

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT SHIPMENTS OF RADIOACTIVE
SUBSTANCES (EU EXIT) REGULATIONS 2019

Monday 18 February 2019

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The Committee consisted of the following Members:

Chair: JAMES GRAY

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| Bryant, Chris (<i>Rhondda</i>) (Lab) | † Jones, Susan Elan (<i>Clwyd South</i>) (Lab) |
| † Chapman, Douglas (<i>Dunfermline and West Fife</i>) (SNP) | † Keegan, Gillian (<i>Chichester</i>) (Con) |
| † Clifton-Brown, Sir Geoffrey (<i>The Cotswolds</i>) (Con) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| † Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Harrington, Richard (<i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i>) | † Syms, Sir Robert (<i>Poole</i>) (Con) |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Thomas, Derek (<i>St Ives</i>) (Con) |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | † Whately, Helen (<i>Faversham and Mid Kent</i>) (Con) |
| † Jones, Mr Kevan (<i>North Durham</i>) (Lab) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| | † Wragg, Mr William (<i>Hazel Grove</i>) (Con) |
| | Yohanna Sallberg, <i>Committee Clerk</i> |
| | † attended the Committee |

Sixth Delegated Legislation Committee

Monday 18 February 2019

[JAMES GRAY *in the Chair*]

Draft Shipments of Radioactive Substances (EU Exit) Regulations 2019

4.30 pm

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Richard Harrington): I beg to move,

That the Committee has considered the draft Shipments of Radioactive Substances (EU Exit) Regulations 2019.

Usually, for such occasions, Mr Gray, it is written into my speech that it is a pleasure to serve under your chairmanship, but with you it is a real pleasure.

Today, according to the news this morning, MPs are quaffing champagne—we always “quaff” it—on the ski slopes, but here we are not. We have quaffed a few confectionary items, if one can quaff those, but I am in Committee to talk about the draft regulations that were laid before the House on 21 January 2019.

This new draft statutory instrument is being made under powers set out in section 8(1) of the European Union (Withdrawal) Act 2018. The regulations will address specific inoperabilities arising from the UK’s withdrawal from the European Atomic Energy Community, which is known more commonly and colloquially as Euratom, and will only come into force on exit day in the event of no deal between the UK and the EU. The draft instrument corrects deficiencies in retained EU law by revoking and replacing Euratom regulation 1493/93 on shipments of radioactive substances between EU member states.

The new draft regulations demonstrate the UK’s continuing commitment to the highest safety standards in radioactive substances’ control. The instrument will apply to the whole of the UK. The regulations will ensure that prior written declarations must continue for shipments of sealed radioactive sources from the EU into the UK in the event of no deal. They will allow the UK’s competent authorities to check that our importers of sealed radioactive sources comply with the requirements for safe storage, use and disposal of sources before shipments are made from the EU to the UK.

The process of advance declarations maintains the oversight of UK authorities with respect to the destinations and recipients of sealed sources that are shipped into the UK. Therefore, in relation to imports, the draft regulations provide continuity for regulators and operators in a no-deal scenario. The instrument will cover the shipment of the sealed radioactive sources from EU member states to importers. For the record, it is important to point out that a “sealed radioactive source” is a radioactive material encapsulated by another material, usually metal, to prevent exposure. In common language, that would be a box—but not just any box.

Sealed radioactive sources are widely used in industry, agriculture and medicine—for example, in special devices to inspect the quality of welds on gas and water pipelines

during construction, to kill harmful bacteria in food or cancer cells in medical patients, or to sterilise medical equipment. About 100 businesses in the UK import sealed radioactive substances, and the vast majority of them are in England. The draft regulations do not delay or restrict our ability to import such sources from the EU, as their primary purpose is simply to provide continuity with existing practices.

Following exit, our importers of sealed radioactive sources from the EU will be required, as now, to make prior written declarations to demonstrate that they comply with national requirements for the safe storage, use and disposal of sealed sources before shipments from the EU to the UK can take place. The declaration is sent to the relevant competent authorities in the UK, which will acknowledge receipt, much as they do now. Those authorities are the Office for Nuclear Regulation for nuclear site licences, it being the regulator of such sites; and the different environment agencies for non-nuclear site licences: the Environment Agency in England, the Scottish Environment Protection Agency, Natural Resources Wales and the Northern Ireland Environment Agency.

The importer forwards a declaration and acknowledges receipt to the EU-based exporter before the shipment can be made. Declarations can last up to three years and cover more than one shipment, in the same way as under the previous process, and we will continue to recognise all declarations made before exit day following our withdrawal from the EU. Shipments can continue to be made under existing declarations unless and until those declarations reach the end of their life span.

In the event of no deal, as a result of the UK’s no longer being a member state, it will not be possible for the system to continue to operate in exactly the same way, because we will be a third-party state. The instrument will maintain current arrangements in so far as possible, with three areas of operational change. I am sure the shadow Minister will be very interested in those differences, but I have been through them very carefully and I believe they are necessary.

First, the instrument will apply only to imports from the EU into the UK. It will not apply to our exports to the EU, as the Euratom regulation does now, because, unfortunately, it reflects the UK’s position outside the EU. The instrument can cover only the arrival of shipments in the UK, because that would be the only thing within our power in the event of our leaving the European Union without a deal.

Secondly, the obligation for exporters in EU member states to submit a quarterly return of all shipments will no longer apply, because we will not be able to place an obligation on EU exporters to submit such a return to a UK-based competent authority, as the Euratom regulation does.

Thirdly, the instrument places a legal obligation to make a prior written declaration on the UK importer, whereas the Euratom regulation placed a legal obligation to obtain a prior written declaration on the EU exporter. That technical legal change is made for obvious jurisdictional reasons, but it will make no difference to what is required in practice. The practical requirements for obtaining the declaration for UK importers remain the same. The changes do not place any additional practical requirements on industry or regulators.

The shadow Minister normally asks me for an impact assessment. In this case, as the one-off cost to all industry will be between £1,400 and £9,100, the impact will be de minimis and absorbed as part of day-to-day business. It is just about getting used to the new technicalities; the process really is the same.

Dr Alan Whitehead (Southampton, Test) (Lab) *indicated assent*.

Richard Harrington: I do not know whether *Hansard* can indicate that the shadow Minister nodded, but he did. That happens rarely during my speeches, but in this case it did. He may well have denied it, in which case I would have had to set the record straight.

Subject to Parliament's approval of the draft regulations, guidance on their operation will be published online in March, alongside targeted operator engagement. Officials have engaged with affected operators and stakeholders through a number of forums and channels, including the Environment Agency's small users liaison group and the radioactive substances policy group. I am pleased to say that the instrument was drafted in collaboration between officials in my Department and those in the devolved Administrations, as well as the different environment agencies and the ONR.

In conclusion, the draft regulations are essential to demonstrate our commitment to the highest safety standards in the area of radioactive substances control and ensure maximum continuity for UK importers.

4.38 pm

Dr Whitehead: It is a pleasure to serve under your chairmanship, Mr Gray. The Minister may correct me if I am wrong, but I think the draft regulations are pretty much the last of the various SIs that have been put in place to create a regime in the UK that is as good as the Euratom regime. I did not intend to be quite as kind as this will sound, but I think we have got to a position where pretty much everything is in place. That cannot be said for every area of regulation, but we are almost there as far as the future of Euratom is concerned.

Richard Harrington: I can confirm that this is the last Euratom SI for no deal. As usual, the shadow Minister is very well informed.

Dr Whitehead: There is the small matter of chasing an agreement with Japan, but that is a different matter.

Richard Harrington: A mere technicality.

Dr Whitehead: Indeed.

It would be remiss of me not to welcome the fact that we have now got to the final point, and therefore today we do not want to stand in the way of the regulations proceeding. However, I ask the Minister for a brief explanation of one particular aspect, which is bound up to some extent with the fact that, as he said himself, what was previously a two-way process in regulations now becomes a one-way process, because we have no means of forcing anybody in an EU country to make declarations in a way that we might like, and we will therefore record receipt, rather than across the board, as far as exchanges are concerned.

That concerns me to the extent that the Minister has talked this afternoon of sealed sources of radiation. He stated that those are in a special box. They are effectively in a box, but they are sealed, to make what can be highly dangerous radiation not impactful on anybody who is dealing with it. So it will be sealed in metal, or glass, or whatever, to make it non-impactful on the outside.

The current regulations cover a second category—unsealed sources. That does not mean unsealed to the extent that they are on a paper doily laid out for everyone's approval. The safety of those materials should give cause for concern, but they are not in the same category as the materials that have to be sealed so as not to harm anybody outside. They are called unsealed, but they are still protected, and we ought to know about them as far as possible.

The problem is that previously, the transit of both sealed and unsealed material could be traced one way or another, either through the forms that had to be filled in before material was transported, or they would be subject to a three-monthly report of the transit of all materials, which was held within the EU but available to all member states. Now that will not be available to us any more, so in principle we will have no knowledge of what is happening to the transport, both in and out, of unsealed nuclear material.

I do not wish to hold up this particular SI, but I nevertheless invite the Minister to reflect upon whether, for the longer term, that is an entirely satisfactory way to do things. The explanatory memorandum states that that is not a matter of great consequence, but I would have thought that what happens to the transport of these items is important, so that we do not face a possible future scandal of missing material, or material going to the wrong place or into the wrong hands, or performing the wrong role. We ought to have some known record of what is going on.

I may have misunderstood how this SI will work, and perhaps we will in some way have a record, but on the face of it, it looks as though we will have a record only on the basis of voluntary arrangements by the shippers, and not a definite and certain arrangement for those shipments.

On the overall arrangements for sealed goods, I absolutely agree with the Minister, and I also agree with him that there should not be an impact assessment for this SI, because the same things are going backwards and forwards, and it is not a question of there being any serious changes in procedures; it is just a question of how those procedures are being organised. However, there is a question to be answered about sealed and unsealed materials, and I hope the Minister can answer it in a way that puts my mind at rest about the procedures.

4.44 pm

Sir Robert Syms (Poole) (Con): It is a pleasure to serve under your chairmanship, Mr Gray. I was involved with the Nuclear Safeguards Act 2018 and I have sat on a number of related statutory instrument Committees, so it is pleasing to hear that all the building blocks are now in place. As a brief observation, the Minister has done a good job. He has been cheerful and open, and he has got on with it. If other Ministers took the same attitude, the job of Government would be a lot easier.

4.45 pm

Sir Geoffrey Clifton-Brown (The Cotswolds) (Con): I echo my hon. Friend's comments. The Minister has done a thoroughly competent job and he is well on top of the issue. It is great that we have got to the end of the series of statutory instruments on nuclear decommissioning.

The 65th report of the Public Accounts Committee, on which I sit, about the Nuclear Decommissioning Authority says:

"In 2017-18, the NDA spent £2 billion on activities at Sellafield" and—this is really serious—

"It expects operations to decommission Sellafield to continue for over 100 years at an estimated cost of £91 billion."

What consideration is being given to building up more and more of those materials that are taking a long time to decommission at Sellafield?

4.46 pm

Richard Harrington: I am flattered by the compliments from my two hon. Friends, and by the good grace with which the hon. Member for Southampton, Test has responded throughout the progress of the 2018 Act and the statutory instruments that have followed. Every time, we hope that he will be late so that we can start without him and the illustrious Opposition Whip will have to deal with the issues, but he has never let us down—or at least, he has never let the Opposition Whip down.

The hon. Gentleman's points are interesting. Being who he is, he will be aware that advance declarations have never applied to unsealed sources, so that is not new.

Dr Whitehead: Just to clarify, that has always been my understanding. It is a question of what goes into the three-monthly declarations from the EU about all transport—unsealed and sealed. That was previously the source from which one could keep a record of what was going on.

Richard Harrington: Perhaps I can answer by saying that that does not pose a concern, because the devolved environmental permitting regime allows the UK environment agencies to require sites that receive sealed and unsealed radioactive sources to record their receipt. Under the EU regulations, as I have explained, the import of unsealed sources was captured only by the quarterly returns. As that is no longer a requirement, unsealed sources are not covered by the regulations, so it is a completely different matter with a completely different system.

To answer the question of my hon. Friend the Member for The Cotswolds about Sellafield and the Public Accounts Committee report, if he will indulge me, I think it would be better for me to write to him on the subject or for us to meet to discuss it.

The Chair: So do I.

Richard Harrington: Thank you very much, Mr Gray. With that, I commend the last statutory instrument on Euratom to the Committee.

The Chair: The question is—*[Interruption.]* Mr Chapman is trying to catch my eye.

Douglas Chapman (Dunfermline and West Fife) (SNP): I was expecting to be called, as is normal for the spokesperson for the third party in Parliament.

The Chair: It is helpful if you stand up, so I can see who is trying to speak.

4.48 pm

Douglas Chapman: We oppose the regulations. We feel that the UK may leave the Euratom treaty on the same day as we leave the EU. Since regulation will still be automatically based in EU law on exit day, and we will no longer be a member state, we have some concerns about the future relationship.

The Minister has mentioned our concerns, but the requirement to make a quarterly return will not be replicated under the draft instrument, and the obligation to make a prior written declaration will apply to UK imports, but not vice versa. We are in favour of retaining relationships that are as close as possible beyond Brexit, but despite the Government's best attempts to ensure continuity, we oppose the instrument on the basis that we do not believe that the Government have explored all the relationships that we would want to see in place before the regulations are put into practice.

4.50 pm

Richard Harrington: I apologise to the hon. Gentleman for not including him within the bulk of my remarks. To clarify, I think that this might answer his point: the draft regulations are in the event—I hope, the very, very unlikely event—of no deal. The Government's intention, however—as he and his colleagues would find out were they to vote for the Prime Minister's withdrawal deal—is to have as close a relationship as possible with Euratom, basically in an agreement as part of the legislation to follow, assuming the Prime Minister's deal is passed. At that time, I think I would be able to satisfy him—certainly our policy is to do so, and to have a relationship that would replicate so many things in the wonderful relationship we have had as part of Euratom. I hope that will satisfy him for the moment. We are all working on the assumption that the draft regulations—assuming that they are passed by the Committee—will be completely irrelevant and not needed.

Question put and agreed to.

4.52 pm

Committee rose.