PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT HEALTH SECURITY (EU EXIT) REGULATIONS 2021

Tuesday 13 July 2021

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not later than

Saturday 17 July 2021

The Committee consisted of the following Members:

Chair: Mrs Sheryll Murray

Andrew, Stuart *(Treasurer of Her Majesty's Household)*
† Argar, Edward *(Minister for Health)*
† Caulfield, Maria *(Lewes)* (Con)
† Crosbie, Virginia *(Ynys Môn)* (Con)
Fellows, Marion *(Motherwell and Wishaw)* (SNP)
† Furniss, Gill *(Sheffield, Brightside and Hillsborough)* (Lab)
Johnson, Dame Diana *(Kingston upon Hull North)* (Lab)
Jones, Mr Marcus *(Vice-Chamberlain of Her Majesty's Household)*
Lewis, Clive *(Norwich South)* (Lab)
† Madders, Justin *(Ellesmere Port and Neston)* (Lab)
† Mak, Alan *(Lord Commissioner of Her Majesty's Treasury)*
Mann, Scott *(Lord Commissioner of Her Majesty's Treasury)*
Pursglove, Tom *(Corby)* (Con)
Russell-Moyle, Lloyd *(Brighton, Kemptown)* (Lab/Co-op)
Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
Sharma, Mr Virendra *(Ealing, Southall)* (Lab)
Throup, Maggie *(Lord Commissioner of Her Majesty's Treasury)*

Nicholas Taylor, *Committee Clerk*

† attended the Committee

Third Delegated Legislation Committee

Tuesday 13 July 2021

[Mrs Sheryll Murray *in the Chair*]

Draft Health Security (EU Exit) Regulations 2021

9.25 am

The Chair: Before we begin, I remind Members about social distancing regulations. Spaces available to Members are clearly marked. Mr Speaker has stated that masks should be worn in Committee, when Members are not speaking. *Hansard* colleagues would be grateful if Members sent any speaking notes to hansardnotes@parliament.uk.

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

That the Committee has considered the draft Health Security (EU Exit) Regulations 2021.

It is a pleasure not only to serve under your chairmanship for the first time, Mrs Murray, but to see you in person again—it has been a long time.

I am sure that hon. Members will agree that sharing information in order to co-ordinate health protection activity between all parts of the UK, as well as internationally, is critical in ensuring that we can effectively prevent and respond to serious cross-border health threats. That has been evident to us all, and of particular importance, during the pandemic. The regulations will ensure that such necessary co-ordination is maintained following our departure from the EU, and will enable us to continue to deliver high levels of human health protection across the whole UK. They modify retained EU law on health security to establish a stand-alone UK-wide regime.

The regulations form part of broader ongoing work to improve our health security capabilities, including through the establishment of the new UK health security agency, which will be fully operational from 1 October 2021. UKHSA will combine key elements of Public Health England, NHS Test and Trace and the Joint Biosecurity Centre. It will provide overarching leadership to strengthen partnership working and the response at local, regional and national levels. UKHSA will be this country's permanent organisation to build standing capacity to plan for, prevent and respond to threats to health. It will be able to deploy the full weight of our analytic and genomic capability on infectious diseases. It will work collaboratively with partners around the world to lead the UK's global contribution to health security.

The regulations will support UKHSA, alongside Public Health Wales, Public Health Scotland and the Public Health Agency of Northern Ireland, in quickly identifying and responding to a wide range of health threats. They will ensure that we maintain a robust and consistent UK-wide approach to health security that enables international working and links to international surveillance systems, which is so important.

I will briefly set out a little context. As hon. Members will know, on 24 December 2020, the UK-EU trade and co-operation agreement was announced. These regulations will support the UK in meeting the health security arrangements in that agreement. The TCA provides a strong basis for the UK and the EU to continue to co-operate closely on health security, including: a commitment to inform each other when new public health threats are identified in the UK or the EU; ad hoc UK access to the EU's database for sharing alerts, known as the early warning and response system; a provision for the UK to attend the EU Health Security Committee; and a commitment to co-operation between the UK and the European Centre for Disease Prevention and Control, including through the inclusion of a memorandum of understanding, which is being negotiated. It is because of these arrangements that the UK was given access to the EWRS for covid-19 from 1 January 2021, ensuring continuity after we left the EU, and we attend the Health Security Committee. Our current access has avoided any disruption in the flow of public health data during the pandemic.

While we were a member state, the UK was required to co-ordinate with the EU, and to share with it certain types of information on health protection, such as early alerts on newly identified threats. As health protection is predominantly a devolved competence in the UK, in order to effectively meet these obligations, the four UK nations had to co-ordinate and share the required information with Public Health England, which is the UK's focal point for communication with the EU. However, following the end of the transition period, this retained EU law relating to health security no longer operates effectively to set rules for such co-ordination on a UK-wide basis. Therefore, the proposed regulations modify and transfer functions previously carried out by the EU to a new UK health protection committee and to UKHSA, working in co-operation with their counterpart organisations in Wales, Scotland and Northern Ireland. Let me set out the key ways in which the regulations do this.

First, we recognise the importance of early alerting. That has been clearly illustrated by the pandemic. It is imperative that when a threat is identified, information is rapidly shared to enable the quick implementation of control measures that will reduce transmission rates in the general population and protect individuals. To ensure we have a robust early alerting system in the UK, these regulations require the UK's public health agencies to notify the UK's focal point—PHE, which will become UKHSA—within 24 hours of any new threats being identified.

For the purpose of these regulations, PHE is designated the UK's focal point, with that function transferring to UKHSA on 1 October. In this role, UKHSA will be responsible for receiving alert notifications of serious cross-border threats to health from the different parts of the UK, and then working jointly with them to conduct rapid risk assessments and put in place co-ordinated response measures as necessary.

To meet our obligations under the TCA, UKHSA must notify the EU of any threats occurring in the UK that may present a risk to EU member states. In return, the EU will notify the UK of any emerging threat in Europe that may present a risk to us. If the UK and the EU agree that it would be beneficial for the UK to have

access to EWRS for any threat, and to sit on that committee, UKHSA will be responsible for uploading and receiving related information to ensure continuity of flow.

Secondly, it is critical that we continue to conduct UK-wide epidemiological surveillance on known communicable diseases. The regulations therefore make provision for the UK's four public health agencies to conduct surveillance of communicable diseases on a shared list and related special health matters.

Thirdly, the regulations require the UK Government, the devolved Administrations and the UK's public health agencies to consult each other with a view to co-ordinating their respective monitoring, early warnings and responses to serious cross-border health threats. They must inform each other of any substantial revisions to preparedness and response planning.

Finally, to support the implementation and functioning of these regulations, we are establishing the UK health protection committee. The committee will regularly meet representatives from all parts of the UK, and will provide advice on the list of communicable diseases and related special health matters that are subject to UK-wide surveillance, and on the associated operational procedures. The committee will be accountable to the UK chief medical officers group.

As health security is an area of devolved competence, we have obtained formal consent for these regulations from the devolved Administrations, as the shadow Minister and the Committee would expect. In parallel, we are working together to develop a common framework that will further strengthen UK-wide governance arrangements on the prevention and control of serious cross-border health threats to complement these regulations.

To conclude, I must emphasise that these regulations are critical in ensuring that we continue to take a consistent and collaborative approach to health security in all parts of the UK and, importantly, with our European friends and neighbours. The regulations will help ensure that the UK can meet the obligations on health security that we recently agreed in the TCA, and represent an important step forward in the protection of our citizens and those across Europe.

9.33 am

Justin Madders (Ellesmere Port and Neston) (Lab): It is a pleasure to see you in the Chair, Mrs Murray. I thank the Minister for his introduction, and for setting out the effect of the regulations. As he says, in the last 18 months, we have all agreed that we cannot fight transmissible disease alone. We see that in the worldwide effort to develop a vaccine, in the way that covid has gone around the world in waves, and in the fact that most countries with the lowest deaths have been those with the strongest border controls. In many examples, the greater interconnectivity of the world has been one of the biggest challenges, as well as one of the biggest opportunities.

Turning to the substance of the regulations, the Minister will no doubt be aware of the comments by the Secondary Legislation Scrutiny Committee, as set out in the explanatory memorandum:

"Although the Explanatory Memorandum (EM) provided is full of information on future EU-relations, it does perhaps overestimate the average reader's knowledge of the UK's plans…Because of the pandemic, coordination of health surveillance is more important than usually, and an EM needs to make it absolutely clear to the House what it is being asked to agree to."

I have had many concerns about the detail of regulations that have been introduced, so this is not a new issue. The Minister did a valiant job of filling in the gaps, although his speech was a little acronym-heavy at times, but we have some questions outstanding.

We no longer have unconditional access to the EU's early warning and response system, or the EWRS, as the Minister preferred to call it. The trade and co-operation agreement states that the UK may be granted access to that system on an ad-hoc basis on written request. Will he set out the fall-back position if there is disagreement about a request, or if there is delay in responding to such requests?

The Minister referred to the need for early warnings and early responses. Sometimes, early warnings and an early response are not what we get, although they are clearly critical. Does he have anything to say about how we would deal with that situation? We would hope, of course, never to be in that position, but it is important to understand the Government's thinking about safeguards in those circumstances. There was also no reference to the World Health Organisation's role in all this. I wonder whether he can say anything about that.

As we heard, the draft regulations refer to the newly created UK health security agency, or UKHSA, as it will no doubt be commonly known. It will of course undertake functions in relation to future infectious disease threats, but there are still gaps in the detail of how that will work. The Opposition are concerned that the decision to abolish Public Health England and give its role to a security-focused agency could result in important areas of public health not getting the focus and attention that they need. Social inequalities have been clearly exposed by covid, and life expectancy has stalled for almost a decade. Those matters are far too important to be a footnote in UKHSA's remit, so anything that the Minister can say about that, or even when we can expect more detailed debate about the agency's role, would be appreciated.

Finally, our four nations continuing to work very closely is just as important as international co-operation. The draft regulations, as the Minister pointed out, set up some measures in respect of that, but putting them into practice is a different thing. There have been many examples over the past 15 months of divergence in the measures taken against covid. Often it is a difference of tone; sometimes it is a difference in timing. Whatever it is, I am afraid that those differences do not recognise that the world is greatly interconnected, and England, Scotland, Wales and Northern Ireland are even more so.

I give one current example: face coverings on public transport, which have been debated recently. I will not drag the Minister into a debate about whether those laws should remain in place, as that is clearly outside the scope of the draft regulations, but it is a very pertinent example of how closer working really should be aimed for. My constituency of Ellesmere Port and Neston is very close to the Welsh border. Many people on both sides of that border travel across it to work. If I were to get on a train to Wales, because of the different approaches to public health there, I would not be legally required to wear a face covering until I reached the Welsh border, but would have to put one on once I got over it. Clearly,

[Justin Madders]

that is nonsense position. I think all of us here hope that people will continue to take sensible precautions, and will wear a face covering on public transport, whatever the legal default position. That is a good example of why it is far better for us to work together more closely on public health measures.

Finally, what can be done to ensure that the ambition of joined-up thinking clearly set out in the regulations is reached? In conclusion, we will not oppose the regulations, but I look forward to hearing the Minister's response to my questions.

9.40 am

Edward Argar: I am grateful to the shadow Minister for a well researched and pragmatic response to the regulations; it was typical of the responses that he has given on multiple Delegated Legislation Committees we have been on together. We may not agree on everything, but I agree with him on a huge amount in this case. I suspect that, in this space, we agree on rather more than many might suspect. He is right to highlight that diseases, including the virus in this pandemic, do not respect borders. It is therefore in everyone's interest to work together—not just internationally, but as he says, with our friends and colleagues in Scotland, Wales and Northern Ireland.

The hon. Gentleman asked a number of questions. He mentioned the explanatory memorandum; he and the Secondary Legislation Scrutiny Committee make a fair point. I suspect that because we all consider regulations almost every week—or feel like we do—the detail underpinning them is etched on our minds. However, the Committee is right that the explanatory memorandum's purpose is to make that accessible to members of the public, and Members of the House who may come to these matters afresh. I hope that in my remarks I added a little flesh to the bones of how this will work and what sits behind the regulations.

The hon. Gentleman mentioned the EWRS, the Health Security Committee in Europe and how it will work—that is, how getting access worked this time; he also asked what would happen and what the fallback position was if access were refused. We received confirmation of the TCA over Christmas and new year; at the start of this year, I instructed officials to formally request continued access to EWRS and to the committee. If I recall, that was granted within a matter of hours, if not minutes. At a pragmatic level, therefore, there is genuine recognition and desire from both the EU and the UK to work in a sensible, grown-up way and achieve the results that all our citizens expect.

The hon. Gentleman asked "What if?", which is fair. The TCA provides a framework for the UK to request access where we think it is in our interest to do so in responding to a serious cross-border threat to health. If the EU rejected that request—on the basis of experience, I would not expect that—the UK would continue to receive the critical information and notifications on public health risks and incidents through our parallel access to alternative international surveillance systems, such as the event management system operated by the World Health Organisation.

That takes me to the hon. Gentleman's second point, which was about the WHO. We are talking about additionality; the measures in no way replace our commitment to working with the WHO through the Epidemic Intelligence Service, and through our obligation to comply with International Health Regulations 2005, which link closely with the WHO's work. Our commitment to working collaboratively and openly with the WHO remains and is parallel to what we seek to do with the regulations.

The shadow Minister asked why we are putting UKHSA together, and voiced his concern that it might switch the focus to health security, and away from broader public health considerations. One of the reasons why we are putting it together is that over the past year, we have taken a huge step forward in our diagnostic and testing capability in order to meet the challenges of this pandemic. The measures will bring that test and trace capability into a new organisation, and establish it formally as a proper agency of Government, with the appropriate internal Government arrangements to ensure that it is joined up.

On the hon. Gentleman's second point, yes, health security is hugely important; that is obviously top of our mind at the moment, given what the country and the world has seen over the past 15 months. As a former council cabinet member for adult social care and health, including public health, I recognise the importance of broader drivers of public health outcomes, and of reducing health inequalities, and UKHSA will absolutely continue to focus on that in parallel with its health security responsibilities.

On the point about debate, the shadow Minister and the Opposition Back Benchers are always welcome to seek a debate on this subject; I say that with relaxed confidence, because I suspect I would not be the Minister answering. Those routes are, of course, open to him on the Front Bench and to Opposition Back Benchers.

The hon. Gentleman talked about the need for internal UK co-operation to match the openness with our EU friends and colleagues. He is absolutely right. That is one of the reasons why I was so keen, as he would expect—we were obliged to, but it was the right thing to do—to engage with the DAs on these regulations to make sure that they work. We are not replacing the public health bodies in Scotland, Wales and Northern Ireland; they will work with PHE, and then UKHSA. They will be full partners in that, because of course we will have to co-operate. They will have an equal say on which diseases go on the list of those we monitor, those we take action against, and those we transmit information on. That is the national list, but that does not prevent a devolved Administration from being able to decide to monitor an additional disease in its territory, so the devolution settlement is respected.

The hon. Gentleman mentioned divergence of tone and timing on occasion during the pandemic. That is a reflection of the fact that going into a set of regulations, it is very easy to move forward as one, but as he said, areas come out of regulations in different ways and at different times, to reflect what is going on in different parts of the country. We have seen that, and we have seen slight tonal differences, but looking at this from within the Department of Health and Social Care, I see that whatever the rhetoric at political level, there has been incredibly effective co-operation beneath the surface,

at medical expert and official level, to make sure that the UK continues to do everything that it can to keep citizens safe, wherever they live.

To conclude, as the shadow Minister said, diseases do not respect borders. It is absolutely right that we co-operate internationally and across the United Kingdom. We negotiated a good deal with the EU in respect of the TCA and health security; the regulations give effect to the deal, and will help protect our citizens for many years to come.

Question put and agreed to.

9.47 am

Committee rose.