

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Twenty-second Delegated Legislation Committee

DRAFT FOOD AND FEED (CHERNOBYL AND
FUKUSHIMA RESTRICTIONS) (AMENDMENT)
(EU EXIT) REGULATIONS 2019

DRAFT FOOD AND FEED (MAXIMUM
PERMITTED LEVELS OF RADIOACTIVE
CONTAMINATION) (AMENDMENT) (EU EXIT)
REGULATIONS 2019

Thursday 14 March 2019

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The Committee consisted of the following Members:

Chair: PHIL WILSON

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| † Brine, Steve (<i>Parliamentary Under-Secretary of State for Health and Social Care</i>) | † Mak, Alan (<i>Havant</i>) (Con) |
| † Chalk, Alex (<i>Cheltenham</i>) (Con) | † Moore, Damien (<i>Southport</i>) (Con) |
| † Crawley, Angela (<i>Lanark and Hamilton East</i>) (SNP) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Dhesi, Mr Tanmanjeet Singh (<i>Slough</i>) (Lab) | † Scully, Paul (<i>Sutton and Cheam</i>) (Con) |
| † Fitzpatrick, Jim (<i>Poplar and Limehouse</i>) (Lab) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † George, Ruth (<i>High Peak</i>) (Lab) | |
| † Hodgson, Mrs Sharon (<i>Washington and Sunderland West</i>) (Lab) | Harriet Deane, <i>Committee Clerk</i> |
| † Huddleston, Nigel (<i>Mid Worcestershire</i>) (Con) | † attended the Committee |

Twenty-second Delegated Legislation Committee

Thursday 14 March 2019

[PHIL WILSON *in the Chair*]

Draft Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019

11.30 am

The Parliamentary Under-Secretary of State for Health and Social Care (Steve Brine): I beg to move,

That the Committee has considered the draft Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019.

The Chair: With this it will be convenient to consider the draft Food and Feed (Maximum Permitted Levels of Radioactive Contamination) (Amendment) (EU Exit) Regulations 2019.

Steve Brine: It is nice to see you in the Chair, Mr Wilson. These instruments, which concern food and feed law, are made under the powers in the European Union (Withdrawal) Act 2018 to make the necessary amendments to UK regulations. This is the third bundle of such regulations that we have debated in these fun sessions.

The Government's priority is to ensure that the high standard of food and feed safety and consumer protection we enjoy in this country is maintained when the UK leaves the European Union. These statutory instruments correct deficiencies in regulations to ensure that the UK is prepared in the event that it leaves the EU without an agreement. They are limited to necessary technical amendments to ensure the legislation is operative on EU exit day; they make no policy changes.

Leaving the EU with a deal remains the Government's policy. That is what the public want and expect us to do, and it is most certainly what I as a Minister expect us to do. We are working hard to get to a position where we do that. As the House made clear last night, it does not wish to leave without a withdrawal agreement at the end of March. Regardless, we have to make necessary preparations, and that is what this Committee sitting is about. The primary purpose of these instruments is to ensure that legislation that allows for the protection of the public from radioactive contamination of food resulting from past and any future nuclear accidents is operative on EU exit day. I do not think I have introduced many regulations that we so much hoped would not be needed.

The draft Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019 cover the importation of food from areas affected by historical nuclear accidents at Chernobyl in present-day Ukraine and at Fukushima in Japan. The instrument makes alterations to the legislation governing imports of food from the areas affected by the Chernobyl accident, which, believe it or not, was in 1986, when I was still at school—the shadow Minister was yet to get there. The Chernobyl accident resulted in widespread radioactive

contamination, which affected food production in many countries. Thirty-three years after the accident, levels of contamination have fallen, and now only certain products, including wild game, wild mushrooms and berries—

Mr Tanmanjeet Singh Dhesi (Slough) (Lab) rose—

Steve Brine: I just want to cover the berries, which are very important; those products and berries, such as blueberries and cranberries, show high levels of contamination. On berries, I give way.

Mr Dhesi: Sadly, my intervention does not relate to berries. Will the Minister confirm that standards and safeguards will not be watered down as a result of these statutory instruments? We enjoy very high standards and safeguards for permitted levels of radioactive contamination. Can he reassure us that that will continue to be the case post Brexit?

Steve Brine: I can absolutely assure the hon. Gentleman that that is the case. The draft regulations are an import from EU regulations. The European Union (Withdrawal) Act 2018, which I referred to, is a housekeeping piece of legislation, not a changing piece of legislation. If we wished to make changes either way—to strengthen or to weaken such regulations—they would come through the House and be examined by it. I am sure the hon. Gentleman and the good people of Slough would rightly take an interest and have something to say about them—as, indeed, would I.

Ruth George (High Peak) (Lab): My constituency hosts children coming over from Chernobyl and Ukraine. Children as young as three are already getting cancers, so although levels of radioactivity in foodstuffs may have declined, we are still seeing a much larger prevalence of cancers in that area, particularly among children. Does the Minister agree that it is important not only to encourage such exchanges, so that children can come and eat uncontaminated food and breathe the fresh air in this country, but to ensure we keep our country protected from such levels of radioactivity?

Steve Brine: The hon. Lady has put that point very well; I could not disagree with a syllable of that.

This instrument also makes alterations to similar European legislation, regulation 2016/6, which imposes special conditions on the imports of food from areas of Japan that were affected by the Fukushima accident, which was in 2011. In this case, eight years after the accident, higher levels of radioactive contamination are limited to only certain areas of Japan, and affected products include—believe it or not—wild mushrooms again, and other wild vegetables. Wild game may also show high levels of contamination, but those products are not eligible for import into the UK under food safety measures that are not related to these regulations.

As the regulations relate to specific contamination incidents, as radioactivity naturally decays, and since natural and human activities remove contamination from the environment, it is right that the regulations are regularly reviewed to ensure that controls are fit for purpose. The legislation relating to the Chernobyl accident has an expiry date of 31 March 2020—next year—while

the legislation relating to the Fukushima accident must be reviewed before 30 June 2019. That is what is stated in the regulations that we are importing.

I raise this point because I want to be clear with the Committee that we will be bringing over those review dates into UK legislation. It is the same point that I made when I responded to the hon. Member for Slough about standards: we are not going to drop the ball in any way on their being reviewed. It is important for those two communities and those two countries that we do that as well as ensuring that we review the safety risk in this country.

The second statutory instrument in this bundle, the Food and Feed (Maximum Permitted Levels of Radioactive Contamination) (Amendment) (EU Exit) Regulations 2019, ensures that regulation 2016/52, the legislation covering the application of maximum permitted levels of radioactivity in food and feed following a nuclear emergency, continues to function effectively after exit. The first statutory instrument is about Chernobyl and Fukushima; the second looks ahead to what we hope will never happen—possible future incidents.

EU law in this area establishes maximum permitted levels of radioactive contamination in food and feed that would come into effect following a nuclear accident or any other case of radiological emergency, which could be an accident involving a medical use, a domestic power incident or, indeed, an aggressive act that led to some form of nuclear accident—although that would not be an accident. The regulation therefore acts as a framework that can be enacted promptly to apply emergency levels of radioactive contamination in food and feed to protect consumers.

If those levels were exceeded, it would have a detrimental effect on human health from the consumption of food contaminated by radioactivity. Applying the levels would assist the response to a radiological incident. Currently, the European Commission holds a range of powers under European legislation that enable it to respond in the event of such an accident or another radiological emergency. Those powers allow the Commission to put in place measures in the form of emergency implementation regulations that apply the maximum permitted levels set out in regulation 2016/52, and so prevent potentially contaminated food from getting on to the marketplace.

Let me emphasise again that there are no changes to policy in these instruments beyond making the minimal changes necessary to rectify the deficiencies in what will be retained EU legislation. I am confident in saying that consumers in the UK will benefit from high standards of food and feed safety. We are committed, as I said to the hon. Member for Slough, to maintaining those.

The instruments will transfer responsibilities from the European Commission to Ministers in England, Wales, Scotland and the devolved authority in Northern Ireland. In addition, the instruments will change references regarding import into the European Union to references regarding import into the United Kingdom—perfectly logical.

To be clear, the draft instruments will not introduce any changes in how food businesses are regulated or run, unlike previous SIs we have discussed in this sequence, nor will they introduce any extra burdens. The instruments provide continuity for businesses, protect consumer interests and ensure that enforcement of the regulations continue

in the same way. They will ensure a robust system of control, which will underpin UK businesses' ability to trade domestically and internationally.

It should be noted that the draft regulations will apply only following a nuclear accident or other radiological emergency, as I have mentioned. They are not intended for routine activities, which are governed through regimes such as those under the domestic Ionising Radiation Regulations 2017 or the Environmental Permitting (England and Wales) Regulations 2016, which the Health and Safety Executive owns.

It is important to note that the devolved Administrations have provided consent for the draft instruments. We have engaged positively with the DAs throughout the development of the regulations, and the engagement is warmly welcomed—as before, I place that on the record.

The regulations therefore constitute a necessary measure to ensure that our food legislation relating to food and feed safety and radiological protection continue to operate effectively after EU exit day. That is the case both for the historical Chornobyl and Fukushima regime and for the future. I urge hon. Members to support both sets of regulations.

11.41 am

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): It is a pleasure to serve under your chairmanship this morning, Mr Wilson.

I am genuinely pleased to see the Minister in his place this morning—he knows that I mean that sincerely, because I also know how strongly he feels about the perils of no deal. I thank him for bringing the two draft statutory instruments before the Committee today and for summarising them so well for us.

On Tuesday, we were in Committee to scrutinise some other SIs, and I said that that was a very important day for our country but, as it turns out, the whole week is a very important week for our country. I am pleased that yesterday the House voted to take no deal off the table, although I am aware that does not guarantee it will not happen. However, we are only 15 days away from 29 March, and I am concerned that we are still hurtling towards leaving the European Union without a deal. I hope that tonight article 50 will be extended in order to give the Government more time to prepare, negotiate and provide those affected by these SIs, and all the others we have considered—such as industry and business—with more information about the impact that the changes will have on their day-to-day work.

As I have mentioned in my remarks in each SI Committee—I know that the Minister is probably sick of hearing this, although I try to say it differently each time—I regret that the Government are in this position and that they have run down the clock, achieving very little, as we have seen so far. We are now squeezing through very important legislation in such a short period—although, again, I recognise that that might be extended tonight—but as legislators, which we all are, we have a duty to scrutinise legislation effectively in order to protect the public. However, the Government have not given us enough time to do so effectively.

As the Minister is aware, Labour Members do not have access to the hordes of experts to whom the Government are privy, so I am literally drowning under the weight of all the SIs. I am sure he is, too, but he has a little more help than I do. Another batch of such SIs

[Mrs Sharon Hodgson]

have been laid before the House this morning, to be dealt with on Monday, so there goes my weekend, and that of my small team. I know what we will be doing most of the time. That is another reason why an extension to article 50 would be welcome.

The health and safety of the public are of the utmost importance, which is why, although I recognise the need to transfer EU law into UK law, I have some questions for the Minister. I am sure that he will answer them in Committee if he can. I apologise in advance if he has already done so in his opening remarks, in which case he can skip answering them again. I have of course written my speech in advance, although I did try to cross out anything that he has already answered.

The draft regulations are a consequence of the UK's decision to leave the EU, which will also result in our departure from the European Atomic Energy Community, or the Euratom treaty, which covers civil nuclear policy and legislation across the EU, including emergency response to nuclear incidents. Euratom reports to the International Atomic Energy Agency. Have the Government decided what the UK equivalent of Euratom will be, and how it will report to the IAEA?

The explanatory memorandum to the draft regulations on Chernobyl and Fukushima says:

“Where necessary, functions currently undertaken by for instance the European Commission...will be replaced by references to domestic risk management authorities.”

Who will the domestic risk management authorities be?

I am pleased that both explanatory memorandums to the SIs state that all rules will remain the same and that the maximum levels for radioactive contaminants in food will remain as they are now. Will that be kept under review? Will the UK continue to have conversations with the EU to keep the UK's restrictions in line with the EU's? If there is another incident—God forbid—on the same scale as Chernobyl and Fukushima, will the UK work with EU countries to mitigate the consequences for the public in this country?

The Minister has mentioned some dates: the retained EU legislation relating to food and feed from countries affected by the Chernobyl incident will expire on 31 March 2020, and the retained EU legislation relating to food and feed from Japan, following the Fukushima nuclear incident, will be reviewed by the Government before 30 June 2019. Will the Minister tell us if his Department has already made an assessment of whether the regulations should be extended? I am particularly concerned about legislation relating to food and feed from Japan, given how close that deadline is—it is only a couple of months away. If the legislation is to be extended or amended, will the Minister tell us how that would happen? Will it take place in a Delegated Legislation Committee such as this one?

The draft regulations on Chernobyl and Fukushima have an associated direct cost to businesses of £5.7 million. Will the Minister justify and explain that high cost? The explanatory memorandum also states that there will be no additional burdens on enforcement bodies. Does the Minister think that is a realistic assessment? Any changes must be clearly and effectively communicated to enforcement bodies, industry and businesses, to ensure that any changes are carried out smoothly. Protecting public health is of great importance and we must ensure that the changes protect members of the public. Any

failure to do so may be a risk to UK consumers. I know that the Minister takes that point very seriously and wants to avoid such a risk, and that he will do all he can to mitigate that. I support him in that endeavour and I look forward to his response.

11.48 am

Angela Crawley (Lanark and Hamilton East) (SNP): I echo the sentiments of the hon. Member for Washington and Sunderland West. I agree that this is an example of why we should seek to extend article 50, and evidence of why it is required.

The draft regulations fix the inoperabilities in the retained EU legislation on special conditions for the import of food and feed that has been affected by nuclear accidents at Chernobyl in Ukraine and Fukushima in Japan that will arise as a consequence of the UK's exit from the European Union. It replaces EU legislation, Council regulation (Euratom) 2016/52, and lays down the maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency.

The draft regulations give UK-based authorities and bodies responsibility for this regulatory area in the future. What resources have the UK Government provided to those bodies to take on those new important roles? The draft regulations would see the UK authorities take on entirely new roles of expertise. What preparations have the Government made for that?

11.49 am

Jim Fitzpatrick (Poplar and Limehouse) (Lab): I am looking forward to the Minister's responses to the questions raised by my hon. Friend the Member for Washington and Sunderland West. I want to make a specific reference to Chernobyl and radiation, which will take me less than a couple of minutes.

For the first responders at Chernobyl, 1986 was a year of gruelling radiation poisoning that for ever changed their lives, along with the very fabric of their DNA. With little protection from radiation other than makeshift lead suits, 28 firemen and employees died in the weeks following the event. Radiation was so strong that the skin peeled off their bodies. The Chernobyl firefighters' eyes turned from brown to blue.

Many others who survived the acute radiation poisoning returned from the clean-up site with a wealth of ongoing health problems from which they never recovered, including Leonid Petrovich Telyatnikov, who was the officer in charge of the Chernobyl firefighters. I had the privilege of meeting him when he came to London shortly afterwards to brief fire brigade managers and senior safety representatives in the UK on nuclear hazards, radiation and fighting in such instances. He survived for some years before succumbing to cancer, which was attributed to his experience at Chernobyl. I want to place on record the heroism of the first responders who dealt with Chernobyl. The House rightly recognises their heroism at regular intervals. As the SI deals with Chernobyl, it would be inappropriate for me not to put that on the record.

11.51 am

Steve Brine: Let me start by saying that the hon. Member for Poplar and Limehouse always speaks so well. As a former firefighter, he put his comments very well, and they do not require me to add to them.

The shadow Minister, the hon. Member for Washington and Sunderland West, is right that this is an important week for the country. It is the most important week since the last most important week. The House expressed its will last night that it did not want to leave with no withdrawal agreement at the end of March or thereafter, but the House expressing its will is not enough to change the law of the land, which is why the Government said yesterday that they will bring forward measures to do that if necessary. That is why today's motion is very clear that we will seek a short extension to deal with the necessary EU exit legislation if the House supports a withdrawal agreement before 20 March, with the Council being the next day. If it does not, there will be an extension—for how long?—on or before 20 March.

The point is that it is easy to put a tweet out or to write a headline about what did or did not happen in this place last night, but the bottom line remains unchanged: there are only two ways to stop us leaving without a withdrawal agreement. One is to revoke article 50, which I do not see any remote majority for in the House. The other is to agree a deal. Yes, we have not agreed a deal in January or this week, but just because we have not does not mean that we can't or shouldn't. Whether or not we agree one before 20 March, we still at some point have to agree a deal with our friends and closest trading partners in the EU. That is my position and the position of the Government. I think that is pretty clear.

I acknowledge the hon. Lady's work in this space. I am very fortunate to be surrounded by very clever people who work tirelessly in the Food Standards Agency and my Department to provide me with all this information. I know it is hard to believe that I do not have all that buried up here in my head, but the hon. Lady has to wade through it pretty much on her own, with a small amount of staff. I know that there is a lot of it, and I acknowledge that work, because the work that the Opposition do and are meant to do never gets noticed in this place. It is an important part of our constitution.

The hon. Lady's question about levels staying the same is a good one. My point is that just because we are changing our constitutional arrangements does not mean that the science changes—the science is still the science. She asked whether the maximum permitted levels are set appropriately. They are for now. They are recommended and reviewed by the group of experts formed under article 31 of the Euratom treaty and independent scientific advisers to the European Commission. The UK radiological experts in the FSA, Food Standards Scotland and Public Health England agree that the current maximum permitted levels are within safe limits and are appropriate to provide public health protection. When the regulation was presented for consideration by the European Council, EU member states unanimously agreed that the levels were appropriate to deal with these issues. The levels will be kept under review by UK radiological experts in the FSA, FSS and PHE, as indeed they should be.

I made a point about reviewing the regulations, specifically with regards to Japan and Fukushima, because obviously that date is coming up. This is a routine annual review. I said that it will be carried over, and it jolly well should be. The European Commission started the review in January 2019, and the UK has been represented at those sessions by the FSA, in conjunction with the devolved Administrations and FSS. They are already reviewing the data and the measures in place

and will continue to engage with the Commission's review until exit day. The FSA will then assess future measures implemented by the EU and advise Ministers on appropriate controls for the UK. Any SI made would be subject to the usual parliamentary scrutiny. Until then, the current instrument, as ported over into UK law, will apply.

I reiterate the point I made last week, which I also made to the Lords EU Energy and Environment Sub-Committee last week. Just because we are leaving certain structures, that does not mean that relationships will change. The European Food Standards Authority grew out of the Food Standards Agency; it came from us, not the other way around. Those relationships are incredibly strong, and they are to our benefit, as well as the EU's.

On Euratom, the UK equivalent and who the domestic risk manager will be, Ministers will ultimately manage the risk on advice from the FSA, and FSS north of the border. Their advice to us is always, and will always be, publicly available. We will have continuing dialogue with the Euratom authorities for the reasons I set out, including the historical reasons.

The hon. Member for Washington and Sunderland West asked how we can justify the cost to businesses. This is a similar point to one we have previously covered. The law in this area is not changing, so we consider the costs to this area to be minimal, if anything at all, as businesses are already very familiar with how the law operates. As I said earlier this week, a business starting from scratch would take longer to familiarise itself with the law, but I am not unduly concerned about that.

Finally, the hon. Member for Lanark and Hamilton East, who speaks for the Scottish National party, asked about funding. An extra £14 million last year and £16 million this year has been given to the FSA for its EU exit preparations. About 140 staff—give or take, as things move around—have been recruited, including to its expert bodies. The FSA received a £2 million grant for 2018-19 and for 2019-20 to support food activities related to EU exit pressures within local government and within the port authorities, which is important. I have rightly been asked that question quite a lot throughout this process. Their lordships are interested in this particular point, not least because some of them set up the FSA, and one is its former chairman. I believe—I ask the FSA this question and it is not shy in giving me an answer—and can assure Members that the FSA is appropriately resourced to be the lead agency in this matter. Without further ado, I rest, Mr Wilson.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Food and Feed (Chernobyl and Fukushima Restrictions) (Amendment) (EU Exit) Regulations 2019.

DRAFT FOOD AND FEED (MAXIMUM PERMITTED LEVELS OF RADIOACTIVE CONTAMINATION) (AMENDMENT) (EU EXIT) REGULATIONS 2019

Resolved,

That the Committee has considered the draft Food and Feed (Maximum Permitted Levels of Radioactive Contamination) (Amendment) (EU Exit) Regulations 2019.—(*Steve Brine.*)

11.59 am

Committee rose.

