

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

OFFICIAL CONTROLS (ANIMALS, FEED AND  
FOOD, PLANT HEALTH ETC.) (AMENDMENT)  
(EU EXIT) (NO. 2) REGULATIONS 2020

DRAFT PLANT HEALTH (AMENDMENT)  
REGULATIONS 2020

*Wednesday 20 January 2021*

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**The Committee consisted of the following Members:**

*Chair:* SIR DAVID AMESS

Andrew, Stuart (*Treasurer of Her Majesty's Household*)

Betts, Mr Clive (*Sheffield South East*) (Lab)

† Caulfield, Maria (*Lewes*) (Con)

Davies, David T. C. (*Parliamentary Under-Secretary of State for Wales*)

† Furniss, Gill (*Sheffield, Brightside and Hillsborough*) (Lab)

Gardiner, Barry (*Brent North*) (Lab)

Griffith, Andrew (*Arundel and South Downs*) (Con)

Jenkinson, Mark (*Workington*) (Con)

Johnson, Kim (*Liverpool, Riverside*) (Lab)

Jones, Fay (*Brecon and Radnorshire*) (Con)

Lockhart, Carla (*Upper Bann*) (DUP)

Logan, Mark (*Bolton North East*) (Con)

† Prentis, Victoria (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)

† Pursglove, Tom (*Corby*) (Con)

Thompson, Owen (*Midlothian*) (SNP)

Wakeford, Christian (*Bury South*) (Con)

† Zeichner, Daniel (*Cambridge*) (Lab)

Nicholas Taylor, *Committee Clerk*

† **attended the Committee**

## Third Delegated Legislation Committee

Wednesday 20 January 2021

[SIR DAVID AMESS *in the Chair*]

### Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020

2.30 pm

**The Chair:** Colleagues, will you make sure that you let *Hansard* have a copy of your speech at the end of proceedings?

I will now call the Minister to move the motion and to speak to both statutory instruments. At the end of the debate, I will put the Question on the first motion and then ask the Minister to move the second motion.

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

That the Committee has considered the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) (No. 2) Regulations 2020 (S.I., 2020, No. 1631).

**The Chair:** With this it will be convenient to consider the draft Plant Health (Amendment) (EU Exit) Regulations 2020.

**Victoria Prentis:** It is a great pleasure to serve under your chairmanship, Sir David.

The regulations and the draft regulations were laid before this House on 22 December and 9 December last year, respectively.

The regulations complete the suite of European Union exit amendments set out in the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020, which were debated unopposed in the House on 30 November 2020, and came into force shortly before midnight on 31 December. As with the first SI, the second one—the regulations before us—amends EU retained regulations governing official controls on imports to Great Britain of animals and animal products, and plants and plant products, including food and other imports relevant to the agrifood chain, collectively known as sanitary and phytosanitary or SPS checks.

The EU regulatory structure being retained and made operable by the amendments is extensive and complex. Owing to the intricacy of the amendments required, we took the decision to divide the necessary legislation into two instruments. That is why we are debating this second one today. The first focused on operability amendments to the main body of EU official controls regulations. This one makes similar operability amendments to more than 30 separate tertiary regulations, covering procedural aspects of the official controls regime, including regulation of model certificates, transits and transshipments, operation of border control posts and specific requirements for certain categories of animal and plant import control. The SI ensures that we can continue to deliver robust, effective controls and checks on all food, animal and plant imports.

We have now started to phase in border controls on imports from the European economic area. That prioritises flow at the border and gives business and industry longer to prepare for the full controls regime. It is a temporary, pragmatic step to support international trade and mitigate disruption, made necessary partly by the impact of the pandemic. From July this year, we will have controls in place for all imports of EU SPS goods.

Moving on, the draft plant health regulations will help us to achieve unfettered market access for Northern Irish businesses moving goods into Great Britain, which is a key commitment of the Northern Ireland protocol and of the UK internal market. The draft regulations specify the mechanism to allow regulated plants and plant materials to move from Northern Ireland into Great Britain. The instrument will not introduce any policy changes, and the devolved Administrations have given their consent.

The draft regulations will protect biosecurity and support trade by amending retained EU law to allow movements of qualifying goods into Great Britain under an EU plant passport. For Northern Irish businesses trading with Great Britain, nothing will change compared with the situation at the end of last year. It makes amendments to the format of UK plant passports, to allow identification of qualifying goods on the GB market, which should ensure traceability in the event of a biosecurity issues arising.

Once in Great Britain, an EU plant passport can continue to accompany the qualifying goods—it will look simply like a label. Authorised operators will also have the option to replace the EU plant passport with a UK plant passport, should they, for example, want to split a consignment where each trade unit is not already covered by an individual plant passport.

The draft regulations also provide for goods to be assessed against GB plant health standards where those differ from those of the EU, and there is an option for the authorised operator to issue a UK plant passport where goods are assessed as meeting GB plant health requirements. Under the terms of the protocol, Northern Ireland will maintain alignment with the EU plant health regime rather than that of Great Britain. Finally, the regulations make consequential amendments to domestic legislation.

The regulations and draft regulations will ensure that legislation to maintain UK biosecurity will continue to function in Great Britain and that we shall continue to deliver an effective imports system that guarantees our high standards of food and animal safety, while ensuring frictionless trading and movements.

2.36 pm

**Daniel Zeichner (Cambridge) (Lab):** It is a pleasure, as ever, to serve with you in the Chair, Sir David. It brings back happy memories of considering the Bill that became the Agriculture Act 2020. Of course, we are returning to the ongoing dialogue about the changes to checks and controls on food and plant movements that we were enjoying last year.

I note that the first of the statutory instruments has a similar title—with the helpful addition of a bracketed No. 2 for clarification—to the one that we discussed at the end of November, to which the Minister has made reference. On that occasion our exchanges were brief, and lasted no more than 10 minutes. Once again I

assure the Minister that the Opposition will not oppose the measures, because we want the systems to work. However, I cannot promise to be quite so brief today.

The fact that we are not opposing the measures and that once again the discussion is likely to be relatively short raises the question of why Members have been brought to London, which in my view puts staff and Members at risk. Ministers can do Zoom calls with 250 participants. I am not sure whether they always do them very well, although perhaps I am being unkind. However, I wonder why on earth seven or eight of us must be physically in this room at a time of maximum danger. Perhaps that point could be relayed to the authorities that make such decisions. I understand that we shall be doing the same on Monday.

Having got those matters off my chest, I will turn to the statutory instruments. As the Minister said, the issues are important and complicated, with a panoply of controls being transposed into UK law. Now we are in the possibly more advantageous position of having some experience of how things are going. Sadly, I am afraid that we see on a daily basis that the promises about many of the systems—that they would be ready and working—were just that: promises. The reality has been rather different, and the extraordinary assertion by the Prime Minister that there were to be no non-tariff barriers has been shown to be completely inaccurate, as we said at the time.

In the explanatory memorandum to the first of the statutory instruments, on official controls, we begin to get an explanation of what was happening in December as the UK sought essential third-country status. I remember questioning the Minister at the time, and as always she was helpful, if discreet. Paragraphs 7.4 and 7.5 explain the time constraints and the fact that effectively a two-stage process was needed, with more than 30 regulations intended for inclusion in the first statutory instrument being held over. As is outlined in paragraph 7.6, the regulations were implemented first, and are now being debated. So much for taking back control.

My first question is relatively simple. If there was to be a two-stage process, why were we not told that in November? I have no recollection of that being explained. Clearly the Government knew what they were doing, but why could not the British public or, indeed, Parliament, be trusted with the information about what was going on, given that it has such a direct impact on us? Why the secrecy? Of course, it raises the question of what we are not being told now.

It is always interesting to scrutinise statutory instruments when they have already been discussed in the other place. Not only does one get to hear the Government speech twice, which is of course a great pleasure, but the Minister in the other place is particularly diligent and exhaustive in his replies, and his inquisitors are often highly experienced former occupants of the role. I therefore watched yesterday's exchanges closely and noted that there were so many pressing questions from the noble Lords that the Minister promised to answer in what he described as a "substantial letter". Today, officials have had a further day to mull over some of the points that were raised, and I hope that we can have some more direct answers immediately.

Lord Rooker as ever asked incisive questions on reference laboratories, and others, including my colleague the shadow Minister, Baroness Hayman, joined him in

pressing on that issue. The answer seemed to me to be somewhat vague, so I ask directly again about the reintroduction of European Union reference laboratories into this instrument. DEFRA's answer to the questions—some of which were posed by Friends of the Earth in response to the points raised by the House of Lords Secondary Legislation Scrutiny Committee—implies we do not currently have a reference laboratory that uses the standard operating procedures. Could the Minister elaborate on that? In my view, saying that the intention is that it will be done does not seem good enough.

We also learned about the staged implementation of measures, with pre-notification requirements from April and full controls from July. Yet, when responding to Baroness Hayman, the Minister told of 29 applications to build new border control posts, and 14 in Scotland—applications to build. Could the Minister tell us how long will that take? Will they be in place and operating in 24 weeks' time? On staffing, as Lord Rooker asked, how many of the staff needed for April will be in place? It is mid-January now. They need to be recruited and trained.

When it comes to the computer systems, as a former IT person myself, I rather enjoyed the naive optimism of the Minister, as he gamely admitted computers were not really his thing and that systems were "under development"—for July! In my experience, I do not think that is likely. We have already seen the myriad problems being faced by businesses with systems that do not work. It looks as if it is going to get a whole lot worse yet. I ask the Minister to explain to us today, or maybe add to her colleague's "substantial letter", which systems are under development and what stage that development has reached.

Let me pick up some of the further points raised by Friends of the Earth. I am grateful for its detailed reading of these instruments, which helpfully highlight the reduction in oversight and transparency of import conditions under regulation 2 of the lead SI. I have complained to the Minister before about the negative SI procedure. I gently remind her that the relaxation of competition rules in the grocery sector, which were prayed against last summer, have still not been heard. Indeed, in that time they have lapsed, so competition was restored, and then they were relaxed again through, I imagine, a further negative instrument. Yet there has been no discussion and no scrutiny. I have no objection to prompt action, but I do object to a lack of transparency.

I must conclude that the system does not work, and Friends of the Earth is right to question the cumulative potential impact. The Minister will be aware that following the votes on the Trade Bill last night, critics are pointing to examples where Government can now make changes, lowering standards out of sight. I am afraid that we are now seeing many examples of exactly that happening.

The answer to Friends of the Earth's questions includes the extraordinary assertion by DEFRA that the exercise of the power referenced by one of the questions was, "unlikely to be sufficiently serious or contentious to justify using the affirmative resolution procedure".

Of course, DEFRA would say that, but it is not for Government to decide whether their actions are contentious; that is for Parliament.

Could the Minister clarify the meaning of regulation 13 and the minimum specific requirements for vets? I really do not like the sound of it. It is pretty clear that we do

[Daniel Zeichner]

not have enough vets. Does this give Ministers the powers to solve the problem by reducing the veterinary oversight? I hope not, but hidden in the labyrinthine details of these regulations are too many opportunities for what many would see as deregulation by stealth.

Friends of the Earth also queries the pest risk emergency lists. The answer given was again, essentially, “We have an expert group, the UK Plant Health Risk Group, so trust us.” Well, we broadly do, but yet again, it looks to me that there is again a reduction in transparency. I hope the Minister can persuade me that I am wrong.

Let me move to the draft regulations on plant health. Again, we will not oppose it, because we want the system to work, and we are reassured that the Horticultural Trades Association is happy with this. It tells me:

“The key SI for us is the Plant Health Regulation which sets out the requirement for Qualifying Northern Ireland Goods to enter GB under an EU Plant Passport and sets out how these EU Plant Passport goods should be treated once in GB. However, a key point we would make here is that this SI exempts goods traveling from within the EU plant health area traveling NI to GB, whereas the EU has not made the same exemptions for goods traveling from GB to NI.”

This is, of course, a recurrent theme. Could the Minister update us on any representations being made, and whether she thinks this is an advantageous arrangement for us? I suspect, like me, she does not.

The Horticultural Trades Association has also helpfully developed a seven-point plan to improve the phytosanitary and border control process with a series of detailed recommendations around developing better relationships and protocols, simplifying data entry and so on, of which I am sure the Minister is aware. I would welcome an update on progress on those points.

I will conclude by giving a practical example of why all this matters so much. It is a case passed to me by my hon. Friend the Member for Putney (Fleur Anderson) involving a harrowing account from a business located in Hampshire. The company says—I am paraphrasing—that a system that worked perfectly well for over 20 years is now in chaos. It details extra costs of between £130 and £150 for inspection of each consignment coming from Europe, which it estimates will add an extra £30,000 per annum to its costs. The business says there are only two inspectors in northern Holland to check thousands of consignments, leading to huge delays. According to the company, “it’s insanity.”

Particularly relevant to this SI is what the company says about the UK plant passport, which I will quote in full:

“It is now required for plants to have the U.K. plant passport printed or displayed on them either on the pot or on the label or sleeve. What that means is that a sticker has to be attached to each item/carton/case with this new U.K. plant passport printed on it. So for imported food for the U.K. the EU growers EU plant passport is no longer enough (which has been perfectly acceptable for 40 years) now the U.K. plant passport has to be added. Each U.K. importer has a different U.K. plant passport number so it is impossible to have a generic or multi user solution. The extra work and cost involved in printing and attaching this U.K. plant passport is quite simply astonishing. Typically a truckload with plants can contain in excess of 20,000 plants. That is 20,000 stickers that need to be attached to each and every plant for just 1 truckload. It’s total madness!! I currently have 150 truckloads coming to UK. That is roughly 500,000 plants. All need to have new labels stuck on them!!”

Discussions of statutory instruments often seem dry, but they have an impact on the real world—on our constituents. It might be that there have been some misunderstandings here, and I hope the Minister or her officials can provide clarification. I will pass the details of this case to the Minister in the hope that some help can be offered. In the experience of those who need them, the systems currently in place are quite clearly not working.

The Prime Minister initially said there were no non-tariff barriers, but now the line is that there are “teething problems”. Frankly, they are not teething problems, but structural problems. I understand the Minister said as much during a Westminster Forum event this morning, although I would be grateful if she told me I am wrong about that. The first step in tackling a problem is to recognise and understand it, and not deny it. These are difficult issues that are not going away, and we need to resolve them quickly.

2.47 pm

**Victoria Prentis:** I will, as ever, try to answer all of the hon. Gentleman’s questions. If I miss one, it is inadvertent. I know that the Lords Minister will be writing a substantial letter, so I will ensure that reaches the hon. Gentleman. I am sure that my noble Friend Lord Gardiner of Kimble will pick up on some of the points that have been made in both Houses in the last two days.

On the general point, I will not get involved in the discussion about whether we should be here, but I heard what the hon. Gentleman said to you, Sir David. Negative SIs are published and are fully available for parliamentary scrutiny and debate, so I will not get involved in that debate either.

On why this SI was not debated at the time of the first official controls instrument, we laid that at the start of November and debated and published it by mid-December, because that was a condition of the Commission for us to be listed as a third country, which was critical for the movement of some goods that are imported into the UK. Given the complexity of the legislative amendments made to the whole body of retained EU legislation, we decided to deliver the amendments through two separate statutory instruments. There was no secrecy or peculiarity about that; it was merely a practical step and it is why we are here today. Both SIs were laid before the House in December—one on 9 December, and the other on 22 December—so they have been available to be scrutinised openly. That was what they were there for and the explanatory note makes that clear, so I do not think there has been any secrecy about the position.

I have read the Friends of the Earth queries, which are technical. The Minister in the other place made it clear that they required a detailed response, so I will leave those for the substantive letter from the Department. On border control posts and infrastructure, I have not read the Lords debate, but I suspect the other place was told that DEFRA had approved expressions of interests for 29 new BCPs from providers in England and Wales. The Animal and Plant Health Agency tells us that the building is progressing and it is confident that they can be ready by July. Two further applications are under consideration and further expressions of interest are expected in Scotland. That work is under way, and the teams working on it are hopeful—indeed, they expect—that it will be completed in time.

DEFRA is working with port health authorities, APHA and the Food Standards Agency to recruit and train the additional staff required for each stage of the import regime. We have recruited 176 plant health and seed inspectors who are in post now, and we expect their number to increase to up to 300 by July. For animals and animal products, we expect to employ 200 inspectors by April and a further 80 by July, together with 360 administrative staff. Recruitment has been ongoing since at least November and training is happening. A great deal of work is being done to get ready for our sensible, pragmatic and phased approach to bringing in the border checks. The EU reference laboratories are not covered in the official controls regulations, but I will write separately to the hon. Gentleman on that matter.

Continuing to try answer the questions in order, we are confident that we have enough trained vets. We made surge capacity of vets available over this period but not much has been used, so there is still spare surge capacity. I would never say that the situation is not challenging for exporters; I know it is, but we are confident that there is enough capacity at the moment and surge capacity is there if individuals need it.

I ask the hon. Gentleman to refer specific cases to me and my officials, who are working hand in hand to support companies that are trying to export. We will willingly take them up. I also encourage anybody trying to export to make full use of our training programmes, webinars and individual support. There is a great deal of support to get businesses ready for the new checks.

**Daniel Zeichner:** That was not quite the question I was asking, although we are all concerned about the availability of vets. The suggestion from Friends of the Earth is that within these changes Ministers may have given themselves the ability to reduce veterinary oversight, which is another way of dealing with the problem but not one that many would be happy with.

**Victoria Prentis:** Certainly, the intention behind the statutory instruments is to have a robust system in place for protecting our biosecurity. I remember debating last year with the hon. Gentleman how to tailor our approach

so that biosecurity in this country could be done better than over an entire continent. I will make sure that the my noble Friend Lord Gardiner answers the point made by Friends of the Earth, because I am not absolutely certain what point it is worried about, but I will look into it and make sure that the hon. Gentleman is copied into that letter.

Even though the second SI is clearly about NI to GB, a question was posed about what progress has been made on equivalence, and although that issue is not specifically in scope, I think it is only fair that I answer it briefly. If I may summarise, the question is what progress has been made in UK-EU equivalence negotiations. DEFRA submitted applications for third-country equivalence on a number of occasions, as I outlined many times last year. In late December, the EU formally confirmed that it would grant equivalence for seed and other propagating material and would lift prohibitions on ware potatoes, for example. The EU has published an equivalence decision for fruit and vegetable propagating material, which also included lifting the prohibition on ware potatoes, and we are currently waiting for it to reach a Council decision on forest reproductive material and agricultural seed. We are pushing the EU very hard for a timeline for that decision. We continue to push on a regular basis for the lifting of the prohibition, and we are pursuing an application under article 44 of the plant health regulation on the equivalence of plant health measures generally.

I hope that that deals with the substance of the questions, and I commend these two instruments to the Committee.

*Question put and agreed to.*

#### **DRAFT PLANT HEALTH (AMENDMENT) (EU EXIT) REGULATIONS 2020**

*Resolved,*

That the Committee has considered the draft Plant Health (Amendment) (EU Exit) Regulations 2020.—(*Victoria Prentis.*)

2.57 pm

*Committee rose.*

