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OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT ENVIRONMENT AND WILDLIFE
(MISCELLANEOUS AMENDMENTS ETC.)
(EU EXIT) REGULATIONS 2020

Wednesday 11 November 2020

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The Committee consisted of the following Members:

Chair: PHILIP DAVIES

Ali, Rushanara (*Bethnal Green and Bow*) (Lab)
 † Atherton, Sarah (*Wrexham*) (Con)
 † Brereton, Jack (*Stoke-on-Trent South*) (Con)
 † Buchan, Felicity (*Kensington*) (Con)
 † Coutinho, Claire (*East Surrey*) (Con)
 Creasy, Stella (*Walthamstow*) (Lab/Co-op)
 † Elphicke, Mrs Natalie (*Dover*) (Con)
 † Gideon, Jo (*Stoke-on-Trent Central*) (Con)
 † Hunt, Jane (*Loughborough*) (Con)
 † Hunt, Tom (*Ipswich*) (Con)
 Johnson, Kim (*Liverpool, Riverside*) (Lab)

Mishra, Navendu (*Stockport*) (Lab)
 † Morris, James (*Lord Commissioner of Her Majesty's Treasury*)
 † Pow, Rebecca (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)
 Thompson, Owen (*Midlothian*) (SNP)
 † Twist, Liz (*Blaydon*) (Lab)
 † Zeichner, Daniel (*Cambridge*) (Lab)

Nicholas Taylor, *Committee Clerk*

† **attended the Committee**

Sixth Delegated Legislation Committee

Wednesday 11 November 2020

[PHILIP DAVIES *in the Chair*]

Draft Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020

9.25 am

The Chair: Before we begin, may I remind Members about the social distancing regulations? Thank you, everyone, for sticking with them. *Hansard* colleagues will be grateful if any speaking notes could be sent to hansardnotes@parliament.uk.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): I beg to move,

That the Committee has considered the draft Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020.

It is a pleasure to see you in the Chair bright and early this morning, Mr Davies.

The draft regulations were laid before the House on 12 October. They make operability changes to retained European Union law and implement the Northern Ireland protocol in the context of the convention on international trade in endangered species of wild fauna and flora, or CITES. That will be done by making changes to the UK's existing CITES regime, comprised primarily of retained EU law, in so far as it will operate in Great Britain, to ensure that the relevant EU regulations may continue to be properly implemented in Northern Ireland, as required by the protocol.

Additionally, the draft regulations will consolidate previous statutory instruments making operability fixes to retained EU law, so that the changes appear in one place. The regulations also make further operability fixes in respect of more recent EU legislation that will become retained EU law, and minor corrections to regulations that were not dealt with in earlier amendments. The draft instrument makes a number of amendments, but it makes no changes to policy, other than those necessitated by the Northern Ireland protocol—that is the important thing to note.

CITES provides protection to more than 35,000 different species of endangered animals and plants, the range of which is incredibly diverse, from lions and giraffes, and parrots and turtles, to corals, orchids and the rosewood commonly found in guitars. I believe that you are quite an animal lover, Mr Davies, so you will be familiar with a lot of those creatures. By regulating international trade in animals and plants and in their parts, CITES aims to reduce the threat to those species in the wild.

CITES is implemented throughout the EU by the EU wildlife trade regulations, known as EUWTR, which are applicable in the UK. Those regulations set out the controls for trade in endangered species of wild animals and plants to and from the EU, the UK and the rest of

the world. Many UK businesses trade in CITES specimens, and the relevant sectors are varied, from musicians and fashion, to pharmaceuticals and zoos.

The UK is party to CITES in its own right and will continue to be bound by its obligations after the end of the transition, regardless of the outcome of the negotiations with the EU. The UK is committed to supporting the work of CITES now and in future. At the CITES conference of the parties in August 2019, the UK used its world-leading scientific and technical expertise to play a pivotal role in proceedings. As a result of that work, 93 new species, including mako sharks and several species of gecko and newt, now benefit from enhanced protection under the convention. We have that world-leading reputation for such work, which obviously we will continue.

The primary purpose of the draft instrument is to make operability fixes to retained EU law and to implement the Northern Ireland protocol with regard to CITES. In doing so, we are consolidating into one instrument amendments made by previous CITES EU exit SIs that have not yet come into force, to make regulations clearer and more accessible to users.

In implementing the protocol and our convention obligations, CITES documents and relevant checks will be required for CITES specimens travelling between Northern Ireland and Great Britain, in both directions. That will affect traders in Northern Ireland and traders in Great Britain who regularly move specimens in and out of Northern Ireland.

The instrument will also make operability fixes in respect of more recent EU legislation, which will become EU retained law, and minor corrections not included in the previous instruments. For example, the instrument deals with a new suspensions regulation of 2019, which replaces and updates an earlier regulation. The suspensions regulation provides for bans on imports of certain specimens from certain countries needing additional protection—for example, wild lions from Ethiopia, wild Dryas monkeys from the Democratic Republic of the Congo, and African cherry wood from Equatorial Guinea.

Part 2 of the instrument amends domestic regulations that provide for, among other things, enforcement powers with regard to CITES. Part 3 amends retained EU regulations on CITES to ensure that the regime is operable in Great Britain after the end of the transition period. The instrument was sent to the Joint Committee on Statutory Instruments for pre-scrutiny and was returned with minor comments relating primarily to minor drafting issues. The Secondary Legislation Scrutiny Committee asked the Department for Environment, Food and Rural Affairs a number of questions, as outlined in its report. Those questions related to the practical implications of documentary checks for movement between Northern Ireland and Great Britain and examples of what types of species are commonly traded in the United Kingdom.

Traders moving CITES specimens between Northern Ireland and Great Britain will at the end of the transition period be required to obtain and present relevant CITES documentation. Interestingly, there is currently no data on movements of CITES species between Northern Ireland and Great Britain, as that trade does not yet require documentation. Members may be interested to hear that the most commonly traded species between the UK and the rest of the world are alligators and

crocodiles, for their leather, and live falcons, I believe for falconry—they are pets, really—and potentially for pest control.

The changes made by the instrument will affect DEFRA and the Animal and Plant Health Agency, as documentation that was previously required at the EU border will now be required at the UK border—Great Britain or Northern Ireland, as the case may be. APHA has increased staff numbers in anticipation of that increased workload. As I said, the statutory instrument does not change policy other than as required by the implementation of the Northern Ireland protocol, so no consultation was undertaken. Drafts of the instrument were, however, shared with the devolved Administrations during its development and drafting. In line with published guidance, there is no need to conduct an impact assessment of the instrument because there is no, or no significant, impact on the public, private or voluntary sectors. The territorial extent of the instrument is the United Kingdom.

As a result of the protocol, documentation will be required for the movement of CITES specimens between Great Britain and Northern Ireland. That will require additional enforcement by Border Force at points of entry and exit between Great Britain and Northern Ireland. Border Force has increased staff numbers and trained new staff in order to address that increase and is well prepared for those additional checks from the end of the transition period. I commend the draft regulations to the Committee.

9.33 am

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Mr Davies, and to be back with the Minister. Yesterday we were on the Environment Bill Committee and we will be on it again tomorrow.

CITES is widely praised and supported and is very important. I first came across it in detail during the 2015 general election. The city of Cambridge has an extraordinary number of husting events—25 to 30 of them—and one was devoted entirely to CITES. That tells us something about Cambridge, as well as about the importance of CITES. One of the speakers on that occasion was none other than Tony Juniper, who now of course chairs Natural England. At the time he was a candidate for the Green party.

One of the pleasures of the statutory instrument process is that our debates are often prefigured by discussion in the other place, so it is possible to see what others have said. The introduction of my colleague Baroness Jones of Whitchurch was so good that I feel little need to change it. She said:

“The CITES international agreement is an absolutely vital protection for endangered wild animals and plants, as the Minister explained. We know that the trade across borders is worth billions of pounds. It covers exotic live animals as well as animal products and plants. Sadly, it attracts some of the most unscrupulous international gangs, which will readily flout the rules in pursuit of profit. So it is crucial that we have robust laws to ensure that the rules are properly enforced and that no loopholes can be exploited. So far, we on these Benches have supported the UK Government’s leadership on international co-operation with CITES, although we believe that they could have moved faster to enforce and expand UK laws to protect endangered species.

It is important that the regulations before us today are absolutely watertight. This is particularly important as the application of the Northern Ireland protocol opens up a new dynamic in border control. We do not want any minor discrepancies between the

different regimes in Great Britain and Northern Ireland—and, by extension, in the single market—to unintentionally open loopholes that could be exploited by criminal gangs.”—[*Official Report, House of Lords*, 3 November 2020; Vol. 807, c. GC261.]

In the Minister’s opening remarks, she cited the UK’s influence at the 2019 conference of the parties. She mentioned some of the 93 new species that are afforded protection, including—I picked similar examples—the swallowtail butterfly and several species of gecko and newt. Sadly, there is no additional protection for newt counters, nor indeed for Prime Ministers who think that concern for such creatures is to be derided. I suspect there are differences of opinion on the Government Benches on the policy on newts. The Minister will be delighted to know that this is a subject to which I will return in the coming days.

I also take issue with the statement in the explanatory memorandum that there is no impact. We need to think about the real-world consequences. There may be no change in legislation, but there certainly is a significant impact on the people who have to administer these systems. The Minister has talked about additional staffing. There was a time when Conservatives would instantly say to a Labour Government, “Where’s the money coming from?” It is coming from businesses, so there is impact out there.

I also note with joy the term “operability fix”. The Minister in the other place talked about “consolidating operability fixes”—a marvellous piece of jargon, which I think basically means pulling together a whole range of previous errors, mistakes, gaps and so on. However, it is a difficult process and I pay tribute to those who had to draft this stuff. Anyone who has read through it—I am sure people have read in detail the 25 pages of changes attached to the statutory instrument—will have seen how much work must be going into the process.

The Minister said that documentation will now be required at the UK border. I ask her to confirm where that border is. I suspect it is somewhere in the Irish sea—the place where the Prime Minister said no border should ever go. Perhaps she could also tell us where the border posts will be and tell us a little more about staffing. She says that APHA has increased its staff numbers. Of course, “increase” is a very vague term. By how much has it increased its staff numbers, and by how much does it need to increase them to make the system work?

ClientEarth raised detailed questions in its correspondence with the Department for Environment, Food and Rural Affairs, which were pursued by the Secondary Legislation Scrutiny Committee. I would like to go through those so that we have the answers on the record. It pointed out:

“Regulation 7(2)(a) and 7(2)(r) remove references to the ‘committee’ and the ‘scientific review group’. Other parts of the regulations, including Regulation 7(5)(b)(ii)(aa) and 7(5)(c)(ii)(aa), remove requirements to consider to consider the opinion of the scientific review group before the domestic scientific authority can advise on the import of wild species. Whilst the UK will no longer collaborate with other Member States in this way, the loss of this collaboration mechanism with other scientific bodies is disappointing. In addition, in certain instances references to the scientific review group are replaced with references to a ‘scientific authority’, but in other instances the role of the scientific review group is not replaced.”

We do have a reply from DEFRA, but I have to say that I found it slightly insulting. It basically makes the assertion that we are the best in the world and there is nothing to worry about—we could possibly be described

[Daniel Zeichner]

as “world-beating”. I think a little more humility might be useful sometimes. It goes on to say that we are no longer “bound by EU structures”, which implies that those somehow weaken the process. It goes on to talk about our scientific authorities, which are of course very good:

“The Joint Nature Conservation Committee...for fauna and Royal Botanic Gardens Kew for flora”.

Of course those are good, but is it not always better to collaborate? I would be grateful for the Minister’s view on how we might better collaborate in future.

The second question, I am afraid, leads to another equally complacent answer, which led the Secondary Legislation Scrutiny Committee to say that although DEFRA may be confident about that, it is not convinced that the measures in place do not

“pose a risk of spreading disease.”

That is a serious concern about the holding of particular specimens.

The third question asks about collaboration and the enforcement group, currently at EU level, for which there is no apparent domestic equivalent. The responsibility would pass to the National Wildlife Crime Unit and Border Force. Can the Minister explain what that enforcement group did before and how it will be replicated? My guess is that it will be a question of oversight. If so, there may be an observation that the National Wildlife Crime Unit is very pressed. Some hon. Members will remember that, a few years ago, there were real questions about its future funding. In 2016, it was given a four-year funding settlement, which brings us to today. Anyone who has been involved with it knows what excellent work it does and how hard pressed it is to do it. That raises the question whether it will be able to take on extra responsibilities.

ClientEarth’s final question is about the removal of sanctions and seizures. DEFRA says in reply that that is already in the domestic enforcement legislation. Is it an exact equivalent or are there differences?

In general, can the Minister confirm how the UK will continue to collaborate internationally to prevent the unlawful import of wild species? Although she is likely to assert that the effect of the regulations will not be a weaker regime for the implementation and enforcement of CITES in the UK, can she provide any evidence of that? It is all very well to assert it, but what independent assessment has been done? I suspect that the answer is, “Truthfully, we don’t know. Only time will tell,” and that, as with all our other environmental protections, despite the bluster and spin, they will be weaker next month than they are today.

9.42 pm

Rebecca Pow: I thank the shadow Minister for his comments and the raft of questions. He has obviously looked closely at what has happened in the other place and has put the measure under a great deal of scrutiny. I will set it in context quickly, then run through as many of the questions as I had time to note down, because they were coming thick and fast. If he feels that I do not cover something, I am happy to follow up afterwards, if that is acceptable.

To prepare for the end of the transition period, it is essential to have the right legislation in place to continue to protect our endangered species, in accordance with

our international obligations, to ensure that trade does not threaten the survival of those species in the wild. The UK remains absolutely committed to supporting work on CITES. The hon. Gentleman was slightly derogatory about our global leadership, but we are recognised around the world for our scientific lead on this issue—that is genuinely true—and we will not lessen or weaken that in any way. Indeed, there might be opportunities to strengthen it, which I would be keen on.

As hon. Members know, I am a great supporter of our National Wildlife Crime Unit and, as a Back Bencher, I fought to get that money committed for it. I think the hon. Gentleman was involved in that as well, from the other side of the House: it was a joint initiative. I was interested to hear about the CITES hustings that he attended, which sound fascinating.

Daniel Zeichner: On the National Wildlife Crime Unit, is that funding secured for the future? I am not necessarily expecting the Minister to give an answer today, but it is an important point.

Rebecca Pow: It is an important point. I am really annoyed with myself, because I read about it last night and I cannot lay my hands on the actual details. May I write to the hon. Gentleman about that? Certainly, it is in there and it has been highlighted. I will give him chapter and verse in writing.

The instrument will achieve that protection by ensuring that relevant regulations can operate properly after the end of the transition period. It will make operability changes to retained EU law, ensure implementation of the Northern Ireland protocol with regard to CITES and consolidate amendments made by earlier instruments that have not yet come into force, to make regulation clearer and more accessible to all who use them. The important thing is that there will not be any changes to policy, other than those necessitated by the Northern Ireland protocol. That should give some assurances.

I will go through some of the comments. I hope I can give some more useful background. The hon. Gentleman referred to our scientific involvement. As we have left the EU, we will no longer participate in or be bound by the EU structures, including the EU scientific review group, under CITES regulations applicable to GB, but our scientific authorities, the Joint Nature Conservation Committee for fauna and the Royal Botanic Gardens, Kew, for flora—which is, of course, world-leading—will continue to provide advice on a range of CITES matters and to collaborate internationally with other CITES scientific authorities as appropriate. Our involvement in the convention to which I referred demonstrates that we will not be weakening in that respect.

The hon. Gentleman suggested that we might somehow weaken our combatting of the illegal wildlife trade. It is essential that we keep our eye on that. The draft SI will not weaken that. The UK is and will remain a world leader in the fight against the illegal wildlife trade. In 2018, the UK convened the largest ever global international wildlife trade conference, at which 65 countries signed up to the London declaration committing to take urgent and co-ordinated action against the illegal wildlife trade. That is not something we will suddenly drop. Through our internationally renowned IWT challenge fund, we have committed £26 million since 2014 to 85 projects around the world that directly counter the illegal wildlife

trade, including projects to reduce demand, to strengthen enforcement, to ensure effective legal frameworks and to develop sustainable livelihoods.

Liz Twist (Blaydon) (Lab): Will the Minister explain exactly how the UK will continue that international collaboration to prevent the unlawful import of wildlife species?

Rebecca Pow: In the same ways as we have been doing it before, through our international connections. We have Lord Goldsmith in our Department, and he does a great deal of work on this agenda internationally—he is also the international environment Minister. We will keep all our links going.

The very fact that we are holding COP26—it is on climate change, environment and biodiversity, and we have nature and adaptation as part of that now—means that there are levers that link to this important issue. A lot of the illegal wildlife trade is linked to the devastation of our forests and the destruction of habitats. They are all closely interlinked, and that is something we intend to be leaders in, continuing our work.

At the United Nations General Assembly in September, the Prime Minister announced a scaling up of UK funding to tackle the illegal wildlife trade, as part of a £220 million international biodiversity fund. I hope that gives some reassurances that we are absolutely committed. It is something the Prime Minister is particularly interested in.

I want to be clear that several SIs were made in 2019 in order to make CITES operable in the UK. In view of further changes that we needed to make as a result of the Northern Ireland protocol, we considered that it would be preferable to put all the necessary changes into one piece of legislation, to make it more accessible, clearer for users and to increase transparency. Potentially, the draft regulations will help the whole issue of tackling the illegal wildlife trade.

I was asked about the impact on business. CITES checks are not particularly onerous. CITES requires 100% documentary checks, as opposed to physical checks

on consignments—we do not expect our Border Force control to open the alligator cages. The documentary checks involve Border Force inspecting—I said that, but perhaps I should retract it—and endorsing and wet stamping relevant import and export permits and other documents. Physical checks take place only on a risk basis.

Costs for permits and certificates are set out in the Control of Trade in Endangered Species (Fees) Regulations 2009. They would be incurred by traders wishing to obtain such documents. We have liaised regularly with Border Force colleagues on the need for those checks, and Border Force already carries out such checks on consignments from the rest of the world. It has increased its staff numbers to meet the additional requirements. DEFRA has been working closely with APHA, which has been involved in recruiting and training staff to deal with the project and the uplift in the volume of CITES movements and documentation anticipated. I think I have covered the scientific organisations.

The shadow Minister then touched on where the specimens or species would be imported through. CITES specimens must enter and exit Great Britain and Northern Ireland through points of entry and exit designed especially for that purpose. We are designating 29 UK sea and airports for use after the end of the transition period. There is a list of the ports on the Government website, gov.uk. In particular, I highlight that Belfast International airport and Belfast seaport will be among those designations at the end of the transition period.

I hope that covers the main points of the inquiries quite rightly raised by the shadow Minister, because it is important for us to get the legislation right. To close, as I have outlined, the draft instrument makes operability changes to EU-derived domestic regulations and retained direct EU legislation, and implements the Northern Ireland protocol with regard to CITES. It will ensure that appropriate protections for the trade in endangered specimens continue to be in place after the end of the transition.

Question put and agreed to.

9.52 am

Committee rose.

