

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT ALTERNATIVE DISPUTE RESOLUTION  
FOR CONSUMER DISPUTES (EXTENSION OF  
TIME LIMITS FOR LEGAL PROCEEDINGS)  
(AMENDMENT ETC.) (EU EXIT)  
REGULATIONS 2020

*Monday 20 July 2020*

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**

**Friday 24 July 2020**

© Parliamentary Copyright House of Commons 2020

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

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

*Chair:* DR RUPA HUQ

- |   |   |
|---|---|
| † Anderson, Lee ( <i>Ashfield</i> ) (Con)   | Stringer, Graham ( <i>Blackley and Broughton</i> ) (Lab)                    |
| † Atherton, Sarah ( <i>Wrexham</i> ) (Con)  | † Sunderland, James ( <i>Bracknell</i> ) (Con)                              |
| † Benton, Scott ( <i>Blackpool South</i> ) (Con)  | Tarry, Sam ( <i>Ilford South</i> ) (Lab)                                    |
| Coyle, Neil ( <i>Bermondsey and Old Southwark</i> ) (Lab)   | Thompson, Owen ( <i>Midlothian</i> ) (SNP)                                  |
| † Gideon, Jo ( <i>Stoke-on-Trent Central</i> ) (Con)  | † Tomlinson, Michael ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Green, Chris ( <i>Bolton West</i> ) (Con)   | Twigg, Derek ( <i>Halton</i> ) (Lab)  |
| † Higginbotham, Antony ( <i>Burnley</i> ) (Con)   | † Twist, Liz ( <i>Blaydon</i> ) (Lab)                                       |
| † Onwurah, Chi ( <i>Newcastle upon Tyne Central</i> ) (Lab)   | Anwen Rees, <i>Committee Clerk</i>  |
| † Randall, Tom ( <i>Gedling</i> ) (Con)   |   |
| † Scully, Paul ( <i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i> ) | † <b>attended the Committee</b>   |

# First Delegated Legislation Committee

Monday 20 July 2020

[DR RUPA HUQ *in the Chair*]

## Draft Alternative Dispute Resolution for Consumer Disputes (Extension of Time Limits for Legal Proceedings) (Amendment etc.) (EU Exit) Regulations 2020

**The Chair:** It is my first time as Chair, so be nice to me! Before we begin, I would like to remind hon. Members about social distancing. I think everyone is sitting in the right place, where there is a tick. Spaces are clearly marked. If you are going to make a speech, please send it to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk) to speed things up with them.

4.30 pm

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

That the Committee has considered the draft Alternative Dispute Resolution for Customer Disputes (Extension of Time Limits for Legal Proceedings) (Amendment etc.) (EU Exit) Regulations 2020.

It is an absolute pleasure to serve under your first of many chairmanships, Dr Huq.

The draft regulations were laid before the House on 29 June, and form part of the programme of work to update our legislative framework in readiness for the end of the transition period. We want a relationship with the European Union that is based on friendly co-operation between sovereign equals and centred on free trade. We will have a relationship with our European friends inspired by our shared history and values, and it is important to ensure that retained EU legislation continues to work effectively in the UK immediately after the transition period.

We have a strong framework of consumer rights in this country, which gives most consumers the confidence to settle any disputes directly with businesses—and they do; around six in 10 disputes are resolved directly with the business. However, we know that when resolution is not achievable directly, many consumers would prefer a way other than court action to settle their differences with businesses.

Alternative dispute resolution, known as ADR, helps consumers to resolve complaints with traders by providing a confidential and objective method for tackling disputes without going to court. More than 2.5 million disputes have been resolved through ADR in the past six years. Research by the Department for Business, Energy and Industrial Strategy found that 80% of consumers who used ADR thought that their problem would not have been resolved without it. The draft regulations we are considering today have no impact on the provision or quality of ADR, nor do they alter substantive consumer rights and protections available to UK residents more generally.

This statutory instrument will ensure that ADR continues to work as intended after the end of the transition period, in a context in which the EU's ADR directive no longer applies to the UK. It amends four pieces of legislation that implement the EU ADR directive. Those four pieces of legislation extend the time limit for bringing court proceedings when a consumer is engaged in non-binding ADR. Those extensions of the time limit allow the ADR procedure to conclude and, if it has not been successful, give the parties an eight-week grace period to commence court proceedings thereafter. That ensures that the parties are not prevented from initiating judicial proceedings where the court time limit expires during or just after the ADR procedure.

The extensions will continue to apply, but, as a result of the draft regulations we are debating today, they will apply only where the consumer is resident in the UK and the ADR provider is approved under the UK's ADR regulations. Provided those conditions are met, time limits will continue to be extended for consumers resident in the UK whether the trader is based in the UK or the EU, as is the case now.

The changes reflect those that have already been made to section 140AA of the Equality Act 2010, which also implements the ADR directive, via a separate instrument, the Equality (Amendment and Revocation) (EU Exit) Regulations 2019, which has already been approved by this House. The draft regulations before this Committee are designed to ensure that a consistent approach is taken across the statute book to all rules on extensions of time limits deriving from the ADR directive.

Most disputes involving UK consumers will not be affected by the draft regulations, which do not otherwise affect the ability of any consumer, whether resident in the UK or EU, to apply to the UK courts or to use ADR. Furthermore, the transitional provisions ensure that, where consumers have begun ADR proceedings before these draft regulations come into force, any extensions entailed will be unaffected.

As part of that process, officials from the Department have undertaken the appropriate assessment of the impacts of this instrument. That shows that there is likely to be a negligible impact on business, because the amendments do not bring about a wider policy change or impose any new liabilities or obligations on any relevant businesses, organisations or persons.

In conclusion, this instrument is a sensible and necessary use of the powers of the European Union (Withdrawal) Act 2018, which will ensure that the law in this area continues to function effectively after the transition period. I commend the draft regulations to the Committee.

4.35 pm

**Chi Onwurah** (Newcastle upon Tyne Central) (Lab): I start by offering my unequivocal support to the Minister in welcoming the opportunity to serve under your chairship, Dr Huq; it is a real pleasure. [HON. MEMBERS: "Hear, hear."] I hope the debate will be conducted with the same level of mutual support, although I am not sure about that.

Over 40 years of membership of the European Union, the UK has shared responsibility to protect the UK's consumer rights with EU member states. An extensive body of law has grown up, with more than 90 European directives applying across the single market. The reciprocal

rights enshrined in those directives enable UK consumers to seek redress for any poor service they receive anywhere in the EU. Indeed, the UK played a central role in negotiating many of those directives alongside the European Commission, including the alternative dispute resolution directive to which today's regulations refer.

The ADR directive has made a valuable contribution to consumer confidence across the EU single market by reducing impediments to, and improving cross-border engagement with ADR organisations. The directive has helped UK consumers to avoid some of the more challenging issues about jurisdiction and applicable laws related to ADR that often arose before the directive came into play. That has saved UK citizens and businesses many hours of complex and costly court proceedings. In particular, the time extension provisions—the subject of today's statutory instrument—have ensured that UK and EU consumers can enter into ADR processes in good faith, without fear of strict time limits to bring a case to court elapsing in the meantime.

We can therefore see that much of the EU's consumer protection laws and UK national laws are interwoven in a complex and interconnected way. That harmonisation between our domestic and European law has provided us with the comprehensive protection UK consumers need to purchase goods and services with confidence, which has in turn bolstered trade across the single market, including here in the UK. While the Government's withdrawal Act attempts to mirror in UK law the individual consumer rights that operate within the EU, it cannot guarantee the protection of UK consumers' rights when they visit the EU27 after the transition period, nor can the UK Government assure UK consumers of continued access to the shared network of agencies, mechanisms and infrastructure that polices, secures, develops and underpins consumer confidence across the EU single market.

In short, the harmonised reciprocity of consumer protections we have enjoyed as members of the EU will come to an abrupt end once we leave the transition period, yet the Government are not clear about what comes next. We know that talks with the EU have been stalling, and as we move closer to the end of the transition period, it looks increasingly unlikely that the Government will be able to negotiate a post-Brexit relationship that continues to protect consumers' rights for UK residents in the same way. That added uncertainty comes on top of the business interruption and drop in consumer confidence that we have seen as a result of covid-19.

Labour is concerned that without reciprocal obligations to investigate breaches of consumer law and progress with necessary enforcement actions between the UK and the EU, the Government will leave UK consumers unable to seek redress from EU-based traders in UK courts when things go wrong. There is every chance that divergence between UK and EU consumer law will become even more pronounced over time without proper oversight from the Government, which would have a significant impact on consumers and businesses and burden cross-border transactions and recourse processes with unnecessary red tape.

With the possibility of a no-deal Brexit and an economy hit by covid-19, Labour calls on the Government to take a more proactive approach to protecting UK consumers by agreeing mutual recognition rules, underpinned by a

standard equivalence principle, as a matter of urgency. The Government may say that they want high regulatory standards and robust domestic market surveillance after the transition period, but they have slashed funding to frontline trading standards services by more than 50% in just over seven years. That has led to potentially dangerous counterfeit cigarettes and unsafe toys and electrical products entering our homes. The UK's largest market surveillance authority and regulatory service, the Chartered Trading Standards Institute, recently said:

“Much has been made of maintaining the UK's post-Brexit standards of regulation, but rules without resources for application, advice and enforcement are rendered ineffective and detrimental to the UK economy.”

The regulations remove all reference to the ADR directive from four pieces of EU-derived legislation. Of course, Labour accepts that it is a broadly technical instrument designed to ensure that EU law does not apply after the transition period has come to an end, but it excludes two key groups of people from the ADR-related time-limited extension: first, EU-based consumers buying goods and services in the UK and, secondly, UK-based consumers buying goods and services in the EU. It will ultimately mean that UK consumers are protected by the time-limited extensions only when working through ADR organisations. Will the Government seek to address that and ensure that all consumers are protected in the UK?

The Government estimate that the changes will affect about 131 ADR cases per year that are five years old or older, but it is not clear how those figures have been arrived at or what the total value of those cases might be. Can the Minister take this opportunity to show how the figures have been calculated? Can he outline clearly the Government's plans to protect UK consumers when making purchases of goods and services in the EU, and vice versa, if the statutory instrument comes into force?

Labour has noted, and is grateful for, the European Statutory Instruments Committee's intervention on the grounds that the diminution of rights to the time limit that the Government are proposing is significant, alongside the fact that the legislation being amended is mostly primary legislation. That Committee deemed it appropriate to upgrade the instrument to an affirmative resolution, and a debate will take place in Parliament after the recess.

Labour has always strongly supported giving consumers and businesses every opportunity they need to reach mutually beneficial dispute settlements. Mediation and conciliatory processes supported by third-party ADR organisations are informal, flexible, low-cost and user-friendly compared with court proceedings. The Government must make sure that UK consumers and businesses have an equally straightforward route to ADR and that any such access comes with similar provisions to ensure that parties are not caught out by time limits when entering into them in good faith.

4.44 pm

**Paul Scully:** I thank the Committee for its consideration of the draft regulations, and I thank the hon. Member for Newcastle upon Tyne Central—I did promise to celebrate Newcastle, in the spirit of collaboration—for her valuable contribution to the debate. To be clear, nothing in the regulations changes which sectors are covered by ADR or the obligations on businesses to

[Paul Scully]

engage with consumers. They are limited in their scope to short-term extensions of the time limits for court proceedings where necessary, to give the parties the opportunity to resolve their differences through non-binding ADR.

The hon. Lady asked about the few cases that the regulations affect. That is when cases are getting up to the time limitation—typically six years—so that involves the lengthiest cases, if something has not been resolved by that point. Although it is estimated that 2.5 million cases have been resolved by ADR over the past six years, there are very few at the end period. Most disputes will not be affected by the regulations, and the transitional provisions have ensured that any extensions that have already taken place will also be unaffected by this SI. It avoids inconsistency in the statute books.

Essentially, the hon. Lady asked a few questions about what would happen with EU citizens, UK businesses working abroad and EU companies. UK law still applies to services targeted at UK consumers and UK businesses, so they would have the UK statute book to help protect them within that remit. Without the introduction of the SI, UK legislation would continue to provide EU consumers with flexibility in relation to the extension of court time limits, but it is not clear at this stage whether UK consumers would retain that benefit in member states.

Yes, we want to ensure that we can work through reasonable co-operation with the EU—as sovereign equals, as I said—because we have no intention of lowering standards. The political declaration sets out the parties' ambitions to work together to safeguard high standards of consumer protection, but our high standards are not dependent on EU membership. The UK has often led or gone beyond the minimum requirements set out by EU consumer law. For example, in 2015, the UK brought digital content within the scope of consumer rights for

the first time. We are seeking an agreement with the EU that is like those the EU has struck with other friendly countries, such as Canada. Effective co-operation on consumer protection will be an important part of the UK's future relationship, and it is in the interests of all parties in that regard. We are examining ways to continue and enhance global co-operation on consumer protection, and the Competition and Markets Authority will continue to take an active role in international forums.

The hon. Lady asked about enforcing consumer rights. I have talked about the fact that UK consumer rights are stronger than those in many other EU countries, and compliance with the law is considered high. Some 84% of consumers think traders respect their rights—the joint-highest rate in the EU—and 79% of traders think their competitors comply with consumer law, which is the highest rate in the EU. We have excellent consumer advice organisations, such as Citizens Advice and Resolver, which can guide consumers in pursuing a complaint and provide data that reveal patterns of behaviour that might require a public enforcement response. That suggests that, for the majority of consumers, the current framework works well most of the time. I must say it is important that we continue to strengthen our consumer rights, and we do not take that lightly at all.

I come back to the fact that current domestic consumer protections relating to ADR will remain the same. The European Union (Withdrawal) Act maintains provisions on ADR that derive from the EU directive. The draft regulations ensure that the consumer rights framework continues to function effectively once the EU ADR directive ceases to apply to the UK. I hope the Committee will approve the SI.

*Question put and agreed to.*

4.49 pm

*Committee rose.*



