

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT AGRICULTURE (MISCELLANEOUS  
AMENDMENTS) (EU EXIT) REGULATIONS 2019

*Monday 21 October 2019*

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

*Chair:* PHIL WILSON

- |  |   |
|--|---|
| † Afriyie, Adam ( <i>Windsor</i> ) (Con)   | † Hollingbery, Sir George ( <i>Meon Valley</i> ) (Con)      |
| † Ali, Rushanara ( <i>Bethnal Green and Bow</i> ) (Lab)  | † Jones, Mr Kevan ( <i>North Durham</i> ) (Lab)             |
| † Bryant, Chris ( <i>Rhondda</i> ) (Lab)   | † Mc Nally, John ( <i>Falkirk</i> ) (SNP)                   |
| † Courts, Robert ( <i>Witney</i> ) (Con)   | † Masterton, Paul ( <i>East Renfrewshire</i> ) (Con)        |
| † Debbonaire, Thangam ( <i>Bristol West</i> ) (Lab)  | † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con) |
| † Double, Steve ( <i>St Austell and Newquay</i> ) (Con)  | Simpson, David ( <i>Upper Bann</i> ) (DUP)                  |
| † Drax, Richard ( <i>South Dorset</i> ) (Con)  | Slaughter, Andy ( <i>Hammersmith</i> ) (Lab)                |
| † Drew, Dr David ( <i>Stroud</i> ) (Lab/Co-op)   |   |
| † Eustice, George ( <i>Minister of State, Department for Environment, Food and Rural Affairs</i> ) | Bradley Albrow, Sebastian Newman, <i>Committee Clerks</i>   |
| † Goodwill, Mr Robert ( <i>Scarborough and Whitby</i> ) (Con)                                      |   |
|  | † <b>attended the Committee</b>                             |

## Second Delegated Legislation Committee

Monday 21 October 2019

[PHIL WILSON *in the Chair*]

### Draft Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019

4.30 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 Agriculture (Miscellaneous Amendments) (EU Exit) Regulations 2019.

This is one of a number of statutory instruments relating to our European Union exit that we have had the pleasure of debating. My right hon. Friend the Member for Scarborough and Whitby took a number of them through Parliament during his tenure of my position, and my hon. Friend the Member for Windsor has enjoyed the Committees on them so much that he volunteered to sit on more of them.

The instrument that we are debating amends retained EU law and domestic legislation on the common agricultural policy—including the common organisation of the markets in agricultural products, also known as the CMO—to ensure their smooth transition into a domestic regime. The technical and operability amendments made in the draft regulations will maintain the effectiveness and continuity of legislation that would otherwise be inoperable following exit from the EU. The regulations will ensure that we continue to operate schemes for important farming sectors, and that we maintain the standards they set; that will support confidence in our farmed goods in domestic and international markets.

The draft regulations are technical in nature and limited in scope. They make changes to ensure that existing standards and processes continue in the UK. Where changes are required, we have endeavoured to ensure that they will have limited impact on businesses and other stakeholders. The regulations amend CAP and CMO functions in EU legislation that are carried out by the European Commission so that they are instead carried out in the United Kingdom by the Secretary of State—or, in one instance in relation to contractual negotiations in the dairy sector, by the Competition and Markets Authority. This will enable those legislative and administrative functions to continue to be used after the UK leaves the European Union.

The EU regulations concerned cover the following areas of the CMO: conversion rates for rice; certification and importation of hops; sugar sector agreements; milk and milk products; import and export of certain proteins derived from egg white or whey; export refunds; adjustments in the common customs tariff; producer organisations and co-operation; and the import of eggs. The EU regulations confer various functions on the Commission, so that it can develop the technical details required to operate a specific regime.

Examples of that include being able to update the legislation when necessary to take account of amendments in so-called CN—combined nomenclature—codes, which

are used to identify tariffs in customs; establishing conditions for the fixing of export refunds; specifying certain forms to be used; setting financial limits or prices; defining programme eligibility criteria; setting deadlines; and facilitating producer co-operation and supporting producer organisations. If we were to leave the European Union without making these amendments, the legislative functions in the EU regulations would become inoperable, so this instrument simply uses powers under the European Union (Withdrawal) Act 2018 to correct that deficiency to enable the necessary functions currently exercised by the EU to be exercised by the Secretary of State instead.

The draft instrument also makes a minor correction to a domestic EU exit statutory instrument, namely the Common Organisation of the Markets in Agricultural Products Framework (Miscellaneous Amendments, etc.) (EU Exit) Regulations 2019, to clarify that the power contained therein, concerning contracts in the sugar sector, rests with the Secretary of State, since it is a reserved power.

The draft regulations refer to reserved policy areas, but notwithstanding that, the Department for Environment, Food and Rural Affairs has engaged with the devolved Administrations on its approach to CAP legislation under the 2018 Act, and on this particular instrument, to familiarise them with the legislation ahead of laying it before Parliament. DEFRA has worked collaboratively with the devolved Administrations and has fully involved them in discussions on the regulations. We consulted them extensively to ensure that the legislation that the regulations amend continues to work.

DEFRA has also engaged with stakeholder umbrella organisations and has met regularly with the Rural Payment Agency's industry partnership group to update the farming and land management sectors on the Government's plans for the UK's exit from the European Union, including the approach to retained EU law.

These regulations, in common with many others under the European Union (Withdrawal) Act, are really about changing references to EU institutions to references to the UK Secretary of State. Such changes are minor and technical in nature, but they are important to ensure that this body of regulations remains operable. I therefore commend the regulations to the Committee.

4.35 pm

**Dr David Drew (Stroud) (Lab/Co-op):** I am delighted to serve under your chairmanship, Mr Wilson. Here we go again. I shall get the Whip to put “CMO” on my gravestone—and I will be there sooner rather than later if we have any more of these debates. We have had so many statutory instruments looking at the common organisation of the markets that we wonder where this one was, whether we have debated it before—perhaps the Minister can provide illumination on that—and whether we will be spending more time on the CMO.

These issues are important, as they involve segments of our agricultural industry. I was intrigued to hear what the Minister said, because it was almost a complete repeat of what was said another time by the right hon. Member for Scarborough and Whitby. It is good to see the double act still in place, with one on the Front Bench and one on the Back Bench. The one on the Back Bench is sworn to secrecy, because he might be back on the Front Bench soon.

The Minister said that the legislation is technical in nature and limited in scope. One of these days, I will ask: what does that actually mean? All of it seems to be technical in nature and limited in scope, yet we go through it time after time. Why has it not been possible to at least group SIs together, as we have done previously? We seem to be dissecting all these different areas separately. He might be able to say something about that. If nothing else, can he warn us how many more statutory instruments we are likely to get? Clearly, the sands of time are clearly running out. It would be interesting to know what the implications would be of our crashing out by the end of the month—perish the thought—with regard to those statutory instruments we have agreed to, and those we will not have agreed to. There is not infinite time before the end of the month.

I have some fairly basic questions. First, the Minister talks about the Rural Payments Agency being in discussion with the sectors, but what about its level of preparedness? Will it be able to do exactly what has been done through the CAP? If so, will he assure me that payments will continue seamlessly, and that farmers or producers will not be seriously disadvantaged because payments have not been made on time? He knows, as I do, particularly from my time on the Environment, Food and Rural Affairs Committee, that the RPA does not have the best of reputations when it comes to making expeditious payments, or payments that are right in the first instance.

Secondly, in the event of a no-deal exit, what guarantees are there, and what moneys have the Government set aside for payments that are due? I know that we are considering technical issues that do not necessarily tie in with payments, but as they say, “follow the money.” Someone, somewhere, will need to ensure that particular market sectors are not disadvantaged. It would be interesting to hear from the Minister what preparations have taken place in different market sectors for dealing with the RPA in the immediate aftermath of no deal. There is also the question of whether market sectors will be protected, because some will be subject to duties or a fair degree of competition from outside. It is important to know exactly how they will be able to respond.

It would be useful to know how many more such statutory instruments we are likely to get. We had two on the agenda, but the Northern Ireland one has slipped; it would be interesting to know why. I saw the two as naturally connected; one followed on from the other. The position in Northern Ireland is particular. Why was that SI dropped at fairly short notice? When I came in this morning, after doing massive amounts of preparation for the debate that was to take place at 6 o'clock, I found that there was no such debate. Where has that SI got to? Are proceedings on it in train, or do we not need to debate it because circumstances have overtaken it? Perhaps the statement that will be made in the House shortly, about possibly getting the Assembly back in place, has something to do with it. I do not know. I hope the Minister can say something about the SI that we would have been considering.

We will not object to this largely technical instrument, but it is complicated and difficult to follow. It is also difficult to know whether we have debated it before, and whether we are amending amendments to earlier instruments, or even the amendments to the amendments. This is not the best way. The Agriculture Bill, which we need to get back in play, would hopefully go beyond

some of the secondary legislation that we are considering, and would make it absolutely clear to farmers that we are working in their best interest and know what is going on, and that Members across the House will help them by ensuring that every eventuality is covered. If we do not do those things, some market sectors will undoubtedly suffer, not only in the shorter run, but in the longer run.

4.42 pm

**Adam Afriyie** (Windsor) (Con): I am genuinely excited to be on this Statutory Instrument Committee; I would like to serve on as many as possible, particularly about agriculture, food and wildlife. I have a science degree in agricultural economics from Wye College, which is now part of Imperial College London, and this instrument strikes at the heart of what we were discussing even 30 years ago when I was at university.

I welcome the measure because it does exactly what it says on the tin: it pulls back powers to the United Kingdom that have been operated by the European Union and the Commission. With regard to the key area of debate about product standards and import-export, the measure is crucial in ensuring that our UK agencies can make decisions about the technicalities and the licensing and authorisation of movements.

I have three quick questions for the Minister. My first question is this: given the argument about whether coming out of the European Union means that our standards will be lowered, does the measure simply maintain existing standards—for example, animal welfare standards in live animal transportation—until a Secretary of State or the United Kingdom decides to improve them? Does the measure give the UK the power to improve those standards on agriculture and livestock?

My second question is about the devolved Assemblies. I recognise that many of the powers in the measure are reserved, so they go straight to the Secretary of State, but will there be an opportunity for the devolved Assemblies to take on some of those functions and powers?

My third question is general. We are all sick to death of the term “crash out of the EU”, because we know that, basically, we are pretty well prepared for leaving the EU in a measured fashion. Can the Minister confirm that this is one of the measures that ensures that when we leave the European Union, things are actually under control and within the power of the UK Parliament, the UK Government and the devolved Assemblies when it comes to standards, animal welfare and agriculture?

4.44 pm

**Mr Kevan Jones** (North Durham) (Lab): It is a pleasure to serve under your chairmanship, Mr Wilson. The Minister said that the regulations were technical amendments, but I am always wary. I have not sat on the agricultural Committees, but I have sat on umpteen Treasury Statutory Instrument Committees, and I am always struck by what their impact, and the cost for the UK taxpayer, will be. The explanatory memorandum worries me a bit. It says that there is expected to be “no” impact, but then there is a rider: “or no significant impact”. Either there will be an impact or there will not—this is in reference to the charity or voluntary sector and business. I would like the Minister to tell me what range the impact will be in. The explanatory

[Mr Kevan Jones]

memorandum also says that how the powers are exercised in future will determine the impact of the new arrangements, and that no impact assessment has been prepared.

**Mr Robert Goodwill** (Scarborough and Whitby) (Con): Is it not the case that, although we are talking about EU schemes such as the basic payment scheme or environmental schemes, the administration is already done by the UK, through DEFRA, the RPA, Natural England, and so on? I suspect that is why the memorandum says that there will be no impact: we are delivering the schemes already, albeit under the auspices of the EU.

**Mr Jones:** I appreciate that, but as the powers are transferred over, there will be change. The hon. Member for Windsor argued that there could be an opportunity for the Government to raise standards; it is very strange that over the last few days no Conservative Member of Parliament has been talking about the fact that there will be an opportunity to weaken standards as well. The important point when it comes to being able to assess the impact is that there is a difference between “no” impact, which is straightforward—there is no change at all—and “no significant” impact. I am interested to know what, if any, costs there could be.

Likewise, the explanatory memorandum says that the costs that will fall to business from the change in regulation will be below the £5 million threshold. That is fine. I accept that when assessing impact there has to be a level, but it is important to know how close to that £5 million the figure could be. That might give us some indication of whether it will be, as the Minister says, business as usual. Clearly, a lot of what we are assured will be business as usual when we withdraw from the EU certainly will not be when we get into the detail.

4.48 pm

**Chris Bryant** (Rhondda) (Lab): I am no farmer, though I used to own a farm in the Rhondda for a few years, where we had sheep.

**Mr Jones:** And killed a donkey.

**Chris Bryant:** My right hon. Friend tempts me to tell the story about my donkey, called Dusty, who died. It is a very sad story, but I am not going to tell it—nor that of the one-eyed sheepdog called Nelson.

It is always very tempting, when a Minister describes legislation as technical, to start worrying, and to ask him questions such as, “In regulation 6(2)(b)(v), what does proposed new point (f)(cc) mean?” But I am not going to do that, because I am sure that the Minister is right that, in large measure, this is entirely technical. As the hon. Member for Windsor said, in all honesty there is a lot of such legislation that we have to put in place to ensure that things will be in a good place.

I will, however, ask about regulation 3 and the provisions on eggs being imported into the UK. Why do we have to have a specific element on that in the legislation? One of my farmers who came to see me recently, along with other members of the Welsh National Farmers Union, was very keen to point out one of his big anxieties. He is a chicken farmer who produces eggs. A key part of his business model every year is deciding how many chicks

to import from France, I think from Portugal, and from Spain. He has some anxieties about quite what route the Government are going down. He is not sure whether to import large or small numbers. It depends on whether he will be able to sell his chickens and eggs later next year. I should be grateful if the Minister would explain.

**Rushanara Ali** (Bethnal Green and Bow) (Lab): I am curious about my hon. Friend’s farm and the donkey, but that is for another time. He raises an important point about the impact on the lives of farmers. There is a broader concern, related to impact assessments, costs, consequences for people, and disruption. The Government have made a habit of turning up to Committees without an impact assessment. “Without an impact assessment” should be replaced with “with wishful thinking”, frankly, because we are being expected to make decisions and judgments without evidence or analysis. The same has happened with the Government’s deal, and the failure to provide an analysis of the impact of the deal on the wider economy and the country, including for the Treasury Committee. It would be helpful for the Minister to give an assurance that the Government will not keep doing this.

**Chris Bryant:** Perhaps I should have stopped my speech before giving way; my hon. Friend could have made a speech of her own. I shall not, at this moment, be as ungenerous as she has been, if that is all right with her. The major concern about farming in my constituency has been to do with lamb. I do not really want to go down this route, but if we were to leave the European Union without a deal, there would be a problem in relation to tariffs on lamb; 50% of Welsh lamb goes to England, and 45% of it goes elsewhere in the European Union. We have always found it difficult to sell lamb in countries such as the United States of America, but I do not think that is really addressed in the regulations. I would love to tease that point out from the Government. However, the Chancellor of the Duchy of Lancaster has been clear in Parliament on several occasions that one of the toughest issues for Welsh agriculture would be lamb. I think that that is generally already accepted by the Government, and it is one of the things that we all know we shall have to address if there is some kind of political catastrophic failure.

4.52 pm

**George Eustice:** I shall try first to deal with as many as possible of the issues that are pertinent to the statutory instrument. I shall then touch on some of the broader, connected issues that have been raised.

First, the shadow Minister, the hon. Member for Stroud, is right. The CMO is a complex body of law, so in the context of this exercise it has in some ways been the gift that has kept on giving. He will, however, be pleased to know that we are reaching the end of the process. There is light at the end of the tunnel. I understand that there are just two more items left relating to the CMO and, I think, 12 more left in total linked to EU exit; so we have a few more to do, but we are nearing the end of this process.

The hon. Gentleman asked whether the issues are ones that we had to revisit, or whether they were not dealt with originally. There was one exception, which I

alluded to, which was a change of a power that was drafted originally as though it were devolved, when it was actually reserved. The vast majority were secondary and tertiary legislation—implementing acts and delegated acts from the Commission. They were deprioritised as not absolutely essential for March, but they were things that we intended to get to.

The right hon. Member for North Durham and the shadow Minister asked what we mean by “technical” and were suspicious of my intent. Let me give a few examples. The vast majority of the changes are about replacing EU-centric terms such as “the Union” and “the European Union” with “the UK” to make provisions operable. We are also replacing “Commission” with “Secretary of State”, so that there is an authority to go to. It is really a matter of making sure that there are UK bodies that can exercise functions currently exercised by the EU, since the EU will no longer be exercising them.

That links to the point about impact assessments and what

“no, or no significant, impact”

means. The purpose of all the EU exit statutory instruments is to keep everything exactly the same. I know many Members of the House would like to keep things so much the same that we do not even leave the European Union, but these particular regulations ensure that when we do leave, all the same procedures can continue to operate. The real cost to business would be if we left whole functions and bodies of law with which they are familiar to become inoperable and no longer work; that would have consequences. By ensuring that systems are operable, we give businesses the continuity that they seek, and we ensure that we have a functioning statute book from the beginning.

The shadow Minister asked about the position of the Northern Ireland SI and why that had been dropped. I understand that the Joint Committee on Statutory Instruments was unable to clear it in time for today’s debate, which is why it will probably be debated instead on Monday next week.

To return to the technical issues, the types of things dealt with in the instrument are regulations on conversion rates for rice. We are talking about an assumed rate—about x amount of rice flour coming out of x amount of rice milled. An assumption is made about that for the purpose of an import licensing regime. I assure the right hon. Member for North Durham that these things are very technical. In the sugar sector, we have an arrangement at the moment whereby there are some exemptions in competition law to allow the National Farmers Union to corral a collective of sugar beet growers to work with British Sugar, and a collective bargaining system decides the price of sugar for a given year. That enables the Secretary of State to make any changes that they might need to make to keep the sector operable. If the NFU

decided that it did not want to do that role anymore, but we decided that we would still like a collective to do that, we would have the option of changing that.

The hon. Member for Rhondda asked about the import of eggs. This relates to article 30 of EU regulation 589/2008. The provision simply confers power on the Secretary of State to make determinations of equivalence on marketing standards as a prerequisite for the import of eggs. We allow eggs to be imported only if they meet our marketing standard, which is currently an EU marketing standard. If in future a third country were to meet that standard, which is set out separately in law, there would need to be a body that attests to the fact. That is a power that the Secretary of State must have in future, as the EU will no longer be able to do that for us.<sup>1</sup> Again, that is a very technical thing around determinations of equivalence on marketing standards.

There is a wider issue with eggs: some egg producers are concerned that they might be exposed to competition from other countries, such as Ukraine, under a proposed tariff suspension. Some might also be concerned about their exports. We do not export a huge amount of eggs, but we export poultry meat. Those issues are perhaps for another day; I am sure we will have discussions on tariff rate schedules and so on in the future.

Finally, my hon. Friend the Member for Windsor asked whether we can improve standards. When we have passed the Agriculture Bill, we will have in place the primary legislation that is needed to change and improve these types of processes, but not until then. He will understand that the purpose of the European Union (Withdrawal) Act 2018 is to bring across, warts and all, the existing EU system. It is not about changing things, but about continuity, and the regulations seek to preserve continuity wherever they can.

My hon. Friend the Member for Windsor also asked about the devolved Administrations. When we leave the European Union, there will be huge scope for the devolved Administrations to have new powers over their agriculture policy. Agriculture is generally devolved policy, so they will have a new, additional set of powers that they do not have now, as those powers are now exercised by the EU. This statutory instrument is specifically about reserved powers relating to competition law, international trading standards and the like. All the powers set out in the regulations are reserved, and would remain reserved under our devolution settlement, even after we have left the European Union.

I hope that I have addressed as many of the problems and issues raised as possible, and I hope that the Committee will support the statutory instrument.

*Question put and agreed to.*

4.59 pm

*Committee rose.*

