

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT NUTRITION (AMENDMENT ETC.)  
(EU EXIT) REGULATIONS 2020

*Monday 2 November 2020*

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

*Chair:* CAROLINE NOKES

† Argar, Edward ( <i>Minister for Health</i> )	Higginbotham, Antony ( <i>Burnley</i> ) (Con)
Brennan, Kevin ( <i>Cardiff West</i> ) (Lab)	† Kruger, Danny ( <i>Devizes</i> ) (Con)
Butler, Dawn ( <i>Brent Central</i> ) (Lab)	† Mak, Alan ( <i>Havant</i> ) (Con)
Byrne, Ian ( <i>Liverpool, West Derby</i> ) (Lab)	† Norris, Alex ( <i>Nottingham North</i> ) (Lab/Co-op)
† Carter, Andy ( <i>Warrington South</i> ) (Con)	† Rutley, David ( <i>Lord Commissioner of Her Majesty's</i> <i>Treasury</i> )
† Charalambous, Bambos ( <i>Enfield, Southgate</i> ) (Lab)	† Williams, Craig ( <i>Montgomeryshire</i> ) (Con)
† Clarke-Smith, Brendan ( <i>Bassetlaw</i> ) (Con)	Liam Laurence Smyth, <i>Committee Clerk</i>
† Crosbie, Virginia ( <i>Ynys Môn</i> ) (Con)	
Cryer, John ( <i>Leyton and Wanstead</i> ) (Lab)	
† Everitt, Ben ( <i>Milton Keynes North</i> ) (Con)	
Grady, Patrick ( <i>Glasgow North</i> ) (SNP)	† <b>attended the Committee</b>

## Second Delegated Legislation Committee

Monday 2 November 2020

[CAROLINE NOKES *in the Chair*]

### Draft Nutrition (Amendment etc.) (EU Exit) Regulations 2020

4.30 pm

**The Chair:** Before we begin, I have to remind Members about social distancing. Thank you all for sitting in appropriate spaces, and I ask that all unmarked spaces please remain unoccupied. *Hansard* colleagues would be grateful if anybody who has speaking notes could email them to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). I call the Minister to move the motion.

**The Minister for Health (Edward Argar):** I beg to move,

That the Committee has considered the draft Nutrition (Amendment etc.) (EU Exit) Regulations 2020.

It is a pleasure to serve under your chairmanship, Ms Nokes, I think for the first time, and to appear once again opposite the shadow Minister. I fear we are becoming something of a double act in these Delegated Legislation Committees.

The statutory instrument that we are considering concerns nutrition-related labelling, composition and standards, and follows on from SIs 2019/650 and 2019/651. Its purpose is twofold. First, it reflects the protocol on Ireland and Northern Ireland by amending the Nutrition (Amendment etc.) (EU Exit) Regulations 2019 and revoking the Nutrition (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, which for brevity I will refer to as the 2019 regulations and the 2019 Northern Ireland regulations. Secondly, it remedies deficiencies in retained European Union nutrition legislation—that is, legislation that has come into force since March 2019 and therefore qualifies as retained legislation that must be incorporated.

As the instrument is technical in nature, I am sure that members of the Committee will welcome a brief summary of the regulations and the changes that we are making. The 2019 regulations were made in preparation for our exit from the European Union and will come into force at the end of the transition period. They will ensure that the regulatory framework for nutrition-related labelling, composition and standards remains functional throughout England, Scotland, Wales and Northern Ireland following the end of that transition period. They achieve that by making technical amendments to EU nutritional legislation, such as changing EU-specific references that will be redundant on exit day and transferring functions and powers currently held by the European Commission to the appropriate authorities in each of the UK's constituent nations.

The primary purpose of today's instrument is to give effect to the Northern Ireland protocol. Since the 2019 regulations were made in the context of planning for no deal, the withdrawal agreement has been agreed. Therefore, a revised protocol on Ireland and Northern Ireland has been agreed. In practice, that protocol requires that EU

nutrition legislation is continued in its application in Northern Ireland while the equivalent EU legislation is retained or acquired in domestic legislation, as amended by the 2019 regulations in the nations of Great Britain.

The instrument therefore removes Northern Ireland from the scope of the 2019 regulations, omitting references to Northern Ireland and changing UK-specific references instead to read "Great Britain", and prevents functions from being transferred from the European Commission to the Department of Health in Northern Ireland, as would have been the case in a no-deal scenario. The instrument also revokes the 2019 Northern Ireland regulations, which amended domestic nutrition legislation in Northern Ireland in preparation for the end of the transition period. Those amendments and revocations ensure that EU nutrition legislation continues to apply in accordance with article 5 of the Northern Ireland protocol in Northern Ireland, and that our obligations under that protocol are met.

The secondary purpose of the instrument is to remedy deficiencies in retained EU nutrition legislation, specifically concerning measures on infant formula and claims that can be made on pre-packaged food that have come into force since the 2019 regulations were made. The amendments are technical in nature—for example, removing references to the EU and its institutions that will no longer be appropriate following the end of the transition period.

The devolved Administrations have been fully involved in the drafting of the instrument at every stage, and I am grateful for their continued collaborative approach. I particularly thank Robin Swann in Northern Ireland and his officials for their efforts to ensure that this policy area will continue to operate in the right way and to the same standards as it does now following the end of the transition period. Indeed, the devolved Administrations have provisionally agreed a common framework for this area that aims to maintain existing standards and promote common approaches to nutrition policy in the future.

I am also pleased to say that we have worked openly and collaboratively with stakeholders more widely. A public consultation on the statutory instrument was held in July, during which a draft was made publicly available. We remain grateful to the broad range of stakeholders who responded, with the majority supportive of the approach to give effect to the protocol in the legislation, of the amendments to retained EU legislation, and of our assessment of the impacts.

Some respondents requested more detail on the processes with which industry will have to comply. The Government's response to the consultation was published on 24 September, and my Department has updated the relevant EU exit guidance. Updated guidance is being tested with key stakeholders to ensure that it is fit for purpose, and it will be published on [gov.uk](http://gov.uk) later this month. I am confident that those documents will address any residual concerns that stakeholders may have.

As the instrument proposes no significant changes to the regulatory regime, we estimate that there will be no significant impact on industry or the public sector. In practice, although the protocol means that the legal basis for EU nutrition legislation applying will continue to be directly applicable in Northern Ireland, and the same legislation will not apply to the nations of Great Britain following the end of the transition period, the

instrument, as I have emphasised, simply makes technical amendments to ensure that the regulatory framework remains functional through England, Scotland, Wales and Northern Ireland, and implements no policy changes. Nutrition-related labelling, composition and standards will therefore remain the same, in effect, throughout the UK.

Trade from Northern Ireland to the rest of the UK should continue to take place as it does now. There should be no additional process or paperwork, and there will be no restrictions on Northern Ireland goods arriving in the rest of the UK—that is, there will be unfettered access, as provided for by the protocol. Therefore, at the end of the transition period businesses in any part of the UK may continue to place their goods in any part of the UK internal market without new restrictions.

I reassure members of the Committee that the overarching aim of the SI is to provide continuity for business, to ensure that following the end of the transition period exceptional standards of safety and quality for nutrition regulation will continue across the UK, and to reflect the obligations under the Northern Ireland protocol. I commend the draft regulations to the Committee.

4.37 pm

**Alex Norris** (Nottingham North) (Lab/Co-op): It is a pleasure to serve with you in the Chair, Ms Nokes. When I saw this SI come through, just before recess, my heart leapt a little to be considering secondary legislation not related to covid. Then I realised that it was related to Brexit and my happiness disappeared just as quickly as it had arrived.

When my predecessor, my hon. Friend the Member for Washington and Sunderland West (Mrs Hodgson), addressed the original regulations that we are amending, she began with a caveat on the danger of a no-deal scenario, and the danger that the Government were running out of time. It is incredible, and quite startling, that 18 months later we have no greater clarity. In many ways, the world seems an entirely different place. This Parliament certainly seems an entirely different place than it was 18 months ago; however, the issue is still there. This time last year, the Government were making very clear and un-caveated promises, which many hon. Members were elected on, about an oven-ready deal. They ought to, and must, deliver on that.

I am grateful to the Minister for his letter in recent days seeking our support on this issue, and I can confirm that we do not intend to divide the Committee. As he said, he and I are on this travelling tour. I believe we have secondary legislation to consider on Monday, Tuesday and Wednesday this week—a trilogy befitting Ali and Frazier, I would say. I do not think that the final one is in Manila, but I believe it is in the Chamber. It will be box office, but hopefully not £15 to watch.

As the Minister set out, it is important to make these regulations, and to change the references to the UK that there were under EU law to reference Great Britain instead. The Department of Health in Northern Ireland will not have the same functions transferred to it as the rest of the UK. The amendments will ensure that EU law continues to apply in Northern Ireland and the EU-retained law in England, Scotland and Wales will therefore be effective. I must say, again, that that breaks a spectacular number of Government commitments

that we have heard in the Chamber on the treatment of Northern Ireland. I know that public interest has moved on, that we are upstairs, and that no one is watching, but frankly if any Government Members are really satisfied with that scenario and think that it is reputable and honourable way of doing things, frankly I disagree. That is no commentary at all on the Minister. He is an excellent Minister, who I hold in high regard, but this is extraordinary and really disappointing. Nevertheless, for us not to support these regulations today would render the regulations as a whole ineffective and would not be in the interests of the nation, so I will just pick up a couple of issues that I hope he can cover.

As per the European Union (Withdrawal Agreement) Act 2020, as we know, Northern Ireland is obliged to align with specific EU rules. Looking at the bigger picture, time is running out for the Government to implement the remaining elements of the protocol, which comes into force in less than 60 days. Proper implementation is vital for the protection of the Good Friday agreement, so could the Minister update us on progress with the rest?

We know that labelling, specifically, is a critical concern for food and drink manufacturers in Great Britain and Northern Ireland. As has been outlined, we will have different trading rules in Great Britain and Northern Ireland on 1 January, and there is a real risk that labelling used in Britain will no longer be legally recognised in Northern Ireland or on the continent. I seek assurance on the record from the Minister that that will not be the case, because that would be a significant concern.

I recognise what the Minister has said about stakeholders, but trading bodies have warned throughout the process that unless they get guidance in time they will not be able to prepare. As well as meeting their expectations on frictionless trade, will we also be able to meet their expectations on timeliness and being able to act and prepare?

I do not want to rehash the arguments over the United Kingdom Internal Market Bill, because that is the settled will of the House, but the point must still be made about the negotiation tactics, the threats to breach laws, the breaking of promises made in general elections and the tone that that will set in any future regulatory conversations we have at the Joint Committee if business is to get that certainty. Again, we must be responsible in the way we negotiate with our partners, because we are going to have to work with them in January, February and for centuries to come. We might be leaving the EU, but we are certainly not leaving the continent of Europe. Could the Minister give us an assurance that the protocol will be implemented urgently, so that the businesses that are asking us will have that reassurance?

In the previous airing of the original regulations, my predecessor in this role, my hon. Friend the Member for Washington and Sunderland West, raised her concerns over the impact on businesses, as some respondents to the consultations on the regulations had raised them and thought there was an underestimation of the burden of submitting health claims. The Minister has said today that there will be no burden, so I would like to just ensure that I have heard that right: no extra forms, no online forms, no virtual forms and everything basically the same on 1 January as it was on 31 December. That would be an important and welcome commitment.

[Alex Norris]

I conclude by asking for an update on the preparedness of the UK Nutrition and Health Claims Committee and the relationship it will have with the European Food Safety Authority, whatever the outcome of ongoing negotiations. That is in our interests. There is one other thing; perhaps it is not an issue for today, but it is important and we have never quite been able to tease it out in the getting on for three-and-a-half years that I have been in this place. Throughout that time we have always wanted to know what is behind the curtain on divergence of regulations, so I urge the Minister to take this moment to tell us. We will have the chance to have different labels from Northern Ireland: why might we wish to do that and, if so, what will that be used for?

I repeat what I began with: this is all a lot easier when no deal is removed from the table, because it takes away the damaging uncertainty, focuses efforts and dials down the rhetoric. I hope we can see that and I hope the Minister can address some of the concerns I have raised.

4.44 pm

**Edward Argar:** I am grateful to the shadow Minister, as always, for his tone, which is always reasonable and measured in these Committees. He will know that this is a technical amendment reflecting the fact that we signed a withdrawal agreement, and the Northern Ireland protocol was part of that. It reflects our commitment to deliver on that.

The shadow Minister spoke about the bigger picture. Negotiations are ongoing, and I would not wish to prejudge them. He is right to highlight the importance of the approach that has been taken. That applies to both sides, of course, and it is important that everyone negotiates openly and willingly and seeks to find a way forward. That is exactly what the Government are doing.

He talked about where we are on implementing other aspects of the Northern Ireland protocol pertinent to this Department, and about my responsibilities. As he rightly highlighted, it is important that we continue to work on implementing them, and I suspect he will have the pleasure in the coming months of more Committee

meetings on delegated legislation such as this to reflect the other aspects of the Northern Ireland protocol that will need to be put into secondary legislation. He will see further developments on labelling, to which he referred.

He mentioned guidance and giving clarity to business. The updated guidance should be published later this month. There is already guidance, but it will be revised to reflect what industry said. We have increasingly put out updated guidance more broadly about the impact of the impending end of the transition period on different aspects of the Department's work, and policy responsibilities that relate to Northern Ireland, the continuity of supply and a whole range of other things. We engage directly with the industry and individuals through a series of webinars, calls and a range of engagement activities. He is absolutely right that it is important to get the guidance up as soon as we can, which is what we are doing.

He asked about divergence. He is a colleague from the east midlands, and he knows that I am extremely fond of him, but I have been here too long to be tempted by him on that particular issue.

He asked about additional process, paperwork and burdens on industry. To reassure him, I repeat what I said in my opening remarks: there should be no additional process or paperwork flowing from this SI, so in our assessment there will not be a burden from it.

He also mentioned food labelling more broadly and the wider context. We are proud of our world-leading food health and animal welfare standards, not least those relating to nutrition. We will not lower our standards or put the UK's biosecurity at risk as we negotiate new trade deals and as the transition period ends. We remain committed to promoting robust food standards, including nutritional standards, nationally and internationally to protect consumer interests.

I hope I have covered everything that the hon. Gentleman asked. If I have missed anything, I will, as always, drop him a note to cover it.

*Question put and agreed to.*

4.47 pm

*Committee rose.*



