PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT FOOD AND FEED HYGIENE AND SAFETY (MISCELLANEOUS AMENDMENTS) (EU EXIT) REGULATIONS 2019

Monday 13 May 2019

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Friday 17 May 2019

The Committee consisted of the following Members:

Chair: Mr Laurence Robertson

† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
Crawley, Angela *(Lanark and Hamilton East)* (SNP)
† Duguid, David *(Banff and Buchan)* (Con)
† Eagle, Ms Angela *(Wallasey)* (Lab)
† Henderson, Gordon *(Sittingbourne and Sheppey)* (Con)
† Hodgson, Mrs Sharon *(Washington and Sunderland West)* (Lab)
† Kawczynski, Daniel *(Shrewsbury and Atcham)* (Con)
† Kennedy, Seema *(Parliamentary Under-Secretary of State for Health and Social Care)*
† Mann, Scott *(North Cornwall)* (Con)
† Masterton, Paul *(East Renfrewshire)* (Con)
† Morton, Wendy *(Aldridge-Brownhills)* (Con)
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
Snell, Gareth *(Stoke-on-Trent Central)* (Lab/Co-op)
† Streeting, Wes *(Ilford North)* (Lab)
† Throup, Maggie *(Erewash)* (Con)
† Trevelyan, Anne-Marie *(Berwick-upon-Tweed)* (Con)

Medha Bhasin, *Committee Clerk*

† attended the Committee

Third Delegated Legislation Committee

Monday 13 May 2019

[Mr Laurence Robertson *in the Chair*]

Draft Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019

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

That the Committee has considered the draft Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Robertson. This instrument, which concerns food and feed law, is made under the powers in the European Union (Withdrawal) Act 2018 to make necessary amendments to UK regulations. The Government's priority is to ensure that the high standard of food and feed safety and consumer protection that we enjoy in this country is maintained when the UK leaves the European Union. This statutory instrument will correct deficiencies in certain regulations to ensure that the UK is prepared in the event of leaving the EU without a deal. Amendments are limited to the necessary technical amendments to ensure that the legislation is operative on EU exit day. No major policy changes are made through this instrument, and we do not intend to make any at this point.

As hon. Members know, the Government have negotiated a deal with the EU and are in the process of taking it through Parliament. This deal is designed to secure a smooth and orderly exit from the EU. However, it is the job of a responsible Government to prepare for all possible scenarios, including the potential outcome that we leave the EU without a deal. We are committed to ensuring that our legislation continues to function effectively in the event of no deal and that public health remains protected. This instrument has been laid for such a scenario.

Fifteen EU exit-related instruments have been laid previously, addressing various aspects of food and feed safety and hygiene. This instrument will address a range of minor deficiencies in retained EU law relating to food and animal feed that have not been addressed by earlier instruments or by very recent changes made to EU law and that could not have been addressed by previous instruments. As with previous SIs recently laid before the House, I wish to make it clear that no policy changes are made through this instrument, which makes only the essential changes necessary to ensure an effective and fully operable statute book on exit day.

The primary purpose of the instrument is to ensure that legislation continues to function effectively after exit day. The proposed amendments are critical to ensuring minimal disruption to food controls in the event that we leave the EU without a deal. The changes also ensure a robust system of controls, which will underpin UK businesses' ability to trade both domestically and internationally. The contents of the instrument cover several policy areas, which I will address.

The health mark for carcases of animals such as cattle, pigs and sheep, and the identification mark for all foods of animal origin, will change once the UK has left the EU, with the letters "EC" no longer used. The Specific Food Hygiene (Amendment Etc.) (EU Exit) Regulations 2019 retain the requirement for health and identification marks to contain either "UK" or "United Kingdom". The instrument allows for the abbreviation GB to be used in such marks, as this is the International Organisation for Standardisation's two-letter country code for the United Kingdom. The instrument also provides for a transitional period of 21 months after exit day, during which UK food businesses can apply their current health and identification marks on carcases and food of animal origin in the UK domestic market. This transitional period will assist businesses by providing a smoother transition to the new marking requirements and permitting them to use up existing labels and packaging.

Let me turn to the trichinella pork nematode worm parasite provisions and the transitional provisions for official laboratories. This SI addresses deficiencies in retained EU law on trichinella testing requirements to ensure that these rules are fully enforceable, replacing references to EU institutions and bodies with appropriate UK bodies and authorities.

Ms Angela Eagle (Wallasey) (Lab): Can the Minister explain how virulent and how difficult for human health that particular issue is? I am a bit unsure, and the more difficult it is, clearly the more we have to be careful about how we deal with it.

Seema Kennedy: The hon. Lady raises the point that trichinella—a parasitic nematode worm—can be extremely serious. It can cause disease in people who eat raw or undercooked meat from trichinella-infected domestic animals or game. The instrument will provide assurance that testing requirements that ensure protection will continue after EU exit. Maintaining the requirements of the existing regulations will retain confidence in the pork industry. Confidence in food safety is our Government's priority.

Ms Eagle: Is the Minister confident that we have enough capacity in this country to continue testing for that worm and its associated health risks, as we do not have time to put in place our own testing facilities? Will she tell the Committee how much extra resource her Department has allocated to make sure that we do not allow a loss of control during the transition?

Seema Kennedy: I am confident that the Foods Standards Agency will be able to cope. It has done sterling work, and I met the chairman of the FSA this morning. An extra £14 million was provided to the FSA for EU exit in 2018-19, and £16 million for 2019-20. The FSA has had an additional grant fund of £2 million for local authorities for the year ending 2019, and again for the year ending 2020. That is just to support food safety-related activity related to EU exit pressure.

Ms Eagle: The Minister is very well briefed. Although that is an increase, she gives general figures for the Food Standards Agency, not the amount of extra resource that would be available to ensure that those particular nematodes do not infect meat that might be imported

into this country and eaten by people here. Does she have a more broken-down version of those figures, so we can have some idea of whether her Department has allocated enough resource to ensure there is not increased risk to food safety as a result of the changes?

Seema Kennedy: I am confident that there will be no increase in risk. I do not have to hand the exact figures on the amount that the FSA has spent on trichinella.

Ms Eagle: Could the Minister write to me?

Seema Kennedy: I am very happy to write to the hon. Lady with those figures.

Let me turn to the rules for businesses and official controls relating to products of animal origin, or POAO. EC regulation 2704/2005 is an EU tertiary implementing measure that provides certain technical and administrative refinements to EU regulations for food products of animal origin. It sets out specific rules on analytical methods, rules relating to fishery products used in the production of fish oil, and more. The instrument will assign powers and responsibilities currently incumbent on EU entities to appropriate UK entities to ensure that diverse regulation is fully operational.

The model import health certificates for certain products of animal origin under EC regulations 2074/2005 and 2016/759—for imports of certain products of animal origin such as fishery products, gelatine and collagen for human consumption—are amended so that they can be used solely to import foods to the UK.

Ms Eagle: Clearly, people worry about food irradiation. I suspect that what the Minister is talking about is irradiating things such as collagen, so that they are safe for human consumption, rather than irradiating meat for human consumption. The Americans do a lot of that, and I suspect that many of our consumers would not want that. Can she give us some clarity on the irradiation regulations that she is talking about in this particular context?

Seema Kennedy: The hon. Lady anticipates that I was about to turn to food irradiation. The instrument amends the definition of imports in existing legislation so that it is clear that any new facilities approved by EU member states in the future will no longer be automatically approved for food imported into the UK. Without the instrument, there could be a lack of clarity on the status of newly approved facilities.

The instrument includes provisions to set minimum charging rates for hygiene controls for fishery products by amending the Fishery Products (Official Controls Charges) (England) Regulations 2007. It updates provisions for the charges. For example, the rates are currently set in euros with an exchange rate to sterling. The instrument also updates the exchange rate from 2008, as it is now somewhat out of date and would not be in line with central Department for Exiting the European Union and Her Majesty's Treasury guidance on amending outstanding references to euros.

Ms Eagle: Will the Minister give way on the irradiation point again?

Seema Kennedy: Can I just finish the point I am on?

The Food Safety (Sampling and Qualifications) (England) Regulations 2013 are national and stipulate the necessary qualifications and experience required for an official control laboratory analyst in England. The instrument corrects inoperabilities in the legislation, replacing references to EU institutions and bodies with UK authorities and bodies.

Ms Eagle: When people look at irradiation issues, they worry about whether it is the kind of practice one sees in America, where a lot of food is irradiated to make it last longer in a way that our consumers in Europe and particularly in the UK do not like. I am trying to establish—I hope the Minister can make this a bit clearer for me—whether the irradiation she is talking about with this instrument relates to food safety, such as with animal-derived collagen. That might have to be irradiated, but it is not the same as having prime steak irradiated to make it last longer, so that it might be much older when it is eaten. Will she clarify whether the irradiation amendments are about a food safety issue or about allowing food, particularly meat, to survive longer on the shelves, which would worry consumers?

Seema Kennedy: I think it is important that the hon. Lady wants to draw out what people are worried about, which is food safety. There is only one approved food irradiation establishment in the UK, and it does not currently treat food on an entirely commercial basis. Its main business is medical sterilisation. Only a small proportion of food is irradiated and that should be robustly regulated. The overall message I would like the hon. Lady to take away is that the Government are absolutely committed to food safety. There is no suggestion in this instrument or any other that has been laid that there will be any watering down of, or reneging on, the Government's absolute commitment to the very robust regulation of food. That is something we pioneered and are very proud of.

The proposed amendments for smoke flavourings address minor drafting errors in the previously laid Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019. Those errors were identified by the Joint Committee on Statutory Instruments. In its response, the FSA provided an undertaking to the JCSI that the deficiency would be addressed.

EU authorisation decisions relating to genetically modified food and feed have come into force since the laying of the Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019, which will implement retained EU law on exit day. The instrument introduces amendments to make the decisions fully operable by specifying the UK entity to which authorisation holders must submit annual reports on activities set out in their environmental monitoring plans and to remove references to the European Community in connection with the register of authorised GM food and feed.

The instrument makes equivalent changes to the relevant Northern Ireland legislation to ensure that the body of Northern Ireland food law can function properly and is enforceable once the UK leaves the EU. It also inserts a definition of "Northern Ireland devolved authority" or, where appropriate, identifies the Department that is the correct appropriate authority, replacing references to EU institutions and bodies in various EU regulations. The amendments also include naming of the relevant

[Seema Kennedy]

legislature for Northern Ireland where the regulation-making procedure is provided in various EU regulations. The instrument transfers powers to UK entities to support a UK regulatory regime. It also transfers responsibility for risk assessment from the European Food Safety Authority to the food safety authorities, the FSA and Food Standards Scotland. *[Interruption.]* Yes, "All You Need Is Love". They will continue to deliver independent, open and transparent, science and evidence-based advice.

The instrument additionally changes references regarding the import of food and feed into the EU as references to the import of food and feed into the United Kingdom. It does not introduce any changes for food businesses in how they are regulated and run. The formal public consultation carried out by the FSA covering changes to UK health and identification marking received overwhelming support for the proposal. The instrument will provide continuity for businesses and protection of consumers' interests and ensure that enforcement of the regulations can continue in the same way. The changes will ensure the retention of a robust system of controls that will underpin UK businesses' ability to trade both domestically and internationally.

It is important to note that the devolved Administrations have provided their consent for the instrument. Furthermore, we have engaged positively with the devolved Administrations throughout its development. The ongoing engagement has been warmly welcomed.

The instrument will ensure that regulatory controls for food continue to function effectively after exit day and that public health is protected. It is therefore key to ensuring that the high standards of food safety and consumer protection that we enjoy in this country are maintained when the UK leaves the European Union. It will protect public health from risks that may arise in connection with the consumption of food. I ask hon. Members to support the amendments proposed in this instrument to ensure the continuation of effective food and feed safety and public health controls. I commend the regulations to the Committee.

4.47 pm

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): It is an honour to serve under your chairmanship this afternoon, Mr Robertson. I want to start by officially welcoming the Minister to her new role. It is the first opportunity I have had to do that and the first time we have faced each other in a debate. I am sure it will not be the last. I look forward to shadowing her and no doubt opposing her when I need to, but I hope that we can work together on all things public health, as I did with her predecessor, to ensure the better health of everyone in the country, regardless of where they live, how much they earn or who they are.

Earlier this year, as we approached the 29 March Brexit deadline, some of us would be in in this room, or one very like it, regularly as SIs were rushed through in haste. As has been said, the Minister's predecessor and I debated 15 SIs relating to food safety in a matter of weeks. For many reasons I am pleased that we were able to secure a Brexit extension, but in this case I am particularly happy because if we had left on 29 March, some of the minor deficiencies that we are discussing today could have turned major very quickly.

The regulations have not previously been addressed in Brexit preparations, so it is good that we have time to discuss them now. They also deal with recent changes to EU law, which could not have been addressed in earlier instruments. As the Minister said, public safety is paramount. That is why any future changes to regulatory controls after the UK leaves the EU should provide the same, or hopefully an improved, level of consumer protection.

Any changes as a result of the regulations must be effectively communicated to the affected agencies in a timely manner. Will the Minister please tell the Committee whether she has had any further communication with those agencies since March? I am sure that they are awaiting further information from the Government about Brexit, and their business is no doubt hanging in the balance in the meantime. As this is a matter of public safety, changes must be communicated clearly and in a timely manner to ensure that the industry can be in line with current legislation. Will the Minister give assurances that that will not affect the safety or quality of foods available in the UK, now and in the future?

As we have heard, the SI relates to trichinella, which is a pork nematode worm parasite. I am sure that none of us had ever heard about it before, and hope never to need do so again, or to deal with its effect. The SI also relates to the transitional provisions for official laboratories. The retained EU law regarding specific official controls that apply to trichinella in meat and trichinella testing requirements may not be fully enforceable until the specific inoperabilities are addressed by the SI. Is the Minister confident that the legislation sufficiently addresses the inoperabilities regarding the testing requirements for trichinella, and when does she think that they will be fully enforceable, on passing the SI?

The instrument states that facilities approved by EU member states would in future no longer be automatically approved for food imported from the UK. Does the Minister know what impact that will have on supply and businesses? How long will the process be to approve facilities for food imported from the UK, and will a list of approved facilities be available? The instrument also includes provisions to set minimum charging rates for hygiene controls for fishery products by amending the Fishery Products (Official Controls Charges) (England) Regulations 2007. Will the Minister outline what the charges will be and what impact any new set rates could have?

The explanatory memorandum for the SI states that functions currently undertaken by the European Commission in adopting some implementing regulations rendering applicable the controls on imported food will in future be the responsibility of the Secretary of State. Can the Minister provide information on how decisions on those controls will be decided and managed? What will the arrangements be for collecting data monitoring the effectiveness of the regulations and regularly reporting the findings? What bodies will be able to scrutinise performance and delivery, and what assessment has been made of their capacity to take on that work, as my hon. Friend the Member for Wallasey mentioned?

Finally, what conversations has the Minister had with devolved nations regarding the SI? We do not know for sure exactly when we will leave the EU, but it is best to be prepared, especially when dealing with parasites such as this little worm. That is why the Opposition do not oppose the regulations, but rather express some concerns that I hope the Minister can address.

4.53 pm

Ms Eagle: It is a pleasure to serve with you in the Chair, Mr Robertson. My hon. Friend the Member for Washington and Sunderland West very well encompassed some of the Opposition's worries. The issues seem to be fairly technical, and potentially innocuous, but when looked at they raise a few worries. This is about food safety, safety for consumers, consumer protection and food supply in general. Should we leave the European Union, a range of duties would be transferred from where they have been done in the past for many years—in the EU—back not just to the UK, but to four different bodies due to devolution, one of which is not even sitting at the moment because of what is happening in Northern Ireland. That is alarming enough, but when we think about the austerity that has been visited on every aspect of government—be it at national level in the regulatory area or at local government level, which is much more responsible for enforcement rather than testing—lights begin to flash at least amber.

The regulations involve a range of issues, from parasitical worms in meat through to irradiation. Despite the Minister's attempts to engage with some of my questions, I am still not entirely sure whether this is irradiation of things such as collagen, which in specific instances is derived from animals for human consumption, or whether it is about more general irradiation of meat and vegetables that are for public consumption, which happens in the US. Are there any issues there that we need to worry about? Consumers have particular worries about other issues that are involved, such as genetically modified food and feedstuffs.

Remember that the horsemeat scandal was not discovered by enforcement processes in our country; it was actually discovered by testing in the Irish Republic. We can see that we are in a situation in which things could go wrong due to the weakness that has been created in our enforcement system. I am looking for further reassurance from the Minister that the system we have—weakened by austerity and divided up by devolution—will be robust enough to take on all the extra duties that the Minister is putting on it through this SI.

We are talking about food hygiene, food safety, consumer protection and ensuring that, in all these different areas, the consumer in this country can have a robust confidence in the system that the Minister presides over, which is why I asked her about the extra resources that her Department is allocating to get this done. I must admit that I was not massively overwhelmed by the answer she gave about the extra money that is being allocated to the various regulatory bodies. I hope she can reassure us that the Government are absolutely certain that they have all their ducks in line before we get to the stage where all these things are transferred in the way specified by the SI.

4.59 pm

Seema Kennedy: There were several points raised by the shadow Minister and by the hon. Member for Wallasey, and I shall try to address them. This SI is only on health marks, which have only recently been clarified by the Commission. The hon. Member for Washington and Sunderland West said that she and my predecessor debated lots of these before. However, we need this instrument to address recent changes to EU law that were not applicable when the previous SIs were drafted. It makes some small corrections that have come to light since the earlier SIs were laid, and provides for similar changes in Northern Ireland legislation. The overarching message is that the Government are absolutely committed to high standards in the entire food chain, now and after EU exit.

On dialogue with other authorities, the Food Standards Agency continues that with local authorities and other agencies. It also has a continual dialogue with industry. On lab capacity, which the shadow Minister brought up, the UK is developing alternative approaches to deliver the necessary functions provided by EFSA and the European Commission, building on our own capacity and capability to carry out risk assessment and manage and control food and feed safety risk through scientific advisory structures. The UK already has national reference laboratories in place that help to ensure the safety of our food and feed and to prevent the entry and spread of infectious diseases in crops, livestock and feed. Those laboratories are internationally recognised for their scientific expertise.

Ms Eagle: Will the Minister give way on that point?

Seema Kennedy: I fear that I might be disappointing the hon. Lady with my answer but yes, I am happy to give way.

Ms Eagle: I thank the Minister for her generosity in giving way. Opposition Members do not doubt the excellent science available in many of our labs; we doubt that enough resources and people are in place to do the kind of job that will be required when this stuff all comes back. I suppose the reassurance that we seek is that she will ensure that an appropriate amount of resource and capacity will be in place to do the job properly.

Seema Kennedy: I will address funding and capacity later in my remarks. On fisheries, the charges are set out in detail in retained EU law, and various rates apply to different products. The devolved Administrations have been involved in the preparation of the draft regulations, and we engaged positively with all those Administrations throughout the statutory instrument's development.

Neil Coyle (Bermondsey and Old Southwark) (Lab): Is the Minister including Northern Ireland?

Seema Kennedy: Obviously, because there is no sitting Assembly—

Neil Coyle: You said all of them.

Seema Kennedy: I will correct the record: consent was sought from the Northern Ireland civil service, and was provided by the permanent secretary of the Department of Health of Northern Ireland.

To address the point made by the hon. Member for Wallasey, as I have said before, in 2018-19 additional funding for the FSA for EU exit was of the order of £14 million, and in 2019-20, £16 million. The FSA also had the extra £2 million in 2018-19 and in the year ending 2020 just to support food safety activity. We are therefore confident that it can meet the novel tasks that it will be expected to perform after EU exit.

[Seema Kennedy]

Previous staff changes reflected efficiencies that were appropriate at the time. A careful assessment has been made of the additional work that we will now need to carry out when we leave the EU. The FSA has strengthened its capacity and capability for risk assessment and risk management by recruiting more policy and science experts, as well as strengthening processes and procedures that underpin the risk-analysis process. An extra—

Ms Eagle: Will the Minister give way?

Seema Kennedy: May I finish this point? An extra 140 staff have been recruited, and the majority of them are already in place. I—

Ms Eagle: Will the Minister give way?

Seema Kennedy: I would first like to address the other points that the hon. Lady made.

Ms Eagle: But my intervention is on this very point—I thank the Minister for her generosity in giving way. I note from the figures that she gave us that £14 million has been allocated for one year and £16 million for the next, but then it goes down to virtually nothing, £2 million. That gives the impression that a lump of work needs to be done and that the funding can then go back to the way it was before. Is she happy that that is the right level of funding allocation, and that the FSA can go back to where it was before this lump of money? Does she think that gives the Opposition the reassurance that we seek? Is she happy with that?

Seema Kennedy: I am very happy that the FSA will be able to cope with the additional duties that it will have after EU exit and that it is properly funded.

On irradiation, EU legislation provides for EU approval for irradiation facilities for food and specific foodstuffs. Nothing is changing, and no new foods can be irradiated. I hope that gives the hon. Lady the reassurance that she seeks. That applies to imports and to domestic foods.

On GM foods, which I know worry many people, the draft SI is not about changing the robust controls that we have in place for GM food and feed. It corrects a further two retained EU authorisations, in addition to the 68 covered by the main Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019, which have already been approved by Parliament.

I hope that I have answered all the questions asked by hon Members. As I said, while the Government continue to work for an orderly exit from the EU and until we have final agreement, it is important to prepare for the possibility that we will leave with no deal. To reiterate, this instrument makes no changes to policy or to how food businesses are regulated and run. The draft regulations are limited to the necessary technical amendments to ensure that regulatory controls for food and feed continue to function effectively after exit day if the UK leaves the EU without a deal, and that public health is protected.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Food and Feed Hygiene and Safety (Miscellaneous Amendments) (EU Exit) Regulations 2019.

5.6 pm

Committee rose.