PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT FISHERIES (AMENDMENT) (EU EXIT) REGULATIONS 2019

Tuesday 29 January 2019

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 2 February 2019

The Committee consisted of the following Members:

Chair: Mr Laurence Robertson

† Cartlidge, James *(South Suffolk)* (Con)
† Davies, Glyn *(Montgomeryshire)* (Con)
† Debbonaire, Thangam *(Bristol West)* (Lab)
† Eustice, George *(Minister for Agriculture, Fisheries and Food)*
† Jones, Mr David *(Clwyd West)* (Con)
† Jones, Mr Kevan *(North Durham)* (Lab)
† Jones, Mr Marcus *(Nuneaton)* (Con)
† Latham, Mrs Pauline *(Mid Derbyshire)* (Con)
† Lord, Mr Jonathan *(Woking)* (Con)
† O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Pollard, Luke *(Plymouth, Sutton and Devonport)* (Lab/Co-op)
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
† Seely, Mr Bob *(Isle of Wight)* (Con)
Smith, Owen *(Pontypridd)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Stewart, Iain *(Milton Keynes South)* (Con)
† Whitfield, Martin *(East Lothian)* (Lab)

Ben Street, *Committee Clerk*

† attended the Committee

Seventh Delegated Legislation Committee

Tuesday 29 January 2019

[Mr Laurence Robertson *in the Chair*]

Draft Fisheries (Amendment) (EU Exit) Regulations 2019

2.30 pm

The Minister for Agriculture, Fisheries and Food (George Eustice): I beg to move,

That the Committee has considered the draft Fisheries (Amendment) (EU Exit) Regulations 2019.

I am pleased to open this debate on an important set of regulations, and I am grateful to hon. Members for being here when, obviously, another debate is taking place in the main Chamber. The regulations give effect to, and enable enforcement of, certain common fisheries policy and marine management measures, as part of the legislation needed for exiting the European Union. The regulations are one piece of a jigsaw that will ensure we have a functioning legislative framework when we leave the European Union. This statutory instrument is one of two that work together to amend fisheries legislation to make it operable for EU exit. A separate statutory instrument—the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019—has been laid in draft and will be debated at a later date. It amends the vast majority of directly applicable EU regulations, for example those concerning illegal, unreported and unregulated fisheries.

The SI under consideration today makes consequential amendments to various pieces of domestic legislation that are used to enforce and enable the implementation of those directly applicable EU regulations. The primary legislation amended is the Sea Fish (Conservation) Act 1967, the Fisheries Act 1981 and the Marine and Coastal Access Act 2009. The amendments predominantly relate to enforcement powers. The secondary legislation amended is the Merchant Shipping Regulations 1993, the Sea Fisheries (Northern Ireland) Order 2002, the Tope (Prohibition of Fishing) Order 2008, the Eels (England and Wales) Regulations 2009, the Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009, the Fish Labelling Regulations 2013, the Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014, the Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015, the Grants for Fishing and Aquaculture Industries Regulations 2015, and the Sea Fishing (Enforcement) Regulations 2018.

These lucky 13 pieces of legislation are simple and technical, to ensure that they operate correctly after EU exit. There are no changes to policy contained in the instrument. The instrument was considered by the Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments, and no concerns with the regulations were raised by either Committee. The former asked that we provide further explanation about the nature of the amendments. That has now been published in annex B of the revised explanatory memorandum.

The instrument is affirmative, as it amends existing powers to legislate, in particular in section 30(2) of the Fisheries Act 1981, and in the Sea Fisheries (Northern Ireland) Order 2002. The statutory instrument has therefore not been examined by the withdrawal Act sifting Committees.

Martin Whitfield (East Lothian) (Lab): I rise to raise two issues with regard to section 30 of the Fisheries Act 1981, because of the effect it has on England and Wales, and on Scotland. Regulation 3(4)(b) under part 2, "Amendment of primary legislation", mentions

"enforceable Community restrictions, and enforceable EU obligations".

My understanding is that the Fisheries Act also refers to "enforceable EU restrictions", so I wonder whether the intention is to leave in "enforceable EU restrictions" or to remove that part and replace it with something else. I rise as a new member of the Committee, unsure about how we go about amending a statutory instrument once it passes through here.

The same question arises with regard to regulation 3(4)(c), which states, in relation to section 30(2) of the Act,

"for 'enforceable Community restriction or other' substitute 'retained EU restriction or retained EU'".

It seems to be silent with regard to the enforceable EU restriction contained in the Act.

George Eustice: If there are any different answers, I will consider them before coming to my closing remarks, but I think the answer is that in all these cases our intention is to bring across retained EU law, the enforcement of which would then be done domestically. I suggest to the hon. Gentleman that we do not want to retain anything in our domestic statute that could in future be enforceable by the EU itself. The purpose of the European Union (Withdrawal) Act 2018, and indeed of these statutory instruments, is to ensure that we have an operable law book on day one, without leaving open the idea that the European Union could enforce anything under those.

Martin Whitfield: I am grateful for that explanation. It is therefore my understanding that the reference to EU restrictions would also have to be removed from the 1981 Act.

George Eustice: My view is that they should be retained EU restrictions, but I will have a specific look at that before the end of this debate. Those restrictions would be retained EU restrictions rather than EU restrictions per se.

The amendments made by this statutory instrument fall into four main categories. First, where there are references to "an enforceable EU obligation" or "enforceable EU restrictions", these are amended to "a retained EU obligation" or "retained EU restrictions", to ensure that they remain operable as part of retained EU law. For example, section 30 of the Fisheries Act 1981, which we have just discussed at some length, concerns the enforcement of EU rules relating to sea fishing. Amendments to section 30 change references to enforceable Community or EU obligations and restrictions to retained EU obligations and restrictions, to ensure continued operability of those enforcement provisions on EU exit. I hope that point reinforces what I have just explained to the hon. Member for East Lothian.

Secondly, there are some provisions that will be redundant or inoperable in UK law after EU exit. For example, paragraph 5 of schedule 4 to the merchant shipping regulations refers to an "EC number" in the list of details to be recorded on the register of British fishing vessels. That has been removed. Likewise, a reference to euros has been converted to pound sterling in the fish labelling regulations.

Thirdly, references to "member state or third country" are replaced in future simply with "third country", because in this context existing EU member states will be categorised as third countries after we leave the European Union. For example, in article 3 of the Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009, the definition of a third-country fishing vessel, which was

"a fishing vessel which is not a Community fishing vessel",

has been amended to,

"a fishing vessel which is not a United Kingdom fishing vessel".

Finally, cross-references to EU regulations are amended to bring them into line with technical amendments made to those regulations in the main Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2018. For example, in the fish labelling regulations, the designation of the Secretary of State to draw up a list of commercial designations of species has been deleted, because that is now provided for in Council Regulation (EC) 1379/2013, as amended by the main common fisheries policy SI. This is a consequential amendment arising from the amendments made by that SI.

This SI and the other UK-wide fisheries SIs have been developed and drafted in close co-operation with the devolved Administrations, reflecting the devolution settlements. The amendments made by this instrument mainly extend and apply to the United Kingdom, with some exceptions, so each of the devolved Administrations were heavily involved in developing the approach. A targeted engagement was carried out for the fisheries SIs, involving key stakeholders from the fisheries sector, the food industry and environmental non-governmental organisations. Additionally, a 10-week consultation was conducted through the fisheries White Paper, which described future fisheries policy as well as the legislative approach taken by these statutory instruments. Stakeholders were broadly supportive of the approach.

This legislation is complemented by the Fisheries Bill, which will deliver our promise to take back control of our waters and decide who may fish in them and on what terms. It creates the powers to allow us, over time, to build a sustainable and profitable fishing industry. I commend the regulations to the Committee.

2.39 pm

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Robertson. The Minister says that the purpose of this SI is to preserve and protect the existing EU policy regime, rather than to introduce new policies. He has stood up and told us that there is nothing to worry about—his colleague, the Under-Secretary of State for Environment, Food and Rural Affairs, the hon. Member for Suffolk Coastal (Dr Coffey), did the same yesterday in a similar Delegated Legislation Committee—because all they are doing is transposing EU law into UK law, replacing "Europe" with "UK" and "EU Commissioner" with "Secretary of State", so we have nothing to worry about.

However, as we saw with the Fisheries Bill, at the start the Minister said the objectives were simply being copied over from the CFP, but we know that the date for maximum sustainable yield by 2020 was removed from the Bill and two new objectives were added. Things can change when laws are transposed. Secondary legislation ought to be used for technical, non-partisan, non-controversial changes, but the Government are continuing to push contentious legislation with high policy content through the SI process. I said last night in another Delegated Legislation Committee that we are concerned that we are being asked to wave through statutory instruments at breakneck speed without sufficient scrutiny.

A total of 343 SIs have been laid since June 2018. I did not get a reply to this question last night, so I would like to ask the Minister now. How many of those does he expect to be completed by exit day on 29 March? How many of those does he expect to be Department for Environment, Food and Rural Affairs SIs? The Government expect us to wave through hundreds of these hurried SIs. This particular one combines 13 pieces of legislation, and yesterday's contained 21. That seems a lot of change to debate in such a short amount of time.

What methodology is the Minister's Department using in grouping these 13 pieces of legislation, especially as this is a two-part SI, as he mentioned? There is a deep irony that Brexit was sold to the country as a way of taking back control when at every turn the Government have tried to thwart decent parliamentary scrutiny. We have an SI Committee here with a Government majority, even though they do not enjoy one in the House.

I worry about the Minister, because I know he is a very busy man, with two pieces of primary legislation and an awful lot of SIs, as well as running large chunks of the Department while his Secretary of State goes on manoeuvres. I do hope he has had enough time to look through all these SIs to ensure that there are no drafting defects, because we have had drafting defects in SIs before, which we need to look at.

My hon. Friend the Member for East Lothian rightly raised concerns about the difference between retained EU restrictions and retained EU obligations. In regulations 3(4)(d), 3(5)(d), 4(2)(b), 4(4)(b)(ii) and 4(5)(b), references to "enforceable EU restriction" and "enforceable EU obligation" in the Fisheries Act 1981 and the Marine and Coastal Access Act 2009 are replaced with references to "retained EU restriction" and "retained EU obligation". Although the SI includes a definition of EU restriction, there is no corresponding definition of retained EU obligation. I would be grateful if the Minister could clarify whether, as defined in the European Union (Withdrawal) Act, that applies to specific regulations and not SIs more generally. Will he clarify whether that was an intentional discrepancy or difference, and what the difference is between the retained EU obligation and that retained EU restriction, in how it will be enforced?

As I said to the Minister when we debated the Fisheries Bill in Committee, we do not leave the common fisheries policy every day—we do not leave the EU every day—so we need to ensure that we get it right. Because so much legislation is being amended in one bash, debated at most for the length of a football game, without the chance for amendments, without impact assessments or pre-impact assessments and with limited consultation, I am concerned that there may be unintended consequences.

[Luke Pollard]

I am sure the Minister will recall when the Government had to amend their own red tape challenge a few years ago. The Government's own memo said at the time:

"Defra is introducing this instrument to provide Inshore Fisheries Conservation Officers with powers to enforce a list of EU fisheries technical and conservation measures that were inadvertently revoked as part of the Red Tape Challenge."

We know that such errors can and do happen and that there is a risk they will happen more frequently when SIs are hurried through without substantial stakeholder feedback.

Although a different Minister introduced yesterday's statutory instrument, I spoke about the need for impact assessments, to ensure that the impact of these SIs is adequately understood. The explanatory note for this SI states:

"There is no, or no significant, impact."

However, below that it states that there is to be no impact. There is a difference between no impact and no significant impact. I know that the Minister will not want to hide behind parliamentary protocol to define the difference between the two. Can he tell us whether there is to be an impact, no significant impact or some impact?

The explanatory note states:

"An Impact Assessment has not been prepared,"

because it is expected to have no impact. If no impact assessment was prepared, how does the Minister know that there will be no impact? Can he go into more detail? Was there a pre-impact assessment to inform whether an impact assessment was required? The wording of

"no, or no significant, impact"

is problematic. As we get through as many of these SIs as the Government intend to, will the Minister clarify this point. "No impact" and "no significant impact" are two very different things, and clarification would help stakeholders and parliamentarians to understand whether the Government have done their homework. They have put a broad spectrum between "no" and "no significant" impact.

Yesterday the Minister's colleague told me that this was simply parliamentary drafting and that she herself had wanted to change the wording of the SI. Does today's Minister agree with yesterday's Minister that there is no or no significant impact, and did he too ask for the drafting to be changed? There is a difference and it really matters.

One of the huge unintended consequences of the SIs that we are considering is the potential loss of access to independent scientific expertise currently provided at EU level. We currently have access to EU-wide research and analysis that can help shape our decisions, but in future that will not necessarily be available to us. I want to look, in particular, at the Eels (England and Wales) Regulations 2009, which I am sure we have all familiarised ourselves with in advance of the Committee. Regulation 8(3) of this SI removes regulation 11 from those eels regulations, which states:

"This regulation applies where the Agency determines that a reduction in the fishing effort for eels is required in order to comply with Article 5(4) of Council Regulation (EC) No 1100/2007."

That is about establishing measures for the recovery of European eel stocks.

When those elements are removed, it is important that we consider the potential for overfishing in this area. It also provides me with the opportunity to put the Minister on the spot in relation to recent news stories about coked-up eels in the River Thames becoming hyper-active because of the high levels of cocaine in the river. It could be that the eels are considering a future career in advertising or financial services, but I suspect that there are problems with high levels of cocaine. The Department has not yet commented on that story, so will the Minister say what steps it is taking to ensure that the high levels of cocaine do not affect our eels in future?

Concerns have also been raised about the changes to inshore fisheries and conservation officers. Regulation 14(3)(b) removes references to article 42 of the control regulation from the Sea Fishing (Enforcement) Regulations 2018, which were introduced only last year. I am concerned that regulations introduced only last year, effectively by the same Government pursuing the same policy on Brexit, now requires amendment less than 12 months later. People will not have confidence that the Department drafted complete legislation in the first place if, less than 12 months later, we have to redraft elements that were passed only a year ago, when our exit from the European Union was established Government policy.

The effect of that change is that inshore fisheries and conservation officers will no longer have the power to enforce article 42 of the control regulation, which states

"fishing vessels engaged in fisheries subject to a multi-annual plan shall not tranship their catches on board of any other vessel in a designated port or in places close to the shore unless they have been weighed in accordance with Article 60 of the Control Regulation."

That presents a risk that the rules on weighing catches will be evaded and could result in overfishing. Will the Minister explain why the change has been made and whether the consequences have been mapped out?

Turning to the European maritime and fisheries fund, regulation 13 amends the Grants for Fishing and Aquaculture Industries Regulations 2015 procedures by omitting the EMFF. Following our departure from the EU, EMFF subsidies, which are worth around £30 million a year to coastal communities, will cease to be available to the UK industry. Although many fishing communities' access to waters has often been limited by the CFP, they have benefited from EMFF funding. In our discussions on the Fisheries Bill, the Minister alluded to changes to the EMFF being announced in future. Given that this SI creates restrictions on access to that funding, will the Minister clarify whether the Government are committed to match every penny that goes to coastal communities from a replacement EMFF fund and when the details of that fund will be announced, especially as we are now fewer than 60 days away from leaving the European Union? It will be a requirement for those coastal communities to have access to funding, which is currently uncertain.

I know that the Minister and the Government are under huge pressure to dot all the i's and cross all the t's before we leave the EU, but the number of concerns raised by stakeholders, combined with the manner in which these SIs are often rushed out, suggest that there has not been enough time offered for consultation and pre-lay scrutiny. In yesterday's SI we heard about the wondrous reading room that DEFRA has assembled

for its SIs, which has been offered to stakeholders for prelegislative scrutiny of some SIs. Can he tell us how many stakeholders have taken part in the reading room activities on this SI? How much notice are stakeholders given to access SIs in the reading room, and will he publish details of their concerns? We have also had questions on how stakeholders who are not currently privy to the reading room can gain access.

In yesterday's discussion I raised with the Minister a suggestion from a noble Baroness in the other place about parliamentarians' access to the SI reading room. Before SIs are formally laid in the House, we could have access to that pre-lay scrutiny, as other stakeholders have. It is important that Members of different parties are willing to get these regulations right. Access for parliamentarians, especially those with a particular interest in these regulations, could help improve the legislation.

Before I conclude, I remind the Minister that there is something missing from this SI, which relates to a commitment he gave in the Fisheries Bill to ban electric pulse beam fishing. He promised in Committee that he would share a draft SI to ban the cruel use of electric pulse fishing in UK waters when we leave the common fisheries policy. He will recall that the Opposition tabled amendment 66 to the Fisheries Bill on 13 December 2018. On the Government side, the hon. Member for Waveney (Peter Aldous) tabled amendment 92. Both amendments aim to prohibit electric pulse fishing within British fishery limits, a policy proposal that enjoys cross-party and large stakeholder support, especially in our coastal communities.

Members of different parties made good arguments in support of those amendments. They were supported by the Liberal Democrats and the Scottish National party but, due to assurances made by the Minister in his response, neither I nor the hon. Member for Waveney pushed the amendments to a vote, which would have likely secured a change in the wording of the Bill and a Government defeat. In his response, the Minister proposed that

"the pulse trawling prohibition and the derogation are contained in technical conservation regulation 850/98. Article 31 of that regulation establishes the pulse trawling prohibition, and article 31a establishes the derogation. Under the European Union (Withdrawal) Act 2018, regulation 850/98 will be coming across into UK law."

He then said:

"We anticipate laying a statutory instrument to give effect to that in January".

He gave assurances that

"placing this new clause on the face of the Bill is unnecessary"

and said:

"I am happy to share the draft of the statutory instrument that we intend to introduce in January with my hon. Friend and the shadow Minister before Report".—[*Official Report*, 18 December 2018; Vol. 652, c. 232-233.]

I had hoped to work with the Minister on drafting that important SI. I politely remind him that we have two days left in January for that SI to be shared with me. I have written to him to ask for a meeting to discuss the SI but am yet to receive a response. I ask him to address in his remarks how much of that SI has been drafted already, and whether stakeholders have been consulted. When he lays it, does he intend to put it in the reading room for stakeholders' pre-lay scrutiny, and will he give parliamentarians, especially Members who sat on the Fisheries Bill Committee, advance notice to feed into that debate?

When we considered amendments to the Fisheries Bill, I said that if we did not have a sufficiently robust SI, the Opposition would table an amendment on Report. I know that the Minister takes this area very seriously, and I say to him in all sincerity that we have 48 hours to make good on his commitment. I would be grateful if he not only replied to my letter on this, but addressed the substantive subject of electric pulse beam fishing. There is cross-party agreement that we should not have it in UK waters and that we should not allow access to Dutch trawlers that, in effect, now operate a commercial fishery for electric pulse beam trawling. It causes so much devastation, especially in the North sea.

I am concerned that there is not enough in this SI that has been properly consulted on, and stakeholders have concerns about the speed with which these SIs are being hurried through. I think there is genuine concern about some elements of this SI, and I would be grateful if the Minister addressed those when he makes his concluding remarks.

2.55 pm

George Eustice: The hon. Gentleman's comments went somewhat outside scope towards the end. I will first address those pertinent to this particular order and then touch on some of the points he made at the end, although obviously they are also for discussion at a later date.

The first point to make, which is important, is that it is great that Parliament has—for the first time—the opportunity to debate these issues at all. Let us not forget that, as an EU member, our Parliament scarcely debated these technical issues: they came down through delegated Acts from the European Commission, and there was no parliamentary scrutiny or involvement at all.

Indeed, in the context of the so-called Henry VIII powers, it is important to recognise that probably the largest Henry VIII power used in recent times was the European Communities Act 1972 itself, which used to change our primary legislation willy-nilly. Many of the changes we are making to primary legislation here are simply changing a reference from EU law to retained EU law, when the power itself was initially created by that 1972 Act. Let us recognise that, in bringing forward these statutory instruments, we are re-establishing parliamentary scrutiny to this area for the first time in almost half a century. I welcome that.

The hon. Gentleman asks how many of these statutory instruments the Department for Environment, Food and Rural Affairs has; he mentioned that there were over 300 in total. As he may know, the Department for Environment, Food and Rural Affairs has 98 statutory instruments to get through. He asks when we will get those passed. We will do that by exit day on 29 March. We all recognise—and it has been speculated about—that, if necessary, Parliament may have to sit longer hours to ensure that we get this job done on time. But it is absolutely our plan and intention to lay all those 98 regulations, and to pass them in time for exit day on 29 March.

[George Eustice]

The hon. Gentleman asked about the grouping. There is a large number of these SIs, so it makes sense to group them. The methodology we are applying is simply to do with the similarity of subjects. I will explain this in the context of these SIs: had we laid the second SI that deals with directly applicable EU law in time, I probably would have advised that we group the two together. But in the event, that one was not laid before this one had a debating slot, so I said we should press ahead with this one anyway. The two go reasonably well together, however, and that is why I alluded to it in the first instance. One deals with directly applicable EU law and the other deals with consequential amendments to domestic EU law, particularly around enforcement. In all other areas, where they cover similar subjects but where—for good legal order—it makes sense to have them on separate orders, we are seeking to group those.

The hon. Gentleman also asked about the term "retained EU obligation" and wanted me to explain what that means. That meaning is set out clearly in schedule 8 to the European Union (Withdrawal) Act 2018. On page 92, it defines a "retained EU obligation" as meaning an obligation that, first,

"was created or arose by or under the EU Treaties before exit day"

and, secondly,

"forms part of retained EU law"

as modified from that time. That interpretation was set out in the European Union (Withdrawal) Act 2018, and that amendment made consequential changes to the Interpretation Act 1978. The legal understanding of a "retained EU obligation" is clear and already in statute, and therefore does not need to be addressed in this order.

The hon. Gentleman asks what we mean by "no impact", and how we can possibly know that there is no impact, or no meaningful impact. I simply say this: it is because, right across the board, these statutory instruments are—by definition—about simply continuing, as far as we are able to, the legislative book that we have, so that on day one of leaving the European Union our legal book is exactly the same as it was on day one before we left, save that there will be different institutions and Government Ministers responsible for enforcing those.

The reason why we can confidently say that there will be no impact is that we seek to make no change with the regulations. On whether there will be any meaningful impact in some cases, one could argue that if someone was changing currency from euro to sterling, there might be some familiarisation issues. If one was changing the precise nature of what needs to be recorded on a particular piece of paper, there might be some mild familiarisation issues. We think that those will be negligible, but they are why we include the term "no significant impact".

The hon. Gentleman asked about our scientific expertise. We will be re-joining the International Council for the Exploration of the Sea and will play a full part, as an independent coastal state, to develop science for our fisheries. It is also important to recognise that, although the European Union has a role in interpreting some of the science and making recommendations based on it, the collection of the science is done largely by CEFAS—our own fisheries science agency—through its survey vessels, such as the Endeavour, and through some of the other data that it captures. The collection of the raw data of the science is currently done by CEFAS, which is a world-leading agency. Indeed, it is probably the most important contributor to the EU understanding of fisheries science, and we will continue to have access to that after we leave.

The hon. Gentleman made a number of other points. He asked me to comment on coked-up eels in the Thames. Obviously, that is some way outside the scope of the regulations, but I am sure that we will be able to address the issue should it become a problem once we are an independent coastal state and can tackle such issues. Obviously, the report was a matter of some concern. He also asked specifically about the eel regulations and, in particular, why regulation 11 had been omitted. I am told that that was a time-limited provision applicable only in 2010, so it was therefore a redundant provision that it would have made no sense to keep in the SI.

Luke Pollard: Coked-up eels are an important issue, although I did seek to make light of it. There are two paragraphs in regulation 11 of the 2009 regulations, which was omitted. Paragraph (2) is the time-limited element and came to an end in 2010. Paragraph (1), however, did not. I would be grateful if the Minister asked his officials to look at the difference between paragraphs (1) and (2).

George Eustice: I will seek clarification and may get an update on the difference between paragraphs (1) and (2) before I conclude my comments.

The hon. Gentleman also made some comments about the replacement for the EMFF. As he will know, the Fisheries Bill, which we debated in Committee, creates the powers for us to issue grants to coastal communities and to fishermen to help them invest in more selective gear. It is absolutely our plan to replace the EMFF funds with future fisheries funds to support selective fishing and our coastal communities.

On pulse fishing, nothing has changed. Our intention is absolutely to bring a statutory instrument forward. Hon. Members will have noticed that these days, the House has a just-in-time delivery approach to legislation and agreements, but I absolutely stand by the undertaking that I gave.

Our intention is to lay the instrument during the month of January, but I will share it with the hon. Gentleman and with my hon. Friend the Member for Waveney, who tabled an amendment to the Bill on the matter, before the Bill reaches Report. I repeat that undertaking, which I gave to the hon. Gentleman, and I hope that we will lay that particular instrument before the end of the month. If we do not, because we are unable to achieve those best endeavours as we had hoped in December, we will nevertheless not move to Report until we have done so and the hon. Gentleman and my hon. Friend have had an opportunity to debate it.

In conclusion, these amendments are simple but necessary to ensure that certain CFP and marine management measures continue to operate effectively and can be enforced after the UK leaves the EU. The technical connections to domestic legislation are important to

enable the continued enforcement and maintenance of sustainable fisheries management in the UK. The instrument marks an important step towards having a cohesive statute book for exit day and provides us with a solid foundation.

Martin Whitfield: I hope the Minister can satisfy two problems in one. To return to my earlier intervention, is he satisfied that the drafting in the statutory instrument gets over the problem of its miswording as compared with the Act? Does it achieve what he wants to achieve—to transfer the EU regulations and make them enforceable, albeit with a different title?

George Eustice: Yes, I am satisfied, based on the point I raised with the hon. Gentleman earlier. Replacing

"enforceable Community restrictions, and enforceable EU obligations"

with

"retained EU restrictions and retained EU obligations"

covers all those things. It is very clear that the provision is in the context of retained EU obligations and restrictions, rather than EU obligations and restrictions themselves.

Martin Whitfield: For my own satisfaction as much as anything else, the 1981 Act talks about

"enforceable Community restrictions, enforceable EU restrictions, and enforceable EU obligations",

yet the quote that has been lifted—the quote that will be replaced—discusses only

"enforceable Community restrictions, and enforceable EU obligations".

It therefore omits four crucial words. The SI then repeats the four words by putting them back in. The thing that concerns me is that when people come to reconcile the 1981 Act with the statutory instrument, there may be a duplication or error, in which case people will have to go back to statutory interpretation. They may need to have to look at the notes to decide what we meant.

George Eustice: What I will do is check the hon. Gentleman's point and write to him. This is a point he has persisted with. I feel I have answered him, and from the notes I have seen, I am satisfied that the regulations address the two things and catch all the possibilities. I will double-check the specific point he makes just to ensure there are no omissions in the language.

I turn to the point that the shadow Minister raised about the all-important eels regulations. Regulation 11(1) states that it

"applies where the Agency determines that a reduction in the fishing effort for eels is required in order to comply with Article 5(4)".

Article 5(4) is being deleted, because it relates to the setting up of eel management plans. That has already been completed. The two provisions are linked, in that one was effectively a requirement on the Environment Agency to determine those reductions, but that was in the context of the bit we deleted. Both become redundant, since they relate to one another.

In conclusion, we have had a comprehensive discussion on the regulations. I am grateful to Members for raising points of detail on them, which are important. The shadow Minister is right that we need to get it right. We have embarked on a huge endeavour.

Luke Pollard: Before the Minister sits down, will he address the point about parliamentarians having access to the pre-lay reading room? If he cannot answer that immediately, will he endeavour to write to us? An element of additional scrutiny is needed, especially considering the volume of SIs and the speed with which the Government intend to bring them forward. There is a lack of an opportunity to scrutinise. Scrutiny of SIs would normally happen every now and again, but in this time there is a risk of it happening every single day, and we may miss out on the opportunity. It should be made easier. Will the Minister endeavour to write to me?

George Eustice: The hon. Gentleman raises a valid point, but it goes beyond something I am able to agree here, since the Government across the board are looking at the issues and different Departments are approaching them in different ways. I will take away his suggestion.

The hon. Gentleman asked a question about stakeholders. We are fairly open to allowing them to come in and discuss any concerns they have with us. We have a comprehensive list of fisheries stakeholders, notably the green NGOs, which already attend a number of the events we have. All the fishing representative organisations are invited as well. I commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Fisheries (Amendment) (EU Exit) Regulations 2019.

3.10 pm

Committee rose.