

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT PASSENGER, CREW AND SERVICE
INFORMATION (CIVIL PENALTIES)
(AMENDMENT) REGULATIONS 2022

Wednesday 2 February 2022

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Sunday 6 February 2022

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The Committee consisted of the following Members:

Chair: DEREK TWIGG

- | | |
|--|---|
| † Aiken, Nickie (<i>Cities of London and Westminster</i>) (Con) | † Saxby, Selaine (<i>North Devon</i>) (Con) |
| † Beckett, Margaret (<i>Derby South</i>) (Lab) | † Seely, Bob (<i>Isle of Wight</i>) (Con) |
| Eagle, Dame Angela (<i>Wallasey</i>) (Lab) | † Shelbrooke, Alec (<i>Elmet and Rothwell</i>) (Con) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| Gardiner, Barry (<i>Brent North</i>) (Lab) | Sultana, Zarah (<i>Coventry South</i>) (Lab) |
| † Hinds, Damian (<i>Minister for Security and Borders</i>) | † Vickers, Martin (<i>Cleethorpes</i>) (Con) |
| † Holmes, Paul (<i>Eastleigh</i>) (Con) | † Whittaker, Craig (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Lynch, Holly (<i>Halifax</i>) (Lab) | Sarah Ioannou, Rebecca Lees, <i>Committee Clerks</i> |
| † Mortimer, Jill (<i>Hartlepool</i>) (Con) | |
| † Russell, Dean (<i>Watford</i>) (Con) | † attended the Committee |

Fourth Delegated Legislation Committee

Wednesday 2 February 2022

[DEREK TWIGG *in the Chair*]

Draft Passenger, Crew and Service Information (Civil Penalties) (Amendment) Regulations 2022

2.30 pm

The Chair: Before we begin, I remind Members to observe social distancing, and to wear masks when they are not speaking. I call the Minister.

The Minister for Security and Borders (Damian Hinds): I beg to move,

That the Committee has considered the draft Passenger, Crew and Service Information (Civil Penalties) (Amendment) Regulations 2022.

I thank all right hon. and hon. Members for being here, and welcome the shadow Minister, the hon. Member for Halifax, in particular. I look forward to our working together on matters of national security, and of course being scrutinised and held to account by her on behalf of the official Opposition.

The regulations make two amendments to the Passenger, Crew and Service Information (Civil Penalties) Regulations 2015. First, they delete a sunset clause which would otherwise mean that the 2015 regulations ceased to have effect from the 31 March. Secondly, they extend the scope of the 2015 regulations to include channel tunnel rail operators.

All carriers operating scheduled services to and from the UK are required to provide complete, accurate and timely passenger, crew and service information to the Home Office. Those requirements are made in accordance with paragraphs 27 and 27B of schedule 2 to the Immigration Act 1971. The same requirements may be made by a constable under section 32 of the Immigration, Asylum and Nationality Act 2006.

The information, known as advance passenger information and passenger name record data, forms a key component of the United Kingdom's border security arrangements. Processing of these data allows Border Force and police to carry out border control checks before individuals depart from the UK, before individuals are able to depart to the UK, and before they arrive in the UK. People wanted by police can be apprehended before leaving, while individuals who pose a security or other threat to the UK may be prevented from travelling here, through the no fly scheme, or detected upon arrival in the UK. The same capability enables the effective targeting of individuals carrying illegal drugs and criminal cash, and the disruption of organised immigration crime using scheduled flights.

The 2015 regulations introduced a civil penalty regime whereby the Secretary of State may require a carrier to pay a penalty if the carrier fails to comply with these requirements; the maximum penalty is £10,000 for each breach. Before the introduction of the civil penalty regime, there was only a criminal offence under section 27 of the Immigration Act 1971, with a maximum penalty

of six months' imprisonment. That criminal penalty remains in place, as it should for the most serious failure to comply with the requirements. The civil penalty was introduced because of the challenge of successfully prosecuting overseas operators in particular for failing to comply with a requirement to provide passenger, crew or service information where that information was being provided from the operators' systems overseas.

In practice, the approach to civil penalties has been, and continues to be, one of collaborative engagement. To date, no carrier has needed to be given a penalty notice under the 2015 regulations. There have been several instances where the civil penalty regime has been invoked, formal enforcement action for non-compliance has been initiated, and formal notices of potential liability given, but so far, in all cases, that has been sufficient to secure carriers' compliance, meaning penalties have not been required.

Removing the sunset clause will also preserve the deterrent effect of the civil penalty regime which, alongside the passenger, crew and service information requirements, is a permanent and ongoing element of the UK's border security arrangements. Extending the civil penalty regime to Channel Tunnel rail operators ensures parity in the application of both criminal and civil penalties to all carriers operating scheduled international routes and required to provide this information.

The amendment maintains the necessary deterrent to help ensure operators continue to meet their obligations to provide complete, accurate and timely information about individuals intending to travel to and from this country, the processing of which is a key component of our border security arrangements.

2.34 pm

Holly Lynch (Halifax) (Lab): It is, as always, a pleasure to serve with you in the Chair, Mr Twigg. I thank the Minister for his explanation and his warm welcome to me in this post. As this is our first exchange, I will resist the urge to detain him all day with a barrage of questions. The Committee will be pleased to hear that I do not intend to speak for long. The Minister has outlined the purpose of this statutory instrument, so I will not repeat it.

The Opposition agree that this technical change to prevent the powers the Government currently have in relation to passenger, crew and service information from expiring on 31 March, in line with the seven-year sunset clause. The instrument is proportionate, reasonable and in the national interest.

I was reassured by the explanatory notes and the Minister's statement just now that, to date, no penalties have had to be enforced. I hope that reflects the recognition by all involved that the passenger, crew and service information required is an important part of our efforts to keep this country safe.

In the same policy space, I will write to the Minister asking a series of questions about this week's news that officers of the Civil Nuclear Constabulary will be redeployed to assist with security on British ferries and other passenger ships. As those questions are outside the scope of the draft regulations before us today, I will follow up in writing.

We will not divide the Committee today, Mr Twigg.

2.36 pm

Damian Hinds: Again, I thank all right hon. and hon. Members for their presence here today and for, I hope, their support for the regulations, which will ensure the continued provision of complete, accurate and timely

information about individuals travelling to and from the UK, whether by air, rail or sea. I look forward to the hon. Lady's letter.

Question put and agreed to.

2.36 pm

Committee rose.

