

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

RIGHTS, EQUALITY AND CITIZENSHIP
PROGRAMME (REVOCATION) (EU EXIT)
REGULATIONS 2019

Monday 28 October 2019

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Friday 1 November 2019

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The Committee consisted of the following Members:

Chair: JAMES GRAY

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| † Blunt, Crispin (<i>Reigate</i>) (Con) | † Qureshi, Yasmin (<i>Bolton South East</i>) (Lab) |
| † Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con) | † Russell-Moyle, Lloyd (<i>Brighton, Kempton</i>) (Lab/
Co-op) |
| Eagle, Ms Angela (<i>Wallasey</i>) (Lab) | † Scully, Paul (<i>Sutton and Cheam</i>) (Con) |
| † Grant, Mrs Helen (<i>Maidstone and The Weald</i>)
(Con) | † Stevens, Jo (<i>Cardiff Central</i>) (Lab) |
| † Jones, Mr Marcus (<i>Nuneaton</i>) (Con) | † Thewliss, Alison (<i>Glasgow Central</i>) (SNP) |
| Lammy, Mr David (<i>Tottenham</i>) (Lab) | † Thomas, Derek (<i>St Ives</i>) (Con) |
| † Latham, Mrs Pauline (<i>Mid Derbyshire</i>) (Con) | † Western, Matt (<i>Warwick and Leamington</i>) (Lab) |
| † McMorrin, Anna (<i>Cardiff North</i>) (Lab) | |
| † O'Brien, Neil (<i>Harborough</i>) (Con) | Laura-Jane Tiley, <i>Committee Clerk</i> |
| † Philp, Chris (<i>Parliamentary Under-Secretary of State
for Justice</i>) | † attended the Committee |

Fourth Delegated Legislation Committee

Monday 28 October 2019

[JAMES GRAY *in the Chair*]

Rights, Equality and Citizenship Programme (Revocation) (EU Exit) Regulations 2019

6 pm

The Parliamentary Under-Secretary of State for Justice (Chris Philp): I beg to move that the Committee has considered the rights, equality and citizenship programme, revocation, EU regulations 2019.

The Chair: Order. I am sorry to correct the Minister—he should have said “EU exit” regulations 2019.

Chris Philp: I beg your pardon, Mr Gray. In that case, let me be clear. I beg to move,

That the Committee has considered the Rights, Equality and Citizenship Programme (Revocation) (EU Exit) Regulations 2019 (S.I. 2019, No. 1339).

It is a great pleasure to serve under your extremely vigilant and precise chairmanship.

The Chair: Touché.

Chris Philp: Indeed. This statutory instrument forms part of the Government’s preparations in the event of a no-deal Brexit. In the event of a deal, the regulations will not come into force. The Rights, Equalities and Citizenship Programme (Revocation) (EU Exit) Regulations 2019 are an important part of our work to ensure that the statute book remains operational in the event of a no-deal Brexit. The instrument provides stability to UK recipients of European Union funds received under the REC programme, ensuring that, in the event of a no-deal exit, they will continue to receive that funding, as guaranteed by Her Majesty’s Treasury.

The instrument was made under section 8(1) of, and paragraph 21 of schedule 7 to, the European Union (Withdrawal) Act 2018, which permit regulations to be made to prevent, remedy or mitigate deficiencies in retained EU law. If Parliament approves the withdrawal agreement, which includes an implementation period, and passes the necessary legislation to implement that agreement—the two not being quite the same thing—the Government would defer the coming into force of this instrument until the end of any implementation period.

This statutory instrument addresses deficiencies that arise in retained EU law and puts in place transitional arrangements that may be needed following our departure without a withdrawal agreement. It revokes Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a rights, equality and citizenship programme for the period 2014 to 2020, as retained in domestic law under the 2018 Act.

It may be worth briefly outlining the existing EU rules. This instrument revokes an EU regulation that established a rights, equality and citizenship programme for that six-year period of 2014 to 2020. The REC fund supports activity under nine objectives, including promoting the effective implementation of the principle of non-discrimination on the grounds of sex, racial or ethnic

origin, religion or belief, disability, age or sexual orientation, and to respect the principle of non-discrimination on the grounds provided for in article 21 of the charter of fundamental rights. The regulation being revoked put in place internal EU conditions, methods and procedures for EU funding to be provided under the programme. As the regulation generally deals with internal EU mechanisms, on exit it will become redundant and serve no purpose as retained EU law under section 3 of the withdrawal Act. The instrument therefore revokes the regulation. The European Commission manages the programme budget and administration of funding granted under the programme.

Revoking the regulation does not affect the validity, for the purposes of EU law, of grants awarded under the REC programme, in the event of a no-deal Brexit. The UK will leave the EU budget after Brexit, meaning that UK organisations will no longer receive future funding for projects under EU programmes, including this one, without further action. Therefore, in line with the terms of the Her Majesty’s Government guarantee in relation to EU-funded programmes given in 2016 and extended in July 2018, the instrument contains transitional provisions that will enable the Secretary of State to provide financial assistance to UK participants of the REC programme if the European Commission ceases to provide funding.

This instrument ensures that none of the programme’s participants loses out financially in the event of a no-deal exit. It gives the Secretary of State the power to provide funding for UK participants who are successful in being granted an award before Brexit, so that they can get the rest of their funding for the remaining period of the programme, and makes provision for UK organisations to participate as a third country for applications made after exit day but before the end of 2020. It will help to maintain the access of UK applications to the competitive grant programme, to ensure that UK organisations continue to benefit, but of course those applications will then be funded by the UK Government rather than by the European Union.

We have published an impact assessment and, because this provision applies to the whole United Kingdom, we have consulted, as would be expected, the devolved Administrations to ensure that they are comfortable with this Parliament here in Westminster legislating for the whole United Kingdom. I have letters in my hand from David Stirling, the head of the Northern Ireland civil service, dated 25 July this year; from Jane Hutt, the relevant Minister in the Welsh Government, dated 28 August; and from Ash Denham, the Minister for Community Safety in the Scottish Government, dated 2 October. All three indicate that they are happy for us to legislate in the way we are now doing.

There are currently 17 UK participants in receipt of funding under the programme. Importantly, this statutory instrument will ensure that they continue to benefit from that funding and, indeed, that any future applicants awarded funding after an exit day but before the end of December 2020 will receive the funding too. I commend the instrument to the Committee.

6.6 pm

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Mr Gray. I thank the Minister for outlining the purpose of this

particular provision. He set out what the fund does and the important work it has carried out in the last number of years and that it will continue to carry out.

During an earlier Statutory Instrument Committee, I told the Minister that I wanted clarification on a number of questions. We are concerned about regulation 4, which states that

“the Secretary of State may grant and provide financial assistance”. Regulation 4(2) states:

“Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.”

The wording of those two sentences suggests an element of discretion and that the Secretary of State or Minister may not follow this through properly. For example, if somebody has already been awarded money and has received only some of it, the question is whether they will be entitled to the rest of it, or whether that will be reliant on the fact that the Secretary of State “may” grant it, as opposed to “should” grant it, if certain criteria are fulfilled.

We have a number of other questions. If we exit without a deal, what happens if A has applied for a grant but has not yet received a decision? Would that mean that that application had finished? Alternatively, if the EU decided to agree to the application, who would pay that funding? Will the European Union still be allowed to consider applications that have not taken place once the exit has been done? As we know, the fund runs until 2020. If someone makes an application after we exit without a deal, will the European Union have the power to look at it, and, if it grants funding, is it the Government or the European Union that would pay?

If B applies after exit without a deal but before December 2020, are they still allowed to apply? If we exit with a deal, during the transition period will funding that has not yet been granted be paid by the European Union or by our Government, and who will pay for applications that are under consideration or have been successful? Will the payment be guaranteed, because regulation 4(1) states that the Secretary of State “may” rather than “will” grant? Finally, will the Minister confirm that the Government guarantee to award funding to programmes within the scheme?

6.10 pm

Alison Thewliss (Glasgow Central) (SNP): I will not oppose the regulations because, as the Minister has said, there have been communications with the Scottish Government on this issue. The Minister may have been guilty of a slight exaggeration when he said that Ash Denham was happy to support the measures. In August, in her letter to the Convener of the Justice Committee, she said:

“It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.”

The rights, equality and citizenship programme aims to contribute to the further development of equality and the rights of people, the charter of fundamental rights and freedoms, and international human rights conventions. The REC programme has two funded projects in Scotland, one of which is still active. The improving justice in child contact project, for children affected by domestic violence, is a 24-month project run by the University of Edinburgh, with a final report due in January 2021 after the project ends in October 2020.

It is good to hear that the Government will still fund that very important project in the event of no deal. The “Prepare for Leaving Care: A Child Protection System that Works for Professionals and Young People” project, which was run by the University of Strathclyde in my constituency, completed its final report in January 2019.

It is good to hear that, as part of the Treasury guarantee, the regulations require that the UK Government administer payments to Scotland for live projects in the event of a no-deal Brexit. That highlights the important and fundamental projects for children and young people that have been funded through the project. Will the Minister guarantee that similar projects will also be funded by the Government once we leave the EU?

I question whether those projects will get the same funding as they do currently and whether the Scottish Government will get an equivalent amount of money to fund similar projects to continue the initiatives. Justice in child contact and leaving care are two hugely important issues and we should not lose those kinds of projects, which are incredibly important to Scotland and I am sure that we are learning how useful they could be for the rest of the UK.

We welcome the UK Government’s agreement to guarantee the funding in the event of no deal, but we maintain that the best way to avoid no deal is for them to do the right thing by taking the risk of no deal off the table once and for all. In the long run, leaving the EU will be hugely damaging to our children and young people and all those who benefit from these kinds of programmes.

6.13 pm

Chris Philp: I will respond briefly to some of the questions that were posed, starting with the most recent. On what would happen after December 2020 and the end of the guarantee period, that would be a matter for the Parliament of the day to determine. Of course, outside the European Union, it would be entirely up to Parliament to decide how best to spend money. That may well include programmes such as those mentioned, and there will no doubt be robust debate on that when the time comes for decisions on how much to devolve and how much to spend centrally. We can look forward to a debate on that on another day.

The hon. Member for Glasgow Central referred briefly to her views on the undesirability of no deal. The best way to avoid that is of course to vote for the sensible deal that has been negotiated. [*Interruption.*] I do not want to get drawn into that debate, of which we have probably all heard quite enough.

The shadow Minister, the hon. Member for Bolton South East, raised a number of questions that I will go through one by one—not quite in the same order, but I will cover all her points. She asked about a transition period if we are successful in agreeing a withdrawal agreement. During a transition period—which is currently, by coincidence, contemplated to run until 31 December 2020, if we get the withdrawal agreement passed—the statutory instrument will not apply and everything will continue as it currently is. The UK will make financial payments—the £39 billion, or now perhaps only £33 billion—to the European Union, and we will continue to participate in all these programmes in precisely the normal way. Essentially, very little will change if we are successful in passing the withdrawal agreement.

[Chris Philp]

I turn to the no-deal scenario, which is the circumstance that the statutory instrument contemplates. The shadow Minister asked, “After a no-deal exit, who pays the money—the UK Government or the European Union?” The regulations take account of the fact that the European Union might choose to pay, but I suppose, if we are honest, that is rather unlikely, so essentially it will be the UK Government making the payments, and Her Majesty’s Treasury has offered that guarantee as a matter of policy.

The shadow Minister queried the use of the word “may”, which occurs two or three times in the statutory instrument, particularly in regulations 4(1) and 4(2). The instrument provides the power to make the payments. The policy intention is that any payment that would otherwise have been made by the EU will be made. That is expressed in the form of the Treasury guarantee, which was made most recently in July 2018. Just to be clear, this is enabling legislation: it confers the power; it does not confer the compulsion. The policy intent was announced in that Treasury guarantee dating from July 2018, to which there has been no subsequent change.

The shadow Minister asked about two or three very specific sets of circumstances. If the award was granted prior to the no-deal exit date but not all the money has been spent, the guarantee would simply make the remainder of the payments that have not yet been paid, up until the end of the project. There are a number of live projects, including projects run by the University of Edinburgh, the University of Belfast and Cardiff Metropolitan University, so the money is being spread around all four corners of the kingdom.

In the case of projects that were applied for prior to exit date but had not been decided on the date of exit, I am advised that the application would have to be withdrawn and remade as a third-country application. That would also apply to any new application made after exit date but before 31 December 2020. If any such application—either a renewed one that had lapsed and was remade or a completely fresh one—were granted by the European Commission as a third-country application, it would be part of the guarantee as well, provided that the recipient was a UK recipient; obviously, we would not fund programmes run by a Spanish university or an Italian university. Any application granted after exit but before the end of December 2020 would form part of the guarantee we have been discussing.

I hope the Committee agrees that this is a comprehensive set of guarantees that ensure these worthy projects have certainty of funding until the end of the current European Union budgetary period. I know there is a vote coming in the main Chamber, so I will not detail the Committee any longer, other than to thank Members for attending and, in particular, to thank officials from the Ministry of Justice, who worked extremely hard to draft these complicated regulations. Let me put on the record my thanks to them for the hard work they have put in over the past few months—indeed, over the past three years. I commend the regulations to the Committee.

Question put and agreed to.

6.19 pm

Committee rose.

