

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourteenth Delegated Legislation Committee

DRAFT CUSTOMS SAFETY AND SECURITY  
PROCEDURES (EU EXIT) REGULATIONS 2020

*Thursday 10 December 2020*

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**Monday 14 December 2020**

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

*Chair:* CAROLINE NOKES

- |   |  |
|---|--|
| † Britcliffe, Sara ( <i>Hyndburn</i> ) (Con)                      | † Rutley, David ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)                         | † Simmonds, David ( <i>Ruislip, Northwood and Pinner</i> ) (Con)       |
| Bryant, Chris ( <i>Rhondda</i> ) (Lab)                            | † Smith, Greg ( <i>Buckingham</i> ) (Con)                              |
| Jarvis, Dan ( <i>Barnsley Central</i> ) (Lab)                     | † Smith, Henry ( <i>Crawley</i> ) (Con)                                |
| Lewell-Buck, Mrs Emma ( <i>South Shields</i> ) (Lab)              | † Smith, Jeff ( <i>Manchester, Withington</i> ) (Lab)                  |
| † McFadden, Mr Pat ( <i>Wolverhampton South East</i> ) (Lab)      | † Williams, Craig ( <i>Montgomeryshire</i> ) (Con)                     |
| † Newlands, Gavin ( <i>Paisley and Renfrewshire North</i> ) (SNP) | Yasin, Mohammad ( <i>Bedford</i> ) (Lab)                               |
| † Nici, Lia ( <i>Great Grimsby</i> ) (Con)                        | Sarah Rees, <i>Committee Clerk</i>                                     |
| † Norman, Jesse ( <i>Financial Secretary to the Treasury</i> )    |  |
| † Russell, Dean ( <i>Watford</i> ) (Con)                          | † <b>attended the Committee</b>  |

# Fourteenth Delegated Legislation Committee

Thursday 10 December 2020

[CAROLINE NOKES *in the Chair*]

## Draft Customs Safety and Security Procedures (EU Exit) Regulations 2020

11.30 am

**The Chair:** Before we begin, I remind Members to observe social distancing. You are all sitting in places that are marked, so I thank you for that. *Hansard* colleagues would be grateful if Members sent their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). I ask you to observe social distancing particularly when you are leaving. Thank you.

**The Financial Secretary to the Treasury (Jesse Norman):** I beg to move,

That the Committee has considered the draft Customs Safety and Security Procedures (EU Exit) Regulations 2020.

It is a delight to see you in the Chair, Ms Nokes, and to serve under you.

As the Committee will be aware, this statutory instrument is technical and will give the Government a tool they may need to alleviate any disruption at the border that arises after the end of the transition period. The instrument must be understood in the context of the current regime for managing the safety and security risk of goods entering and leaving the United Kingdom. The UK is guided in this regard by the World Customs Organisation's SAFE framework of standards to mitigate risks associated with the import and export of goods. SAFE stipulates that before goods arrive in or depart from a territory, data must be collected and risk assessed by customs authorities. This data is submitted in the form of entry and pre-departure declarations. These declarations are currently managed through the Union customs code, retained in UK law after the end of the transition period by the European Union (Withdrawal) Act 2018.

While we have been part of the EU's safety and security zone, these declarations have been required only when goods are moving into or out of the EU. When the transition period ends on 31 December 2020 goods moved between Great Britain and the EU as well as the rest of the world will require these declarations. As part of the staging in of customs controls, the Government have waived for six months the requirement for the submission of an entry summary declaration for movements into Great Britain from the EU or another territory where such a declaration is not currently required.

Before goods are moved out of the country, carriers are obliged to submit safety and security information to Her Majesty's Revenue and Customs for risk assessment. As well as managing risks that involve the movement of weapons and illicit goods, the information is used to regulate other international obligations, such as the rules governing the movement of live animals. The information is normally contained in a customs export declaration. In cases where a fiscal declaration is not required, such as businesses repositioning empty trucks or packaging, a stand-alone exit summary declaration is required.

The SI will give HMRC commissioners the ability during the six months of the staging-in period to publish public notices waiving the requirement for safety and security declarations for goods exported from Great Britain. A public notice could also be used to alter the pre-departure timing requirement for the submission of declarations. The powers can be used only to alleviate border disruption that may arise, and only during the staging-in period. The powers can be deployed in a targeted way: for example, the Government could use them to waive the safety and security export declaration requirement for a specific sector, or a port, or for a given time period. The powers would be used only where it was necessary to ensure the smooth flow of goods across the border. The Government would consider the balance of risks of border security with the impact on border flow before introducing a waiver. The Government will update Parliament as appropriate when making use of the powers, if any are in fact used.

The Northern Ireland protocol means that there are no safety and security requirements for goods moved between Northern Ireland and the EU. Under the protocol, EU UCC—Union customs code—rules will apply in Northern Ireland. The public notice powers provided by this instrument would not affect safety and security requirements for goods exported from Northern Ireland. The movement of goods between Northern Ireland and the rest of the world will be subject to safety and security requirements.

As I have said, the Government would use these powers only where absolutely necessary to preserve the smooth flow of goods at the border and after due consideration of any risks arising from their use. The powers, which are time limited and can be deployed in a targeted fashion, will help to give the Government the appropriate ability to respond to manage disruption at the border if that should arise at the end of the transition period. I commend the regulations to the Committee.

11.34 am

**Mr Pat McFadden (Wolverhampton South East) (Lab):** It is a pleasure to serve under your chairmanship, Ms Nokes.

The Minister, for whom I have great respect, as he knows, describes these regulations as technical, but I must differ from him. I think they are more than technical. They are very significant and a graphic example and symbol of the mess the Government have got themselves into as we approach the end of the transition period. I say that because through these regulations the Government are acknowledging that they cannot guarantee that the current safety and security requirements on exports can continue to be met without causing disruption to border security. They have put themselves in the invidious position of having to introduce regulations that compromise our security to guarantee the free flow of goods at the border.

The regulations respond to that dilemma by granting HMRC the power to waive the need for these pre-departure declarations, or to modify the time limit for their submission. In tabling these regulations, the Government are openly acknowledging that they are taking powers that, if used, would water down the safety and security requirements we have in place for exports through our ports. The explanatory memorandum that accompanies the regulations—these things are normally pretty dry explanations of the technicalities involved—is clear about the possibilities. Paragraph 7.4 states:

“There may be risks associated with using these powers...for example, to border security.”

There you have it. The regulations are not technical. That is not an allegation from me. It is not an allegation that the Opposition have made. It is a quote from the Government's own explanation of what they are doing.

What exactly are these risks that the Government have identified? What exactly are the risks that the regulations could enhance? Why have the Government found themselves proposing a policy with such potential consequences? What a trade-off to put the country in to, really. To avoid disruption to trade, we have to take measures that potentially put our border security at risk. I repeat that that is not an allegation from me; it is the Government's own explanation, before the Committee right now, of what they are doing with these regulations.

At the moment, as the Minister said, pre-departure declarations enable the UK to meet international standards for safety and security relating to the movement of goods, following the World Customs Organisation's SAFE framework. The organisation began in 1952 as the Customs Cooperation Council and the UK was a founding member, yet today's regulations would hinder our country's ability to support the SAFE framework. We are literally opting out, on a temporary basis, of something called SAFE. That is what the Government are doing.

What does it say about the Government's management of this process that in order to help business avoid the impact of disruption to exports at the border, they are taking powers to risk our border security in this way? Why should the price of free-flowing trade be the introduction of a smugglers' charter that increases risks to us all? The regulations say that this will only be the case for up to six months, ending on 1 July next year, but can the Minister guarantee that? Can he guarantee that he will not be back here or that the Government will not extend the waiver beyond the first six months of next year in some other way? What if there is ongoing friction at ports? Will Ministers continue to waive the requirements for these declarations in the future?

What discussions has the Minister or the Treasury had with the Home Office about this in order to minimise the impact on border security? He mentioned weapons, I believe. Will he clarify what he meant when he mentioned weapons and how the regulations will affect them?

The volume of pre-departure declarations is likely to be greater after the end of the transition period because they will need to be made for goods exported to the EU as well as the rest of the world. What extra capacity is being put in place at HMRC from 1 January to process this uplift in pre-departure declarations, thereby helping to reduce the likelihood of the security and safety requirements creating border disruption?

It is often said in this House that keeping our country safe and secure is the first duty of any Government. It is often said because it is true. It is an indictment of the party that used to call itself the party of law and order that in government it has laid regulations that Ministers openly admit will compromise our border security. What an indictment of the handling of this situation. The powers, if exercised, would have that effect. That is the admission that the Government made today. I therefore have to disagree with the Minister's view that the regulations are just technical measures. They are a graphic example of the mess that the Government have found themselves in.

11.42 am

**Gavin Newlands** (Paisley and Renfrewshire North) (SNP): It is a pleasure to see you in the Chair, Ms Nokes.

I share the concerns voiced by the shadow Minister, the right hon. Member for Wolverhampton South East (Mr McFadden). I have scored out three questions that I was going to ask that he has already asked, so I look forward to the Minister's response, particularly on the border security concerns that the right hon. Gentleman rightly raised.

I am not sure if anyone at all outside Government thinks that the Government are in any way, shape or form ready for 1 January. The very fact that this SI is before us today shows that they clearly expect chaos at the borders from January, yet they are pushing on regardless. Yesterday's related troubling announcement of a suspension of lorry drivers' hours regulations has drawn concerns about the safety implications of that decision. Lorry drivers are potentially paying the price for the UK Government's Brexit chaos and the delays, which this SI seeks to—to use the Minister's word—alleviate. I should add that that was yet another important Department for International Trade announcement made without a parliamentary statement and parliamentary scrutiny, but I digress; that lies outside this Committee's scope.

HMRC estimates that it may need to process 270 million customs declarations from 2021, compared with 55 million currently—a 500% increase. In June, the Government announced that, regardless of whether they agree a trade deal—that looks less likely by the day—new checks on EU goods entering GB would be phased in over six months from January 2021 to give firms “time to adjust”. However, the National Audit Office has been scathing. It says that there is still “uncertainty” over where new border infrastructure will be located and whether it will be ready. It is concerned that traders will not be ready for the full checks on UK exports that the EU plans to implement from the start of 2021. It is also concerned—I cannot read my own writing; my high school teachers at would not be surprised—about operational issues that require resolution, including ensuring that hauliers can use a planned online service allowing them to declare that they have the correct documents for the EU border and thus obtain a permit to drive on certain roads in Kent. The NAO cites the Government's latest worst-case scenario planning figures, which estimate that 40% to 70% of lorries crossing the channel will not be ready. Have those figures changed? Are they now more likely to represent the best-case scenario?

The Public Accounts Committee has also been scathing and accused the Government of “taking limited responsibility” for the nation's preparedness as the clock ticks down. Last month, Rod McKenzie, policy director for the Road Haulage Association, told a Scottish Parliament Committee that his industry had “been badly let down by the UK Government from beginning to end.”

He also noted that the information given to hauliers to help them to implement the international permits they will require in the event of no trade deal being reached had been “quite often totally incomprehensible”. That description of the Government's approach over the past weeks, months and years is an apt place to conclude my remarks. We will not oppose this sadly all-too-necessary SI, but we mourn the need for its existence.

11.45 am

**Jesse Norman:** I thank the Opposition spokesmen for their comments. The right hon. Member for Wolverhampton South East says this is not technical. Of course, by “technical” I do not mean that the law may not have some impact. Of course, this is a power that we do not anticipate necessarily having to use; it is a tool that the Government think is advisable to be used in some very constrained and particular circumstances in the event of unanticipated disruption. We are going through a major change in our trading arrangements. It is sensible to make contingency arrangements.

The right hon. Gentleman may have forgotten that when it comes to safety and security declarations, data is not gathered by the UK in regard to trade with the EU, because we have been part of the EU internal customs and internal market. From that point of view, nothing changes. He and others have asked whether there will be some great compromise to security. We do not anticipate a great compromise to security.

**Mr McFadden:** The Minister has just said that nothing changes in terms of relations with the EU because we are part of the single market. From 1 January, we will not be part of the single market so quite a lot changes.

**Jesse Norman:** No, what I have said is that, since we do not gather data at the moment, what we are doing is continuing a system that already exists for a period of time—or we would be if we put in place these powers—and that does not represent a change from what we do at the moment as we do not gather the data at present. As I have already said, our trading arrangements of course do significantly change.

The right hon. Gentleman asked about the Home Office, and I can reassure him that of course these measures are developed in consultation and consideration and discussion with the Home Office. The SNP spokesman, the hon. Member for Paisley and Renfrewshire North, seemed to be having a few operational issues with his own handwriting—I am not quite sure if that is true—so

he is well placed to speak on operational issues. Let me just say one thing: as far as I can tell, the numbers that he quoted were from external organisations, the NAO and so on. It is for them to comment on whether the numbers they come up with should be updated. From the Government’s standpoint, the numbers are as they have been published. With that in mind, I invite the Committee to support the motion.

**Mr McFadden:** The Minister has not answered a couple of questions that I asked. One was whether he can guarantee that there will not be an extension of these provisions beyond the first six months of next year, and the other was the question of weapons that he mentioned in his opening remarks. Can he explain exactly how these regulations will affect the export of weapons?

**Jesse Norman:** Sure. What I was saying, as the right hon. Gentleman will recall, as regards duration is that they last for six months. Of course, to seek a guarantee in such circumstances is a classic political request. No guarantees can be given, but we certainly do not anticipate extending the regulations. They are specifically designed to be a contingency tool to be used in specific circumstances, for specific purposes, and for a time-limited period.

In relation to weapons, all I said was that the existing arrangements had in part the goal of monitoring the transfer of weapons. As I have said, data gathering does not at present exist on the safety and security declarations, and that will not change as a matter of fact for a period of time, but of course Border Force and other agencies that are concerned with the flow of goods across the border continue to be engaged, and from that perspective we think that the border remains well defended and well supported. Of course, we have made significant infrastructure investments in order to make sure that that is the case.

*Question put and agreed to.*

11.50 am

*Committee rose.*