

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT AUTHORITY TO CARRY SCHEME AND  
CIVIL PENALTIES REGULATIONS 2021

*Wednesday 3 March 2021*

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

*Chair:* †DR RUPA HUQ

Andrew, Stuart (*Treasurer of Her Majesty's Household*)

Daly, James (*Bury North*) (Con)

Davies, Geraint (*Swansea West*) (Lab/Co-op)

Docherty, Leo (*Aldershot*) (Con)

† Foster, Kevin (*Parliamentary Under-Secretary of State for the Home Department*)

Freer, Mike (*Comptroller of Her Majesty's Household*)

Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Holmes, Paul (*Eastleigh*) (Con)

Lloyd, Tony (*Rochdale*) (Lab)

† McGinn, Conor (*St Helens North*) (Lab)

Mahmood, Shabana (*Birmingham, Ladywood*) (Lab)

Owatemi, Taiwo (*Coventry North West*) (Lab)

† Pursglove, Tom (*Corby*) (Con)

Thompson, Owen (*Midlothian*) (SNP)

† Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)

† Twist, Liz (*Blaydon*) (Lab)

Sarah Ioannou, *Committee Clerk*

† **attended the Committee**

## Third Delegated Legislation Committee

Wednesday 3 March 2021

[DR RUPA HUQ *in the Chair*]

### Draft Authority to Carry Scheme and Civil Penalties Regulations 2021

9.25 am

**The Chair:** Before we begin, I would like to remind hon. Members to observe social distancing. I think everyone is sitting in a place with a tick on it—yes. *Hansard* colleagues would be grateful if they could receive a copy of your speech at [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

**The Parliamentary Under-Secretary of State for the Home Department (Kevin Foster):** I beg to move,

That the Committee has considered the draft Authority to Carry Scheme and Civil Penalties Regulations 2021.

Dr Huq, it is a genuine pleasure to serve under your chairmanship—and not just when we are campaigning to save whales in Iceland.

The purpose of the regulations, laid under sections 23(2) and 24(7) of the Counter-Terrorism and Security Act 2015, is to give effect to the authority to carry scheme 2021—the 2021 scheme—to make consequential amendments to the Authority to Carry Scheme (Civil Penalties) Regulations 2015 and to revoke the Counter-Terrorism and Security Act 2015 (Authority to Carry Scheme) Regulations 2015. Once given effect, the 2021 scheme will in turn replace and revoke the authority to carry scheme 2015.

Authority to carry is, in effect, the UK’s no-fly scheme. It is operated to prevent certain individuals from travelling to or from the UK when that is necessary in the public interest. The scheme is operated by the National Border Targeting Centre, which processes information about individuals, both passengers and crew, intending to travel to or from the UK. Where an individual is identified who is in a class of persons described in the scheme, the carrier may be refused authority to carry the individual either to or from the United Kingdom. Authority to carry is a key part of the UK’s border security arrangements, preventing individuals, including known terrorists, serious criminals and those subject to sanctions, from being able to travel to the UK.

The 2021 scheme applies to all carriers who have been required by law to provide passenger and crew information before departure. It applies on all international routes to and from the UK, plus routes within the common travel area where advance passenger and crew information is received from a carrier.

The authority to carry scheme has been extremely successful. Since the scheme’s introduction in March 2015, the National Border Targeting Centre has refused carriers authority to carry more than 8,200 individuals seeking to travel to the UK. That has included about 200 individuals excluded from the UK, about 3,300 individuals previously deported from the UK and more than 4,700 individuals using invalid, lost, stolen or cancelled travel documents. It has also included subjects of international travel bans. Those are all

individuals who otherwise would have arrived in the UK and been refused leave to enter by Border Force officers. The carrier would then have been required to remove them and, in some cases, meet their detention costs. Some of those individuals, once in the UK, might also have taken the opportunity to challenge their removal, potentially through abuse of our humanitarian protection routes, by submitting spurious claims aimed purely at preventing their removal from the UK.

I hope that, with the description that I have given, the Committee has a full picture of the regulations.

9.28 am

**Conor McGinn** (St Helens North) (Lab): It is a pleasure to serve under your chairmanship for the first time, Dr Huq, and it is always a delight to see the Minister in his place and to follow him on behalf of the Opposition.

As I have said before, the security of our country and its citizens is a top priority for the Opposition. Strengthening protections at our borders is integral to keeping the public safe, and we fully agree that our authorities should be able to pre-emptively stop and disrupt individuals posing a significant threat, terrorism related or otherwise, from travelling to or from the UK. We recognise, therefore, the practical necessity for an efficient and effective authority to carry scheme to ensure that those individuals cannot make their way into this country. We recognise also the need to update the 2015 legislation to reflect new and changed circumstances, particularly regarding the deportation and exclusion of European economic area nationals post Brexit, and including those affected by recent travel-related sanctions. Of course we, like the Government, would not have wanted the existing scheme to lapse without an adequate replacement, as it otherwise would have done in April 2022.

We welcome these measures, which will relieve our hard-working UK border officials and their operational partners of additional and unnecessary burdens, because they will not have to stop, process and report people at the border. We also recognise the vital importance of ensuring that people who pose a threat to our safety and way of life never make it to these shores.

However, even as we support these measures today, the Minister will understand that we have some questions to ask, particularly on some of the technical implications of the scheme. First, what discussions has the Home Office had with UK Border Force and its operational partners, not just on the proposed renewed scheme but on the effectiveness of the strengthened 2015 model, and are UK Border Force and its operational partners in full accordance with the proposals? Also, what benefits and challenges have they identified in relation to the new proposed arrangements?

Secondly, could the Minister update the Committee on the effectiveness of the scheme and carriers’ compliance, and does he have any information on where it has worked well and where it has not worked so well? The explanatory memorandum says that “Updated guidance” for carriers and

“industry on the operation of the 2021 Scheme and penalty regime”

will be provided, but it does not make clear when. Could he clarify that, not just for us here but of course for the carriers themselves, who at this current time, more than ever, will want maximum operational clarity?

Regarding the maximum penalty for carriers, can the Minister confirm that it will remain at £50,000? What assessment has the Department made about the effectiveness of that figure as a deterrent? Have any carriers actually been fined this amount? If not, is it a realistic amount and does it work as a deterrent? Will the 2021 scheme, if it is passed, be monitored and reviewed regularly by Ministers? And when, if at all, will the scheme be up for renewal?

I appreciate that some of those questions are technical questions, so I am very happy for the Minister to write to me if he does not have the information to hand now.

In summary, however, we find these measures to be reasonable, proportionate and practical, as we said in 2015, when a predecessor of mine in this role—David Hanson—responded to the Government. While it is important that we ensure that the existing regime does not collapse without the maintenance of these measures, it is also right that we subject them to scrutiny, as we have done today, because the safety and protection of the public is the responsibility of us all. I know that the carriers themselves take their duties seriously, and we in this place must ensure that we provide clear and robust regulations to support them.

9.33 am

**Kevin Foster:** May I genuinely thank the shadow Security Minister for the overall tone and constructive nature of his comments? I will respond to some of his questions in writing, to ensure that he receives the detail that he is entitled to ask for. And I know that he will appreciate why we do not have the number of officials in the room today that we would normally have. However, I will give some practical and brief replies to some of his questions.

The regulations certainly have been discussed extensively with UK Border Force; indeed, UK Border Force has been involved in their formulation. As the shadow Minister rightly said, the regulations are a protection for UK Border Force, as it will deal with complex and difficult individuals at the UK border and then arrange for a carrier to remove them from the UK, rather than having to prevent their arrival in the first place.

Of course, the regulations are also a protection in terms of aviation security and security on other modes of transport. Obviously, the general approach of the carriers to this issue has been extremely constructive; they do not want people on their services who may be a threat to the train, ship or plane that is coming to the UK.

Perhaps I can give a little flavour of the nature of the compliance with the measures. I mentioned that more than 8,200 people—I think that figure is right—have been excluded and prevented from travel. With the

2015 regulations to date, when we compiled the figures for the Committee we found that there have been only 51 breaches of the 2015 scheme. And to respond to another of the shadow Minister's points, 18 penalties have been imposed for non-compliance, which led to total fines of just over £186,000.

We believe it is appropriate that there is a significant financial penalty. The regulations are not about basic immigration failings or not checking someone's passport. They are about preventing someone who could be an active danger to this country from coming to the UK and people whose presence in the UK would be wholly unconducive to the public good. One person we excluded in September 2019 was a notorious Holocaust denier, a US citizen, who had booked a flight to the UK from a European country. They were picked up and the carrier concerned denied boarding.

We will issue updated guidance, and we have already engaged with the carriers. We have made it clear that a lot of this is about updating the fact that we have now left the European Union and EEA nationals now have a different legal position. The guidance makes it clear to the carriers when someone cannot fly, get a train or come to the UK. Where there is passenger information in place, it gives certainty and also takes the decision away from the carrier so that they do not have to get into a debate with someone who has appalling views or who has committed serious crimes. The carrier can be clear that they have been advised by the Home Office that someone cannot travel. The person concerned is then given contact details at the Home Office. For the carriers, there is the advantage of an additional layer of security for their own staff and passengers and customers, and also a firmness about the position.

The renewal period will be confirmed in writing. We have introduced the update slightly earlier, rather than in 2022, to reflect the fact that now that the transition period for free movement rights has ended, we cannot create new ones in terms of coming to the UK for the first time. It is therefore appropriate to update the scheme. To reassure the shadow Minister, we will keep it under constant review. With regard to those who are subject to this system change as people are added to sanctions lists or deported from the UK, the list is constantly updated and we take into account the international situation. For example, if the United Nations imposes a travel ban on someone, the scheme will apply to them.

I hope my response has been helpful. I thank the shadow Minister for the tone of his reply.

*Question put and agreed to.*

9.37 am

*Committee rose.*





