PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT IMPORT OF ANIMALS AND ANIMAL PRODUCTS AND APPROVED COUNTRIES (AMENDMENT) REGULATIONS 2022

Tuesday 7 June 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 11 June 2022

The Committee consisted of the following Members:

Chair: † Yvonne Fovargue

† Bradshaw, Mr Ben *(Exeter)* (Lab)
† Brereton, Jack *(Stoke-on-Trent South)* (Con)
† Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Dines, Miss Sarah *(Derbyshire Dales)* (Con)
† French, Mr Louie *(Old Bexley and Sidcup)* (Con)
† Fuller, Richard *(North East Bedfordshire)* (Con)
† Gideon, Jo *(Stoke-on-Trent Central)* (Con)
† Glindon, Mary *(North Tyneside)* (Lab)
† Green, Chris *(Bolton West)* (Con)
Greenwood, Margaret *(Wirral West)* (Lab)
† Grundy, James *(Leigh)* (Con)
† Kruger, Danny *(Devizes)* (Con)
Mc Nally, John *(Falkirk)* (SNP)
† Maskell, Rachael *(York Central)* (Lab/Co-op)
† Prentis, Victoria *(Minister for Farming, Fisheries and Food)*
† Sunderland, James *(Bracknell)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Jack Edwards, *Committee Clerk*

† attended the Committee

Third Delegated Legislation Committee

Tuesday 7 June 2022

[Yvonne Fovargue *in the Chair*]

Draft Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022

2.30 pm

The Minister for Farming, Fisheries and Food (Victoria Prentis): I beg to move,

That the Committee has considered the draft Import of Animals and Animal Products and Approved Countries (Amendment) Regulations 2022.

It is a great pleasure to serve under your chairmanship, Ms Fovargue.

The purpose of the draft statutory instrument, which was laid before the House on 30 March, is to protect domestic food safety and biosecurity, and to support trade by bringing the process for amending country-specific import conditions for non-European Union trading partners in line with those already in place for the EU and the European Free Trade Association.

The draft instrument makes technical and operability amendments to several pieces of retained EU law relating to Great Britain food safety and biosecurity. It does not constitute a change in policy. The amendments will enable the Secretary of State, with the consent of the Scottish or Welsh Ministers, rapidly to change country-specific import conditions in response to risks among trading partners that have already been approved by this Parliament to export animals and animal products to Great Britain.

The amendments made by the draft instrument are necessary for two significant reasons. First, trading partners must comply with any specific import conditions that are found in retained EU law. Regular changes to such conditions are required to respond to changes in risk—of disease, for example. Amendments to retained EU law are made by SI. Even when a negative procedure is used and the 21-day rule is breached, therefore, there is a significant gap between the identification of risk and the legal implementation of import controls. Both trade bodies and trading partners have expressed concerns about the lack of responsiveness of the existing legislation.

Secondly, the draft instrument will ensure that the United Kingdom meets its international obligations and treats all trading partners equally. At the moment, country-specific import conditions for the EU and EFTA states can be managed administratively, but legislative amendments are required for the rest of the world. That discrepancy leaves us at risk of challenge at the World Trade Organisation and is simply not where we want to be. As timely amendments to country-specific import conditions are also necessary to meet trade agreement obligations, our current inability to make rapid changes for non-EU trading partners leaves us at risk of legal challenge and of retaliatory action. That is why the instrument is so necessary.

I will briefly address concerns expressed in the other place about parliamentary scrutiny. I appreciate and fully understand such concerns, but I wish to emphasise that this statutory instrument has been drafted in such a way as to ensure that as much parliamentary oversight as possible will be retained. Its amendments will remove a specific number of import conditions from legislation. Other important information, including that relating to country and commodity approvals, is unaffected by the draft SI. The approval or delisting of counties and commodities will therefore continue to require secondary legislation, and will therefore remain subject to parliamentary scrutiny. In other words, this instrument cannot be used to approve the import of, for example, chlorinated chicken or hormone-treated beef, nor to lower food safety or animal health import standards in any other way.

The powers delegated in this draft instrument will instead be used to apply, lift and change country-specific import conditions when risk in approved trading partners changes. The instrument stipulates that all such decisions must be informed by assessments of risk, taking into account specified animal and public health criteria—requirements that have been retained directly from EU law. Assessments will be carried out or co-ordinated by vets in the Department for Environment, Food and Rural Affairs, and will be subject to approval from the animal disease policy group, a senior Government body that brings together experts from across Government. The legal implementation of any changes by the Secretary of State will be, as they are now, subject to agreement by the Welsh and Scottish Governments.

The draft regulations cover England, Scotland and Wales, and the devolved Administrations have both consented to the instrument formally. I commend the regulations to the Committee.

2.35 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Ms Fovargue. You will be pleased to hear that although we have many questions, the official Opposition will not be voting against the draft instrument. Some of the questions mirror the discussions held in the other place to which the Minister referred.

I will start with the context, to explain why this apparently dry legislation matters so much. We are living in a time of heightened risk for the biosecurity of the UK animal population. We are in the midst of an avian influenza epidemic, which has precipitated the biggest crisis the sector has faced in living memory, with new outbreaks being reported in just the past few days, I am afraid. There are also serious concerns about the spread of African swine fever, which in recent years has been disastrous for pig producers in China. Now it is spreading west into Europe, with reports of the disease in Italy, Germany and even Belgium, and a worrying leap in the past few weeks. Historically, there has always been the spectre of foot and mouth disease, which has been so harmful in this country.

The draft regulations may seem like dry legislation, but they really matter, and we would argue that they matter all the more because our ability to deal with major outbreaks has been seriously eroded by the current shortage of vets, which is causing problems in so many parts of our agricultural and food sectors.

Given that the draft instrument acknowledges the importance of robust defences against biosecurity threats, it is somewhat surprising to us that the Government have for the fourth time chosen to delay checks on food products coming from the EU. Not only does that decision yet again put British farmers on the back foot compared with their counterparts in the EU, but it also poses significant biosecurity concerns when considered alongside the loss of UK membership of key EU biosecurity schemes.

We are no longer members of TRACES—the trade control and expert system—which is the main system for controlling biological security in animal and food products, and nor do we have access to the animal diseases information system, which follows and documents the evolution of infectious diseases in animals. Instead, we now rely on informal channels and on the world animal health information database, which I am told takes 24 hours longer than EU systems to provide a notification of the outbreak of a dangerous disease; that 24 hours could be very significant.

Taken together, therefore, the failure to use the opportunity to enforce robust border checks and our reliance on less than optimal warning systems seem to jeopardise our biosecurity. I am sure that the Minister will reassure us, but will she tell us what actions her Department is taking to address such concerns? Given that some products coming to the UK through the EU are now not checked at all, because of the use of transit export health certificates, how can we be confident that we are protected properly?

In recent conversations with industry organisations, the view has been expressed that our lax border checks could be serving as an open invitation to would-be smugglers looking to sell contaminated meat into the UK. Will the Minister tell us what is being done to guard against the dangers posed by transit EHCs and what action she is taking?

The Chair: Order. May we stick to the draft regulations?

Daniel Zeichner: I was just about to turn to the draft instrument in detail, but it was important to set the context, because the regulations make changes to the way in which we are protected. The background is important.

We thank the Secondary Legislation Scrutiny Committee for its work on the draft SI. The Opposition acknowledge the ongoing threats to our animal and plant biosecurity, and to human health, and the need to have robust measures in place to act swiftly when new threats arise. We will therefore not vote against the instrument. As is too often the case with SIs brought forward by the Government, however, the proposals will result in the loss of parliamentary oversight. That concern was expressed by the Secondary Legislation Scrutiny Committee, which suggested that the Minister should be asked to give an assurance that the regulations will be used only on the rarest occasions. Will she confirm that that will be the case?

The explanatory memorandum accompanying the draft instrument goes to great pains to note that response times resulting from parliamentary delays could leave us exposed to greater biosecurity and food safety risks. The Minister referred to that, but, if so, the Government have been rather slow to act and bring forward this instrument. I looked back to the predecessor SI—the draft Import of, and Trade in, Animals and Animal Products (Miscellaneous Amendments) (EU Exit) Regulations 2020—which the Minister and I discussed back in November 2020, when we were given assurances that the system would operate effectively. If there is now an issue, will the Minister explain why nothing has been done in the interim? What assessment has her Department made of the impact of that inaction on traders and consumers?

The use of the powers included in the draft instrument will be made by consensus of the animal disease policy group, to which the Minister referred, which includes experts from across Government. In correspondence with the Secondary Legislation Scrutiny Committee about the capacity of the disease policy group, DEFRA said:

> "The expertise, capacity and processes required to exercise the powers in this instrument appropriately are well established within government, and have already been used to effectively control a range of SPS...risks since January 2021."

If those risks can already be controlled effectively, why is there now a need for the Executive to have additional powers? Either they have been needed and there have been delays, or there have not been delays, in which case it is hard to see why they are needed now. The Government cannot have it both ways, so which is it?

Will the Minister please provide some further information on the controls that are already in place, and explain where they are lacking and why there is a need to grant Ministers greater powers now? Will she provide reassurances regarding the independence of the bodies in the disease policy group that will conduct the risk assessments and make recommendations to Ministers?

The new powers granted in the draft instrument not only give Ministers the ability to impose restrictions when there are concerns surrounding biosecurity threats; they allow Ministers to lift existing import restrictions once a country has addressed biosecurity concerns. As my colleague Baroness Jones of Whitchurch argued when the instrument was discussed in the other place, the need to act swiftly is not as urgent with the lifting of restrictions. Will the Minister therefore explain why existing parliamentary oversight cannot be maintained for the lifting of import restrictions?

The explanatory memorandum perhaps offers an answer when it says:

> "Timely amendments to import conditions are…necessary to meet trade agreement obligations"

and states that that failure to meet those obligations could result in legal actions

> "from trading partners, or retaliatory action against exports from Great Britain."

The memorandum also says that managing

> "import conditions for some countries administratively (and quickly) and for other countries legislatively"—

slowly—

> "may leave Great Britain at risk of a challenge at the World Trade Organization".

The Minister made reference to that—but really? I am afraid I am slightly sceptical.

Will the Minister provide more information on the threats the UK faces from legal actions and retaliation? On what basis did the Government come to the conclusion that we were under threat from such actions? Will the Minister give any specific examples of cases where

[Daniel Zeichner]

countries have threatened to act in such a way? We all know that many disputes are raised and that there is lots of posturing at the WTO. Is that really necessary in this situation? Will the Minister provide some more information on the likelihood that we would face a challenge from the WTO? Has it said that it is considering taking any action if we do not amend our import conditions?

My sense is that more and more is being taken out of public sight, and although we will not oppose the draft regulations, because we understand the need for swift action when required, we ask the Government to think carefully about getting the balance right; scrutiny and openness matter as well.

2.42 pm

Victoria Prentis: As I said earlier, the amendments in the draft regulations do not constitute a change in policy, but simply seek to establish a process through which we are able rapidly to implement country-specific import controls where significant risks to animal and public health have been identified from non-EU trading partners. We are currently carrying out robust border checks on live animals and high-risk plants, and we continue to assess other risks all the time. My colleague Lord Benyon, who leads on the risk from disease in particular, has regular meetings, and the chief veterinary officer is in touch with all of us at DEFRA to ensure that we monitor and assess risks as they evolve.

This SI cannot be used to approve or delist countries and commodities, nor to lower import standards in any way. I appreciate that the shift to an administrative procedure raises sensitive questions relating to parliamentary oversight, but I have outlined how it succeeds in striking the balance between the requirement for scrutiny, and the need for effective biosecurity and food safety controls.

The hon. Member for Cambridge asked why it has taken so long to get to this point. We have been aware of the deficiencies in retained EU law that prevent us from amending country-specific import conditions sufficiently quickly. We have always recognised those deficiencies—I have recognised them in the past—but we took the view that correcting them was not essential on day one of EU exit, because we were prioritising so many other pieces of legislation, including that which enables import conditions for EU and EFTA states, which is, I think, the SI to which the hon. Gentleman referred. We have now reached this point in our extensive legislative programme.

The best way in which to answer the hon. Gentleman's question is to give a specific example: of Ukraine, in fact, before the outbreak of war. The difficulty with the current powers led to a significant delay in lifting restrictions on Ukraine, following the successful control of an avian influenza outbreak there last year. It took two months, following a recommendation from the animal disease policy group, for us to be able to lift restrictions—which we wanted to do—because we were stuck with the existing process of lifting restrictions through an SI. Even that two-month period required a breach of the 21-day rule, and for the Scottish and Welsh Governments to forgo the consent processes normally required for SIs. Such delays have significant effects on GB importers. Were that to be reciprocated, such a delay would be devastating—for poultry exporters from GB, for example.

Parliamentarians in this House and the other place will, of course, continue to be able to hold me and other DEFRA Ministers to account through all the usual means for the way in which the powers in the instrument are exercised. All the changes introduced by the SI are technical operability amendments that are critical to ensuring that we can protect biosecurity and food safety by streamlining our processes of making changes to import conditions. I commend the draft regulations to the Committee.

Question put and agreed to.

2.47 pm

Committee rose.