

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT CONSUMER RIGHTS ACT 2015  
(CONSEQUENTIAL AMENDMENTS) ORDER 2015

DRAFT ENTERPRISE ACT 2002 (PART 8  
DOMESTIC INFRINGEMENTS) ORDER 2015

*Monday 7 September 2015*

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

*Chair:* FABIAN HAMILTON

- |  |   |
|--|---|
| † Barclay, Stephen ( <i>North East Cambridgeshire</i> )<br>(Con) | † Morris, Anne Marie ( <i>Newton Abbot</i> ) (Con)              |
| † Boles, Nick ( <i>Minister for Skills</i> )                     | † Philp, Chris ( <i>Croydon South</i> ) (Con)                   |
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)                        | † Rayner, Angela ( <i>Ashton-under-Lyne</i> ) (Lab)             |
| † Creasy, Stella ( <i>Walthamstow</i> ) (Lab/Co-op)              | † Rimmer, Marie ( <i>St Helens South and Whiston</i> )<br>(Lab) |
| † Foster, Kevin ( <i>Torbay</i> ) (Con)                          | Rotheram, Steve ( <i>Liverpool, Walton</i> ) (Lab)              |
| † Harrington, Richard ( <i>Watford</i> ) (Con)                   | Simpson, David ( <i>Upper Bann</i> ) (DUP)                      |
| † Howell, John ( <i>Henley</i> ) (Con)                           | Thomson, Michelle ( <i>Edinburgh West</i> ) (SNP)               |
| † Jones, Mr David ( <i>Clwyd West</i> ) (Con)                    |   |
| † Jones, Gerald ( <i>Merthyr Tydfil and Rhymney</i> ) (Lab)      | Joanna Welham, <i>Committee Clerk</i>                           |
| † Milling, Amanda ( <i>Cannock Chase</i> ) (Con)                 |   |
| † Morden, Jessica ( <i>Newport East</i> ) (Lab)                  | † <b>attended the Committee</b>                                 |

## Fourth Delegated Legislation Committee

Monday 7 September 2015

[FABIAN HAMILTON *in the Chair*]

### Draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015

4.30 pm

**The Minister for Skills (Nick Boles):** I beg to move,  
That the Committee has considered the draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015.

**The Chair:** With this it will be convenient to consider the draft Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2015.

**Nick Boles:** It is a pleasure to serve under your chairmanship, Mr Hamilton, and I trust that you had an enjoyable and relaxing summer, along with the rest of the Committee. It is always good to get some early net practice when we come back after a long recess, but I am not sure whether I would choose to have net practice on consumer issues when facing the hon. Member for Walthamstow, who is of course one of the House's great experts on these matters. I hope she will take it as an act of good will—indeed, of good luck in the current contest for the position of deputy leader of the Labour party—that I intend to keep my comments relatively brief. I know that other Government Members will want to release her to her campaigning duties, and I hope she can persuade her colleagues to do the same.

Although the orders are technical and consequential in nature, they are important elements in the implementation of the Consumer Rights Act 2015, which forms part of our wider drive for greater productivity. The majority of the Act will come into force on 1 October. The Consumer Rights Act is a major part of the reform and simplification of UK consumer law, which will empower consumers, improve consumer choice and drive productivity in competitive markets. The Act aims to foster high levels of consumer confidence so that people try new products and services, and shop around. Of course, in order for consumers to be confident, they need to know what their rights are and what they are entitled to if something goes wrong. The Act provides a clear scheme of consumer remedies for when things go wrong with goods, services and digital content.

The two orders simply amend the existing legal framework to take account of the new consumer legislation. The draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015 adds the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to the list of legislation in schedule 5 to the 2015 Act, meaning that public enforcers of those regulations have access to the investigatory powers they need.

The order amends the Uniform Laws on International Sales Act 1967, which implemented the convention on the international sale of goods. The convention enables

parties from different countries to decide that the standard terms set out in the convention apply to their contract. The order will mean that international businesses cannot avoid their obligations under the Consumer Rights Act 2015 when applying the convention terms to consumer contracts. The order also amends schedules 14 and 15 to the Enterprise Act 2002, so that public bodies have the power to disclose and share information obtained through or for the purpose of enforcing the unfair terms and secondary ticketing provisions that have been introduced to the Consumer Rights Act.

Lastly, the order amends schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 to enable a local authority to be a primary authority in relation to relevant functions and to take a role in co-ordinating the enforcement of specified provisions of the 2015 Act. That means the benefits of dealing with a single authority are available to business in relation to those parts of the Consumer Rights Act.

The draft Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2015 amends the Enterprise Act 2002, enabling enforcers such as Trading Standards to use civil enforcement powers rather than criminal sanctions for certain breaches of the Act, where such breaches affect consumers' collective interests. For example, Trading Standards could seek an enforcement order where a business refuses to refund any of its customers for faulty goods it has supplied. Finally, the Consumer Rights Act contains a number of measures to reduce burdens on businesses, some of which will particularly benefit small businesses. For example, in the majority of cases, businesses will receive notice of an inspection from consumer law enforcers such as Trading Standards, which will reduce the costs of disruption to such businesses.

The orders will make for a smoother implementation of the Consumer Rights Act, which alone is estimated to generate net benefits of £1.7 billion over the next 10 years. The wider package of consumer law reform is estimated to boost the economy by £4 billion over the next 10 years. I therefore commend the orders to the Committee.

4.35 pm

**Stella Creasy (Walthamstow) (Lab/Co-op):** May I start, Mr Hamilton, by echoing the Minister's comments—*not, alas, about brevity, but about serving under your chairmanship?* It is the first time for me, but I hope it will not be the last. I hope that all members of the Committee have come back from their holidays refreshed and raring to go. Unlike the Minister, I am excited by the opportunity to debate consumer rights legislation, having devoted a considerable amount of time to it during the last Parliament—*dare I say that my application to “Mastermind” with this as a specialist subject is in train?*

I can see that nobody else here had the pleasure of serving on the Consumer Rights Public Bill Committee and debating at such length the exciting subject of our rights and responsibilities under consumer legislation. With that in mind, let me offer the Committee the Opposition's take on these two orders. We do not oppose them, but we have some questions. It would be helpful if the Minister looked into them and gave us some explanation, given the debates we had in the previous Parliament. I am sure that he read all the

Consumers Rights Public Bill Committee discussions in detail; dare I say that that will be his “Mastermind” test for today?

The draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015 deals with the sharing of enforcement powers. As the Minister acknowledged, it covers the legislation on ticket touting. No Member here can fail to be aware of just how strong the debates about ticket touting were. A number of Members from across the House debated and raised concerns about ticket touting—particularly about the links between ticket touting and organised crime—and the number of people being ripped off by touts. Therefore, it was welcome that the Government eventually gave in and put measures in the Consumer Rights Act to try to address the challenge of ticket touting. This order looks at one of the provisions around the enforcement powers, particularly information sharing for public agencies.

Members who were in the House during the previous Parliament will recall that a lot of our debates were about the lack of information that made ticket touting possible—the opaqueness about what was being sold and the difficulties faced by enforcement agencies in being able to pursue those selling tickets and ripping off consumers.

Chapter 5 of part 3 of the Consumer Rights Act is enacted by this order. Therefore, it would be helpful to hear a little more from the Minister about how the Act will be made real. Having talked to a number of organisations campaigning against ticket touting and affected by the industry, I am concerned to note that they have yet to receive any guidance from the Minister as to the pursuance of this statutory instrument. As the Minister said, the Consumer Rights Act will come into force in a couple of weeks’ time. This order contains requirements about information sharing, but it does not set out what information should be shared or the powers that enforcement agencies will have to address such issues.

For this side of the Committee, this fits into a wider point. The Minister committed to a review of the secondary market as part of the legislation. That legislation was passed in March and there was a commitment that the review would happen within a year. We are yet to hear when the review will happen and what issues it will cover. One of the Minister’s colleagues in another Department suggested that ticket prices should be set by supply and demand, under secondary ticket touting. As I am sure the Minister is aware, the concern has always been that there was not a fair supply of tickets within the ticket touting industry, and that was causing the problem for consumers.

How does the Minister think information-sharing powers will help to tackle the issues around ticket touting and to identify people who are ripping off consumers? What does that mean for the review of ticket touting that the Government promised within a year of the legislation being enacted? I am concerned to read in the explanatory memorandum that no impact assessment has been made of the information-sharing powers. If one of the concerns that the ticketing and entertainment industries had about the powers was about the impact of the legislation on their ability to deal with requirements for tickets effectively, then surely such information sharing would have an impact. Surely the Minister would expect enforcement agencies to be

able to use that information to identify those ripping off consumers and that would have an impact—hopefully a positive one. I would therefore be interested to hear why no impact assessment has been made. Given the cross-party agreement that we needed to tackle ticket touting, perish the thought that what he is now introducing is a dog without teeth.

The second statutory instrument deals with the Enterprise Act 2002, and we have some more substantial concerns about that. I am sure the Minister will remember the detailed conversations we had with one of his predecessors about that Act—in particular, about how we ensure that all consumers are protected equally.

The Consumer Rights Act seeks to simplify the ways in which people can use their rights and responsibilities. It draws on the idea that if someone understands their rights in one sector, they will be able to apply them across all sectors. When that legislation was being drafted, we had a severe concern that particular types of consumers were being excluded from it, in particular air and rail passengers. At the time, the Minister in charge of the Bill told us that we should raise those concerns on this very statutory instrument if equivalent powers were not provided under the national conditions of carriage legislation.

It was therefore with a little sadness that I noted that the Minister wrote to us on 29 July to say that, contrary to the assurances given to us during that legislative process that equal rights to a reasonable service, within a reasonable timescale and at a reasonable price would be translated to passengers as well as other consumers, that was not to be applied and passengers were to be excluded. Therefore, in the context of this statutory instrument, they are excluded from the provision that allows for a market-wide survey to be carried out if there is concern that the collective interest is being breached.

What does that mean in layman’s terms? If we thought that passengers were being ripped off, the Competition and Markets Authority could not investigate, and neither could the Office of Rail Regulation. Why does that matter? I am sure that all of us here have had complaints from people about services, and rail services and planes in particular, but if this statutory instrument is enacted as it stands, those consumers will not have the same rights. Will the Minister tell us how he sees that conflict being resolved? The Opposition are particularly concerned about the levels of compensation offered to consumers when their rail journeys are delayed or they receive a poor service, such as when disabled passengers cannot get on to trains because of poor quality provision and people experience a range of refund systems with different train companies when their services are delayed.

There is strong evidence that the number of complaints about rail passenger services is going through the roof. Surely that is a good indication that it would be right to take a look at the whole market and the ways in which different train companies respond. As part of the campaigning I have been doing, I had a delayed train journey and found that I got a different type of refund—a train voucher—rather than my money back. Under the Consumer Rights Act, I would be entitled to a refund, but the national conditions of carriage allow for the train company to give me a train voucher, which means that I have another ticket for the train company that cannot run a train on time.

[Stella Creasy]

Were I to be sold a faulty good or service in another part of my life, I could ask for the equivalent of my money back or a refund under the new Consumer Rights Act, but because the Government have excluded passengers from the legislation and are delaying the point at which that conflict might be resolved, the powers to be enacted by this statutory instrument will not allow the Competition and Markets Authority to look at why passengers get such a raw deal when it comes to compensation. Therefore, as a passenger, I will not get the protection that this SI offers me in other areas of my life.

Does the Minister agree that passengers deserve a better system of compensation for a poor standard of rail services, and that it is a priority for him and his Department to resolve the conflict that the statutory instrument will create whereby those consumers will not be afforded the protection of a market-wide study into that area, which they would get in other areas? If he does not agree, will he explain why he thinks the compensation systems that passengers can currently access are acceptable, even though there is a conflict with the Consumer Rights Act? Given that he wrote to us to say that there would be a delay, when does he expect passengers to get the decent right of return we are talking about?

We agree with the Minister that these are technical issues, but passengers—including me over the summer and many of our constituents—who find themselves waiting for delayed trains or in overcrowded carriages, unable to get a seat, should expect clarity from us on their rights and how they can exercise them. There is a risk that the order will not give them the same protection that they receive in other parts of their lives, and I am sure we would all agree that that is not the intention. I look forward to the Minister's response.

4.45 pm

**Nick Boles:** The hon. Member for Walthamstow has demonstrated to the entire Committee that she does not need any time to get warmed up at the start of a new parliamentary session. I will try to answer her questions as best as I can, although some of them might, understandably, have strayed into a discussion of the fundamental principles of legislation, rather than the precise and technical implementation of the orders before the Committee. I hope that you will not mind if I stick rather more narrowly to the question before the Committee, Mr Hamilton.

The hon. Lady first asked about the secondary ticketing review and when we might announce when it will be launched. It has taken a bit of time to discuss the appointment of the chair of the review with interested parties and to agree on the precise date of the launch, but we have made good progress in establishing the terms of reference. We have been talking closely with key stakeholder representatives, and we have been trying to identify the best possible candidates for the shortlist for the skilled chair and for members of the expert group. That obviously needs to be discussed by my Department, the Department for Business, Innovation and Skills, and the Department for Culture, Media and Sport, but we expect to be able to launch the review and announce the chairman relatively soon. That review will

then be able to address many of the issues that the hon. Lady raised. It is of course the case—I hope this provides some reassurance to the Committee—that the rules applying to the resale of tickets on online secondary platforms came into force on 27 May 2015. The review will follow, but those rules are already in force.

The hon. Lady asked why we were delaying the implementation of the provisions for transport sectors—

**Stella Creasy:** Before the Minister moves on, the draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015 refers to the enforcement powers of agencies around ticket touting. The rules on what ticket providers should provide have already been published, but the order gives enforcement agencies the power to act across borders. For example, if I bought a ticket to see a band, wherever I had bought that ticket online, there would be an expectation that it would be a fair ticket at a fair price, with the relevant information and the unique identifier. If that were not the case, Trading Standards in another part of the country—wherever that ticket was being sold—could act. The Minister is talking about the review, so will he clarify why he does not think this change will have an impact on the industry? Being able to share information in that way is quite a substantial change, so why—I did ask this previously—has no impact assessment been made for this order?

**Nick Boles:** A full impact assessment was completed for the Bill, and the review will be able to look into any further issues that are within its terms of reference. I do not believe that a specific impact assessment of the information-sharing powers that the hon. Lady referred to is necessary. The information sharing will differ in each investigation, and it will simply not be possible to identify a single level of impact. If she wants to write to me to make the argument for that impact assessment, I would be happy to go into the matter in more detail and respond in writing.

Moving on, the hon. Lady asked about the delay in implementing the provisions for three transport sectors: mainline rail, maritime and aviation. We created that delay because we want to consult widely with the industries and other interested parties to gather information on the consumer protection available in those sectors. That is down to the simple fact that those sectors are mostly run with elaborate and advanced sector-specific schemes. We want to assess whether it would be appropriate to apply the provisions in full to those sectors or whether it would be appropriate to make an exemption from the Consumer Rights Act to enable transport providers to continue to pay compensation for delays and cancellations under their sector-specific schemes rather than under the terms of the Act. We make no judgment about what the result of those consultations will be. We reserve absolutely the possibility of applying the Act to those sectors, but we have concluded, based on conversations with the industry, that it is right to explore the situation further before applying the provisions. Obviously we did not want to hold back the application of those provisions to other sectors, which is why we have made an exemption for these sectors today.

**Stella Creasy:** I thank the Minister for saying that, but it is a bit of a surprise to those of us who were on the Consumer Rights Public Bill Committee and heard

specific assurances from the previous Government that they would offer equivalent protection. I shall give an example of the difference we might see. Over the summer, my rail journey was delayed and the rail company gave me a rail voucher. Under the Consumer Rights Act, I could ask for my money back, rather than be given a ticket to use with the same rail company. Is the Minister saying that he is comfortable for the train and aeroplane companies to dictate to passengers what appropriate compensation is? In other areas, there is equal protection for all consumers—I could ask for my money back, if that was what I wanted. If he is not offering equivalent protection, passengers will continue to get what companies want them to have, rather than what they are entitled to do.

**Nick Boles:** I obviously was not clear, but I will try to be clearer. I am not saying what the conclusion of the further consultation with those industries and other interested parties, including the hon. Lady, will be. I am saying that we will take a bit more time to have those conversations and understand whether there are arguments for allowing sector-specific compensation schemes to continue to operate in those sectors or whether they should come under the full provisions of the Consumer Rights Act, as she has ably advocated. There is no concluding position; there is a conversation with the industry and other interested parties to gather evidence. She is urging further impact assessments on us, so I hope that she will not criticise us for seeking evidence before applying provisions to those sectors.

**Stella Creasy:** Will the Minister give way?

**Nick Boles:** I am not going to give way again on that point; we have discussed it pretty fully.

**Stella Creasy:** There was a promise. Will the Minister give way?

**Nick Boles:** I will give way one last time.

**Stella Creasy rose—**

**The Chair:** Order. The shadow Minister needs to keep her comments brief for an intervention.

**Stella Creasy:** I want to push the Minister. Promises were made to the House during the passage of that legislation, which is why the second statutory instrument is so important. We were assured that passengers would get equivalent protection and that that would include the ability for the Competition and Markets Authority to conduct investigations. If he is excluding particular groups, then the provisions of this SI will also be excluded. That is a serious change to the assurances that we were given during the passage of the legislation. Can the Minister confirm that that is the case?

**Nick Boles:** I am afraid that the Minister cannot confirm that any of the things the hon. Lady says are the case, because we have not decided anything specific on this issue. We have decided not to apply the provisions to those sectors at the moment, while we continue

conversations with the industries and other interested parties, which includes the hon. Lady and anyone else. I would point out to her that it is possible to have equivalent levels of treatment without those levels of treatment being provided and arranged in entirely the same way. Although I agree that equivalence is always something to seek, I also believe that it is right to talk to industries that already operate arrangements, to understand whether there is a case for different treatment.

I have done my best to answer the questions raised by the hon. Lady. If she is unhappy with any of my answers, I am happy to go into more detail in writing.

**Stella Creasy rose—**

**Nick Boles:** I will give the hon. Lady one last opportunity. She seems keen to have a last crack at it.

**Stella Creasy:** I am just curious; the Minister raises pertinent points about consulting with industries and ensuring that compensation and consumer rights fit well together, but can he explain why that did not happen during the passage of the Consumer Rights Act? From what he is saying, that was not the case. When we looked at the issue in Committee and asked about passenger rights, we were assured that those issues had been considered; he is now saying that that is not the case. Can he account for that variance in the stories being told to the House?

**Nick Boles:** The hon. Lady is seeking to suggest that I have changed the Government's policy. I would point out a couple of facts to her. First, this Government are not the previous Government—there was an election. Secondly, I was not the Minister then. Thirdly, I have made no statement that we are changing policy on this issue, but have simply said that we are not yet applying the particular, technical provisions of the regulations to the specified sectors while we conduct further conversations with the industry. If there is a change of policy relative to that discussed in the Public Bill Committee under the previous Government, we will bring that policy change to the House, and I have no doubt that she will subject it to her normal, inquisitorial treatment. However, we are not there yet, so I urge her to wait a little longer while we talk to the industry.

**Marie Rimmer (St Helens South and Whiston) (Lab):** Forgive me if I am going out of bounds a bit, Mr Hamilton, but 75% of rail users are not aware of, or know very little about, the arrangements for compensation or their rights to it now, so how will the Minister take that into consideration? People who do not know their rights do not have rights. How often are the arrangements afforded to the individuals affected? If rights in this area are not brought into the Consumer Rights Act through this statutory instrument, how will people have those rights in future?

**Nick Boles:** The hon. Lady makes a very good point. It is a general problem with consumer protection that oftentimes the people who most need that protection are not aware of the provisions for it. That is one of the key motivations for this legislation: to make consumer rights clearer and more consistent. However, as I said

*[Nick Boles]*

earlier, that does not necessarily mean that there cannot be more than one arrangement to provide such protection. That is why we will continue to talk to the industry. There are lots of bodies representing customers and passengers in the affected sectors, all of which will be able to state their case, make their arguments and provide evidence. No final policy decisions have been made; it is simply that at the moment—today, in this Committee—we are not applying the provisions in the Consumer Rights Act to the specified sectors, while we continue the conversation with them.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Consumer Rights Act 2015 (Consequential Amendments) Order 2015.

**DRAFT ENTERPRISE ACT 2002 (PART 8  
DOMESTIC INFRINGEMENTS) ORDER 2015**

*Resolved,*

That the Committee has considered the draft Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2015. —(*Nick Boles.*)

4.58 pm

*Committee rose.*