PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT CORPORATE INSOLVENCY AND GOVERNANCE ACT 2020 (CORONAVIRUS) (CHANGE OF EXPIRY DATE) REGULATIONS 2021

Thursday 11 March 2021

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

Monday 15 March 2021

The Committee consisted of the following Members:

Chair: Clive Efford

Andrew, Stuart *(Treasurer of Her Majesty's Household)*
Begum, Apsana *(Poplar and Limehouse)* (Lab)
† Caulfield, Maria *(Lewes)* (Con)
Cummins, Judith *(Bradford South)* (Lab)
Davies, David T. C. *(Parliamentary Under-Secretary of State for Wales)*
Eagle, Maria *(Garston and Halewood)* (Lab)
† Elmore, Chris *(Ogmore)* (Lab)
Gideon, Jo *(Stoke-on-Trent Central)* (Con)
Johnson, Dame Diana *(Kingston upon Hull North)* (Lab)
Jones, Mr Marcus *(Vice-Chamberlain of Her Majesty's Household)*
Largan, Robert *(High Peak)* (Con)
Mann, Scott *(North Cornwall)* (Con)
Morris, James *(Lord Commissioner of Her Majesty's Treasury)*
† Powell, Lucy *(Manchester Central)* (Lab/Co-op)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Scully, Paul *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
Thompson, Owen *(Midlothian)* (SNP)

Bradley Albrow, *Committee Clerk*

† attended the Committee

Sixth Delegated Legislation Committee

Thursday 11 March 2021

[CLIVE EFFORD *in the Chair*]

Draft Corporate Insolvency and Governance Act 2020 (Coronavirus) (Change of Expiry Date) Regulations 2021

11.30 am

The Chair: Before we begin, I remind Members to sit in only the designated places, that Mr Speaker requires that everyone wears a mask when in Committee, and that *Hansard* colleagues would be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk, and not send hard copies.

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 Corporate Insolvency and Governance Act 2020 (Coronavirus) (Change of Expiry Date) Regulations 2021.

It is a pleasure to serve under your chairmanship, Mr Efford.

The regulations were laid before the House on 11 February. We have a road map ahead of us that gives us some light at the end of the tunnel. That is thanks to so many people, including those working in the NHS, and we must always be grateful for the work that they do and conscious of the pressure that they remain under. However, we know that the future is still far from certain for many businesses.

The Corporate Insolvency and Governance Act 2020 contained regulatory easements designed to allow viable businesses the best opportunity to survive the pandemic, as well as new procedures that allow them breathing space to restructure or, if that is not possible, seek the most appropriate form of insolvency proceedings. It contained a general power for the Secretary of State to make temporary amendments or modifications to the effect of specified insolvency and governance legislation through regulations—a wide power, but with significant conditions imposed so that it can be used only for specific purposes relating to the pandemic, and only under certain circumstances. The regulations made under this power are subject to the made affirmative resolution procedure, so they become effective upon laying, but are still subject to debate and approval by both Houses. That allows us to react quickly to deal with urgent issues.

When we drafted and debated the legislation, the future was uncertain. We just did not know the impact that the pandemic was going to have on the administrative and regulatory framework, and for how long, so we had to be able to react quickly to challenges and prevent businesses from having to close just because of the pandemic, with the impact on jobs and livelihoods that that would entail. However, the pandemic has clearly continued for much longer than was anticipated. At the moment, the general power to make temporary amendments will expire at the end of April. That date was set in the expectation that normal trading conditions would return by the autumn of last year, but sadly, as we are all too aware, that did not happen.

These efforts use the power contained in section 24(3) of the Corporate Insolvency and Governance Act to substitute the expiry date of the general power for a date that is a year later. It will mean that the Secretary of State is able to use the general power until 29 April 2022. Although section 24(3) allows for extension of the period in which the general power may be used on more than one occasion, this is limited by the provision in section 24(4) that prohibits the power lasting beyond 24 June 2022—two years from the day on which the Corporate Insolvency and Governance Act was passed. Having an expiry date for the power was an important restrictive provision. The power may be used only for purposes directly related to the impact of the pandemic on the business and insolvency regime, so if there is no impact the power should expire.

We will continue to do what we need to do to support businesses through this period. We are hoping, and aiming, for the economy to return to pre-covid levels by the middle of next year, but in the meantime, supporting viable businesses and jobs must be our priority. As such, we need to be in a position where we can continue to temporarily adapt to allow as many viable businesses, jobs and livelihoods to survive the pandemic as possible, and to deal properly and fairly with insolvencies that might be an unfortunate consequence of the pandemic. It is quite possible that the power will be pivotal in providing the flexibility we need to deal with any extraordinary pressures on the regulatory regimes.

No new powers are introduced by the regulations; they merely extend the period in which the power may be used. There are no specific plans to use the general power again at present, but this may quickly change depending on the situation. I hope the Committee agrees that the power represents a vital tool for the Government in being able to respond to the challenges of covid-19 and that it should be extended for a further year. I commend the regulations to the Committee.

11.35 am

Lucy Powell (Manchester Central) (Lab/Co-op): It is a pleasure to serve under your chairmanship for the first time, Mr Efford.

As we repeatedly said about the business support measures in the Corporate Insolvency and Governance Act 2020, we support the change that the Government are making. We have called many times for the ending of the provisions to be delayed, and we have called consistently on the Government to give themselves a bit more wriggle room. I repeat those calls today.

It is clear that even though the vaccination programme is going great guns—I know the Chair is having his jab later today—businesses are still in distress and the lockdown and business disruption will continue past the original date in the provisions. As I have said previously, a system of business support that was set up for three months has not really been adequate for the 12 to 18 months that this crisis is going on for. In truth, we do not yet know whether all the restrictions will be lifted after 21 June, when social restrictions are due to be lifted. The explanatory notes for the change state that "the future impact of the pandemic on business and the insolvency regime remains uncertain."

As such, it is only sensible to maintain the option of further extending the measures in the Act in this way. Indeed, the economy is in dire straits. Although the covid support measures that the Government have put in place have given businesses a stay of execution, we are concerned that we could still see a wave of insolvencies as support is withdrawn and the safety net dissolves.

A number of measures in the Bill are due to expire at the end of March, including the temporary suspension of the use of statutory demands and winding-up petitions, and the flexibility for companies to hold annual general meetings. The temporary removal from directors of the threat of personal liability for wrongful trading is due to expire on 30 April this year. Can the Minister tell me whether the measures will now be extended, as they should be? Will he ensure that businesses will have a smooth landing out of this crisis? I met the big five business organisations this morning, and this issue was raised with me. The Institute of Directors was extremely concerned that the provisions should be extended beyond their expiry in March and April this year.

I expect to see the Minister again soon, when the Government lay further statutory instruments to extend the provisions. As I have before, I advise him to go longer than he thinks will be needed, and then we can have fewer SIs.

11.38 am

Paul Scully: I thank the hon. Lady for her contribution. Mr Efford, having a photo of your vaccination will obviously help the take-up across London, but entering into the proceedings of the *Official Report* is forever.

I am glad that we have a consensus that we need to go further in order to protect our economy over the coming few months. To answer the hon. Lady's question, we have already looked at statutory demands and winding-up orders, as effected on the rent for a number of businesses, and we are obviously extending that for another three months. We will take into account what needs to be done, and we will try to consolidate it as best we can, so that we can be flexible but also make sure that we do not have to come back and forth to give businesses certainty. Frankly, it is not about our time; it is about those businesses needing the time and certainty to be able to plan.

We will be able to do that, but it is vital to have these measures to prevent unnecessary insolvency proceedings for viable businesses, and to allow the insolvency regime to cope with any significant impact on case numbers. I thank hon. Members again, and I hope the Committee approves the SI.

Question put and agreed to.

11.39 am

Committee rose.