

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT LOCAL GOVERNMENT (EXCLUSION OF
NON-COMMERCIAL CONSIDERATIONS)
(ENGLAND) ORDER 2022

Monday 20 June 2022

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The Committee consisted of the following Members:

Chair: JULIE ELLIOTT

Abrahams, Debbie (*Oldham East and Saddleworth*)
(Lab)

† Amesbury, Mike (*Weaver Vale*) (Lab)

† Badenoch, Kemi (*Minister for Local Government,
Faith and Communities*)

Byrne, Ian (*Liverpool, West Derby*) (Lab)

† Coutinho, Claire (*East Surrey*) (Con)

† Crabb, Stephen (*Preseli Pembrokeshire*) (Con)

† Davies, David T. C. (*Monmouth*) (Con)

† Greenwood, Lilian (*Nottingham South*) (Lab)

† Harris, Carolyn (*Swansea East*) (Lab)

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

† Kruger, Danny (*Devizes*) (Con)

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

† Stafford, Alexander (*Rother Valley*) (Con)

† Stevenson, Jane (*Wolverhampton North East*) (Con)

† Swayne, Sir Desmond (*New Forest West*) (Con)

† Trickett, Jon (*Hemsworth*) (Lab)

† Warman, Matt (*Boston and Skegness*) (Con)

Jack Edwards, *Committee Clerk*

† **attended the Committee**

First Delegated Legislation Committee

Monday 20 June 2022

[JULIE ELLIOTT *in the Chair*]

Draft Local Government (Exclusion of Non-commercial Considerations) (England) Order 2022

4.30 pm

The Minister for Local Government, Faith and Communities (Kemi Badenoch): I beg to move,

That the Committee has considered the draft Local Government (Exclusion of Non-commercial Considerations) (England) Order 2022.

The order was laid before the House on 25 May 2022. If approved, it will enable best-value authorities and parish councils in England to, if they so wish, terminate proposed or subsisting public supply or works contracts where either the country or territory of origin of supplies to the contractor is the Russian Federation or the Republic of Belarus, or the location of the business activities or interests of a contractor is the Russian Federation or the Republic of Belarus.

The illegal invasion of Russian forces into Ukraine earlier this year shocked the world and has been met with unprecedented global condemnation. I am sure hon. Members agree that Vladimir Putin's unprovoked, illegal war is a reprehensible premeditated attack on Ukraine and on the principles of self-determination and the rule of law. Soon after the invasion, many local authorities publicly condemned Russia's actions, and some noted their intention to break contracts with Russian-controlled companies. They were clear that local taxpayers' hard-earned money must not be used to fund Vladimir Putin's war machine. I take this opportunity to commend the strength of feeling that those local authorities demonstrated.

However, local authorities are subject to section 17 of the Local Government Act 1988, which prohibits them from taking non-commercial considerations into account when making commercial decisions. Non-commercial considerations as set out in the Act include

"the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors".

The Cabinet Office's policy procurement note PPN 01/2022, issued on 28 March, set out the limitations on local government in this area. That PPN, which is advisory in nature, asked Government Departments, non-departmental public bodies and Executive agencies to review their contract portfolios to identify Russian and Belarusian prime contractors and consider the termination of those contracts. The PPN also noted that Government officials were actively considering a solution for local government to enable councils to follow the Cabinet Office's advice for central Government.

The Secretary of State wrote to all local authority leaders on 11 March preparing them to consider their exposure to Russian and Belarusian-owned companies,

and council leaders have shown themselves to be not only receptive to action, but actively calling for it. A number have written to the Secretary of State requesting that the Government accommodate a flexible approach for councils that wish to terminate contracts with Russian state-owned companies. They are clear, as are we, that they do not wish public money to go towards the income of the Russian state during the present military crisis.

Hon. Members may recall a debate in the other place on 24 March regarding Gazprom UK. Members there were keen to know the Government's plans to support local authorities and NHS trusts that wished to terminate relevant contracts, and stressed their desire to see legislation brought forward to amend public procurement rules to allow such termination, thus aligning local authorities with the rest of the public sector. As such, I am pleased that today we are considering this order, made under section 19 of the Local Government Act 1999, which will enable us to disapply the provision in section 17 of the 1988 Act.

It is important to note the intention of the order: the Government are not creating a new burden on local authorities, nor are we mandating termination of relevant contracts. Rather, we are responding to the sector's requests and creating the opportunity for local authorities to terminate Russian or Belarusian contracts should they wish to do so. This is a permissive power; the decision to terminate relevant contracts remains solely at the discretion of the authorities in question.

The order will allow local authorities the flexibility to terminate both proposed and subsisting contracts, should they so wish. It will therefore allow them to take comparable action to central Government, as set out in PPN 01/2022, by declining to consider new procurement bids from entities that are constituted or organised under the law of Russia or Belarus, therefore ensuring they are not funding Vladimir Putin's unwarranted aggression. In line with the PPN, and as the Secretary of State has advised local authority leaders, the Government are of the view that decisions to terminate such contracts by those authorities should be made on a case-by-case basis, in accordance with the terms of the contract, and only where an alternative supplier can be sourced in line with value-for-money and affordability concerns and with minimal disruption to public services. The policy will not enable those bodies to instigate their own unofficial, municipal foreign or defence policies, but will not prevent them from undertaking their own divestment measures where those align with official Government sanctions, as in this case.

In his recent letter to council leaders, the Secretary of State acknowledged that taking the type of action this instrument will enable may have an impact on local authorities. That is why all decisions on terminating contracts must be taken locally. In addition, it is why I, as Local Government Minister restate the commitment that the Secretary of State made in his letter: the Government stand by to engage with any local authority that has concerns about its financial position or service delivery or that may be facing pressures it cannot take steps to manage locally.

Today's order further demonstrates that our support for Ukraine at all levels of government remains undiminished. The UK and our allies have shown remarkable strength and unity in response to President

Putin's invasion of Ukraine, and we will not be party to funding his war machine. I hope hon. Members will join me in supporting the proposed order.

4.35 pm

Mike Amesbury (Weaver Vale) (Lab): It is a pleasure to once again serve under your chairmanship, Ms Elliott. I thank the Minister for her speech outlining the very sensible and pragmatic proposal before us, which responds to the sector and ensures that we show our solidarity not only at national Government level, but at local government level up and down the land. I am pleased to say that the official Opposition are happy to support the statutory instrument.

I declare an interest, as might a number of people in this Committee room, because I and others have been sanctioned by the Russian Federation. If supporting today's order reinforces that sanction, every one of us will be mightily proud of that fact—it will become a badge of honour. The Secretary of State and the Government giving local authorities the flexibility to

make the decisions that are right for their localities is the right thing to do, and as such, once again, we support the instrument.

4.37 pm

Kemi Badenoch: I am grateful to the Opposition Front-Bench spokesman and Opposition Members for supporting the regulations. We have been united across the House in our support of Ukraine through military and humanitarian means and in leading international efforts to support Ukraine's objectives and levy financial and investment sanctions. Today's order, which enables local authorities to cease their contracts with businesses linked to Vladimir Putin's regime, further demonstrates that the Government will use all levers at our disposal and will not tolerate the abhorrent attack on Ukraine. I commend the order to the House.

Question put and agreed to.

4.37 pm

Committee rose.

