

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT MERCHANT SHIPPING (ADDITIONAL
SAFETY MEASURES FOR BULK CARRIERS)
REGULATIONS 2022

DRAFT MERCHANT SHIPPING
(HIGH SPEED CRAFT) REGULATIONS 2022

Wednesday 19 October 2022

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The Committee consisted of the following Members:

Chair: †MR LAURENCE ROBERTSON

Byrne, Liam (*Birmingham, Hodge Hill*) (Lab)
 † Cruddas, Jon (*Dagenham and Rainham*) (Lab)
 Duffield, Rosie (*Canterbury*) (Lab)
 † Fletcher, Colleen (*Coventry North East*) (Lab)
 † Frazer, Lucy (*Minister of State, Department for Transport*)
 † Garnier, Mark (*Wyre Forest*) (Con)
 Jones, Mr Marcus (*Nuneaton*) (Con)
 † Kane, Mike (*Wythenshawe and Sale East*) (Lab)
 † Lewer, Andrew (*Northampton South*) (Con)
 † Longhi, Marco (*Dudley North*) (Con)

McDonald, Andy (*Middlesbrough*) (Lab)
 † Moore, Damien (*Southport*) (Con)
 † Opperman, Guy (*Hexham*) (Con)
 † Simmonds, David (*Ruislip, Northwood and Pinner*) (Con)
 † Syms, Sir Robert (*Poole*) (Con)
 † Vaz, Valerie (*Walsall South*) (Lab)
 † Williams, Craig (*Montgomeryshire*) (Con)

Liam Laurence Smyth, *Committee Clerk*

† **attended the Committee**

Seventh Delegated Legislation Committee

Wednesday 19 October 2022

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022

2.30 pm

The Minister of State, Department for Transport (Lucy Frazer): I beg to move,

That the Committee has considered the draft Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022.

The Chair: With this it will be convenient to consider the draft Merchant Shipping (High Speed Craft) Regulations 2022.

Lucy Frazer: It is a pleasure to serve under your chairmanship, Mr Robertson.

The draft Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022, which I shall refer to as the draft bulk carrier regulations, and the draft Merchant Shipping (High Speed Craft) Regulations 2022, which I shall refer to as the draft high speed craft regulations, relate to the safety of large sea-going bulk carriers and high speed craft. Bulk carriers are vital in the trading of world commodities. They transport unpackaged cargo such as cement, grain, coal and iron ore. High speed craft are, generally, UK registered rapid passenger craft or non-UK rapid passenger craft operating in UK waters. They include some twin-hulled vessels, hydrofoils and air-cushioned vessels such as hovercraft.

Both statutory instruments will be made under safety powers conferred by the Merchant Shipping Act 1995. Both are also subject to the enhanced scrutiny procedures under the European Union (Withdrawal) Act 2018 because they amend or revoke provisions in earlier instruments that were made under, or amended by, section 2(2) of the European Communities Act 1972. Neither of the instruments implements any EU obligations.

The draft bulk carriers regulations and the draft high speed craft regulations implement the most up to date requirements of chapters 12 and 10 respectively of the annex to the International Convention for the Safety of Life at Sea 1974, known as SOLAS, affecting bulk carriers and high-speed craft. Both SIs bring UK domestic law up to date and in line with internationally agreed requirements. The draft bulk carriers regulations and the draft high speed craft regulations contain direct references to requirements of SOLAS. Future updates to those provisions will be given direct effect in UK law when they enter into force internationally. That assists in keeping UK legislation up to date with international requirements.

The bulk carriers regulations will replace the Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 1999 to implement the most up to date requirements of Chapter 12 of SOLAS affecting bulk

carriers. The high speed craft regulations will replace the Merchant Shipping (High Speed Craft) Regulations 2004 to implement the most up to date requirements of Chapter 10 of SOLAS, affecting high speed craft. Chapter 10 gives effect to the High Speed Craft Codes 1994 and 2000, which contain the detailed requirements applying to high speed craft. As their names suggest, those codes were first agreed internationally by the International Maritime Organisation in 1994 and 2000 but have since been updated, most recently in 2020.

The regulations will further improve the safety standards for high speed craft, and will enable the UK to enforce those requirements against UK high speed craft wherever they may be in the world, and non-UK high speed craft when in UK waters. That provides a level playing field for industry. The amendments bring UK legislation up to date and in line with internationally agreed requirements.

The regulations will bring into UK law outstanding updates to SOLAS Chapter 12 concerning the safety of bulk carriers, which the UK has already agreed to at the IMO. Those requirements include damage stability and structural strength requirements, standards, and criteria for side construction, as well as standards for the owner's inspection and maintenance of bulk carrier hatch covers. They also include a requirement for a loading instrument to provide information on the stability of a bulk carrier under 150 metres in length, and restrictions on bulk carriers of over 10 years of age from sailing with any hold empty. The amendments came into force internationally on 1 July 2006.

My Department held an eight-week public consultation on the draft bulk carriers regulations. One response was received, which was not contentious, and which raised a valid question seeking clarification on how the ambulatory reference provisions would work. A response to this was issued, as well as a post-consultation report, which was published on GOV.UK. We have 28 bulk carriers on the UK flag; these are all already compliant with the requirements of the draft bulk carriers regulations. Making the regulations will enable the UK to enforce the same requirements for bulk carriers as other states which UK registered bulk carriers are currently subject to when entering foreign ports; that will provide greater equality between UK shipping companies and foreign operators.

The updated requirements of SOLAS Chapter 10 set out in the High Speed Craft Codes 1994 and 2000, which the proposed regulations seek to implement, introduce both the new requirement for crew drills on entry to, and rescue from, enclosed spaces, such as machinery spaces, to be conducted every two months, and the recording of those drills alongside other similar records currently kept for fire drills and other life-saving appliance drills. Those updated requirements came into force internationally on 1 January 2015.

In addition, the regulations implement two further changes to the codes. First, they introduce updates to the requirements for life-saving appliances relating to rescue boats and life rafts. Secondly, they abolish the current monopoly on satellite service provision to ships, opening the market to any provider meeting the required standards. Both of those measures came into force internationally on 1 January 2020.

Those updated requirements are important for ensuring the safety and stability of high speed craft, and increase safety standards to align them with the international

requirements. Introducing those requirements in these regulations will enable the UK to enforce those standards in respect of high speed craft in the UK's waters. We have almost 30 high speed craft on the UK flag to which the new regulations will apply. We currently have no foreign flagged high speed craft operating in UK waters. The regulations will apply to all high speed craft, with the 1994 code applying to older vessels and the 2000 code applying to vessels built or substantially modified on or after 1 July 2002.

The regulations also make amendments to the Merchant Shipping (Fees) Regulations 2018 to enable fees to be charged for the inspection, survey and certification of high speed craft by the Maritime and Coastguard Agency.

I have highlighted the importance of both sets of regulations, including improving safety standards, meeting the UK's international obligations and ensuring a level playing field for UK shipping companies. I hope that all Members will agree that the SIs implement important updates to SOLAS into domestic legislation regarding bulk carrier safety and the safety of high speed craft. I therefore commend the instruments to the Committee.

2.38 pm

Mike Kane (Wythenshawe and Sale East) (Lab): It is a pleasure to serve under your chairmanship, Mr Robertson. I see that Bolton Wanderers are lying seventh in the championship, but they have a game in hand, so there is hope yet of promotion at the end of the season. I know that I am allowed to digress for one time under your chairmanship of any Committee to discuss such matters.

I can see from the expression on the faces of Conservative Members that they came into politics to talk about bulk carriers and high speed craft regulations. I can see that they are all on their mobile phones checking the current update on them or perhaps—

Valerie Vaz (Walsall South) (Lab): They are tracking ships.

Mike Kane: Are they tracking ships that sail in the night? Indeed. Enough of the nautical puns.

I genuinely welcome the Minister to her place; I have had to do that a few times now over the past few years. I thank the civil servants for their hard work in bringing Ministers up to speed so quickly, as is apparent today. It would have been nice if the Secretary of State, who directly answers for maritime matters, had been here, but the Minister is not a second preference and her presence is most welcome.

Let us get down to business. We are here to discuss the additional safety measures for bulk carriers. Of course we would never object to anything that improves safety and conditions for seafarers. We welcome the draft regulations to replace the Merchant Shipping Regulations of 1999. That will ensure that the International Convention for Safety of Life at Sea 1974 is fully implemented.

As we all know, bulk carriers are vital in the world of commerce, as they carry unpackaged cargo such as coal and cement. Without those carriers and the brave work of those seafarers during covid we would not have kept our country stocked and supplied. The prime hazards associated with the shipment of solid bulk cargoes are

those relating to structural damage due to improper cargo distribution, loss or reduction of stability during a voyage and chemical reactions of those cargoes. I note the updates relate to bulk carriers with empty holds and set standards to protect the watertight integrity of the ship, so ensuring that when loading there is an instrument that assesses the ships design and how its stability might be compromised during the process. That instrument was previously only required in bulk carriers over 150 metres in length. The updates bring in improved and updated standards on the maintenance and inspection of hatch covers, ensuring their integrity, and of single and double skinned carriers.

The primary aim of the bulk carrier statutory instrument is to facilitate the safe stowage and shipment of bulk cargoes by providing information on the dangers associated with said shipments. Those regulations will improve safety requirements and enable the UK to enforce them not just on UK ships wherever they set sail to, but to any non-UK ship when they are in our territorial waters.

Industry compliance is already high; all 29 UK flagged bulk carriers are already compliant with the standards outlined by the Minister. Given the size and nature of bulk carriers, it is vital they are safe, not only for seafarers but also for the environment. One only has to recall the bulk carrier that ran aground on a reef in Mauritius in July 2020, which then leaked oil, and caused an ecological disaster in the seas around the Indian Ocean islands. Four seafarers died while attempting to retrieve oil, and 1,000 tons of oil were eventually spilled into the ocean. More recently in waters off Gibraltar a bulk carrier ran aground and leaked oil into the oceans. Those accidents do happen but one must ask whether they would have been prevented had the additional safety measures been introduced sooner.

On enforcement, 10 regulations relate to enforcement and with one exception, they all apply to the owner and to the master. Will the burden on reporting failure to comply with the regulations under the merchant shipping legislation be placed upon the ports and harbours? Can the Minister confirm which agency will be responsible for carrying out any necessary enforcement? What are the penalties for failing to comply? If fines are to be imposed, what level of fines would be applicable? If the Minister cannot provide those answers now, I am happy to receive them in writing. Continuing with the theme of enforcement, can she confirm whether our international counterparts are aware of the forthcoming changes? In addition, were trade union representatives consulted while the regulations were developed?

The high speed craft regulations seek to make amendments to chapter 10 of the IMO's International Convention for the Safety of Life at Sea in relation to high speed craft. Those craft are typically rapid passenger craft but can also be cargo craft. Primarily, they operate domestically in UK waters, although some are known to operate between the UK and France. An example of a high-speed craft as defined in this SI is a Thames clipper. We can look out of our windows here on some days and see one. That category of vessel also covers hydrofoils and air-cushioned vessels such as hovercraft. I learned so much about pollution and hovercraft when we recently discussed a SI on the subject in this room.

[Mike Kane]

We have many SIs to pass on account of a backlog, and I look forward to attending another one next Tuesday morning, and I am sure the Minister does as well.

The proposed regulations on high speed craft will further improve safety standards on those craft and will give powers to the UK to enforce those requirements against UK high speed craft, wherever they may be in the world, and also to use the same powers over non-UK high speed craft when in UK waters. Am I correct in assuming that the international enforcement body is aware of the regulations, as I note there were only three responses to the consultation? Or perhaps it, too, was unable to distil the definition of the vessels affected because the formula was impenetrable to many. Indeed, in the explanatory memorandum the Law Society of Scotland asked whether the formula to determine whether a vessel is a high speed craft could be simplified. I share its concern.

I am assured that high speed craft know what they are, and are registered as such, and already compliant. Do the proposed regulations represent an international standard of which all high speed craft are aware? Is the criteria to determine high speed craft the same the world over? Are international high speed crafts aware they are in that category for enforcement purposes? If a high speed craft is found to be in breach of the regulations, I notice that the first option is a fine. There is no mention of the amount of the fine, so perhaps the Minister can apprise the Committee of that.

I welcome the opening up of the satellite service provider market that could drive down prices, but we would not want to see a reduction of standards. I raise the issue of standards because my attention was drawn to a line in the consultation that says that the risk-based assessment outlined in the legislation

“enables more flexibility for both industry and government in the application of safety standards.”

How and by whom will this be monitored ongoing? With that solely in mind, again were unions consulted? I have to say that the words “flexibility...in...safety standards” should send a shudder down all our spines.

We would never oppose anything that sought to improve safety standards on vessels, and for that reason, assuming we receive assurances from the Minister on the points I have raised, we will not oppose the measures.

As I have said in previous Committees, we have a backlog of a large number of SIs to get through. We are trying to clear that delegated legislation, and I would be interested to learn whether the Minister has any update on how and when we will clear the current backlog.

2.48 pm

Lucy Frazer: It was a pleasure to get a football update from the hon. Member for Wythenshawe and Sale East, and to hear his points and questions. I am very pleased to hear that the Labour party will not oppose these important and sensible safety measures.

The hon. Gentleman asked a number of questions, and although I will not be able to answer all of them, I will answer as many as I can, and of course I will write to him on any outstanding questions.

On the level of fines, they will be unlimited in England and Wales and subject to a statutory maximum in Scotland and Northern Ireland. Trade unions were consulted on the bulk carriers, and a reminder was also sent two weeks before that consultation closed. The hon. Gentleman asked whether there was an obligation on ports to monitor repeat offences, and that task will be undertaken by port state control officers. He also asked whether international bodies are aware of the proposed changes. I would remind him that the SIs are implementing an IMO standard, so of course other countries have agreed to that standard at international discussions.

On international enforcement, all maritime administrations will know about their requirements. All HSC operators and enforcement agencies will know that their vessels are HSC. Fines in relation to high speed craft, just as for bulk carriers, will be unlimited in England and Wales, and subject to a statutory maximum in Scotland and Northern Ireland.

The hon. Gentleman mentioned the delay in consideration of delegated legislation. The Government are very conscious that it is important that we implement our international obligations. Unfortunately, we have had to implement a large number of measures on account of covid and other matters, and there has been some delay. We apologise for that, but as my predecessor told the Secondary Legislation Scrutiny Committee, the backlog will be cleared by the end of 2023. That is currently on track to be achieved, so I hope that offers the hon. Gentleman some comfort.

For all those reasons, I ask that the Committee to agree the Statutory Instruments.

Question put and agreed to.

DRAFT MERCHANT SHIPPING (HIGH SPEED CRAFT) REGULATIONS 2022

Resolved,

That the Committee has considered the draft Merchant Shipping (High Speed Craft) Regulations 2022.—(*Lucy Frazer.*)

2.51 pm

Committee rose.