

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT INVASIVE NON-NATIVE SPECIES  
(AMENDMENT ETC.) (EU EXIT)  
REGULATIONS 2019

*Tuesday 29 January 2019*

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

*Chair:* MR NIGEL EVANS

† Allan, Lucy (*Telford*) (Con)  
 † Bradshaw, Mr Ben (*Exeter*) (Lab)  
 † Champion, Sarah (*Rotherham*) (Lab)  
 † Coffey, Dr Thérèse (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)  
 † Debonnaire, Thangam (*Bristol West*) (Lab)  
 † Drew, Dr David (*Stroud*) (Lab/Co-op)  
 Fellows, Marion (*Motherwell and Wishaw*) (SNP)  
 Hodge, Dame Margaret (*Barking*) (Lab)  
 † Howell, John (*Henley*) (Con)  
 † Hughes, Eddie (*Walsall North*) (Con)

Lammy, Mr David (*Tottenham*) (Lab)  
 † Morris, James (*Halesowen and Rowley Regis*) (Con)  
 † Scully, Paul (*Sutton and Cheam*) (Con)  
 † Seely, Mr Bob (*Isle of Wight*) (Con)  
 † Stewart, Iain (*Milton Keynes South*) (Con)  
 Stringer, Graham (*Blackley and Broughton*) (Lab)  
 † Syms, Sir Robert (*Poole*) (Con)

Dominic Stockbridge, *Committee Clerk*

† **attended the Committee**

## Fifth Delegated Legislation Committee

Tuesday 29 January 2019

[MR NIGEL EVANS *in the Chair*]

### Draft Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019

8.55 am

**The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Dr Thérèse Coffey):** I beg to move,

That the Committee has considered the draft Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Evans. As the Committee will be aware, we are bringing forward legislation reflecting the fact that, in 2016, the population of the United Kingdom voted to leave the European Union, to which Parliament subsequently agreed by passing the European Union (Withdrawal) Act 2018. Through the Act, we have the mechanism to ensure the transfer into UK law of legislation that is not already in place in UK law, so that the law will operate in the same way on the day after we leave the European Union as on the day before we leave the European Union.

The draft instrument will ensure that legislation preventing and managing the introduction and spread of invasive non-native species will continue to function when the UK has left the European Union. The cost of threats from invasive species has been estimated at £1.8 billion per annum and, since 2008, a Great Britain-wide strategy has been in place to deliver action to address the threats posed by such species. The draft instrument is being introduced under the correcting powers in section 8 of the 2018 Act. Principally, it makes amendments to the directly applicable EU regulation on invasive non-native species to address technical operability issues as a consequence of EU exit.

The devolved Administrations were closely engaged in developing the statutory instrument. As set out in part 1, it applies to England, Wales and Northern Ireland. It also extends to Scotland in respect of imports and exports, and to the offshore marine area. Domestic implementation of policy on non-native invasive species is a devolved matter. The Scottish Government have chosen to make the rest of the regulation operable in Scotland by means of their own secondary legislation, as is their right.

The draft instrument maintains existing safeguards. It does not create new policy or change current policy, and does not therefore put any new or greater administrative or economic burdens on businesses or other stakeholders. Although there was no statutory requirement to consult publicly on the instrument, officials have held discussions with key stakeholders from different sectors in its development. Stakeholders had the opportunity to view the draft instrument before it was laid before Parliament and did not raise any concerns. In fact, the first time we were made aware of any concerns was by the Royal Society for the Prevention of Cruelty to Animals last

Thursday, and I am happy to answer questions on that. In essence, a lot of the issues the RSPCA raised will be addressed by the enforcement regulations—another statutory instrument will be introduced once this SI has been passed—which also refer to elements of policy on management plans, muntjac deer, racoon dogs and similar issues. The constraint in the 2018 Act's mechanism for introducing SIs is that this is not about changing policy, but about making the law operable, and it would not therefore be appropriate to make those changes at this point or in this SI.

Part 2 the draft instrument makes a small amendment to section 11 of the Destructive Imported Animals Act 1932, which, I should point out, does not apply to Northern Ireland and never has. The amendment ensures that we treat EU member states in the same way as other countries with regard to the restrictions on imports of species to which the 1932 Act applies.

Part 3 sets out the rest of the amendments made by the draft instrument, some of which are purely textual, such as removing references in the EU legislation to the UK as an EU member state. Others make devolved Ministers responsible for a range of measures necessary to operate the existing system, such as the obligation to establish and implement action plans to address the pathways of introduction and spread of these species.

The existing EU list of species, which is fundamental to preventing and managing the spread and introduction of invasive species, will continue to apply across all parts of the UK on exit day. In England, Wales and Northern Ireland, and in Scotland for imports and exports, the EU list will become the list of species of special concern. We will retain the requirement to review this list at least every six years. Any change to the list will be informed by robust scientific advice provided by the UK replacement for the Commission's scientific forum, and the underpinning risk analysis will be based on the criteria and principles set out in the EU regulation. A decision to amend the list can be made only by the Secretary of State with the consent of the Ministers in the other parts of the United Kingdom.

The instrument retains the obligation for Ministers to be supported by a committee and advised by a scientific forum. We propose that the Programme Board on Non-native Species, drawing on existing and extensive knowledge and experience, take on the role of the EU Committee, and the Non-native Risk Analysis Panel, which is often referred to as NNRAP, will take on the role of the EU's scientific forum. These GB bodies will be extended to include Northern Ireland. The programme board delivers strategic consideration of the threat of invasive non-native species and is made up of senior representatives from across the Great Britain Administrations and their agencies.

The UK has significant expertise in invasive non-native species, including in the area of risk analysis, where we are among the leaders within Europe. NNRAP is a core group of risk analysis experts, chaired by Professor John Mumford of Imperial College London, who provide advice on risks associated with non-native species and pathways of introduction. We will continue to draw on the expertise of these highly respected scientists from the UK and overseas.

Invasive non-native species are no respecters of boundaries or borders, and the United Kingdom is committed to ongoing co-operation with the EU, its member states and other countries after exit. This

instrument retains the obligation under the EU regulation for Ministers to make every effort to ensure close co-ordination with other countries, including, where appropriate, under regional and international agreements. There are strong references to that in the convention on biological diversity and the Bern convention, which we are already full members of.

With regard to ensuring transparency and accountability of environmental performance, the instrument will still require Ministers, in line with the current regulation, to report by June 2019, and every six years thereafter, on the implementation of the regulation, as well as to retain the duty to review and report by June 2021 on how the regulation has operated. More broadly, the Government published draft clauses on environmental principles just before Christmas to provide for independent scrutiny of the UK Government on the implementation of environmental law, and those are currently undergoing pre-legislative scrutiny via the Environmental Audit Committee and the Environment, Food and Rural Affairs Committee.

The Government were strongly supportive of the strict measures in the EU invasives regulation when it came into force in 2015. These measures remain essential to tackle the significant threats that these species pose to our native plants and animals, and this instrument will ensure operability so that the strict protections that are in place for these species are maintained when we leave the European Union.

9.3 am

**Dr David Drew** (Stroud) (Lab/Co-op): I am delighted to serve under your chairmanship, Mr Evans. I welcome the Minister to her place; we will see an awful lot of one another in the coming weeks. I am not sure which of the 88 SIs we have to get through before the end of March this one is, but she is no doubt ticking them off on her calendar every day.

I will start by making the point that this process is not the way to run any Government; it is not effective scrutiny. As an Opposition, we will do the best we can, but the reality is that this process is being greatly rushed. It is difficult to know the enormity of what we are all taking on, because although this SI looks like a bit of a nothing SI, in fact, as anyone who reads anything about animal or plant diseases knows, these species could, effectively, wipe out the United Kingdom if we get this process wrong. Sadly, there is every chance that we will get it wrong.

I will also make the point that, as much as the civil service has done a very effective job—I am sure of that—a lot of this process is about taking out the words “Member State” and sticking in their place the words “appropriate authority”. I do not know how much European legislation and regulation over the last 45 years will be affected, but someone has had to do an awful lot of work, and I do not know whether they have done it well or whether they have covered all the bases.

The one bit of good news is, of course, that if any species are about to invade the British Isles, they can at least now get a British passport. That, no doubt, will make all the difference in terms of whether they arrive or not. [*Laughter.*] I am glad you got the joke, Mr Evans—at least you are awake.

This statutory instrument matters. I asked a parliamentary question in December about trees and tree diseases. There are now 1,820 notifiable tree diseases

that affect various species in this country. The idea that this is a marginal, out-of-the-way statutory instrument misses the main point that disease is ever-present. We know that ash dieback and oak processionary moth have taken out our major trees in this country. We have to look at the impact very carefully.

When I sat on the EFRA Committee some years ago, my hon. Friend the Member for Bridgend (Mrs Moon) and I looked at the environmental liability directive. When you get into these things, you realise the implications in terms of not only the diseases that have come in, but who was responsible for them—if they were spread by humankind. It is very difficult to lay the blame; we still do not know what caused foot and mouth back in the early noughties, although there are those who make allegations about how it was brought into this country. To put that into perspective, it cost the British economy £8 billion. Thankfully, the rerun was not as bad. As the Minister said, a cost of £1.8 billion a year has been allocated to the implications of the issues before us. So we are on our guard, because we know what the implications of these things can be.

I have a number of questions, which I accept that the Minister may not be able to entirely answer, so I am quite happy for her to write to me. I make the point again that I made throughout the Agriculture Bill Committee—many of us are in the same place again today: it is rather strange that we cannot even get the four nations of the United Kingdom to agree to some commonality over something as basic as invasive species control. That does not bode well for the future. Scotland may well be very competent to bring forward its own secondary legislation, but for those who farm on the Scottish borders it is not much consolation that Scotland will do things in its own way. It may do them better than us, or it may do them worse than us, but the fact is that it is not doing them with us. That undermined the effectiveness of the Agriculture Bill, which is still in this place, and, sadly, it is likely to mean that we will have some conflict if there is a disease outbreak between Scotland and England. It does not look good that we cannot even get the four countries of the United Kingdom to agree on a particular policy.

The House of Lords voted on this measure last week—I thought it was quite a good debate. A number of questions arose that the Government have not yet answered. First, my noble Friend Lord Adonis asked the Minister, Lord Gardiner, what other pieces of legislation this measure was in synch with. He asked what had happened to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Conservation (Natural Habitats, etc.) (Northern Ireland) (Amendment) (EU Exit) Regulations 2019. They were on the Order Paper for debate last week, but did not come forward.

The explanation was that they had been stuck in a Joint Committee, but it makes it very difficult, certainly for the Opposition, to make sense of these issues when things are put on the Order Paper and expected to be debated—and it makes sense that they are debated together—but they then disappear. Likewise, I am not sure about the link—the Minister did refer to it—between this measure and the Invasive Non-native Species (Enforcement and Permitting) Regulations 2019, which clearly has an impact on the grey squirrel, muntjac and other species. What measures are being taken against those particular invasive species? It would be nice to

[Dr David Drew]

know what the order of these bits of legislation is and what happens if we pass this one, which we may well do today, but then we have these other SIs, which have not been passed. We have just over a month before 29 March, but it is not at all clear where we will be in terms of the whole way in which the Government are performing.

Let me quickly look at what the Lords came up with. Among the key things they identified was that the preamble to much of the European regulation regarding invasive alien species is not included in this secondary legislation. Yet, according to all the different non-governmental organisations I have been in touch with, that is quite an important element of the way we lay down how these invasive species are dealt with. It would be interesting to know whether the Government have looked at how they can include that preamble not in today's statutory instrument, obviously, but in a future statutory instrument.

In terms of what the Minister said about how we cobble together the organisations that will take over from the EU, I am a little confused about where this all fits with regard to the draft Environment (Principles and Governance) Bill, and particularly the office for environmental protection. Will the office for environmental protection oversee this piece of legislation, even though specific bodies she has referred to may have been given responsibility? The criticism advanced by those who welcome the Bill but who would say it needs to go further is that they are not sure what that body's powers and responsibilities will be. It would be interesting to hear what the Minister has to say about that.

This SI does not seem to change policy, but why was the Government's commitment in this field—the Secretary of State has said on many occasions that they intend to enhance our environmental credentials—not taken up in regard to this SI? Are we just going to cut and paste from existing European regulations, which does not improve our environmental credentials at all?

It is unclear why there was no impact assessment. The Government argued that one was not necessary, because the regulations did not have a particular impact on the public or private sectors, but that seems strange, given that they will have a huge impact if they go wrong. It would be interesting to know what analysis has been done of the additional costs on business, individuals and the public sector if—as is likely—we find there is an impact as a result of invasive species coming on to our shores. That is linked with enforcement, because although we have these new bodies, I am not clear what powers they will have.

That links directly to the enforcement and permitting regulations. Have they been consulted on and agreed? The Minister could nod or not. Those regulations are the one bit of this that have been quite controversial. They effectively mean that if a rescue centre takes in a squirrel, the centre is told to dispatch it, because it will not be able to release it back into the wild. There are implications for muntjac as well. I am not clear what powers will be there or who will enforce them. Are we talking about a series of fines for people who take in a grey squirrel that may be injured? Again, that is not clear. It is all involved with the enforcement regime. The RSPCA and other animal aid organisations have been very unhappy in terms of whether this could ever be enforced or properly introduced.

I have a few more questions for the Minister. The consultation on these regulations was undertaken on an “informal” and “limited” basis. I am not sure whether we should introduce legislation without consulting the appropriate organisations. The consulted organisations were rather limited—for example, I do not believe that the National Farmers Union was consulted, even though the regulations will have a big impact on British agriculture if and when they go wrong. It would be useful to know whether the Government, as part of their environmental Bill, which is a good bit of legislation, intend to have a much bigger consultation to ensure that people are fully informed on the impact of alien invasive species.

I have two more questions, and I am sure other hon. Members will have others. On the responsibilities exercised by the current EU bodies, to what extent—I think particularly of the trade control and expert system database—will we still have access to operational functions that the EU carries out? The EU has always been at its best in recognising that this is a pan-European problem; we cannot pretend that it just starts and ends at our coast. That is particularly important, because these issues affect marine species, as well as species on the land and in the air. I am not sure what we will do about the TRACES database—it is important, because it is something we share. British influence has been fundamental in the way we have built up that collection of data. It would be interesting to know whether we will have access to it or whether we will have to set up our own. Should the EU have an outbreak, will we get to share that information? That really matters, because when something happens, it will be too late. We need to do much more preventive and precautionary work.

My final question is the usual one. Should we crash out of the EU on 29 March, this legislation will presumably come into play immediately. There is no transition, so it has to be foolproof, but it is not clear how the different SIs fit in. It is unclear what we will be able to execute. There are no bodies at the moment; they are not set up. We have no environmental Bill or office for environmental protection. It would be interesting to know what contingencies the Minister has put in place, should we end up in a no-deal scenario and face an immediate problem, given that African swine fever is already on the continent and is, sadly, coming our way. We have done our best to prevent that, but we have to be very aware of these things.

Those are a number of questions, which I am sure the Minister will try to answer. I am happy for her to write to me on some of them. This SI is really important, but it does not look to be anything other than a cut and paste from the current EU regulation. Should it go wrong, it will have a major impact on our economy and on people living here, particularly in the farm economy. I hope that we get more warning of what measures are coming our way—this one was quite a sudden imposition on us today—and that we get to know the fuller picture, which the Government should give us. If nothing else, they have to explain to the people affected what should be done in preparation, particularly if we crash out, and what we should do anyway, as a country, in terms of good preparation work to forestall the worst impact of these invasive alien species.

9.20 am

**Sarah Champion** (Rotherham) (Lab): It is, as ever, a pleasure to serve under your wise chairmanship, Mr Evans.

I listened to the Minister's speech intently, and I have three specific questions to ask for the record. She talked about the scrutiny committees. Will she clarify whether they will be independent, and what weight they will have when their recommendations come to the Government? Secondly, will the UK have continued access to the EU invasive alien species information system? Thirdly, will the Government continue their commitment to ensure that UK invasive species legislation and public policy aligns with the Bern convention, the convention on biological diversity and the UN sustainable development goals?

9.21 am

**Mr Ben Bradshaw** (Exeter) (Lab): Will the Minister clarify what she said about the statutory instrument being relevant to the campaign to control the spread of the grey squirrel and, by implication, to defend our native red squirrel? Will she update the Committee on how the campaign is going and, in that context, on whether the Government consider the ring-necked parakeet to be a non-native invasive species? The birds are extremely loud and numerous in many parts of the country. They are not only driving out our domestic birds but disturbing the peace significantly, in particular in the summer months in gardens and parks in a growing part of England.

Will the Minister comment on how the SI will protect the status of the very large proportion of EU nationals who work for our plant and animal health services? As she knows, they make a huge contribution and have done so for many years. What can she say to reassure them about their future after the end of March?

At the end of the remarks made by my hon. Friend the Member for Stroud, he asked how foolproof the SI is in the event of a crash-out no deal. Will the Minister clarify that? Is the SI fit for purpose in the event that the Government get the deal, and will it still be fit for purpose and do everything that she hopes and wants it to do if there is a crash-out no deal?

Will the Minister update the Committee on progress in the processing of the very large number of SIs coming before the House from her Department and other Departments? In the Health Committee yesterday, I asked the Health Secretary whether he was confident that the huge number of SIs due to come before the House in the next few weeks would get through in time for the end of March, even just those required for a no-deal crash-out Brexit? That follows comments by the Minister's neighbouring former MP in Suffolk, Ben Gummer, in the *Evening Standard* yesterday. He said that it was simply impossible for the Government to get all the necessary legislation on to the statute book by the end of March. The Health Secretary denied that; he said that he was very confident, at least with SIs in his departmental responsibility, that they would get through. How confident is the Minister that all the relevant and necessary Department for Environment, Food and Rural Affairs SIs will get through in time?

The other remark the Health Secretary made that received quite a lot of coverage in today's media—I do not know whether the Minister saw it—was that, in the

event of no deal and a shortage of essential food supplies reaching our supermarkets, medicines and medical equipment would take priority over food supplies. Is that a conversation that the Health Secretary has had with the Secretary of State for Environment, Food and Rural Affairs or the Minister? Is she aware that food would be sacrificed to medicine in the event of a crash-out, no-deal Brexit?

I would be grateful if the Minister responded to some of those questions in her closing remarks.

9.24 am

**Dr Coffey:** It is a pleasure to respond to the questions that have been raised. In answer to the hon. Member for Rotherham, the independent bodies are already in place, and they will continue to be in place. On access to notification and intelligence sharing, the system enables critical information to be shared quickly between member states and the Commission. We have developed contingency plans to mitigate the impact of losing access to the system; I will not say at this point that an agreement has been made that we can continue to access it, but I assure her that there is an obligation for Ministers to co-operate with one another. I expect that obligation to be upheld, especially with reference to treaties of which we are full members, such as the Bern convention and the convention on biological diversity.

I remind the Committee that it is not just from the European Union that diseases can enter. As someone who represents a port constituency, I know the level of detail that authorities go into when checking that things like pallets do not have the bugs and beetles that can sometimes invade unduly. A lot of work also goes on, under a risk-based approach, to inspect the importation of trees and so on, for similar reasons. There is no reason for any of that to change, and the advice from the independent bodies will still be there.

The sustainable development goals are not strictly treaties, although they have been agreed worldwide. They tend to be quite broad, but of course the United Kingdom Government have signed up to them, and we will continue to work on the outcomes that we have signed up to.

To reply briefly to the right hon. Member for Exeter, the point of the draft regulations is set out in the European Union (Withdrawal) Act; they are not about the status of EU nationals or other issues to which he referred. He asked whether the regulations are fit for purpose—yes, they are. I am confident in the legal advice that was given to my noble Friend Lord Gardiner, who is the Minister responsible for this portfolio and who has signed a transparency statement to the effect that the regulations are to make the system operable and no more than that—they do not seek to get into other issues.

The hon. Member for Stroud raised several points about what more we could do on biosecurity policy. The point is that we are active in this space. I think it was last year that the Secretary of State wrote to the Commission to ask it to take greater action against the spread of *Xylella fastidiosa*. While ash dieback affects one species, at least 50 species would be affected by *Xylella fastidiosa*, so we were very keen for the Commission to step up its actions. There are a number of ways in which we are already active; that relationship will continue, although I accept that we will not be part of the European Union.

[*Dr Thérèse Coffey*]

I have not read the article by my former right hon. Friend Ben Gummer, so I am not sure what he was referring to. I appreciate that he may have some doubt about the primary legislation that may be needed, but I have every confidence that the statutory instruments drafted by the Department for Environment, Food and Rural Affairs and by the devolved Administrations will mean that we will be ready for exit day as decreed.

I cannot remember how many SIs we have got through so far; this is my third affirmative SI, but a number of negative SIs have already been through the sifting Committee. There is another way in which the drafting of such statutory instruments is checked: the peers and hon. Members on the Joint Committee on Statutory Instruments, and the lawyers who advise it, scrutinise them to ensure that the drafting procedure is suitable. That Committee noted that the draft regulations have not been referred to the House; it is happy with them as drafted, in legal terms.

**Sarah Champion:** I hear what the Minister says. We do not doubt the skill of those who advise the Department, but a Treasury Minister confirmed to me before Christmas that 800 pieces of secondary legislation would need to be passed by 29 March in the event of no deal. The draft regulations are not particularly contentious, but we have been here for 35 minutes. Does the Minister genuinely believe that we can get through the outstanding pieces of legislation in two months? There are probably 700.

**Dr Coffey:** Within DEFRA, we have taken an approach of bringing several SIs into one, for instance when amending references to EU law and EU obligations so that they refer to retained EU law and retained EU obligations. For example, a statutory instrument that we debated yesterday will change several primary Acts—four, I think—and make three cross-cutting environmental amendments. We are grouping operability changes that commonly require several SIs within one SI. Those instruments often relate to one directive. The draft instrument covers one directive in its own right, which is why we are only discussing invasive species.

I appreciate the hon. Member for Stroud's concerns about the draft instrument. As I say, it has been through the JCSI. It was laid in the first week of December, and prior to that DEFRA opened it up to a group of stakeholders to look at, so that they could talk it through with our officials and raise any questions. So far, that has only happened to one other SI, to which he referred: the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

Unfortunately, before that draft instrument made its way through the JCSI process, and in response to feedback from the Royal Society for the Protection of Birds, the Secretary of State took the decision to change it. I thought my noble Friend Lord Gardiner answered questions on that rather well. The draft instrument was again laid before Parliament last night and will come back before the House in due course. I do not have a date for its return. That shows how, via stakeholders coming to the Government with suggested changes, we have been able to effectively consider the draft instrument before reaching the Committee.

On the hon. Gentleman's wider points, I fully understand the biosecurity threats.

**Dr Drew:** Does that affect the draft Invasive Non-native Species (Enforcement and Permitting) Regulations, which were subject to consultation? Will that instrument be crucial for—dare I say it—the grey squirrel and the muntjac? It is entirely in line with this draft instrument, is it not, so when will it come forward?

**Dr Coffey:** As I just tried to explain, by going through this process with stakeholders we have changed that draft SI, which is why it was withdrawn and again laid last night.

The Government have not received any comments on this draft instrument, apart from what the RSPCA said about muntjacs and raccoon dogs. As I have tried to outline, the draft instrument is about operability, not changing policy. The draft enforcement regulations will be presented to the House, and I am happy to arrange for the hon. Gentleman to have a specific briefing on that. To reiterate, this is not about changing policy.

The hon. Gentleman was also concerned that the four nations could not get together. That is the element of devolution. There are quite a large number of our SIs over which the four nations have agreed to come together in different ways, but there are also those that the Governments have decided to approach through their own legislative vehicles. That is perfectly acceptable and respects the devolution process.

However, I assure the hon. Gentleman that we have had a Great Britain strategy since 2008, and we will continue to use that body to support all the Administrations as we work closely together on invasives. I particularly stress that the external borders of the United Kingdom are still a responsibility of the UK Government. However, the Scottish Government have decided to pursue domestic regulation through their own front.

On the impact assessment, the draft regulations will have no impact on external bodies, such as businesses, charities and voluntary bodies. A small cost is estimated for public sector bodies taking on the Commission's functions, but those are limited and below the £5 million threshold, which, as the hon. Gentleman knows, is the level for publishing an impact assessment.

On the link between this statutory instrument and the invasive alien species order, this instrument will make the regulations controlling the spread and management of invasive alien species operable after we have left the EU. It will apply strict reservations on a list, to which I have already referred, so that such species cannot be imported, kept, bred, transported, sold, used or exchanged, allowed to reproduce or be grown, cultivated or released into the environment.

That list includes grey squirrels, although the debate is not about grey squirrels. The EU regulation has been in place since 2015. What has happened very recently is that Natural England has said it will not be issuing any licences for the release of grey squirrels. That may be a suitable debate for Westminster Hall, rather than here, but I point out that we know that grey squirrels threaten the existence of red squirrels, which are our native species. We need to stick up for the red squirrel.

The legal advice I have received is that we do not need to carry over the preambles. Section 6(3) of the European

Union (Withdrawal) Act is specific, and shows that the interpretation of the regulation that happens today—which is what the preamble is about—will be the same as that used post-exit. Any changes in policy in the future will have to be decided by Parliament through changes to regulations.

I assure the hon. Member for Stroud that the cross-cutting principles are effective in UK law already—he will be aware of the proposals in the draft Environment (Principles and Governance) Bill. In terms of oversight, the bodies to which he referred will continue. Will the office for environmental protection oversee this area? As it stands, the bodies are there to provide advice, which is taken. The basic function of the OEP, which the Government have set out, is effectively to replace the Commission in respect of whether we are applying environmental law as we should. It provides an alternative way to do that, but of course Parliament is also there to scrutinise and hold the Government to account.

The hon. Member for Stroud asked why this statutory instrument does not change policy. That is not what we are allowed to do through these SIs—that is for another day. On the databases, I have referred already to the fact that we cannot say today that we will have access to this database. That will be the subject of ongoing negotiation and discussion. However, there is an obligation to co-operate. I am aware that this is a cut and paste, which the hon. Gentleman referred to. That is the point; it is what this SI is supposed to be.

**Dr Drew:** Are we negotiating over the TRACES database? Will we pay money to have access to that, or are we going to have our own database? That idea makes me feel cold, given that we are not necessarily that good at developing these databases, as even the

Minister would accept. These things need to be understood. If we are shut out of that database, where will we get our information about invasive species from?

**Dr Coffey:** I have to say to the Committee that this is not my portfolio, so I have not been involved in the day-to-day negotiation about the IT elements. I want to point out that we have developed contingency plans to mitigate the impacts of losing access to the system. There is still the potential to make those changes as we move forward. If my noble Friend Lord Gardiner would like to say something that is different or to enhance what I have said, I will of course write to the hon. Gentleman.

In conclusion, this is a cut and paste from the existing EU regulation to ensure that when we leave the European Union the functions continue to have legal effect. I assure the Committee that the Government take the issue of biosecurity extremely seriously. We are very conscious of the concerns about African swine fever. We recently took action very deliberately against species that were being reintroduced on licence in the Forest of Dean, killing beavers, because they had a disease that was brought into this country. Unfortunately, they were imported from Germany, against the voluntary code of practice, which meant they should have come only from Norway or other parts of the United Kingdom. We will take action, even when it is unpopular, to make sure that we preserve the biosecurity of nature and animals in this country. I hope that the Committee will support the motion.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019.

9.39 am

*Committee rose.*





