

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT CALORIE LABELLING (OUT OF HOME
SECTOR) (ENGLAND) REGULATIONS 2021

Thursday 17 June 2021

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The Committee consisted of the following Members:

Chair: MRS SHERYLL MURRAY

Andrew, Stuart (*Pudsey*) (Con)
 Byrne, Liam (*Birmingham, Hodge Hill*) (Lab)
 Caulfield, Maria (*Lewes*) (Con)
 † Churchill, Jo (*Parliamentary Under-Secretary of
 State for Health and Social Care*)
 Cooper, Rosie (*West Lancashire*) (Lab)
 Crosbie, Virginia (*Ynys Môn*) (Con)
 Davies, David T. C. (*Monmouth*) (Con)
 Dowd, Peter (*Bootle*) (Lab)
 † Harris, Rebecca (*Castle Point*) (Con)
 McCabe, Steve (*Birmingham, Selly Oak*) (Lab)
 Mak, Alan (*Havant*) (Con)

Mann, Scott (*North Cornwall*) (Con)
 † Morden, Jessica (*Newport East*) (Lab)
 † Norris, Alex (*Nottingham North*) (Lab/Co-op)
 Smyth, Karin (*Bristol South*) (Lab)
 † Throup, Maggie (*Lord Commissioner of Her
 Majesty's Treasury*)
 † Tomlinson, Michael (*Mid Dorset and North Poole*)
 (Con)

Kevin Maddison, *Committee Clerk*

† **attended the Committee**

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Thursday 17 June 2021

[MRS SHERYLL MURRAY *in the Chair*]

Draft Calorie Labelling (Out of Home Sector) (England) Regulations 2021

11.30 am

The Chair: Before we begin, I remind Members about the social distancing requirements. Spaces available to Members are clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee, except when speaking. *Hansard* colleagues would be grateful if you sent any speaking notes to hansardnotes@parliament.uk.

The Parliamentary Under-Secretary of State for Health and Social Care (Jo Churchill): I beg to move,

That the Committee has considered the draft Calorie Labelling (Out of Home Sector) (England) Regulations 2021.

It is a pleasure to serve with you in the Chair, Mrs Murray. The draft regulations would introduce mandatory calorie labelling in the out of home sector, such as restaurants, cafés and takeaways. To briefly outline what the instrument does and what it aims to achieve, it requires large businesses in England—those with more than 250 employees—to display the calorie content of non-prepacked food and drink items, except alcohol, that are sold ready for immediate consumption. Calorie information must be displayed at the point of choice for the customer, such as on menus, menu boards, online menus and food display labels. Making this information available will help people to make healthier choices for themselves and their families when eating out or getting a takeaway.

To help customers to understand and use calorie information better, businesses are also required to display a short statement referencing the recommended daily calorie intake. The wording of the statement is specified in the regulations, and must be displayed where it can be seen by customers when making their food choices. As well as helping people to make more informed choices when eating out, our aim is that transparency about the calorie content of meals will encourage businesses to reformulate products and adapt portion sizes. The requirement applies to food sold in England. Scotland, Wales and Northern Ireland have been engaged throughout the consultation process, and the Scottish and Welsh Governments are considering whether to introduce similar requirements in their nations.

Subject to parliamentary approval, the regulations will come into force on 6 April 2022. I am pleased to say that, several companies have already taken this important step: to name a few, but with no particular favourites, Pret a Manger, Leon and Wetherspoons already calorie label their products, and since our consultation was launched, Deliveroo has announced that it will work with major national brands to voluntarily display calorie information on its platform. This is in response to Deliveroo's polling data showing that over half of its

customers want delivery menus to feature that calorie information. I welcome these steps wholeheartedly, as they show that customers want to see this information so they can make more informed choices when dining out or ordering a takeaway.

Calorie labelling in the out of home sector forms a key part of the Government's healthy weight strategy, which was published in July last year. That strategy will contribute to our achieving our ambition to halve childhood obesity by 2030 and to help adults get their weight to a healthier level. Carrying extra weight imposes huge costs on individuals, families, and the economy. It is a leading cause of serious diseases such as type 2 diabetes, cardiovascular disease and several types of cancer. It is also highly detrimental to joints and musculoskeletal health, and it has a significant impact on an individual's mental health. For all those reasons, it is really important that we help people to make informed choices.

It is estimated that treating obesity-related conditions costs the NHS and the UK taxpayer some £6.1 billion per year, but the total cost to society is even greater. It has been estimated that the indirect cost to the UK economy from obesity-related conditions is about £27 billion per year, and some estimates put the figure much higher. Recently, we have seen that being overweight or living with obesity puts individuals at greater risk of serious illness and death from covid. It is one of the few modifiable risk factors for covid, so now is the teachable moment when we ask ourselves, "How do we all achieve a healthy weight?" We have an opportunity to change attitudes and influence drivers in relation to less than healthy dietary and physical activity behaviours.

We know that regular overconsumption of a relatively small number of calories prevents individuals from being a healthy weight. It is likely that frequent eating out contributes to that gradual overconsumption, as research suggests that eating out or getting a takeaway accounts for 20% to 25% of an average adult's energy intake. We know that when someone dines out or eats a takeaway, they consume on average 200 calories more per day than if they eat food prepared at home, and we know that the trend is towards consuming more meals that have not been prepared at home, either by dining out or by ordering takeaways. Data also tell us that portion sizes in those circumstances have on average twice as many calories as the equivalent retailer own-brand or manufacturer-branded products.

I know that people do not want to be hectored—I do not want to be hectored—about what to eat and drink. They should be able to choose freely for themselves and their families, but healthy choices need to be easier and people need the right information to make them. Consumers are used to seeing nutritional information on prepacked products; they see it on supermarket shelves all the time. Increasingly, they want to know how many calories are in the food and drink that they buy for themselves and their families when eating out at a restaurant or getting a takeaway. Nearly 80% of respondents surveyed by Public Health England said that they thought that menus should include calorie information on food and drink items. A survey from Diabetes UK showed that about 60% of the public would be more likely to eat in an establishment that offered such information and advice. Many businesses get that, and are taking a lead by voluntarily displaying calorie information for their customers. They know their customers; they know it

makes business sense. I am delighted to see that action being taken, but we can do more to ensure that the practice becomes widespread and is implemented in a clear and consistent manner

Previous attempts, through the Department of Health and Social Care's responsibility deal, to encourage business to display calorie information voluntarily have proved insufficient at driving action and change on the scale required to make a substantive change to our food environment. That is why we are introducing a mandatory requirement for large out of home food businesses.

We are all acutely aware of the importance of the out of home food sector to local communities and the economy. I am also aware of how hard our hospitality sector has been impacted in the past year. However, it is really important to empower people and help them to be informed about their choices. I know from personal experience how difficult it is to shed extra pounds; that is why we want to create a supportive environment to help people and ensure that they reach a healthy weight. By requiring only large businesses to calorie label, we are ensuring that smaller businesses, which would find the requirement more challenging to implement, are not affected. This statutory instrument applies only to those firms with 250 or more employees.

We are working with the sector and local authorities to ensure that the policy is implemented smoothly. Implementation guidance is being developed with input from businesses and local authorities, and it will be published once these regulations are approved. We have consulted broadly throughout the development of the policy and used that consultation to shape the final policy. For example, consultation feedback highlighted the fact that calorie labelling might make it more difficult for businesses to create ad hoc menu items to use leftover ingredients or to reduce their food waste. As a result, we have decided to exempt temporary menu items that are on sale for less than 30 consecutive days and less than 30 days in a year.

I understand that there is also concern from individuals living with eating disorders about seeing calorie information when eating out or getting a takeaway. Eating disorders are serious conditions; they can be life-threatening, and we are committed to ensuring that there is the correct access to the services people need and timely treatment when they need it. We have listened throughout the consultation process and have put in place what we feel are reasonable adjustments to mitigate any unintended consequences.

As a result of consultation feedback, we have decided to exempt food served in schools and other institutions providing education to children from the requirement to display calorie information—showing that we have listened to concerns about exposing children to calorie information—and we have included in the regulations a provision permitting businesses to provide a menu without calorie information at the wishes of the customer. As a result, people who may find viewing calorie information more difficult can avoid it when eating out.

Having said that, this is a balance. We must recognise the obesity challenge that we face as a nation. Two out of five children go into primary school living with obesity or overweight, and three out of five come out as such in year 6. Supporting people with the information they need about their food and drink purchases is important to achieve our ambition to halve childhood

obesity by 2030, and to help us all. Achieving and maintaining a healthy weight is arguably one of the greatest long-term health challenges that the country faces.

We know that around two thirds of adults are above a healthy weight. It is vital that we take action to improve our nation's health. This is all part of the effort to help individuals to enjoy more healthy life years. We estimate that that will have a net benefit to the economy of over £5.6 billion over the next 25 years. We will be happier, fitter, and more resistant to diseases such as diabetes, cancer and covid-19 if we work together to achieve that.

11.41 am

Alex Norris (Nottingham North) (Lab/Co-op): It is a pleasure to serve under your chairship, Mrs Murray, as we debate these very important draft regulations. The importance of tackling obesity and how it really ought to be a national priority was well rehearsed in a recent debate on the Government's obesity strategy. Two thirds of us adults are overweight. The figure that the Minister just used—three in five children leaving primary school overweight—should be a sobering warning about the future of health in this country, and a call to action.

We know that excess weight has a profound impact on life outcomes; it creates a much-elevated risk of heart disease, diabetes and cancer, and potentially limits opportunities at work and at home. It is an unequally distributed problem, with hospital admissions due to obesity nearly three times greater in the poorest communities than in the best-off. Again, all that is a significant call to action. It is also a worsening problem, and one to which our response has weakened over the past decade.

The most effective interventions are community-based—ones that intervene early and promote a life of healthy cooking and eating. The evidence for such projects is really strong, but the cuts to public health over the past decade have put local authorities in an impossible position of trying to deliver those services. I remember having responsibility for the public health grant in Nottingham for the three years before coming to this place. Once demand-driven services such as sexual health services and services to tackle drugs and alcohol addiction have been funded, there really is not very much left for anything else. Full proposals to tackle obesity really ought to include the reinstatement of the monies lost.

The instrument forms part of the Government's obesity strategy, which we broadly support. We want to see strong national leadership and action. I have raised concerns that the Government's approach has been too consultation-heavy, so I am glad to see something concrete today and hope that this statutory instruments is the first of a series.

As we have heard, the purpose is to require large businesses—those with 250 or more employees—to display the calorie information of food and drink items that they sell to eat and drink. That information must be available at the point of choice for the customer, such as on menus, menu boards, online menus and food labels. In paragraph 63 of their impact assessment, the Government estimate that that happens already in about 59% of such venues, so this is a top-up measure. The aim is to ensure that there is clear and consistent information at the point of choice, so that we can all make healthier choices for ourselves and our families.

[Alex Norris]

I think that the real value from the measure in the medium and long terms will be derived from transparency about the calorie content of meals, and the impact that will have in the reformulation of products and portion sizes. It is embarrassing for a big firm that has corporate social responsibility statements, and presumably seeks to have good public relations, to have a 3,000 calorie meal on its menu. I think that the measure will have a significant downward impact on that too.

To press the Minister on a number of concerns, in addition to displaying the calorie information of each item businesses are required to display the statement that

“adults need around 2000 kcal a day”

where it can be seen by customers when making their food choices. According to the NHS website, the recommended daily calorie intake is 2,000 calories a day for women and 2,500 calories for men. Although I appreciate the value of putting the calories for each item into a broader context, individuals’ total daily energy expenditures vary significantly and are based on a huge number of factors, some of which we have control over but some of which we do not. Of course, although this information is targeted at those consuming more energy than they burn, it will be visible to all. There is no mention of that in the impact assessment, so I hope the Minister can explain the divergence from NHS guidance in this case, and what consideration has been given to the impact of the recommendation, especially on those whose total daily energy expenditure is significantly less than 2,000 calories.

More broadly, calories are a very crude measure of what we put into our bodies. It is crucial that we understand better how much sugar and salt we consume. I know that there is an implied understanding that when we eat out, we generally eat less healthily than we do at home, but the playing field is very uneven between the retail sector and the out of home sector. Today’s measure will start to close the gap a little, but I am keen to understand what consideration the Minister gave to a model much closer to what we see on packets in supermarkets. That does not seem to have been considered in the options appraised in the impact assessment.

I do not intend to divide the Committee, because this is a yes or no proposition and we support the principle. More information is a good thing; more action on obesity is a good thing. I expect that we will be back in Committee in due course to extend this more widely, perhaps to medium-sized businesses, and I hope to hear a commitment today that before doing so the Government will seek to grow the evidence base. The evidence available is supportive, but far from perfect. The 2018 Cochrane review combined studies to show a potential reduction of about 8% to 12% per meal. That is a significant prize, but it is very much developing evidence. Will the Minister talk a little more about whether expansion is being considered and on what sort of timeline, and give an assurance that the research base will be grown before action is taken?

As we heard, the Government’s impact assessment gives a best estimate of net benefits amounting to over £5.5 billion over the next 25 years. The impact assessment makes it clear that most of the benefits come from a change in personal decision making, but my understanding

is that the evidence base on reformulation is stronger. It is particularly important that an evidence base around personal choices is acquired, so that we can have fuller conversations based on all the evidence.

The Minister touched on those living with eating disorders. We all want to have a population approach to making society healthier, but none of us wants unintended consequences to make life much worse for an, admittedly smaller, group of people on whose lives the issue has a profound impact. It is striking that just four of the 230 paragraphs in the impact assessment relate to this issue. I have heard multiple Ministers say that they have listened to concerns about the impact that the measure will have, and the movement on schools is welcome, but I still do not think that enough has been done to mitigate the impact.

The Minister mentioned the option for a venue to offer a calorie-less menu option on demand. Why is that not being mandated? It would be relatively easy to do, and would mean that those for whom calorie counting is terribly triggering would have an alternative, albeit an imperfect one. There is still time between the decision that we make today and the implementation next April for the Government to continue to engage with those who have legitimate concerns about the draft regulations, to seek to address some of those points. Will the Minister make that commitment?

Similarly, we know that covid has turbocharged the growth of eating disorders in the UK, and the provision of services in the country is not good enough. We are failing people, especially children and adolescents. We must do much better there, so I hope again to hear a commitment that there is a plan for a national strategy and proper investment to catch up and to deal with the impacts of covid and the growth in such disorders that we are seeing more generally.

We want people to have the fullest information about what they put into their body. We want to see bold action to tackle obesity in our population. What is on offer today is a step forward. On that basis, we will not oppose it, but we want to see a more thoughtful method of introduction and a more creative way of ensuring that it has the maximum positive impact. I hope that the Minister can address those points.

11.49 am

Jo Churchill: I thank the hon. Gentleman for his words, his general support for what we are doing, and his acknowledgement that this is the start of concrete action to drive that strong approach. I agree with him wholeheartedly; I too would prefer to see reformulation. We are already beginning to see it. He mentioned the debate that we had the other week. We already know that Kellogg’s, for example, has got all bar one of its items down to the reduction rate for high fat, salt and sugar. That is where we want to go.

We went through this argument with the soft drinks industry levy. It was said that no one would buy a fizzy drink ever again. In point of fact, that market is now at 105% of what it was when the measure was introduced back in 2016, but the sugar reduction across that product range is 43%. We are never going to stop eating and drinking, but we can make more informed choices about our diet. If the trend is towards takeaways and out of home settings, those in that sector must play their part in informing the customer.

The hon. Gentleman also mentioned the mission statement. It is based on an adult woman's daily reference intake, rather than an adult man's or a child's, in order to keep calorie labelling for non-prepacked food in line with existing requirements for nutritional labels on prepacked food, which display calorie information as a percentage of the recommended calorie intake. I agree with him that there are discussions about other ways of referencing, and that the calories burned by someone with a physical manual job will be different from those with a sedentary office job. However, we have to start somewhere, and keeping things under review and giving people helpful information and displaying it is what that involves.

We are working with industry all the time to ensure that the guidance on how we intend to make progress is made available to all those who will get the information to the customer. That process must be easy, because this is not meant to be a burden on business; it is supposed to be part of a socially responsible approach to ensuring that companies inform their customers.

Turning to eating disorder charities and the effect on individuals with eating disorders, I am very mindful of this group. We have engaged with Beat and sought the views of people living with eating disorders on several occasions since the obesity strategy was published last year. The hon. Gentleman will know that my hon. Friend the Minister for Patient Safety, Suicide Prevention and Mental Health and I have discussed the provision of tier 3 and 4 services in this area, Ensuring that services are available is of acute importance.

From personal experience, I gently say that those who are battling this horrible disease are often aware of the calorie content of something they are intending to eat or avoid before they cross the threshold of any establishment or order any food. It is important not only to keep dialogue going and to maintain sensitivity in understanding the size of the obesity challenge, but to offer services, conversations and sensitivity around those who are living with eating disorders.

I thank the hon. Member for Nottingham North for his comments. Today's legislation is about addressing arguably one of the nation's greatest public health challenges. We are taking this measure as part of a suite of measures to make changes to our food environment and make those choices easier. The out of home food environment has an important role to play, as it is a growing contributor to the food that we consume. People are already accustomed

to seeing nutritional information on pre-packed food sold in supermarkets, and a great deal of work was undertaken to see whether we should just carry a model like that on, but there are constraints, such as the size of the menu and so on. It was also interesting that many people suffering from diabetes—another acute disease in this country, with 4.7 million people over the age of 40 having it—would like to see the carbohydrate content. We want to see clear calorie information when we are eating out.

We have seen how businesses have adapted, responded and innovated in these unprecedented times, and we expect them to seize this opportunity. The policy acknowledges, by exempting smaller businesses, that they would find it more difficult to implement the requirements, but we are making a step change here. Large businesses make up just 0.3% of businesses in the out of home sector, but they account for nearly half of the value of all food and drink sold. That means that the policy is expected to make a sizeable change to our out of home food environment and deliver significant health benefits. As I said, the impact assessment states that the net benefit will be more than £5.6 billion. That is a remarkable sum.

We will continue to work with businesses and local authorities throughout the implementation period for the legislation. We are working with key stakeholders on the guidance, as I said, to ensure that it is fit for purpose and as helpful as possible. The guidance will be published once the regulations have been approved.

Transparency in our food environment, giving people the information that they need, is what they have been asking for and what we are delivering today. We have listened throughout the consultation period and put in place adjustments. The legislation does not diminish the Government's determination to ensure that people across the piece have the support they need. We will continue to listen, paying special attention to those who flag concerns. We have a lot to gain by helping people to be a healthier weight, and it is vital for us all to work together to support parents and help children have the best start.

I commend the draft regulations to the Committee.

Question put and agreed to.

11.57 am

Committee rose.

