

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Eighth Delegated Legislation Committee

SPECIFIC FOOD HYGIENE (REGULATION (EC)  
NO. 853/2004) (AMENDMENT) (EU EXIT)  
REGULATIONS 2019

*Monday 7 October 2019*

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**Friday 11 October 2019**

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**The Committee consisted of the following Members:**

*Chair:* DAME CHERYL GILLAN

- |  |   |
|--|---|
| † Churchill, Jo ( <i>Parliamentary Under-Secretary of State for Health and Social Care</i> ) | † Newlands, Gavin ( <i>Paisley and Renfrewshire North</i> ) (SNP)       |
| † Clifton-Brown, Sir Geoffrey ( <i>The Cotswolds</i> ) (Con)                                 | † Phillipson, Bridget ( <i>Houghton and Sunderland South</i> ) (Lab)    |
| † Double, Steve ( <i>St Austell and Newquay</i> ) (Con)                                      | † Robinson, Mary ( <i>Cheadle</i> ) (Con)                               |
| † Eagle, Ms Angela ( <i>Wallasey</i> ) (Lab)   | † Tami, Mark ( <i>Alyn and Deeside</i> ) (Lab)                          |
| † Field, Mark ( <i>Cities of London and Westminster</i> ) (Con)                              | Thomas, Gareth ( <i>Harrow West</i> ) (Lab/Co-op)                       |
| † Hodgson, Mrs Sharon ( <i>Washington and Sunderland West</i> ) (Lab)                        | † Throup, Maggie ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Hollingbery, Sir George ( <i>Meon Valley</i> ) (Con)                                       | † Tracey, Craig ( <i>North Warwickshire</i> ) (Con)                     |
| † Jones, Darren ( <i>Bristol North West</i> ) (Lab)  | Ian Bradshaw, <i>Committee Clerk</i>                                    |
| Murray, Ian ( <i>Edinburgh South</i> ) (Lab)   |   |
| † Murray, Mrs Sheryll ( <i>South East Cornwall</i> ) (Con)                                   | † <b>attended the Committee</b>   |

## Eighth Delegated Legislation Committee

Monday 7 October 2019

[DAME CHERYL GILLAN *in the Chair*]

### Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019

4.30 pm

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

That the Committee has considered the Specific Food Hygiene (Regulation (EC) No. 853/2004) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019, No. 1247).

It is a pleasure to serve under your chairmanship, Dame Cheryl. I am confident that we all share the intention to ensure that the high standards of food and feed safety and consumer protection that we enjoy in this country are maintained when the UK leaves the European Union. As my hon. Friend the Member for Winchester (Steve Brine) stated previously, this instrument and the original instrument, which it amends, seek only to protect and maintain those high public health and food safety standards. Changes are limited to the necessary technical amendments to ensure that the legislation is operable on exit day. I stress that no policy changes are made through these instruments and we do not have any intention of making any at this point.

This instrument amends a previous EU exit SI: the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019. Further clarity was required in setting out the authorisation process for approving products that can be used to remove surface contamination from products of animal origin. The clarification will ensure that the process is robust and can be applied clearly in assessing the risk in respect of new products.

This instrument needed to be in place to support the UK's application for third-country listed status with the EU, so that the UK can continue to export animals and animal products to the EU. We anticipate that that is due to be voted on by the European Commission on 11 October.

This instrument has been made using the powers in the European Union (Withdrawal) Act 2018 to make necessary amendments to UK regulations to prevent, remedy or mitigate deficiencies in retained EU law that arise as a consequence of the UK's withdrawal from the EU. The instrument was made on 9 September under the urgent "made affirmative" procedure, which was considered appropriate to meet the deadline for the European Commission's third-country listing vote on 11 October.

As hon. Members know, the Government have made it clear that our priority is to seek a negotiated deal with the EU, but we are taking sensible action to ensure that we prepare for every eventuality. The UK's third-country listing application was a particularly important part of our no-deal preparations. Third-country listed status guaranteed that the export of animal products and

most live animals from the UK to the EU could continue. That market is worth approximately £5 billion to the UK annually.

I shall expand on the specific detail of the minor and technical changes made by the instrument. The primary purpose of this legislation is to refine an amendment to retained EU law made by the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019. We considered that the regulation would benefit from further clarity in describing the authorisation process and the appropriate authority responsible for the process to approve substances that may be used to remove surface contamination from products of animal origin. Lack of clarity might affect implementation and has the potential to undermine the responsibilities for authorisation; this instrument rectifies that.

The new instrument makes it clear that the responsibility for approval of substances that may be used to remove surface contamination from products of animal origin rests with the Secretary of State for Health and Social Care and the appropriate Minister in each of the devolved Administrations. This measure introduces no substantive policy changes to what has already been successfully made and passed in Parliament in March 2019.

Food business operators are not permitted to use any substance other than potable water—or, where permitted, clean water—to remove surface contamination from products of animal origin unless that has been approved. This relates to business establishments that handle products such as meat, eggs, fish, cheese and milk and that do not supply to final consumers.

Currently, approval for such substances is given by the European Commission, but after EU exit this responsibility will be carried out by Ministers. The amendment to Regulation (EC) No. 853/2004 made by the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 is being further amended to make it absolutely clear that Ministers will be responsible for prescribing the use of any other substances and that the process of consulting the food safety authority is retained. That decision will be based on independent food safety advice from the Food Standards Agency and Food Standards Scotland.

If after EU exit any additional substances are proposed to be approved for this purpose, they will be subject to risk analysis by the FSA, which has established a rigorous and transparent risk analysis process for assessment and approval of any such new substances. Any request for substance approval would be subject to thorough scientific risk assessment and risk management, before being put to Ministers for a final decision.

Let me be clear that neither this instrument nor the instrument it amends introduces any changes for food businesses in how they are regulated and how they run, nor does it introduce extra burden. The overall changes to the food hygiene regulations will ensure a robust set of controls, which will underpin UK businesses' ability to trade domestically and internationally.

It is also important to note that we have engaged positively with the devolved Administrations throughout the development of this instrument. Further, this ongoing engagement has been warmly welcomed. The devolved Administrations in Wales and Northern Ireland have provided their consent for this instrument; the Scottish Government have been made aware of these regulations, but have not yet had the opportunity to scrutinise them.

I would like to stress that we would not normally make EU exit regulations under this Act, where the policy area is devolved in competence, without the agreement of all of the devolved Administrations. However, as I have explained, this is a very minor drafting change to the regulation, which the Scottish Parliament has previously agreed. Regrettably, the potential impact should the instrument not be in place before 11 October on the third-country listing vote does not constitute a normal situation and could affect the farming industry across the whole of the UK, including Scotland.

Finally, I draw the Committee's attention to the fact that, in line with informal communications, which the Food Standards Agency has had with the Joint Committee on Statutory Instruments, the FSA will, in accordance with the terms of the free issue procedure, be making this instrument available free of charge to those who purchased the earlier exit SI, namely the Specific Food Hygiene (Amendment Etc.) (EU Exit) Regulations 2019.

The Government accept that this instrument should have been made available under the free issue procedure at the time it was first made, but that did not happen. That situation will now be remedied. I apologise for that oversight and confirm to the Committee that this will be corrected and the Food Standards Agency will, together with colleagues in the national archives, be taking action to ensure that anyone entitled to a free copy of the instrument under that procedure will, where appropriate, be able to apply for a refund or otherwise obtain a copy.

**Sir Geoffrey Clifton-Brown** (The Cotswolds) (Con): Can my hon. Friend confirm that by laying this instrument the Government are demonstrating, beyond peradventure, that they will not tolerate any reduction in food safety standards as a result of the UK leaving the EU, contrary to what was asserted by some on television yesterday?

**Jo Churchill:** Indeed, that is so.

The action taken will allow one to obtain a copy of this instrument for free on request, in accordance with the usual terms of that procedure.

In conclusion, this instrument constitutes a minor—technical, but necessary—measure, to ensure that our legislation relating to food safety continues to work effectively after exit day. I urge hon. Members to support the amendment proposed, to ensure the continuation of effective food safety and public health controls. I commend the regulation to the Committee.

**Several hon. Members** *rose*—

**The Chair:** Order. I call the hon. Member for Washington and Sunderland West to speak for the Opposition, but I note other Members standing.

4.40 pm

**Mrs Sharon Hodgson** (Washington and Sunderland West) (Lab): I am grateful, Dame Cheryl; I was not sure what order we would speak in. It has been a while since I have done one of these Delegated Legislation Committees; it was probably before the summer recess, when we did quite a few. I am very pleased to serve under your

chairmanship, Dame Cheryl, and I thank the Minister for introducing the statutory instrument and providing a summary of it.

As the Minister said, the SI was discussed earlier this year by the hon. Member for Winchester (Steve Brine), and a lot has changed. We have had not just our summer holidays, but a full remake of the Government—we have a totally new Government. Nevertheless, we still have uncertainty about whether the UK will leave the EU in 24 days, with or without a deal, and about the impact that could have. As legislators, we have to get this right, and I deeply regret that once again we find ourselves back in this room debating necessary SIs and having to rush this legislation through in case of a no-deal Brexit, which none of us in the Opposition wants. I know some Members on the Government side do not want it either.

I move on to the legislation before us. As we all agree, the safety of our food is of the utmost importance to our health and wellbeing, and we cannot get it wrong. Food safety must be protected at all costs. I share the Government's commitment to ensuring that there is no change in the high-level principles underpinning the day-to-day functioning of the food safety legal framework. Ensuring continuity for business and public health bodies is of the utmost importance and in the interest of the public.

The Minister will not be surprised that I have a few questions about the SI. First, why was this missed from the SI in March? She might have touched on that. Has any assessment been made of what would have happened had the UK left the EU in March without a deal and without the SI in place? What exactly will the Minister's responsibilities be under the SI? Finally, what additional substances can be approved by Ministers if needed, and how will that impact food safety? I see that the SI gives some leeway for Ministers to approve substances that can be added to our food. I would be interested to hear how confident the Minister is that a high standard for food safety will be maintained from day one of Britain's exit from the EU.

The safety of our food is hugely important, and we cannot get this wrong. With those few brief comments, and not wanting to delay the Committee, I look forward to the Minister's response.

**The Chair:** We do have one and a half hours for this debate, if people wish to take it. I call the hon. Member for Paisley and Renfrewshire North, who speaks for the Scottish National party.

4.43 pm

**Gavin Newlands** (Paisley and Renfrewshire North) (SNP): It is a pleasure to serve under you in the Chair, Dame Cheryl. I, too, will be very brief—not least because the hon. Member for Washington and Sunderland West has asked the two questions that I was going to ask the Minister. I eagerly await the answers.

It is regrettable, to say the least, that we are discussing this SI—notwithstanding the apology that the Minister has given—before the Scottish Parliament has been able to approve it. However, I readily accept that there are no substantive policy changes in the SI before us. I have to reiterate that the instrument is necessary to enact a decision that Scotland did not vote for. It is our view,

[Gavin Newlands]

and that of the industry, that the UK should remain aligned with EU standards in this area, as any future dual regulation system will impact on imports and exports, and on agriculture more widely. Reports of the Department for International Trade pressuring the Department for Environment, Food and Rural Affairs to lower standards are deeply concerning to everyone. It should concern all hon. Members if those reports are true.

In conclusion—I did say I would be brief—the best solution for us and for Scotland would be to remain in the single market and the customs union, as suggested by the SNP Scottish Government as far back as December 2016 in the compromise document “Scotland’s Place in Europe”. Given the Government’s predicament, I urge them to look at that again.

4.45 pm

**Ms Angela Eagle** (Wallasey) (Lab): It is a great pleasure to serve under your chairmanship, Dame Cheryl. We came into the House at the same time and we were the first two female members of the House of Commons cricket team to play. We have a lot in common from that time.

Will the Minister reassure me about a couple of things? First, she seemed to say that, because there is £5 billion of trade in agriculture and food between us and the European Union, it is obviously in our interest to maintain aligned standards, notwithstanding the technical changes. I presume—I hope she will confirm it in her response—that they were put in place to reassure the European Union, ahead of the third-country listings vote on 11 October, that we are not going to try to somehow undercut standards, which might cause our export trade some difficulty. We have seen what that is worth.

Perhaps the Minister could confirm that that is why we are rushed in a way that has meant that none of the devolved Administrations has had time to look at the instrument in the way that would be expected. She graciously apologised to the Committee for that. I am interested to check that my suspicion about what she said is the reality.

Secondly, could the Minister say a few words about whether the view that we should maintain the same standards to protect our export trade in those areas is helped or hindered by No. 10’s weekend briefing? It said that if this country did not get what it wanted in the EU discussions, it would disrupt EU business, and that if there was a delay it would clog up the EU’s workings and generally make a huge nuisance of itself, up to and including suggestions in the papers that Nigel Farage would be appointed as a Commissioner. How does she think that kind of destructive briefing from senior sources in Downing Street, which appeared in all the weekend papers, builds confidence so that we can maintain reasonable trade connections and reassure our EU partners that, even if we become a third country, we will not seek to undermine or undercut regulations and standards to gain some kind of advantage?

Thirdly and finally, it is explicit in the new Government’s general approach, and in some of the published documentation on the Prime Minister’s proposals, that

there is the view that, in future, we should disengage and disalign with EU standards and protections to have what I view as a race to the bottom, and that, in trade talks with the US, we may have to accept even chlorinated chicken and a range of other things that, until now, have been banned by the EU standards that we align with.

The public and those who have come to rely on our standards, which have been underpinned by EU regulations to date, would be horrified if they thought that that was the Government’s view, so it is good that the Minister said on the record that that is not what the Government intend, at least in this sector. Perhaps she can say it more strongly, because there are great suspicions that the opposite is the case.

**The Chair:** Unless anybody else is seeking to catch my eye, I will call the Minister, but I hope that she will refrain from commenting on the joint sporting prowess of me and the hon. Member for Wallasey, which I had not expected to be raised under food hygiene regulations.

**Ms Eagle:** I can get anything in!

4.49 pm

**Jo Churchill:** Thank you, Dame Cheryl. I will resist the temptation to say “Howzat!”

I will first go over some general points that address several of the questions, and then I will address a couple of the specifics. The importance of food safety is paramount, and leaving the EU does not change that. Food safety in all cases remains our key priority; that means that business will carry on as normal. It is important that we acknowledge that, in many areas, food standards in this country are above those of other member states. Hon. Members commented that there will potentially be a race to the bottom, but actually we are trying to spread some of the good practice that goes on in all four parts of the UK in order to get others to raise their standards.

**Sir George Hollingbery** (Meon Valley) (Con): The hon. Member for Wallasey implied that there is some sort of mercantilist imperative for us to drop standards so that we can sell our goods around the world, but does the Minister agree that to do so would be to shoot ourselves in the foot? It is quite clear that our food standards are what sell our goods overseas. The quality of British produce means that, for example, 35% of Chinese consumers surveyed said that they would particularly buy British products because they are of a higher standard.

**Jo Churchill:** I could not agree more. It is a great tribute not only to producers in this country but to the Food Standards Agency that people feel that our food and brands are to be trusted. I hope that will continue.

On the point raised by the hon. Member for Washington and Sunderland West, this was not missed. This instrument is purely to give clarification—hopefully that is what it does—to make doubly sure that everybody is clear. The devolved Administrations in Wales and Northern Ireland have said that they are fine; it is only Scotland that has not. Once again, I apologise for that. Scotland produces

some of the finest quality products that go out of this country, so making sure we have done this properly is important to all the devolved nations.

Ensuring continuity of trade is important, and ensuring food safety here is hugely important. Mostly, we must ensure that we are open and transparent. The hon. Member for Washington and Sunderland West wanted clarification about the system. If there were to be any other form—the hon. Member for Wallasey alluded to chlorinated chicken, but it might be something else that is brought forward—it would first be risk-assessed by the FSA and would go through its very rigorous programme. It would then come to the Minister, and would come before the House by way of an SI. If there are any issues, that process must be walked through to ensure a degree of safety.

Specifically on chlorinated chicken, any substance used to remove surface contamination from chicken carcasses must be specifically approved. Chlorine has not been approved, and so cannot be used and could not be approved until it had walked through those processes. Each devolved Administration would then have individual responsibility for it. I feel that the concerns expressed in the media have perhaps over-egged the situation—we are all used to that—because those safety nets are in place. This SI simply helps to ensure that we are ready for Brexit on 31 October, whatever the circumstances, and that we are ready for all eventualities. Making sure we are prepared is the key job.

In closing, I hope I have answered hon. Members' questions. As I said, the Government are working to agree a deal with the EU, but while we do that and until

we have a finalised agreement, it is important that we prepare for the possibility that we will leave without a deal.

**Ms Eagle:** I thank the Minister for her responses, but could she address my question about the speed with which this instrument has had to be dealt with? She mentioned the meeting on the 11th. Is there scepticism about the state of our current law, and does that mean that this statutory instrument had to be dealt with quickly to help us with that meeting? Could she explain whom she is trying to reassure and why?

**Jo Churchill:** I suppose it was belt and braces. We felt that clarification was sensible to make it clear to all audiences that we are maintaining the highest standards. That is why we have done it. Given that we trade £5.4 billion of food and feed with the EU, ensuring that we have clarification before 11 October for third party status is paramount.

To reiterate, this instrument makes no changes to policy or to how food businesses are regulated and run. It is limited to drafting refinements and will ensure that the regulatory controls for food continue to function effectively after exit day if the UK leaves the EU without a deal.

*Question put and agreed to.*

4.57 pm

*Committee rose.*

