

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT RAILWAY (LICENSING OF RAILWAY UNDERTAKINGS) (AMENDMENT) REGULATIONS 2021

Tuesday 13 July 2021

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Saturday 17 July 2021

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The Committee consisted of the following Members:

Chair: †MR PHILIP HOLLOBONE

Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab)	Mohindra, Mr Gagan (<i>South West Hertfordshire</i>) (Con)
Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op)	Osborne, Kate (<i>Jarrow</i>) (Lab)
Davies, David T. C. (<i>Parliamentary Under-Secretary of State for Wales</i>)	Richards, Nicola (<i>West Bromwich East</i>) (Con)
† Dhesi, Mr Tanmanjeet Singh (<i>Slough</i>) (Lab)	† Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab)
Duguid, David (<i>Parliamentary Under-Secretary of State for Scotland</i>)	† Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Fletcher, Mark (<i>Bolsover</i>) (Con)	Sambrook, Gary (<i>Birmingham, Northfield</i>) (Con)
Freer, Mike (<i>Comptroller of Her Majesty's Household</i>)	Spellar, John (<i>Warley</i>) (Lab)
† Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Thomson, Richard (<i>Gordon</i>) (SNP)
† Maclean, Rachel (<i>Parliamentary Under-Secretary of State for Transport</i>)	George Wilson, <i>Committee Clerk</i>
	† attended the Committee

The following also attended (Standing Order No. 118 (2)):

Ferrier, Margaret (*Rutherglen and Hamilton West*) (Ind)

Fourth Delegated Legislation Committee

Tuesday 13 July 2021

[MR PHILIP HOLLOBONE *in the Chair*]

Draft Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021

9.25 am

The Chair: Before we begin, I would like to remind hon. Members to observe social distancing and only to sit in places that are clearly marked. I would also like to remind Members that Mr Speaker has stated that masks should be worn in Committee unless Members are speaking or if they are medically exempt. *Hansard* colleagues would be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk

The Parliamentary Under-Secretary of State for Transport (Rachel Maclean): I beg to move,

That the Committee has considered the draft Railway (Licensing of Railway Undertakings) (Amendment) Regulations 2021.

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

The regulations that we are considering today will support the continued smooth operation of essential channel tunnel traffic and provide long-term certainty, clarity and confidence to cross-border operators, both current and prospective, regarding the future operator licensing framework for the channel tunnel. They will do so by making the necessary legislative amendments to enable the implementation of a bilateral agreement between the UK and France on the recognition of rail operator licences for the channel tunnel.

The regulations amend the Railway (Licensing of Railway Undertakings) Regulations 2005, which updated the rules for the licensing of rail operators in Great Britain by introducing a new EU form of licence. That was done to reflect changes to EU operator licensing laws. The regulations also amend the Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019, which were introduced to correct deficiencies in the 2005 regulations arising from the UK's departure from the European Union. As well as converting the EU form of licences issued by the Office of Rail and Road to "railway undertaking licences", the 2019 regulations provided for the continued recognition in GB of European licences for a period of two years from exit day, that is until 31 January 2022, to facilitate a smooth transition.

Following the end of the transition period, there is no longer automatic mutual recognition of licences between the UK and the EU. The recognition of UK licences for the channel tunnel is currently provided for by temporary contingency arrangements, which expire on 30 September 2021.

The operator licensing regulations, and the proposed bilateral agreement that they will implement, will ensure the continued recognition of operator licences for the channel tunnel when the current temporary arrangements expire. That will have a significant positive impact on

cross-border operators, providing them with certainty and reducing the administrative burdens on them considerably by enabling them to operate within the channel tunnel and the cross-border area without the need to hold two separate licences, one issued in GB and one in the European economic area.

Under the regulations, EU licences will be recognised up to the first border crossing station in the UK only, which is Dollands Moor for freight and Ashford International for passenger services. That mirrors the extent of recognition of UK licences in French territory under the proposed bilateral agreement and will ensure equivalence. The regulations, and by extension the agreement that they will implement, are fully compatible with the Government's fundamental red lines in the channel tunnel negotiations with France, which are designed to support the continuation of cross-border services while conferring no role for the EU courts or the European Rail Agency in UK territory and avoiding dynamic alignment with EU law.

Information-sharing provisions are included in the regulations to give effect to requirements of the proposed bilateral agreement. Under those requirements, the Office of Rail and Road will be able to share relevant information with the equivalent French authorities, for example regarding the validity of cross-border operator licences.

The regulations will also ensure a level playing field regarding the licensing requirements for operators on the UK and French sides of the channel tunnel and cross-border area. They will do so by disapplying the current UK requirement to hold a statement of national regulatory provisions, which covers issues such as third-party insurance for EU-licensed operators of channel tunnel services up to Dollands Moor or Ashford International only. They will ensure no equivalent additional licensing requirements will be in place for UK licensed operators on the French side. We are clear that that change will have no impact in practice on passengers or freight.

The regulations will reduce administrative burdens on cross-border operators and enable them to plan their businesses into the future with confidence. Most importantly, they will support the long-term continued smooth operation of cross-border services through the channel tunnel, which, as I am sure hon. Members agree, bring significant economic and social benefits to the UK.

I commend the regulations to the Committee.

The Chair: I remind hon. Members that the debate can last until five to 11.

9.30 am

Mr Tanmanjeet Singh Dhesi (Slough) (Lab): It is a pleasure to serve under your chairmanship, Mr Hollobone.

I want to address the future of rail passenger and freight services using the channel tunnel and the high-speed link to London. The statutory instrument is all about the licensing arrangements for the operation of the services, but surely the more salient question is whether there will be a viable service to license. The Opposition firmly believe that the Eurostar service has a central role to play in our post-pandemic transport system, and we support the shift of international passengers from air to rail wherever possible.

High-speed rail is responsible for 80% less carbon emissions than the alternatives and I have been consistently calling for a huge rolling programme of electrification

across the rail network, and a post-diesel railway. High Speed 1 must remain a central part of that clean, green future; it was the first high-speed link, but it must be the first of many across the UK. And yet the Eurostar service is under threat.

There is a real danger that the licensing regime under consideration today will have nothing to license if Eurostar goes under. The facts are stark: a 95% fall in demand; one service a day, instead of 50; a collapse in revenue from £1 billion in 2019 to just £180 million a year later; and the company is struggling with huge debts and the need to raise finance from shareholders and loan facilities. For example, in May this year the shadow Transport Secretary, my hon. Friend the Member for Oldham West and Royton (Jim McMahon), wrote to the Transport Secretary to point out that stations in Kent have been closed for the Eurostar service; UK jobs lost; and that the company was operating at less than 3% of its normal revenues.

The situation is not merely one in which Ministers are slow to respond, intransigent or that the focus has been elsewhere. No, it is much worse than that. The Secretary of State's appearance before the Select Committee on Transport let the cat out of the bag when he said:

"It is not our company to rescue".

It is true that the Government divested themselves of their shares in Eurostar back in 2015, but privatising the British people's share of that vital public service has left us without the levers to protect it. Yet again, we witness privatisation driven by ideology, not practical common sense. Today, it is simply not good enough for Ministers to divest themselves of all responsibility and to turn their backs.

We will abstain on the SI. I invite the Minister to address my questions. Does she see a long-term future for Eurostar? What communications has she had with her French counterparts? What discussions have Transport Ministers had with the Treasury to devise a rescue package? Will she guarantee today that Eurostar will not collapse under her watch?

9.33 am

Margaret Ferrier (Rutherglen and Hamilton West) (Ind): It is a pleasure to serve under your chairmanship, Mr Hollobone. I thank the Minister for her opening remarks.

The regulations we are considering relate to an issue on which the Select Committee on European Scrutiny, of which I am a member, recently reported, namely, the Government's plans for the operation of the channel tunnel now that the UK has left the EU. Before the UK's withdrawal from the EU, EU law applied in specific areas on the fixed link, and Brexit necessitated new arrangements. The economic and societal importance of the channel tunnel cannot be overstated, and I am pleased that the Government have introduced the regulations.

I thank the Minister for writing to the European Scrutiny Committee and providing draft copies of the regulations. As the Minister will recall, she gave evidence to the Committee on the issue in December when we

expressed our particular concerns about the European Commission's suggestions for how the channel tunnel could operate after Brexit. As the regulations illustrate, a solution has been reached directly with France, and I note that all affected channel tunnel stakeholders and rail industry experts strongly support the regulations and recognise their importance to securing the continued smooth functioning of channel tunnel services. Any concerns that were raised were either outside the scope of the regulations or related to the geographical scope of recognition in the UK.

Can the Minister update the Committee on the progress of negotiations with France? Will further regulations be required to give effect to new arrangements for the channel tunnel? If so, can she provide further details?

9.35 am

Rachel Maclean: I thank hon. Members for their consideration of the draft regulations and for their helpful, constructive comments and questions. I thank my opposite number, hon. Member for Slough, for supporting the regulations contained in the SI.

The regulations will make the necessary changes to ensure that the UK is able to implement an agreement with France on the recognition of rail operator licences for the channel tunnel. That will ensure a long-term future for those vital Eurostar services, as the hon. Gentleman said. He will be in doubt of the Government's commitment to the green industrial revolution and of transport and the rail sector's contribution to decarbonising our economy. That is why we have set out a number of ambitious plans, and will be publishing our transport decarbonisation plan shortly. That will set out a holistic view for the rail sector.

The hon. Member for Rutherglen and Hamilton West (Margaret Ferrier) asked for detail on further regulations. Ongoing negotiations are being conducted with the French to cover all the regulatory structures that we need and I am very happy to write to her Committee as those talks progress.

The hon. Member for Slough asked about financial support, and although that is outside the scope of today's debate, the Government are clear that all companies must have exhausted all other options before being considered for financial support from British taxpayers. Any support must be given on terms that protect the taxpayer, so we welcome the announcement from the company, its shareholders and lenders about a new financing package which will help to secure the company's future. We have continual discussions with all stakeholders, including the operators. We believe that the regulations allow cross-border operators to continue operating as they do now, providing certainty, clarity and confidence.

I am grateful to hon. Members for their consideration of the regulations and I hope that they can join me in supporting them.

Question put and agreed to.

9.37 am

Committee rose.

