

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Twenty-fourth Delegated Legislation Committee

DRAFT COMMON ORGANISATION OF THE  
MARKETS IN AGRICULTURAL PRODUCTS AND  
COMMON AGRICULTURAL POLICY  
(MISCELLANEOUS AMENDMENTS ETC.)  
(EU EXIT) (NO. 2) REGULATIONS 2019

*Tuesday 8 October 2019*

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**Saturday 12 October 2019**

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

*Chair: MIKE GAPES*

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| † Afriyie, Adam ( <i>Windsor</i> ) (Con)   | † Henderson, Gordon ( <i>Sittingbourne and Sheppey</i> ) (Con)     |
| † Brock, Deidre ( <i>Edinburgh North and Leith</i> ) (SNP)   | † Kerr, Stephen ( <i>Stirling</i> ) (Con)                          |
| † Chalk, Alex ( <i>Cheltenham</i> ) (Con)  | † Lamont, John ( <i>Berwickshire, Roxburgh and Selkirk</i> ) (Con) |
| † Champion, Sarah ( <i>Rotherham</i> ) (Lab)   | † McGovern, Alison ( <i>Wirral South</i> ) (Lab)                   |
| † Courts, Robert ( <i>Witney</i> ) (Con)   | † Merriman, Huw ( <i>Bexhill and Battle</i> ) (Con)                |
| Cunningham, Mr Jim ( <i>Coventry South</i> ) (Lab)   | † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con)        |
| † Drew, Dr David ( <i>Stroud</i> ) (Lab/Co-op)   | † Twist, Liz ( <i>Blaydon</i> ) (Lab)                              |
| † Eustice, George ( <i>Minister of State, Department for Environment, Food and Rural Affairs</i> ) | Peter Stam, <i>Committee Clerk</i>                                 |
| Flint, Caroline ( <i>Don Valley</i> ) (Lab)  |  |
| † Grogan, John ( <i>Keighley</i> ) (Lab)   | † <b>attended the Committee</b>                                    |

# Twenty-fourth Delegated Legislation Committee

Tuesday 8 October 2019

[MIKE GAPES *in the Chair*]

## Draft Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019

2.30 pm

**The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice):** I beg to move,

That the Committee has considered the draft Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019.

This statutory instrument amends retained EU law and domestic legislation on the common organisation of the markets in agricultural products—also known as the common market organisation, or CMO—to ensure a smooth transition to a domestic regime. It also makes minor amendments to retained EU law relating to support for rural development and the maritime and fisheries fund.

The regulations are among those that were deprioritised prior to our planned exit at the end of March, because the bulk of the CMO rules that govern the existing schemes, and the vast majority of the details of them, were fixed and addressed in previous instruments. These regulations address the finer details of the schemes, in particular their administration. It was judged that it was not critical to deliver them by March, but the luxury of time, due to the delay in leaving the European Union to 31 October, means that we have the chance to get the job done and return to some of those issues.

The instrument is therefore technical in nature and limited in scope, as it amends the technical details of the schemes in the CMO, rather than the framework itself. We are upholding standards and maintaining processes; it makes appropriate corrections to ensure that those standards and processes continue to operate in a UK context. Where changes are required, we have endeavoured to ensure that they will have a limited impact on business and other stakeholders.

We have consulted extensively with the devolved Administrations on the instrument to ensure that the legislation that it amends continues to work while, obviously, respecting the devolution agreements. Most areas covered by the instrument are devolved, with powers transferring to the devolved Ministers. In many cases, the Secretary of State can act on behalf of the devolved Administrations should they give their consent. In one or two areas relating to enforcement, Wales has chosen to introduce its own statutory instruments, for example in relation to the administration of an apiculture—beekeeping—scheme and some of the design elements of a school milk scheme.<sup>1</sup>

Some of the functions amended by the instrument that are currently carried out by the European Commission could be exercised in ways that are reserved, such as where they affect trade, or devolved, so we have worked with the devolved Administrations in those cases. We have agreed an approach that respects the devolution settlements but ensures that those functions can be carried out by the appropriate public authorities in the UK after exit, whether that is the UK Government or the devolved Administrations.

The CMO sits in pillar 1 of the common agricultural policy and was set up as a means of meeting its objectives, particularly to stabilise markets, ensure a fair standard of living for agricultural producers and increase agricultural productivity. The main CMO policy areas covered by the regulations can be broadly categorised as aid schemes for fruit and vegetables, and for milk in schools; apiculture aid schemes; marketing standards for olive oil, eggs, poultry, meat and wine; import and export licensing; and the provision of information and notifications.

The changes made by the instrument will ensure the continued operability of existing regulations, largely by replacing references to “the EU” or “member states” with alternative references to “the UK” or “the relevant authority”. The approach when amending retained EU law has been to keep the effect of that legislation as close to the current system where possible.

The instrument also contains provisions relating to rural development and maritime and fisheries legislation, which governs the operational programmes through which payments are made. These programmes were prepared either by the United Kingdom as a whole or by the devolved Administrations and then agreed with the Commission. There are currently four development programmes and one maritime and fisheries programme operating in the UK, providing support to the sectors for the 2014 to 2020 programme.

The instrument makes six minor amendments to the rural development legislation, four of which also concern funding for maritime and fisheries. It omits two references to member states and amends references to Union legislation, and it omits two powers that the Commission has to make secondary legislation where these are now redundant. It transfers from the Commission to appropriate authorities in the UK a power to make secondary legislation concerning the models to be used when reporting on financial instruments. Finally, this instrument also revokes two pieces of retained EU legislation relating to support for the olive oil and table olive sectors, as this legislation will no longer be needed in the UK after EU exit since we do not produce those particular crops.

We consulted extensively with the devolved Administrations on preparing this statutory instrument and have their consent to lay it. I should say that the Department for Environment, Food and Rural Affairs also undertook targeted stakeholder engagement from November 2018 onwards on the amendments contained in the EU exit statutory instruments so far as they relate to food, as required under article 9 of Regulation (EC) No. 178/2002 of the European Parliament.

In conclusion, these regulations make changes to ensure an operable legal framework for the CMO and rural development and maritime and fisheries programmes, which support the work of farmers and deliver continuity. I therefore commend them to the Committee.

1. [Official Report, 4 November 2019, Vol. 667, c. 6MC.]

2.37 pm

**Dr David Drew** (Stroud) (Lab/Co-op): I am delighted to serve under your chairmanship, Mr Gapes.

Every time I see the initials CMO, I break out in a cold sweat. We have had this debate so many times that we never know which bit of the CMO we are talking about at any one moment. We debated it on the Floor of the House last week, and here we are again. Can the Minister start by telling us that this is the last time we will be debating an amendment to the CMO? I know that he had a slight interregnum when he was not here, but some of us have stayed the course and managed to debate every one of these CMO amendments, because they come around with ever greater regularity—more so even than buses. I am delighted that we are holding the Government to account over this.

With the best will in the world, it is very difficult for the Opposition to know exactly how these things fit together. It is a bit like a jigsaw puzzle, except somebody has thrown away the legend and all these different parts come to us. At one level, we could say, “Well, this is only secondary legislation, so we can just nod it through because it does not really make that much difference.” However, these are important market sectors and there are important elements for how we will, in due course, derive our new agricultural policy. Sadly, the existing agriculture Bill will fall for the second time today. Some of us spent 37 hours of our time on the Bill, which will be no more. No doubt we will start all over again—unless of course the Minister has not managed even to get it into the Queen’s Speech, which would say something about the importance of agriculture in this country.

The Minister knows that I am a bit of a fanatic about the relationship between pillar 1 and pillar 2—I always get interested when he talks about that. Can he clarify that there will be no change, whatever happens at the end of this month, in the Government’s commitment to pillar 2 expenditure—whatever it will be called—and that it will continue? I have said this many times before, but the danger has always been that we have not been good in this country at spending up to the amount we could have done, or at match-funding what was allowed in pillar 2. There has always been a temptation to pour money into pillar 1, which is the direct funding for farmers. That may be a justification for what we are trying to do with some of the changes, and that is partly inevitable. Will he give a guarantee that pillar 2 will in no way be starved of cash as a result of these changes?

The Minister has been clear about the relationship between reserved and devolved matters. Interestingly, Scotland did not get a mention in his initial speech, whereas Wales did—I note that a representative of the SNP is here. What is happening with Scotland? As he knows, Scotland chose, through a schedule, not to be part of the agriculture Bill, but Wales did. What impact will these potential changes have on Scotland?

The Minister said that these are predominantly technical changes, but they encompass some pretty important market sectors. The European Union (Withdrawal) Act 2018 is now somewhat dated, and it was brought forward on the basis that there would be a deal. In terms of the legislative context, where does this all now stand if there is no deal at the end of the month? If we look at the CMO in context, it does not include the whole fabric of the way in which the common agricultural policy has

operated. We will not be part of that, but we will not have anything else in its place at the end of the month. We are leaving it but actually staying in it, which is quite an interesting context. That is about managing market volatility, incentivising collaboration between competitive agricultural producers, and facilitating trade. That is why this is important; it covers a whole range of aspects of how our agriculture has evolved and how it will evolve over time.

With regard to the sectors, I am intrigued about why we always seem to fixate on olives. I do not know why the entire policy is always looking at olives. Last week we revoked something to do with olives. Why are olives no longer part of the scheme? I was led to believe that we do produce some olives in this country—indeed, we produce some of our own olive oil. We are revoking something, but what are we putting in its place to ensure that the market sector—for those of us who like olives—is properly protected and not subject to all manner of issues that could arise?

The *Financial Times* yesterday referred to the Department for Environment, Food and Rural Affairs being under enormous pressure from the Department for International Trade to lower our agricultural standards and environmental protection, because that is the only way we will ever get a deal with the US. The Minister might want to comment on that in passing. There are those who say that will never happen, but if the *Financial Times* is to be believed, that is going on at the moment.

As for the consultation, it was held well over a year ago. Will the Minister say something about what has happened more recently, given that these changes have come thick and fast? They may be technical in nature but they are of great importance overall. How have the different consultees been updated to ensure that they are complicit in what is going on, rather than left trying to work it out for themselves?

With regard to guidance, I am looking at the physical copy of the explanatory memorandum. Paragraph 11.1 refers to two aspects:

“Producing and labelling food if there’s no Brexit deal”

and

“Farm payments if there’s no Brexit deal”.

But they do not appear in the online version. Is that the Government’s mushroom strategy—keep people in the dark and chuck a lot of stuff of them, on the basis that it will make no difference because they will not know? Why is that in one version but not in the other? Somebody somewhere had better provide a quick explanation. It matters, because farmers need to know, as I said in the Chamber shortly before coming here.

The National Farmers Union has some very strong words on the impact of no deal. More particularly, it clearly wants to be held closer than it is at the moment in relation to some of the repercussions. If this is anything to go by—given the number of mistakes that have been made, the number of changes that have been brought in, and the number of amendments to amendments, and indeed amendments to amendments to amendments—it is very difficult to keep up to date with what is happening and where we are going.

The Opposition will not be voting against these regulations, but we look to the Minister to give us some assurance that no further CMO amendments will be brought forward, even after we finish today’s little episode

[Dr David Drew]

with another Prorogation. More particularly, will he ensure that the consultation on the changes is genuine and ongoing and that people know what is happening?

2.46 pm

**Deidre Brock** (Edinburgh North and Leith) (SNP): Well, I cannot begin to describe the deep joy I feel at being here once again speaking on a piece of legislation that would never have been needed were it not for the wilful act of self-harm that is Brexit. Here we are again spending valuable time passing legislation to allow the EU support schemes to continue after we leave the EU. That time could be spent more fruitfully examining and passing other legislation that is probably far more needed or, at least, would be far more needed if the UK Government did not have an obsession with the EU and leaving it. Still, here we are.

I hope that the Minister will enlighten us shortly on how the Government see the support schemes for fishers and farmers diverging from the EU schemes in the early years after Brexit, and whether those currently receiving that support will continue to receive it at a level at least equal to what they currently receive. I include Scotland, of course. I will be fascinated to learn how big the real-terms increases in the payments made to the Scottish Government will be and how the Government will reimburse the mislaid convergence cash with interest, remembering that it was paid in euros and so is worth a lot more these days.

I—and, I think, food producers across these islands—want to know the Government's future plans. We have to keep coming here to repair some small parts of the damage that Brexit is doing, so the least we should be able to expect is that we can get some idea of the future plans.

I want to know whether a divergence from the EU's food standards is planned, particularly in light of the reports of the new negotiating position of the President of the Board of Trade and what can only be described as “toadying” to the US food lobby. Maintaining support for our food producers is vital, because the new tariffs will cripple their competitiveness, as the Prime Minister made clear when he promised a culling programme for unsaleable beasts, and the new difficulties with produce crossing borders could cripple the fishing industry. That will all be made very much worse if they also have to compete with low-quality produce dumped on our supermarket shelves from the US, so it is important that we hear about those plans.

This SI, like so many others in the crazy race that Brexit has created, will pass. It is only necessary because of Brexit. Of course, the far more sensible course of action—cancelling the whole daft malarkey—is still open to us.

2.48 pm

**Adam Afriyie** (Windsor) (Con): I will speak very briefly. I welcome this statutory instrument and the many others that have been made. They are a demonstration of what we should be doing in this place—making our own regulations in a sovereign way. This is a very good thing to be doing and this process emphasises that.

I have a couple of queries. First, given that this statutory instrument gives us the power as a nation to operate and set the scope of our own interventions within the agriculture market, will the Minister confirm that we are simply transferring the powers that the EU has to set these bodies and the way in which they operate back into the United Kingdom? As far as possible, will we stick to the existing set-up? Does it also give us the power at a later date to begin to diverge or to improve the way we operate, whether in animal welfare or regarding these particular measures?

Secondly, would it have been possible for Scotland to take up any powers or to have taken the same direction of travel as Wales within this statutory instrument? If so, does the Minister have insight into why Scotland has chosen not to do so?

Overall, this is clearly a solid way forward and a platform for how we will operate in the future. I virtually volunteered for this Committee; I think these are fascinating areas. I am trying to get into practice for when this place once again does what it is supposed to do, which is to make the laws of our land.

2.50 pm

**George Eustice**: I will be brief, Mr Gapes, and I will try to address all of the points in turn.

The shadow Minister bemoans the fact that, yet again, we are having to discuss another complex and technical statutory instrument relating to the CMO. I hope to get to the end of the process too. I cannot guarantee that there will not be more of these SIs coming down the line; I am sure there will be more. Whatever our views on Brexit, we are all condemned to relive the groundhog day of Brexit debate until we finally get Brexit done and resolve the situation.

Many of the SIs that the shadow Minister has debated in recent weeks, although not this one, will have to be debated again because things have moved on, the EU has changed something over the summer or the dates referred to in the original SI are no longer valid. A lot of the current wave of SIs are a consequence of the dither and delay that Parliament demonstrated in deciding not to proceed with our exit from the EU at the end of March.

The shadow Minister asks about pillar 2 expenditure. We have agreed to keep funding on agriculture, including the pillar 2 schemes, at exactly the same level until the end of this Parliament; as he will know, that will be in 2022. In addition, the Treasury has guaranteed that the current schemes will continue to operate and to accept bids up until 2020, and the agreements entered into will be honoured for their full lifetime. For example, a five-year or 10-year scheme under the agri-environment schemes would be supported for the duration, even though we will have been outside the European Union for some years.

The shadow Minister asks about Scotland, which does not get a mention. That is because Scotland has been happy with these regulations. The body of regulations was made in co-operation with all the devolved Administrations. My hon. Friend the Member for Windsor asked why Wales has chosen a couple of areas in which to have its own SIs. That comes down to an element of its devolved settlement; there are some areas that it prefers to do itself and that is its choice. In Scotland's

case, it was content to know that the powers are appropriate for Scotland to act through this SI. To save the hassle of having to draft the same types of SIs over and over again, it made sense for the UK Government, with the consent of the devolved Administrations, to do this on behalf of everyone.

Finally, the shadow Minister asked about olives. The CMO is a complex body of law that has to be written for the whole EU; it is a one-size-fits-all body of law. That means that we end up with lots of provisions that are not relevant to the UK. We have changed the reference about producer organisations for people who produce olives or table olives; we do not produce or grow olives or table olives in this country, so that reference is redundant. I can reassure the hon. Gentleman that all the provisions relating to the marketing standards around olives have been brought across and made operable in the way he would expect.

The hon. Member for Edinburgh North and Leith asked how we might diverge over time. I have to say to her that that will be for the Scottish Government to decide. The Scottish Government will no longer have to sit on their hands, awaiting orders from Brussels about what they can and cannot do. They will have power—the power to act and the power to design schemes that they think are right for Scotland.

Having wrestled with some of these schemes over a number of years, I can say that the EU schemes are far from perfect. In so far as we may—all of us—choose over time to diverge from the EU schemes, it will be to make them better, to make them more effective and to make them deliver for farmers and fishermen. I can give the hon. Lady the example of the fruit and vegetable regime, which is an EU regime that is poorly drafted and often ends up with litigation, both in Scotland and in England, and a complete muddle. We could improve on it over time.

We have examples of some of the local area groups—the LEADER groups—that are bound in completely unnecessary bureaucracy, having to keep all sorts of records, and the EU taking issue with the way we have checked whether they are VAT-registered or not. There is lots and lots of bureaucratic nonsense that can stand in the way of these schemes and really everybody accepts that it is unnecessary. If we talk to the people who have to try to administer these schemes, I think they would welcome a breath of fresh air and more of a common-sense approach. However, it will be for Scotland to decide whether it wants to do that, or whether it wants to stick slavishly to what has been inherited from the European Union.

Finally, I will address some of the points made by my hon. Friend the Member for Windsor. He is right that the purpose of this SI and all similar SIs introduced under the European Union (Withdrawal) Act 2018 is to provide continuity. This is not an area where we are trying to change policies in any dramatic way, apart from omitting things that are not relevant to the UK. It is all about continuity, and the power to change and to diverge from these measures will be set out in the agriculture Bill; we have had a dry run of that already, as the shadow Minister pointed out.

**Deidre Brock:** There were a couple of questions that perhaps the Minister has not had a chance to answer yet. I wondered about the support schemes for fishers

and farmers diverging from the EU schemes. I asked whether those currently receiving that support will all continue to receive it, at a level that is at least equal to what they currently receive. I wonder whether the Minister can give us an intimation of the Government's intentions there.

**George Eustice:** We have set out that we will not change the budget at all until 2022. Within that, however, and again this would be an issue that Scotland would be able to take a different view on, the UK Government—the English Government for English farmers—have already set out our intention to start diverging from the so-called basic payments scheme, probably from around 2021, and to gradually phase it down and replace it with a new type of support system built around agri-environment payments and support for different approaches to livestock husbandry, for instance. So we have set out our approach there, but the funding guarantees that exist are the Government guarantees to keep the budget the same until 2022.

**Deidre Brock:** Could we have a wee bit of clarity on that, because quite often people say “until 2022”, but of course that is currently the date for the next election? We do not know the future; we do not know what the next few weeks will bring. I have also heard it said by various Ministers that it might be until 2022 or the next general election. Can the Minister clarify which of those it is, or say if it is actually both?

**George Eustice:** The hon. Lady is very experienced, so she will know that a manifesto commitment lasts for the duration of the Parliament in question. That may be until 2022, or it may be earlier. She will appreciate that this is not an appropriate place for me to start talking about the next Conservative manifesto; there are other and brighter brains than mine working on those issues. It will be for all parties to decide what level of support they want to indicate they will give to these schemes in their next manifesto, if indeed they want to give any sort of indicative figure at all; that will be a choice that every party has.

I return to the final points made by my hon. Friend the Member for Windsor. As I said, the power to change this measure will be contained in the agriculture Bill. It will have specific clauses to give us the power to modify retained EU law, which would include modifications to improve any of the pillar 2 schemes that we choose to improve. The moment that the agriculture Bill receives Royal Assent, we will have the power through secondary legislation to start the business of improving the common agricultural policy that we have inherited.

I hope that I have been able to address many of the Committee's concerns, and I commend the regulations to the Committee.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments etc.) (EU Exit) (No. 2) Regulations 2019.

3 pm

*Committee rose.*

