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OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT INTERNAL MARKET INFORMATION
SYSTEM REGULATION (AMENDMENT ETC.)
REGULATIONS 2021

Thursday 1 December 2022

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The Committee consisted of the following Members:

Chair: SIR ROBERT SYMS

† Bailey, Shaun (*West Bromwich West*) (Con)
 † Doyle-Price, Jackie (*Thurrock*) (Con)
 † Greenwood, Lilian (*Nottingham South*) (Lab)
 Harris, Carolyn (*Swansea East*) (Lab)
 † Henry, Darren (*Broxtowe*) (Con)
 † Hollinrake, Kevin (*Parliamentary Under-Secretary
 of State for Business, Energy and Industrial
 Strategy*)
 Leadbeater, Kim (*Batley and Spen*) (Lab)
 † McDonald, Andy (*Middlesbrough*) (Lab)
 † Morrissey, Joy (*Beaconsfield*) (Con)

† Onwurah, Chi (*Newcastle upon Tyne Central*) (Lab)
 † Percy, Andrew (*Brigg and Goole*) (Con)
 † Richardson, Angela (*Guildford*) (Con)
 † Spencer, Dr Ben (*Runnymede and Weybridge*) (Con)
 † Stevenson, Jane (*Wolverhampton North East*) (Con)
 Tarry, Sam (*Ilford South*) (Lab)
 † Villiers, Theresa (*Chipping Barnet*) (Con)
 Yasin, Mohammad (*Bedford*) (Lab)

Kevin Maddison, Susie Smith, *Committee Clerks*

† **attended the Committee**

Eighth Delegated Legislation Committee

Thursday 1 December 2022

[SIR ROBERT SYMS *in the Chair*]

Draft Internal Market Information System Regulation (Amendment etc.) Regulations 2021

11.30 am

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Kevin Hollinrake): I beg to move,

That the Committee has considered the draft Internal Market Information System Regulation (Amendment etc.) Regulations 2021.

It is a pleasure to serve with you in the Chair, Sir Robert. The draft regulations were laid before the House on 20 July 2021. Right hon. and hon. Members will understand the importance of the need to protect citizens and businesses through the effective operation of the Northern Ireland protocol. I hope that right hon. and hon. Members will agree that it is also important that our statute book provides a clear and up-to-date picture of UK law for the benefit of UK public authorities, businesses and citizens.

The statutory instrument tidies up the statute book by removing provisions relating to access to the EU's internal market information system database that are redundant or inoperable as a result of the UK's departure from the EU. It also forms part of the UK's delivery of the Northern Ireland protocol. The IMI is a secure online tool used to facilitate the EU single market. The tool was created to resolve problems of ineffective, insecure and inefficient communication between the European Commission and EU member states. It is hosted and maintained by the European Commission. At the end of the implementation period, the UK's access to the European Union's networks, information systems and databases was blocked by the EU, save for specific exemptions.

Under the Northern Ireland protocol, the EU can grant the UK access to such systems as it considers necessary to enable the UK to comply with its obligations under the protocol. In a decision of 16 October, the European Commission granted the UK limited access to the IMI to enable the UK to fulfil certain obligations under EU legislation that continue to apply in respect of Northern Ireland under the protocol. I will set out those obligations in more detail shortly. The UK's access to the IMI has otherwise been removed.

EU regulation 1024/2012 on administrative co-operation through the IMI sets out the framework for use of the IMI. That regulation is retained EU law under the European Union (Withdrawal) Act 2018, and applies in areas where access to the IMI is retained. The draft regulations do not make any policy changes, impose new obligations or create new powers. They remove redundant provisions that are inoperable because access has already been removed by the European Commission

on the grounds that UK access is no longer required. In particular, they remove references concerning legislative areas in respect of which the UK does not have access to the IMI, which include patient rights relating to cross-border healthcare, posted workers, public documents, the services directive, the recognition of professional qualifications and non-road mobile machinery. They also clarify that regulation 1024/2012 applies in respect of Northern Ireland only to facilitate communications and the exchange of information for three general purposes, which I will set out.

The first relates to the return of cultural objects unlawfully removed. The relevant EU directive sets out the procedures for the return to an EU state of objects that are national treasures possessing artistic, historic or archaeological value that have been unlawfully removed from that EU state to another. An EU member state can enter a case on the IMI to send a notification of the EU member state to which it is believed that that object has been taken. On receipt of the case, all reasonable steps would be taken to locate the object and protect it until such time as it can be retrieved, unless it cannot be located or has been found to have been legally imported. All actions taken would be recorded on the IMI. The UK Department for Digital, Culture, Media and Sport is responsible for cases on the IMI module on the return of cultural objects.

The second purpose relates to the acquisition and possession of weapons. The relevant EU directive sets out the minimum standards for civilian firearm acquisition and possession in European economic area states for the purpose of controlling the movement of weapons between EEA states. The IMI is used by EEA states to notify other EEA states where they have granted authorisation to a business or an individual to acquire a firearm from, or transfer a firearm to, another EEA state. The UK Department for International Trade is responsible for all such communications through the IMI module on the control of firearms.

The third and final purpose is to facilitate mutual recognition of goods. The relevant EU regulation sets out a framework for ensuring that goods lawfully marketed in one EEA state can be sold in any other EEA state as long as they are safe and respect the public interest. It provides that economic operators who consider that their rights under this regulation have been breached by a public authority of another EEA state can use the single market problem-solving network, SOLVIT, to try to find solutions without the need to resort to action in court.

The SOLVIT network is hosted on the IMI. If a decision was made by a UK public authority to deny entry to the Northern Ireland marketplace of goods sold in an EEA state, and the EEA economic operator considered that to be incompatible with this regulation, he could lodge a case through the SOLVIT network. The IMI SOLVIT co-ordinator for the UK would then review the case and engage with the responsible authority in the UK in order to agree a response to the case, to be submitted through the IMI.

Andy McDonald (Middlesbrough) (Lab): I am very grateful to the Minister for giving a very detailed account on this important issue.

Kevin Hollinrake: I am nearly done!

Andy McDonald: On SOLVIT, the dispute about the tracing of goods has been one of the major issues around the Northern Ireland protocol. When we speak to people in Brussels, they tell us not only that they are sad to see us go but that they have a solution. That solution relates not only to GB-Northern Ireland and resolving perceived difficulties through co-operation, but to repairing the trade imbalance that now exists between the EU and the UK. That means that what we can solve in GB-NI, we can also solve in EU-UK. Do the draft regulations, albeit narrow and targeted, not suggest that we are going in the wrong direction in our attempts to work better with our European Union partners, for the benefit of our trade?

Kevin Hollinrake: Co-operation is always the best way. I agree with the hon. Gentleman that we need to be pragmatic in finding solutions. This statutory instrument is not about resolving things that have gone wrong in the past; it is about removing things that are no longer needed and that would potentially conflict with other pieces of legislation. However, I agree with him that, in terms of co-operation, it makes sense to come to agreements that suit both sides. Both parties are involved in the negotiation, of course, and we have to tread a pretty fine line in trying to get to the right place.

The IMI SOLVIT co-ordinator is based in the Department for Business, Energy and Industrial Strategy.

In conclusion, this statutory instrument simply makes technical amendments to reflect the current position regarding the UK's access to the IMI. It removes provisions that are no longer operable following the end of the implementation period and it retains only those provisions that are necessary in respect of Northern Ireland, to ensure that the UK can comply with certain obligations under the Northern Ireland protocol. This statutory instrument ensures that UK public authorities can continue to access the IMI, to allow them to deliver these obligations securely, effectively and efficiently, where necessary. I commend the draft regulations to the Committee.

11.39 am

Chi Onwurah (Newcastle upon Tyne Central) (Lab): It is a pleasure to serve under your chairmanship, Sir Robert. I thank the Minister for setting out the intent of this delegated legislation. I also thank the two separate parliamentary Committees for their work in scrutinising it—the Lords Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments—neither of which reported issues with this SI to the House.

Co-operation between nations, mutual understanding, shared trade regulations and, indeed, values are part of any effective trading relationship, as my hon. Friend the Member for Middlesbrough has suggested, and they are at the heart of the internal market information system. The IMI is a secure, multi-lingual online tool that facilitates the exchange of information between public authorities. The IMI helps authorities to co-operate and fulfil their cross-border administrative obligations in multiple single market policy areas. The IMI regulation sets out the framework for the administration of the IMI system by Government officials and those bodies exercising regulatory authority. It requires that each member state has a co-ordinator to look after the effective functioning and correct use of the IMI system and that all communications are handled securely in line with the relevant data protection rules.

As we have discussed, this statutory instrument amends the IMI regulation for two main reasons. The first is to revoke redundant retained EU legislation, and the second is to remove inoperable provisions. Together, this allows limited access to the IMI in Northern Ireland. It is clear that part 1 and chapter 1 of part 3 extend to all of the UK. Chapter 1 of part 3 revokes redundant retained EU law relating to the IMI regulation. Part 2 extends to Northern Ireland and amends the IMI regulation. Chapter 2 of part 3 extends to England, Wales and Scotland, revoking those provisions of the IMI regulation and retained EU law that no longer apply. In short, and as the Minister has said, the amendments introduced by this statutory instrument are technical operability changes and do not include any policy changes. However, these operability issues are a consequence of the UK leaving the single market on 31 December 2020.

I am sure that the Minister and the Committee will be pleased to note that Labour does not intend to oppose the draft regulations. However, I would be grateful to the Minister if he would address some questions. I must also express concern about the legislative landscape into which this SI is entering. The revocation of any laws, chapters or paragraphs in legislation should be done with the utmost care. As I have said, this SI has had the scrutiny of two Committees—as well as this Committee and, indeed, the assurance of the Minister's entire Department—to ensure that there will not be any adverse implications for any organisation, public body or group of people. It is for that reason, however, that I am confused as to where the Government's priorities and approach lie.

We accept that the SI rectifies a small area of our legislative landscape. The problem is that Conservative Members and the Government could be blowing a gigantic hole in it through the Retained EU Law (Revocation and Reform) Bill. Why is the Minister introducing this very limited and narrow SI when, at the same time, the Bill will soon be at Report stage? Why is the Bill not being used to address this issue? And why are all the EU laws and legislation that the Bill is going to tear out of our statute books not worthy of the same amount of consideration as this change? Why has this SI received the focus and attention of the Government when they are willing to have a bonfire of 2,417 other pieces of retained EU law without, it appears, any consideration? That is not just inconsistent; it is downright dangerous.

The Government's reckless Retained EU Law (Revocation and Reform) Bill will rip up vital legislation on trade, employment, environmental protection, health and safety in the workplace, parental leave, private pensions protection and food safety. I am very grateful to the Minister for setting out the detailed implications, in very narrow areas, of this SI, yet at the same time the Government's Bill will just tear them all apart.

Andy McDonald: Is my hon. Friend aware not only that employment rights and protections are in grave jeopardy with the inclusion of a sunset clause, but that all the case law will, in effect, be wiped out? There is real anxiety in the business community and among employment advisers that the whole landscape will disappear, leaving employment relationships in total turmoil. It is another added complication. Does my hon. Friend agree?

Chi Onwurah: I very much agree with my hon. Friend's comments. I was aware that the Bill will rip up much important legislation—for example, workers' rights to holidays and so on—and that there is immense concern in the business and the working world and among trade unions and others about that. I was not aware that it will mean that all the precedents go with it. This has to be a huge concern.

The consequences of the Bill, both intentional and unintentional, will be so broad that it is impossible for the Minister to fully know or understand them. If the Government could not see or anticipate the need for today's SI following Brexit, I implore the Minister to consider the possible legislative nightmare that the Retained EU Law (Revocation and Reform) Bill could unleash. Does he intend or want to spend what will hopefully be his party's last few months in government sitting through endless SI votes and debates, like this one, because that may well be the fallout from the reckless Retained EU Law (Revocation and Reform) Bill? Have the Government made an assessment of the potential implications that the Bill could have for today's SI?

The Minister may feel that today represents some legislative progress, but while this Government consistently cause more chaos and uncertainty for British people and businesses, Labour will seek to make Brexit work. I am proud to be a member of the Labour party, the party that completed the Good Friday agreement. That was one of the most progressive political acts of the last century, bringing peace and power sharing after years of conflict and stalemate. But the Good Friday agreement was a starting point, not the finishing line, and it is as relevant today as it was in 1998. Members on both sides of the Committee must always remember that.

The amendment presented here today is in keeping with the spirit of the Good Friday agreement. It recognises and respects Northern Ireland's sovereignty and relationship with the Union and the Republic. That is why I am dismayed and concerned that the nuance and detail of this SI may yet be undone by the Northern Ireland Protocol Bill, which takes a wrecking ball to the Brexit deal that the Government negotiated, signed and campaigned on. Not only does the Northern Ireland Protocol Bill break international law; it damages our country's reputation and risks the integrity of the Good Friday agreement. We have heard many international concerns set out. It risks new trade barriers in a cost of living crisis, and it divides the UK and Europe as we face Putin's war on Ukraine.

The IMI system is built on trust and mutual co-operation, principles on which I am sure we have cross-party agreement, so I ask the Minister how our colleagues in Europe and Northern Ireland can trust this Government to act responsibly when it comes to this SI when the Northern Ireland Protocol Bill is going to rip up a previous agreement and is due to be debated on Report in the other place. What impact does the Minister believe the Northern Ireland Protocol Bill will have on the SI brought forward today? Labour Members believe that we need trust and good will in order to deliver more benefits to business across the UK and Northern Ireland. We achieve this by keeping support for the Good Friday agreement.

I have a couple of questions about how the SI will work in practice. The Minister referred to it being subject to the relevant data protections. I understand that the

UK's data protections are set to diverge from the European Union's data protections, as announced by the Secretary of State for Digital, Culture, Media and Sport. Could the Minister set out the implications that that might have for this SI? Could he also say a little bit about what protocols are in place to ensure that data sharing in Northern Ireland is compliant with broader data sharing legislation?

I am struggling to understand one point. He talked about this being under the Secretary of State for International Trade. Does that mean that that Department has access to the IMI but that that access and the data cannot be shared with other branches of Government or other Departments—or, equally, with other members of the Union?

Why has it taken such a long time for the Government to identify this particular section of inoperable or redundant EU law? How or through what process was that identified? What steps is the Department taking to identify further sections of legislation in which there may also be technical operability issues? I hope the Minister will provide reassurances and address the concerns I have raised.

11.51 am

Kevin Hollinrake: I join the hon. Member for Newcastle upon Tyne Central in thanking the two Committees whose work preceded this debate, and I thank hon. Members for their consideration of this statutory instrument and for their contributions.

As I previously set out, the SI makes technical amendments so as to reflect the current position regarding the UK's access to the IMI. In terms of wider debate on the Northern Ireland Protocol Bill and the Retained EU Law (Revocation and Reform) Bill, the hon. Member for Newcastle upon Tyne Central has every opportunity to raise concerns about that legislation at the appropriate time on the Floor of the House, as the Bills pass through both Houses. That is the right place to do that.

The hon. Member also said that sunseting the legislation by the end of next year is irresponsible. Personally, I think it is irresponsible not to set a date, because timings will just drift if we do not do so. I urge her to engage with these issues within the relevant debates. She could set out her previous position on a second referendum, which I think she once called for, on leaving the European Union. Government Members are committed to making Brexit work. That is where we stand and where we will remain.

Chi Onwurah: The Minister has a desire to refight the Brexit debate at every opportunity. We are trying to make the SI work and are asking the questions to make it work. I ask him to please set out to us how it is going to work.

Kevin Hollinrake: We do not want to refight previous battles, and that is what a second referendum would open up for people. That is not where we want to be. We want to move forward, and that is what we are trying to do today.

In terms of further changes beyond those under discussion, if any are necessary they could be part of the ongoing negotiations between us and the European Commission. It is very important that we have those negotiations, but also that they take place in a framework where we have a strong position, not a weak one. That is the position we have taken.

In terms of the timing of the measures, the UK was given a right to access the IMI under the withdrawal agreement for a period of nine months in order to deal with outstanding applications for European professional cards from nurses, physiotherapists and pharmacists. The EU and the UK agreed to extend the UK's right of access to the IMI beyond the nine-month period, to process the remaining outstanding applications. The need for that temporary access has now been resolved and we are now in a position to progress the SI. In terms of the specific timing, one of the powers used to make the instrument under section 8 of the European Union (Withdrawal Act) 2018 expires at the end of the year, so it is necessary to legislate as we are doing now right now.

With the statute book updated, the SI will provide clarity to businesses, citizens and public authorities about the sharing of data between the UK, EU member states and the European Commission

Chi Onwurah: The Minister talks about providing clarity. I hope he is going to address my point about the divergence of the data protection regimes in this country and the European Union, and the impact that that will have.

Kevin Hollinrake: That has absolutely nothing to do with this debate, so I will not get into that at all.

Chi Onwurah: The Minister just said that he is looking to provide clarity on data sharing. He also said very specifically that data sharing would be in accordance with the regulatory frameworks in the country, yet those regulatory frameworks are going to differ.

Kevin Hollinrake: This statutory instrument is about data sharing within the IMI, not within the wider context of the relationship between the UK and the European Union—that is what it deals with. The hon. Lady wants

to extend the debate into areas that are not relevant to this SI, in my view, and I think it is inappropriate that we do so.

Chi Onwurah: Will the Minister give way?

Kevin Hollinrake: For a final time.

Chi Onwurah: Is the Minister clear, therefore, that the regulatory framework under which the data sharing will take place in this SI is the regulatory framework of the single market, and not the regulatory framework of the Department for International Trade?

Kevin Hollinrake: The position is that the Data Protection and Digital Information Bill, which was introduced to the House of Commons on Monday 18 July 2022, will amend the existing legislation and adapt the UK general data protection regulation to create a new, bespoke British data protection framework that is business and consumer friendly, and that keeps people's personal data secure. We are working with businesses and other stakeholders to make sure that it is fit for purpose. But, as I say, that is not relevant to this SI.

This statutory instrument introduces no new costs, obligations or powers. As I have set out, it ensures that UK public authorities can continue to access the IMI, where necessary, in order to enable them to securely, effectively and efficiently deliver their obligations under the Northern Ireland protocol. The statutory instrument also ensures that the UK's statute book accurately reflects the changes in access to IMI following the UK's departure from the European Union. I commend the draft regulations to the Committee.

Question put and agreed to.

11.57 am

Committee rose.

