PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Twenty-first Delegated Legislation Committee

DRAFT ENVIRONMENT, FOOD AND RURAL AFFAIRS (AMENDMENT) (EU EXIT) REGULATIONS 2019

Wednesday 13 March 2019

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Sunday 17 March 2019

The Committee consisted of the following Members:

Chair: Siobhain McDonagh

† Blackman, Bob *(Harrow East)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Daby, Janet *(Lewisham East)* (Lab)
† Debbonaire, Thangam *(Bristol West)* (Lab)
Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Drew, Dr David *(Stroud)* (Lab/Co-op)
† Hayes, Sir John *(South Holland and The Deepings)* (Con)
† Morris, Grahame *(Easington)* (Lab)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Rutley, David *(Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs)*
† Seely, Mr Bob *(Isle of Wight)* (Con)
† Stewart, Iain *(Milton Keynes South)* (Con)
† Swire, Sir Hugo *(East Devon)* (Con)
† Timms, Stephen *(East Ham)* (Lab)
† Vara, Mr Shailesh *(North West Cambridgeshire)* (Con)
† Villiers, Theresa *(Chipping Barnet)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Nina Foster, *Committee Clerk*

† attended the Committee

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Wednesday 13 March 2019

[Siobhain McDonagh *in the Chair*]

Draft Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019

2.30 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 Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019.

Once again, it is an honour to serve with you in the Chair, Ms McDonagh. The regulations group elements of six policy regimes for natural mineral waters, spirit drinks, food labelling, wines, genetically modified organisms and animal imports. The Department for Environment, Food and Rural Affairs sought agreement to group the regulations on a thematic basis to ensure that each policy regime would be subject to the required scrutiny. That is particularly valuable when regulations are inter-related, as in this instrument, where each regime includes a transfer of functions, which is the key element to all these regulations. The purpose of the statutory instrument is to make purely technical or operability corrections to ensure that the regimes continue to function as intended. The corrections remove or amend references to EU directives, remove or amend EU references, convert EU procedures to UK procedures, and transfer EU functions to the UK.

The instrument also allows existing recognition of natural mineral waters from the EU, Iceland and Norway to continue on a transitional provision for at least six months, thereby maintaining the status quo immediately before exit day. It provides the Secretary of State with the power to withdraw recognition of EU natural mineral waters after a period of notice if certain conditions are not met. That relates to EU directive 2009/54 on the marketing of natural mineral waters.

With the exception of the Secretary of State's powers over the recognition of natural mineral waters, the instrument makes no further substantive changes. Although it represents a change of policy with respect to natural mineral waters, that change is only to retain the status quo, so that EU natural mineral waters are recognised in England. Without that provision, the natural mineral waters that obtained recognition in or by a member state in the European economic area would not have the right to be legally sold in England, irrespective of the Secretary of State's power to regulate the field. That would lead both to restricted consumer choice in the UK, where one in three bottles of natural mineral water are of EU origin, and to changes in the price of the products because of market forces.

The SI will also ensure that we have a fully functioning scheme for the geographical indications of spirit drinks that allows us to register and amend indications. That is particularly important for Scotch whisky, which in 2018, accounted for a record £4.7 billion in exports. Although those exports would not be directly threatened without the SI, the industry would lose the ability to amend the Scotch whisky technical file to better reflect industry practice. That document provides the technical specifications for products that use the Scotch whisky GI name—production process, geographical area, specific labelling rules and so on. In that respect, the SI amends EU regulation 110/2008 to transfer functions from the European Commission to the Secretary of State.

On food labelling, the SI will transfer a series of legislative functions that are currently conferred on the European Commission so that they will instead be exercisable by public authorities in the UK. Those functions will allow the appropriate authorities to make important changes relating to how certain pieces of information can be presented to the consumer. Currently, those powers sit with the EU Commission and their transfer will ensure that we would not require new primary legislation to update, for example, the list of allergens that must be labelled on pre-packed food, or to change the way that nutritional values are presented.

On wine and aromatised wine, the SI will transfer the power to make rules on the production processes used to make aromatised wines, as well as rules on methods of analysis and administrative and physical checks, and transfer powers on wine relating to GI applications from the EU to the Secretary of State. That will enable us to consider applications for new wine GIs and deal with applications to amend and cancel wine GIs on the UK wines GI register. Without doing that, key aspects of our wine quality policy would become inoperable, which would put us in breach of World Trade Organisation provisions. The SI will roll over the framework for producers to protect geographical indications for aromatised wines, as well as the mechanisms to control their production and use.

In respect of the regime for genetically modified organisms, the SI will make operability changes to transfer existing powers from the EU to the Secretary of State, allowing the Secretary of State to develop technical statutory guidance on sampling and testing for the presence of GMOs, amend the threshold above which products must comply with traceability and labelling requirements, and apply unique identifying codes to GMOs. That will ensure that we can continue to enforce the rules on releasing genetically modified organisms into the environment, although it is important to state that no GM crops are grown in the UK, nor is it anticipated that any will be.

Finally, the SI includes animal health provisions to make operable European decisions on the import of cattle semen, pig semen, horse semen, ova and embryos. They also retain an historic health certificate and inspection report that remains in use when certain disease restrictions are in place.

The Department for Environment, Food and Rural Affairs has consulted with the devolved Administrations on the amendments that the SI will make, and they have consented to its coming into force. Its territorial extent is the United Kingdom, except as regards natural mineral waters and decisions to release GMOs. As the natural mineral waters amendments apply only to England, each devolved Administration would have to make equivalent amendments to its own natural mineral waters

regulations to mirror that policy position; the devolved Administrations are currently deciding whether to follow England in that policy option. The amendments made to EC regulation 1830/2003 on the traceability and labelling of genetically modified organisms will apply to the UK, but the amendments to reflect and respect decisions on their release and marketing are a devolved matter in Scotland and Wales and a transferred matter in Northern Ireland.

We have consulted extensively, listened to stakeholders and reflected their views in the SI. Policy decisions on natural mineral waters were subject to a public consultation, which ran from 16 October to 13 November last year. DEFRA engaged all major stakeholders in the process throughout 2018, from individual companies to industry bodies. We have also written to the main stakeholders to explain the instrument's implications.

With respect to spirit drinks, DEFRA maintains ongoing engagement with key stakeholders such as the Scotch Whisky Association and the Wine and Spirit Trade Association. A four-week public consultation on geographical indications, including for spirit drinks, ran from 4 October to 1 November last year. DEFRA has raised stakeholder awareness of the food labelling technical notice published on 24 September 2018 and has undertaken a consultation on amending food labelling laws. We have also consulted on new GI scheme rules, including for wine.

In January, DEFRA engaged with parties with an interest in genetically modified organisms on the amendments contained in the instrument. We have carried out extensive engagement on animal trade and pet travel. To date, the Department has engaged with more than 300 importers, covering 50 events; it will continue that engagement in the coming weeks.

These measures are essential to ensuring that the six policy regimes I have set out remain able to operate once the UK leaves the EU. For all regimes except natural mineral waters, the instrument will make technical or operability corrections to ensure that those regimes continue to function as intended. I commend the draft regulations to the Committee.

2.40 pm

Dr David Drew (Stroud) (Lab/Co-op): I am delighted to serve under your chairmanship, Ms McDonagh. It is a pity that you have to be here rather than in Cheltenham, but we all have to make our sacrifices. It might be a bit wild and windy there anyway.

I welcome the Under-Secretary of State for Environment, Food and Rural Affairs, the hon. Member for Macclesfield. I thought we might get the new farming Minister, the right hon. Member for Scarborough and Whitby (Mr Goodwill); I have not yet had the opportunity for any exchanges with him, but I am sure that that will save for another day. I have just a few points to make—the Minister will be relieved to hear that the Opposition will not vote against the draft regulations.

I know that we are bundling up statutory instruments. Because of the time constraints we are under, that is something that we have to face, for good or bad, but we are now bundling up SIs within an SI. With the best will in the world, I do not understand what natural mineral water, spirit drinks, food labelling, aromatised wine, GMOs and animal health have got to do with each other. It is quite interesting how the civil service has come up with these portmanteau SIs, where we try to look at a range of different issues, which may not in themselves appear to be very important but are in totality.

I will dwell for a minute on animal health, looking at the explanatory memorandum. The bits on animal health are largely about the transference or transmission of equidae—I hope everyone knows what they are—and their semen, ova and embryos. As for animal health, at the end of the memorandum it says that no consultation was undertaken

"given that no change to policy is being made".

My ears pricked up when the Minister said there were three weeks of consultation overall. That is not a great deal of time for some of the changes that are implied here. Does that matter? Those of us who were around at the time of the bovine spongiform encephalopathy outbreak will remember that we had to ban the export of semen because that was one of the products that was caught up in the beef on the bone ban. It matters when it matters. That did matter because it cost us billions of pounds in lost exports.

We have to be very wary about what we put through here today. We put down our usual caveat that we are doing this at an enormous rush. No one really knows the implications of what we are doing because none of us—certainly in the Opposition—has had the opportunity to delve in depth into some of the changes. I know the Government say that there are no changes, that this is a cut and paste job, but we have to rely on the cut and paste being right and work on the presumption that, as time moves on, we are going to vary from the EU, enhance the process or, dare I say, do less. That is a concern.

I have a number of questions to put to the Minister. The one we usually start with is that there is no costing in the SI, so we do not know the implications or the impact, not just on Government, which must oversee this, but on the industry. With regard to changes to labelling, we are going to be faced by variability in the labelling regime. I am interested to know how the Government intend to approach that with regard to information for consumers. We know that labels differ at the moment but there is some commonality through our membership of the EU. If we leave on 29 March, that will have to change.

We could spend the whole hour and a half on GMOs, although colleagues will be pleased to hear that I will not. This is a very controversial area. My starting point is that we have four constituent parts of the UK. It is a pity there is no Scottish representative here but I think Scotland has gone as far as a GM ban for the nation. Will that happen again in future or will we have to accept that the UK Government are now sovereign on that matter?

That will make a difference because the French in particular will never allow any genetically modified product into their country. We are more lax—we have allowed animal feed to come in, particularly from north America. That does not mean we can feel satisfied that that will be accepted, because the French will ban our exports or re-exports if we are not careful.

The regulations will almost certainly demand additional bureaucratic observance, scrutiny and investigation. It would be interesting to know what additional work the Government have done on the GM issue. That matters,

[Dr David Drew]

because any attempt to sign a free trade deal with the United States will bring it to the fore in the public's perception. Those of us who were around at the time know that, whatever one's views on the science, the public had a very clear view on GM. They did not want it and they made that very clear through their representatives. Our policy, which we have kept to, is that we do not grow GM crops in this country.

It would be interesting to know what environmental impacts the Government think these changes will have. The Minister rightly said that nothing will change at the moment, but it would be interesting to know what "at the moment" means, because clearly there can be changes in the future. That will be very important, in terms of reporting procedures and our capacity to assess.

Several issues were raised by the bodies that are most concerned about this statutory instrument. I declare my usual interest: I am one of the British Veterinary Association's advocates. It is a non-paying role, but I welcome that relationship. The BVA is looking at the wider issues relating to the e-petition on pre-slaughter stunning that is doing the rounds at the moment. That is a very controversial issue. The BVA asked me, "How does this relate to some of the changes we are making?" Not very much, it could be argued, but we will have a new regime. That is important, because one of the things that we are looking at today is clarity of labelling. Whether there was stunning will have to be spelled out very clearly. Is that something that the British Government are ready for? Will they condone it and encourage it in what will be brought forward? How does that relate to our export markets, which depend on commonalities between regimes? It may be that we are very different.

The BVA's final point is that the UK Government should legislate to ensure that imported goods have the same clarity of labelling as home-produced goods. What resources are the British Government putting in place to ensure that is the case? That relates to the matter of border inspection posts. It is not clear from the SI or the explanatory memorandum what additional checks the Government intend to put in place to ensure that what they are told is coming into the country is actually what comes into the country. For animal products, that is the biggest threat we face. Anyone who has been to New Zealand will know that they basically strip-search people to make sure they do not bring in anything that could have any kind of pathogenic impact, because they know that that could wipe out their livestock industry. They are incredibly careful about who comes in and what they bring, and if people do things they should not do, they deal with them pretty savagely. What additional resources are the Government putting into border inspection posts to ensure those things do not happen? At the very least, we must do everything we can to prevent them from happening.

The biggest problem of the lot, of course, is the Northern Ireland border—not just the backstop, but the mechanism by which we ensure the movement of food back and forth. I have used the example of Baileys many times before, for which milk goes back and forth seven times. At least some additional checking will be involved.

Finally, let me look a bit more intensively at the GM issue. It would be helpful if the Government stated today that they will not alter their policy on GM. Regardless of the position after 29 March, it would be helpful if we had a clear statement that we do not grow GMOs in this country and that we do not import GMOs, other than because they happen to be in animal feed—for all sorts of reasons, there is not a lot we can do about that.

I have touched already on the fact that the drafting of the SI could allow for considerable differences between the four nations of the UK. The Minister said he had consulted the other Administrations, bar Northern Ireland, with which interaction is at official level. It would be interesting to know whether there is any divergence on GMO policy. As I said, from memory, Scotland had a very clearly negative position on GM. Is that the message that came back from the Minister's discussions?

Let me make a final couple of points on standards and regulations. Somebody has to ensure not only that we have a clear statement of official controls between us and any single market we may work through, but that we are very clear about the relationship between the four constituent parts of the United Kingdom. It would be interesting to know what additional regime will have to be put in place to ensure that border inspection posts take cognisance of what is happening in the different parts of the United Kingdom. That will be crucial, because the last thing we want is a disease outbreak shortly after 29 March. If that happened, the finger would be pointed very clearly at its being Brexit related. It may be completely unrelated, but that accusation would be made.

I accept that the Minister may have to write to me about one or two of those points, but this is a quite important piece of secondary legislation. It is a hotch-potch of different things, and some parts of it will have an ongoing impact. I hope the Minister realises that, although we will not vote against the instrument, issues such as the environmental liability directive, which I have mentioned before, will come back in one form or another. We need to look not just at individual SIs but at the totality of the way we protect the country from disease outbreaks. Obviously, if we get that wrong, we will not just be the poorer but face repercussions in the wider world, because other countries will take action against us, as they did over BSE.

2.52 pm

David Rutley: I am grateful to the hon. Member for Stroud for his characteristically thoughtful contribution. I mentioned that the SI is purely technical and operability correction oriented, and it is important to recognise that. Although he raised concerns about bundling, I think he appreciates the sheer weight of SIs we need to get through. Certainly, both Opposition and Government Members have very kindly helped to facilitate that. The good news is that we are making good progress.

Thangam Debbonaire (Bristol West) (Lab): The Minister says we have to get through these SIs. We had some time to get through them. They were all utterly predictable, but the Government have left them all until the very last minute. We are trying to get through 27 in the next 14 days, which in my view is utterly reprehensible.

David Rutley: I thank the hon. Lady for setting out her views so clearly. I just wish she would speak a bit more clearly so we could understand her views completely. Her concerns are understood, but we are in challenging

circumstances. All I can do is commend, as I have before, the incredibly hard work of officials in the devolved Administrations and the Department for Environment, Food and Rural Affairs. I know she does not suggest this is not the case, but they have been working at pace. I have been working with them—sometimes trying to encourage greater speed and sometimes trying to keep up with them. The good news is that we are definitely through the vast majority of the SIs. There are several more to do, as she says, over the next few weeks, but when you are having this much fun, you just want to carry on, surely?

Stella Creasy (Walthamstow) (Lab/Co-op): Given the concern that we could see statutory instruments referring to, as my hon. Friend the shadow Minister said, issues as broad as the production of wine and of horse semen, and the import and export of both, does the Minister not recognise that sometimes "more haste, less speed" is a worthwhile principle in making good legislation, even on something as difficult as this, and therefore that the problem with trying to push through so many statutory instruments at short notice is that we could miss things that are important to vital industries in this country, including equine and vinery services?

David Rutley: I thank the hon. Lady for her point. I understand we are covering a lot today, but—perhaps I need to do better at communicating this; I will try once more—the draft regulations are about transferring powers. There is a clear theme. The regulations are about technical operations, and I hope that has come through at least to some degree in the comments that have been made.

With the Committee's permission, I will move on to some of the more detailed points that the hon. Member for Stroud raised. On animal imports in relation to the effect of leaving the EU on the animal trade and pet travel more generally, I want to reassure him that DEFRA has carried out extensive engagement on imports of animals and animal products. Even where consultation has not been required, there has been extensive engagement: the Department has engaged with over 300 stakeholders to date, with 50 events on this, so there has been close co-operation.

The hon. Gentleman also talked about impact assessments. As he knows, because we have been through this many times before—I am getting a glare from the hon. Member for Bristol West—

Thangam Debbonaire: I am smiling.

David Rutley: No, it was a glare. Yesterday we had an SI Committee and were able to set out clearly what the costs were—very minimal, in that situation—regarding veterinary medicines. In this situation, these changes are minimal.

On food labelling, there will be changes, but through representation and our engagement with the food and drink sector it was clear that we needed to find a sensible transition to the new arrangements, where there would be at least 21 months and, with GI, three years to transition. As a result, the costs involved are very minor.

Based on guidelines, there was no need to conduct a formal impact assessments, but once again I can assure the hon. Gentleman that there was maximum engagement with those bodies. Indeed, I meet the Food and Drink Federation, the British Retail Consortium, UKHospitality and the National Farmers Union every week to ensure that I am fully aware of their concerns about issues such as this and many others.

Sir John Hayes (South Holland and The Deepings) (Con): I have been listening to the Minister with interest and concentration, but the truth is that cathartic change always brings about challenge, and it is a cathartic change that we are going through. He is right to say that in the particular case of this SI, the change is minimal, and the future will look much like the past. On the issue of cost, however, it may be that the reconcentration on what we do allows us to think through the cost-effectiveness of that. Over time, we may be able to do all kinds of things, in my hon. Friend's Department and others, that will be more cost-effective and efficient and will save money. All this discussion about costing money must be balanced against the advantage of that re-examination of how to do things best and most efficiently.

David Rutley: I completely agree that there are opportunities to see how we can do things better and in a more cost-effective way. We will have that opportunity once we leave the EU. At the moment, this is very much about continuity; we can look forward to those opportunities, but I wanted to reassure colleagues that for now, this is about continuity and keeping things as they are. In future there will be opportunities to review, obviously with parliamentary scrutiny.

A number of concerns were raised about GM crops, but again, all we are talking about here is transferring powers. No GM crops are grown in the UK, as I said in my remarks at the beginning. I want to ensure my words are on record clearly: no GM crops are grown in the UK at the moment and none is anticipated. Decisions to approve the commercial cultivation of GM crops are based on a robust and independent science-based assessment, with the planting of GM crops agreed to only when it is clear that people and the environment will not be harmed. We do not have any intention to relax the regulations after we have left the EU. As I said before, no future GM crop is anticipated in the UK. I hope the hon. Member for Stroud is reassured on that. The good news is that we have the scientific expertise to ensure that all the required analysis can be conducted.

With regard to border inspection posts and the concerns raised by the British Veterinary Association, with whom the hon. Member for Stroud has a clear and trusted relationship, we are working closely with BVA, seeking its feedback, input and support to ensure it is ready for the extra volume of export health certificates and preparations for the border inspection posts. There will be no import controls or checks at the border for live animals and animal products directly from the EU on the day the UK leaves the EU. The exception to that rule is animals, animal products and high-risk food and feed not of animal origin coming from third countries that travel through the EU before arrival in the UK.

Clearly, we will continue to monitor the situation, but on day one the risks do not change because we trust the EU regime. We have been part of it for many years, which is why I believe we are in good shape. By transferring these powers, we will be in the right position come EU

[David Rutley]

exit day. Overall, the six regimes will continue to function in a similar way to before and, for the reasons I have set out, I trust the Committee will support the regulations.

3.2 pm

Sir Hugo Swire (East Devon) (Con): I just wanted to raise a point with my hon. Friend. I fully understand that the aim is to replicate existing EU legislation and he is right to say this is a transition period. I do not want to delay matters but I want to put on record, drawing attention to my entry in the Register of Members' Financial Interests, some of the tricks we are missing and should consider at the end of the transition period with regard to food labelling.

Many of us have thought for some time that food labelling is woefully inadequate, not least that with which we must comply under existing EU legislation. We want it to be much improved and genuinely to reflect country of origin, regional quotas and so forth within the United Kingdom. I draw the Minister's attention specifically to something for his future consideration. Forty-three tonnes of honey are consumed in this country every year but 95% of that is imported. The current EU and UK labelling says,

"This honey is a blend of EU and non-EU honey."

That is extraordinarily vague and disguises the countries of origin. It is well known that the majority of supermarket honey sold as pure honey in this country is not pure honey at all. It is often adulterated honey, cut with corn syrup or fructose syrup from China.

When we look at a new regime of food labelling, rather than emulate food labelling under existing EU legislation, there is an opportunity to do something much better and more honest, to expose some of the practice of recent years.

3.4 pm

David Rutley: I thank my right hon. Friend for his late, but powerful, intervention. I know he feels passionately about such issues. I agree that we do need a wider review of food labelling and we are committed to doing that once we have left the EU. He will know, because he follows these issues with interest, that we are already looking to reassert and strengthen our approach with allergen labelling, following the recent tragic cases. That will help during the period we are entering, whether that is no deal or a transitional implementation period. There is a commitment once we leave the EU to a much wider review of labelling, which will focus on food safety, sustainability and welfare standards, and will address many of the issues that concern him. I welcome the chance to talk to him further on that. With that, I again commend the regulations to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Environment, Food and Rural Affairs (Amendment) (EU Exit) Regulations 2019.

3.5 pm

Committee rose.