

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT NATIONALITY, IMMIGRATION AND
ASYLUM ACT 2002 (JUXTAPOSED CONTROLS)
(AMENDMENT) ORDER 2024

Tuesday 8 October 2024

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Saturday 12 October 2024

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The Committee consisted of the following Members:

Chair: GRAHAM STRINGER

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| † Botterill, Jade (<i>Ossett and Denby Dale</i>) (Lab) | † Naish, James (<i>Rushcliffe</i>) (Lab) |
| † Edwards, Sarah (<i>Tamworth</i>) (Lab) | † Nichols, Charlotte (<i>Warrington North</i>) (Lab) |
| † French, Mr Louie (<i>Old Bexley and Sidcup</i>) (Con) | † Patel, Priti (<i>Witham</i>) (Con) |
| † Furniss, Gill (<i>Sheffield Brightside and Hillsborough</i>) (Lab) | † Smart, Lisa (<i>Hazel Grove</i>) (LD) |
| † Hatton, Lloyd (<i>South Dorset</i>) (Lab) | † Smith, Jeff (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Hayes, Tom (<i>Bournemouth East</i>) (Lab) | † Timothy, Nick (<i>West Suffolk</i>) (Con) |
| † Kirkham, Jayne (<i>Truro and Falmouth</i>) (Lab/Co-op) | † Vickers, Matt (<i>Stockton West</i>) (Con) |
| † Maguire, Ben (<i>North Cornwall</i>) (LD) | |
| † Malhotra, Seema (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | Natalia Janiec-Janicki, <i>Committee Clerk</i> |
| Morris, Joe (<i>Hexham</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Tuesday 8 October 2024

[GRAHAM STRINGER *in the Chair*]

Draft Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2024

4.33 pm

The Chair: As a number of Members here have not been on a Statutory Instrument Committee before, I will say that the procedure is very similar to that of the Chamber. If you want to catch my eye, stand up. It is straightforward. There is one minor difficulty: my notes tell me that the Liberal Democrat Helen Maguire is a member of the Committee, and Ben Maguire has turned up. I will clarify whether that was a mistake or whether my notes are accurate.

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): I beg to move,

That the Committee has considered the draft Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2024.

It is a pleasure to serve under your chairship, Mr Stringer. The order amends the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003, or the 2003 order for short, to support the Government's preferred model for the French delivery of the EU entry-exit system, or EES, in Dover. EES is the EU's new border entry system, which is due to be implemented on 10 November. It is driven primarily by a desire for greater border security and a more secure Europe. The UK Government are supportive of the aims of the EES, which complement our shared objectives on migration and secure borders. We have been working at pace and closely with our French and EU partners, as well as with industry and across the UK Government, to ensure readiness. I am grateful to parties for their constructive and collaborative approach. It is our goal to do everything possible to maintain border fluidity with the European Union when the EES is introduced.

EES requires that non-EU citizens who wish to enter the Schengen area, excluding EU residents, visa holders and those protected by the withdrawal agreement, provide their fingerprints and a facial scan to EU border officials and answer questions about their stay. This will increase the time taken to complete the Schengen entry process.

As immigration controls in Dover are juxtaposed, non-EU citizens, which include most British nationals, will provide these details to officers of the French Police aux Frontières. PAF officers conduct Schengen entry checks in a control zone at the eastern docks in the Port of Dover, which is a confined space with large volumes of freight and passenger traffic, particularly at peak times. If that continues once EES is implemented, there is likely to be severe congestion and disruption at the port. The Government have therefore engaged constructively with France and the EU to explore mitigations.

France has agreed for PAF officers to complete EES checks for coaches in an additional control zone at the western docks. That approach will ensure there is sufficient capacity to conduct EES checks on coaches, which is not available at the eastern docks. France has requested two changes to ensure that PAF officers can operate the controls effectively: first, that PAF officers can travel between control zones with their service weapons; and, secondly, that PAF officers must be able to escort detained persons whom they have arrested following immigration examination in the new control zone at the western docks to the control zone at the eastern docks, where they currently carry out their immigration controls in full.

Government officials have also consulted all the relevant stakeholders, including Kent police, on France's requirements. Senior officials are satisfied that the risks are minimal and can be managed through appropriate safeguards and standard operating procedures. The PAF has agreed to those, and the Government have agreed to France's requests. The order, therefore, creates a circulation area, which will be a section of the A20 public road approximately 1.5 miles long, linking the new French control zone at the western docks with the existing control zone in Dover. It will also enable PAF officers to travel between control zones via the circulation area, and it will extend certain powers and provisions in the 2003 order, which are currently only applicable in a control zone, to the circulation area. Therefore, PAF officers will be permitted to travel with their service weapons, in the circulation area only, between control zones. PAF officers will also be able to escort detained persons between control zones. They will not be able to arrest or detain anyone in the circulation area who has not already been detained by them in the exercise of their functions within a control zone.

When PAF officers escort a detained person in the circulation area, certain provisions will apply, just as they do when officers exercise the power to detain in a control zone. Specifically, PAF officers will be protected against acts or omissions committed against them that constitute offences under an immigration control enactment—for example, assault or obstruction—in the same way that British immigration officers are protected against those. They also cannot be prosecuted for any offence committed when they are exercising their lawful powers under the 2003 order in the circulation area. Additionally, the procedure concerning the arrest of a PAF officer for acts performed in a control zone will also apply to PAF officers exercising the power to escort detained persons in the circulation area.

Finally, any claim for compensation alleged against, or by, PAF officers for loss or injury when they exercise their powers in the circulation area will be subject to the law of the French Republic. This matches the provisions that currently operate in the control zone.

Government officials will separately delimit an additional control zone at the western docks by way of administrative arrangement. In that control zone, PAF officers can exercise their full range of immigration frontier control powers in the same way as they do in the control zone at the eastern docks. They can also carry and store their service weapons, subject to strict safeguards, as they do in the existing control zone. The circulation area in which PAF officers can travel between control zones will also be delimited by way of a clear map of the

relevant area. Additionally, the conditions under which PAF officers may carry their service weapons on any journey through the circulation area will be set out in a service weapons agreement.

This order is therefore a key enabler of the western docks operation. It facilitates a relatively minor change to long-established French practice at the juxtaposed controls in Dover so that PAF officers can operate in an additional control zone. This will make a material difference once the EU entry-exit system is implemented. It is in both the UK's and France's interests that any disruption in Dover caused by EES is minimised, and the Government consider this order to be a reasonable and proportionate way of helping to achieve that aim. I commend the order to the Committee.

The Chair: Before I call the Opposition spokesperson, we have had a message and Ben Maguire is a member of the Committee, so that has been clarified.

4.44 pm

Matt Vickers (Stockton West) (Con): It is a pleasure to serve under your chairship, Mr Stringer. I will comment very briefly to seek clarity on the order.

The measures brought forward by the last Government have undeniably had a huge impact on the legislative framework around immigration and asylum. Indeed, under the last Government, in the year June 2023-24, small boat arrivals were down by 29%, migrant returns rose by a fifth, and enforced returns rose by a half. We want the Government to continue to make progress in tackling this issue. Indeed, it is of huge national interest and consequence. Although the argument is already well exercised, without that meaningful deterrent, everything else is just tinkering around the edges.

French officers have been able to carry arms in areas of the channel for years. If the amendment improved the effectiveness of partnership working and helped to frustrate channel crossings, we would be supportive. However, I seek some clarity from the Minister on its impact. If she is not in a position to provide that clarity now, we are happy to take a response in writing.

Why has no impact assessment been undertaken? Surely there is an impact on public service provision—that is, policing. Under what circumstances will the use of firearms be permitted and what are the restrictions, if any? Will a review mechanism be put in place? There are huge concerns about the nature of and delays to the

implementation of EES, and the potential impact on legitimate UK travellers. In the spirit of partnership, what mitigation is being put in place for that and what can we expect in reciprocation for securing our own borders?

4.46 pm

Lisa Smart (Hazel Grove) (LD): The order represents a change to the previous approach, and it looks, to our mind, to build bridges rather than burning them down. The previous Government stoked the issue about small boats crossing the channel, without providing enough workable, practical solutions that would have the impact we all hoped for to tackle the issue. The most constructive way to address it is to work with our European friends and partners. The Liberal Democrats would welcome the Government bringing forward further practical solutions to improve relationships and operating procedures.

4.46 pm

Seema Malhotra: I am grateful to the Opposition spokespeople for their comments. I gently say to the shadow Minister that the Government now have a much clearer plan for how we tackle irregular migration. I am proud that we have set up the border security command, with work going on internationally to try and tackle the criminal gangs that, as he knows, are exploiting thousands of people and putting their lives at risk. It is vital that immigration is controlled and managed, and I am sure he will want to work with the Government on the measures we are putting in place.

The shadow Minister asked a set of questions about the impact of the provisions. It would be sensible to come back to him in writing, because that would enable us to share the response with colleagues who are concerned and minded to ask about similar matters. On the matter of partnership, that is an important way in which we continue to work with our French counterparts, not least because we also operate our Border Force in juxtaposed ports in the EU. It is vital that we work together on securing our borders and maintaining their fluidity throughout the implementation of EES, because that is in all our interests.

Question put and agreed to.

4.48 pm

Committee rose.

