

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DIRECT PAYMENTS TO FARMERS (CROP
DIVERSIFICATION DEROGATION) (ENGLAND)
REGULATIONS 2020

Wednesday 3 June 2020

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

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| † Bailey, Shaun (<i>West Bromwich West</i>) (Con) | † Morris, James (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Bradshaw, Mr Ben (<i>Exeter</i>) (Lab) | † Murray, Mrs Sheryll (<i>South East Cornwall</i>) (Con) |
| † Campbell, Sir Alan (<i>Tynemouth</i>) (Lab) | † Prentis, Victoria (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) |
| † Colburn, Elliot (<i>Carshalton and Wallington</i>) (Con) | † Stevenson, Jane (<i>Wolverhampton North East</i>) (Con) |
| † Grundy, James (<i>Leigh</i>) (Con) | Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| † Gullis, Jonathan (<i>Stoke-on-Trent North</i>) (Con) | † Zeichner, Daniel (<i>Cambridge</i>) (Lab) |
| Gwynne, Andrew (<i>Denton and Reddish</i>) (Lab) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † Higginbotham, Antony (<i>Burnley</i>) (Con) | † attended the Committee |
| Hillier, Meg (<i>Hackney South and Shoreditch</i>) (Lab/Co-op) | |
| † Jones, Fay (<i>Brecon and Radnorshire</i>) (Con) | |
| Jones, Ruth (<i>Newport West</i>) (Lab) | |

Second Delegated Legislation Committee

Wednesday 3 June 2020

[STEWART HOSIE *in the Chair*]

Direct Payments to Farmers (Crop Diversification Derogation) (England) Regulations 2020

2.30 pm

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

That the Committee has considered the Direct Payments to Farmers (Crop Diversification Derogation) (England) Regulations 2020 (S.I. 2020, No. 475).

It is a pleasure to serve under your chairmanship, Mr Hosie, in this novel proceeding. It is good to be here. If hon. Members cannot hear, they can wave a hand; we will manage.

This statutory instrument will remove the crop diversification requirements from the direct payment scheme in England in 2020, which means that farmers in England will not be required to grow more than one crop in order to receive their full greening payment. Although it is hard to remember, England experienced prolonged wet weather last autumn and winter, which had a serious impact on farmers' ability to comply with the greening rules. This SI presents a sensible and proportionate response to that situation, and it is fully supported by farmers and landowners.

The SI is made under article 69(1) of regulation 1307/2013, which was incorporated into domestic law for 2020 by the Direct Payments to Farmers (Legislative Continuity) Act 2020, and relates to this year only. We are continuing to act in accordance with the EU legislation that has been rolled over, in line with our decision to operate an equivalent direct payment scheme for this year in order to maintain the state aid exemptions that were laid out in the withdrawal agreement.

I want to say a bit more about the wet weather that came upon us over the autumn and winter; that will hopefully make it clear to hon. Members why this SI is so necessary. We really did have extreme wet weather last winter, and it had a very significant adverse impact on farm communities. Large areas of farmland were under floodwater or were severely waterlogged. It left farmers thinking over the winter that they might have the option of planting spring crops, but those plans were pushed back by yet more rain following two severe storms in February, which left land flooded and waterlogged again.

From September 2019 right through to February 2020, England experienced significantly higher rainfall than the long-term average. In February, when farmers were preparing to enter the period when they would normally plant spring crops, rainfall was at 267% of the average. Where farmers could not even get to flooded land, or land was simply too waterlogged to plant on, there were obviously significant difficulties with cultivation. That meant that it was very difficult for some farmers to meet crop diversification requirements.

Without this SI, there would have been penalties for not meeting the greening element of direct payments, which is worth approximately 30% of a claim. Farmers welcome our approach, and industry stakeholders such as the National Farmers Union have told us that it “will make a huge difference to thousands of farmers in England”.

The Country Land and Business Association has also been very supportive of our decision. We hope the derogation will provide much-needed relief for the thousands of farmers who have not been able to plant the crops that they wished to plant this year.

The SI is about supporting farmers who faced a very difficult cropping season. I stress that the derogation is not a covid-19 response measure, but in the context of what is going on, it is all the more needed. I commend the regulations to the Committee.

2.34 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve under your chairmanship, Mr Hosie. I extend a warm welcome back to the many people who spent many happy hours in this room a few months ago, discussing the Agriculture Bill. As the Minister accurately explained, at the time, we were suffering a period of intense rain; now, of course, we are suffering from drought. It seems like quite a long time ago, but there is no doubt that the awful impact of the floods caused by Storms Ciara and Dennis was intense. You will be relieved to hear that we will support this instrument, and there will be no need for a Division, Mr Hosie.

Let me take the Minister back to a happy discussion that we had in this place on 3 March, when we were debating clause 9 of the Agriculture Bill, and I quoted *Farmers Weekly* to her. Minette Batters, the president of the National Farmers Union, said at its conference that farmers were hugely frustrated:

“We have left the EU, half the country's under water and we are still going to abide by”

the three-crop rule

“and process thousands of force majeure claims. It just seems absolutely extraordinary.”

My question to the Minister is: why has it all taken so long? Why so slow? In her answer that day, she hinted that there was a range of technical difficulties, and that things would happen soon. That was March, and here we are in June. I can offer some suggestions as to why it took so long. Of course, when the same thing occurred back in 2018, we were members of the EU, and we sought a derogation from the European Commission. Life is not so simple now; it is much more complicated. We have the complexity of the Direct Payments to Farmers (Legislative Continuity) Act 2020, its relationship with the retained EU legislation, and the need to remain World Trade Organisation compliant, so I can kind of understand why this is difficult, but there is a marked contrast with what we were told in December: “It's all so easy—it's oven-ready!”. Frankly, even just this little bit of the process looks like a dog's dinner. A lot of time is going to be spent in Delegated Legislation Committees over the coming months discussing the complexity and cost of the scheme.

The cost is another thing that I want to ask the Minister about. She may tell me that my analysis of why the change has taken so long is incorrect—if she has another explanation, I would like to hear it—but I

would also like to hear about the cost to farmers. Delayed decisions cost money, and there are those who did not know what the outcome of this discussion would be. Some bought seed—some, I am told, at higher prices than normal—so there are consequences to these delays. Has an assessment been made of the cost of that? If not, it would be interesting to understand why.

I listened very closely to the Minister, as always, and I am well aware that the three-crop rule is unpopular with many farmers, but it was introduced for a purpose. The greening element of the direct payment system was an attempt to tackle the increase in monoculture that we see right across Europe. Many say that it is a blunt instrument, and I do not disagree, but it had a serious purpose. Some will say that we do not need it here, and others will say that we do, but I hope we all agree that we want to challenge those monocultures. In a sensible rotation system, that rotation would be part of good farming practice.

I suspect that the Minister knew that I would come armed with my favourite document. Under the new system that we discussed at length a few months ago, is it possible to imagine an environmental land management scheme that does not encourage this kind of good farming practice? We certainly do not want to encourage a further move to monoculture. Furthermore, under that system, will there be a process for similar derogations in the event of extreme weather conditions? I do not think she will be able to answer that—I expect she will say tell us that this is an iterative process—but I ask it to make it clear that designing interventions to achieve these ends is often harder than it looks.

That raises a further question. As I say, the three-crop rule was a blunt instrument, but today we are approving a derogation that potentially undermines the greening intent in parts of the country that were perhaps not so badly affected by floods, with the purpose, absolutely rightly, of helping those who were badly impacted. Will the Minister tell us what plans there are to avoid this kind of situation cropping up in the future? In a spirit of constructiveness, I suggest that a more regionalised approach in England could be helpful, or could even achieve the baseline environmental standards that Labour argued for in the Agriculture Bill. The greening intent of the greening measures was to tackle some of the very causes of the extreme weather we are suffering from. We have a climate crisis, and we should be careful that, in dealing with the immediate consequences, we do not undermine the very tools we are trying to put in place to minimise the risk of such occurrences in future.

We are in the special position of benefiting from the excellent discussion that took place in the House of Lords yesterday. There were many excellent contributions, but one or two points from that discussion are worth teasing out. In the other place, the Minister—Lord Gardiner of Kimble—rightly said in his opening statement:

“Having up to 30% of their payment at risk would be a significant financial burden for farmers to bear and cause considerable worry.”—[*Official Report, House of Lords*, 2 June 2020; Vol. 803, c. 1297.]

I totally agree with him, but I wonder whether the Minister before us could explain why those worries are different from the worries of those who face similar losses over the next couple of years during the move to a new system. I also note that a number of contributors

yesterday picked up the point about extra costs caused by uncertainty—so much so that some called for clarity for next year, on the basis that decisions will need to be made very soon.

The Minister said clearly that this measure is for this year only, but when I listened to the Minister in the Lords winding up yesterday, it seemed a little more complicated than that. He said he had been asked

“how any BPS changes will be made after 2020. We will of course use powers in the Agriculture Bill. The Government intend to bring forward SIs to continue the direct payment schemes for the 2021 scheme, to begin to phase these payments out and to simplify the schemes. I fear that this will require rather more than one SI, but I have sympathy with all noble Lords looking to minimise the number of separate statutory instruments, within reason. The Government have said that the simplifications for 2021 could include removing some or all of what I would describe as burdensome greening rules. Removing these rules would, for example, avoid the need for an SI next year to derogate for crop diversification rules should—I emphasise ‘should’—extreme weather occur again.”—[*Official Report, House of Lords*, 2 June 2020; Vol. 803, c. 1310-11.]

That is not all that terribly clear to me. It seems to suggest that a very complicated picture is emerging, in which there is a mixture of retained EU law, sustained by the continuity Act and related SIs, and the so-called burdensome environmental elements, possibly modified through clause 9 of the Agriculture Bill—but with that being dependent on extreme weather. Obviously, we all hope that we do not have extreme weather next year, but it seems unclear whether the short to medium-term approach to basic payments includes the three-crop rule. Perhaps the Minister can clarify that.

I conclude by observing that this all seems very slow; it takes many months to do simple things. That seems to be a problem that the Government have in other areas as well. We have a climate emergency; we do have extreme weather, and it is of course important to help where we can, which is why the Labour party supports the derogation today. However, we must also be careful to not undermine environmental measures that are designed to tackle that crisis.

2.43 pm

Victoria Prentis: I always enjoy debating with the hon. Gentleman. He will be glad to know that the document to which he referred is known throughout the Department as “Daniel Zeichner’s favourite document”, if I may use the hon. Gentleman’s name. We spent many happy hours on the Agriculture Bill Committee discussing it. I hope I will deal with all his points; if I do not, I am happy to follow up in conversation afterwards.

On the serious matter of when the decision to make the policy change that led to this SI should have been taken, the answer is simply that as the wet weather continued and Storms Ciara and Dennis kept raining down on us, the Department concluded that the mitigations that had initially been recommended were not plausible, and were not a sensible course of action for farmers to take. For example, as I said earlier, spring cropping became in no way a sensible solution.

We continued to monitor the weather between September and February, and to evaluate all the available options. The Rural Payments Agency published guidance in January on how farmers could meet the rules, or use existing exemptions that were built into the greening scheme where applicable. However, shortly after the

[Victoria Prentis]

really big, named storms, a general derogation became sensible. We continued to consult with stakeholders, but the legislation had to be introduced by early this month to ensure that farmers remained compliant with the rules, so the reason was to do with the weather and legal complexity.

I turn to the environmental impact of this change. I am confident that removing the three-crop requirement for this year will not have a negative impact on the environment. It is generally recognised and well documented that the three-crop rule and crop diversification rules do not deliver the environmental or climate-related outcomes for which they were designed. I refer the hon. Gentleman to what I hope might become a favourite document: the European Court of Auditors' 2017 special report on greening. That document bears inspection, because it makes it clear that greening has been something of a blunt instrument, to use his terminology. While he is right that monoculture is not the way forward, we do not want to end up with a system that uses binary rules in such a way.

On the hon. Gentleman's questions about the future farming programme, I reassure him that rotation will be in there, as he would expect. This derogation, however, is necessary because of a prolonged period of wet weather and flooding across England. As the wet weather

got worse over spring, it became clear that the problem covered all regions. I accept that that is unusual, but we have good, detailed evidence that it was a real problem for the whole of England. That was something else we had to monitor continually. That is why the derogation is appropriate.

As the hon. Gentleman knows, this year we are operating under retained EU legislation and maintaining an equivalent scheme to the basic payment scheme. For future years, the Agriculture Bill provides us with powers to modify legislation and remove the unnecessary bureaucracy associated with that scheme. He will also know that we want to remove that bureaucracy at the earliest opportunity. Simplification for next year could, for example, see the removal of some or all of the greening requirements, including the crop diversification rules.

The regulations, which amend retained EU law to remove crop diversification requirements for this year, are welcomed by the farming industry as a much-needed measure to support England's farmers in the aftermath of the very bad weather over the winter. I commend the regulations to the Committee.

Question put and agreed to.

2.47 pm

Committee rose.

