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To: All Committees

20 March 2020

Dear Member

Coronavirus Bill

Yesterday, the Government published its Coronavirus Bill, whose purpose is to enable the Government to respond to emergency situations and manage the effects of the Covid-19 pandemic. It contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers to mitigate the impacts of a reduced workforce, increased pressure on health services and death management processes.

The Chamber had provided the attached commentary on the Bill and would be grateful to receive any comments from members on whether any of the proposed measures should be modified or dropped.

The most significant provision of the bill for the maritime sector is the power to suspend relevant port operations and the commentary focuses on this proposal in particular. However, there are other provisions that are likely to affect members and of which they should be aware, as described in the commentary.

Any comments or further questions relating to the Bill should be passed to the undersigned.

Yours sincerely

A handwritten signature in black ink, appearing to read "T Springett".

Tim Springett
Policy Director

Coronavirus Bill

Commentary on key provisions for UK maritime sector

Background

The purpose of the Coronavirus Bill is to enable the Government to respond to emergency situations and manage the effects of the Covid-19 pandemic. It contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers to mitigate the impacts of a reduced workforce, increased pressure on health services and death management processes. The legislation will be time-limited for two years and many of the measures can be commenced from area to area and time to time.

The Bill covers England and Wales, Scotland and Northern Ireland. It may be extended, in whole or in part, to the Isle of Man, by order in the Privy Council.

The power to suspend relevant port operations

The power is provided for in Clause 48 of the Bill, with the detail set out in Schedule 19. It provides a power under which the Secretary of State may order the suspension of any port operation, if they consider there is a real and significant risk that, as a direct or indirect result of the incidence or transmission of coronavirus, there are, or will be insufficient Border Force officers to maintain adequate border security.

The shortage of Border Force personnel would have to present a material risk to the security of the border, e.g.;

- that there might be a failure to identify those who present a threat to national security, or
- that serious cross-border crime may go undetected, or
- that an abuse of the immigration system may occur,
- a material risk to the health and safety of passengers (The Chamber has recognised the lack of reference to ship's crew)

The power may only be used provided that the Secretary of State has taken such other measures as are reasonably practicable to mitigate that risk. Mitigations include, but are not limited to, drawing on a range of contingency staff that remain on stand-by as per existing protocols. The power to suspend may be delegated to senior Border Force officials.

Any suspension may be for an initial period of no more than 6 hours. It may be extended for one further period not exceeding 6 hours and then for subsequent periods not exceeding 12 hours each – but only by order of the Secretary of State.

Port operators (i.e. persons concerned in the management of the port – not operators of ships making use of the port, unless they are concerned in the management of the port) will be consulted by Border Force before such power is exercised to assess if other operational solutions can be found in collaboration. There are penalties including imprisonment for failure to comply.

The Secretary of State for Transport considers that the power will be used only in extreme circumstances (and hopefully not at all). Should they be used, the potential for disruption to ship operations is considerable.

Nevertheless, it is concerning that the power would be available in the event of a risk to the health and safety of passengers, but not to port workers or, in the case of a seaport, members of a ship's crew or shoreside staff of a shipping company. The Chamber proposes to raise this with the Government.

Other provisions of particular interest

The following provisions of the Bill may also have a direct effect on members:

Emergency Volunteering Leave (Clauses 7-8 and Schedule 6)

A new form of statutory unpaid leave is being introduced, alongside measures for the emergency registration of health professionals: nurses, midwives, nursing associates, paramedics, biomedical scientists, clinical scientists, operating department practitioners and any other relevant professions and social workers. Employers of persons who have previously worked in any of these capacities and seek emergency registration will be required to permit them to take periods of emergency volunteering leave of between two and four consecutive weeks in any 16-week period.

The Bill also contains powers to compensate emergency volunteers in the health or social care sectors for some loss of earnings and to meet their travel and subsistence costs.

Power to require/direct temporary closure of an educational institution or registered childcare provider (Clause 35 and Schedule 15)

Any school, academy, college, university or other education provider or childcare provider may be ordered totally or partially to close by the Secretary of State (or the Scottish Ministers in Scotland). Before doing so they must be satisfied that giving the direction is a necessary and proportionate action in response to the incidence or transmission of coronavirus, having regard to any advice from the appropriate Government Chief Medical Officer or one of their Deputies.

Statutory Sick Pay (Clauses 39-42)

Statutory Sick Pay (SSP) is not payable for the first three days of sickness. These are commonly referred to as "waiting days". This may discourage people from taking sick days in order to prevent the spread of coronavirus. The Bill therefore allows for the temporary suspension of waiting days for those employees who are absent from work due to coronavirus, should this be necessary. There are also powers to make Regulations enabling employers to recover SSP payments to absent employees from the Government.

Power to prohibit or restrict events and gatherings, and to close premises, if the public health situation deems it necessary. (Clause 50 and Schedule 21)

This clause gives the Secretary of State a power to issue a direction prohibiting, or imposing requirements or restrictions in relation to events or gatherings, for the purposes of preventing, protecting against, delaying or otherwise controlling the incidence or transmission of coronavirus, or facilitating the most appropriate deployment of medical or emergency personnel and resources. Such a direction may be issued in relation to specified premises or premises of a specified description. "Premises" includes vessels, movable structures and offshore installations.

National Insurance Contributions (Clauses 68-70)

The Bill will allow Government to amend National Insurance Contribution (NIC) rates without the usual report from the Government Actuary Department accompany secondary legislation implementing rate changes. The Bill also provides for the secondary legislation to be subject to the negative procedure in Parliament rather than the affirmative procedure. This is to enable speedy alleviations of contributions, to assist employers and employees facing financial difficulty.

UK Chamber of Shipping
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