

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT DEPARTMENT FOR TRANSPORT (FEES)
(AMENDMENT) (EU EXIT) REGULATIONS 2018

Monday 22 October 2018

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The Committee consisted of the following Members:

Chair: SIR GRAHAM BRADY

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| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Howell, John (<i>Henley</i>) (Con) |
| † Blackman, Bob (<i>Harrow East</i>) (Con) | Lammy, Mr David (<i>Tottenham</i>) (Lab) |
| † Bruce, Fiona (<i>Congleton</i>) (Con) | † Lefroy, Jeremy (<i>Stafford</i>) (Con) |
| † Burden, Richard (<i>Birmingham, Northfield</i>) (Lab) | † Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) |
| Cryer, John (<i>Leyton and Wanstead</i>) (Lab) | † Norman, Jesse (<i>Parliamentary Under-Secretary of State for Transport</i>) |
| † Day, Martyn (<i>Linlithgow and East Falkirk</i>) (SNP) | † Tredinnick, David (<i>Bosworth</i>) (Con) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | Peter Stam, <i>Committee Clerk</i> |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | |
| George, Ruth (<i>High Peak</i>) (Lab) | |
| † Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con) | † attended the Committee |

First Delegated Legislation Committee

Monday 22 October 2018

[SIR GRAHAM BRADY *in the Chair*]

Draft Department for Transport (Fees) (Amendment) (EU Exit) Regulations 2018

4.30 pm

The Parliamentary Under-Secretary of State for Transport (Jesse Norman): I beg to move,

That the Committee has considered the draft Department for Transport (Fees) (Amendment) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Sir Graham. These draft regulations will be made under the powers conferred by the European Union (Withdrawal) Act 2018. They form part of the work being done to adjust our existing legislative framework in readiness for leaving the European Union next year. If approved, they will make minor and technical amendments to three Department for Transport fees orders to correct deficiencies that would arise from the United Kingdom's withdrawal from the European Union. The fees orders relate to EU and domestic law.

The regulations are concerned only with amending the EU-related aspects of the orders. That will be done by removing references in the fees orders to the Secretary of State carrying out functions to comply with EU law. In practice, the functions will continue, but under domestic law rather than EU law.

The best outcome for the UK is to leave with a deal. If a deal is reached whereby we get a withdrawal agreement, the implementation date of this instrument could be changed by any subsequent Bill that the Government introduce to implement the withdrawal agreement into UK law. However, it is sensible to prepare for all scenarios, and that is what we are doing.

The functions contained in the fees orders all relate to road vehicles and drivers. The fees orders themselves do not set or amend fees; they set out in secondary legislation the matters that can be taken into account when setting fees for delivery of the functions specified in the orders. Although some of those functions are currently delivered under an EU obligation, that does not mean that Brussels has had any oversight or control over the setting of those fees.

The draft regulations will not themselves affect any stakeholders, because after EU exit the functions they relate to will continue to be delivered, albeit under domestic rather than EU law. The regulations do not alter the current level of fees charged for carrying out those functions. The detail of the delivery of the specified functions and the prescription of the actual fee levels that can be charged for the delivery are set out in other legislation.

It may be a source of comfort to the Committee to know that, before any change can be made to the fee level in other legislation, the Minister must have the Treasury's agreement, conduct a consultation with organisations representing those affected and consider

the impact on stakeholders. They must take account of the impact in deciding whether to proceed. Only after that process has been followed will the SI be laid before Parliament. I assure hon. Members that the making of these amendments will not in any way amend the process for changing statutory fee levels. In other words, this instrument does not make the process any easier.

In conclusion, the Government intend for the functions in the fees orders to continue, and other legislation is being amended to allow for that. We therefore need to update the fees orders for those functions to show that they will now be delivered under domestic law, as opposed to EU law, and to allow us to continue to take account of matters relating to the delivery of those functions. That will also ensure that when the fees are amended in the future, they continue to reflect accurately the cost of their delivery. In effect, the amendments in this instrument will ensure that the fees orders recognise EU exit but otherwise maintain the status quo. They do not extend the Secretary of State's powers in any way. I therefore hope that the Committee will approve these regulations.

4.34 pm

Rachael Maskell (York Central) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Sir Graham. I wish to raise a number of points on which I seek clarity and answers from the Minister.

I note that the function of the regulations, which, as was established in the House of Lords, have not been consulted on, could have an impact on fees once they are set, and thus on hauliers and ultimately on businesses that depend on hauliers. I am concerned that the cost of living may creep up not as a result of a direct rise in fees but as a consequence of the changes to functions and the change of jurisdiction where certain functions are carried out.

The regulations themselves seek to amend three fees orders: the Department for Transport fees orders of 1998, 2003 and 2009. While not altering the fees themselves, the regulations transfer the functions by which fees are set from determination in the EU to determination in the UK or to determination in Great Britain and separately in Northern Ireland, where that is appropriate. If the Government bring about any divergence in the mechanism for determining fees, how will that not impact on the fees themselves? It may be that synergy is sought from day one but that changes are introduced later.

In the light of the fact that the UK will make its own determination in these matters, how will this change the cost of providing staffing, premises, equipment and facilities for carrying out the functions that are now carried out in the UK under British jurisdiction rather than in the UK under EU jurisdiction? Will there be any additional cost in administering the legislation, with or without divergence, by the Department for Transport's Executive agencies: the Driver and Vehicle Standards Agency, the Driver and Vehicle Licensing Agency and the Vehicle Certification Agency? What discussions have taken place with these agencies about the potential financial implications of the changes that the regulations will introduce?

I note that the applicable functions are wide-ranging: driver licensing, vehicle registration, international road haulage permitting, vehicle type approval certification, the approval of tachograph calibration centres, international

road passenger transport authorisation, licensing to operate public service vehicles, licensing to operate goods vehicles, and enforcement against UK and non-UK drivers and vehicles that break the law on such matters. If we leave the EU at 11 pm on 29 March 2019, the Government may find that access to information to carry out the functions that are repatriated from the EU to the UK is restricted, and that in order for there to be no divergence, one of the agencies in question has to purchase data. If fees then went up, and there was an impact on the end users, I would have to ask why there had been no consultation on the regulations. There could be creeping cost implications from all sorts of things, including providing additional staff who have the responsibility of monitoring the process involved and of determining the scope on which the fees are based. Someone will have to pay for this. If we multiply that across all functions of Brexit, we will see a heavy rise in the cost of living. Even if fees do not rise, someone will have to pay for this.

If bilateral agreements are struck, charges could be increased as a deterrent mechanism, as Lord Berkeley said—for instance, to dissuade non-UK drivers from coming to the UK. We all know that this would be catastrophic, as the road haulage industry has a serious recruitment crisis at the moment. Clearly that could occur if the Government were to apply their desired border controls, and I hope that this is not the case. Divergence at any time could have cost implications and should have been consulted on. Will the Government simply look to recover costs, or will they see these measures as a possible revenue stream as the economy sinks further and further into crisis after we have left the EU? How will the functions be policed and will that require more resources? Will there be a further border check, and will that be through paper or electronic documentation in this modern age? The Minister knows that I have a particular concern about that.

As we saw from the discussion in the House of Lords, and in the light of the fact that no one has a clue about what is in the withdrawal agreement, there is some uncertainty about why we are discussing the regulations now. A hard Brexit, where we sever all links with the EU, would look very different from a Brexit where there is agreement on continuing our full membership of the customs union and the single market for a period of transition, and it would look very different from everything in between. While the Minister is hedging his bets and we are preparing for being driven off a cliff edge and for crashing out of the EU, it could be that the regulations are redundant from 29 March 2019, or they could require further variance, in which case we could find ourselves debating amendments to the regulations. Baroness Sugg seemed to imply in her response to noble Lords that that could be the case. Does the Minister agree?

Earlier this year we debated the Haulage Permits and Trailer Registration Act 2018, which will enable the UK to introduce new permits for non-UK road freight. At the time, the Opposition expressed our desire to remain within the community licences scheme. What progress has the Minister made on that, as it would also have an impact on the regulations? Have discussions commenced on that? If so, how are they progressing? Baroness Sugg has said:

“We hope to agree a mutually beneficial deal with liberalised access”.—[*Official Report, House of Lords*, 17 October 2018; Vol. 793, c. GC38.]

However, with just weeks—or perhaps we are now counting in days—until a deal is done, I find the word “hope” quite hopeless. How far away are we from having certainty on those matters? The vague responses by the Minister in the other place are certainly disconcerting.

Finally, paragraph 7.6 of the explanatory memorandum states:

“The Secretary of State will continue to carry out these functions, albeit under retained domestic law in place of EU obligations, and so will need to continue to set and collect fees and charges to cover their costs.”

If the costs of carrying out those functions are increased as a result of the regulations because additional personnel are required, which is a real possibility, how has the Minister scoped that piece of work? It seems to me that the fear of the Brexit cliff-edge is not recognising and knowing the unknown. What work, if any, has been done on that? I look forward to the Minister’s response.

The Chair: Before I call any other hon. Members to speak, I must say that, although I did not interrupt the hon. Lady, because I sensed that she was coming towards a conclusion, her remarks went a little wide of the specifics of the order. I hope that Members on both sides of the Committee will not seek to explore wider issues that are possibly being explored in the House at the moment. We will stick very much to the point of the order before us.

4.42 pm

Martyn Day (Linlithgow and East Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Sir Graham. I am grateful to the Minister for his explanation of the regulations, which appear to be relatively straightforward. On that basis, I am content to support them today.

However, I point out that today’s order will be just one of many statutory instruments related to Brexit that will come before us. That prompts the question of just how much time and effort is being put into such work that could have been used for other things had we not been going through this process.

4.43 pm

Jesse Norman: I am grateful to the two hon. Members for their contributions. I hope I can reassure the hon. Member for York Central on many of the questions that she raised. I take the point eloquently made by the hon. Member for Linlithgow and East Falkirk as appropriately rhetorical, in flagging the potential efforts to which officials and Ministers have gone in ensuring that we will be properly protected in the event of EU exit.

I remind the Committee of the extremely modest length of this piece of secondary legislation. There are a very small number of changes, which are, broadly speaking, to remove references to EU obligations and to repose in the Secretary of State some powers that presently lie with the EU. That is in line with the general principle of the European Union (Withdrawal) Act 2018, which is to relocate within UK law powers that presently operate under EU law.

The hon. Member for York Central asked why there had been no consultation on the order. The reason for that was delicately alluded to by the Chairman when he reminded us of the proceeding’s scope. The regulations

[*Jesse Norman*]

do not set fees; they only govern what considerations the Secretary of State can take into account in any setting of fees. As I said, fees themselves cannot be changed, except with a staged process that requires the agreement of the Treasury, a consultation with representative organisations that are affected and a consideration of the impact upon stakeholders. There has been no consultation on the order because it has no such impact. All it does is relocate laws from one jurisdiction to another.

Rachael Maskell *rose*—

Jesse Norman: If I may, I will just finish what I am saying and then the hon. Lady can make further comments.

If there were any possible changes to fees, they would arise out of substantive Acts, rather than the scope that is demarcated by this purely formal change of location of powers. If that were to occur and there were some possibility that fees would have to go up, we would follow the process described, which would involve a consultation in the way the hon. Lady described. That answers her second question, which related to divergence, and her third question, which related to the cost of providing any functions. One cannot predict whether the functions cost would go up or down, but that is immaterial to these regulations, which bear on the

considerations that the Secretary of State is entitled to take into account and were formerly taken into account under EU law.

The hon. Lady asked what discussions have taken place with agencies. Of course, discussions routinely take place between Ministers and agencies on a variety of things. In this case the agencies are aware of this change of law, but it is not—I repeat—a matter of changing the substance of any actual fees. Therefore, those conversations do not need to touch on anything other than the formal change that has been described.

The hon. Lady asked whether this will be used as a revenue stream after withdrawal from the EU. Fees are not used as a revenue stream. The whole point of this is to recover the costs associated with the activities in question. There is no revenue stream, in that sense, to be derived.

The hon. Lady said, “As the economy sinks into crisis.” I am afraid that her flair for rhetoric is getting the better of her. So far the economy is discounting any crisis—it continues to grow robustly and no one is expecting anything on that account. She then referred to a series of other matters that have been amply covered in discussions on the Haulage Permits and Trailer Registration Bill, with several points raised in Committee and before the House. I refer her to those discussions.

Question put and agreed to.

4.47 pm

Committee rose.

