

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT EUROPEAN UNION (DEFINITION
OF TREATIES) (WORK IN FISHING
CONVENTION) ORDER 2018

Wednesday 28 March 2018

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Pow, Rebecca (<i>Taunton Deane</i>) (Con) |
| Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab) | † Powell, Lucy (<i>Manchester Central</i>) (Lab/Co-op) |
| † Davies, Chris (<i>Brecon and Radnorshire</i>) (Con) | † Rodda, Matt (<i>Reading East</i>) (Lab) |
| † Docherty, Leo (<i>Aldershot</i>) (Con) | Spellar, John (<i>Warley</i>) (Lab) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | Thomas, Gareth (<i>Harrow West</i>) (Lab/Co-op) |
| † Ghani, Ms Nusrat (<i>Parliamentary Under-Secretary
of State for Transport</i>) | † Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| Green, Chris (<i>Bolton West</i>) (Con) | Jack Dent, <i>Committee Clerk</i> |
| † Green, Kate (<i>Stretford and Urmston</i>) (Lab) | |
| † Philp, Chris (<i>Croydon South</i>) (Con) | † attended the Committee |

Fifth Delegated Legislation Committee

Wednesday 28 March 2018

[MR LAURENCE ROBERTSON *in the Chair*]

Draft European Union (Definition of Treaties) (Work in Fishing Convention) Order 2018

8.55 am

The Parliamentary Under-Secretary of State for Transport (Ms Nusrat Ghani): I beg to move,

That the Committee has considered the draft European Union (Definition of Treaties) (Work in Fishing Convention) Order 2018.

It is an absolute pleasure to serve under your perfect chairmanship, Mr Robertson. The purpose of the order is to declare the work in fishing convention 2007, No. 188, an EU treaty as defined in section 1 of the European Communities Act 1972. It was laid before the House on 22 February 2018 and discussed in the other place yesterday evening. In simple terms, the purpose of the order, as I said, is to declare that the work in fishing convention is to be regarded as an EU treaty. Through this declaration, the provisions of the 1972 Act, which provides for the general implementation of EU treaties, will apply in relation to the convention. Those provisions can then be used to implement the convention in UK law by allowing the necessary changes to primary and secondary legislation to be made. That includes those elements that fall outside the powers provided by the Merchant Shipping Act 1995.

Before continuing to explain the Government's decision to propose use of this order as the mechanism to provide them with the powers fully to implement the work in fishing convention in UK law, I should like to give some background to what the Government have done to develop fishing vessel safety and to the convention, and to outline the Government's reasons for wanting to ratify it. However, before I do so, I remind hon. Members that our purpose here today is to discuss use of the order as a mechanism to provide the powers to implement the convention, rather than to discuss the details and implementation of the convention itself. We hope that that will be done by means of a number of statutory instruments to be laid before the House later this year.

Despite ongoing Government efforts, fishing remains the most dangerous industry in the UK, with the rate of fatalities being about 100 times higher than that for the general workforce. The Government are committed to making the fishing industry safer. The Maritime and Coastguard Agency works with the industry through the fishing industry safety group to improve fishing vessel safety.

The Government have issued new codes of practice for all sizes of fishing vessels. The new code of practice for small fishing vessels addresses a number of outstanding marine accident investigation branch recommendations to improve fishing safety. It requires all vessels to carry either an emergency position indicating radio beacon or

a personal locator beacon for each crew member. That is voluntary until 23 October 2019 to allow the use of funding by fishermen to purchase those items. Other work undertaken includes the provision of free personal flotation devices, free training courses, campaigns to prevent man overboard and a new safety management system.

The Government consider implementation of the convention in UK law an important further step in the development of health and safety policy for the fishing industry, particularly as it will provide protection for all fishermen working on UK fishing vessels, regardless of their employment status. The Government fully support the aims of the convention to ensure that fishermen have decent conditions of work on board fishing vessels. The policy has support from across the fishing industry; there is no opposition. I hope that we can also achieve that here today.

The convention was adopted in Geneva by the International Labour Organisation on 14 June 2007 and entered into force internationally on 16 November 2017. It entitles all commercial fishermen to written terms and conditions of employment, decent accommodation and food, medical care, regulated working time, repatriation, social protection and health and safety on board. It also requires medical certification for fishermen and provides minimum standards relating to recruitment and placement.

Many elements of the convention are already in place in UK law, but implementation will introduce some significant changes for the industry—in particular, the requirement for all fishermen, regardless of their employment status, to have a work agreement setting out minimum working conditions; an inspection regime; and making medical fitness examination and certification mandatory for fishermen in the UK for the first time.

Once the convention is fully implemented, all UK fishing vessels will be subject to regular inspection of living and working conditions on board by the Maritime and Coastguard Agency, with the power to enforce decent standards. The convention was originally laid before Parliament on 20 May 2008—Cm. 7375—with an indication of Government support for the aims of the convention and a willingness to start consultation with the fishing industry. It is good to note that subsequent Governments have continued to support the policy.

International Labour Organisation conventions are always tripartite in nature. The convention was negotiated at the ILO by representatives of the fishing vessel owners, individual fishermen and Governments. The ILO requires Governments that want to implement an ILO convention to establish tripartite arrangements to inform the implementation process.

The Maritime and Coastguard Agency formed the work in fishing convention working group in 2014 to fulfil that function. The group comprises representatives of Government, fishing vessel owners and operators and fishermen's representatives. It has met 15 times and was instrumental in developing the proposal for implementation of the convention in the UK.

The Government's proposals for implementing the convention have also been the subject of an eight-week public consultation. The MCA is now working with the group to refine the proposals in the light of the consultation comments. ILO conventions must be ratified in their entirety to take effect. UK legislation is already compliant

with some parts of the convention. In other cases, where UK legislative provisions need some realignment to comply, the necessary powers to make appropriate amendments already exist in the Merchant Shipping Act 1995.

However, other provisions of the convention cannot be implemented under that Act. That is why this order is needed, so that the powers contained in the European Communities Act 1972 can be used to amend or make legislation to give effect to these provisions of the convention.

I should like to explain why we have chosen this instrument to provide powers to implement the convention, rather than promote new primary legislation. The European Communities Act defines what is an EU treaty. As well as the treaties listed in the Act, that definition includes “any Treaty entered into, as a treaty ancillary to any of the Treaties, by the United Kingdom”.

The convention is ancillary to the EU treaties because it contains some matters that lie within the competence of the European Union, although the EU is not itself able to be a party to the convention. Those parts that do not fall within EU competence are ancillary to the transport and employment provisions of the EU treaties, in particular where they concern the promotion of social protection and the raising of the standard of living and employment of fishermen.

As an EU Council decision was passed authorising ratification by EU member states, followed by a directive in 2017 implementing a European social partners agreement on the convention, and as it is not possible to ratify conventions piecemeal, it is appropriate that the convention is deemed to be ancillary to the treaty.

There is also precedent for using this route. The convention could be regarded as a sister convention to the maritime labour convention 2006. That MLC, widely regarded as a Bill of Rights for seafarers—other than fishermen—was implemented into UK law in 2014. This House approved the European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009 to use the powers of section 2(2) of the 1972 Act to implement the MLC into UK law.

As the work in fishing convention is intended to provide similar protections for fishermen as the MLC did for merchant seafarers, it is appropriate that the same method be used to provide powers to implement the convention. Section 1(3) of the European Communities Act 1972 provides that treaties entered into by the United Kingdom after 22 January 1972 shall not be regarded as EU treaties as defined in the Act unless they are specified as such in an Order in Council.

Section 1(3) of the Act further provides that no treaty shall be so specified unless a draft of the Order in Council has been approved by the resolution of both Houses of Parliament. The convention cannot be implemented into UK law unless the Government have the powers to do so. The alternative to using this draft order is to make and use new primary legislation for this purpose. As Parliament has limited time available, using the order is the most appropriate and cost-effective way forward.

Finally, I hope the order will have cross-party support today, as it has complete support from across the fishing sector.

9.4 am

Matt Rodda (Reading East) (Lab): It is a pleasure to see you in the Chair, Mr Robertson. I am pleased to inform the Committee that Labour supports this technical instrument that will implement the work in fishing convention adopted by the International Labour Organisation, also known as ILO 188. With the number of states ratifying this convention meeting the threshold required for it to come into force internationally late last year, the Opposition welcome this order finally to ratify this into UK law, 11 years after it was originally agreed.

Admittedly, the UK played a leading role in the development of this convention and Governments of all colours have continued to support this policy. I am aware that the UK fishing industry and other stakeholders also support the ratification of this convention. The convention entitles all fishermen and women to minimum international employment and welfare standards on fishing vessels, which will be enforced through inspections of ports, working with several agencies such as the National Crime Agency, UK Border Force and Her Majesty’s Revenue and Customs’ national minimum wage enforcement team, as well as the Maritime and Coastguard Agency.

Labour supports secure, decent working and living conditions for everyone working on UK-registered fishing vessels, and this convention will improve those conditions. We also support any steps to better employment conditions in UK law. After all, our movement was founded to strengthen workers’ rights. I am sure all hon. Members here will agree that it is not right that in the UK serious concerns remain about the poor working conditions that people in our fishing industry have to put up with.

According to the UK charity Fishermen’s Mission, men and women working in our fishing industry are 115 times more likely to suffer a fatal accident than the rest of our workforce. Every year an average of 15 fishermen are killed or seriously injured. Traumatic amputation and bone fractures are the most common injuries sustained by workers. In recent years, there have also been many cases of modern slavery and trafficking in both the UK and international fishing industries. Some fishing vessels have been found to be harbouring trafficked and enslaved workers who are suffering terrible conditions at work. This is not right and the Government have to deal with it. Improving working conditions for all UK seafarers could also encourage more people to be interested in this important sector and we would urge the Minister to look seriously at this recruitment issue.

We would also like the Government to answer some brief questions and make some clarifications, which I would like to place on record. First, the Minister must now focus on enforcement. How confident are the Government that employment standards in the UK fishing industry are above the minimum standards set out in the convention? Secondly, the explanatory memorandum states that no impact assessment has been prepared. Will the Government carry out economic and regulatory impact assessments of this convention when it comes into effect? Finally, I would also like some clarity from the Minister on whether this convention will continue to apply, and be enforced in UK ports and territorial waters, during the transition period and after the UK leaves the European Union.

[*Matt Rodda*]

To conclude, we have a duty to improve living and working standards for all the men and women who play a crucial role in our maritime sector. I would like to reiterate that Labour supports this statutory instrument on that basis. I look forward to hearing the Minister's comments.

9.8 am

Chris Stephens (Glasgow South West) (SNP): I do not intend to detain the Committee long.

Leo Docherty (Aldershot) (Con): Hear, hear!

Chris Stephens: That is the first time a Conservative MP has agreed with me for a long time.

The Scottish National party supports this particular piece of delegated legislation. As we heard from the hon. Member for Reading East, it is clear that the standards of living and working conditions in commercial fishing are completely inconsistent across the industry. We support this piece of work to provide minimum living and working conditions that are globally applicable and uniformly enforced. The only question I have for the Minister is whether she could say a bit more about whether there will be further consultations with the industry in relation to the implementation of ILO 188 before it is fully implemented.

9.9 am

Ms Ghani: I have highlighted the importance of the convention for fishermen and the fishing industry, and I am pleased that we have cross-party support for this important issue, because it reflects the sector's support for this order. I will address some of the issues raised. One was the support for ILO 188 and the ongoing work of the MCA. Just to reiterate, the membership of the tripartite group that has supported this order comprises

the National Federation of Fishermen's Organisations, the Northern Ireland Fish Producers Organisation, the Scottish Fishermen's Federation, the Welsh Fishermen's Association, Nautilus International and Fishermen's Mission. The work will continue in order to ensure that the order is phased in to support the industry and fishermen. Of course, the support that is being made available to fishermen through the order will continue during the transition period.

I will touch on modern slavery, if I may. That issue is constantly addressed not only in my Department, but in the homeland security Department. This ILO convention removes any ambiguity about what the minimum standards for health and safety and living and working conditions should be for fishermen. It also requires every fisherman to have a work agreement clearly set out. That will to some degree challenge modern slavery when efforts are being made to deal with people who are working on shipping vessels.

I therefore propose that the order be made under section 1 of the European Communities Act 1972 in order to use the powers in section 2 of that Act to facilitate implementation of those provisions of the convention that are not either already implemented in UK law or capable of being implemented using existing powers. This will enable the United Kingdom to meet its international obligations and improve living and working conditions in our fishing industry. The order is intended to ensure that the Government have the powers fully to implement the convention in UK law to improve the health, safety and wellbeing of all commercial fishermen in the UK. It is fully supported by the UK social partners, hon. Members here today and the Government.

Question put and agreed to.

9.11 am

Committee rose.