

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT CUSTOMS SAFETY AND SECURITY
PROCEDURES (EU EXIT) REGULATIONS 2019

Monday 25 March 2019

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Friday 29 March 2019

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The Committee consisted of the following Members:

Chair: SIR HENRY BELLINGHAM

- | | |
|--|---|
| † Braverman, Suella (<i>Fareham</i>) (Con) | † Peacock, Stephanie (<i>Barnsley East</i>) (Lab) |
| Burden, Richard (<i>Birmingham, Northfield</i>) (Lab) | † Reynolds, Jonathan (<i>Stalybridge and Hyde</i>) (Lab/
Co-op) |
| † Cowan, Ronnie (<i>Inverclyde</i>) (SNP) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Goldsmith, Zac (<i>Richmond Park</i>) (Con) | † Stride, Mel (<i>Financial Secretary to the Treasury</i>) |
| Hoey, Kate (<i>Vauxhall</i>) (Lab) | † Walker, Thelma (<i>Colne Valley</i>) (Lab) |
| † Kawczynski, Daniel (<i>Shrewsbury and Atcham</i>)
(Con) | † Whittaker, Craig (<i>Lord Commissioner of Her
Majesty's Treasury</i>) |
| † Knight, Julian (<i>Solihull</i>) (Con) | Yohanna Sallberg, <i>Committee Clerk</i> |
| Kyle, Peter (<i>Hove</i>) (Lab) | |
| † Lewer, Andrew (<i>Northampton South</i>) (Con) | |
| † Mann, Scott (<i>North Cornwall</i>) (Con) | |
| † Mills, Nigel (<i>Amber Valley</i>) (Con) | † attended the Committee |

Third Delegated Legislation Committee

Monday 25 March 2019

[SIR HENRY BELLINGHAM *in the Chair*]

Draft Customs Safety and Security Procedures (EU Exit) Regulations 2019

4.30 pm

The Financial Secretary to the Treasury (Mel Stride): I beg to move,

That the Committee has considered the draft Customs Safety and Security Procedures (EU Exit) Regulations 2019.

May I say at the outset what a pleasure it is to serve under your chairmanship, Sir Henry? The Government's priority is to leave the EU with a deal that works for citizens and businesses, as set out in the withdrawal agreement and the political declaration. That would, of course, avoid a no-deal outcome. However, as a responsible Government, we have a duty to plan for all scenarios, to minimise the disruption to businesses and individuals.

We are here to consider a statutory instrument that is part of the Government's package to prepare for the possibly of the UK leaving the EU without a deal. The instrument relates to the safety and security of goods entering and leaving the European Union. By way of background, the Union customs code provides the current legal framework for implementing safety and security policy across the EU. The legislation sets out that the movement of goods into and out of the EU requires entry summary and exit summary declarations, also known as safety and security declarations. For example, shipments from the US or China require a safety and security declaration before entering the European Union.

In the event of the UK leaving the EU without a deal, UK importers and exporters will be required to complete safety and security declarations for goods to and from the EU, as well as the rest of the world. The information in the declarations will be used as part of the overall risk assessment conducted by our border agencies to detect threats to our security. The Union customs code as it exists immediately before exit day will form part of domestic law from the day that we leave, and it will continue to apply to the UK as retained EU law by virtue of the provisions of the European Union (Withdrawal) Act 2018.

However, the code was drafted to apply to EU member states and will not work as effective legislation for the UK without amendment. Amendments are required to replace references and terminology that will no longer be valid in the event of leaving without a deal. It is vital that we make those amendments, so that the UK has safety and security legislation in place after we leave the EU. That will ensure that we are able to protect our borders by requiring safety and security declarations on goods coming from the rest of the world just as now.

We have engaged with industry on the introduction of the new requirement for imports from the EU. Industry was clear that it would be challenging, if not impossible,

to be ready for that new obligation on day one. We also considered the risk from goods from the EU if we leave at the end of this month without a deal. Given that the EU's rules and standards are not changing, our view is that the risk to the UK after we exit the EU will not increase on day one. As such, the instrument also introduces a provision to phase in the requirement for entry summary declarations on EU goods after 29 March, or on such date as we may leave the European Union. Therefore, until at least 1 October 2019, we will not require entry summary declarations on goods imported into the UK from the EU, and other territories where we do not currently require them—for example, Switzerland and Norway. That will give traders a transitional period of six months from the day the UK leaves the EU. Carriers will be legally required to submit safety and security declarations after that transitional period.

When the UK leaves the EU, a separate customs union will be created between the UK and the Crown dependencies—the Channel Islands and the Isle of Man. The instrument includes a provision to ensure that the movements of goods between the UK and the Crown dependencies do not require safety and security declarations.

I should also be clear about the effect of the SI on the border between Northern Ireland and Ireland. The UK Government have committed to avoiding a hard border, and we will do everything in our power to ensure that no physical infrastructure or related checks and controls are introduced at the border in the event of no deal. Safety and security declarations will not be required for goods moving between Northern Ireland and Ireland. However, they will be required for goods being imported to and exported from Northern Ireland from other territories, unless the movement is covered by the transitional period introduced by the safety and security instrument, which applies to all of the United Kingdom.

To conclude, the instrument ensures that the UK will continue to have a robust and operable safety and security regime in place after its departure. It also allows businesses more time to cope with their additional responsibilities in meeting safety and security requirements, and ensures that the UK-Crown dependency trade flow is facilitated without compromising safety and security. I commend the regulations to the Committee.

4.34 pm

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): It is always a pleasure to serve under your chairmanship, Sir Henry. Once again, we are here to discuss a statutory instrument that makes provision for a regulatory framework after Brexit in the event that we crash out without a deal. On each occasion, I and my Front-Bench colleagues have spelled out our objections to the Government's approach to using secondary legislation to enable the process.

An issue raised repeatedly by Opposition Members is the impact of a no-deal exit on our ports system. I thank the Minister for his introductory explanation of the SI. My understanding is that, in the event of a no-deal Brexit, goods coming into the UK from the EU, Norway and Switzerland would be able to enter without having to submit safety and security information for a period of six months. I assume that the measure is designed to prevent gridlock at the ports, but the Opposition are troubled by the potential chaos that could occur if we do not get some resolution by the end of this week.

Paragraph 3.4 of the explanatory memorandum to the SI effectively admits that ports, hauliers and ferry operators are not ready. There has been unbelievably poor planning by the Government and it is something we have warned about since the passage of the customs Bill a year ago. The explanatory memorandum explicitly states:

“There is a strong possibility that businesses, such as hauliers and ferry operators, will suffer immediate hardship if the UK leaves the EU without a negotiated deal. They do not have the systems in place in readiness for exit day.”

How have the Minister and the Government allowed that to happen? How is it that restitution of a temporary way forward is being proposed only four days away from our proposed exit date?

The Opposition are concerned about how the exemption could increase the level of smuggled goods and undermine security, particularly at a time when threats to national security are rising. What safeguards do the Government propose to protect against both those risks? Furthermore, what are the implications for the collection of taxation if we are to forgo collecting taxes at the border simply because we do not have the capacity to do so? That is the Government’s stated approach, and the Financial Secretary to the Treasury himself gave evidence to the Treasury Committee last summer, admitting that keeping the ports open would take priority over collecting tax. But how long is such chaos expected to be justified? What assessment has the Treasury made of the potential loss to taxation?

Her Majesty’s Revenue and Customs is already struggling against the weight of the cuts already sustained and the new burdens placed upon it as we leave the EU. We seem to be contemplating potential chaos at our borders. As the Opposition have previously warned, it will be worsened by the serious issues concerning the roll-out of the customs declaration service. The Office for Budget Responsibility stated in its economic and fiscal outlook, published at the spring statement, that the Government’s new customs declaration service has processed just 500 declarations from four traders in seven months, since its launch last August. Yet it was built to handle 300 million import and export declarations. That is extremely worrying. One way to prevent the short-term chaos that we seem to be talking about is to consider staying in a customs union with the EU, as Labour has consistently argued.

I also want to ask the Minister what checks and balances will be placed on the powers. What is to stop us reaching the end of the six-month period and simply extending the process once again by statutory instrument? We would therefore effectively be in a *de facto* customs union, but without the wider scrutiny of Parliament and the wider benefits that such an active decision would bring. A sunset clause on the extension of the powers would have been an important component in preventing that.

To conclude, this seems an extraordinary statutory instrument to be discussing this week. I have huge concerns about whether this is the right way forward, and I very much want to hear the Minister’s further justification of these measures.

4.39 pm

Ronnie Cowan (Inverclyde) (SNP): I have sat on numerous Delegated Legislation Committees—I am sure that most of us have—but most of them tend to be a nod through and we understand why. However, I have real concerns about

this SI. The chaos of the plans will reflect across the economies of these islands. It demonstrates why a no-deal Brexit should be ruled out. I consoled myself that we are trying to cover all potential outcomes, which is a responsible thing to do, requiring a belt-and-braces, “ball of string in your pocket” attitude. However, after further scrutiny, I see that the legislation applies to England, Wales and Scotland, and it will sort out Ireland in a few weeks.

The Government have already admitted that border operations will be less than optimal on day one in any no-deal scenario. Even in six months’ time, when the border issue has been magically solved, it will take years to hire, train and equip the necessary personnel to enforce the customs and excise regulations, collect taxes and tariffs, enforce immigration legislation and provide veterinary checks. HMRC will need systems to track goods, and Border Force will need space and facilities to examine people and goods physically, but we cannot start building that infrastructure because ports and airports need certainty about the future arrangements before they can invest in the bricks and mortar.

This legislation delineates Northern Ireland’s regulatory regime from the rest of the United Kingdom—exactly the opposite of what the Prime Minister has promised her allies in the Democratic Unionist party. The explanatory memorandum notes that:

“Further details on the arrangements for trade between Northern Ireland and Ireland will be published as soon as possible.”

We cannot go on this way. It will not be all right on the night. There is no solution to the Irish border issue that will allow the UK to leave the single market and the customs union with Northern Ireland retaining regulatory alignment with the rest of the UK. The legislation is premised on a false promise that there will be a solution to the border issue in a few weeks’ time. I was born and raised in the west of Scotland, which has a very strong link with Ireland and its politics. It is clear to me that Westminster does not. I shall be opposing this SI.

4.41 pm

Mel Stride: I thank the hon. Members for Stalybridge and Hyde and for Inverclyde for their contributions, which I will address in turn. The hon. Member for Stalybridge and Hyde talked about his dissatisfaction that this matter is being dealt with via a statutory instrument. Of course, the primary legislation under which these powers are being made was debated at considerable length in both Houses of Parliament, and the matters he raised were debated at length at that time. He said that he is concerned about the six-month delay in introducing these measures. As I explained, that is in order to address and ameliorate the concerns that businesses, hauliers and the ports themselves raised in our discussions with them. I should point out that the status quo does not require the safety and security regime between us and the EU27.

The hon. Gentleman rightly spoke about the challenges to businesses in a day one no-deal scenario, and he raised the issue of potential friction and problems at the border. He used an expression that I have used myself on many occasions: he said that this would all be suboptimal if we leave on a day one no-deal basis. That is, of course, the very reason why we are taking the responsible and measured approach of allowing a six-month delay to bring in this requirement for the traders and businesses whose trading arrangements with the EU27 he quite rightly seeks to protect.

Nigel Mills (Amber Valley) (Con): Am I right that the EU requires declarations on the import of goods into the EU and the export of goods out of the EU? Does the Minister have any indication of whether the EU will reciprocate in not requiring declarations for six months? Will we merely just not have the UK side of a declaration? Either way, the thing will have to be made anyway, so we will not achieve quite the work saving that we are hoping for.

Mel Stride: My hon. Friend is right in the sense that, as is the case for our exports to and imports from the rest of the world—in other words, outside the EU's customs union—there are safety and security requirements. What the European Union will do in the event of a day one no-deal situation is for it to determine; clearly, exactly what happens is not within our control. In exactly the same way, the arrangements that it may or may not put in place at its ports across the short channel straits, in relation to customs declarations, duties and tariffs, will be for it to decide. We can focus on what we can do to make sure that the day one no-deal scenario is as comfortable as possible for businesses impacted and that, wherever possible, trade flow is prioritised across our borders.

The hon. Member for Stalybridge and Hyde drifted to some degree into the issue of taxation raised, by which I think he meant the customs duties on trade with the EU27 that may be applicable at our border in a day one no-deal scenario. We have always made it clear that trade flow will be our priority. There will still be arrangements in place to collect customs duties, but those customs duties are new duties—they are not levied at the moment. In terms of revenues forgone, this is the forgoing of revenues that we are not entitled to under existing arrangements.

The hon. Gentleman also asked whether the customs declaration service would be ready for the increased trading volumes that would be involved in a day one no-deal scenario. He is right to raise the issue of increased activity; we estimate that there are 145,000 VAT-registered businesses who trade solely intra-EU at the moment, and probably another 100,000 who are below the VAT threshold, making almost a quarter of a million in total. That will mean an increase in the requirement for CDS, but we have made it clear that in parallel with CDS we have upgraded and maintained the ability of the CHIEF—customs handling of import and export freight—system to keep up with those increased volumes.

The hon. Gentleman then asked what will happen at the end of the six-month phasing in of those measures, and what is to stop Parliament deciding to go for a further period of delay in bringing in the measures. As I am sure he knows full well, there is nothing to stop Parliament doing virtually anything it wants when it comes to legislation, but it will have to do that via due process, coming back to a Committee of the House in order to do so. On that basis, I commend the draft regulations to the Committee.

4.47 pm

Jonathan Reynolds: I am grateful to the Minister for, as ever, batting solidly for the Government about the proposed measures. I was struck by two things he said. First, a no-deal situation is the purest form of Brexit, in the sense that it is the minimum level of co-ordination with our European colleagues and the strongest articulation of sovereignty over prosperity available of the options. Even under that scenario, what the Government are offering is essentially our being a supplicant to the European Union. For the reasons of keeping the country open, we would be forced to forgo the checks and balances that we could wish to impose, while not having any assurances from the European side that that would be reciprocated.

Secondly, it is a year since we had the customs Bill. The one thing we knew about Brexit was that it would increase friction at the ports; it would make the need for more capacity in the UK more evident. To be in this position in the final week of March is extraordinary. It is extraordinary to have an explanatory memorandum for a key statutory instrument that tells us we are not ready for the one thing that we knew was a distinct possibility. On that basis, I recommend that we divide the Committee.

4.48 pm

Mel Stride: I sympathise with the hon. Gentleman's point about no deal, because it would be a suboptimal arrangement to end up with, but an option will perhaps come before Parliament shortly to ensure that we can avoid that. I suggest that Opposition Members think carefully about that particular point when they file through the Lobby.

The Chair: Good try.

Mel Stride: I think that might have swung it, Sir Henry.
Question put.

The Committee divided: Ayes 9, Noes 5.

Division No. 1]

AYES

Braverman, Suella	Mann, Scott
Goldsmith, Zac	Mills, Nigel
Kawczynski, Daniel	Stride, rh Mel
Knight, Julian	Whittaker, Craig
Lewer, Andrew	

NOES

Cowan, Ronnie	Smith, Jeff
Peacock, Stephanie	
Reynolds, Jonathan	Walker, Thelma

Question accordingly agreed to.

4.51 pm

Committee rose.

