PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT PRODUCT SAFETY AND METROLOGY ETC. (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

Tuesday 12 March 2019

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Saturday 16 March 2019

The Committee consisted of the following Members:

Chair: James Gray

† Bardell, Hannah *(Livingston)* (SNP)
† Brereton, Jack *(Stoke-on-Trent South)* (Con)
† Cunningham, Mr Jim *(Coventry South)* (Lab)
† Day, Martyn *(Linlithgow and East Falkirk)* (SNP)
† Double, Steve *(St Austell and Newquay)* (Con)
† Eagle, Maria *(Garston and Halewood)* (Lab)
† Furniss, Gill *(Sheffield, Brightside and Hillsborough)* (Lab)
† Harris, Rebecca *(Lord Commissioner of Her Majesty's Treasury)*
† Herbert, Nick *(Arundel and South Downs)* (Con)
† Morris, Anne Marie *(Newton Abbot)* (Con)
† O'Brien, Neil *(Harborough)* (Con)
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
† Quince, Will *(Colchester)* (Con)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Tolhurst, Kelly *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
† Twigg, Derek *(Halton)* (Lab)
† Watling, Giles *(Clacton)* (Con)

Mems Ayinla, *Committee Clerk*

† attended the Committee

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Tuesday 12 March 2019

[JAMES GRAY *in the Chair*]

Draft Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019

2.30 pm

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

That the Committee has considered the draft Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Gray. Since the referendum decision to leave the EU, the Department for Business, Energy and Industrial Strategy has undertaken a significant amount of work on withdrawal agreements, preparing for a range of potential outcomes, including a no-deal scenario. This statutory instrument has a single, yet crucial, objective to continue to protect consumers and give businesses the clarity that is needed to operate under a no-deal scenario. It will ensure that in the event of no deal, the UK continues to have a robust and highly effective product safety and legal metrology regime.

The UK product safety and legal metrology regime is among the strongest in the world. The toys our children play with, the electrical items in our homes and the petrol pumps on our garage forecourts all rely on the legal framework carried by that legislative regime, and it is vital that post exit we retain such a robust system. This SI will not change the system or approach, which I know are supported by business and enforcement authorities.

The changes made by this instrument to 38 product safety and metrology laws will ensure that the UK's product safety and legal metrology framework will remain as it is—as followed by the UK as an EU member state—but that it is converted into a UK regime. The changes include: retaining the requirement for conformity assessments to ensure products meet the essential requirements set out in the legislation; retaining the need for assessment by a third-party organisation to confirm that a product can be placed on the market, where it is currently required; retaining the standard systems to give rise to presumptions of conformity with the legislative requirements; and ensuring UK market surveillance systems will continue to work, to limit the number of unsafe and non-compliant goods available to UK consumers and businesses.

Without this no-deal SI, we risk disruption and confusion for businesses and enforcing authorities, limiting our ability to remove a wide range of unsafe or non-compliant everyday and high-risk products from the market, as there will be uncertainty about the extent, impact and application of the existing legislation.

Before I set out the key provisions in more detail, I will explain the approach we have taken and highlight what we have done to make an unusually large SI easier to navigate. We are laying a number of separate product regulations before the House together, because there are many cross-cutting issues that are the same for the majority of products featured. They have similar definitions, obligations and requirements needing similar fixes, and it made sense to group them together into one SI. For example, many of the product areas require third-party conformity assessment bodies to assess the products against the legislative requirements and some require the manufacturer to self-certify and mark the product, as confirmation that the product complies with the requirements. This similarity across the SI makes it easier to use for businesses that have to comply with the legislation and for the enforcement authorities, such as trading standards, which advise and enforce across the wide product safety system.

Another reason for the size of the instrument is the lengthy technical schedules that are included. These are widely used by industry. Including them together removes the effort for business and stakeholders in having to cross-reference separate EU directives and allows them to understand the requirements of UK law, given that they are all set out in one place alongside the related product schedule. Incorporating those annexes accounts for a third of the SI.

Throughout November, after the publication of the technical notices, the draft SI was shared with several stakeholders for information, via a series of reading rooms. The purpose of this exercise was to inform and update stakeholders on our plans for the product safety and legal metrology framework after exit. Stakeholders told us that this was a worthwhile exercise, reassuring them about our approach, which they supported. Furthermore, this engagement has meant that we have been able to understand the main requirements and concerns of businesses, industry experts and enforcement agencies, which were also able to give their feedback on some specifics about the draft SI, and which we welcomed, allowing us to make drafting amendments as appropriate.

Maria Eagle (Garston and Halewood) (Lab): I am interested to hear the Minister refer to stakeholders and these reading rooms. It is all very well referring to business, but there are other interests—what about consumers? Were there any consumer organisations at these reading rooms? We do not have a number for how many stakeholders in each area were actually consulted.

Kelly Tolhurst: I thank the hon. Lady for that intervention, and I can answer her questions. We consulted with more than 6,000 business, which are quite important in this legislation as they have to understand and implement it, and are ultimately responsible for placing safe products in the marketplace. It was therefore vital that we could confirm that with stakeholders. I can reassure the hon. Lady that organisations such as Which? were invited to our reading rooms and fed into the process, and that consumer groups were given the same amount of access to the draft SI.

I appreciate that there are concerns about the impact of such a significant instrument on business. Despite being de minimis, we have completed and published a full impact assessment given the importance of this SI and in the interests of transparency. During development of it, we have been mindful of the impact on business of the changes to processes as a result of the UK's exit from the EU. Where possible, we have made specific

arrangements, including an 18-month transitional period for importers regarding labelling and a 90-day transition period for notifying a new UK database of cosmetic ingredients. Businesses have welcomed that.

Having touched on process, I move on to addressing some more detailed points about the substance of the regulations, given the issues that cut across many of the individual schedules. The regulations provide for continued recognition of goods assessed against EU regulatory requirements, including continued acceptance of products lawfully carrying the CE marking and of product certifications carried out by EU recognised bodies. This means that products that meet EU requirements in these areas can still be placed on the UK market after exit. In the event the UK leaves the EU without a deal, this is intended to be for a time-limited period and will help minimise disruption to the public and business in the event of no deal. At the same time, the regulations establish an equivalent UK framework to ensure that the legislation functions domestically once we leave.

I will now turn in more detail towards some of the further elements of the framework, including the new UKCA marking and the establishment of UK approved bodies.

Hannah Bardell (Livingston) (SNP): On the point about CE marking, I knocked a door in my local area at the weekend, in Livingston, and was met with a chap who worked for a mechanical engineering company. He was particularly concerned about this and asked how, despite the fact that the UK may want to have its own regulations, we will keep up with the EU and what impact that will have on businesses. Can the Minister tell us about what impact assessment she has done on that?

Kelly Tolhurst: I thank the hon. Lady for her intervention, particularly regarding CE marks, which I shall go on to discuss. I want to reassure her that part of developing this UK framework and having it all in the one place is to ensure that, in a no-deal scenario, we can improve and keep in step with any improvements in regulations. In fact, when scientific evidence suggests that we can make a change, powers that previously referred to the European Commission are given to the Secretary of State. In some respects, the SI gives us more flexibility to make those changes.

From my past knowledge, I can tell the Committee that we were part of the formulation of some of the regulations, particularly as regards some the areas covered and some of the technical and particular product requirements, when they were considered by the European Union. I am therefore confident that, with our focus on product safety and the development of requirements, that we in the UK will continue to operate as we always have done in this area.

The UKCA marking will cover most goods subjected to CE marking. Whereas the CE marking indicates compliance with EU rules, the UKCA marking will indicate compliance with UK rules. Products lawfully made and assessed against EU regulatory requirements, including those with CE markings affixed, will continue to be accepted on the UK market. The vast majority of businesses will therefore be able to continue applying the CE marking as they do now, and they will not need to use the new UKCA marking.

It is legally necessary to create the new UK marking as part of a domestic legal framework so that products can still be assessed by UK-based conformity assessment bodies, which will no longer be recognised as meeting the requirements of the EU legislation in a no-deal scenario, meaning that manufacturers using them will no longer be able to affix a CE marking to products.

There is a requirement that some of the products covered by the legislation should be assessed by third-party organisations, called conformity assessment bodies, before the product can be placed on the market. For most of the products within the scope of this legislation, the conformity assessment bodies are usually called "a notified body", and they play a valuable role in ensuring products available to businesses and the public are safe, and are produced according to a legal framework.

The EU has made it clear that in the event of a no-deal exit, it would no longer recognise work carried out by UK-notified bodies to assess products for sale on the EU27 market. That is why we are putting in place a UK framework that will allow UK bodies to continue to assess products. This benefits not only the bodies themselves but also their customers, who might not be seeking to export to the EU and would prefer to continue to have their products assessed by a body established in the UK. Therefore, for areas within the scope of the legislation, UK-based notified bodies will automatically be given new status as UK-approved bodies. Products successfully assessed by these bodies will then be marked with the UKCA marking before being placed on the UK market.

A further common element of the product legislation covered by this SI is the use of authorised representatives, commonly known as ARs. These are natural or legal persons established in the European economic area who can be appointed by a manufacturer of a product to carry out certain tasks on their behalf. The regulations provide for the ongoing recognition of existing ARs in the EEA, however any new AR appointed after exit day will need to be based in the UK.

For cosmetic products, a different approach is being taken because of the risk they pose to human health. Responsible persons playing a key role in ensuring the safety of cosmetic products on the market will be required to be based in the UK rather than the EEA from the point of exit.

To conclude, the regulations establish a domestic product safety framework in the event that the UK leaves the EU without a deal. They are making only the changes to the framework that are needed to ensure the UK's product safety and metrology system functions effectively and to the same high standard after exit; otherwise they maintain and secure the current system in domestic legislation. As hon. Members will recognise, it is essential that the UK has a functioning product safety framework in place in the event of a no-deal to prevent a flood of unsafe and non-compliant products into the UK market. I urge the Committee to approve the regulations.

2.44 pm

Gill Furniss (Sheffield, Brightside and Hillsborough) (Lab): It is a pleasure to serve under your chairpersonship, Mr Gray. We are 17 days from our departure from the European Union. It is perhaps no wonder that statutory instruments are being rushed through Parliament. Once

[Gill Furniss]

again, the Minister and I are here to discuss a statutory instrument that makes provision for the regulatory framework after Brexit in the event that we crash out without a deal. On each such occasion, my Labour Front-Bench colleagues and I have spelled out our objections to the Government's approach to secondary legislation. The volume and flow of EU exit secondary legislation is deeply concerning in respect of accountability and scrutiny.

The Government have assured the Opposition that no policy decisions are being taken. However, establishing a regulatory framework inevitably involves matters of judgment and raises questions about resourcing and capacity. Secondary legislation ought to be used for technical, non-partisan, non-controversial changes because of the limited accountability it allows. Instead, the Government continue to push through contentious legislation with high policy content via this vehicle. As legislators, we have to get it right. These regulations could represent real and substantive changes to the statute book and, as such, they need proper, in-depth scrutiny. In that light, the Opposition would like to put on the record our deepest concern that the process for considering these regulations is not as accessible and transparent as it should be.

Today, we are focusing on the SI on product safety and metrology, which has been called a "beast of an SI", to quote a story in *The Times* on 12 February. It is 636 pages long, weighs 2.5 kilos and puts together 11 issues that would usually be in separate documents to be sifted through. The Secondary Legislation Scrutiny Committee was damning about the length and scope of the SI and the Government's approach to bringing it to Parliament. It notes that

"the exceptional size and complexity of the instrument inhibit effective parliamentary scrutiny of the proposals (both by this Sub-Committee and by the House in debate), carry a considerable risk that the whole instrument may have to be withdrawn if a single serious drafting error has been made (as happened in this case), and reduce the accessibility of the legislation. We find that the Department may have chosen the approach for its own convenience, rather than in the interest of Parliament or those affected by the proposals".

I appreciate the Minister's attempts in the last few days to bring forward more information to help us scrutinise the draft regulations, but those attempts cannot justify the size and scope of this secondary legislation. It risks setting a precedent, and risks the democratic scrutiny that is vital to bringing about new legislation. In light of this, will the Minister make a commitment that this does not set a precedent for bundling significant changes into one SI in the future?

The statutory instrument relates to a no-deal scenario under which the UK leaves the EU without a deal. Despite the Prime Minister's claims in October 2017 that leaving the EU would not negatively impact consumer protections, the Government's own no-deal analysis wholly contradicts that. There is serious concern and uncertainty about the impact of a no-deal scenario on consumer protection, as it may essentially water down 40-plus years of progress in this area. Major consumer groups such as Which? have come out strongly against a no-deal Brexit, arguing that it could be catastrophic for consumer protections, many of which are intrinsically linked with the EU.

The SI attempts to transfer the rights and regulations from EU law into UK law, and in the process to iron out some of the deficiencies that would arise as a result of the UK leaving the EU. Under a no-deal scenario, this is a necessary piece of legislation to ensure that we continue to enjoy important consumer protections. I do not dispute that. However, further scrutiny reveals a few problems. First, the SI proposes that following our departure the UK will no longer be able to use the CE mark to identify safe products. That will be replaced in the UK with a new "UK conformity assessed" marking—the UKCA. The Government have said that they will continue to accept the CE mark until further notice. Will the Minister outline what assessment her Department has made of the timeframe for doing that?

Furthermore, the CE mark is a trusted and established mark that gives consumers the confidence to purchase products. That is a basis of a healthy economy: one where consumers have trust that the products they buy are safe. It will take significant work to bring the UKCA to the same level of credibility. What resources are there and what actions are the Government taking to ensure that people are aware of the new UKCA marking?

Furthermore, what discussions have the Government had with the European Commission about it accepting the UKCA mark in a no-deal Brexit, given that if it does not, there will be no incentive for foreign manufacturers to have their products certified in the UK? Rather, they will get their CE marking, assured that it will be accepted in the UK. What assessment have the Government undertaken of the EU not recognising the UKCA marking, and the impact this will have on consumer confidence and business activity in the UK?

Another point of contention is market surveillance following the UK leaving the EU. The UK will lose access to RAPEX, the EU's rapid alert system, and the information and communication system on market surveillance, and replace them with a UK-based database on market surveillance to help us remove unsafe goods. Information sharing is a vital element of our continued good consumer protection. The RAPEX system is a good example of UK co-operation. This SI and the Government's failure to secure a commitment on RAPEX risk losing the vital information sharing that has been critical to the safety of products across the EU.

We know that the increased transfer of responsibilities to UK authorities will increase the workload of the extremely overstretched trading standards bodies, which have suffered cuts of 40% since 2010. What assessment has the Minister made of the impact of a no-deal Brexit on local trading standards and their workload? Furthermore, what discussions has the Minister had about securing further resources for trading standards bodies and other enforcement bodies, so that consumers are reassured they will be safe in the event of no deal? I have consistently asked the Minister that question. Has she taken steps to make such assessments? It is vital that we are aware of the cost to local enforcement bodies so that we can plan ahead.

The explanatory memorandum outlines that an impact assessment was made and an informal consultation was undertaken with cross-representation of stakeholders, including trade associations and other industry representatives. It is suggested that there is no significant impact on business and other organisations. On the

same page, it contradicts itself by suggesting that familiarisation costs will impact around 241,000 businesses to the tune of some £19.6 million and a further £1.2 million for cosmetic products specifically. In addition to the costs a no-deal Brexit would have for business, even the familiarisation costs are not insignificant, particularly for small businesses with very tight margins.

Furthermore, I am sceptical about the calculations. It is suggested, for example, that the assessment of the impact is based on a corporate manager or director taking three hours to familiarise themselves with the new legislation. I simply suggest to the Minister that it may take far longer than three hours for a manager to read and digest all the information in the 600-plus pages and share it with staff across the organisation. If the regulations pass today, what plans does the Minister have to bring the details of the SI to the public and particularly to the businesses it affects in bite-sized and understandable language to make it easier for businesses to familiarise themselves with it?

I have spoken to many consumer bodies that have been seriously concerned about the lack of engagement from the top levels of Government during the Brexit negotiations. Consumers are at the heart of our economy, yet there has been little interaction with consumer groups throughout the Brexit process. It is an indictment of the way in which the Prime Minister has overseen the negotiations. It is suggested that there was an informal consultation with groups. Will the Minister provide a list of all the organisations that took part in the consultation process and the nature of those meetings?

I conclude by making it clear that I am deeply concerned about the length and breadth of the SI. While I do not dispute the need for it in a no-deal scenario, the Opposition will vote against it on the basis of the process by which the Government have sought to take it through Parliament.

2.54 pm

Martyn Day (Linlithgow and East Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Mr Gray. I am grateful to the Front-Bench spokespersons for setting out the case. It certainly is a mammoth tome, and I am glad that I got it this year and not last year when I was waiting for a hernia operation. Humping it around Parliament was a fair job. I emphasise the point made by the Opposition spokesperson that it will take considerably longer than three hours to go through and digest it, even with an informed summary.

While I have some sympathy for rolling different measures together to make things simpler for the future, I noticed in the impact assessment that the principal reason for doing this was for

"effective use of Ministerial and Parliamentary time."

Bearing in mind that this is a no-deal provision, we could have made much better use of our time by simply ruling out no deal in the first place, had we had the sense to do that. However, we are where we are.

I find myself concerned about a number of points, many of which have been mentioned already. I worry about things such as the loss of access to cross-border regulators such as the European consumer centres, which affect customers and not only businesses. Coming on to the businesses, which is the main issue, points have been made about the simple cost to them of doing this: 241,000 businesses, many of which will be very concerned, spending around £19.6 million—I fear that is a conservative estimate—is too much and we should not be forcing that on people during such a hard-pressed and stressful period as the Brexit process.

Of course, all of this could have been avoided by remaining in the single market and customs union, and avoiding having dual sets of standards. I worry about dual standards, from both a business and a consumer point of view, so I too will not be supporting the regulations today.

2.56 pm

Maria Eagle: It is a pleasure to serve under your chairmanship, Mr Gray. I thank both Front Benchers for the way in which they set out the points they made, and the SNP spokesman for his contribution.

I am deeply concerned about this SI. Apart from the fact that it is as thick as a brick and weighs probably more than that, I find it difficult to conceive that anybody who might be affected by it could understand the meaning of it by reading it. It simply is not possible.

Let me give the Minister an example of what I mean: if we turn to schedule 26, which is on page 318 and is something I have picked out at random, it sets out the amendments to the Non-automatic Weighing Instruments Regulations 2016. The schedule goes on to set out what the amendments to those regulations are, but needless to say, the regulations that are being amended are in a different document that, by the way, is not in the room. If I wanted to assure myself that the measures in the SI were doing what they purported to do, it would be difficult for me to do so, because I do not even have the document that is being amended present in the Committee Room.

I know we now have the wonders of the internet, but when I was a Minister it was the practice always to have present in the Committee Room all those documents—primary legislation and statutory instruments—that were being amended, so that if somebody sitting in the Committee wished to consider whether a particular clause was doing what the Minister, in all good faith, said it was doing, they could check that. It is impossible today for us to do that.

It is impossible—and it will be impossible should this instrument pass—for anybody picking it up and reading it to understand, without having a whole library of legislation, what on earth the provisions are doing and whether what they purport to do is what they do do, or whether, because the civil service is so hard-pressed these days from having to produce these documents, there has been some technical error in the drafting. That is a problem that I have referred to in other SI Committees. Not having the documents that are being amended in the room is a problem.

I turn now to the fact that this is the Tyrannosaurus rex of SIs, or the Giganotosaurus—one of those enormous dinosaurs that got really, really large—and the impact assessment tells me in annex A that 38 pieces of legislation are subject to amendment by this SI. Some of them are extremely important bits of legislation in terms of public and consumer safety. They are also extremely varied, from the General Product Safety Regulations 2005 through to specific regulations such as those on toy safety, the making available on the market and supervision of transfers of explosives, aerosol dispensers, gas appliances, cosmetics and cosmetic products, intoxicating liquor, consumer protection more generally, weights and measures,

[Maria Eagle]

and all kinds of things. I could read out all 38 pieces of legislation, but that would detain the Committee for too long. However, that is an illustration of the problem.

Hannah Bardell: The hon. Lady is making a powerful and appropriate point. Those 38 measures include ones on offshore installations: the Offshore Installations (Safety Case) Regulations 2005 and the Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015. What business do those have being in a document with cosmetics? That is not to diminish the importance of regulations about cosmetics, but those on offshore installations are vital and should have had specific time dedicated to them. Is not the reality that we are in such a rush and a dash to do something that might never even need to be used that such things are being rushed through without proper scrutiny?

Maria Eagle: I cannot but agree with the hon. Lady. The scope and range of the legislation subject to amendment by this one SI are extensive and startling. Many of those pieces of legislation do not have obvious connections to others being amended by the same instrument.

I must agree with my hon. Friend the Member for Sheffield, Brightside and Hillsborough about the assessment of the costs of implementation. I bear in mind the fact that the Minister has said, in total good faith I am sure, that the aim of the draft regulations is to keep things as they are in the envisaged circumstances of no deal. I do not suggest for a minute that there is any bad faith in any of this, but it is impossible for us to consider properly whether what the Minister seeks to ensure happens will actually happen. The extent and size of the regulations, and the way in which the legislation is written, with the powers that Ministers have given themselves to change legislation, is impossible to scrutinise properly.

In answer to my intervention, the Minister told us about stakeholder reading rooms and the 6,000 businesses involved. That sounds like a lot until one turns to page 21 of the impact assessment: the number of manufacturing industries covered by specific product safety regulations amounts to 24,255. Just over the page, in table A1.2, we see that other manufacturing industries producing consumer products amount to 38,614. The wholesale industries affected consist of some thousands more and the retail industries affected consist of very many thousands more businesses.

I also note that paragraph 87, on page 17 of the impact assessment, states:

> "Based on data from the ONS…around 95% of manufacturing businesses and over 96% of distributors in the industries affected by the SI are small or micro businesses."

Those are exactly the kinds of businesses that simply do not have the time or capacity—if they are to stay in business—to buy this statutory instrument; to look in it to cross-reference it to the EU directives, other statutory instruments and primary legislation that it amends; to understand and interpret the legal language, of which there is a lot; and therefore to understand what their obligations are.

I, too, will vote against the draft regulations because they are too large a piece of legislation, with too wide a scope to enable those of us scrutinising it in Committee the appropriate opportunity to do so properly. Not only that, but even after the SI passes, it will be almost impossible for anybody who is bound by an element of it to pick it up and understand what on earth it is that they are bound by.

The Minister says that the SI is not intended to make any changes, but changes may have been made, even inadvertently, through the language it uses. We have been unable to check that; I certainly could not check that in Committee today, in respect of even one of the pieces of legislation it amends, never mind 38 of them. It is an exceedingly bad way of making law, it is to be deplored, and I will not be supporting it.

3.6 pm

Kelly Tolhurst: I thank Committee members for their contributions. I will correct a statement I made to the hon. Member for Garston and Halewood. I said that over 6,000 businesses had been part of the consultation, but the number was 4,000—I knew that, but I was thinking about a figure for something else. I apologise.

The reason the SI is 600 pages long is purely to allow us to bring changes across a number of pieces of product safety together into one bundle, to make it easy for businesses, trade associations, enforcers and consumers to go to one place to find all the legislation that affects similar and cross-cutting issues, in a no-deal scenario. There is absolutely no intention to use this process as an opportunity to reduce transparency or the amount of scrutiny that SIs receive.

The hon. Member for Garston and Halewood is quite right that the intention of the SI is absolutely not to change policy; it is about making the statute book function from day one, were we to leave the European Union without a deal. As a Minister responsible for this area, and having spent my whole life prior to entering the House working with products, whether in the European Union or the UK, I would not want my legacy to be to have done something detrimental to consumers or businesses in a no-deal situation.

Maria Eagle: The Minister is being generous in giving way. I accept that the regulations are all in one place, but does she accept my point that if a fictional local businessman from a microbusiness were to come along and think, "Well, I need to check what I am doing if there is no deal," he would be unable to understand what on earth this meant. It refers to documents that are not attached to it. Anyone would need to have the House of Commons Library available in order to get all the documents together to cross-reference them and understand what on earth any of it means

Kelly Tolhurst: I understand the hon. Lady's concerns, but the majority of the changes in this SI are fixes. I take her point; she is an experienced parliamentarian who has been a Minister in the past. I understand that I am doing things in a way that are not really up to the standard that she would have expected from me. However, on the issue of establishing a framework, businesses are keen to have all the information in one place, where it is simple to access. I know from my previously work that having to keep up to date with EU regulation, which changes every other week, can sometimes be a challenge. The beauty of this arrangement is that it is a UK framework. It does not make a policy change; it concerns a functioning statute book after exit.

We have consulted businesses and trade associations because, in the event of no deal, they are fundamentally responsible for product safety. We have engaged with business. I do not know whether members of the Committee have been lobbied directly by firms, but I have had MPs ask me when the mega-bundle is going through and the SI coming to the House, because they want assurances on EU exit, particularly on conformity. I know that what I am saying might not alleviate some of the Opposition's concerns, but I want to make it clear that these provisions are about making the process easier for enforcers and businesses, so that we are able to maintain the high standards that we currently have in the UK.

I mentioned that there are no significant changes to elements of product safety. The measures are about fixes and making the process workable. Many of the businesses that will be interested in the SI, or need to understand its content, will not need to refer to all 600 pages. They obviously include the 38 different sets of regulations that cover different areas. We have put the schedules in with those 38 areas, alongside the changes, so that people can turn to the specific areas in the UK framework that interest them.

As for business impact, there will of course be an impact on business when moving to any new framework. In the event of a no-deal scenario, businesses or individuals may have to familiarise themselves with particular changes. To be frank, it is quite within the competence of organisations that are already adhering to the existing legislation to understand where the small changes have been made.

The hon. Member for Sheffield, Brightside and Hillsborough asked how we will assess the timeframe in which we will continue to maintain or accept the CE mark for products placed on the UK market. The timeframe is yet to be decided. It will be discussed in conjunction with businesses and interested parties. The focus is on making this an easy transition for businesses in the UK and for the flow of products. The intention is to have a UK mark so that UK manufacturers, when they have to place a product on the UK market, can establish that they are certified in the UK and meet the necessary requirements.

In a no-deal scenario, however, any UK business wanting to place a product on the EU market would still have to comply with certain regulations there. Currently, the EU has said that it will not recognise or accept the UKCA mark. Quite rightly, the EU has the CE mark to indicate conformity. Any acceptance of a UKCA mark would be part of further trade negotiations, into which the Government may or may not enter, regarding acceptance of our product standards in future. That would be usual in any trade deal as a third country, when operating not just with the EU but with any other country in the world.

The shadow Minister rightly pointed out the concerns about access to European databases. I must give her some comfort that we will still have public access to the RAPEX database, and we are already developing the three databases to do that. Market surveillance is carried out in a number of different ways, and is not reliant just on those databases; it also comes from border and customers, and we hold our own data. I am confident that we will be able to continue carrying out the same level of market surveillance, and it is in the UK's interests to ensure that unsafe products that should not be here are not placed on the market.

The hon. Member for Sheffield, Brightside and Hillsborough asked whether I could give her details of the meeting on the consultation that was carried out. I would be happy to write to her about that. With regard to trading standards enforcement, we have had the debate about trading standards enforcement many times in the House in recent weeks. Although the shadow Minister is right to challenge me, I hope that she accepts that trading standards enforcement is a particular interest of mine as a Minister. I would therefore like to give the Committee some comfort by pointing out that the Office for Product Safety and Standards has trained over 600 local trading standards professionals in 200 local authority areas, and at no cost to the local authorities. They will ensure that we are preparing our enforcers in the event of no deal, and for the wider aspect of when we do leave the European Union.

With regard to planning and the future direction of the Office for Product Safety and Standards—as well as what we are doing on data and increasing surveillance—we are bringing in more investment: the £12 million is focussed directly on the Office for Product Safety and Standards and the work going on with the border project. I know that the hon. Member for Sheffield, Brightside and Hillsborough has looked into this in great detail.

On the impact on business, labelling is a key concern. That is one reason why we have given organisations 18 months to comply. As a Minister, I have taken an interest in the matter, as Committee members would hope and expect, and have challenged officials in many of these areas, including by asking them how we could do things better or give businesses more opportunities. We have struck the right balance there. It is feasible for even a small business to be able to comply with what we have been able to do, including by familiarising themselves with the legislation.

Again, I thank Committee members for their contributions and I understand their concerns. I reiterate that this is about ensuring that we are in the right place if we leave the European Union without a deal on day one. The regulations are essential to ensuring that people across the UK continue to have confidence in the safety of the products they buy and use every day. If this legislation is not in place, the UK's product safety regime simply would not work if the UK leaves without a deal agreed by both sides.

Without regulation, unsafe products could more easily be placed on the market, with no effective mechanism for removal, with the result that the British public would have less protection from unsafe and non-compliant products than they do today. The UK product safety and metrology regime is currently among the strongest in the world, and it is vital to ensure that we continue to have an effective product safety and metrology legal framework post exit. Without this, we risk disruption and confusion for businesses and enforcement authorities. Most significantly, we would limit our ability to remove unsafe or non-compliant products from the market. I am disappointed that the Opposition will be voting against the SI today. Many stakeholders out there will be looking for the Committee to approve the SI so they can have assurances on the requirement if we leave the European Union without a deal.

Question put.

The Committee divided: Ayes 9, Noes 8.

Division No. 1]

AYES

Brereton, Jack	O'Brien, Neil
Double, Steve	Quince, Will
Harris, Rebecca	Tolhurst, Kelly
Herbert, rh Nick	Watling, Giles
Morris, Anne Marie	

NOES

Bardell, Hannah	Cunningham, Mr Jim
Day, Martyn	Pearce, Teresa
Eagle, Maria	Smith, Nick
Furniss, Gill	Twigg, Derek

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019.

3.22 pm

Committee rose.