

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT PUBLIC PROCUREMENT  
(INTERNATIONAL TRADE AGREEMENTS)  
(AMENDMENT) REGULATIONS 2021

*Wednesday 16 June 2021*

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**Sunday 20 June 2021**

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

*Chair:* MARK PRITCHARD

Abbott, Ms Diane (*Hackney North and Stoke Newington*) (Lab)

† Anderson, Fleur (*Putney*) (Lab)

Caulfield, Maria (*Lewes*) (Con)

Davies, David T. C. (*Parliamentary Under-Secretary of State for Wales*)

Fovargue, Yvonne (*Makerfield*) (Lab)

Gwynne, Andrew (*Denton and Reddish*) (Lab)

Harman, Ms Harriet (*Camberwell and Peckham*) (Lab)

Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Hollinrake, Kevin (*Thirsk and Malton*) (Con)

† Lopez, Julia (*Parliamentary Secretary, Cabinet Office*)

Mak, Alan (*Lord Commissioner of Her Majesty's Treasury*)

Mann, Scott (*Lord Commissioner of Her Majesty's Treasury*)

† Morden, Jessica (*Newport East*) (Lab)

† Morris, James (*Lord Commissioner of Her Majesty's Treasury*)

† Pursglove, Tom (*Corby*) (Con)

Thomson, Richard (*Gordon*) (SNP)

Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)

Wafia Zia, *Committee Clerk*

† **attended the Committee**

## Sixth Delegated Legislation Committee

Wednesday 16 June 2021

[MARK PRITCHARD *in the Chair*]

### Draft Public Procurement (International Trade Agreements) (Amendment) Regulations 2021

2.30 pm

**The Parliamentary Secretary, Cabinet Office (Julia Lopez):** I beg to move,

That the Committee has considered the draft Public Procurement (International Trade Agreements) (Amendment) Regulations 2021.

It is a pleasure to serve under your chairmanship, Mr Pritchard. This statutory instrument will ensure that domestic public procurement regulations give legal effect to the UK's international procurement obligations—specifically, those covered in the UK third party international trade agreements signed with non-EU countries that had an agreement with the EU before exit day, 31 January 2020. Therefore, when contracting authorities carry out public procurements, that could be covered by an international agreement. If so, suppliers from those countries are required to be treated no less favourably than suppliers in the UK. It also means that UK businesses will continue to benefit from access to public procurement markets overseas.

We have an agreement with the devolved Administrations for this instrument to be laid on behalf of Wales, Scotland and Northern Ireland. That will ensure legislative efficiency and consistency across the four nations.

We are implementing this change because the UK Government, following our exit from the EU, have, as far as possible, committed to providing continuity of existing trade and investment relationships with our existing international partners. We have already helped to ensure a continuation of global procurement through the World Trade Organisation's Government procurement agreement, following the UK's accession to the agreement as an independent member, and we have laid separate legislation to implement that. Without this instrument, the UK would not be able to implement its international procurement obligations in trade agreements with third countries. That would leave the UK Government open to legal challenge and damage our reputation as an international trading partner.

This instrument will be made using powers set out in section 2 of the Trade Act 2021. The instrument will create within existing procurement regulations a new schedule listing the international agreements signed by the UK. It will be limited to UK trade agreements with countries that had a preceding agreement with the EU before exit day. Of the agreements in effect, those with substantive procurement provisions and to be listed in the schedule are with Albania, the Andean countries, Canada, the CARIFORUM states—the Caribbean Forum of African, Caribbean and Pacific States—central America, Chile, Georgia, Israel, Japan, Kosovo, Mexico, Moldova, North Macedonia, the Republic of Korea, Serbia,

Singapore, the Swiss Confederation, Ukraine and Vietnam. This instrument is uncontroversial, each of those agreements having already been scrutinised via the procedure set out in the Constitutional Reform and Governance Act 2010.

Furthermore, parliamentary reports have voluntarily been laid alongside each continuity trade agreement. They explained our approach to delivering continuity with each partner as the UK left the EU. If we have made any significant changes to the trade-related provisions of our existing agreements through entering into the new ones, we have explained those in the reports.

Further affirmative statutory instruments will need to be laid, using the powers in section 2 of the Trade Act, each time that the UK signs a new trade agreement with a third country, or any of the agreements mentioned here are updated, in order to give them legal effect. Future trade agreements with countries where there was no free trade agreement with the EU before exit day—that could include Australia and New Zealand—are not covered in the Trade Act and would require separate legislation.

I commend this instrument to the Committee.

2.33 pm

**Fleur Anderson (Putney) (Lab):** It is a pleasure to serve under your chairship, Mr Pritchard. I am grateful to the Minister for her opening remarks on why we are using this measure to ensure continuity of procurement as we now trade independently of the EU.

Public procurement is so much more than just buying the best products for the best price. It is intimately connected to social value, to supporting our pandemic recovery, to international human and labour rights, to environmental standards and to delivering quality public services at home in the public interest and free from mandatory marketisation and outsourcing. As the Minister said, it is also crucial in relation to access for UK business to markets around the world.

The past year has served as a reminder of the critical importance of public procurement and of strong procurement regulations. In the face of an unprecedented global crisis, we have witnessed a global scramble for finite resources such as personal protective equipment; in their attempt to meet the sudden demand, this Government have pursued a procurement strategy that has wasted millions of pounds on poor-quality products and raised serious concerns about transparency and cronyism. It is therefore so important that we learn our lessons and ensure that public procurement is done correctly. For that reason, I recognise that this is an important statutory instrument to provide both businesses and consumers with continuity and certainty as we leave the EU, and to prevent legal challenges from being brought against us at the WTO by third countries.

I met businesses in my constituency last year in the run-up to Brexit—to leaving the EU—and many had actually begun to liquidate their businesses due to the uncertainty caused by the lack of a trade deal with the EU at that time. It is more important still, given how catastrophic the four-week delay to the ending of restrictions will be for many businesses, that we endorse and support continuity. To support businesses and help provide that all-important continuity, Labour will not oppose the motion. However, I have five questions for the Minister and I would be grateful for clarity.

First, why are the regulations only coming in now? The powers under the Trade Act 2021 have just commenced, but could the instrument have been passed before the respective trade deals were ratified, in the previous parliamentary Session? We are now five years since the referendum vote.

Secondly, in what form will the separate legislation required for trade agreements with countries that did not have an agreement in place with the EU before exit day be brought forward? Can we expect further statutory instruments or will we be given the opportunity to debate the legislation on the Floor of the House?

I and many other colleagues have been simply astonished and concerned by the Constitutional Reform and Governance Act 2010 process used thus far to roll over trade agreements without agreement from the House. We have felt disempowered as MPs to scrutinise important trade agreements—a point I made in this very room during debates on the Trade Bill Committee.

Given the critical importance of procurement to public life, I would hope procurement arrangements agreed with nations in the future would be subject to proper parliamentary scrutiny on the Floor of the House. Only this week we have seen another major free trade agreement, with Australia, without any parliamentary scrutiny. Will a Minister be coming to the House to make a statement on that? We have learned more about that deal from the Australian Government briefing their press than from our Government telling Parliament.

Thirdly, will the Minister be taking steps to ensure that any future trade deals are rooted in the “Transforming public procurement” Green Paper? The Trade Justice Movement and a number of trade unions are quite critical of World Trade Organisation rules on public procurement because they make it harder for Governments to regulate in the democratic interest and are designed to force developing countries to hire western multinationals, potentially at the expense of domestic providers, so undermining our own aid agreements. It is therefore important that we develop a UK social partnership approach to procurement, based on the recognition and enforcement of international, regional and local labour, social and environmental standards and goals, including transparent and sustainable global supply chains and fair and transparent artificial intelligence and digital technology practices in public services. Public service workers will be central to that transformative recovery process—that will be building back better.

Fourthly, as the Minister is no doubt aware, we cannot separate international procurement and labour and human rights, particularly in a global supply chain. For instance, the Minister may have seen reports that £150 million of personal protective equipment was procured during the pandemic from Chinese firms linked to Uyghur human rights abuses. There are similar concerns about environmental standards in the supply chain.

As the UK begins to shape its procurement framework and trade policy post Brexit, can the Minister assure me that safeguarding human and labour rights in supply chains will always take priority over purely economic imperatives? Will she, for instance, consider including mechanisms such as a new corporate “failure to prevent” regulation based on human rights and due diligence for all goods and services, and incorporating joint and several liability?

Fifthly and finally, as we move forward and begin pursuing international trade agreements with countries not already trading with the EU, will the Minister tell us how our approach to procurement will diverge from EU regulations? If so, will those differences be published and made clear? Will the Minister commit to ensuring that any divergence in public policy will be subject to an impact assessment, as these regulations are not?

Labour will not oppose the draft regulations today, but I would be most grateful to the Minister for her response on the points I have made, today or in writing.

2.39 pm

**Julia Lopez:** I am grateful for the hon. Lady’s comments. I am glad she agrees with us on the importance of social value in procurement. She mentioned some of the challenges we faced in procuring PPE during the crisis. I set out in Westminster Hall in quite some detail some of the challenges. I was trying to be as transparent as possible about those challenges, so that we can understand the true lessons rather than go on a wild goose chase about cronyism, which, from what I understand about how things were operating, is a misplaced concern.

I agree very much that we need a better system for procurement, and we are introducing one. We have a very ambitious Green Paper, which she will have seen, and the relevant Bill was introduced in the Queen’s Speech. We have a very good free trade agreement with the EU, so I hope that her businesses are now benefiting from that.

The reason why the draft regulations are introduced today is that the provisions were covered by other legislation, but that expires at the end of the year. That is why we have introduced this statutory instrument now that the Trade Act has had Royal Assent.

Legislation and scrutiny of new trade agreements will take place on the Floor of House. That will be led by my trade colleagues rather than the Cabinet Office. We will make sure that any new procurement regime that we put forward will be compliant with WTO rules. In having our own seat at the table now, separate from the EU, we will have our own unique voice on some of the debates about public procurement. I am sure that it will be an area where we will make our voice heard.

The hon. Lady mentioned digital. We are very keen to work with states such as Singapore and Australia to advance the digital agenda, which has stalled in recent years.

She mentioned some very important issues on supply chains and social value. There is a lot we want to try to do in this area, including making sure that we are procuring with firms that are employing apprentices, taking on disabled employees and adhering to high environmental standards. The hon. Lady mentioned human rights and made a particular suggestion. I am happy to take that away and look into it if she would like to write to me in further detail.

I hope that colleagues will join me in supporting the draft regulations, which I commend to the Committee.

*Question put and agreed to.*

2.41 pm

*Committee rose.*





