

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT AIR QUALITY (LEGISLATIVE FUNCTIONS)
(AMENDMENT) REGULATIONS 2021

Tuesday 27 April 2021

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The Committee consisted of the following Members:

Chair: †SIR CHRISTOPHER CHOPE

Bradshaw, Mr Ben (<i>Exeter</i>) (Lab)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Caulfield, Maria (<i>Lewes</i>) (Con)	Pursglove, Tom (<i>Corby</i>) (Con)
Davies, David T. C. (<i>Parliamentary Under-Secretary of State for Wales</i>)	† Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab)
Duguid, David (<i>Parliamentary Under-Secretary of State for Scotland</i>)	† Spellar, John (<i>Warley</i>) (Lab)
Efford, Clive (<i>Eltham</i>) (Lab)	Thomson, Richard (<i>Gordon</i>) (SNP)
Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Throup, Maggie (<i>Lord Commissioner of Her Majesty's Treasury</i>)
Jones, Fay (<i>Brecon and Radnorshire</i>) (Con)	Winter, Beth (<i>Cynon Valley</i>) (Lab)
† Jones, Ruth (<i>Newport West</i>) (Lab)	
† Mann, Scott (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Nicholas Taylor, <i>Committee Clerk</i>
† Morris, James (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† attended the Committee

Fourth Delegated Legislation Committee

Tuesday 27 April 2021

[SIR CHRISTOPHER CHOPE *in the Chair*]

Draft Air Quality (Legislative Functions) (Amendment) Regulations 2021

2.30 pm

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

That the Committee has considered the draft Air Quality (Legislative Functions) (Amendment) Regulations 2021.

As ever, it is a pleasure to see you here with us, Sir Christopher.

The regulations, which were laid before the House on 22 March, make amendments to a piece of retained direct European Union law on pollutant release transfer registers, otherwise known as PRTR. The legislation, which originated in the EU, would otherwise be left partially inoperable, now that the transition period has ended, because the powers to make changes to PRTR legislation previously sat with the European Commission.

Provision for the transfer of powers for PRTR was included in regulations made in 2019, namely the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 (S.I. 2019/473). However, the PRTR regulation was amended in EU law after the 2019 EU exit SI was made, which meant that the PRTR part of the EU exit SI no longer operated as intended. Therefore, further amendments to the PRTR regulation are needed to ensure that transfers of legislative powers are reinstated and have effect as intended, following EU exit.

The SI amends the PRTR regulation to confer two powers. The first power enables the Secretary of State and the devolved Administrations to make regulations regarding reporting on releases of pollutants from diffuse sources. The appropriate authority can do that if it determines that no data on the release from diffuse sources exists, and it must use internationally approved methodologies where appropriate. The second power enables the Secretary of State to amend annex II of PRTR regulation. Annex II sets out a list of pollutants and threshold values, which, if exceeded, operators of industrial facilities are required to report any releases of to air, land or water. I would like to reassure members of the Committee that the power will enable the Secretary of State to amend annex II only for the purposes of adapting it to scientific or technical progress, or to reflect any future amendments of the UN PRTR protocol.

Both powers are limited in scope and can only be exercised for the specific purposes, so it is appropriate for them to be exercisable by secondary legislation. It is important to ensure that the UK Government and the devolved Administrations hold those powers so that they can act quickly on emerging scientific or technical evidence, such as a new pollutant or activity on which it

is in the public interest to report pollution information. The register is very much all about transparency of the pollutants in our world.

The powers also ensure that the Government can reflect in UK legislation any changes made to the PRTR protocol, so that we can continue to meet UK obligations under the Kiev protocol. We continue to support the UN Economic Commission for Europe Kiev protocol and to publish industrial pollution release and waste transfer data on an annual basis. We anticipate that any future changes to the protocol will be to strengthen parties' reporting to better fulfil the aims of that protocol, rather than being fundamental changes to its principles.

Those powers mean that future such changes to the regulation will be made with secondary legislation, which is the most proportionate approach for the types of technical amendments necessary. Such amending legislation will be subject to the negative procedure, which would allow appropriate scrutiny, given the technical nature of any changes.

The PRTR regulation will continue to function in a similar way to how it always has, but with UK authorities now having legislative functions under the regulation. I should make it clear that all the amendments introduced by the SI are ones of technical operability that will maintain the effectiveness and continuity of this important UK industrial emissions reporting obligation. The regulations maintain existing regulatory standards and do not create new policy.

I would like to clarify some administrative points regarding the SI for the benefit of members of the Committee. First, the SI is subject to the affirmative procedure as it involves the transfer of powers. I can confirm that, secondly, the SI was not subject to consultation, as it does not alter existing policy.

In line with published guidance, there has been no need to conduct an impact assessment for the SI, because no impact on the private or voluntary sector is foreseen, as it relates to the maintenance of existing regulatory standards. There are no direct or cost impacts arising from the regulations.

The SI forms part of important air quality and industrial emissions legislation. Members of the Committee will be aware of other important legislation that we have introduced to improve air quality, such as the new legislation restricting the sales of the most polluting fuels used in domestic burning—it comes into force shortly on 1 May. That will restrict the sale of traditional house coal, small volumes of wet wood and high sulphur manufactured solid fuels. In addition, through the Environment Bill we will ensure that local authorities have more effective powers and a clear framework for tackling air pollution in their areas. That includes ensuring that responsibility is shared across local government structures and with relevant public bodies.

Without further ado, I commend the draft regulations to the Committee.

2.36 pm

Ruth Jones (Newport West) (Lab): It is a pleasure to serve under your chairmanship, Sir Christopher, and thank you for leading our deliberations. It is also a pleasure to be with the Minister, yet again, and with other colleagues.

The SI makes amendments to retained direct EU legislation relating to air quality under section 8(1) of the European Union (Withdrawal) Act 2018 to ensure that it continues to operate effectively, as the Minister has outlined. The PRTR regulation has a nice ring to it.

It is important to note that the corrections that are being made through restatement are necessary to clarify the retained direct EU law covered by the SI. The instrument will ensure that the legislation operates properly, and please be assured that the Opposition will make sure of that.

As the Minister outlined, the SI will allow UK authorities to operate specific legislative functions in the UK to ensure that the regime of the retained direct EU law continues to function smoothly without the need for primary legislation every time a change is required. As the Minister said, the SI does not make changes to substantive policy content, but the Opposition will continue to identify ways to make substantive changes to the policy content of the Government's environmental agenda in general.

Air quality is one of the most important policy areas in the Minister's inbox, and one of the most important issues to all our constituents the nation over. The facts are there for all of us to see; they show just how damaging toxic air is to our communities and its disproportionate impact on the health and wellbeing of our people.

The covid-19 virus has highlighted those inequalities, and the virus has disproportionately had an impact on those living in areas with the worst air pollution. As I have said before, the Government are weak on tackling toxic air, and weak on the causes of that air. At each stage of the Environment Bill, or the "Missing in Action" Bill, as we like to call it, Ministers and their Whips have forced Tory Back Benchers to oppose Labour amendments, which were focused on tackling toxic air and showing the leadership demanded of the Government—action proposed by Labour, but voted down by the Tories.

Air pollution is bad for everyone, but for the 12 million people in the UK who live with a lung condition such as asthma or chronic obstructive pulmonary disease, COPD, it poses a real and immediate threat to their health. A spike in air pollution levels can lead to symptoms getting worse, flare-ups, or even the risk of hospitalisation. As of last week, we now know from the coroner that it can lead to death. There is robust evidence of a clear link between high levels of air pollution and increased numbers of patients with breathing problems presenting at hospitals and GP surgeries.

Air pollution can worsen existing health inequalities; people in the poorest areas are often the most exposed to air pollutions, which reinforces unequal health outcomes for deprived communities. It can also contribute to health inequalities later in life. Children living in highly polluted areas are four times more likely to have reduced lung function in adulthood.

If you do not mind people marking their own homework, Sir Christopher, you will be satisfied that the UK is currently meeting legal limits for particulate matter 2.5, but that is only because our legal limit is more lenient than that recommended by the international health community. The UK legal limit for particulate matter 2.5 is more than twice as high as the World Health Organisation recommendation.

The Chair: Order. I am listening with interest to what the hon. Lady is saying, and I would be grateful if she could explain how her comments link with this specific statutory instrument. I have indulged her with a bit party political fun, as often happens in these Committees, but I hope that she will now confine her remarks to what is contained within the SI.

Ruth Jones: Thank you, Sir Christopher; I am grateful for your advice. I was setting out the context behind why it is vital that we acknowledge the devastating way in which toxic air has played a part in people's deaths, such as that of Ella Kissi-Debrah in 2013. The Opposition believe that it is Government inaction that has allowed catastrophic levels of air pollution to build up across the country, especially in the most deprived areas of our big cities.

The coroner ruled that Ella Kissi-Debrah died as a direct result of air pollution and said that it made a "material contribution" to Ella's death. Like so many, Ella was exposed to illegal levels of nitrogen dioxide and levels of particulate matter in excess of WHO guidelines.

We can do something about this if we want to. I invite the Minister to work with me and Labour's environment team to ensure that the Environment Bill is made fit for purpose and the WHO guidelines are written into law.

The SI is specific and focused, but it is linked to a wider set of issues and the bigger, more important fight for clean air. I urge the Minister to return to the Secretary of State and ask him to be bold, to go further and to start listening.

2.42 pm

Rebecca Pow: I thank the shadow Minister for her contribution, but thank the Chair for his intervention, because she did digress somewhat from the subject of the SI. She will get the chance to talk about air quality in the imminent Westminster Hall debate, but if you will allow me, Sir Christopher, I will address a couple of her comments briefly.

We have a clean air strategy that has been referenced by the WHO as an example for the rest of world to follow. We also have a £3.8 billion nitrogen dioxide strategy plan to clean up our air, and we have our landmark Environment Bill. That legislation is returning to the House shortly and as the hon. Lady knows, in it we are setting long-term legally binding targets to tackle air pollution, plus an exposure target. We are absolutely mindful of the critical importance of dealing with air pollution because it is the biggest killer and we are introducing a raft of measures to tackle it.

The hon. Lady touched on the inquest into the death of Ella Kissi-Debrah, and we will reply to that in due course. Our thoughts are constantly with the family, whom we have met and listened to.

The SI makes no change to the existing policy on UK industrial reporting or to the nature of the PRTR legislation. As I have outlined, the changes introduced by the SI are technical amendments that are required to ensure that we are able to continue to operate the regulation and carry out UK industrial pollution reporting under the PRTR legislation. Indeed, I would say that this country has an exceptional reporting system for our pollutants, and we will continue to work with other countries on the PRTR through the UNECE and the OECD.

[Rebecca Pow]

Should you, Sir Christopher, or any hon. Member want to look at the UK's pollution release and transfer register, they can go on the website, tap in their postcode and find out what pollutants are dominant in their area.

Should any colleague want to find that out, that facility is there in the PRTR. On that note, I commend the draft regulations to the Committee.

Question put and agreed to.

2.45 pm

Committee rose.