PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Twelfth Delegated Legislation Committee

ANIMAL HEALTH AND GENETICALLY MODIFIED ORGANISMS (AMENDMENT) (EU EXIT) REGULATIONS 2019

Monday 7 October 2019

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not later than

Friday 11 October 2019

The Committee consisted of the following Members:

Chair: Graham Stringer

† Antoniazzi, Tonia *(Gower)* (Lab)
† Beresford, Sir Paul *(Mole Valley)* (Con)
† Brereton, Jack *(Stoke-on-Trent South)* (Con)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Courts, Robert *(Witney)* (Con)
† Debbonaire, Thangam *(Bristol West)* (Lab)
† Eustice, George *(Minister of State, Department for Environment, Food and Rural Affairs)*
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
† Jayawardena, Mr Ranil *(North East Hampshire)* (Con)
Kendall, Liz *(Leicester West)* (Lab)
† Lopresti, Jack *(Filton and Bradley Stoke)* (Con)
† McKinnell, Catherine *(Newcastle upon Tyne North)* (Lab)
† Martin, Sandy *(Ipswich)* (Lab)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
O'Hara, Brendan *(Argyll and Bute)* (SNP)
† Tracey, Craig *(North Warwickshire)* (Con)
† Whitfield, Martin *(East Lothian)* (Lab)

Dominic Stockbridge, *Committee Clerk*

† attended the Committee

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[Graham Stringer *in the Chair*]

Animal Health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019

6.15 pm

The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice): I beg to move,

That the Committee has considered the Animal Health and Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019 (S.I. 2019, No. 1229).

This statutory instrument was made under the urgent made affirmative procedure. That is because it supports the UK's application to the European Commission for third-country listed status for animal health purposes. That application will be considered at a meeting of the EU's Standing Committee on Plants, Animals, Food and Feed, or SCoPAFF, due to take place on 11 October.

While we are working hard to secure a deal with the EU, we should prepare for all scenarios, including that the EU would not accept any request for an extension or that the terms of any extension would be unacceptable to the UK. The European Commission considered the UK's third-country listing application at a meeting of the relevant SCoPAFF committee on 9 April, based on the relevant animal health legislation in place on that date. The UK was able to assure the Commission that all relevant legislation had been made, and member states voted unanimously to list the UK as a third country.

Following the article 50 extension, another vote must now be held; as I said, that will be this Friday, 11 October. To ensure that we are fully prepared for that listing, this SI should be on the statute book to provide the EU with the necessary reassurances that they have said they want in order to expedite the process of listing the UK as a third country. The Government have taken care to rely on the urgency procedure contained in the European Union (Withdrawal) Act 2018 in as few situations as possible, but we considered use of that procedure to be appropriate in this instance, for the reasons I have described.

The instrument makes a number of technical operability changes to existing instruments on animal by-products, or ABPs; transmissible spongiform encephalopathies, or TSEs; and genetically modified organisms, or GMOs—I hope members of the Committee will forgive me for relying on the abbreviations of all those terms. Those changes ensure that the laws in these policy areas will operate correctly after the UK has left the European Union. The instrument takes into account three recent, highly technical changes to the EU's ABP and TSE legislation that were published in the EU's official journal too late to be included in earlier EU exit SIs.

Mr Robert Goodwill (Scarborough and Whitby) (Con): Does this instrument have any bearing on the issue of carcass splitting and the specified risk material, namely spinal cord, that needs to be removed from certain lambs? I think both the Government and many sheep farmers wish to move from a system of aging the sheep through their dentition to one of using a date in the calendar.

George Eustice: My right hon. Friend mentions a request that, as a former incumbent of my post, he will know the industry has been making for some time. It is under consideration, and is something that we progressed with the European Union during my previous time as Minister. I do not think that this particular change addresses that topic; it is much more about the use of certain animal by-products, which are not category 1, in fertilisers or soil improvers. This amendment covers a much narrower issue.

The instrument amends the provisions regarding harmonisation of the lists of approved or registered establishments, plants and operators and the traceability of certain animal by-products and derived products. The Commission introduced new legislation to create a transition period for those to come into force, and those lists were due to be altered by the Trade Control and Expert System—TRACES—an IT system run by the EU. This instrument simply changes those provisions to give us the flexibility to use either TRACES or our own, new import system, depending on the scenario we end up in.

The second change amends provisions to permit the export of products containing processed animal protein derived from ruminants and non-ruminants. In June 2018, the European Food Safety Authority updated the quantitative assessment of the bovine spongiform encephalopathy risk posed by processed animal proteins, and concluded that the total BSE infectivity posed by processed animal protein was a quarter of that estimated in 2011. Following the opinion delivered by EFSA related to processed animal protein, it was felt appropriate to include organic fertilisers or soil improvers containing processed animal proteins derived from ruminants in the derogation laid down to permit export, and the EU regulation on transmissible spongiform encephalopathies was amended accordingly.

The third change makes technical changes to the provisions as regards the imports of gelatine, flavouring innards and rendered fats. The amendment adds Egypt to the list of third countries from which gelatine may be imported into the European Union; aligns the list of third countries eligible for the import of flavouring innards with a reference to the list of third countries authorised for the import of wild game meat for human consumption; and allows imports of rendered fats to be used for the production of renewable fuels using a method that has been assessed by EFSA.

In addition, regulation 5 of the instrument corrects minor inconsistencies in the language used in an earlier EU exit instrument, the Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2019, as identified in 50th report of the Joint Committee on Statutory Instruments. To exemplify the change in language recommended by that Committee, where the word "countries" was used in some references, it has been amended to "constituent nations", and where the word "notification" was used, it has been amended to "consent".

Martin Whitfield (East Lothian) (Lab): I am glad to see the Minister back in his place. With regard to the minor errors contained in those earlier regulations, is he assured that there are no minor errors in these regulations?

George Eustice: As I have made clear many times, this is a complex set of regulations. Some 80% of all the Department's legislation comes from the European Union, so it has been a huge task for officials to bring it all across into retained EU law. I pay tribute to them for the huge amount of work that has gone into that. It is inevitable that, in such a complex operation, there will be occasional errors, oversights or changes. That is why the European Union (Withdrawal) Act 2018 provided for the ability, in the event of drafting errors being made, for them to be corrected for a period of time after we leave the European Union.

I have answered that as honestly as I can; I hope this is the final word. I did many of these statutory instruments the first time round and my right hon. Friend the Member for Scarborough and Whitby did many more after I left the post, so we are returning to familiar issues to update the legislation.

Mr Ranil Jayawardena (North East Hampshire) (Con): With regard to GMOs, may I confirm that the regulations as amended will make sure that only truly safe GMOs are released and that the UK will still have the right to stop them being used in this country if we, this Parliament and the British Government, will that to be the case?

George Eustice: Yes, the changes in relation to GMOs are a few minor changes in language, following the recommendation of the Joint Committee.

The regulations mean that we are bringing across the EU regulatory system exactly as it is; the processes will be exactly the same. The EU system is sometimes criticised, not necessarily because of the thoroughness of the process that people go through, but because politics often gets in the way, so some applications have been left in limbo for up to 20 years. That has been criticised, but the procedures, the methodology, the thresholds and the evidence required will be exactly the same as before, after we leave the European Union.

This instrument applies to the whole UK, and the devolved Administrations were closely engaged in its development and have given their consent for it to be laid. I therefore commend this regulation to the House.

6.25 pm

Sandy Martin (Ipswich) (Lab): Nobody who was aware of events in this country in the late '80s is relaxed about the danger of allowing the reappearance of bovine spongiform encephalopathy in this country, so I am sure that the Minister would want to do everything necessary to ensure that it is not introduced from outside. European Council Regulations No. 999/2001 and 1069/2009 and the associated Commission decisions have been vital in dealing not only with BSE but with scrapie in sheep and other transmissible spongiform encephalopathies. By strictly regulating the import and export of all sorts of animal by-products, the EU has managed to control these diseases. I wonder how we would have fared if the EU had not existed at the time, or if there had been the same attitude to regulations that we see in some quarters now.

We are very worried that any deviation from EU regulations in this area, or reduction in the level of compliance, might lead to increased risk of importing or incubating BSE and other TSEs. Clearly, this SI is an attempt to ensure full alignment with EU regulations, and we are not going to argue with that, but we believe, as I mentioned with the previous SI, that driving this forward under the made affirmative process runs the very real risk that there might be mistakes, or gaps.

Mr Goodwill: Is it not the case that the mistakes that were made and the changes in the process that allowed BSE to develop happened while we were members of the European Union and under EU regulations? The idea that leaving the European Union will make that sort of thing more likely seems a rather spurious argument.

Sandy Martin: That is one for the historians, but the right hon. Gentleman overlooks the fact that the European Union managed to contain what was a very nasty and difficult outbreak, and to reverse a situation that might well have been extremely difficult to reverse in the context of international trade in animal products at the time. We have seen other animal diseases that were far more difficult to stamp out, over a much longer period of time, in the past. Clearly, no organisation will be an absolute guarantee against something new occurring, but learning from the problems that occur and ensuring that they do not reoccur must surely be one of the main objects of any organisation, whether a trade organisation or any other co-operative organisation.

As I said, the made affirmative process removes much of the depth of scrutiny that these instruments ought to have before they are made, and that risk is exacerbated by the speed at which some of these regulations are having to be driven through. I would like the Minister to reassure us that there are no plans to move away from adherence to these regulations once we have left the EU.

Will we be able to use the European trade control and expert system to ensure that the regulations are being complied with, if we leave the EU without a deal? Are there genuine plans to replace the TRACES system with a home-grown one for use in this country, and if so, why? It seems to me that a system that is used by every country in Europe is far more likely to be effective than one cobbled together in a single country, which then may or may not fit with what its trade partners are doing.

As for the amendments in regulation 5, dealing with genetically modified organisms, it may be the case that this SI does not make any changes in policy, but how likely is it that, once we are no longer members of the EU, this Government will maintain the same stance towards GMOs that the EU currently does? Will the Government maintain equivalent regulations to the EU on GMOs? If not, how will that affect our ability to export agricultural products to the EU, not to mention the possible effects on the environment? Whatever the limited scope of these SIs may be, the very fact that we are having to introduce them demonstrates the extent and complexity of the protections for our health and the health of our agriculture, which are being put at risk by the threat of a no-deal Brexit.

6.30 pm

George Eustice: I will try to address some of those points as best I can. I completely share the view of the shadow Minister that we must never again take the sorts of risks in livestock husbandry that led to the BSE crisis. That crisis cast a long shadow over our beef industry. Indeed, even today, after all these years, when we are trying to open and negotiate access to markets such as the United States, China or Japan, the issue of BSE is still key and we have to give assurances.

I reassure the hon. Gentleman that there is no prospect of this Government weakening our regulations in this area. Even when, in some instances, the science suggests that an approach in certain areas might be more precautionary than is necessary, there is an issue of confidence in international markets. That is why in my time in this post I have always been cautious about departures from the flagship TSE regulations. I am sure that any future incumbents would take the same approach.

As my right hon. Friend the Member for Scarborough and Whitby pointed out, the area of EU law relating to animal health and feed restrictions has been under the EU's remit for some time, including during the BSE crisis. As the hon. Member for Ipswich says, it is a matter for historians, but when the Government of the day were confronted with that terrible crisis, they moved quickly to impose necessary restrictions.

The hon. Gentleman will be aware that this change has been recommended by the European Food Safety Authority; I hope that reassures him. In previous debates he has had a tendency to trust things that the European Union has said and to be sceptical of things that our own technical advisers say. Others, like me, value our own technical advisers as well. Our TSE experts—the group of technical experts we have in the Animal and Plant Health Agency—have peer-reviewed and assessed the work that EFSA did. They are content with the assessment and that it has reached the right conclusion.

The hon. Gentleman asked about TRACES. If we become a third country, the European Union's approach is that we would not have access to TRACES. Over the last 18 months we have been developing our own import system. We have designed it so that it looks like TRACES and feels familiar to the relatively small number of importers who have to use it. The system has been running in a beta format for some time and a number of key importers who will need to use it have been familiarising themselves with it. We will have our own replacement system, but it is not impossible that in a negotiated settlement, with a withdrawal agreement, there will be information sharing provisions between our system and the EU's, or some kind of ongoing access to TRACES, in order to ensure that all of us are doing everything we can to protect the food system.

Finally, on GMOs, the hon. Gentleman raises the issue of exports to the EU and asks if we would still be able to export to the EU were there to be a change. These regulations envisage no change at all. The EU regulatory requirement, as it stands, would come across. A small number of GM crops are authorised for cultivation in the European Union, including a variety of maize cultivated in Spain already.

More to the point, there are many crops that are not authorised for cultivation in the EU but that the EU is happy to import from other countries. The majority of animal feeds that are imported to the European Union from third countries are GM feeds already. The European Union allows those feeds to come in because to ban them would put a huge cost on livestock producers in the EU. That being the case, the decision that we might take as a country—or as a constituent part of the UK in England, for example—to grant an authorisation for a particular crop, given that it would have been done in the same way as the EU authorisation process sets out, is highly unlikely to have any impact on trade, when put in the context of other imports that the European Union makes.

I hope I have managed to cover many or all of the issues that the hon. Gentleman raised. I commend the regulations to the Committee.

Question put and agreed to.

6.36 pm

Committee rose.