

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT POSTAL AND PARCEL SERVICES
(AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2018

Thursday 13 December 2018

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 17 December 2018

© Parliamentary Copyright House of Commons 2018

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: ANDREW ROSINDELL

- | | |
|--|--|
| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Kerr, Stephen (<i>Stirling</i>) (Con) |
| Bradshaw, Mr Ben (<i>Exeter</i>) (Lab) | † Linden, David (<i>Glasgow East</i>) (SNP) |
| † Caulfield, Maria (<i>Lewes</i>) (Con) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | Siddiq, Tulip (<i>Hampstead and Kilburn</i>) (Lab) |
| † Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Freeman, George (<i>Mid Norfolk</i>) (Con) | Spellar, John (<i>Warley</i>) (Lab) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Tolhurst, Kelly (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Hands, Greg (<i>Chelsea and Fulham</i>) (Con) | Adam Evans, <i>Committee Clerk</i> |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | |
| † Jones, Mr David (<i>Clwyd West</i>) (Con) | † attended the Committee |

Eighth Delegated Legislation Committee

Thursday 13 December 2018

[ANDREW ROSINDELL *in the Chair*]

Draft Postal and Parcel Services (Amendment etc.) (EU Exit) Regulations 2018

11.30 am

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

That the Committee has considered the draft Postal and Parcel Services (Amendment etc.) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Rosindell. The draft regulations were laid before the House on 29 October. The Government are confident that an agreement on the EU exit will be achieved, but we must be prepared for all outcomes. If the UK left the EU without an agreement in place, the instrument would provide legal clarity and consistency for the regulator and postal operators.

The draft regulations are being introduced, under powers in section 8 of the European Union (Withdrawal) Act 2018, to correct deficiencies in the statute book associated with exiting the EU. They will make minor amendments by removing obligations that would no longer apply if no agreement were reached with the EU.

The regulations make no changes to the operation of postal and parcel services beyond those necessary to ensure the regime is fully functional on exit day. They will not change the six-days-a-week or “one price goes anywhere” universal postal service that continues to be relied upon by consumers and businesses throughout the UK. I will explain what the specific legal amendments are and why they are necessary if no agreement is reached with the EU.

The regulations make four sets of changes. First, they will amend the Postal Services Act 2000 and the Postal Services Act 2011 to remove or replace references to EU obligations that will no longer apply once the UK has left the EU. They will also remove provisions that impose duties to notify the European Commission. Secondly, they will remove from statute the Postal Services Regulations 1999, which implemented article 22 of the postal services directive. That directive requires member states to designate a national regulatory authority, or NRA, for the postal sector. Thirdly, they will revoke the European Commission decision of 10 August 2010, which established the European Regulators Group for Postal Services, or ERGP. Finally, they will revoke EU regulation 2018/644 on cross-border parcel delivery services.

The 2000 and 2011 Acts set out the minimum requirements of the UK’s universal postal service. The amendments made by the regulations to primary legislation governing postal services will not affect the UK’s universal postal service. The regulations will ensure that any remaining obligations under retained EU law are maintained in the 2011 Act and will remove redundant provisions. They will also remove obligations of the EU postal services directive, such as sharing information

with the European Commission, because the UK will no longer be subject to the directive’s provisions or to the authority of the European Commission after we leave the EU.

The 1999 regulations designate Ofcom and the Secretary of State as the UK’s national regulatory authorities for postal services, which is a requirement of the postal services directive. The duties and functions of Ofcom and the Secretary of State relating to postal services are set out in the 2000 and 2011 Acts, so there is no longer a requirement to designate them the national regulatory authority under separate regulations for the purposes of the postal services directive. The 1999 regulations will become redundant when the UK leaves the EU and will be revoked in full by the draft regulations.

The European Commission decision of 2010 established the ERGP. Ofcom—the UK’s NRA—is a member. The group consists of member states’ NRAs, provides advice to the European Commission and aims to facilitate consultation, co-ordination and co-operation between NRAs of member states on postal services. As well as members, the group also consists of permanent and ad hoc observers.

The UK will not be entitled to participate formally as a member of the group after we leave the European Union, because membership is restricted to the NRAs of member states. The draft regulations will therefore revoke the EU’s decision, which contains a list of members, one of them being the UK.

The withdrawal from the ERGP was an issue of interest to the House of Commons sifting Committee when the draft instrument was first presented. The House requested further information on the effect of the UK’s non-participation in the group, and possible alternatives for future arrangements.

The ERGP does not make binding rules or take decisions, but occupies an advisory role and facilitates the sharing of best practice. Ofcom intends to seek permanent observer status after the UK has exited the EU, in the way that other NRAs of European economic area states, such as Switzerland, and EU candidate countries currently participate. Although observer status would remove Ofcom’s right to vote, the likely impact of that would be minimal, as this is more of a co-operative forum in nature. If granted observer status, Ofcom could still engage in strategic discussions, negotiations and the sharing of best practice after we exited the EU.

The aim of the EU regulation, which came into force in May, is to increase regulatory oversight and price transparency of cross-border parcel delivery services within the EU. The draft regulations will fully revoke the EU regulation, which requires regular submission to the European Commission of information on cross-border parcel delivery providers, with the aim of publishing tariff information on all member states’ cross-border parcel operators. That duty will no longer apply after the UK leaves the EU.

The principal information-gathering powers are provided for in the UK’s domestic legislation under the 2011 Act. Ofcom already draws on that as part of its regulatory monitoring of the postal sector. Ofcom is also able to carry out comparative overviews of the quality and price of postal services, with a view to publication in the interests of users of those services, following the receipt of information from the operators.

Similarly, the EU's regulatory obligation on traders to provide consumers with certain information relating to their services is contained in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. For those reasons, the EU parcel delivery regulation will become redundant and will be revoked by the draft regulations.

The draft regulations will ensure that postal and parcel services can continue to operate effectively after the United Kingdom's withdrawal from the European Union, and I therefore commend them to the Committee.

11.38 am

Gill Furniss (Sheffield, Brightside and Hillsborough) (Lab): It is a pleasure to serve under your chairpersonship, Mr Rosindell. On the whole, I am assured that the statutory instrument mostly ensures technical changes to remove the relevant EU references from postal services regulations.

As the Minister outlined, the basis of the statutory instrument is to attempt to address retained EU law to ensure it operates effectively and alters deficiencies arising from the UK's exit next year. Part two makes amendments to the 2000 and 2011 Acts, to remove or replace references to obligations that will no longer apply following our departure. Part three revokes the 1999 regulations, which implemented article 22 of the postal services directive and required member states to designate a national regulatory authority for the postal sector. The draft regulations will revoke the European Commission's decision of 10 August 2010, which established the ERGP.

As the Minister will know, however, the Commons sifting Committee overturned the decision of the House of Lords to pass the SI without debate. The Committee argued that the Government should provide more information—for example, on the effect of the UK's non-participation in the ERGP—and possible alternatives for the future. Therefore, I am pleased to have the opportunity to sit on the Committee today.

I will be brief and get to the crux of the matter, because the Minister very competently gave us an overview of a complicated set of regulations. I have a number of questions. First, was there a discussion during the Brexit negotiations about co-operation between the UK and EU on postal services following our departure? It has become a trend that the Government have failed to conduct impact assessments on the recent wave of SIs, so what assessment has been made of the implication that this measure will have for how postal services flow and how our parcels will be delivered in future? Finally, what assessment has she made of the impact that revoking the 2018 EU regulation on cross-border parcel delivery services will have on UK consumers' access to competitive postal service prices?

11.40 am

Kelly Tolhurst: I thank the hon. Lady for her kind comments. I will try to answer her questions and give her some more information about what has been done.

Regarding co-operation, as the SI highlights we will not be able to continue as a member of the ERGP after we leave, but Ofcom has made it clear that we will be trying to obtain permanent observer status. I touched on this briefly in my opening speech, but I can reassure her that that group votes only twice a year, so the voting

element is minimal. It is an advisory board, working together and consulting, and there are a number of countries with observer status in the group. Obviously, obtaining that status is a decision that will have to be taken at a later stage, but I do not see any reason for it not happening.

As the hon. Lady will know, we are already a member of the Universal Postal Union, which is a UN body that operates worldwide and is able to co-operate internationally. The potential impact of the measure will cross over to the impact with respect to cross-border issues. As she will know, we are in consultation with Royal Mail and other delivery operators regarding customs arrangements and requirements that will be necessary. That work is being undertaken by Her Majesty's Treasury and Her Majesty's Revenue and Customs, and that information is already being tested in the White Paper.

Regarding impact assessments, we believe that this SI has a very minimal impact. It is under the £5 million mark, so a full impact assessment has been judged not to be required. We are continuing to work with delivery operators and the Royal Mail as we move through the process, towards exit day, either with or without a deal, to make sure that we continue to address what needs to be addressed. We have assessed that neither the regulator nor the Department for Business, Energy and Industrial Strategy would require further funding to be able to operate under a no-deal scenario in relation to this SI.

To put it on record and to put the hon. Lady's mind at rest regarding cross-border parcel delivery, we have a duty to co-operate with other countries with respect to the postal service and parcels. We will become a third country, but we expect that to operate in the same way with the European Union. We will retain European standards, which are widely shared. We have a great postal service here in the UK, and it has become more efficient in the past eight years.

Nick Smith (Blaenau Gwent) (Lab): Does the Minister know whether Royal Mail anticipates that any customs changes that come about due to a Brexit in which we crash out will have any practical impact?

Kelly Tolhurst: I thank the hon. Gentleman for his question. We are continuing to work with Royal Mail and HMRC on the customs arrangements that will be put in place. That is a live issue, which continues to be consulted on. I cannot give him full details, because that is a piece of ongoing work.

Nick Smith: I thank the Minister for that response. Will she update us on the analysis she does with Royal Mail on the possible financial impact of the draft regulations in the event that we crash out?

Kelly Tolhurst: If there was to be a direct financial impact that was less than minimal, of course we would provide an update. As things stand, we have assessed that there will be a very minimal cost, but we continue to work on those customs arrangements. Let us be frank: in a no-deal situation, we will be dealing with customs for our postal and parcel services in some way, shape or form, so that will have to be monitored right up to our leaving date while we wait for our direction to be confirmed. That is as far as I can go on that point, I am afraid.

[Kelly Tolhurst]

The draft regulations will be made under the powers conferred by section 8 of the withdrawal Act. Those powers will provide legal clarity in respect of postal and parcel services legislation after the UK's exit from the EU by removing inconsistencies and inappropriate references from the statute book. I have addressed the concerns of the Commons sifting Committee about the effects of the UK's non-participation in the ERGP as a

result of our leaving the EU. The draft regulations do not represent a policy change in the operation of postal services; they preserve as far as possible the rights, responsibilities and protections offered by the existing system. I therefore hope the Committee will approve them.

Question put and agreed to.

11.48 am

Committee rose.

