

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT CONSUMER PROTECTION
(ENFORCEMENT) (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2020

Tuesday 6 October 2020

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Saturday 10 October 2020

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

- | | |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| † Bell, Aaron (<i>Newcastle-under-Lyme</i>) (Con) | † Scully, Paul (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) |
| † Butler, Rob (<i>Aylesbury</i>) (Con) | Spellar, John (<i>Warley</i>) (Lab) |
| † Clarke-Smith, Brendan (<i>Bassetlaw</i>) (Con) | † Tarry, Sam (<i>Ilford South</i>) (Lab) |
| † Farris, Laura (<i>Newbury</i>) (Con) | Thompson, Owen (<i>Midlothian</i>) (SNP) |
| † Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab) | † Tomlinson, Michael (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Gideon, Jo (<i>Stoke-on-Trent Central</i>) (Con) | † Wakeford, Christian (<i>Bury South</i>) (Con) |
| † Higginbotham, Antony (<i>Burnley</i>) (Con) | † Whitley, Mick (<i>Birkenhead</i>) (Lab) |
| † Osborne, Kate (<i>Jarrow</i>) (Lab) | Bradley Albrow, Chloe Freeman, <i>Committee Clerks</i> |
| † Powell, Lucy (<i>Manchester Central</i>) (Lab/Co-op) | † attended the Committee |
| † Randall, Tom (<i>Gedling</i>) (Con) | |

Second Delegated Legislation Committee

Tuesday 6 October 2020

[SIR DAVID AMESS *in the Chair*]

Draft Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2020

2.30 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 Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2020.

It is a pleasure to serve under your chairmanship, Sir David. The draft regulations were laid before the House on 14 September. They form part of a programme of work to update our legislative framework in readiness for the end of the transition period. Obviously we want a relationship with the EU that is based on friendly co-operation between sovereign equals and centred on free trade. It is of course important to ensure that retained EU legislation continues to work effectively in the UK immediately after the transition phase.

The main reason for the statutory instrument is that it has become necessary to update the Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2019, which were considered and approved in Committee on 23 January 2019, as a result of subsequent changes in EU and domestic law. The draft statutory instrument does not alter the fundamental approach of the 2019 regulations; rather, it enables the regulations to work in the light of those changes.

It might be helpful if I remind the Committee about the 2019 regulations and the legislation that they amend. They deal with the collective redress regime for consumer protection laws, which applies in the case of an infringement of certain consumer protection laws when that infringement causes harm to the collective interests of consumers. This is about dealing with systemic infringements of consumer law, not individual disputes.

The EU's consumer protection co-operation regulation, known as the CPC regulation, provides for reciprocal arrangements between enforcement bodies in member states, such as the Competition and Markets Authority in the UK. It allows them to investigate and, if requested by an enforcer in another member state, to take action to end cross-border infringements of EU consumer law that harm the collective interests of consumers. Within the UK, the Enterprise Act 2002 allows enforcers to seek court orders to ensure the cessation of infringements causing collective harm and, when appropriate, to secure redress.

The 2019 exit regulations revoke the CPC regulation, as it will not apply to the UK once the UK ceases to be bound by EU law. That revocation is also necessary to prevent a requirement for UK enforcers to assist their EU counterparts while EU enforcers are not under the same obligation. The 2019 regulations also amend the

2002 Act to allow the domestic collective redress regime to function effectively once EU law no longer applies in the UK. Those regulations replace the concept of a Community infringement—a breach of consumer protection laws in the European economic area—with a so-called schedule 13 infringement. The 2019 regulations will add to that when they come into force.

Amendments to the 2019 regulations are necessary because, since they were made, a new EU CPC regulation—the 2017 CPC regulation—has come into force. The draft statutory instrument therefore updates the 2019 regulations to revoke that new CPC regulation. The draft statutory instrument will ensure that the UK collective redress regime under the 2002 Act will continue to apply to new EU-derived consumer protection laws to which the 2017 CPC regulation has been extended when those laws are being retained in UK law. The instrument adds those laws to new schedule 13 to that Act. The draft regulations also ensure that the 2019 exit regulations amend the new material that was added to the 2002 Act by the CPC implementation regulations. That is important to ensure that the 2019 regulations amend that Act as it stands now. None of these changes are designed to alter the approach of the 2019 exit regulations.

We are taking the opportunity through the draft regulations to make a number of other changes to EU exit regulations relating to consumer protection. Two previous sets of UK-wide exit regulations amended legislation relating to crystal glass, footwear and textiles, which are specified in the Northern Ireland protocol. As the protocol was not contemplated when those regulations were made, the draft statutory instrument makes a small number of changes to them to ensure that they do not affect the operation of the Northern Ireland protocol. The draft statutory instrument also makes technical changes to replace references to “exit day” with “IP completion day”, which will be 31 December 2020. That is necessary in the context of the transitional provisions of existing regulations.

Finally, we are taking the opportunity to make minor amendments to clarify the drafting of the Enterprise Act 2002. That is a response to the 14th report in this Session of the Joint Committee on Statutory Instruments in relation to this year's regulations implementing the new CPC regulation.

Departmental officials have undertaken an appropriate assessment of the impact of the draft statutory instrument. That showed there is likely to be a minimal impact on business because these amendments do not bring about a wider policy change, or impose any new liabilities or obligations on any relevant businesses, organisations or persons.

Consumer protection is devolved to Northern Ireland, but following consultation, the Department for the Economy in Northern Ireland has agreed to the SI including provisions relating to matters devolved to Northern Ireland.

The draft regulations are a sensible and necessary use of the powers of the European Union (Withdrawal) Act 2018. They will ensure that the law in this area continues to function effectively after the transition period. I commend the draft regulations to the Committee.

2.36 pm

Lucy Powell (Manchester Central) (Lab/Co-op): It is a pleasure to serve under your excellent chairmanship, Sir David.

Labour supports the regulations on the whole because, as the Minister outlined, these technical changes to update the 2019 exit regulations are required to ensure that the Northern Ireland protocol is properly enshrined. While we are happy to support the general thrust of the statutory instrument, I want to raise a couple of questions with the Minister.

As the Minister said, the Enterprise Act 2002 is being amended to ensure that consumer protections are enforceable across all four nations. That is okay in principle, because we support the idea that the UK Government are the ultimate arbiter of the UK internal market, meaning that laws need to cover the four nations and the devolved Administrations of the UK. However, I do have concerns—the Minister and I are familiar with this conversation following our recent debates on the United Kingdom Internal Market Bill—that the devolved Administrations do not necessarily have a voice in any consultation on outlining frameworks for consumer protection.

Will the Minister say a little more about how we will ensure that, unlike under the Internal Markets Bill, the UK Government will not legislate for all four nations without the devolved Administrations having a voice, and the right to be consulted and included? I am talking about not a veto, but the right to a voice and inclusion, because we believe that the devolution settlement is precarious as we leave the EU. It was promised that all the powers coming back from the EU would be devolved and passed down but, unfortunately, that is not quite what we see in some of the Government's statutory instruments and the Internal Markets Bill.

The Minister knows that the consumer protections enjoyed by UK citizens when we were part of the EU were a reason why citizens valued that membership. Such protections included measures on data roaming, travel compensation and addressing unscrupulous trading practice. We still have not heard much from the Government about how consumer rights will be protected as we leave the EU to ensure that we have unfettered access to the single market and consumer rights, with standards driven up rather than being diminished. I hope that he can respond to those points.

2.39 pm

Paul Scully: I thank the hon. Lady for her comments and support. It is important that we get the legislation right, and I appreciate the spirit of co-operation in which our proceedings are being conducted.

The hon. Lady asked specifically what will happen to consumer protection. Regarding the devolved Administrations, we have been in close contact with Northern Ireland, which has given us permission to legislate on its behalf, and we will continue to work with Northern Ireland on consumer protection beyond this measure. We have also advised the Scottish Parliament of exactly what we are doing, so that it can reflect on taking similar measures to get this right, and we are also working with it on consumer protection following the end of the transition.

UK standards will apply when EU-based traders trade or target their activities in the UK, so consumer protection will not change in that regard. Consumers' protection within the EU at the end of the transition period will depend on a consumer's contract, on whether an activity is specifically targeted at the UK market, and on the laws of the relevant member state. Individual consumers will still be able to use the European consumer centre, which helps consumers with cross-border disputes, for at least one year after transition. We will work with partners such as Citizens Advice, the consumer helpline of which is funded by my Department, to ensure that consumers understand their rights and can make informed decisions following the transition period. We have talked—*[Interruption.]* We talked about roaming charges, and we are hearing of that right now.

We have one of the world's strongest consumer protection regimes to ensure that consumers' interests are safeguarded in our economy through a comprehensive set of consumer rights, strong advocates for consumers' interests and well-developed advice services. The declaration between the UK and the EU sets out the parties' determination to continue working together to safeguard high standards of consumer protection, and the UK is committed to that.

The draft regulations will ensure that our consumer rights framework will continue to function effectively once the EU CPC regulation ceases to apply to the UK. I therefore hope that the Committee will approve the statutory instrument.

Question put and agreed to.

2.41 pm

Committee rose.

