

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT ANIMALS AND ANIMAL HEALTH, FEED
AND FOOD, PLANTS AND PLANT HEALTH
(AMENDMENT) REGULATIONS 2022

DRAFT TRADE IN ANIMALS AND RELATED
PRODUCTS (AMENDMENT AND LEGISLATIVE
FUNCTIONS) REGULATIONS 2022

Monday 5 December 2022

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

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

† Aldous, Peter (*Waveney*) (Con)

† Bonnar, Steven (*Coatbridge, Chryston and Bellshill*)
(SNP)

† Brereton, Jack (*Stoke-on-Trent South*) (Con)

† Carden, Dan (*Liverpool, Walton*) (Lab)

† Crouch, Tracey (*Chatham and Aylesford*) (Con)

† Gardiner, Barry (*Brent North*) (Lab)

† Glindon, Mary (*North Tyneside*) (Lab)

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

† Holmes, Paul (*Eastleigh*) (Con)

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

† Mayhew, Jerome (*Broadland*) (Con)

† Mullan, Dr Kieran (*Crewe and Nantwich*) (Con)

† Tracey, Craig (*North Warwickshire*) (Con)

Twigg, Derek (*Halton*) (Lab)

† Vara, Shailesh (*North West Cambridgeshire*) (Con)

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

Anna Kennedy O'Brien, *Committee Clerk*

† **attended the Committee**

First Delegated Legislation Committee

Monday 5 December 2022

[STEWART HOSIE *in the Chair*]

Draft Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022

6 pm

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

That the Committee has considered the draft Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022.

The Chair: With this it will be convenient to consider the draft Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022.

Trudy Harrison: It is a pleasure to serve under your chairmanship, Mr Hosie.

The first instrument makes technical amendments to various pieces of retained EU law and domestic legislation to ensure that they operate effectively in the following areas after the UK's withdrawal from the EU: official controls and requirements on imports into and movements within Great Britain of animals, animal products, plants and plant products; the rules on animal welfare during transport; the rules on the marketing of plants and plant material; and the rules on the prevention, control and eradication of certain transmissible spongiform encephalopathies—TSEs for short—which is a group of fatal diseases that includes BSE.

The first instrument also addresses various other deficiencies in retained EU legislation and corrects errors in earlier instruments made under the European Union (Withdrawal) Act 2018. The changes clarify, for example, that the appropriate authority can create or amend rules on penalties for non-compliance with these regulations and relevant supported legislation with regards to the official controls regulation and plant health regulation.

The changes will streamline the process for a designated and appropriate authority to be the competent authority responsible for carrying out official controls and will replace the existing obligation for the appropriate authority to make secondary legislation to address biosecurity risks from imports of animals and animal products with a power to make secondary legislation. That will help to protect biodiversity by giving the Department for Environment, Food and Rural Affairs the flexibility to address biosecurity risks through means of event regulations.

The Plant Varieties and Seeds Act 1964 is amended to enable Ministers to make regulations via the negative resolution procedure to ensure domestic secondary legislation that captures the marketing of fruit, vegetables and ornamental plants for planting can be updated as required. That change will ensure that we are able to

keep pace with changing requirements in this space. Corrective amendments make it clear to transporters, organisers and keepers of live animals that they must comply with the journey log requirements on protecting animal welfare in transport.

The second instrument makes modifications to the interpretation of 11 directives to ensure a continuing and fit-for-purpose import system for animals and animal products entering Great Britain and to ensure that the legislative regime is up to date, enforceable and easy to use. These modifications do not make policy changes. They are technical fixes to assist with the interpretation and application of the directives. This instrument also transfers the functions, including legislative powers from EU bodies to the appropriate authority and makes the necessary changes to relevant import enforcement legislation.

Both instruments apply across Great Britain. There are, however, some exceptions. In the first instrument, regulation 12 applies to England and Wales only, regulation 13 to Scotland only, and part 6 to England only. In the second instrument, part 1 applies across Great Britain, whereas in part 2, regulation 5 applies to England only. Regulation 6 applies to Scotland only, and part 3 applies to England and Scotland, with the Welsh Government having laid a mirroring instrument that applies in Wales. Both instruments make a series of technical amendments to other pieces of legislation to ensure that they are fully operable.

In summary, the amendments in the instruments will ensure that official controls on imports of animals and animal products continue to be effective, that appropriate authorities have the relevant powers to make and implement necessary changes to imports legislation and that we have the legislative tools to safeguard our biosecurity. The devolved Administrations in Scotland and Wales have provided formal consent for these instruments. Movements from Northern Ireland or the Crown dependencies are considered internal movements and are not affected by the modifications and amendments in these instruments. For the reasons I have set out, I commend both instruments to the Committee.

6.5 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Mr Hosie. We are discussing the draft Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022 and the draft Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022. Once again, we are fixing problems that we have encountered since the withdrawal process. I notice that when the matter was discussed in the other place a few minutes ago, the same point was made. We keep having to correct errors from the past. I was expecting to see the Minister's colleague, the right hon. Member for Sherwood (Mark Spencer), but I am delighted to see her here today—not least because he gets cross when I raise points of criticism with him. I was going to please him by not opposing the instruments, but I was then going to disappoint him by saying that I have found others who have points of criticism, which I will come on to in a moment.

The draft Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 state that the UK will continue to align itself with the directives and regulations dictating the rules on the

importation of animals and animal products as of the date of the UK's exit. Nothing much will change, which is fine, but, as I have noted before, the world did not stand still the day we left the EU. Rather inconveniently for us, the EU has since revoked many of those directives, replacing them with the EU's Animal Health Law. We are told in the explanatory memorandum that the instrument

“preserves and maintains the policy and legislative regime as of exit day and does not try to align itself with the EU's Animal Health Law.”

It seems that we now work to different rules but, of course, we continue to trade.

I ask the Minister what assessment has been made of the impact of any possible divergence now that our exports to the EU are dictated by the EU's Animal Health Law, and whether that has distorted the level-playing field we hoped British farmers would have when they export to the EU? This is of immediate, practical importance, as I am sure the Minister will know, because the meat export sector has been up in arms in recent weeks, as the EU now requires veterinary attestation confirming animal health checks on sites before an export health certificate can be granted. Of course, we now need an EHC to export to the EU. The Department for Environment, Food and Rural Affairs has explained that this is to meet the requirements under the EU's animal health regulations, which stipulate that farms wishing to import into the EU must have had regular animal health visits by a veterinarian. That works for people on accreditation schemes, but many others have had to provide self-declarations to provide that EHC. This new situation creates additional costs and lots more red tape and could result in meat exports becoming non-compliant if there is not enough time for hard-pressed vets to undertake the checks required.

As I understand it, after the alarm was raised, DEFRA kicked the can down the road for another year, but the same problem will emerge on 13 December next year if new digital systems are not in place in time. In relation to this statutory instrument, the point is that the SI solves a legal issue by keeping things as they were, but given that the world has changed, it does not resolve the practical issue facing farmers nor the political issue that we now face of having to make changes because a system is being altered in the EU over which we have no influence.

Moving on to the second SI, there is a legal issue to be flagged, because the eagle-eyed members of the Joint Committee on Statutory Instruments have found fault with the drafting of both these statutory instruments. It said:

“The Committee accordingly reports the instrument for defective drafting, by virtue of including inaccurate information in the footnote to regulation 9(5)(a), acknowledged by the Department.”

It goes on to cite further drafting errors, including—I am delving into realms that I am probably unqualified to comment on in terms of my legal knowledge—unregistered equidae and various other fine points of law touching on Lebanese potato ring rot. You will be glad to hear that I will not go into detail, Mr Hosie, but the Joint Committee is basically saying, “I'm afraid these have not been drafted correctly.” On the scale of sins committed by this Government, I am not quite sure where that sits but, to be fair, the Department has

actually acknowledged mistakes. I guess it is the equivalent of almost getting a yellow card but just getting a ticking off.

This has happened twice now. The Minister is in danger of being benched for our next encounter. I hope the Department will do better with its drafting in future. I will not go any further tonight. There is a lot of detail in here. The serious point is that these are important issues to maintain our biosecurity. I hope we will not have to keep going back over past statutory instruments because of mistakes and drafting errors. I hope the Minister can address some of those points.

6.10 pm

Steven Bonnar (Coatbridge, Chryston and Bellshill) (SNP): It is a pleasure to see you in the Chair, Mr Hosie. I thank the Minister for laying out the reasoning behind both SIs. I agree with much of what the hon. Member for Cambridge had to say, so I will keep my contribution short. As we have heard, a legislative consent motion was granted by the Scottish Government, and the measure has been agreed by the Rural Affairs, Islands and Natural Environment Committee sitting at Holyrood.

The EU has higher health and welfare standards than the United Kingdom. We in the SNP encourage the Government not to renege on any of those commitments, but to retain alignment with the EU's Animal Health Law regulations. This is nothing more than another patch-up job due to Brexit legislation gaps and errors. Six years since the vote and two years into implementation, we are still here implementing these types of SIs to patch legislative errors and gaps as a result of Brexit.

The Retained EU Law (Revocation and Reform) Bill is set to repeal thousands more laws and ensure much more of our valuable parliamentary time is taken up patching up holes, just as we are doing here. Far too much time has been taken up with post-Brexit patches or fixes, because the Tory Government and their “make Brexit work” partners in the Labour party refuse to realise just how silly and futile all of this actually is.

6.12 pm

Trudy Harrison: I am grateful to hon. Members for their interest, but I have to disagree with the hon. Member for Coatbridge, Chryston and Bellshill, because I believe our standards of animal welfare are far superior to those that can be found across the EU. I am sure my Cumbrian farmers would agree with me on that.

First, I would like to reassure the hon. Member for Cambridge. I, too, do not want to come to the House to repair damage from mistakes that have been made in drafting. He will understand that we are under significant pressure at the moment, with the war in Ukraine, covid and policy pressures, but will he accept my assurance that we are working to remedy the situation so that this issue does not occur again?

As I have said, the regulations do not change the import requirements. They seek to review the import regime for live animals and general products. Significant changes in rules will be laid out in legislation. The instrument requires that any decision to apply, lift or change import conditions must be informed by appropriate assessment of risk, taking into account specified animal and public health criteria and other relevant matters. Requirements have been retained directly from EU law.

[Trudy Harrison]

The first instrument makes amendments that are crucial to ensuring that legislation relating to official controls and requirements on imports and movements within Great Britain of animals, animal products, and plants and plant products, as well as the rules on animal welfare during transport, the rules on marketing of plants and planting material, and the prevention, control and eradication of the transmissible spongiform encephalopathies, operate effectively during the UK's withdrawal from the EU.

The second instrument makes technical modifications. We discussed the impact on business. There is no significant impact on trading partners. This instrument does not change the import policy. It does not place any new burden on persons importing animals or products into Great Britain, as the animal and public health conditions to enter or transit Great Britain are not changing. We do not expect any impact on GB businesses. This instrument relates to the maintenance of existing regulatory standards. There are no policy changes. The modifications are of a technical nature only.

The instrument only provides rules for imports into Great Britain. It does not cover exports of live animals. The provisions for movements between EU member states have been omitted. Exports to the EU are excluded from the scope of this instrument. Regarding delays, it has always been accepted that leaving the single market and the customs union means that businesses do not

need to deal with more customs processes. Getting ready for those processes can be challenging. We recognise that it has been an unprecedented time for business, and many businesses are rightly focused on getting back on their feet as part of the economic recovery after the pandemic, in addition to dealing with the cost of living crisis.

As a sovereign trading nation outside the EU, we have the freedom to make decisions in our national interest. Delaying the introduction of import controls will give traders time to focus on getting back on their feet as the economy opens up after the disruption caused by the pandemic and while navigating the economic impact of the energy crisis and Putin's war in Ukraine. I would like to conclude by commending these regulations to the Committee.

Question put and agreed to.

**DRAFT TRADE IN ANIMALS AND
RELATED PRODUCTS (AMENDMENT AND
LEGISLATIVE FUNCTIONS)
REGULATIONS 2022**

Resolved,

That the Cttee has considered the draft Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022.—(*Fay Jones.*)

6.17 pm

Committee rose.

