

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Tenth Delegated Legislation Committee

DRAFT CONSERVATION (NATURAL HABITATS
ETC.) (AMENDMENT) (NORTHERN IRELAND)
(EU EXIT) REGULATIONS 2019

DRAFT ENVIRONMENT (MISCELLANEOUS
AMENDMENTS) (NORTHERN IRELAND)
(EU EXIT) REGULATIONS 2019

Monday 4 March 2019

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Friday 8 March 2019

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

- | | |
|--|--|
| † Blackman, Bob (<i>Harrow East</i>) (Con) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>)
(Lab/Co-op) |
| † Bradshaw, Mr Ben (<i>Exeter</i>) (Lab) | † Prentis, Victoria (<i>Banbury</i>) (Con) |
| † Bruce, Fiona (<i>Congleton</i>) (Con) | † Prisk, Mr Mark (<i>Hertford and Stortford</i>) (Con) |
| † Coffey, Dr Thérèse (<i>Parliamentary Under-Secretary
of State for Environment, Food and Rural Affairs</i>) | † Reynolds, Emma (<i>Wolverhampton North East</i>) (Lab) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Seely, Mr Bob (<i>Isle of Wight</i>) (Con) |
| Lammy, Mr David (<i>Tottenham</i>) (Lab) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| Mahmood, Shabana (<i>Birmingham, Ladywood</i>) (Lab) | † Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op) | Dominic Stockbridge, <i>Committee Clerk</i> |
| † Mills, Nigel (<i>Amber Valley</i>) (Con) | † attended the Committee |
| † Percy, Andrew (<i>Brigg and Goole</i>) (Con) | |

Tenth Delegated Legislation Committee

Monday 4 March 2019

[STEWART HOSIE *in the Chair*]

Draft Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

4.30 pm

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

That the Committee has considered the draft Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.

The Chair: With this it will be convenient to consider the draft Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019.

Dr Coffey: It is a pleasure to serve under your chairmanship, Mr Hosie. These are the two affirmative statutory instruments in my portfolio that extend and apply solely to Northern Ireland. These regulations relate only to Northern Ireland and concern devolved areas of policy, which would normally be dealt with by the devolved Administration at Stormont. Another Committee of the House will debate regulations on habitats applicable to other parts of the UK later this week, and the second of the two regulations to which I am speaking has already been considered and passed by Parliament in regard to England and Wales.

Because there is already a well-established body of separate Northern Ireland legislation in these two areas, having separate SIs will help to preserve the coherence of the Northern Ireland statute book. The UK Parliament is being asked to consider and pass these SIs in the absence of the Northern Ireland Assembly. That said, I am delighted—the Committee will not be surprised to know—that the civil service continues to operate fully in Northern Ireland and officials there have prepared these statutory instruments. I requested that we be joined by officials from the Department of Agriculture, Environment and Rural Affairs, to help answer any questions that members of the Committee may have.

These two sets of regulations are made under section 8 and paragraph 21(b) of schedule 7 to the European Union (Withdrawal) Act 2018. The Act retains EU-derived legislation in UK law. Section 8 of the Act enables regulations to be made to address deficiencies in EU-derived legislation, so that the law continues to be operable.

The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 ensure that legislation protecting biodiversity through the conservation of natural habitats and species will continue to function after exit from the EU. The regulations make technical amendments to maintain the effectiveness and continuity of legislation that would otherwise be

left partially inoperable. The amendments represent no changes of policy, nor will they have any impact on businesses or the public.

Part 2 amends the Wildlife (Northern Ireland) Order 1985, to ensure that species of wild birds found in or regularly visiting the UK, but not elsewhere in the EU, continue to be protected. Part 2 also includes a technical amendment to the Water (Northern Ireland) Order 1999. The change will ensure the operability of two powers within the order, to give effect to retained EU obligations.

Part 3 is the main focus of the regulation and amends the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995. The 1995 regulations, together with the Wildlife (Amendment) (Northern Ireland) Order 1995, transposed the requirements of the habitats directive and the wild birds directive into Northern Ireland law. Various terms in the regulations or the directives that relate to the EU are amended to be relevant to the UK. For example, the instrument removes references to the UK as an EU member state. The instrument introduces five main changes, mainly involving a transfer of functions from the European Commission to Ministers.

Sites designated in the United Kingdom under the nature directives are part of the EU's Natura 2000 network. Those sites are the EU's contribution to the Emerald network, established by the Council of Europe to fulfil the Bern convention. Those sites will now form a national site network and will continue to fulfil the UK's international biodiversity obligations. Any such area that is currently part of the Natura 2000 network will continue automatically to be part of the Emerald network on leaving the European Union.

New regulations set out by the Northern Ireland Department of Agriculture, Environment and Rural Affairs make it its responsibility to manage and, where necessary, adapt the national site network in co-operation with other authorities. The network's management objectives look to secure compliance with the aims of the habitats directive and the wild birds directive as retained EU law.

On the designation of special areas of conservation, functions currently undertaken by the European Commission are being transferred to DAERA, which will assess any new special areas of conservation designation proposals, acting on advice from the Joint Nature Conservation Committee using existing criteria.

Regarding IROPI, which stands for imperative reasons of overriding public interest, this instrument transfers the role of the European Commission in being able to offer an opinion to local decision makers such as local planning authorities to DAERA. The opinion concerns whether imperative reasons of overriding public interest may apply in the granting of a planning application for a proposal that might adversely affect priority habitats where there is no feasible alternative. In doing so, DAERA would need to take account of the national interest and consult widely, including the UK Government, other devolved Administrations and the Joint Nature Conservation Committee. I should point out that it is my understanding that IROPI has never been deployed in relation to priority features regarding planning proposals anywhere in the UK, such that no final dossier has been submitted to the European Commission for an opinion.

Turning to amendments to annexes and schedules, a new instrument-making power allows DAERA to make amendments to the annexes and schedules as required

to reflect technical and scientific progress. DAERA will set out in guidance the means by which expert input is sought, including from statutory advisers, before making any amendment to the schedules and annexes. To ensure transparency and accountability of environmental performance, in line with current requirements, DAERA will report publicly on the implementation of the regulations within six years of the date of exit and every six years thereafter.

The second set of regulations we are considering, namely the draft Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019, address failures of retained EU law to operate effectively with regard to Northern Ireland environmental legislation, arising from the withdrawal of the United Kingdom from the European Union. Legislation amended by the regulations covers a wide range of environmental law in Northern Ireland, including the management of waste, producer responsibility, permitting and licensing, noise, environmental liability, air quality and genetically modified organisms.

The regulations amend six pieces of Northern Ireland primary legislation and two sets of regulations. Part 2 of the regulations makes amendments to the following Northern Ireland primary legislation: the Genetically Modified Organisms (Northern Ireland) Order 1991; the Industrial Pollution Control (Northern Ireland) Order 1997; the Waste and Contaminated Land (Northern Ireland) Order 1997; the Producer Responsibility Obligations (Northern Ireland) Order 1998; the Environment (Northern Ireland) Order 2002 and the Environmental Better Regulation Act (Northern Ireland) 2016.

Part 3 of the regulations sets out amendments to the Environmental Noise Regulations (Northern Ireland) 2006 and the Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009. Part 4 of the regulations makes savings in respect of the amendments made to the Environment (Northern Ireland) Order 2002 by this instrument.

Emma Reynolds (Wolverhampton North East) (Lab): I have a question of clarification: in the explanatory memorandum to the Environment (Miscellaneous Amendments) regulations that we are discussing, in section 7.2 it says:

“With EU exit day less than one year away”.

As I understand it, the Government are insisting that we will still leave the EU at the end of this month. I just wondered why that wording was used; is there something the Minister knows that we do not? Also, although I understand she is a hard-working Minister and someone I have always had great respect for, how many other SIs does her Department need to get through before the end of March, and will it have a functioning statute book by the time we leave?

Dr Coffey: The 29 March is within a year. I think this SI was written prior to Christmas, and deliberately written to give that sense. I think it is standard wording that is being used across every Northern Ireland statutory instrument being taken through the UK Parliament, so we have not changed the wording in that regard.

I do not have the answer to the hon. Lady's second question; she may wish to speak to the Under-Secretary of State for Environment, Food and Rural Affairs, my

hon. Friend the Member for Macclesfield (David Rutley) who is in charge of statutory instruments for DEFRA. In terms of statutory instruments for which I am responsible, our last SI together, which might be not quite my last opportunity to debate with the hon. Member for Plymouth, Sutton and Devonport, is a week tomorrow. I am confident from my side, but as the hon. Member for Wolverhampton North East would expect, we will ensure that the legislation is in place.

In summary, the draft regulations are technical in nature and amend various aspects of environmental legislation, focusing primarily on references to EU law, to Commission processes and to the UK being a member state of the European Union, which will no longer be the case. If we do not address those deficiencies, the result could be legal uncertainty for regulators, stakeholders and the Government, ambiguity about environmental obligations, and difficulty with enforcement for regulators. There are no policy changes and no reduction in the environmental standards or obligations to which Northern Ireland is currently subject. I commend the draft regulations to the Committee.

4.40 pm

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Hosie, I think for the first time. May I place on the record Opposition Members' regret that the former DEFRA Minister, the hon. Member for Camborne and Redruth (George Eustice), resigned from the Government? He was a good Minister and we enjoyed many Committee sittings debating with each other. I know that he will offer a formidable Back-Bench critique to whoever replaces him on the Front Bench.

The Opposition will not oppose either of the statutory instruments we are considering, because we believe that our environment faces a climate crisis and that we must be able to protect it properly after the UK leaves the European Union. However, as with the other DEFRA statutory instruments we have considered, we have serious concerns about the scale and pace at which these SIs are being considered and the potential lack of proper scrutiny.

On environmental protections and governance in Northern Ireland, the Opposition are increasingly concerned that, due to the lack of an Executive, Northern Ireland not only faces unique challenges because it shares a border with an EU country but is not sufficiently well equipped to stop it lagging behind the rest of the EU on the environment in the future. I appreciate the Minister setting out the case for the two SIs. In the absence of an Assembly in Northern Ireland, it is important that Westminster scrutinises them, but we have particular concerns about several elements of them.

According to the World Wide Fund for Nature, humans have wiped out 60% of animal populations since the 1970s. Now, more than ever, is the time to strengthen our conservation efforts. The Government must be careful not to dilute any current environmental protections with these or any other SIs. We have a number of questions about that. I would be grateful if the Minister reflected on those and provided reassurance that there is no reduction in protections for our environment in the two SIs we are considering.

Both SIs seem uncontentious—they seem to effect a very simple transposition of regulations on to the UK statute book—but the Opposition are concerned that

[Luke Pollard]

there is stakeholder fatigue among those people who would normally provide the expert advice that enables us properly to review SIs on the basis of an informed legal framework, especially at the pace we are going through them, to ensure there are no errors or problems with them. My hon. Friend the Member for Wolverhampton North East pointed out potential errors in the explanatory memorandum, or areas in which it may be seen as obscure. What else might have slipped through?

Emma Reynolds: Does my hon. Friend agree that this situation was totally avoidable? If the Government had gone ahead and started to put these SIs through Parliament earlier last year, we would have had more time for scrutiny.

Luke Pollard: I entirely agree. There is speed and pace to our considerations. In previous SI Committees, we have spoken about the importance of strong and robust pre-legislative scrutiny for such SIs. I have asked the Minister previously whether the particular SIs we were considering were part of the Department's online reading room, which was made available to some stakeholders. She has suggested that those reading rooms are not suitable for parliamentarians to undertake pre-lay scrutiny of SIs. I would be grateful if she set out what stakeholder feedback, if any, was received about these two SIs in particular. It is important that we have decent scrutiny of them.

The Minister will be familiar with my concern about the impact assessments of SIs because we have spoken about them in every single Delegated Legislation Committee that we have sat on together, and I am sure that will be a feature of the one that she mentioned in her opening remarks. The explanatory notes state that the two SIs will have

“no, or no significant, impact”.

I say again that “no impact” and “no significant impact” are two different things. Although we are coming to an end of the SIs that she and I are doing together, I remain concerned about that, given that no impact assessment has been carried out. Although these are very technical and, on the face of them, uncontentious SIs, I am still concerned that Ministers will potentially have a “get out of jail free” card if an impact is discovered in the future.

Species are declining and we must do more to protect our natural habitats. The special areas of conservation included in these SIs protect 78 types of habitat and 43 species that are native to the United Kingdom and Ireland or are normally resident here. Throughout Europe, such areas protect 189 habitat types and 788 species. Their importance cannot be overstated. It is therefore very important that we transfer those protections to UK statute after we leave the European Union.

The Opposition are worried that this draft SI will dilute the current designation process, as outlined in regulation 7(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995, which state:

“Once a site of Community importance in Northern Ireland has been adopted...the Department shall designate that site as a special area of conservation as soon as possible and within six years at most.”

This draft SI removes the provision and does not replace it with a similar time requirement. Will the Minister explain why the time limit for establishing special areas of conservation has been removed from the SI? It could be because all those areas have been designated, or the Department expects no new ones, but that clarity would be welcome. We cannot afford to lose protections and accountability for protecting those habitats.

Regulation 9 outlines the duty to designate special areas of conservation. Proposed new regulation 6(8)(a) states:

“in relation to the application of stage 1 of the Annex III criteria, have regard to the advice of the appropriate authority”.

Sub-paragraph (b) states:

“in relation to the application of stage 2 of the Annex III criteria, have regard to the advice of the Joint Nature Conservation Committee.”

Will the Minister clarify what is meant by “have regard to”? How does it differ from “have the consent of” or “have consulted with” the JNCC? Those three phrases are very different and are contained in different elements of Northern Ireland environmental regulation.

Regulation 8 states that the Department shall publish reports

“in such form as it sees fit”.

That does not seem to match the current scrutiny outlined in article 17 of the habitats directive, which says:

“The report, in accordance with the format established by the committee, shall be forwarded to the Commission and made accessible to the public.”

I know, from having raised similar concerns relating to these points with the former Minister, that the format of reports was about reporting from the UK to the European Commission. I am concerned that the lack of definition of what the format should be could open the opportunity for reports not to be as full, and not to provide a paper trail, which would allow scrutiny by stakeholders and parliamentarians at a devolved or UK level. We have concerns that the regulation makes no provision for the reports to be reviewed or for any failings to be identified and addressed, as is currently required by the European Commission. The format of a report is about data collection, and it is also important that we ask about what happens to the report afterwards.

The Opposition are doubtful that the mere act of publishing the reports will be sufficient to match the current level of scrutiny. We suggest that this SI or a future one should include a requirement that reports are also reviewed and assessed. This draft SI revokes the agreed format for the reports to the European Commission. It merely requires that they are published in a way that the Secretary of State considers appropriate, with no reference to format in the future. In our view, that is too open to interpretation by the current and future Secretaries of State, and by those preparing the reports. It is likely to lead to reduced quality and possibly less effective monitoring and security of important environmental commitments in the future.

Proposed new schedule 3A, on the prohibited means of killing mammals and fish, raises the most concern for the Opposition. Regulation 36 is being amended to remove paragraphs (3) to (5) and place them into proposed new schedule 3A. Those paragraphs deal with animal welfare and conservation protections that we categorically believe should not be rolled back. They outline prohibited

means of taking or killing mammals and fish. We know of the recent penchant among those on the Government Benches for the killing of foxes and the inhumane cull of badgers and our concern is to prevent the rolling back of animal welfare or environmental protections, in relation to the killing of mammals or fish, as an inadvertent consequence of any changes.

The draft SI gives Ministers powers to amend the list of prohibited methods of taking or killing. The explanatory note states that the new powers will allow for future amendments for scientific or technical reasons, but those terms are undefined. I should be grateful if the Minister would make a commitment not to use the powers to roll back animal welfare standards as the Government please.

It is important to say that I appreciate that, as Northern Ireland does not currently have a functioning Assembly and Executive, the Minister cannot bind future Administrations in Stormont as to what they might do with the powers. However, we have concerns about the mere creation of the potential for change. In the absence of an Assembly, I should be grateful if the Minister would also explain what scrutiny, if any, the changes will be subject to. Will the process for amending the methods for taking and killing mammals and fish set out in new schedule 3A be subject to any public consultation?

I mentioned stakeholder fatigue earlier. In relation to the brief review of the SIs, some stakeholders are concerned that there is no specific requirement for expert input or even a duty to consult relevant statutory nature conservation advisers or take account of their advice. I should be grateful if the Minister would set out the type of consultation that she envisages as most likely in the event of the list of killing methods being changed. The issue is of particular concern with respect to those changes that can be made without an affirmative SI, with its scrutiny processes in this place.

I now want to talk about the draft Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019. I am concerned that we are rushing to pass such items before the 29 March deadline. I have previously raised a concern about how this bit of the SI jigsaw fits with other SIs—already passed, or yet to be passed—to provide a coherent picture. There are elements of Northern Ireland regulation, especially in the absence of a functioning Assembly—and, I believe, as I look around the Room, Members from Northern Ireland reviewing the measures—that concern me. I want to make sure that their implementation in Northern Ireland will fit with the implementation of other SIs that have been passed, and those that may be passed in future.

The example used by my hon. Friend the Member for Wolverhampton North East, of EU exit day being less than a year away, raises concerns about what additional elements have been included in a generic form or held in a fridge in Whitehall waiting to be defrosted and warmed up again when the Government decide to put the SIs through Parliament. I appreciate what the Minister said about standard wordings but, as I have said in relation to impact assessments, standard wordings—such as the phrase

“no, or no significant, impact”—

still cause me concern. I am also concerned about standard wordings in some explanatory notes. I suggest to the Minister that it might be prudent at this point to

have words with officials to make sure that any standard wordings do not raise such concerns as have been highlighted today.

The Opposition have no major issue with the draft regulations, but I would like to ask the Minister a number of questions about how they fit into the Government’s proposed regulatory environment, so that they can be implemented and can continue to protect the environment in Northern Ireland as currently happens. Given the lack of an Executive in Northern Ireland, can the Minister set out what plans there are for an environmental protection agency with responsibilities to ensure that there is sufficient oversight of these SIs as they are implemented, and whether the environmental protection agency as envisaged in the draft legislation that the Government are proposing would extend to Northern Ireland in the absence of an Assembly or an Executive in that respect?

I turn next to the question of how the protections that people in Northern Ireland have become accustomed to enjoying, due to Northern Ireland’s being part of the European Union, can be rolled over when there is no system necessarily to do so in the absence of a fully functioning Executive. The European Union has been acting as a stopgap, or backstop, to ensure that those protections are enforced; I would be grateful if the Minister could set out what conversations she has had with colleagues in Northern Ireland to ensure that there are no gaps and no concerns about what is happening in relation to that.

I have set out the Opposition’s case for wishing to scrutinise these two SIs. I say to the Minister and particularly to any Whips who might be sitting next to her that, when considering Northern Ireland SIs, it would be helpful if the Committee could at least include some hon. Members from Northern Ireland. I would feel uneasy if an SI Committee without any Plymouth MPs on it looked at regulations affecting Plymouth. That is a concern that I am sure colleagues on both sides of the Committee, without partisan interest, may feel about ensuring that regulations are drafted and implemented to ensure the fullest effect, especially because climate change is real, we know it is getting worse and we must ensure that the environmental protections that we as a House have put in place are not only effective, but implemented and scrutinised properly.

4.56 pm

Dr Coffey: It is a pleasure to respond to some of the queries that the hon. Member for Plymouth, Sutton and Devonport has raised. On the professionalism of the civil service in Northern Ireland, I have full confidence that it will continue the effective regulation that it undertakes today, including its regulators, the Northern Ireland Environment Agency. I expect it to be enforcing the law in exactly the same way on 29 March as it will from 30 March onward. The point of these statutory instruments is to allow it to do so and to ensure that the obligations and the law continue as they are.

On the question of fatigue among non-governmental organisations and time to consider stakeholder feedback, there has been considerable time to consider these particular statutory instruments. Some of the stakeholder feedback was received before Christmas and some has been received since—a discussion about whether the ongoing status

[*Dr Thérèse Coffey*]

of the special areas of conservation was clear in law. We agreed with certain things that the Royal Society for the Protection of Birds said and not with others, but the feedback prompted us to make the statutory instrument clearer. We chose to withdraw and re-lay it to ensure that it was clear, and the RSPB confirmed, as did Greener UK, that that was welcome.

I am conscious of the hon. Gentleman's concern about the phrase, "no, or no significant, impact".

I tried to explain to him in a previous Committee that that is a standard of the Joint Committee on Statutory Instruments, the body that has set out how certain things must be drafted and laid out in the explanatory memorandums. I suggest, since he has taken a huge interest in the JCSI, that the Opposition Whip might wish to volunteer the hon. Gentleman to sit on that Committee in future. "Due to have regard" is a fairly standard legal phrase that is used, in effect, where Government or a regulator must look at regulations and those regulations are what they follow. That is the intent of that phrase.

Regarding the report format, I understand the hon. Gentleman's concerns about how it might be scrutinised and whether it will lead to reduced quality, but it is fair to say that the reports sent to the Commission at the moment are all done to accommodate the needs of the EU 28. It may be that in future it is decided that there is a simpler way of preparing the information required, and we may want a more tailored way of doing so. I know that we regularly see minor changes here and there from the Commission, where we update how we report on certain matters; this SI just leaves us the power to make similar changes.

Luke Pollard: Could the Minister set out how any changes in format would work with the Republic of Ireland, given that Northern Ireland shares a land border with another EU member state and there are some habitats that cross the land border between Northern Ireland and the Republic?

Dr Coffey: The hon. Gentleman will be aware that the Good Friday agreement requires both countries to have regard to each other, to collaborate and to co-operate, but not, even now, to be identical in every aspect, although of course EU regulations apply directly to both. However, for example, directives can allow legislation to be written somewhat differently if it achieves the same outcome.

I expect that that co-operation will continue, whether through the North South Ministerial Council or the British-Irish Council, a meeting of which I attended about 10 days ago. Lough Foyle and Carlingford Lough each have one management body, involving the north and the Republic working together, so there are already good examples of direct collaboration on different things that are needed. However, I expect that DAERA will consult on any changes to formats.

On scrutiny, obviously the regulator will still be in place and will be able to scrutinise exactly what is going on, and it will be for the Administration to decide whether to scrutinise the reports that are generated. It will be open to the Assembly to undertake that role in

due course. A lot of those reports, especially on habitats, have to be presented to the Council of Europe, through the Bern convention secretariat, which again offers opportunities for scrutiny. There is also the ongoing scrutiny that is often done outside Parliament, which I expect will continue.

On the different aspects of new schedule 3A, scientific and technical progress comes up quite a bit when discussing elements of the environment or animal welfare. Quite straightforwardly, the new schedule recognises, as happened not that long ago when we discussed updating humane trapping standards—I think several Committee members were there—that there is some progress for which we need to update the law, rather than its being stuck in aspic. The new schedule gives us the opportunity to do that.

The hon. Gentleman asked whether that means that animal welfare standards could be lowered. It would be a brave Northern Irish Administration that wanted to do that. Nevertheless, it is fair to say that we are committed to the non-regression clause of the withdrawal agreement, which I expect includes animal welfare. I say again that my hon. Friend the Member for Camborne and Redruth has been one of the biggest champions of ensuring that we preserve our animal welfare standards. In fact, it will actually go the other way; it will be the United Kingdom pressing the EU 27 to make sure that they keep up with the animal welfare standards that we have championed for so long.

On scrutiny of Northern Ireland after we leave the EU, the Northern Irish Administration have asked us to consider including them in the remit of our proposed Office for Environmental Protection, which we are considering as part of our pre-legislative scrutiny. However, it is my understanding that it is not the case that Northern Ireland will automatically come under the scrutiny of that office; that will be a decision for Northern Irish Ministers to make in the future. The hon. Gentleman will be aware that both the Welsh and Scottish Governments have chosen to not join the OEP, but I am pleased to see that DAERA wants to at least set in place the possible opportunity and mechanism for such scrutiny and ongoing monitoring in the future.

The hon. Gentleman asked specifically about aspects of new schedule 3A. I understand that the new schedule allows us to mirror, if appropriate, future changes to the corresponding annexe of the directive, or to the Bern convention. We have talked about designations of special areas of conservation under the amended regulation 7(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995. Existing sites of Community importance are mostly designated. That is my understanding of the situation in Northern Ireland. They certainly have to be designated within six years, which is the current practice.

In essence, the obligation is on member states to designate sites as soon as they meet the selection criteria, as we have seen in the UK recently with the designation of sites for harbour porpoise. They have gone through the process of being deemed of Community importance, and now have gone or are going through the SAC process. Those things all take a certain amount of regulation to take them forward, but there is no change, as far as I am aware, in the regulations from how we operate today. That is relevant to the retained EU legislation.

I know that the hon. Gentleman is frustrated about the pace of trying to get through a lot of statutory instruments. I assure him that I have met the Democratic Unionist party spokesman to discuss a lot of these Northern Ireland statutory instruments, just as I have extended the offer to the Opposition and to the Scottish National party to come to us in advance with queries about any of the statutory instruments. That offer still stands for the remaining few statutory instruments related to my portfolio.

I am conscious that I may not have addressed all the hon. Gentleman's concerns. I hope he accepts, however, that we are not changing policy—that is an opportunity for Parliament in the future—but making sure that the important legislation that we have in place for preserving the natural environment and trying to do more to address its decline, as he rightly pointed out, especially when it comes to species conservation, will still be in place in Northern Ireland, and that the regulators will

have the powers, through the amendments in the second set of regulations, to ensure that there is proper ongoing environmental assessment and management.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.

DRAFT ENVIRONMENT (MISCELLANEOUS AMENDMENTS) (NORTHERN IRELAND) (EU EXIT) REGULATIONS 2019

Resolved,

That the Committee has considered the draft Environment (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019.—(*Dr Thérèse Coffey.*)

5.7 pm

Committee rose.

