

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT REGULATORY REFORM (FIRE SAFETY)
(CUSTODIAL PREMISES) SUBORDINATE
PROVISIONS ORDER 2018

Monday 26 March 2018

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The Committee consisted of the following Members:

Chair: SIR CHRISTOPHER CHOPE

† Adams, Nigel (*Lord Commissioner of Her Majesty's Treasury*)

Berger, Luciana (*Liverpool, Wavertree*) (Lab/Co-op)

† Bruce, Fiona (*Congleton*) (Con)

† Dakin, Nic (*Scunthorpe*) (Lab)

† Efford, Clive (*Eltham*) (Lab)

† Francois, Mr Mark (*Rayleigh and Wickford*) (Con)

† Grogan, John (*Keighley*) (Lab)

† Haigh, Louise (*Sheffield, Heeley*) (Lab)

† Hurd, Mr Nick (*Minister for Policing and the Fire Service*)

† Jones, Mr David (*Clwyd West*) (Con)

Kendall, Liz (*Leicester West*) (Lab)

† McGinn, Conor (*St Helens North*) (Lab)

† Moore, Damien (*Southport*) (Con)

† Morris, David (*Morecambe and Lunesdale*) (Con)

† Rowley, Lee (*North East Derbyshire*) (Con)

Smith, Eleanor (*Wolverhampton South West*) (Lab)

† Stevenson, John (*Carlisle*) (Con)

Sarah Rees, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Monday 26 March 2018

[SIR CHRISTOPHER CHOPE *in the Chair*]

Draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018

6 pm

The Minister for Policing and the Fire Service (Mr Nick Hurd): I beg to move,

That the Committee has considered the draft Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018.

It is a great pleasure to serve under your chairmanship again, Sir Christopher.

The Government are introducing this draft statutory instrument to restore the long-established principle that responsibility for enforcing fire safety regulations across the whole of the Crown's custodial and detention estate should lie with those who have been appointed or authorised as Crown inspectors by Ministers in England and in Wales. At present, Crown inspectors in England and in Wales are not the enforcing authorities for fire safety in the small number—about 7%—of custodial and detention premises where the Government have contracted out the provision of services to private providers.

That that was a significant issue became apparent in 2016 when responsibility for Crown inspectors in England transferred to the Home Office. Crown inspectors, the Home Office and the Ministry of Justice instigated an investigation into the contractual arrangements in place for the provision of custodial or detention operations. As a result of that detailed review of contracts and ownership arrangements, it became clear that a number of contractual arrangements had been put in place for the operation of such premises that resulted in the relevant Departments no longer being treated as owner or occupier for the purposes of the fire safety order.

Where that has happened, the responsibility for enforcing compliance with fire safety regulation has similarly been transferred away from our dedicated teams of Crown inspectors and instead to the individual local fire and rescue authorities in which the relevant premises are located. That is not what was intended when the fire safety order was enacted back in October 2006. At the time, the then Government were clear that, irrespective of any contractual arrangements with the private sector for the provision of services, they wanted Crown inspectors to be the sole enforcing authorities in those type of premises. Indeed, they went so far as to spell that out in the guidance on enforcement that they published and to which all those with enforcement responsibilities under the fire safety order are required to have regard.

Now that we are aware that the policy intent no longer aligns with the law, we want to rectify that position to ensure that the original policy of Crown inspectors inspecting, and where necessary enforcing, fire safety regulation across the whole of the Government's custodial estate is re-established. There must be absolute

clarity now and in the future about the scope of the enforcement responsibilities of fire and rescue authorities, and of Crown inspectors.

The draft order therefore amends article 25 of the fire safety order to set out in specific and legal definitions the full range of custodial premises for which Crown inspectors are to be responsible. Those will be established beyond doubt and will not, as is currently the case, be contingent on the often complex contractual leasing or ownership arrangements that may be in place.

In essence, the draft order delivers through legislation the clarity that was intended by the 2007 policy guidance on enforcement. It will ensure that our dedicated team of experienced Crown inspectors are clear that they have the powers to ensure that appropriate fire safety standards are in place to protect the lives of all those living in, working in or visiting the Government custodial or detention estate.

6.3 pm

Louise Haigh (Sheffield, Heeley) (Lab): This is the second time in less than a week that we have been in this room debating tidying-up regulations, which are important but only about correcting things that we thought were already in place. Given that I have made it clear to the Minister on several occasions that the Labour party would support the Government on legislation on a range of issues—even in my narrow Home Office brief—including tackling acid and knife crime, protecting police engaged in pursuit and response, giving the forensic regulators statutory powers, or dealing with the cost of policing football matches, I again place it on the record that the Opposition would like to see parliamentary time also made available to tackle those important issues.

We support the draft order, however. The Minister said that it was prompted when the Crown inspectors transferred to the Home Office in 2016. Was that the only issue to prompt the investigation of contract and leasing arrangements? Will he also confirm how those arrangements have been made over the past few years?

The impact assessment refers to rack-rent. Is it the case that the Government were not receiving rack-rent for the leases for those institutions that no longer fall under the Crown inspectorate? Have all those contracts been awarded recently, under this Government or the coalition, and how far back to do they date? How many institutions are affected? The impact assessment states 5% and, separately, 7% of the Ministry of Justice and Home Office estate. I would be grateful if the Minister could provide a list of institutions and contracts that the order refers to. I understand if he cannot list them now, so he may wish to write to me and the Committee.

Finally, will the Minister confirm whether he is concerned that any of the institutions were not properly inspected while the loophole was in place and before the draft order was brought before us? As I said, however, the Opposition are happy to support the order and do not wish to delay the Committee any further.

6.6 pm

Mr Hurd: I thank the hon. Lady again for her constructive approach to such tidying up of anomalies. She referred to the review of the contractual arrangements, which it was entirely appropriate for the Home Office to

do when responsibility was transferred. The review helped to unearth clear evidence of a problem that is rooted in relatively complex property law. In essence, through the process of the contractual arrangements, the leases were in effect transferred to the private sector, obviously on a peppercorn rent, which meant that the Government were not able to receive rack-rent and therefore, technically, could no longer be considered the owner-occupier, which for the purposes of the fire safety order meant that responsibility for enforcing compliance with fire safety regulation was also transferred. That was clearly unsatisfactory and not what the original legislation intended, which is why we are correcting it today.

About 42 institutions are affected by this. I am happy to send the hon. Member for Sheffield, Heeley a list. I reassure her that once what we view as the inadequacy of the arrangements became clear, proper arrangements

were put in place between the inspectors and the relevant fire authorities so that the institutions were inspected regularly. When enforcement action was required, as it was on at least half a dozen occasions, it took place through the fire authorities. She will know, as I do, the importance of fire safety in such institutions, not least given the volume of fires there.

This is an important matter to get right, to ensure that we have—from the point of view of the Government's responsibility—a single, coherent national body looking at the fire inspection regime. It was entirely right for us to correct the position through the draft order and I thank the hon. Lady for her constructive support.

Question put and agreed to.

6.9 pm

Committee rose.

