

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT SHIP AND PORT SECURITY  
(AMENDMENT ETC.) (EU EXIT)  
REGULATIONS 2018

*Tuesday 8 January 2019*

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**Saturday 12 January 2019**

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**The Committee consisted of the following Members:**

*Chair:* MR NIGEL EVANS

- |  |   |
|--|---|
| † Afolami, Bim ( <i>Hitchin and Harpenden</i> ) (Con)                                  | † Killen, Ged ( <i>Rutherglen and Hamilton West</i> ) (Lab/<br>Co-op) |
| Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)   | † Letwin, Sir Oliver ( <i>West Dorset</i> ) (Con)                     |
| † Brown, Alan ( <i>Kilmarnock and Loudoun</i> ) (SNP)                                  | Mahmood, Shabana ( <i>Birmingham, Ladywood</i> ) (Lab)                |
| † Donelan, Michelle ( <i>Chippenham</i> ) (Con)  | † Shelbrooke, Alec ( <i>Elmet and Rothwell</i> ) (Con)                |
| Evans, Chris ( <i>Islwyn</i> ) (Lab/Co-op)   | † Stewart, Bob ( <i>Beckenham</i> ) (Con)                             |
| † Foxcroft, Vicky ( <i>Lewisham, Deptford</i> ) (Lab)                                  | † Tracey, Craig ( <i>North Warwickshire</i> ) (Con)                   |
| † George, Ruth ( <i>High Peak</i> ) (Lab)  | † Turner, Karl ( <i>Kingston upon Hull East</i> ) (Lab)               |
| † Ghani, Ms Nusrat ( <i>Parliamentary Under-Secretary<br/>of State for Transport</i> ) |   |
| † Hollinrake, Kevin ( <i>Thirsk and Malton</i> ) (Con)                                 | Jack Dent, <i>Committee Clerk</i>                                     |
| Johnson, Dr Caroline ( <i>Sleaford and North Hykeham</i> )<br>(Con)                    | † <b>attended the Committee</b>                                       |

## Third Delegated Legislation Committee

Tuesday 8 January 2019

[MR NIGEL EVANS *in the Chair*]

### Draft Ship and Port Security (Amendment etc.) (EU Exit) Regulations 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 Ship and Port Security (Amendment etc.) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Evans. The UK maritime sector is thriving. We are one of the largest flag states, have one of the largest port industries and attract significant investment. We lead the world in many areas of maritime business services, education and research. Subject to parliamentary approval, the draft regulations will amend ship and port security legislation so that the current regime of protective security on board ships and at UK ports continues to operate following the United Kingdom's withdrawal from the EU.

International agreements and European legislation form the bedrock of the UK's well established ship and port security regime. The UK is a contracting party to the International Maritime Organisation's safety of life at sea convention—SOLAS. In response to the perceived threats to ships and port facilities in the aftermath of the terrorist attacks in America on 11 September 2001, the international ship and port facility security code—ISPS—was adopted under SOLAS. The code established a range of protective security measures that are required to be taken on ships and at ports to protect vital infrastructure and people from acts of terrorism or violence. The code is set out in two parts: part A includes a number of mandatory provisions for signatory states, and part B, intended as guidance, contains measures for states to consider implementing to enhance the security of ships and port facilities.

In 2004, the convention and code were given a basis in EU law by regulation 725/2004 on enhancing ship and port facility security. The regulation provided for the harmonised implementation of the convention and the ISPS code within and across EU member states. It made implementation of the provisions of part A and specific elements of part B mandatory in all EU member states. The regulation is directly applicable in UK law, but it was further implemented, as far as was necessary, in domestic legislation by the Ship and Port Facility (Security) Regulations 2004. The 2005 port security directive complements the security measures introduced by the EU regulation by expanding the area of port that is subject to a protective security regime. The directive was transposed into UK law by the Port Security Regulations 2009, and by 33 separate designation orders that define the boundaries of ports across the UK.

The existing legislative regime ensures that proportionate security measures are in place on board ships and at the UK's maritime ports. On withdrawal day, regulation 725/2004

will be converted into UK legislation and will become part of the body referred to as retained EU law. To ensure that retained EU law continues to function effectively after exit day, a number of changes are required to the text of EU regulation 725/2004, and the 2004 and 2009 regulations. The changes are designed to prevent, remedy or mitigate failings of, or deficiencies in, retained EU law resulting from the UK's withdrawal from the EU. The policy behind the changes is that in the UK, there should be no practical change to, or noticeable impact on, how the industry daily operates an effective protective security regime.

Most of the changes to the current legislation are minor. Some involve the restatement of the retained EU law in a clearer or more accessible way, to make it fit for purpose within domestic legislation. The draft regulations also revoke regulation 324/2008, which established procedures across the EU for the European Commission to conduct inspections of UK ships and ports. Such inspections will neither be required nor appropriate following EU withdrawal; the Department for Transport and the Maritime and Coastguard Agency will continue to deliver a well established programme of ship and port inspections, to ensure that required security standards are met.

The draft regulations include provision for three more detailed, but equally necessary, corrections to the existing legislation. First, they amend article 3 of regulation 725/2004 in relation to domestic vessels. That does not alter or impact on current administrative practice, the categories of domestic vessel to which the legislation applies, or how those vessels are required to comply with the legislation.

Secondly, the draft statutory instrument includes provision to enable the direct application of future amendments made to the ISPS code. That will allow the legislation to keep in step with future changes and ensure that the UK is meeting its international obligations. As part of that provision, the Secretary of State will have the power to exclude any such change relating to international shipping by the making of regulations—as the Commission does currently—if it is determined that there is a manifest risk that implementation would lower the standards of the UK's maritime security regime. Any future regulations made in that regard by the Secretary of State would be subject to parliamentary procedures.

Finally, the Port Security Regulations 2009 contain references to section 2 of the European Communities Act 1972, which will no longer be in force on exit day. To fix that deficiency in the legislation and to ensure that the Secretary of State can continue, under the legislation, to define or amend the boundaries of particular ports, the draft regulations rely on powers in the European Union (Withdrawal) Act 2018 to confer on the Secretary of State powers to continue to update or amend the existing suite of legislation. That power would be used when, for example, a port boundary is changed or a new port comes into existence. The amendments made to the 2009 regulations will ensure that the Secretary of State can continue to discharge all his statutory duties. The power in the draft regulations for the Secretary of State to make regulations will maintain the effectiveness and operability of ship and port security legislation following EU withdrawal.

In conclusion, the regulations before the Committee are intended to make changes that will ensure that the current legislative regime for ships and ports is able to operate effectively, and continues to meet the UK's maritime security requirements, following EU withdrawal. I commend the regulations to the Committee.

9.2 am

**Karl Turner** (Kingston upon Hull East) (Lab): It is always an absolute pleasure to see you in the Chair, Mr Evans. I intend my remarks to be relatively brief, but I would be grateful if the Minister could answer one or two points. As she said, the regulations are part of the many aspects of EU law that fall into UK law under the Government's withdrawal Act. They ensure that both converted EU ship and port security legislation and existing secondary legislation remain legally operable when we withdraw from the European Union.

We recognise that these changes are required, so we support them, but can the Minister explain whether there are any differences between what is currently in place and the UK's post-Brexit implementation of the core international ship and port facility security code? I understand that the Secretary of State would be able to exclude certain amendments to the 1974 international convention for the safety of life at sea—SOLAS—and/or the ISPS code under limited powers held by the European Commission. It would be good if the Minister could explain how that process will work, and where the Secretary of State will be required to explain why certain amendments may be excluded.

It makes sense for the statutory instrument to erase obligations to report information to the Commission and to facilitate Commission inspections, but this is more significant than a tidying-up exercise. What new data and intelligence-sharing system will be in place post Brexit to ensure that security standards are maintained on ships arriving in the UK from EU and non-EU ports, and are sufficiently flexible to respond to emerging maritime security challenges, such as those we have seen in the channel this winter, with the migrant boat crossings and stowaways on cargo ships? Will the Maritime and Coastguard Agency be issued with increased resources to implement the regulations? I would be grateful if the Minister answered those points, but I am happy if she wants to put her answers in writing.

9.5 am

**Alan Brown** (Kilmarnock and Loudoun) (SNP): I will be brief. I will not oppose the proposed changes, because it clearly makes sense to have this contingency for EU withdrawal. I am also well aware that the Department for Transport has more important things to do, such as making sure that ferry contractors actually have ferries, so that we can keep things running. It is fine to ensure that ports are safe, but we need ferries going in and out of those ports.

On no-deal contingency planning, can the Minister explain what else will be done to keep traffic flowing? It is quite obvious that yesterday's exercise was a bit of a

flop: only 89 lorries out of a planned 150 turned up to the no-deal exercise, and given that Dover gets 10,000 lorries per day, even 150 would be a drop in the ocean. Can she also explain what other regulations will be required if there is no deal and the UK leaves on 29 March?

9.6 am

**Ms Ghani:** I am grateful to hon. Members for participating in this morning's Committee, and turning up so early to deal with this important piece of legislation. The current protective security regime for ships in UK ports operates effectively; there is a range of measures in place to protect vital infrastructure, the travelling public, and those working in those environments from attack. The draft regulations make the appropriate changes to what will become the retained protective security legislation when the UK exits the European Union.

Turning to some of the points that have been raised this morning, a question was asked about security and standards on ships. I will do my best to ensure that more robust replies are provided in writing, but I will put on the record that the robust security standards at UK ports and on ships will continue following EU withdrawal. We must not forget that we have the fantastic, internationally renowned Maritime and Coastguard Agency, which does fantastic work and is well respected across the world; it will continue to do that work with even more detail post Brexit. It is important to note that most ships carry data on board, which exempts them from having to present it when they come into port. All we are asking is for the ship owners to press a button to make sure that information is available, if requested, when they are pulling into port. That data is already pooled and gathered. I will make sure that a more detailed response is provided to the hon. Member for Kingston upon Hull East.

It is important to note that the Department is making plans for all eventualities, including a no-deal Brexit. That is why we are undertaking exercises and modelling, working with local communities—whether in Kent or with the port of Dover—and doing everything we can to ensure that freight travels up and down our country with the least friction possible. Unfortunately, every exercise that we undertake is done under the full glare of the media and the public, but we would also be criticised if we were not implementing all remedies and not practising all of our modelling for a situation in which we exited without a deal. The statutory instrument is essential to ensure that ship and port security legislation continues to work effectively in the UK from day one after exiting. It enables the status quo in the UK to continue. I hope that the Committee has found this morning's sitting informative and will join me in supporting the regulations.

*Question put and agreed to.*

9.9 am

*Committee rose.*





