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Fifth Delegated Legislation Committee

DRAFT EQUINE (RECORDS, IDENTIFICATION
AND MOVEMENT) (AMENDMENT) (EU EXIT)
REGULATIONS 2019

Monday 18 February 2019

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The Committee consisted of the following Members:

Chair: MR VIRENDRA SHARMA

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|---|---|
| † Burden, Richard (<i>Birmingham, Northfield</i>) (Lab) | † Rutley, David (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Seely, Mr Bob (<i>Isle of Wight</i>) (Con) |
| † Flint, Caroline (<i>Don Valley</i>) (Lab) | Smith, Owen (<i>Pontypridd</i>) (Lab) |
| † Foster, Kevin (<i>Torbay</i>) (Con) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Garnier, Mark (<i>Wyre Forest</i>) (Con) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † Harrison, Trudy (<i>Copeland</i>) (Con) | † Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| Kyle, Peter (<i>Hove</i>) (Lab) | |
| † Mc Nally, John (<i>Falkirk</i>) (SNP) | Jack Dent, <i>Committee Clerk</i> |
| † Mann, Scott (<i>North Cornwall</i>) (Con) | |
| † Martin, Sandy (<i>Ipswich</i>) (Lab) | |
| † Paterson, Mr Owen (<i>North Shropshire</i>) (Con) | † attended the Committee |

Fifth Delegated Legislation Committee

Monday 18 February 2019

[MR VIRENDRA SHARMA *in the Chair*]

Draft Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019

4.30 pm

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (David Rutley): I beg to move,

That the Committee has considered the draft Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019.

It is an honour to serve under your chairmanship, Mr Sharma. The draft regulations will make technical amendments to ensure that retained EU law on equine identification remains operable following the UK's withdrawal from the EU, ensuring that the human food chain continues to be protected and that equines can continue to be traded and moved into and through the European Union. The current equine identification system is set out in EU legislation, primarily by Commission implementing regulation 2015/262—the equine passport regulation. I stress that the draft regulations will make no changes to the current policy or enforcement.

I will briefly summarise the draft regulations and the principal changes they will make. Part 2 sets out technical amendments to the text of the retained EU equine passport regulation, to ensure its continued operability following our exit. Part 3 makes similar technical amendments to certain retained Commission decisions also relating to equines, namely on the collection of data for competitions, the recognition of stud books and the co-ordination of information exchange between those stud books. Part 4 amends the European economic area agreement as retained in UK law under the European Union (Withdrawal) Act 2018.

The necessary technical amendments to ensure operability involve changing references to the Union in the current EU regulations to refer instead to the UK, or, where the admission of equines with appropriate ID from the EU is concerned, to refer to equines from both the EU and the UK. References to authorities in member states will be amended to refer to the appropriate authorities in the UK; in relation to Scotland it will be Scottish Ministers, and so forth.

Parts 2 and 3 omit certain articles of the Commission regulation and of Commission decisions because they contain provisions that will no longer have any relevance once section 2(2) of the European Communities Act 1972 is repealed. Omitted articles will become redundant. However, where relevant, necessary provisions that have already been given effect by domestic legislation will be preserved and continue to have effect by virtue of the EU withdrawal Act.

I will briefly outline the context in which the draft regulations are set. It is important to understand how rules on equine identification operate, and the legislation

that underpins the rules. I will then move on to why the draft regulations are necessary and, indeed, vital. The system of equine identification is long established in EU law.

Scott Mann (North Cornwall) (Con): The Minister might be aware that my patch in North Cornwall has moorland ponies. I went out with the Redwings charity to do some tagging—moorland ponies breed on the moors and are not chipped. When these provisions are in the gift of the UK, will the Government consider facilitating the chipping of moorland ponies so that these great animals do not enter the food chain?

David Rutley: I thank my hon. Friend for his contribution; I thought he was going to talk about the derogation, which obviously will continue. I will seek some inspiration and come back to him in my closing remarks.

At present, the EU's 2015 implementing regulation on horse passports applies directly in the UK, as it does in all member states. The EU law is supported by UK domestic enforcement legislation. After exit day, the EU legislation will be retained under the withdrawal Act. The draft regulations have the important, immediate job of making the necessary technical amendments to the retained law so that the movement of equines into the EU can continue.

Caroline Flint (Don Valley) (Lab): The explanatory memorandum states:

“Equine welfare is enforced by local authority Trading Standards and robust identification information makes it easier to deal with cases of abandoned, lost or stolen equines.”

In my constituency, and many others, horses and ponies are abandoned on private land. One farmer had 70 left on his land, and there was little enforcement by the local authority, because there are not the powers to deal with those ponies and horses and they do not have identification. Post Brexit, will we have a better system for dealing with ponies and horses that are already in our country and whose owners are hard to identify?

David Rutley: The right hon. Lady makes a good point, to which I will come back later. Clearly, provision is in place under the Animal Welfare Act 2006, and in recent years we have made other changes that make it easier to address the issue of stray horses, but also those that have been tethered. We will need to take further steps in that direction.

The draft regulations ensure that the food chain continues to be protected and that the contribution of equine identification to animal welfare and biosecurity continues to be made. EU law requires that equines be identified by way of a passport. In most cases, equines born after 2009 must also be uniquely identifiable by way of a microchip; I will say more on that point in a moment. The passport contains important information about the equine, including its unique equine life number, a microchip number when one has been inserted, and a silhouette on to which the equine's markings are drawn. The passport also records details of any veterinary medicines administered to the animal and its current food chain status eligibility.

The equine passport is long established, and these draft regulations will maintain the status quo for the vast majority of people. Domestic legislation on the

identification of equines—the Equine Identification (England) Regulations 2018—has recently been updated. That includes a new provision that equines, regardless of age, must be microchipped. Therefore, we are taking further steps, notwithstanding the fact that we probably need to do more. The devolved Administrations have prepared equivalent instruments.

Having all equines microchipped, except for those recognised and listed as belonging to semi-wild populations—an issue raised by my hon. Friend the Member for North Cornwall—will significantly enhance our equine identification credentials as a third country and mark us out as a leader among our peers. Underpinned by domestic legislation, the UK’s central equine database was launched at the national equine forum on 8 March 2018 and now contains data about virtually every equine in the UK.

I draw hon. Members’ attention to an additional process change made by the draft regulations, namely the insertion of a new article 15A. As a third country, the UK will be required to generate a supplementary travel document to accompany some equine movements. Equine IDs issued by passport-issuing organisations in the UK will not suffice for that purpose under EU law, because the ID must be issued by the competent authority of the third country—for example, the Department for Environment, Food and Rural Affairs in England. The travel document is likely to be necessary only for unregistered equines, provided that the Commission agrees to recognise our stud books relating to registered equines. The Animal and Plant Health Agency has drawn up a simple, single-page document that will meet the requirements of the legislation and which can be printed off and signed by the vet at the same time as other travel documentation is issued. That would be the export health certificate. APHA has confirmed that it is on track to being fully resourced to accommodate that change.

The House of Lords sifting Committee specifically raised the cost of blood tests for equines moving into or through the EU following UK withdrawal. Let me make the position completely clear. European rules state that third countries must be assigned a disease risk status, and there are seven possible categories, based on the geographic region of the third country and the level of associated health risk. Blood testing is a mandatory requirement for all equines from third countries. The number of tests required reflects the disease risk category assigned to the third country. Given the UK’s high health status and high welfare standards, of which we are rightly very proud, we would expect to be assessed as low risk and therefore subject to the minimum number of such tests. That would limit the cost impacts on the sector, which we understand to be in the order of £200 to £500, depending on the third-country category in which the UK is placed by the EU.

I stress that the testing requirements, as with the need for an additional APHA-issued travel document, are not in any way due to the legislation. Both requirements are a consequence of the UK withdrawing from the EU and becoming a third country, where we would be subject to already existing laws set down for third countries. The equine sector is already very familiar with blood tests. It is the industry norm for current movements from the UK to third countries. The equine sector has been receptive and welcoming of the new

equine regime introduced over the past year and has been calling for the changes for some time. The draft regulations will back up those existing rules.

To summarise, the draft regulations seek only to make technical amendments to retained EU law following the UK’s withdrawal from the EU, ensuring the continued operability of the rules after exit and that UK horses are compliant with EU requirements for third-country equines. The regulations do not make any substantive change to policy or enforcement. Retention of the system and the rules regarding equine identification are vital to protect equine health and ensure the safety of the human food chain and the continued orderly movement of equines into and through the EU.

I trust that Members will agree that it is important to have the draft regulations in place in order to ensure that retained law is operable following our exit. They preserve our high standards of equine identification, ease of movement, welfare and protections of the human food chain. I therefore commend the draft statutory instrument to the Committee.

4.42 pm

Sandy Martin (Ipswich) (Lab): It is a pleasure to serve under your chairmanship, Mr Sharma. The draft statutory instrument is simply the latest in a flood that is necessary to make provision for the regulatory framework after Brexit and for us crashing out without a deal. Surely part of the point in having the two-year period for the article 50 withdrawal mechanism was to enable all these issues to be dealt with in a measured and careful manner, rather than thrust upon us in a panic without any time or opportunity to consult stakeholders or assess any possible issues or problems.

Labour Front Benchers do not believe that the Government’s approach to secondary legislation is helpful or worthy of a Government who claim to be bringing sovereignty back to Parliament, and we will continue to say so. In particular, the Opposition put on record our disquiet at the lack of notice for these SI Committees and the unreliability of dates even once they have been given. Any process that takes Members of Parliament and outside stakeholders by surprise cannot possibly be as accessible and transparent as it should be.

As with many other statutory instruments, the draft regulations involve considerable cost, duplication, opportunities for confusion and the possibility of future regulatory divergence from the rest of the EU, which would lead to difficulties in trade. That calls into question the wisdom of preparing for a no-deal Brexit when every Member of Parliament, including the Minister, should be doing everything in their power to prevent that eventuality. Will he come clean on what his Department believes will be the cost to the equine industry of a no-deal Brexit? Whatever it may be, it will certainly be more than the £5 million of additional administrative costs quoted in the SI.

As the explanatory memorandum makes clear, the SI would not in itself prevent significant additional costs for those moving horses from this country to the rest of the EU, if additional blood tests or other procedures are required. It is hard to think of any measures that could be taken in this country to ameliorate the effects of a no-deal Brexit on this or any other sector. That is particularly pertinent to the Republic of Ireland, which

[Sandy Martin]

has close links to the UK in the equine world. How that close link between the UK and our friends and cousins in the Republic will survive all the additional problems arising from a no-deal Brexit is just another problem to add to the serious damage that no deal will do to the UK and in particular to Northern Ireland. What negotiations has the Department had with equine industry representatives from the Republic, or indeed from Northern Ireland?

At present, EU veterinarians have to sign off on various responsibilities during movement, which means that some of the checks will occur outside the UK. After Brexit, most or all of those responsibilities will fall to UK vets, which may increase both the work required of them and the associated costs, assuming movement still occurs at the current rate. The plus side is that UK veterinary standards are the highest in Europe, but the downside is that a high proportion of the vets are EU nationals, some of whom are already deciding to return to their countries of origin. Just when our need for additional vets will grow, we will find ourselves with significantly fewer than we currently have. That will be a problem whether we leave with a deal or not, and we would like the Minister to make clear the plans for dealing with that likely shortage.

The Opposition deprecate the situation in which we find ourselves. The organisation of the process is lamentable. The ability of this SI or any other to provide a future for equine industries that is not significantly worse under a no-deal Brexit is nil. However, there is nothing of substance in the SI to which we object, and so we will not oppose it.

4.46 pm

Mr Owen Paterson (North Shropshire) (Con): It is a great pleasure to serve under your chairmanship, Mr Sharma.

This is not a registered interest, but I think it is appropriate that I declare that my wife is chairman of Aintree racecourse and a steward of the Jockey Club, as it is on the subject of thoroughbred racing that I would like to quickly touch.

The racing industry is our second biggest sport: it turns over £3.5 billion, it employs about 17,500 people directly, £11.5 billion is bet on horses and just fewer than 6 million people attend racecourses. It is a massive industry with enormous consequences. Almost exactly a week after Brexit day, on 6 April, about 75,000 people will turn up at Aintree for the grand national, with 9 to 10 million watching it on ITV and about 600 million watching worldwide. It is important for this country that the grand national goes smoothly, and it is of particular interest to our Irish friends—I am sure you read the *Racing Post*, Mr Sharma—who have, I think, 47 entries this year.

As I understand it, in the case of the withdrawal agreement going through, the current tripartite agreement will carry on in the implementation period. That agreement has served the horse industry of the UK, the Republic of Ireland and France well for many years. Will the Minister clarify what will happen if there is an agreement? I am also particularly interested in what will happen if

there is no agreement. As I understand it, we would become a third country and horses would be able to come into the country.

It is worth touching also on the breeding industry. Some 52% of Irish thoroughbred foals come to Great Britain and 50% of French thoroughbred exports come to the UK as well, so it is not just about racing. However, with the huge international focus on the national, I am particularly interested in what arrangements will be in place by then. I understand from the British Horseracing Authority that there have been very satisfactory discussions with DEFRA, and we had the announcement last week in an SI Committee from the junior Digital, Culture, Media and Sport Minister that proposals had been going through, but I would like to know how it will work for horses that come into the country for the race, almost certainly from Ireland. I know of only one French horse that might be running, Borice, and he will not be a problem because he is already being trained in the UK.

The tripartite agreement has worked well, effectively giving a derogation from the directives requiring inspection, a route plan and a passport—I understand there will be a replacement passport. Will we be using TRACES—the trade control and expert system—in future? That is the arrangement under which the tripartite agreement currently functions.

Lastly—I hope that I do not catch the Minister out with this—it is not only thoroughbreds that come over. The French have AQPA—*autre que pur-sang*—horses that mainly go jump racing, and it is also worth mentioning Arab horses, which come over in numbers for racing purposes and for breeding.

I thank the Minister for his explanation of the draft regulations. Will he explain where we will be on horse movements in the event that we do not have a deal and there is no time to immediately replace the tripartite agreement?

4.50 pm

Caroline Flint: It is a pleasure to serve under your careful stewardship while debating this important matter, Mr Sharma. Following the right hon. Member for North Shropshire, I put on the record Doncaster's proud racing heritage. The Northern Racing College is actually in my constituency—there are only two racing colleges in the country, and we are proud that the northern one is based in Don Valley—and the St Leger stakes, which is one of the classics, takes place every September at Doncaster racecourse. We have a huge interest in bloodstocks as well, which is important to many people who enjoy the races in Doncaster and to the many businesses that rely on that industry from one year to the next.

I will ask a couple of questions and make a point or two about the draft regulations. I sit on Committees such as this every single week, and I listen with bated breath to hear what will be forthcoming from Ministers and shadow Ministers. It has always seemed total common sense to me to not throw the baby out with the bathwater as we leave the European Union. Where we have established procedures that work for the EU and will continue to work for us in the future, there should be a simple process of transposing into UK law that which we currently share with our EU neighbours. In fact, I suggest

that on many occasions, given our rich heritage when it comes to horse-racing and horses more widely, we have been at the forefront of the negotiations and discussions in the EU to ensure the highest standards for the transport of horses and ponies, and for animal welfare. I have no doubt that we will continue to be at the forefront of that debate.

I say gently to those on my own Front Bench that, if it was the other way around and we were in government, we too would try to find a way to sift through the less controversial statutory instruments and regulations, and to focus more time on the more debatable ones. We should not make a mountain out of a molehill on every single occasion.

I have a couple of questions for the Minister. My hon. Friend the Member for Ipswich made a pertinent point about the number of available vets. My most recent discussion on this issue was in a Public Accounts Committee hearing on our border readiness just last week, at which we had the permanent secretaries for Transport and for Environment, Food and Rural Affairs.

I was pleased to hear that the staff at DEFRA have worked so hard on these statutory instruments, and I commend those civil servants and staff for the work they have done in very difficult circumstances to get all these SIs through. If I am correct—I am sure the Minister has the figure to hand—we are almost at the end of the rainbow when it comes to this matter, with only five statutory instruments likely to have to be taken after 29 March, to tie up legislation in certain areas. I commend DEFRA for that work.

However, on the border and the role of vets in licensing and inspection—this is connected to the point my hon. Friend the Member for Ipswich made—I have a few concerns about DEFRA relying too much on the market to deliver, without ensuring that it really understands the state of play and the pressures that might come to bear on those working in this field. I would welcome it if the Minister could reassure us that, even at this late stage, every opportunity will be taken to double check that the facilities and services are there.

I thank the Minister for what he said about the microchipping of horses. Throughout my 20 years as an MP, the matter of horses being left, particularly on private land, has been a perennial problem. Local authorities and the police are often hesitant to remove horses that are not getting the best welfare and whose owners are hard to track down. I look forward to that legislation coming into being.

4.55 pm

David Rutley: I will respond to the points that were made in that fascinating series of contributions, for which I thank hon. Members. The right hon. Member for Don Valley spoke with enthusiasm about her racecourse. Credit to Doncaster Rovers, who played incredibly well at the weekend, although they did not quite get the result they wanted.

The right hon. Lady made some important points about the number of SIs that we have to get through. To say that we are at the end is perhaps a bit optimistic, but we are at the beginning of the end. The end is in sight. The contribution that DEFRA officials have made has been extraordinary; they have worked phenomenally hard. Credit to the permanent secretary, whom the right

hon. Lady was able to question. There has been a really amazing transformation in what DEFRA does, the number of people being brought on board and the number of projects that are taking place as we onshore our agriculture, fisheries and environment policies. It is an extraordinary endeavour, and I thank her for her comments.

I want to reassure the right hon. Lady, the hon. Member for Ipswich and others about what we are doing with vets and how we are making sure that we are ready for EU exit if there is no deal. We have been working very hard with the veterinary industry, the British Veterinary Association and the Royal College of Veterinary Surgeons. The evidence that has been provided to the Migration Advisory Committee strongly supports the return of vets to the shortage occupation list. While the UK prepares to leave the EU, DEFRA is working closely with the Home Office to ensure that there is a long-term strategy for the veterinary workforce as part of the future immigration policy.

To try to take the pressure off our vets in the work they are doing in their official capacity, we are creating the new role of certification support officer, which is designed to provide administrative support to official veterinarians for the processing of export health certificates. That takes work away from the official vets, but the certification support officers will be under close supervision by vets.

A point was made about the number of official veterinarians. The APHA has been working very closely with the veterinary industry to ensure that sufficient OV's are available for certification on day one. The preparations are in good shape.

The hon. Member for Ipswich asked whether discussions are ongoing with Northern Ireland and Ireland. We are having a close discussion with all the devolved Administrations and the Republic about this and many other issues. He spoke about the cost to the industry that this will bring about. There will be changes in the costs associated with vets, but they are not related to the regulations. There are costs in the process. The processes will be designed simply. Our aim is to ensure that the processes enable this to take place effectively, given that the industry often transports animals to third countries already. This is just bringing the EU into line with that approach.

My hon. Friend the Member for North Cornwall made a point about tagging. We are sympathetic to the issue that he raised, and we have had discussions with the sector to look at ways in which it can be facilitated. I will gladly meet him separately after this Committee or on another day so that we can talk about it further.

My right hon. Friend the Member for North Shropshire characteristically made some probing technical points, to which I will endeavour to respond to assure him that the issues he raised are being addressed. He asked whether horses competing in the grand national will be able to return to the EU. I think many people in the country will be interested in that. The answer is yes, absolutely, assuming that the EU provides us with listed status. We understand that that process is moving along well. All equines returning to the EU will need to follow the same process, regardless of where they are going, because we will lose access to the tripartite agreement in the event of no deal.

[David Rutley]

My right hon. Friend asked whether the tripartite agreement would remain in place in the implementation period. Yes, it would. In a no-deal situation, there would be a process to enable French and Irish horses to enter the UK. Our imports policy will remain the same in principle on day one. Importers will need to pre-notify the APHA of their intention to travel to the UK, but no additional documentation or checks will be required.

Mr Paterson: I understand that it will be easy for horses to get into the country, but obviously—the breeding season started last week—they have to get back. As I understand it, they will get back, but they will probably have to go through a border inspection post. I think that would be Dún Laoghaire in Ireland's case, and possibly Larne in the case of Northern Ireland. Will the Minister confirm that it will be easy to take horses back to their home country?

David Rutley: Yes, I can confirm that. The processes will be different, but they will be simple. Yes, horses will have to go through a border inspection post.

Finally, my right hon. Friend asked what the export process for AQPS—French non-thoroughbred horses—would look like. The process for export will not differ

depending on which EU country an equine is destined for. That means horses moving to France and Ireland will have to follow the same processes as all other equines, which I referred to earlier. Again, that is because we will lose access to the tripartite agreement in the event of no deal. As I said, we will not alter our import policy on day one, so French horses will be able to enter the UK, following the procedures as they are now.

I thank Committee members for their contributions. It is important to ensure the continued operability of retained legislation so UK equines can continue to move into and through the European Union following the UK's withdrawal from the EU. We cannot be left in a situation where our horses may be held up at the border or prevented from moving into the EU. I trust that Members agree about the importance of ensuring that the draft regulations find passage through Parliament, and I once again commend them to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Equine (Records, Identification and Movement) (Amendment) (EU Exit) Regulations 2019.

5.2 pm

Committee rose.