

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

AGRICULTURAL PRODUCTS, FOOD AND DRINK
(AMENDMENT) (EU EXIT) REGULATIONS 2020

ORGANIC PRODUCTION (ORGANIC
INDICATIONS) (AMENDMENT) (EU EXIT)
REGULATIONS 2020

Monday 25 January 2021

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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

Byrne, Ian (*Liverpool, West Derby*) (Lab)

Dowd, Peter (*Bootle*) (Lab)

Duguid, David (*Parliamentary Under-Secretary of State for Scotland*)

Freer, Mike (*Comptroller of Her Majesty's Household*)

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

Harman, Ms Harriet (*Camberwell and Peckham*) (Lab)

Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Hendrick, Sir Mark (*Preston*) (Lab/Co-op)

Hunt, Jane (*Loughborough*) (Con)

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

† Morris, James (*Lord Commissioner of Her Majesty's Treasury*)

Morrissey, Joy (*Beaconsfield*) (Con)

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

Thompson, Owen (*Midlothian*) (SNP)

† Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

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

Abi Samuels, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Monday 25 January 2021

[MR LAURENCE ROBERTSON *in the Chair*]

Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020

6 pm

The Chair: Before we begin, I remind Members to observe social distancing and to sit only in the places that are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee, unless speaking. *Hansard* colleagues would be most grateful if Members could send their speaking notes to hansardnotes@parliament.uk. In a moment I will call the Minister to move the first motion and speak to both instruments. At the end of the debate I will put the question on the first motion and then ask the Minister to move the remaining motion formally.

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

That the Committee has considered the Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020, No. 1661).

The Chair: With this it will be convenient to consider the Organic Production (Organic Indications) (Amendment) (EU Exit) Regulations 2020.

Victoria Prentis: It is good to serve with you in the Chair again, Mr Robertson. I will deal first with the food and drink regulations.

This instrument was made using the powers in the European Union (Withdrawal) Act 2018 principally to make operability amendments to retained EU law. It is technical and does not introduce new policy. It was made using the made affirmative procedure under the Act to ensure that provisions were in place at the end of the transition period. The provisions could be confirmed only within the timeframe that required an urgent procedure because of the ongoing negotiations with the EU and third countries. The amendments made by this instrument primarily concern geographical indications. This includes transitioning obligations in EU wines and spirits agreements. It also extends to trade between the United Kingdom and the EU of wine and organic products.

GIs, as I am sure the Committee is aware, are a form of intellectual property protection for the names of food, drink and agricultural products that have qualities attributable to the place that they are produced in, or the traditional method by which they are made. They are highly valued in the communities that produce them, and as examples of the range of quality British products that are enjoyed around the world. They are also produced around the world and are an important part of the international trading landscape. The UK has signed a number of trade agreements that ensure

continued protection for GIs, such as those that were previously protected under EU trade agreements. In some cases, trade deals were agreed but could not be ratified until the end of the transition period, so this SI concerns the bridging arrangements that were introduced to continue the effects of the previous agreements until ratification. It allows us to continue to protect GIs where bridging arrangements are in place. This ensures that the GIs that are already protected in the UK do not lose their protection because of a long ratification process elsewhere.

The instrument also adds an additional category of GI to ensure that a Japanese GI, Kumamoto Rush, remains protected in the UK. It was previously protected in an EU-Japan trade agreement, but it did not fit with any of the new GI product categories that we inherited from the EU. The addition of this category provides a clear basis on which to continue to protect the GI under our own agreement with Japan.

Turning to spirit drinks, the instrument provides for the continued protection of US product names in the UK to reflect the transitioned US spirit agreement. It does the same for Mexican product names once the agreement has come into force. It also enables the retained spirit drinks regulations for GIs to function correctly with regard to procedure and enforcement. As with the spirits amendments, with respect to the transitioned US wine agreement, this instrument makes retained regulations operable.

There are also a number of non-GI provisions. On wine, the regulations provide for a six-month easement on the new requirement for EU wines imported into the UK to be accompanied by a VI-1 certificate, which provides information on the type and analytical composition of a wine. The easement should minimise the potential for disruption to the UK market by allowing EU imports to arrive on the same commercial documents that were used while the UK was a member state. New, simplified certification arrangements are set out in the UK-EU trade and co-operation agreement, which should cover movements of EU and UK-origin wines.

On organics, we have extended our recognition of the EU and EEA states as equivalent, and we have updated their list of control bodies. We have also ensured that organic products from the EU, EEA and Switzerland are allowed to continue to flow smoothly by providing a six-month easement on the requirement for certificates of inspection for such products.

I turn now to the second SI before us, which amends the legislation that applies to organic product labelling in order to ensure that it was operable at the end of the transition period and continues to be so. More specifically, the SI removes the mandatory requirement for the EU organic logo to be featured on organic products sold in Great Britain, and it provides the legal framework for our organic logo, which I have shared before with previous Committees and with the hon. Member for Cambridge, when we have finished developing it. It is still in discussion, as the Committee knows.

The SI also amends the requirement to include a statement of agricultural origin on packaging, so that it refers to the UK rather than to the EU. Where a product has been only partly farmed in the UK, organic operators should use labelling to show whether it is UK or non-UK agriculture. Failure to approve the SI would put our organic operators at risk of regulatory disruption, which could really affect their ability to trade.

In conclusion, the SIs are essential for smooth transition. Without them, we could not meet some of our international obligations. Retained legislation would not be operable, and vital transitional provisions would not be in place. I urge the Committee to approve the SIs.

6.7 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Mr Robertson. As ever, I thank the Minister for a full and comprehensive account of the latest pair of statutory instruments that we are discussing, which cover geographical indicators, wine and organics.

Let me start with the SI on agricultural products, which, as the Minister said, is already in effect. We understand why it is in effect: by the end of last year, urgent action was needed. The Prime Minister's negotiating strategy, based on brinkmanship, determined that, and this weekend's newspapers were full of the consequences. He said that there would be "no non-tariff barriers", and the Minister will remember my fury on the day she briefed MPs, just after Christmas, at what I consider to be an outrageous misrepresentation. Everywhere we turn, we see businesses struggling with new rules and complexities. Although it is hard to imagine how much worse it could have been, it could have been even worse, so we understand why the legislation was needed urgently. In many cases, however, these are interim or bridging arrangements, as described in the explanatory memorandum. My fear is that there will be a lot of bridging in the months and years ahead, but we will deal with that as it comes.

The SIs relate to two areas where the Government published specific annexes in the trade and co-operation agreement with the EU: wine and organics. Some of my comments will relate to the interaction between those annexes and these SIs—not least the range of timescales in which things may happen, and the degree of uncertainty that that brings to everyone involved. In some cases there will be changes in a few months, as the Minister mentioned, but in the longest case it will be three years. Of course, there is always change in the world, but it is fair to say that in the last few decades, most businesses have operated in a fairly stable environment, which is what they tend to like. That is no longer the case. That is why it is so important that even if there is no certainty, there is transparency and clarity from the Government so that people have some idea of what to expect.

Geographical indicators are hugely important to our food businesses, and they are much prized. Indeed, reports suggest that they were one of the key areas in the negotiations with the EU. The Minister may wish to comment on whether the UK's negotiating objectives were achieved. The lack of transparency throughout this entire process is illustrated by the fact that we rely on leaks and speculation, but today is an opportunity. Can we be told what the UK sought, and whether this is it? Personally, I rather doubt it.

Paragraph 7.3 of the explanatory memorandum suggests that the way out of the problem of running out of time and the complexity of ratification procedures in different countries is what would, in other walks of life, be described as "holding it together with some bits of string". It is euphemistically described here as a "political commitment". The Minister, as I have observed previously, knows the law well. I would be interested to get her view

on what legal standing such political commitments confer, how any challenges might be dealt with and how long such bridging arrangements, supported by political commitments, will be in place. We may not get a clear answer, because I suspect no one knows.

Importantly, the instrument also deals with the rules on wine imports. I am sure the Minister has seen some of the stories in the media in recent days concerning the problems encountered by wine importers. There is a six-month transitional period before the rules in this instrument apply, so one could say that the troubles have only just begun. I am sure she will have seen the coverage of the problems faced by Daniel Lambert, which have been widely reported. He has speculated about the extra costs and what they might translate into. An extra £1 a bottle on a bottle of wine may not slip down well with some Government Members' constituents, so there may be some explaining to do.

In my constituency, Hal Wilson, who runs the excellent Cambridge Wine Merchants, tells me that it has 19,000 bottles of red wine from Spain currently stuck in the system. I fear from past experience that the Secretary of State will tell us that this is an excellent opportunity for English wine growers, but I would gently say to the Government that it might be worth their while getting this sorted out. Like most people, I want my red wine in a glass, not a warehouse.

The Wine and Spirit Trade Association argues that 99.5% of the wine consumed in the UK is imported, and it therefore makes little sense to roll over EU-based legislation—in the WSTA's view, the legislation was designed to act as a non-tariff barrier to protect EU wine producers—now that the transition period has ended. The WSTA makes a serious point, and I wonder whether the Minister could comment on it. It says that, even with the new simplified approach to wine import documentation for EU wine imports in the TCA, the requirement is still burdensome for producers and importers alike, while the requirement for the costly VI-1 form for non-EU wine remains.

The WSTA suggests removing the requirement completely. It also says that although the form offers self-certification, it still requires a customs stamp. If that were to be introduced electronically, it would need to be linked to the customs declaration service, and that would take a number of years to implement. Given that there were previously no certification requirements for EU wines coming into the UK, the WSTA argues that it makes no sense to introduce the requirement for a paper-based system when the ultimate goal is to replace it with an electronic system as soon as is practicable. The WSTA therefore recommends deferring the requirement to provide wine import documentation from the EU until the electronic system foreseen in "Trade in Wine", article 3 of annex TBT-5 to the TCA, can be introduced.

That annex also says that within three years, there will be further discussion between the parties to facilitate trade in wine. In other words, there is absolutely no certainty for the future. Can the Minister tell us what the Government seek to achieve in those discussions? I would welcome her comments, because there is a theme emerging in all our discussions of these detailed statutory instruments. Here we are discussing the law, but in the real world, the practical implementation and the systems are causing the problems. As the Executive, the Government are particularly responsible for the latter.

[Daniel Zeichner]

The interim nature of the arrangements for wine is mirrored in the provisions for organics in the statutory instruments that we are debating. Welcome as they are, many of the timeframes are short. It is just six months before certificates of inspection for imports will be required. The second instrument, on organics, raises a number of questions. Paragraph 2.4 of the explanatory memorandum refers to rules for a UK organic logo “when developed”. As the Minister said, we have looked at the designs previously, but perhaps we can be told when that is likely to happen, and why there are delays.

OF&G Organic certifies more than half the UK organic land, and Roger Kerr, its chief executive officer, tells me that the securing of an organic equivalence within the free trade agreement was welcome. However, this is only for a limited period of time, and unless both the EU and UK recognise the other party as equivalent at the end of the current arrangement, it will fall away, leaving UK operators denied access to the European market. He says:

“This is only 36 months away and leaves UK organic businesses in a position that they will be unable to secure long term supply contracts due to the on-going uncertainty. The delays around securing the FTA and the uncertainty with whether there would be an organic equivalency agreement within that, has already had a negative impact on UK operators through the loss of hard won markets.”

The Minister will remember we discussed that point in an SI debate before Christmas, when that recognition was still in doubt.

I am afraid the problems go further still, as Roger explains. He says:

“The FTA also does not make provision for the ‘selling on’ of unprocessed products that are imported into the UK. For example at the moment organic soya imported into Hull cannot be subsequently shipped to NI under the current terms of the FTA, leaving NI organic livestock producers potentially without the correct balanced rations for their animals. Import/export businesses which currently import products from Europe and then consolidate loads for export again are no longer able to do this. Specialist food manufacturers who have their products packed by specialist packers in Europe and then import the finished product back into the UK for distribution to their customers cannot export these products to their European customers. This will have significant impacts across the UK organic supply chain and needs to be resolved as soon as possible.”

We recognise the importance of having arrangements in place on GIs, on wine and on organics, so we will not oppose these statutory instruments. However, we believe that in too many cases, they are just bridging measures. With so many businesses struggling at the moment, there are many questions to be answered, and I hope that the Minister will be able to provide some answers.

6.16 pm

Victoria Prentis: I will do my best. This is not the time or the place for a discussion of the rights and wrongs of Brexit, or indeed the rights and wrongs of the TCA. I am extremely pleased that we were able to agree a tariff-free arrangement for trading with our friends and neighbours in the EU.

The UK GIs are already on the EU register and, as such, they remain protected. We have agreed a review clause in the TCA, so that we can agree the rules with the Commission in future on how we protect GIs. I think that is a perfectly satisfactory arrangement. I have discussed with the hon. Gentleman before how ambitious the Government are in the GI space, and I feel that this system will work well for both sides.

I turn to some specifics. VI-1s are already established for imports from other non-EU sources of wine, of which there are many, as we all know. We have a competitive market for wine in the UK, and we decided that the existing rules should be retained for imports from the EU, rather than establishing a new and specific EU policy. The policy was decided in the interests of treating the wine industry as a whole. Nevertheless, this instrument provides an easement to give traders time to get used to the new arrangements until 1 July. That will allow EU wine to continue to be imported using commercial documentation, as it was when the UK was subject to the previous EU rules.

The hon. Gentleman pressed me about the future. It is true that leaving the EU gives us the ability to look critically at the laws we have inherited from the EU, to ensure that they remain fit for purpose. In a world where we drink wine from all around the world—including from our own shores—we will consider in due course whether there is a case for revisiting the requirements of the VI-1 certification.

The hon. Gentleman asked about organics. We are committed to the highest organic standards and will carefully consider any enhancements to them. This is the beginning of a new chapter for the UK. We will use the Agriculture Act 2020 to set an ambitious new course for the organic sector. We are working to ensure that organic goods can continue to move freely between Great Britain and Northern Ireland. In terms of movement into Northern Ireland, through the Joint Committee agreement and the UK-EU TCA, we have secured easements to allow time for adjustments to take place. The easement on the requirement of certificates of inspection will ensure the smooth flow of the majority of organic products at the border for three months. During that time, we are engaging heavily with the organics sector, the Northern Ireland Executive, port authorities and others, to help them to prepare for the end of the easement in April. In the light of that, I ask that the Committee approve these statutory instruments.

Question put and agreed to.

ORGANIC PRODUCTION (ORGANIC INDICATIONS) (AMENDMENT) (EU EXIT) REGULATIONS 2020

Resolved,

That the Committee has considered the Organic Production (Organic Indications) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020, No. 1669.)—(*Victoria Prentis.*)

6.20 pm

Committee rose.

