

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Eleventh Delegated Legislation Committee

DRAFT CONSUMER PROTECTION  
(ENFORCEMENT) (AMENDMENT ETC.)  
(EU EXIT) REGULATIONS 2018

*Wednesday 23 January 2019*

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

*Chair:* SIR DAVID AMESS

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|--|--|
| † Baron, Mr John ( <i>Basildon and Billericay</i> ) (Con)                | † Phillips, Jess ( <i>Birmingham, Yardley</i> ) (Lab)  |
| † Chishti, Rehman ( <i>Gillingham and Rainham</i> ) (Con)                | † Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)   |
| † Furniss, Gill ( <i>Sheffield, Brightside and Hillsborough</i> ) (Lab)  | † Sobel, Alex ( <i>Leeds North West</i> ) (Lab/Co-op)  |
| † Gibson, Patricia ( <i>North Ayrshire and Arran</i> ) (SNP)             | † Tolhurst, Kelly ( <i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i> ) |
| † Grogan, John ( <i>Keighley</i> ) (Lab)                                 | † Tredinnick, David ( <i>Bosworth</i> ) (Con)  |
| † Hair, Kirstene ( <i>Angus</i> ) (Con)                                  | † Twist, Liz ( <i>Blaydon</i> ) (Lab)  |
| † Harris, Rebecca ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † Wood, Mike ( <i>Dudley South</i> ) (Con)   |
| † Kendall, Liz ( <i>Leicester West</i> ) (Lab)                           | Mike Winter, <i>Committee Clerk</i>  |
| † Lord, Mr Jonathan ( <i>Woking</i> ) (Con)                              |  |
| † O'Brien, Neil ( <i>Harborough</i> ) (Con)                              | † <b>attended the Committee</b>  |

# Eleventh Delegated Legislation Committee

Wednesday 23 January 2019

[SIR DAVID AMESS *in the Chair*]

## Draft Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2018

2.30 pm

**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 Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Sir David. This instrument, laid before the House on 4 December 2018, is part of our EU exit contingency planning; it will not be needed should the UK conclude the withdrawal agreement with the EU. Several laws allow for collective redress when infringements of consumer protection laws take place. The first is the consumer protection co-operation regulation, known as the CPC regulation. The reciprocal arrangements set out in that EU law require enforcers to act on requests from their counterparts in other EU member states. They are required to investigate and, if necessary, take action to end infringements of EU consumer law when the collective interests of consumers in other member states are harmed.

The second of those laws is the injunctions directive. The reciprocal arrangements in that EU directive allow enforcers to take action in the courts of other member states to stop the relevant infringements. In the UK, part 8 of the Enterprise Act 2002 implements the injunctions directive, as well as providing the UK's enforcement mechanism for the CPC regulation. It enables certain UK and EU enforcers to apply for enforcement orders to stop the infringements in question when listed EU consumer laws are being breached—these are known as Community infringements—and the collective interests of consumers are being harmed. Finally, UK enforcers are given the necessary investigatory powers through schedule 5 to the Consumer Rights Act 2015.

In the absence of a deal, after the UK's exit from the EU, the CPC regulation and the injunctions directive will no longer apply to the UK as we will cease to be an EU member state. In consequence, UK consumer enforcers such as the Competition and Markets Authority will no longer be part of the reciprocal cross-border enforcement arrangements. This instrument therefore revokes the CPC regulation, which would otherwise continue to apply in UK law. Doing so prevents a situation in which UK enforcers would be required to assist their EU counterparts, while EU enforcers would not be under the same obligation. This instrument also amends the Enterprise Act so that EU enforcers cannot apply for enforcement orders in UK courts, preventing a situation whereby EU enforcers would remain able to bring legal proceedings in UK courts under the injunctions directive, while UK enforcers would lose their equivalent right to bring proceedings in the EU.

This instrument does not prevent UK enforcers from co-operating with their EU counterparts: UK public bodies will remain able to share information they hold in their capacity as enforcers under part 8 of the Enterprise Act to assist their counterparts abroad. However, we recognise that cross-border enforcement co-operation to protect consumers would become more limited in a no-deal situation. The instrument also ensures that UK enforcers retain the powers they now have within the UK, and can continue to investigate and address infringements of UK consumer law—including retained EU consumer law—after exit day. Those laws are set out in the new schedule 13 to the Enterprise Act to certify this instrument.

These changes are a necessary use of the powers of the European Union (Withdrawal) Act 2018, and I commend the instrument to the Committee.

2.34 pm

**Gill Furniss** (Sheffield, Brightside and Hillsborough) (Lab): It is a pleasure to serve under your chairpersonship, Sir David. It is with deep regret that we find ourselves in a situation in which we are even considering leaving the EU with no deal—a decision that would have enormous political, social and economic impacts on the UK. There is no majority in the House for such a course of action. With 40 years' worth of intertwined regulation and policies, the proposals introduced by the Government risk cutting the vital cross-border work that is so fundamental to the protections that our citizens enjoy.

**Mr John Baron** (Basildon and Billericay) (Con): Will the hon. Lady give some concrete evidence, rather than speculating, that leaving on WTO terms, on which we trade profitably with the rest of the world, would mean us being unable likewise to trade profitably with the EU, given that all the projections of fear and economic gloom predicted when we simply voted to leave have transparently been proved to be wrong?

**Gill Furniss:** I think it has been made clear by many experts, including at the Bank of England, that, should we crash out with no deal in a few weeks' time, the economy will shrink by about 8%. We are here today to look at spending many millions of pounds.

**Mr Baron:** This is the same Bank of England that predicted economic woe if we voted to leave the European Union, suggested there would be 500,000 extra unemployed people by December 2016, and then had to apologise very publicly for getting it so wrong. I would caution against the hon. Lady quoting the Bank of England, because it got it so wrong last time.

**The Chair:** Before this continues, I remind Members that this is not an opportunity for a general debate on whether we should be leaving the European Union. The circumstances of this delegated legislation are very tight, so I remind hon. Members to keep their remarks specifically to the legislation we are discussing.

**Gill Furniss:** Time after time, the Prime Minister has been consistent in saying that the Government will ensure that UK consumers will not face any detriment following our departure from the EU, yet the Government's own analysis in their paper, "Consumer rights if there is no Brexit deal", outlines that there would be a watering down of consumer rights in the event of no deal.

Indeed, consumer rights bodies such as Which? have made it clear that no deal would mean a direct and hard impact on areas including travel, food and energy. The EU system, in which we have been partners for over 40 years, has devised solutions to remove risks in cross-border trade, including a deep harmonisation of substantive standards, enforcement mechanisms and redress mechanisms.

UK consumers rely on the assurance that should they buy a product from the EU, they will be protected in the event that something goes wrong, and that our competition authorities can take action on their behalf or request their European counterparts to do so in their respective countries. This confidence in cross-border trade and protection has resulted in trade flourishing between EU member states, and UK consumers have been protected. The purpose of these draft regulations is to remove current reciprocal arrangements that oblige member states to co-operate in the cross-border investigation of, and enforcement on, infringements of EU consumer laws where the collective interest of consumers is harmed.

**The Chair:** Order. There is a Division in the House, so the Committee will stand adjourned for 15 minutes. Should there be a second Division, we will adjourn for a total of 25 minutes.

2.38 pm

*Sitting suspended for a Division in the House.*

3.2 pm

*On resuming—*

**Patricia Gibson** (North Ayrshire and Arran) (SNP): My remarks on this statutory instrument will be very brief. The SI repeals the consumer protection co-operation regulation in full to ensure that there are no unilateral obligations or rights conferred on or between EU member states and/or the UK after Brexit, in the event of a no deal.

Is it the Government's policy to ensure that, as far as possible, UK consumers are no worse off after Brexit than before? However, it is also the case that there are no substantial policy changes proposed for UK consumer law in the event of no deal, and after Brexit. My concern is that there are absolutely no guarantees that UK consumer law will continue to evolve and develop to ensure that UK consumers are not disadvantaged and left, over time, with fewer protections relative to their European counterparts. That must be a cause of concern to us all.

Furthermore, I am well aware that the Minister simply cannot guarantee that our rights will not diverge from Europe's over time, because that is not in the gift of the Minister. That is why this is a matter of concern. We are being asked blindly to step into the unknown. That is the nature of Brexit, deal or no deal, whether we like it or not, regardless of how we voted.

Given the circumstances today, may I throw out for the Minister's consideration a matter I have written to her about? I thought this might be a timely moment to bring it up. She will be aware there are many areas of concern for the future, but one example that concerns me is that the EU is now set to move on standardising the expiry dates on all gift cards at five years, instead of the mishmash of confusion that we have now.

The Minister will perhaps remember that I have made inquiries. I found that the UK Government are reluctant to examine this matter carefully, despite the fact that the industry is worth billions of pounds in the UK and that the measure would cost the UK Government nothing to implement. This is one simple area where UK consumers will be left behind when such provision is adopted across the EU post-Brexit. I know that the Minister suspects that that may not happen in Europe, but I can assure her that there are definitely moves afoot for it to happen. As the CPC regulation makes clear, it is the "collective interests of consumers" that we need to be protecting.

The reality is that Brexit, with or without a deal, can only—perhaps in moments of self-reflection, the Minister will see this—reduce the UK's influence and that of UK enforcement bodies. I do not think that is a matter of dispute. She said in her opening remarks that co-operation will continue. I of course very much hope, for the sake of consumers, that that will be the case. No one wants to see a diminution of consumer protection. No one voted for that in the referendum. Whatever they voted for, they were not voting for fewer protections as consumers. However, concerns remain, because the UK will lose the influence that it has in the area of consumer protection, and of course in other areas, as we ironically will be forced to look inwards, instead of outwards, if we are engulfed by the chaos of no deal.

3.6 pm

**Kelly Tolhurst:** I thank the hon. Lady for her contribution. As a responsible Government, we continue to prepare proportionately for all scenarios, including the scenario that we leave the EU without a deal. That is what this statutory instrument ensures: it revokes provision in the CPC regulation and the injunctions directive that will not be reciprocated by the EU in a no-deal situation.

I recognise the hon. Lady's concern about the particular issue that she has raised. It is not in the scope of these regulations, but, as she knows, I am more than happy to communicate with her outside this statutory instrument Committee. Importantly, the instrument ensures that, after EU exit, UK enforcers retain powers to continue protecting UK consumers in the case of infringement of UK consumer law. That includes EU-derived consumer law.

**Patricia Gibson:** What does the Minister think will be the effect on the UK's influence in European markets, for example? After Brexit, does she think that the UK's influence on consumer protection will increase or decrease?

**Kelly Tolhurst:** The statutory instrument before us talks about UK enforcement, and that, through our UK enforcement agencies, which are already registered under EU law, will be retained under UK law. As always, this Government and our enforcement agencies are committed to the protection of consumers in this country and will do whatever they can, in the event of no deal, to ensure that the relationships with our European neighbours will be maintained as far as possible, but obviously a lot of that will rest with the EU and how it wants to deal with us after EU exit.

**Mr Baron:** The additional point, in answer to the SNP, is surely that we will have control over our own laws more and therefore can even enhance consumer

[Mr Baron]

protection within these shores—rather than following on the tails of the EU—and no doubt there will be many areas in which we do that.

**Kelly Tolhurst:** I thank my hon. Friend for his comment; he is quite right. There are examples of where UK consumer law is superior to EU law in some elements, and this Government are committed to doing that. We

will be able to maintain and, obviously, change our laws. Any EU provider selling into the UK market—whatever the product or services—will still have to comply with UK law and therefore be subject to UK enforcement agencies.

*Question put and agreed to.*

3.10 pm

*Committee rose.*



