PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT FOOD AND FEED SAFETY (MISCELLANEOUS AMENDMENTS AND TRANSITIONAL PROVISIONS) REGULATIONS 2022

Thursday 17 March 2022

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not later than

Monday 21 March 2022

The Committee consisted of the following Members:

Chair: Christina Rees

† Argar, Edward *(Minister for Health)*
† Bonnar, Steven *(Coatbridge, Chryston and Bellshill)* (SNP)
† Davies, Gareth *(Grantham and Stamford)* (Con)
† Firth, Anna *(Southend West)* (Con)
† Fletcher, Katherine *(South Ribble)* (Con)
† Gibson, Peter *(Darlington)* (Con)
† Glindon, Mary *(North Tyneside)* (Lab)
Hendrick, Sir Mark *(Preston)* (Lab/Co-op)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
Liddell-Grainger, Mr Ian *(Bridgwater and West Somerset)* (Con)
† Loder, Chris *(West Dorset)* (Con)
McDonagh, Siobhain *(Mitcham and Morden)* (Lab)
† Mullan, Dr Kieran *(Crewe and Nantwich)* (Con)
† Sharma, Mr Virendra *(Ealing, Southall)* (Lab)
† Tomlinson, Michael *(Lord Commissioner of Her Majesty's Treasury)*
† Zeichner, Daniel *(Cambridge)* (Lab)

Katya Cassidy, Jack Edwards, *Committee Clerks*

† attended the Committee

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Thursday 17 March 2022

[Christina Rees *in the Chair*]

Draft Food and Feed Safety (Miscellaneous Amendments and Transitional Provisions) Regulations 2022

11.30 am

The Minister for Health (Edward Argar): I beg to move,

That the Committee has considered the Draft Food and Feed Safety (Miscellaneous Amendments and Transitional Provisions) Regulations 2022.

It is a pleasure once again to serve under your chairmanship, Ms Rees. It is also a pleasure to serve opposite the shadow Minister, the hon. Member for Cambridge. Over a number of months, the hon. Member for Nottingham North (Alex Norris) and I regularly debated European Union-related statutory instruments in Committee, to the extent that we could almost finish off each other's speeches by the end of it. I suspect the same was true for the hon. Member for Cambridge and the Minister for Farming, Fisheries and Food, my hon. Friend the Member for Banbury (Victoria Prentis), in a similar context. It is a pleasure to serve opposite him today.

This draft instrument, which concerns food and feed law, is made under powers in the Food Safety Act 1990 and the European Union (Withdrawal) Act 2018. It follows on from the 18 EU exit instruments on food and feed safety made during 2019 and 2020—probably many of them etched on the hon. Gentleman's mind. The Government's priority is, as always, to ensure that the high standard of food safety and consumer protection we enjoy in this country continues to be maintained now that the UK has left the European Union.

The draft instrument is technical in nature. None the less, I am sure that hon. Members will welcome a brief summary of the regulations and the changes that we are making. The measure serves three key functions. First, it will ensure that emergency powers can be applied equally to all food and feed entering Great Britain. Retained EU regulation 178/2002 on the general principles of food law provides Ministers with emergency powers to suspend or restrict the placing of food or feed on the market. That can be used where food or feed presents a threat to human health. Legal analysis of article 53 of that regulation identified that, as worded at present, it is not possible for a Minister to exercise those emergency powers over third-country food and feed entering Great Britain via Northern Ireland.

I emphasise that that operability issue is confined only to third-country goods entering Great Britain via Northern Ireland. Emergency powers to restrict third-country products that present a risk to health having access to the Northern Ireland market are already in place. To correct that identified issue, the draft regulations include a technical amendment that will enable all Ministers to apply, equally, the same emergency controls to all food and feed destined for our market, regardless of their place of origin or route of consignment. The amendment does not extend the remit or gravity of the controls that may be introduced, but will ensure that emergency controls are exercisable equally across all parts of the United Kingdom.

Secondly, the draft instrument ensures that authorising provisions for feed additives and for genetically modified food and feed authorisations will be made by legislation. Again, legal analysis of fixed and retained EU law identified that retained EU regulation 1831/2003 on feed additives and retained EU regulation 1829/2003 on GM food and feed contained a number of omissions. The regulations did not sufficiently make it clear that the authorisation decisions for those products must be prescribed in legislation. While that does not prevent Ministers from taking decisions to authorise those products, provision for those decisions to be implemented through legislation makes certain their enforceability in law and, of course, the role of this House. The proposed amendment therefore clarifies the fact that decisions on authorisations for feed additives and for genetically modified food and feed will be prescribed through legislation, thus ensuring consistency with other retained EU law in this area.

Thirdly and finally, the draft instrument provides a period of adjustment for changes to labelling requirements made necessary by EU exit legislation. In preparation for EU exit, changes were made to the legislation on extraction solvents and quick-frozen foods to reflect the fact that the UK would no longer be part of the EU. As a result, relevant food placed on the market on or after 1 January 2021 is required to be labelled with the name and UK address of the legal person responsible for it, rather than an EU contact and address.

The draft instrument provides for a period of adjustment in those sectors, allowing for the continued use of labels with an EU contact and address until 30 September this year. The adjustment applies to England only. The Food Standards Agency has worked with its counterparts in Wales and Scotland to ensure a co-ordinated approach, and similar measures are already in place in those Administrations. Through the hon. Member for Coatbridge, Chryston and Bellshill, I put on the record my gratitude to all the devolved Administrations for the constructive engagement that we have had with them on these matters. The regulations will support food businesses in England that source products from the EU, or from outside the EU, through an EU distributor. They are also in line with the approach being taken by Department for Environment, Food and Rural Affairs to labelling changes within its remit.

Let me make it clear that the SI does not introduce any changes that will impact on the day-to-day operation of food businesses; nor does it introduce any new regulatory burden. The essence of the legislation is unchanged, but it provides benefit for certain businesses by enabling a period of grace in the introduction of the labelling changes.

To the point that I just made to the hon. Member for Coatbridge, Chryston and Bellshill, it is important to note that Scotland and Wales have provided their consent for the SI. The Northern Ireland Department of Health has been briefed on the amendments, and we have engaged positively with the DAs. I welcome their engagement on that and the constructive relationships that officials of the Scottish Government and others have with my officials and officials in DEFRA.

I want to take the opportunity to reassure hon. Members that the overarching aim of the regulations is to provide continuity for business and to ensure that high standards of safety and quality for food and feed regulation continue across the UK. As I said, the changes do not affect the essence of existing legislation. They are simply technical in nature and ensure that emergency provisions that allow for controls on food or feed identified as presenting a serious risk to health may be applied equally to any goods destined for the market. They will ensure that appropriate legislative provision is in place to enable decisions taken to authorise feed additives and GM food or feed to be enacted through legislation. Finally, they will provide for a smooth transition through the transition period, to allow businesses to adjust to the new labelling requirements.

Having effective and functional law in this area is key to ensuring that the high standards of food safety and consumer protection that we enjoy in this country are maintained in the immediate and longer term. I therefore ask hon. Members to support the SI before us.

11.37 am

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Ms Rees. I echo the comments made by the Minister at the beginning. I have spent many a happy hour in dialogue with the Minister for Farming, Fisheries and Food, the hon. Member for Banbury. It is always a pleasure to speak to her, and it is great to have the opportunity to hear another voice.

It is also a pleasure to deal with anything brought forward by the Food Standards Agency—a great achievement of the last Labour Government—which was established in 2000 to ensure food safety after the problems of the previous decade. Those who have followed the history of the agency will note with interest that it is a health Minister responding today. I could not possibly comment on why that might be, but many of the Food Standards Agency's powers were moved elsewhere under the coalition Government. However, it is a fine agency.

The statutory instrument deals with a number of significant issues, although they are largely technical, as the Minister said. We absolutely agree that they need to be resolved, and you will be pleased to know, Ms Rees, that we will not oppose the SI. Some of the regulations touch on the very challenging issues posed by the Northern Ireland protocol, and I am grateful to the Minister for his clear explanations in spelling them out. I am also very impressed by the explanation in the explanatory memorandum. Those of us who are now becoming aficionados of statutory instruments will note the different styles from different Departments, and I was delighted to hear the Food Standards Agency's positive account of the current set-up. In fact, I am so impressed that I will read it into the record. Paragraph 7.4 states:

"Before IP completion day, relevant EU food and feed law provided a high level of consumer protection with regard to food and feed hygiene and safety. In particular, relevant EU food and feed law set out the general principles for the safe and hygienic production of food and feed. They also prescribed effective and proportionate controls which must be applied by food business operators and feed business operators throughout the food chain, from primary production through to the sale or supply to the final consumer."

That is absolutely right, and it is a very good system.

I hope that one or two of those in DEFRA who, as I have been saying to the hon. Member for Banbury, are a bit more negative about it will note the reasoned and sensible approach that the Food Standards Agency takes. If we look at paragraphs 7.7 and 7.9, however, where the first two items referred to by the Minister are set out in detail, I have to ask whether this has been a paper exercise in which potential problems have been identified, or whether any of the situations that could have occurred actually occurred. If they have occurred, how have they been dealt with? Will the Minister tell us whether any such situations have actually occurred, and explain how they were dealt with?

I welcome the clarification that the GM and feed additive authorisations will be done through an SI. Will the Minister clarify which procedure is to be used, whether negative or affirmative? There is considerable public interest in some of this. Will he also spell out how that sits with the Government's longer-term strategy for GM products, given the recent statutory instrument that changed some of the rules on research and gene-edited crops?

Another issue is that of labelling and the length of any grace period as existing labels are used up, which paragraph 7.11 states will be through to 30 September. The Minister may or may not be aware of the many issues facing the food production sector at the moment, but labelling is one of them, ironically—there is a real shortage of labels, frankly, and that is a significant problem, as we can all imagine. An article in *The Grocer* last week highlighted that that is one of the most pressing issues. I wonder whether that date is still considered appropriate in these circumstances, not least because some of the consultations referred to go back a long way. Back in 2018, the world was a very different place. Much has changed since then.

I was struck by the consultations—nerd that I am, I'm afraid I read some of them, and they make interesting reading. One of the complaints or observations by the sector, referenced a little in the explanatory memorandum, was about the expectation that the changes to the regulations could be read through in under an hour, with businesses, regulatory agencies and councils able to work out how to apply the changes to their organisations. Frankly, a lot of people thought that that was optimistic. I wonder whether any further thought has been given to it.

Some of the observations, although from a while ago, were quite prescient. The National Pig Association, the National Farmers Union and the Food and Drink Federation all raised questions. In particular, the NFU asked about the relationship with the European Food Safety Authority. My noble Friend in the other place, Lord Rooker, has frequently asked that question. Back in the consultation, the NFU said:

"The NFU is also concerned that the approach the government plans to take depends on the UK's relationship with EFSA. We would very much support close collaboration with EFSA but we need reassurance that this will happen…Given the trade flows between UK and EU, it is essential that the exchange of information and collaboration…on the same terms is achieved."

I could make many more points, Ms Rees, but you will be glad that I am not going to. I have raised the ones I wanted to explore this morning. If the Minister could comment briefly on the relationship with the EFSA in the context of the draft statutory instrument, it would be much appreciated.

11.43 am

Steven Bonnar (Coatbridge, Chryston and Bellshill) (SNP): It is a pleasure to serve under your chairmanship, Ms Rees.

I echo most of the contribution of the shadow Minister, the hon. Member for Cambridge, save for a few brief comments. While the draft SI covers necessary changes post Brexit, as laid out by the Minister, it highlights the need for a proper discussion about the introduction of genetically modified organisms and genetically engineered products. I wonder whether the Minister will assist the House in enabling that to happen.

Any introduction of GMOs or GE products into the UK market must come only with the consent of each devolved Government. As the Minister laid out, that has been forthcoming from Holyrood, and discussions with the Senedd and Stormont are ongoing. The UK Internal Market Act 2020, however, must not be used as a way to introduce GE or GM products into the Scottish market through the back door. We will be keeping a close eye on that.

The changes in the draft regulations are in reality for the protection of all our citizens and to ensure that our high standards of food safety are maintained. That collaborative approach by the UK and Scottish Governments will continue whenever it is required in the interest of all citizens.

11.44 am

Edward Argar: I will be brief, but will endeavour to respond to the shadow Minister and to the SNP spokesman, the hon. Member for Coatbridge, Chryston and Bellshill.

If I may, I will turn first to the SNP spokesman's comments and then come to the shadow Minister's comments. At the risk of creating a challenge for us in respect of GM—I know that that issue attracts considerable attention across the House—I say, with slight hesitancy, that of course it is open to the hon. Member for Coatbridge, Chryston and Bellshill to choose it for an Opposition day debate. I am sure that the relevant Minister would be delighted to respond. That is obviously a matter for the hon. Gentleman and his party, but there are and will continue to be opportunities in the House for an issue of that public interest to be debated.

More broadly, the hon. Gentleman made the point about the relationship between the devolved Administrations and the UK Government. I have worked throughout the pandemic and through the Brexit period, leading on a number of issues in the relationship with the Scottish Government and others, and I am certainly grateful for the constructive approach. There will be times when we have political differences of opinion. That is in the nature of a democracy and of the stances that we are all elected to espouse. But I certainly have found the relationship to be constructive and open, particularly in the context of the current legislation on health that we are putting through, and I look forward to continuing that open and constructive relationship, at both official and ministerial level, on issues such as this and more broadly.

Turning to the shadow Minister's comments, I am, as ever, grateful both for his support and for his tone and his reasonable questions. I am always happy to give credit where it is due, and quite rightly he highlighted the creation of the FSA under a Labour Government. That is a matter of fact, and I am certainly happy to give him, on behalf of his party, the credit for that achievement and for what he did there.

The hon. Gentleman highlighted the paragraphs in the explanatory memorandum that set out the Northern Ireland protocol, and the impacts on how the current system or the previous, EU-led system works and how that will transition. I, perhaps like him, always ensure that I read through explanatory memorandums before taking part in a delegated legislation debate. Indeed, I make a point, when it is in my policy area, of actually reading them, given that it is my signature as a Minister on the bottom of them. In this case, it is the signature of the Under-Secretary of State for Health and Social Care, my hon. Friend the Member for Erewash (Maggie Throup), who sadly is not able to be here today, but I know that she takes the same approach. I will take this opportunity, if I may, to thank all the exceptionally talented and hard-working officials who have worked on this statutory instrument, got it to this stage and done the due diligence to ensure that we can have this debate and that we have the right materials to make it an informed debate. I am always grateful for the work of incredibly talented officials, who serve not just me as the Minister but this country, whoever is in government.

We continue to maintain the high standards of food and feed safety that the hon. Member for Cambridge highlighted, as set out in the explanatory memorandum. He touched on paragraphs 7.7 and 7.9. I am not aware of any practical events that have been a cause; I think that this is about tidying up and making the legislation fit for purpose. I am not aware of any specific ones. However, should I be informed that I am incorrect, I will of course write to the hon. Gentleman to correct what I have said. But I am not aware of any. The hon. Gentleman asked what procedure would be used. It would be the negative procedure for delegated legislation, in respect of that.

On labelling and the timescale, I hear what the hon. Gentleman says, both about the challenges faced by the sector overall—in recent months, we have seen that manifesting itself in a variety of ways—and about the challenges, potentially challenges we do not yet fully know, coming out of the international situation. But I believe that the labelling deadline, the grace period till September 2022, provides a proportionate and reasonable amount of time to enable industry to adapt. I am very conscious, through my work on the Northern Ireland protocol in the context of medicines and medical devices, of the different lead times that industry needs, depending on the nature of what it has to do to its logistics networks, supply chains or compliance regimes, but in this context I believe that the six-month period is reasonable.

The hon. Gentleman mentioned that of course in 2018 we were in a very different place—I think that is something on which he and I would agree. We may disagree about what has happened since and whether it is for the best or not, but I cannot disagree with his statement of fact that 2018 was a very different place and certainly felt like it.

A common thread running through all the work that we are doing in this space is that we seek to make the relevant regulations and put in place the relevant compliance regime, to protect safety, to protect the consumer and to protect high standards, but, at the same time, to ensure that that is proportionate and does not place an undue

burden on business. I believe that with these technical amendments and what they pertain to more broadly, we have struck an appropriate balance.

The hon. Gentleman mentioned the NFU. I suspect I share his view. I have a good relationship with my local branch of the NFU and I pay tribute to the work that it does and that nationally the NFU does to highlight issues relevant to our agriculture and food production industry in this country. We always carefully consider any representations that they or others in this space make.

Finally, the hon. Gentleman talked about the relationship with EFSA. We have no plans to deviate from the current relationship, and that relationship is broadly characterised by close collegiate working. We recognise the importance of data sharing and working in a co-ordinated and, as I said, collegiate way in this space.

As I said, these are technical amendments, but I hope that we have also had the opportunity to explore a little more widely some of what sits behind them. With that, I commend the regulations to the Committee.

Question put and agreed to.

11.50 am

Committee rose.