

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT MERCHANT SHIPPING
(CONTROL AND MANAGEMENT OF SHIPS'
BALLAST WATER AND SEDIMENTS) ORDER 2022

Wednesday 15 December 2021

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The Committee consisted of the following Members:

Chair: JUDITH CUMMINS

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| † Aldous, Peter (<i>Waveney</i>) (Con) | † Murrison, Dr Andrew (<i>South West Wiltshire</i>) (Con) |
| † Baron, Mr John (<i>Basildon and Billericay</i>) (Con) | † Richards, Nicola (<i>West Bromwich East</i>) (Con) |
| Berry, Jake (<i>Rossendale and Darwen</i>) (Con) | Russell-Moyle, Lloyd (<i>Brighton, Kemptown</i>) (Lab/Co-op) |
| † Bonnar, Steven (<i>Coatbridge, Chryston and Bellshill</i>) (SNP) | † Sambrook, Gary (<i>Birmingham, Northfield</i>) (Con) |
| † Courts, Robert (<i>Parliamentary Under-Secretary of State for Transport</i>) | † Shelbrooke, Alec (<i>Elmet and Rothwell</i>) (Con) |
| † Greenwood, Lilian (<i>Nottingham South</i>) (Lab) | † Solloway, Amanda (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Hollern, Kate (<i>Blackburn</i>) (Lab) | |
| † Kane, Mike (<i>Wythenshawe and Sale East</i>) (Lab) | Robi Quigley, <i>Committee Clerk</i> |
| McCartney, Karl (<i>Lincoln</i>) (Con) | |
| † McDonnell, John (<i>Hayes and Harlington</i>) (Lab) | † attended the Committee |

Sixth Delegated Legislation Committee

Wednesday 15 December 2021

[JUDITH CUMMINS *in the Chair*]

Draft Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022

2.30 pm

The Chair: Before we begin, I remind hon. Members that they are expected to wear face coverings at all times, unless they are speaking, and to maintain distancing, as far as is possible. This is in line with the current Government guidance and that of the House of Commons Commission. Please give one another and our members of staff space when seated and when entering and leaving the room. Members should email their speaking notes to hansardnotes@parliament.uk, and officials in the Gallery should communicate with Ministers electronically.

The Parliamentary Under-Secretary of State for Transport (Robert Courts): I beg to move,

That the Committee has considered the draft Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Order 2022.

It is an honour to serve under your chairmanship, Mrs Cummins. Hon. Members will realise that the purpose of this order is to give the Government the powers to implement in UK law the international convention for the control and management of ships' ballast water and sediments. If I may, I will call that "the convention", for the purposes of succinct speech. I will just tell the Committee a little about what this is about, to try to make it a little more straightforward and understandable.

As hon. Members will realise, ships are an essential part of the global economy in moving goods around. In the course of moving around, ships, which clearly carry cargo, rely on the use of ballast water to maintain stability when they are not fully loaded. Large container ships take on many thousands of tonnes of water to act as ballast. That ballast can maintain thousands of microscopic organisms, which can then be carried around the world to new destinations by the ship. Clearly, if those organisms were to survive and to establish themselves in another ecosystem, they could cause great damage to it. That is something that the convention is intended to deal with. Hon. Members may have heard of the case of the Chinese mitten crab, which caused great destruction when it was transported from one part of the world to another. We are dealing here with everything from small to larger species. Shipping, which takes approximately 90% of the world's commodities around the globe, estimates that it is responsible for moving 3 billion to 5 billion tonnes of ballast water, so it is a highly effective and worrying vector for the transport of species. That is what we are dealing with—the mischief that we are trying to counter.

This order relies on powers in section 128(1)(e) of the Merchant Shipping Act 1995 and was laid before the House on 4 November 2021. The order, which I hope

will be approved by the Committee, contains powers to make a new statutory instrument under the negative resolution procedure next year. This order does not make the provision; it will give the Government the ability to make the regulations. That is quite an important point to look at. What we are discussing today is the use of this order to give the Government the power to make the implementing regulations—the law that we really want—rather than the details and implementation of the convention itself.

I will give the Committee a bit of detail about the convention. It was adopted by the International Maritime Organisation in 2004 and it entered into force internationally on 8 September 2017. It clearly aims to counter the mischief to which I have referred—to prevent, minimise and ultimately eliminate the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments. It does that by prohibiting the discharge of ballast water and sediments unless they have been managed in accordance with the convention requirements.

The United Kingdom has not yet ratified the convention. Hon. Members will of course have noted that the convention was brought into force four years ago and they may be asking why we have not done this already and why we are only now seeking powers to implement the convention. The reason is that the UK, in consultation, so industry and Government together, had some concerns about the sampling and analysis aspects of the convention. Delaying ratification of the convention allowed those concerns to be addressed. They were addressed, and the UK rescheduled ratification and implementation of the convention to allow amendments to the convention to enter into force. That having happened, the Government made a commitment to accede to the convention in 2020. There has been another delay to allow resource reallocation for covid reasons—the Committee will understand that—but none the less we now put this back on the agenda. The Government feel that the implementation of the convention is an important step to ensure that the UK and its waters are protected from non-native species.

There has been a consultation. After the convention was negotiated at the IMO, the Maritime and Coastguard Agency, which played a big role in that negotiation, has also consulted. It issued an FAQ—frequently asked questions—document to assist industry. There has been a 12-week public consultation.

The use of the order we are considering today is slightly technical. I will try to take the Committee through it in straightforward terms. The convention cannot be implemented in UK law unless the Government are given the powers to do so, which is what we are asking for today—that is what the draft order is all about. The power that we are asking for comes from section 128 of the 1995 Act, which allows Her Majesty the Queen to make Orders in Council for the purpose of implementing any international agreement ratified by the UK that relates to the control of pollution from ships.

The draft order will authorise the making of regulations by the Secretary of State to give effect to the convention, once the UK has ratified it. Section 128 allows for an order to be made only in respect of a convention that has been ratified. Therefore, we cannot make our implementing regulations without the powers that the draft order will

give us, but we must have already ratified convention before we can make the order. I understand that the next available Privy Council date is in March.

The regulations must be made within three months of ratification. That is what article 18(3) of the convention states. The Government therefore intend to ratify the convention in the weeks before the draft order is submitted to the Privy Council, which will mean that the regulations are made in the requisite time.

To summarise what we have to do, and why it is a bit complicated, we in the House of Commons have to debate the draft order. If approved, it has to go to the other place and they have to debate it, and that process takes time. Assuming approval in both Houses, the United Kingdom may then ratify the convention and lay the Order in Council, which will give us the power then to make the regulations to bring the substance of this law into force before the end of three months after ratification.

I hope that explanation is clear, with the necessary amount of detail for the Committee to understand what we are dealing with today, but without being too technical. It is an important draft order. We need to ratify and implement the convention for reasons of environmental protection. I hope that what we propose is straightforward and meets with everyone's approval.

2.38 pm

Mike Kane (Wythenshawe and Sale East) (Lab): It is a pleasure to serve under your chairmanship, Mrs Cummins. I never thought, coming into politics, that I would be talking about ballast waste water from shipping—we are literally talking about ballast waste water management. I thank the Minister for his explanations. I have not come across the Chinese crabs, as it happens, but I will research that reference when I leave here today.

The draft statutory instrument aims to bring the UK into line with the standards of the international ballast water management convention. Measures in the convention include the treatment of sea water ballast prior to it being unloaded from a ship. Different treatment processes, however, also have environmental considerations. The convention requires all ships to implement a ballast water and sediments management plan. All ships will have to carry a ballast water record book and will be required to carry out ballast water management procedures to a given standard. Existing ships will be required to do the same, but after a phase-in period. The convention aims to prevent, minimise and, ultimately, eliminate the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments.

I know that the Minister enjoys a rhetorical flourish, so here is an early Christmas present. As the late Martin Luther King said:

“We may have all come on different ships, but we're in the same boat now.”

I first and foremost pay tribute to our dedicated seafarers, who are vital keyworkers. That have kept us fed, fuelled and stocked, often at great personal cost. I know from conversations with the industry the value that our mariners place on the stewardship of the world they traverse. They can see at first hand the impact of environmental changes brought about by human actions

on the world. While I am on my feet, I pray for the souls of those who were lost in the Baltic sea off the Swedish coast, and for their families just before Christmas. I give thanks to those aboard the ships that went, at great personal cost, to attempt a rescue.

To make life at sea safer and more comfortable, cruise ships, large tankers and bulk cargo carriers use huge amounts of ballast water, which is often taken on in the coastal waters in one region, after ships discharge waste water or unload cargo, and discharged at the next port of call when more cargo is loaded. Discharged ballast water typically contains a variety of biological materials, including plants, animals, viruses and bacteria. Those materials often include non-native, nuisance, exotic species, and they can cause extensive ecological and economic damage to aquatic ecosystems, so we welcome the steps to protect the environment from potential damage.

I have just a couple of things to ask the Minister—perhaps he can clarify later if he cannot respond today. First, if the convention is disregarded, where does the legal responsibility lie? Is it with the ship's owner, the chief engineer or the master of the ship? Secondly, will there be sufficient training on the new onboard equipment? We have discussed the conditions, training, pay and workload for seafarers, and I am keen for them to be protected, legally and physically, from any changes made to their workload without adequate training and recompense.

Despite those two caveats, we welcome the controls outlined in the statutory instrument to clean up our seas and, ultimately, eliminate the transfer of harmful aquatic organisms and pathogens.

2.42 pm

Robert Courts: I thank the hon. Gentleman for his speech. I join him in paying tribute to the souls who were lost in the collision between Scot Carrier and Karin Hoej yesterday. I also pay tribute to the Swedish and Danish coastguards and their search and rescue services, which have done so much to help. The incident is a vivid reminder of the perils faced by all those at sea.

I also join the hon. Gentleman in recognising the extraordinary work that seafarers of all nationalities undergo day in, day out. As we exchange gifts at Christmas time, we ought to pause for a moment and think about how those gifts got there. While we enjoy Christmas with our families—I hope—those who brought those gifts to us may not be doing so with theirs, and are undergoing great peril. The work that they do for world trade is absolutely critical. We are helping them, on a global basis, to do that work in a cleaner and greener way.

The hon. Gentleman asked about enforcement. The convention's legal sanctions were established by parties to help it to deal with the violation of the requirements. A number of new criminal offences have been introduced, and who the liable party is will depend on the offence. Those offences are investigated by the Maritime and Coastguard Agency, however, and sanctions, which include improvement notices, prohibition notices, detention or prosecution as a last resort if necessary, are applied as appropriate.

The hon. Gentleman also asked about training. Clearly, there is a really important training requirement for all work done at sea. The measures are intended to include

[Robert Courts]

a number of management plans, which I would expect to be within the normal training regime of shipping lines. It would be their responsibility, but I will ensure that I write to him with a full answer on where the training responsibility lies, so that we are absolutely clear about that.

I thank the hon. Gentleman for his support for this important order, and I hope that I have dealt with all his queries satisfactorily. The order deals with an important environmental matter and I hope that the Committee will support it.

Question put and agreed to.

2.45 pm

Committee rose.