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OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT MERCHANT SHIPPING (ALCOHOL) (PRESCRIBED LIMITS AMENDMENT) REGULATIONS 2015

Tuesday 15 September 2015

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The Committee consisted of the following Members:

Chair: NADINE DORRIES

† Afriyie, Adam (*Windsor*) (Con)
 † Andrew, Stuart (*Pudsey*) (Con)
 † Davies, Byron (*Gower*) (Con)
 † Doyle-Price, Jackie (*Thurrock*) (Con)
 † Fabricant, Michael (*Lichfield*) (Con)
 † Ffello, Robert (*Stoke-on-Trent South*) (Lab)
 † Goodwill, Mr Robert (*Parliamentary Under-Secretary of State for Transport*)
 † Jones, Graham (*Hyndburn*) (Lab)
 † Kennedy, Seema (*South Ribble*) (Con)
 † McCartney, Karl (*Lincoln*) (Con)

McDonald, Stewart Malcolm (*Glasgow South*) (SNP)
 † Madders, Justin (*Ellesmere Port and Neston*) (Lab)
 † Mann, Scott (*North Cornwall*) (Con)
 † Marsden, Mr Gordon (*Blackpool South*) (Lab)
 † Maskell, Rachael (*York Central*) (Lab/Co-op)
 † Matheson, Christian (*City of Chester*) (Lab)
 Paisley, Ian (*North Antrim*) (DUP)
 † Paterson, Mr Owen (*North Shropshire*) (Con)

Clementine Brown, *Committee Clerk*

† **attended the Committee**

Sixth Delegated Legislation Committee

Tuesday 15 September 2015

[NADINE DORRIES *in the Chair*]

Draft Merchant Shipping (Alcohol) (Prescribed Limits Amendment) Regulations 2015

8.55 am

The Parliamentary Under-Secretary of State for Transport (Mr Robert Goodwill): Good morning, Ms Dorries. It is a great pleasure to serve under your chairmanship this morning.

As we celebrated so successfully during London international shipping week last week, each year some 500 million tonnes of freight are handled by ports across the United Kingdom. This includes 40% of our food and a quarter of our energy supplies. On top of that valuable cargo, there are 28 million passengers using our ports annually. We entrust the safety of these people and goods to the professional mariners who navigate through our waters, some of which are the busiest in the world. It is vital that all members of crew, whatever their function, are capable of undertaking their duties effectively, and, in particular, that they are not incapacitated through the consumption of alcohol.

To address the risks posed by excess alcohol consumption, the Railways and Transport Safety Act 2003 made it a criminal offence for professional mariners sailing in UK waters or on board a UK-flagged vessel anywhere in the world to exceed specified limits. These were set at the same level as for motorists in England and Wales: in the case of breath, 35 micrograms of alcohol in 100 ml; in the case of blood, 80 mg of alcohol in 100 ml; and, in the case of urine, 107 mg of alcohol in 100 ml. When mariners are found to have exceeded these limits, they face prosecution. For example, in 2012, a cargo vessel collided with a ferry approaching Belfast harbour. Both ships were badly damaged, although, fortunately, there were no injuries or pollution, and both were able to proceed into port under their own power.

When the police breathalysed the master of the cargo vessel some hours after the accident, he was found to be still three and a half times over the alcohol limit. He was arrested, prosecuted and ultimately sentenced to a year's imprisonment. That is just one example of how alcohol consumption can severely impair a seafarer's ability to safely navigate a ship.

Michael Fabricant (Lichfield) (Con): Next month, I shall be navigating the Oxford canal on a narrow boat. My hon. Friend will know, because we have discussed it in the past, that much money is made from tourists and people coming to this country and hiring narrow boats. Will this legislation affect people hiring narrow boats who perhaps enjoy a tiny tincture as they travel at four knots down one of our beautiful canals?

Mr Goodwill: I thank my hon. Friend for his question. The legislation will apply to professional mariners. If one were to charter a vessel with a crew so that one could enjoy a party on board, the crew would be expected to maintain their sobriety under the terms of the legislation. However, the regulations would not apply to recreational seafarers. Of course, we have laws in this country for people behaving irresponsibly. If I were up a ladder painting my house and I was drunk and dropped something on someone's head and killed them, I would be held responsible. Previous Governments have looked at how the regulations may apply to recreational mariners, and this measure does not apply to them.

I mentioned one example of how alcohol consumption can severely impair a seafarer's ability to safely navigate a ship.

Robert Ffello (Stoke-on-Trent South) (Lab): Given that the regulations deal with lowering the limit—the example that the Minister has just cited was of somebody three and a half times over the existing limit—how does he see the lowering of the limit affecting such cases where the seafarer clearly did not have any regard at all for the existing limits?

Mr Goodwill: Obviously, as all Members will know, when one sets a limit for alcohol in this country, whether it is for an airline pilot, a mariner or the driver of a car, truck or bus, there are those who will disregard the law and break the limits. Indeed, one of the worst cases of drink-driving that we have seen, as in the port of Belfast, was the master of a vessel who was three and a half times over the existing limit, which would probably be five times over the new limit. Of course, such irresponsible behaviour cannot be tolerated. In the case that I mentioned, the man, who was not a UK national—and neither was the ship on the UK shipping register—was imprisoned and felt the full force of the law. Indeed, it was very fortunate that people were not killed and that a major pollution incident did not ensue from that particular incident.

Robert Ffello: I am grateful to the Minister for being generous with his time. Are there facts, figures, data on mariners who have been over the new limit but below the existing limit having accidents or causing problems? Is that the reason behind the introduction of a lower limit?

Mr Goodwill: As I will explain, we have a new international agreement over global limits; as I develop my points, that will become apparent. This is about having the same limit all over the world so that mariners can be in no doubt about what the limit is. Indeed, I will not go too much into drink-driving, but there were a lot of arguments about driving between Scotland and England when the Scots changed their regulations. Therefore, no one can be in any doubt if they are on board a vessel about what the limit is. Many shipping companies will go over and above this and impose zero tolerance on their crew members, particularly on short sea crossings, where people can have a normal social life on land and engage in their work on the vessel.

In the example that I gave, that captain endangered not only himself and his own vessel but other ships in the vicinity and the people on board them, not to mention the local marine environment. That is why we

take the matter of breaches of our alcohol limits so seriously. While there is much that we can do as a nation to ensure the safety of shipping, there is no doubt that even more can be achieved by agreeing improved standards to be applied globally—going on to the point that I was making—through the International Maritime Organisation. Particularly important is the IMO's convention on standards of training, certification and watchkeeping. The purpose of this convention is to establish internationally the basic standards of competence and behaviour to which seafarers must adhere. At the Manila conference in 2010, a number of changes to the convention were agreed to address risks to safety that had been identified. This included, for the first time, an internationally agreed alcohol limit for professional mariners. In the case of breath, 25 micrograms of alcohol in 100 millilitres and, in the case of blood, 50 milligrams of alcohol in 100 millilitres. I cast my mind back to the existing regulation, which was 35 and 80; that reduces to 25 and 50.

These tough new limits on alcohol consumption reflect a global commitment to tackling the problem of seafarers who cannot fulfil their duties through drink and the threat that that poses to safe navigation. It is envisaged that they will send a strong message to ship operators and seafarers worldwide that excessive consumption of alcohol at sea will not be tolerated. It is right that, as a leading maritime nation, we put our weight behind that effort. The regulations that we are considering today would bring existing UK legislation into line with the limits agreed at the IMO, with the addition of a limit in the case of urine of 67 milligrams of alcohol in 100 millilitres, which is the comparable level.

In addition, having international common alcohol limits helps mariners to understand the standard of behaviour expected of them no matter where they are in the world. Given that national borders are not visible at sea, enforcement of those limits is simplified when seafarers are found to have exceeded them. The effectiveness of these regulations will be kept under review. The Secretary of State will be required to report on the findings of periodic reviews of the effect of the new alcohol limits. This will ensure that we continue to focus on the overriding objective of maintaining safe navigation.

The maritime industry is vital to the UK's prosperity and many human lives depend on its safe and efficient operation. By tightening the alcohol limits that we apply to our professional mariners, we both reduce the risk of accidents in our waters and stand shoulder to shoulder with other maritime nations seeking to do the same. I commend the order to the Committee.

9.4 am

Christian Matheson (City of Chester) (Lab): When my hon. Friend the Member for Ellesmere Port and Neston (Justin Madders) texted me to let me know that he and I had been selected to serve on this Committee and I replied with enthusiasm, I suspect that he thought either that I was being facetious or that I had seen an opportunity for cavilling with hon. Members on the Government Benches. I have to say, this is a matter of grave concern to me for reasons that I will explain.

I have no problems with lowering the limits, which seem entirely sensible. However, the regulations are predicated on the authority of the International Maritime

Organisation and my recent experience is that it is not fit for purpose. Therefore, any regulations based on the IMO's management need to be looked at carefully.

I am concerned about the inability of other countries to enforce the regulations and I am not quite clear about the testing regime at sea. My experience of this matter, limited as it is, comes from a tragic but continuing constituency case started by my predecessor as MP for Chester, the Conservative, Stephen Mosley, to whom I pay tribute for his work. The case continues, causing anguish for parents of one of my constituents who has been missing at sea since March 2011.

Rebecca Coriam was working on a Disney cruise liner, which was sailing out of Los Angeles to Mexico. It was registered in the Bahamas, but it was managed by a British-owned company. I would like to think that the International Maritime Organisation had a role to play in co-ordinating the various different authorities, including those in the UK, to protect seafarers and their passengers. Rebecca was working as a nursery assistant on a Disney cruise liner. She had worked on a couple of tours previously for Disney, so she was well suited to and versed in her duties.

The Chair: Order. Mr Matheson, the regulations are about reducing alcohol limits. Therefore, that is the scope of what we are discussing this morning. Do you intend to move on specifically to the reduction of alcohol limits?

Christian Matheson: Indeed, Ms Dorries, I will do that. If I may, I will also express my concern about the inability to monitor those limits at sea under the auspices of the International Maritime Organisation.

When Rebecca went missing, there was video footage of the last moments that she was seen. In the investigation undertaken briefly by the Bahamas police—because it was a Bahamas-registered ship—the authorities suggested that Rebecca had been drinking. I have to say that there was no evidence that that was the case and I am not clear how the regulations will protect any British citizens from being accused of drinking as opposed to actually drinking. The allegation of being drunk at sea, which was used to obfuscate the case that Rebecca's family faces—[*Interruption.*]

The Chair: Order. I have total sympathy with your constituent and the case you are trying to highlight, Mr Matheson, but the regulations are about the alcohol limits related to mariners responsible for ships, not passengers or people who are enjoying cruising or whatever you are trying to highlight. Are your comments going to be specific to this piece of legislation?

Christian Matheson: They are, Ms Dorries, because Rebecca was an employee on the ship and the statutory instrument makes it clear that anyone who is an employee serving on the ship with responsibility for the safety of passengers—Rebecca had particular responsibility for the safety of children—must be tested under the regulations. From my experience of the International Maritime Organisation and indeed the Bahamas Government, which was responsible for undertaking the testing, I do not believe that the testing regime in the regulations is

[*Christian Matheson*]

fit for purpose. Under the terms of the regulations, Rebecca was absolutely responsible for the safety of passengers.

The current testing regime, managed by the Bahamas authorities in that case, but under the auspices of the International Maritime Organisation, is unfit for purpose. I cannot see how testing will take place on the high seas and in cases such as Rebecca's in which someone goes missing overboard and a multiplicity of different authorities are involved—a British-owned company and a Bahamas-owned ship sailing out of the United States—it is not clear how British citizens' or seafarers' wellbeing, or that of the passengers who are the responsibility of the seafarers, will be looked after.

The Minister might wish to know that the Coriams and I have now hit a brick wall. No one seems to want or to be able to take this case forward, and there does not seem to be any suggestion of how the International Maritime Organisation may wish to take responsibility for this cross-country problem. The authorities in the Bahamas have refused to correspond with me. When I have been to the International Maritime Organisation, it has backed the Bahamas. Ms Dorries, I wonder whether I might take this opportunity to seek a meeting with the Minister to discuss this case, particularly in relation to the allegation that my late constituent had been drinking, when there is no evidence of that. Of course, if the regulations had been in force, there might have been more possibility of that testing happening. If I may take this opportunity, Ms Dorries, I am very keen to seek such a meeting. I am grateful to you for giving me the opportunity to raise my concerns about the operation of this statutory instrument.

9.10 am

Mr Gordon Marsden (Blackpool South) (Lab): May I say that it is a great pleasure to serve under your chairmanship, Ms Dorries? May I also, without straying beyond the terms of the motion, commend my hon. Friend the Member for City of Chester for his concern about the tragic case of his constituent? What he has said raises larger issues about not just the relationship of the IMO to the UK but ensign registering. I am sure that he will wish to pursue that angle with the Minister and using the other parliamentary mechanisms available to him.

However, we are concerned today, as you have highlighted, Ms Dorries, with the specifics of these regulations. We welcome measures that are derived internationally—although they need to have the fullest input from the UK—and that may help to improve safety at sea, and therefore the decision today to implement them through this statutory instrument.

The Minister talked at the beginning about British shipping week. I join him in commending the great tribute that the week was, in particular, to all those who bring freight and passengers to this country and take them all round the world. It was a week that my late father, who served in the merchant navy during world war two, would have been proud of. But that makes it all the more important that people who serve on merchant ships observe the proper codes that have been implemented.

We have seen in a range of incidents—some particularly tragic—the damaging role that alcohol can play in maritime accidents. Collisions in Belfast, already alluded to, and in Cornwall have sharpened the need to focus attention on alcohol and ensure that we uphold the strongest standards possible when it comes to safety at sea. Again, referring to what my hon. Friend the Member for City of Chester said, we need to ensure that the mechanisms for monitoring that are as strong as possible.

Research by the US Coast Guard has found that a blood alcohol concentration of 0.1 or higher increases the odds of being involved in a fatal accident at sea by 10 times. Clearly, therefore, it makes sense, in maritime matters, that the standards should be applicable as commonly as possible worldwide on the open seas. A drunken navigator can be as lethal as a drunken driver.

The measures in themselves seem sensible and proportionate, but I would appreciate the Minister's response on just a few points about how the appropriate regulations were arrived at by due process and how Ministers intend to ensure that they are implemented effectively in the future. In that respect, I was pleased to see in the explanatory memorandum that there was strong consultation with both shipping companies and trade unions via the Merchant Navy Training Board, and that they were asked for their views on the appropriateness of the regulations. However, can the Minister give us an assurance that as the regulations bed down, that close monitoring and close consultation will continue? How will information about the new regulations be distributed to seafarers to ensure that no one is found in contravention of the rules without being made aware of the new limits?

I have sat on many of these Committees—I am sure you have sat on many of them too, Mrs Dorries, and indeed chaired some of them—and Francis Drake's famous phrase has often come to mind: that

“it is not the beginning, but the continuing of the same unto the end, until it be thoroughly finished”—

this is a naval reference, but I hope it is appropriate—

“which yieldeth the true glory”.

The important issue is not simply passing the regulations, but implementing and monitoring them.

The Government's draft regulations say the policy will be reviewed after five years at the latest. Does the Minister think that is sufficient? If events require the policy to be revisited more frequently, will he consider that? What metrics will the Government use to assess how well the regulations have been adopted and the effect they have had on safety levels?

The regulations state that the review will consider whether the objectives

“could be achieved with a system which imposes less regulation.”

I assume that is standard language for a Government instrument—I hesitate to use the word “boilerplate”—but will the Minister assure me that the regulation of alcohol levels in a seafarer's blood will not, under any circumstances, be seen as a case of burdensome red tape and will always be treated as the sensible and necessary oversight it is?

The hon. Member for Lichfield alluded to the situation on inland waters. I noted with interest the terminology in the explanatory memorandum, which states that the limits, as the Minister said,

“apply to professional mariners only, as the provisions relating to non-professional mariners in section 80 have not been commenced.” For my enlightenment, and perhaps for that of other members of the Committee, will the Minister enlarge on that reference to section 80 not having been commenced?

I think we all accept the need to have the strictest possible regulation of people who are in charge of any aspect of a ship. The points I have raised are ones on which I genuinely seek reassurance, as I am sure my hon. Friends do. Otherwise, however, we are happy to support these sensible and safety-conscious proposals, with the proviso that Ministers keep a strong focus on their comprehensive implementation in the coming years.

9.17 pm

Mr Goodwill: I will first make a few comments regarding the issue raised by the hon. Member for City of Chester. I extend my condolences to his constituent's family; the situation must have been very traumatic and upsetting. I can tell him that work is being undertaken at the IMO to develop guidelines on dealing with crimes and disappearances at sea. I can certainly write to him about that in a little more detail. Of course, the ship in question would not be subject to these regulations, as it is not a UK ship and was not in UK waters. Indeed, enforcing and testing are the responsibility of the flag state—in this case, the Bahamas. If these things had happened on, for example, the new Britannia cruise liner, which is a UK-flagged vessel, the regulations would have applied.

As with the current limits, those before us will apply to professional mariners on duty—and to those off duty, if their duties would require them to take action to protect the safety of passengers in an emergency—on all ships in UK waters and on all UK-flagged ships anywhere in the world. Obviously, that would include the master of the ship and watchkeepers, but it might also include crew members on UK-flagged ships who have responsibility, for example, at lifeboat muster stations or for looking after children in an emergency.

Michael Fabricant: My hon. Friend said that the regulations would apply only to UK ships in UK waters. Does that mean, therefore, that if they are on the high seas, in international waters, the regulations will not apply?

Mr Goodwill: It is up to other nations around the world to do what we are doing and implement such measures in their national regulations, so that those measures would then apply to vessels flagged with that nation. That is why we are encouraging every member of the IMO do that.

Michael Fabricant: But is my hon. Friend saying that the regulations would not apply to a UK-registered ship that was not in UK waters?

Mr Goodwill: For the avoidance of doubt, the regulations will apply to UK ships anywhere in the world.

We are keen, as the hon. Member for Blackpool South said, to ensure that knowledge of these regulations is spread widely. Indeed, the Maritime and Coastguard Agency has issued notice to mariners about all the amendments made at the Manila conference, not just the one before the Committee today.

It is right that we should monitor compliance with the changes to the regulations. In the event of an incident, one of the first courses of action would be to breathalyse the crew and the master of the ship if there is any suggestion that alcohol may have been involved. Companies themselves will of course notify their staff of the changes. Indeed, many companies already have an alcohol and drug monitoring policy, and in many cases have zero tolerance to alcohol.

Rachael Maskell (York Central) (Lab/Co-op): Does the master of a ship have any additional responsibilities for ensuring that crew comply with these regulations?

Mr Goodwill: Obviously, the master of a ship is the primary person on board a vessel who will be able to pick up whether members of the crew have an alcohol problem. If it is company policy not to have alcohol on the ship, disciplinary action can be taken through a crew member's terms of employment if alcohol is discovered.

Rachael Maskell: How will the master of a ship be able to fulfil those responsibilities?

Mr Goodwill: The master of a ship is charged with complying with all regulations that apply to vessels at sea. If it is a UK-flagged ship, he will be responsible for ensuring compliance with the regulations. If other members of the crew are concerned about the captain, they also have a responsibility to draw that to the attention of the ship's owners or, possibly, the first mate or chief engineer.

The hon. Member for Blackpool South talked about the review period and asked whether we will consider taking unilateral action earlier should it be necessary. Of course, all matters are kept under review, but I consider it important that we act internationally wherever possible, to avoid confusion. The measure under consideration is about setting an international level.

I recently visited the marine accident investigation branch, which provides comprehensive reports. I read a number of those reports in preparation for this Committee, including on the incident in Belfast that I described. The marine accident investigation branch is keen to ensure that, if alcohol is involved in an accident, it will be in the report and lessons will be learned. I do not consider the amendment to be in the category of burdensome red tape. Indeed, we are merely changing the levels that already apply.

The hon. Member for Blackpool South talked about commencement. The section of the Railways and Transport Safety Act 2003 that applies to limits for non-professional mariners has never been commenced. Public consultation on the matter in the 2000s highlighted specific problems with applying the section to leisure crafts where the duties of those on board are ill-defined. Much can be done by means other than national legislation. For example, the Royal Yachting Association, supported by my Department, has promoted among pleasure boaters the message that alcohol and water do not mix. At local level, harbour authorities can manage any problems identified by working with user groups and hire companies, for example to agree codes of conduct. If necessary, they may utilise any powers they have to make byelaws or general directions.

Mr Marsden: I seek a little more clarification on that point. I absolutely accept the Minister's points. I do not want to stray beyond the narrow interpretation of the regulations into uncharted waters, but he will be aware that sensitivities in relation to such issues, including among Members, are inevitably highlighted by individual incidents and accidents, a couple of which have been mentioned in this debate. We can see the river outside, and we know that tragic incidents occur on inland waters, too. Perhaps the Government will think about how they might be even more proactive in that process without necessarily resorting to major new secondary or primary legislation.

Mr Goodwill: I sympathise with the hon. Gentleman's intention to ensure that we do everything we can to protect life. One problem we face is in connection with the recent Court of Appeal ruling on what constitutes a vessel in the case of an accident involving a jet ski. The Railways and Transport Safety Act defines a ship as a "vessel used in navigation". The Court of Appeal held that that means that, to be a ship, a vessel must be used to make ordered progression from one place to another. A vessel or buoyant craft simply used for having fun

without the object of going anywhere does not fall within the meaning of "ship" in the Act. The Court of Appeal has therefore decided that a jet ski is not a ship within the legislation. We could be getting into difficult territory, because making that change would not simply be about amending legislation. If we needed to take action, we would need legislation that addressed some of the issues raised by the Court of Appeal.

We have had a useful discussion today that demonstrates the high regard that hon. Members have for the maritime industry and the vital part it plays in sustaining our nation's wellbeing. In particular, it is evident that we share a strong commitment to upholding safety at sea. I welcome the support shown today for the regulations as part of the continuing effort to address the risk posed by excessive alcohol consumption by seafarers.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Merchant Shipping (Alcohol) (Prescribed Limits Amendment) Regulations 2015.

9.26 am

Committee rose.