

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

HEAVY COMMERCIAL VEHICLES IN KENT (NO. 2)  
(AMENDMENT) (NO. 2) ORDER 2021

*Monday 6 December 2021*

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

*Chair:* YVONNE FOVARGUE

- |  |   |
|--|---|
| † Courts, Robert ( <i>Parliamentary Under-Secretary of State for Transport</i> ) | McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)                    |
| † Crouch, Tracey ( <i>Chatham and Aylesford</i> ) (Con)                          | † Newlands, Gavin ( <i>Paisley and Renfrewshire North</i> ) (SNP)         |
| Efford, Clive ( <i>Eltham</i> ) (Lab)  | † Saxby, Selaine ( <i>North Devon</i> ) (Con)                             |
| Gardiner, Barry ( <i>Brent North</i> ) (Lab)                                     | † Solloway, Amanda ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Grayling, Chris ( <i>Epsom and Ewell</i> ) (Con)                               | † Spencer, Dr Ben ( <i>Runnymede and Weybridge</i> ) (Con)                |
| † Green, Damian ( <i>Ashford</i> ) (Con)   | † Tarry, Sam ( <i>Ilford South</i> ) (Lab)                                |
| † Greenwood, Lilian ( <i>Nottingham South</i> ) (Lab)                            | † Tugendhat, Tom ( <i>Tonbridge and Malling</i> ) (Con)                   |
| † Henderson, Gordon ( <i>Sittingbourne and Sheppey</i> ) (Con)                   |   |
| † McKinnell, Catherine ( <i>Newcastle upon Tyne North</i> ) (Lab)                | Liam Laurence Smyth, <i>Committee Clerk</i>                               |
| † Mackinlay, Craig ( <i>South Thanet</i> ) (Con)                                 | † <b>attended the Committee</b>   |

# First Delegated Legislation Committee

Monday 6 December 2021

[YVONNE FOVARGUE *in the Chair*]

## Heavy Commercial Vehicles in Kent (No. 2) (Amendment) (No. 2) Order 2021

4.30 pm

**The Chair:** Before we begin, I remind Members to observe social distancing. I also remind them that Mr Speaker has stated that masks should be worn in Committee. *Hansard* colleagues would be most grateful if Members could send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

**The Parliamentary Under-Secretary of State for Transport (Robert Courts):** I beg to move,

That the Committee has considered the Heavy Commercial Vehicles in Kent (No. 2) (Amendment) (No. 2) Order 2021 (S.I. 2021, No. 0000).

It is a pleasure to serve under your chairmanship this afternoon, Ms Fovargue. May I start by apologising to the House for having to bring this legislation back? On 20 October, a Committee considered three statutory instruments on heavy commercial goods vehicles. Today's order relates to the second of them. This legislation underpins what is known as Operation Brock, which is the multi-agency response to cross-channel travel disruption. I very much regret to inform everyone that an error occurred in the drafting of the legislation as passed. It is a technical definition that requires correction.

Paragraph 2.7 of the explanatory memorandum explains what has taken place: the amendment to the definition of

“the relevant class of road”

was not made correctly. We seek to amend this.

If members of the Committee would like to understand the issue in more detail, they may turn to article 2(2) of the order. The words between “means all” and “other than” were omitted in the law as passed and we need to insert them. I apologise unreservedly for this. One of the Government's lawyers had a personal emergency at a crucial time of the legislation and a version of the legislation was passed that contains this error. It ought not to have happened. We are reviewing procedures to make sure that it does not happen again, but I wanted to start by being entirely frank and honest to the Committee about what has taken place and saying that we need to put it right.

The Under-Secretary of State for Transport, my hon. Friend the Member for Copeland (Trudy Harrison) took the three statutory instruments through on 20 October. This legislation was first put in place in 2019 as preparation for a no-deal departure from the European Union. It has been amended on a number of occasions since then. Operation Brock, as the Committee will know, is an alternative to Operation Stack. It allows trucks on cross-channel journeys to be queued on the coast-bound carriageway of the M20 between junctions 8 and 9 when

there is serious disruption at the ports, as hon. Members who represent that part of the world will be well aware. The contraflow on the London-bound carriageway keeps the M20 open to other traffic in both directions, with access to the junctions.

As I say, the error that has occurred is in the second of the three orders, the Heavy Commercial Vehicles in Kent (No. 2) (Amendment) Order 2021, which amended the original Heavy Commercial Vehicles in Kent (No. 2) Order 2019. When Operation Brock is active, the 2019 order restricts cross-channel heavy commercial vehicles from using local roads in Kent, other than those that are on the approved Operation Brock routes. The error that has been introduced is to the definition of the roads, which can be found in article 2(2) of the order before us. The error does not prevent the Kent Resilience Forum from initiating Operation Brock. Indeed, it has not been necessary to implement it in the relatively short period since the legislation was made, but the error would affect the extent of the enforcement powers that the police would have to use against heavy goods vehicles using specific roads to avoid the Brock queue.

In short, the police need powers to stop lorries rat running in order to avoid the routes they are meant to be taking. If the Committee is minded to approve this change, we will put right the error in the legislation. Again, I apologise for the mistake and that further legislation has been necessary. Operation Brock is an essential part of traffic management to mitigate any disruption of the short straits, and correcting the mistake will ensure that the legislation works as intended, and as the Committee that approved it on 20 October intended.

4.35 pm

**Sam Tarry** (Ilford South) (Lab): It is an honour to serve under you for the first time, Ms Fovargue. I thank the Minister for his frankness and honesty on this technical error. It would be remiss of me not to touch briefly on the impact that the profound shortage of drivers is having on the haulage sector, and all the organisations and companies that rely on it. It has been exacerbated by long-standing Government inaction and incompetence on this issue. The knock-on effect of the crisis will be more chaos in our supply chains, inevitably leading to more disruption ahead of Christmas, which is such a crucial period for our whole economy.

The SI is obviously just a technical tweak to ensure that we have the right legislation. It demonstrates an inability to establish reliable contingency measures that would helpfully avoid some of the chaos that we have seen for hauliers and local residents in that part of Kent. Although commercial flows in and out of the country should face minimal disruption, we cannot keep relying on short-term emergency measures. I will not reiterate all the points made by my hon. Friend the Member for Bristol East (Kerry McCarthy) on the previous Committee, but it is clear that there needs to be a longer-term solution to this crisis, not just a reliance on emergency provisions. She said that there should be an effort to ensure

“efficient operations at borders, close co-operation with the European Union and working with industry and local communities to identify ways to minimise the disruption.”—[*Official Report, Fourth Delegated Legislation Committee*, 20 October 2021; c. 6.]

That is something that I think everyone in this House could agree on.

The provisions are deeply unpopular in Kent. They can be quite short term, and are costing taxpayers an awful lot of money. We will not oppose today's measure, because it is just a technical tweak, but I am glad to have put those points about Government action on the record.

4.37 pm

**Damian Green** (Ashford) (Con): I will briefly make three points. First, the Minister said that Operation Brock was an alternative to Operation Stack; I would much prefer to hear him use the language that it is a replacement for Operation Stack. Operation Brock is an inconvenience in Kent. Operation Stack was a disaster for my constituents and many others in Kent, so I hope that that was merely a linguistic slip.

Two other points arise from the SI. The first is that, as the Minister said, the Government have not had to use Operation Brock since we last passed a similar, though deficient, SI. Therefore I repeat my plea that the signage on motorways, and in particular on local roads, be improved so that lorries are not encouraged by their often old-fashioned sat-nav to go through villages to reach such things as the inland border facility in Sevington in my constituency, which continues to cause distress to those who live in those villages and to my constituents.

My final point, which again I hope the Minister will take away and encourage his officials to look at, is that one benefit of keeping lorries off local roads, and of the new lorry park that was opened in my constituency on Friday by his ministerial colleague, the noble Baroness Vere, is that there is now no excuse for lorries to park overnight in either residential areas or business parks in the area, where they have been wont to park recently, claiming that there are not enough parking spaces. Kent County Council used to have enforcement powers generally across the area against those lorries, but those powers have lapsed. I strongly urge the Department to consider reintroducing them, because that would complete the circle and allow my constituents and others to feel safe from having lorries parked inappropriately in their residential or business areas overnight.

4.39 pm

**Gavin Newlands** (Paisley and Renfrewshire North) (SNP): It is a pleasure to serve under your chairship, Ms Fovargue. I will not detain the Committee for long. I will reiterate a couple of points that the hon. Member for Ilford South, my former colleague on the Transport Committee made, and make one other. He touched on the driver shortage. We are all well aware that there was a driver shortage of circa 100,000. The Office for National Statistics suggests that around 16,000 fewer EU nationals are here as drivers. Sadly, we are all getting used to the grim reality of empty shelves in our shops. I would love to detain the Committee by going on about how Brexit has ruined things and why independence for Scotland is obviously the only solution for us, just to hear the groans from the Government Benches, but I will not.

The Transport Committee is looking at this issue at the moment. Having ignored the warning signs from industry and from the Opposition for many years, just when do the Government plan to get our supply chains moving again and keep them moving? We have looked at how the industry attracts and retains drivers; at pay

and conditions, which we have seen an uptick in; at the lack of appropriate facilities; and at road safety. Full import controls are planned over the next few months, including checks on sanitary and phytosanitary goods, which were due to come in in October but will now come in in January. Export health certificates were due to come in a couple of months ago and will now be introduced in July.

We need to see much more robust arrangements, not least for the drivers, who face pretty hellish conditions. They have been forced to accept handouts from kind-hearted volunteers over fences or even lowered down from bridges. I would like the Minister to explain what the Government plans are to improve that situation and to ensure there are contingencies in place should those plans fall through.

4.41 pm

**Craig Mackinlay** (South Thanet) (Con): I have a couple of points, mostly to reiterate what my right hon. Friend the Member for Ashford said.

A couple of years ago, the Government allowed the use of map data from Ordnance Survey to be made available to the mapping software that underpins many GPS systems. We had a particular problem in Sandwich some years ago, which was always deemed to be the quickest route when lorry drivers, particularly foreign ones, were using free Google-type map data. At times it looked like going through the middle of Sandwich was the easiest route. I am pleased to report that there seems to have been an improvement on that, and we are not seeing that issue like we used to.

I understand that the purpose of the draft order is just to put right what should not have been wrong in the first place, but in easy language, does this permit the police and other authorities in the case of Operation Brock to use their powers to stop what might be called rat running? Could they force or cajole—I suppose force, as it has a statutory basis—traffic moving through Kent just to those roads so specified? That would be helpful. That is how I understood it, but I have not tried to interleave this order with the existing statutory instruments that it replaces.

4.43 pm

**Robert Courts**: I thank all hon. Members for their points, which I will take one at a time. The hon. Members for Ilford South and for Paisley and Renfrewshire North both made points about HGV drivers. I will not go into great detail because it is slightly off topic, but I would point out that the Government have taken decisive action on that. The Department for Transport alone has taken 30 measures and they are having an effect already. We have taken decisive action and we are seeing those measures take effect.

These are contingency measures, but working closely with local authorities, Kent Resilience Forum and those at the borders to make sure we have a smooth flow is what we do on a day-to-day, monthly and ongoing basis. These are contingency measures, because sometimes events take place that are outside the control of any of us. A good example is covid and the covid measures. It is important that we are able to ensure the smooth flow of traffic and to protect the people of Kent and their quality of life at the same time.

[Robert Courts]

My hon. Friend the Member for South Thanet asked about the powers that are available. A £300 fine is available to the police if drivers do not use the intended roads. That is, in essence, what we are putting right today—ensuring that they have those powers. That is why the roads are specified in the definitions I pointed to in my earlier remarks.

My right hon. Friend the Member for Ashford asked about the use of the word “replacement”. He is quite right; I said “alternative” and he asked me to use “replacement”. These measures do replace Operation Stack, and he is quite right to ensure that we have clarity on that. He also asked me to take away the points about

making sure that signage is adequate. I will take that away and talk with the noble Baroness Vere, as I will his point about overnight parking to ensure that his residents are protected. I will go away and have those conversations and report back to him.

I think I have covered all the points made by right hon. and hon. Members. I reiterate my apologies for having to trouble members of the Committee with this statutory instrument, but I hope they will join me in supporting it.

*Question put and agreed to.*

4.45 pm

*Committee rose.*



