

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT CONFORMITY ASSESSMENT (MUTUAL  
RECOGNITION AGREEMENTS) AND WEIGHTS  
AND MEASURES (INTOXICATING LIQUOR)  
(AMENDMENT) REGULATIONS 2021

*Thursday 10 June 2021*

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

*Chair:* MRS SHERYLL MURRAY

Abrahams, Debbie (*Oldham East and Saddleworth*)  
(Lab)

† Caulfield, Maria (*Lewes*) (Con)

Duguid, David (*Banff and Buchan*) (Con)

Eagle, Dame Angela (*Wallasey*) (Lab)

Foy, Mary Kelly (*City of Durham*) (Lab)

Gideon, Jo (*Stoke-on-Trent Central*) (Con)

Harris, Rebecca (*Castle Point*) (Con)

Mak, Alan (*Havant*) (Con)

† Malhotra, Seema (*Feltham and Heston*) (Lab/Co-  
op)

Mann, Scott (*North Cornwall*) (Con)

Morris, James (*Halesowen and Rowley Regis*) (Con)

† Rimmer, Ms Marie (*St Helens South and Whiston*)  
(Lab)

Rutley, David (*Macclesfield*) (Con)

† Scully, Paul (*Parliamentary Under-Secretary of  
State for Business, Energy and Industrial Strategy*)

Thomson, Richard (*Gordon*) (SNP)

Timms, Stephen (*East Ham*) (Lab)

† Tomlinson, Michael (*Lord Commissioner of Her  
Majesty's Treasury*)

Jonathan Finlay, *Committee Clerk*

† **attended the Committee**

# Fifth Delegated Legislation Committee

Thursday 10 June 2021

[MRS SHERYLL MURRAY *in the Chair*]

## Draft Conformity Assessment (Mutual Recognition Agreements) and Weights and Measures (Intoxicating Liquor) (Amendment) Regulations 2021

11.30 am

**The Chair:** I remind Members to observe social distancing and to sit only in places that are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee. *Hansard* colleagues will be most grateful if Members send their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

11.31 am

**The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Paul Scully):** I beg to move,

That the Committee has considered the draft Conformity Assessment (Mutual Recognition Agreements) and Weights and Measures (Intoxicating Liquor) (Amendment) Regulations 2021.

It is a pleasure to serve under your chairmanship, Mrs Murray.

Hon. Members will appreciate the importance of supporting international trade while protecting our product safety and legal metrology system, which is among the strongest in the world. The regulations implement important aspects of international trade agreements within the Government's trade continuity programme, ensuring continuity for UK business. They include certain mutual recognition agreements that the UK has signed with the USA, Australia and New Zealand, along with a free trade agreement with Korea, containing conformity assessment provisions that are relevant to the regulations. The UK-Japan comprehensive economic partnership agreement and the UK-Canada trade continuity agreement also include protocols on mutual recognition of conformity assessments. I will now refer to the mutual recognition elements of all those agreements as MRAs, as proceedings would otherwise get quite tedious.

MRAs promote trade in goods between the UK and partner countries by reducing technical barriers to trade. The UK's product safety legislation and that of many of our partners often require products to be assessed against minimum essential requirements, sometimes by a conformity assessment body external to the business. MRAs can reduce barriers by allowing a conformity assessment to be undertaken by a body that is based in the UK prior to export to the relevant country. Likewise, they enable procedures carried out by recognised overseas CABs to be recognised against our domestic regulations.

The products that are in scope of these agreements vary between the MRAs. Many cover rules on radio equipment, while the agreements with Australia and New Zealand also address products such as machinery and simple pressure vessels. If a small UK business that manufactures wi-fi equipment is considering exporting

to one or more of our MRA partners, they might therefore find that they can get all their advice and approvals from a single UK-based CAB. If that means that they reduce their costs, they can pass the saving on to their customers. The manufacturer can access international markets more easily when assessment is facilitated in this way, thereby increasing their potential for exporting and increasing consumer choice. Such benefits, which the UK has experienced for years, are maintained through the continuity MRAs.

In addition to measures to implement the MRAs, the regulations address one aspect of the UK's trade agreement with Japan by giving greater flexibility to importers of the traditional Japanese spirit called single-distilled shochu. The regulations amend specified quantity requirements in Great Britain so that bottles of single-distilled shochu can be sold in 900 ml bottles, one of the traditional bottle sizes.

I shall whip through the issues in a bit more detail, first by addressing provisions on goods coming into the UK that are in scope of an MRA. Under the MRAs, the UK committed to recognise the results of conformity assessment procedures carried out by recognised overseas CABs against our domestic regulations. Today's regulations make it clear that assessments carried out by a recognised body based in one of our partner countries should be treated as equivalent to those carried out by a UK-approved body when relevant products are placed on the market in Great Britain. The benefits are significant: trade with our MRA partners in radio equipment alone amounted to nearly £2 billion in 2019, although not all those products will have required conformity assessment by a third party.

The regulations provide for the Secretary of State to create a register of CABs that the UK recognises under the MRAs, which are defined as MRA bodies. That is communicated via the UK market CAB database, which is publicly available and used by the UK's market surveillance bodies to verify the status of CABs that have approved products sold in the UK. Having all those CABs that are competent to assess for the domestic market in one place creates a one-stop shop for not only our UK enforcement authorities but businesses, helping them to find and verify the credentials of CABs quickly. The regulations also provide for Canadian accreditation bodies that are recognised by the UK under the UK-Canada trade continuity agreement to be listed on the Government's website. They do not change the substance of requirements for third-party assessment, nor do they amend any requirements related to a product's specifications.

I turn to goods in scope of the UK's MRAs that are assessed by UK CABs. The regulations provide for the Secretary of State to designate CABs as competent to assess whether goods comply with certain regulatory requirements of our trading partners under the MRAs, as set out in schedule 2. To give a quick example, if a UK-based CAB wishes to be recognised by the American authorities as competent to test and assess for the USA's radio equipment requirements, the body can apply to UKAS, the United Kingdom's accreditation service, to be accredited as competent to test against those overseas requirements. The Secretary of State may then designate the body under the UK's MRA with the USA to assess radio equipment for export to the USA. Once a CAB is designated, a UK manufacturer that uses the body's services to assess its products for

the domestic market can use that same body to do its assessment for the USA. The manufacturer does not need to identify a different CAB operating in the USA and commission it for assessment services, so the manufacturer can continue to place products on the USA market efficiently and without extra costs, potentially passing savings on to consumers.

The regulations also provide that the Secretary of State, or a person authorised to act on their behalf, may disclose information to the other party to an MRA when required by an MRA. For example, we may pass on information related to goods originating in the USA that have been suspended by UK enforcement authorities under commitments to co-operate in the MRA with the USA. Disclosure will be made in accordance with data protection legislation.

The regulations make provision for a product known as single-distilled shochu, a spirit that is single distilled, produced by pot still and bottled in Japan, to be placed on the market in Great Britain in the additional bottle size of 900 ml. Before the UK-Japan comprehensive economic partnership agreement, single-distilled shochu bottled in Japan had been permitted in Great Britain in quantities of 720 ml or 1,800 ml, in addition to the usual specified quantities for pre-packed spirits. Allowing the sale of this traditional bottle size was an important request by the Japanese Government in negotiations for the UK-Japan comprehensive economic partnership agreement. Given that the product is already on sale across the UK, albeit in other bottle sizes, the change should not have a significant impact on consumers in Great Britain.

Let me turn to the territorial scope of the regulations. Some provisions make amendments only for Great Britain, while others extend to the whole UK. Regulations 4 and 5, which deal with the recognition of conformity assessment by relevant overseas CABs, extend to Great Britain only. Northern Ireland will continue to recognise the results of conformity assessment procedures done under mutual recognition agreements between the European Union and the relevant third country, in accordance with the terms of the Northern Ireland protocol to the withdrawal agreement.

Regulation 6, which deals with the Secretary of State's power to designate UK-based bodies under the agreements, will extend to the whole UK. CABs across the UK can therefore be designated under the MRAs. Regulation 7, which relates to information sharing, will also extend to the whole UK to enable the Secretary of State to share relevant information required under the MRAs.

Part 3—regulations 8 and 9—which amends the permitted bottle sizes for single-distilled shochu, extends to Great Britain only. In accordance with the Northern Ireland protocol, single-distilled shochu will continue to be permitted on the Northern Ireland market in 720 ml and 1,800 ml bottle sizes, in addition to the usual specified quantities for pre-packed spirits.

The regulations will provide certainty on the UK's approach to recognising and designating CABs for certain products under the MRAs, and also make necessary amendments to allow for the 900 ml bottle size of single-distilled shochu to be placed on the market in Great Britain. We have introduced the regulations to give effect to provisions that keep barriers to trade low while preserving our robust safety rules. We do so as a Government who are committed to ensuring that consumers

are protected from unsafe products as we look to deliver a product safety regime that is simple, flexible and fit for the opportunities ahead of us. I urge the Committee to approve the regulations.

11.40 am

**Seema Malhotra** (Feltham and Heston) (Lab/Co-op): It is a pleasure to serve under your chairship, Mrs Murray.

I am grateful to the Minister for his opening remarks on why we are using this measure to continue to support international trade while keeping in place measures to ensure product safety. I am particularly grateful for his remarks about some of the disclosure processes that have to be followed if there are concerns about products that may be entering the market.

Conformity assessment ensures that what is being supplied or placed on the market in Great Britain complies with regulations and meets the expectations specified or claimed. Conformity assessment includes activities such as testing, inspection and certification. As the Minister has laid out, those organisations that make these checks are called conformity assessment bodies, to which I shall refer from now on as CABs.

Mutual recognition agreements lay down conditions under which one party will accept conformity assessment results from testing, certification or inspection performed by the other party's CABs or designated public authorities to show compliance with the first party's requirements and vice versa. MRAs enable exporters to obtain conformity assessment certification from CABs in their home market, which is recognised then in the export market.

National rules on weights and measures can also form technical barriers to trade, as the Minister will know, and that is why the World Trade Organisation technical barriers to trade agreement aims to ensure that technical regulations, standards and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade. At the same time, it recognises WTO members' rights to implement measures to achieve legitimate policy objectives such as the protection of human health and safety or of the environment. The agreement strongly encourages members to base their measures on the international standards as a means to facilitate trade. Through transparency provisions, it also aims to enable a predictable trading environment. Parties to a trade agreement can agree to eliminate such barriers beyond what is applicable under the WTO rules.

The draft regulations cover UK MRAs with the United States of America, Australia and New Zealand, and the incorporated MRA chapters of UK agreements with Canada, the Republic of Korea, and Japan. As discussed, these agreements have similar or sometimes identical terms to those of the EU MRAs with these countries immediately before exit day. The regulations therefore give effect to the MRAs between the UK and certain third countries which have been agreed to provide continuity for businesses and consumers following the UK's exit from the EU and the end of the transition period. May I ask the Minister why the regulations are coming now now? Obviously, the powers under the Trade Act 2021 have just commenced, but there is a question whether the instrument should have been passed before the respective MRAs were ratified. Perhaps the Minister will come back on that point.

[Seema Malhotra]

The regulations ensure that specific products assessed by bodies in the countries recognised under the MRAs can be placed on the market, largely in Great Britain—they might also apply to Northern Ireland—and enable the Secretary of State to designate and monitor UK CABs to assess products against the other parties' requirements.

The Minister mentioned that the instrument also implements annex 2-D to the UK-Japan comprehensive economic partnership agreement by allowing single distilled shochu to be placed on the market in Great Britain in the new quantity of 900 ml, in addition to the existing quantities that are currently permitted.

The MRAs are signed with countries with which the European Union already has existing mutual recognition agreements and requires the UK to accept conformity assessment procedures performed and conformity assessment results issued by those bodies designated by the other country that is a signatory to the MRA.

I recognise that this is an important statutory instrument to provide both businesses and consumers with vital continuity and certainty—something even more important now as we look ahead to 21 June and our hopes for the beginning of the end of restrictions. In order to support businesses and provide that all-important continuity, Labour will be supporting this motion to implement rolled-over MRAs. However, there are several areas on which I would be grateful for some further clarity.

First, in relation to UK policy on conformity assessment and accreditation of the situation under EU law as it is still applied in Northern Ireland—as the Minister made reference to under certain regulations—a regulation sets out the requirements for the accreditation of market surveillance as it applies in EU law through the Northern Ireland protocol, and that continues to be the basis for accreditation policy. If in future there are any changes to UK policy, will that require an assessment of the implications of any trade barriers between Great Britain and Northern Ireland? How is that being considered?

Secondly, regulation 5 in respect of registers of MRA bodies states that the Secretary of State may

“compile and maintain a register of...MRA bodies...their MRA body identification numbers...the activities for which they have been designated; and...any restriction on those activities”.

Can the Minister confirm where he has outlined or whether he will outline the activities for which the MRA bodies have been designated, and what restrictions there will be on those activities?

Thirdly, under regulation 6, the Secretary of State will also be able to designate a conformity assessment body to assess products against other countries' requirements. What criteria will the Minister use to consider whether that body is capable of fulfilling those functions and to ensure that it meets the requirements of a designated body? Following that, how will the Secretary of State monitor each body and guarantee that they continue to have the necessary designated capability?

We know that in the EU and Australia MRAs, it is the responsibility of other signatory countries to monitor their own designated bodies, with general discussion set at joint committee level and action that may include joint participation in audits. If that is the case for the MRAs being discussed today, do the Government have

any plans to conduct any audit? If they do not, does the Minister envisage any risks associated with simply letting other parties regulate those conformity assessment bodies? Could he clarify if any issues will arise in relation to the standard or speed of operations of conformity assessment bodies, and if there is an impact for British businesses seeking to export goods or services? If there are any issues, how will those issues will be handled?

On divergence, the UK MRAs replicate the previous EU MRAs in substance, with the only substantive divergence from the EU in the permission to allow the additional bottle size of single-distilled shochu. That poses a broader question of whether the UK could take a different approach to conformity assessment in the future.

From 1 January 2021, the UK introduced its own product safety mark, which broadly mirrors the EU's CE mark. According to law firm Bird & Bird, the UKCA—UK conformity assessment—regime follows essentially the same principles as the previous CE marking regime, but with the safety and compliance standards, authorised representative/responsible person and notified body requirements all now being valid for the UK only. Despite being a UK ask, the EU-UK deal did not include an agreement on mutual recognition of conformity assessment, a crucial factor for the sale of a heavily regulated product. That means that most goods produced in the UK but requiring certification for sale in the EU will, I understand, have to go through a second conformity assessment for the EU to be eligible for export. That will result in extra costs to trade with our main trading partner.

A lack of an MRA is unusual for comparable deals as Japan, Canada and Switzerland all have MRAs with the EU, while even countries such as Australia and the US, which do not have a trade deal with the EU, have MRAs. Does the Minister not think it is ironic that, in not having an MRA, the terms of the trade and co-operation agreement seem to be worse than those of the infamous Australia-style deal? Outside the EU, we know that there are new regulatory barriers to trade. The EU Commission's “Blue Guide” on product standards has a comprehensive overview of the system of mutual recognition and the functions of conformity assessment and accredited bodies. There is a system of notification in the EU by which national authorities notify the Commission and each other that a conformity assessment body has been designated to carry out conformity assessment according to harmonised EU rules. Will the UK continue to share information on CABs with the EU, or will that go through the public database of CABs to which the Minister referred, which the UK will put together?

In the absence of an MRA, local regulatory bodies cannot certify goods for sale in other countries. However, MRAs can help reduce some of the burden by avoiding duplicate product safety testing, for example. Consequently, to help businesses thrive, to do what we can to make trade easier and relieve additional barriers, Labour will support the draft statutory instrument today. I will be grateful to the Minister for his response on the points I have made. If he cannot answer in Committee, perhaps he will write to me afterwards.

11.51 am

**Paul Scully:** I thank the Committee for its consideration of the draft statutory instrument and the hon. Member for Feltham and Heston for her valuable contribution to the debate.

I set out how the draft SI will maintain our latest product safety framework while preserving measures to reduce barriers to trade with some of our key trading partners. I will quickly whip through some of the questions the hon. Lady asked, such as about the timing of the SI. The Trade Act allows the Secretary of State to make regulations to implement non-tariff provisions of international agreements. That power was required to implement the MRAs that the UK has agreed with its trading partners. We have laid this SI at the earliest possible opportunity following Royal Assent to the Act.

On why we do not have an MRA with the EU, clearly it was proposed but not agreed in the negotiations. The UK proposed to the EU a comprehensive mutual recognition agreement covering all the relevant sectors, which would have allowed conformity assessment bodies in either market to assess goods for the other market. However, the countries in the scope of the draft SI have a combined population of more than 570 million with which UK businesses may continue to trade across the world.

On divergence from the EU and Northern Ireland diverging from GB, in many ways the EU signals are still changing. The UK-Japan CEPA is the first agreement that the UK has secured to go beyond the existing EU deal, with enhancement in areas such as digital data, financial services, food and drink, and the creative industries. Clearly, the single distilled shochu will still be available in the entire UK market, including Northern Ireland, but an additional bottle size will be available in the UK.<sup>1</sup>

The hon. Lady talked about what will happen in future mutual recognition agreements. The approach that we are developing for future such agreements is under discussion, but will involve appropriate consultations with all interested parties. Northern Ireland and all the devolved Administrations will be important in that regard. I hope that I have covered a good deal of the questions. If I have not, I will certainly pick up on any the hon. Lady does not feel satisfied with.

The draft SI gives effect to the provisions of the MRAs and the Japan comprehensive economic partnership agreement, which are important for the reasons that I outlined. By supporting the SI, we will ensure that our manufacturers and consumers benefit from maintaining agreements to minimise duplication of conformity assessment requirements between us and our trading partners. I commend it to the Committee.

*Question put and agreed to.*

11.54 am

*Committee rose.*

