuisance, false statements, domestic abuse in social tenancies, substantial rent arrears equivalent to nine months' rent that predate 23 March 2020, or the death of a tenant where the enforcing agent attending the property is satisfied that the property is unoccupied. The Government believe it is important that there is a clear, uniform and transparent process for establishing whether an exemption to the ban on evictions applies. For that reason, the instrument contains a requirement for the court to be satisfied on a case-by-case basis that an exemption applies.

The measure will be in force until 11 January. New rules require that all bailiffs must give 14 days' notice of an eviction, which means that in most cases evictions will not resume anywhere in England until 25 January at the earliest. We continue to keep the position regarding the enforcement of evictions in local tiers under review, following the expiry of the national restrictions over the midwinter period. I know there has been significant interest in the House in the effect of removing tenants' protection from eviction, which was provided by the stay on possession proceedings between 27 March and 20 September this year. Concern has also been expressed by hon. Members about the impact of these restrictions on the rights of landlords, who are dealing with difficult situations in which there is no reasonable alternative to possession proceedings.

The statutory instrument also set out a nationwide prohibition on enforcement agents taking control of goods inside residential properties while the national restrictions are in place. The measure did not prevent enforcement agents from taking other steps to enforce debts and fines under the taking control of goods procedure, including making contact via remote means such as telephone; visiting, but not entering, properties; taking control of goods located outside homes or on the highway; and enforcement at business premises. The Government believe that such steps may be safely undertaken in line with the Government's published covid-secure guidance for enforcement agents using the taking control of goods procedure. The Government's view, therefore, is that this policy strikes a proportionate balance between protecting against the risk of transmission and allowing the continuation of the administration of justice.

Forgive me for one moment as I find the next part of my speech.

Peter Kyle (Hove) (Lab): Want to read mine?

Alex Chalk: Thank you for that kind offer.

I will close by saying that the courts remained open throughout the national restrictions in November. The court rules and procedures introduced in September will ensure protections for both tenants and landlords. For example, landlords are required to send the court information about the impact that the pandemic has had on their tenant; a new review stage has been introduced so that tenants can access legal advice; and landlords are required to reactivate any existing claims that were in the system before 3 August. The Government have published comprehensive new guidance for landlords and tenants to explain all these new arrangements and their impact on the court possessions process.

Our approach strikes the right balance between prioritising public health and supporting the most vulnerable renters, while ensuring that landlords can access and exercise their right to justice. Landlords can action

possession claims through the courts, but evictions will not be enforced apart from in the most serious cases. This instrument provides tenants with protection from eviction, ensuring that vulnerable tenants are not forced from their home at a time when public and local authorities may be dealing with the unusual level of increased demand on services. I therefore commend the regulations to the Committee.

4.40 pm

Peter Kyle: It is a pleasure to serve under your chairmanship, Sir David, on this cool Christmas evening.

I will start with the aspects of the instrument that the Opposition consider positive. The measures in the regulations will come as a relief to people up and down the country. No one wants to see people evicted from their homes in the middle of a deadly pandemic. As we are all too aware, many have found themselves in perilous financial situations this year and struggled to pay their rent from week to week. The Opposition think it essential that none of those struggling households—those in both the private and socially rented sectors—are forced out of their homes this Christmas. It would be not only deeply immoral but hugely dangerous and counterproductive to deny people the safety of their home while the virus persists.

In March, the Secretary of State for Housing, Communities and Local Government promised that “no one should lose their home as a result of the coronavirus epidemic”

and the Opposition agreed wholeheartedly. During the first wave, the Government attempted to live up to that promise by introducing a nationwide ban on evictions. Following pressure from the Opposition, they extended the ban twice. In the run-up to the ban ending, the shadow Secretary of State for Housing, my hon. Friend the Member for Bristol West (Thangam Debbonaire), repeatedly warned that the Government would have to extend the ban yet further. The Housing Minister assured her “we are moving out of the worst of the epidemic”—[*Official Report*, 22 July 2020; Vol. 678, c. 2170.]

but all the evidence at the time showed and subsequent events have shown that the Opposition were, unfortunately, correct.

It was scandalously and deeply myopic of the Government to lift the evictions ban just when the evidence was showing we were heading into a second wave. Just when renters and homeowners needed protection the most, the Government decided to take it away. The Government went against the advice of the Opposition, the chief medical officer and various other public health bodies, who all warned of a rise in covid infections if they forced people into homelessness or serious overcrowding. If they had listened to that advice, the original ban on evictions still be in place and these regulations would not have been necessary.

Let us be crystal clear: the regulations are not a ban on evictions; they simply prevent enforcement agents from carrying them out. They prevent enforcement agents from physically taking possession of a home, but they do not stop eviction notices from being sent to homes. Meanwhile, the courts remain open to hear possession claims. After a year of unimaginable hardship, eviction notices will be landing on thousands of doormats this Christmas, reminding people that they could be homeless when January comes and the effect of these provisions ceases. That is simply scandalous. What is

[Peter Kyle]

more, it could so easily have been avoided had the Government chosen to follow the Opposition's advice and reinstated a national ban on evictions.

The regulations provide some protection to tenants who would otherwise have nothing, so we will not oppose them today, but they will only delay, rather than prevent, the looming evictions crisis. We need a long-term plan to ensure that nobody loses their home because of coronavirus. That starts with early planning. I would therefore appreciate the Minister answering some questions.

What are the Government doing to prevent illegal evictions, reportedly up by 50% since the beginning of the pandemic? Do the Government recognise that figure? Do they collect data on illegal evictions? I cannot tell whether they do. What are they doing to ensure that local authorities have the financial resources to pay vital discretionary housing payments to those who are struggling? Will the provisions of the regulations continue in tier 2 and tier 3 areas after 11 January, or will people in those areas be left high and dry, just as they were in September?

I turn to the second aspect of the regulations: the taking of goods. During the first lockdown, the Government passed legislation to prevent enforcement agents from entering properties and taking control of goods. Following the end of the first national lockdown, the restrictions on taking goods were lifted, just a few days before the second wave took hold. As with the lifting of the eviction ban, that was a stunningly short-sighted decision which Labour vehemently opposed.

Following the second national lockdown, from 5 November until 2 December, the Government legislated to ban enforcement agents from taking control of goods inside residential properties. Unfortunately, that ban was only effective for the time the national lockdown was in force. Given that the national lockdown has now come to an end, bailiffs will be permitted to enter homes in tier 1 areas and conduct visits to homes in tier 2 and 3 areas. The current arrangement is purely a voluntary one, between the Lord Chancellor and the Civil Enforcement Association. It could be fudged or broken at any time. We believe that it is simply wrong that, through a lack of legislation, the Government are placing many clinically vulnerable people at increased risk of catching covid as a result of allowing bailiffs to visit their homes. That is in stark contrast to the Government's approach to the enforcement of evictions. Why does the Minister think it is necessary to stop enforcement of evictions but not necessary to prevent enforcement agents from visiting homes?

During a deadly pandemic, especially at Christmas, enforcement visits are both dangerous and unnecessary. They also force those who are already struggling into even further debt, as each visit by an enforcement agent adds £235 to a person's debt, even if the purpose of the visit is not achieved. At a time when the Government should be focusing on economic recovery, these visits will force vulnerable people into further, deeper debt.

This Christmas will be hardest that many people experience, even without the additional fear of a knock on the door from the bailiffs. With that in mind, will the Minister answer the following questions? Why is the Government's approach to the taking of goods so different from their approach to enforcing evictions? Will the Minister commit to passing legislation to ban bailiffs

from visiting properties until at least January? If not, will he at the very least legislate to prevent agents from entering homes in tier 2 and tier 3 areas? Finally, will he commit to implementing the recommendations of the Justice Committee's April 2019 report and appoint an independent industry regulator?

4.47 pm

Alex Chalk: I thank the hon. Member for Hove for his helpful observations.

The hon. Gentleman asked about illegal evictions. If an eviction is illegal, it is absolutely right that proper action to be taken. It is a cruel and frankly wicked thing to evict someone illegally, without due process. I am proud that this Government have been increasing resources for policing. If there is a breach of the law, there will be more police officers available to take action where that is appropriate.

The hon. Gentleman asked about local authorities and their funding to assist people with local housing allowance. I am glad that he raised that, because he is right: local authorities across the country, including the one in my constituency, face additional pressures. That is why the Government have allocated £4 billion to assist local authorities. On the specific point about local housing allowance, there will be an additional £180 million to allow councils to make discretionary housing payments to individuals who are finding it difficult to make rent payments. In fact, a total of £700 million will be allocated this year, with more next year, also to tackle homelessness and rough sleeping.

As the Committee will be aware, councils have also been provided with funding to support hardship funds, so if individuals have difficulty meeting council tax payments, they can apply to their local authority for assistance. A huge amount of money and will is being put behind trying to assist people in difficult circumstances to meet their financial obligations. All that stands above and apart from the other measures in place, such as furlough and the self-employment income support scheme, to ensure that people have money going into their pockets to meet their obligations.

The hon. Gentleman asked about the distinction between eviction and taking possession of goods. Respectfully, I would say there is a clear distinction. When individuals knock on a door seeking to evict someone from the home they live in, that is manifestly different from taking possession of goods inside the home. It is right that we ensure that each issue is taken on its merits and in the round. In this House we are of course mindful of the impact on the people behind the door, but equally we have to remember that there are those who have the right to access the justice procedure to ensure that debts are honoured and obligations met. It is right that we consider not a one-size-fits-all approach, but an approach that takes account of the implications of the enforcement action. There is no similarity between removing a possession and removing a home.

Finally, the hon. Gentleman asked about the proper question that the Justice Committee raised with respect to independent scrutiny of enforcement agents. The Government will return to that matter in due course.

Question put and agreed to.

4.51 pm

Committee rose.

