

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT WASTE AND AGRICULTURE
(LEGISLATIVE FUNCTIONS) REGULATIONS 2022

Wednesday 9 February 2022

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The Committee consisted of the following Members:

Chair: MR PETER BONE

† Beresford, Sir Paul (*Mole Valley*) (Con)
 † Carter, Andy (*Warrington South*) (Con)
 † Churchill, Jo (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)
 Davies, Dr James (*Vale of Clwyd*) (Con)
 † Docherty-Hughes, Martin (*West Dunbartonshire*) (SNP)
 Dowd, Peter (*Bootle*) (Lab)
 Duddridge, James (*Rochford and Southend East*) (Con)
 Fovargue, Yvonne (*Makerfield*) (Lab)
 † Glindon, Mary (*North Tyneside*) (Lab)
 Johnson, Kim (*Liverpool, Riverside*) (Lab)

Jones, Darren (*Bristol North West*) (Lab)
 † Jones, Fay (*Brecon and Radnorshire*) (Con)
 † Jones, Ruth (*Newport West*) (Lab)
 † Lewer, Andrew (*Northampton South*) (Con)
 † Liddell-Grainger, Mr Ian (*Bridgwater and West Somerset*) (Con)
 † Moore, Robbie (*Keighley*) (Con)
 † Wheeler, Mrs Heather (*Parliamentary Secretary, Cabinet Office*)

Stella-Maria Gabriel, Jonathan Edwards, *Committee Clerks*

† **attended the Committee**

Fourth Delegated Legislation Committee

Wednesday 9 February 2022

[MR PETER BONE *in the Chair*]

Draft Waste and Agriculture (Legislative Functions) Regulations 2022

2.30 pm

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

That the Committee has considered the draft Waste and Agriculture (Legislative Functions) Regulations 2022.

It is a pleasure to serve under your chairmanship, Mr Bone. This draft statutory instrument was laid before the House on 13 January. It makes small but crucial changes to repatriate powers to the UK and to correct an error in a previous agriculture SI by restoring an accidentally omitted definition of “appropriate authority”. The instrument covers two areas: waste management and agriculture. I will take each in turn.

First, on waste management, the draft instrument will transfer powers, relating to several directives concerning waste, from the European Commission to the Secretary of State. Where appropriate, those powers are also transferred to the devolved Administrations. The powers will give the Secretary of State and, where appropriate, the devolved Administrations the ability to make regulations to set various technical standards, criteria, thresholds and conditions. The instrument will make parts of retained EU law functional again and does not introduce new policy.

All the standards are currently operational, and we do not anticipate the need to alter them in the near future, although there may be a need to amend them looking forward. For instance, without the amendments made by this SI, we would not be able to make regulations to take account of a superior waste treatment method, if one were developed, so our high environmental standards would be weakened.

I will briefly outline the power or powers being transferred from each EU directive. Regulation 5 will transfer the powers to set standards for the sampling of waste going into landfill from the landfill directives. Regulations 6 to 9 will transfer powers from the end-of-life vehicles directive: to update and modify exemptions covering the use of certain heavy metals in vehicles, based on scientific or technical progress; to specify minimum requirements for the certificate of destruction for waste motor vehicles; to modify conditions for storage and treatment of waste motor vehicles in line with scientific or technical progress; and to specify material and component coding standards for vehicles.

Regulations 10 and 11 will transfer powers from the mining waste directive to modify non-essential elements, such as guidelines for inspecting waste facilities and sampling methods, and to update regulations in line with scientific and technical progress. Regulations 12 and 13 will transfer powers from the batteries directive to specify export criteria and to grant exemptions from labelling requirements for batteries and accumulators.

Regulations 14 through to 17 will transfer powers from the waste framework directive: powers to prescribe detailed criteria for what substances may be considered a by-product of a manufacturing process, rather than a waste product, whereupon it can be sold or treated differently; powers to prescribe detailed criteria for when waste may no longer be considered waste, such as if a substance can be put to a more useful purpose elsewhere; and powers to specify the application of the formula for incineration facilities.

Regulations 18 through to 20 will transfer powers from the waste electrical and electronic equipment directive to update the following: selective minimum treatment technologies for waste electrical and electronic equipment, or WEEE; the technical requirements for WEEE treatment and storage operations; the non-exhaustive list of products listed as falling into each of the categories specified in the WEEE directive; and the crossed-out wheel bin symbol being transferred from the waste electrical and electronic equipment directive. The powers could, for example, be used to tighten the treatment requirements of substances in WEEE found to be hazardous to health and the environment.

The powers, apart from those relating to the battery and mining waste directives, apply in England, Wales, Scotland and Northern Ireland. The powers relating to the battery and mining waste directives will apply in England, Wales and Scotland, but not Northern Ireland.

I will now briefly cover the draft instrument’s effect on agriculture-related legislation. The instrument will amend regulation EU 1306/2013 of the European Parliament and of the Council as it relates to the organisation of common market and rural development measures to correct an error. Regulation-making powers from that regulation were previously transferred to the Secretary of State and their counterparts in the devolved Administrations by three EU exit SIs.

However, the effect of the interactions between the three SIs has resulted in said regulation no longer containing a definition of “appropriate authority” in relation to the financing, management and monitoring of the organisation of common markets and rural development measures. This instrument therefore reinserts the definition of “appropriate authority” into article 2 of regulation EU 1306/2013 and revokes the ineffective definition in the previous EU exit SI, the Agriculture (Payments) (Amendment, etc.) (EU Exit) Regulations 2020, to correct the deficiency.

No impact assessment has been prepared for this instrument because the instrument only repatriates powers to the UK and corrects an accidental omission in a previous EU exit SI. The impacts will be considered if the regulations are made using the repatriated powers. Safeguards are provided through a requirement in relation to the waste-related powers to consult appropriate authorities and such other persons as the Secretary of State or the devolved authorities consider appropriate before making regulations under these powers.

Any regulations made under the powers would receive parliamentary scrutiny through the negative procedure except for the one agriculture-related power to make regulations in the event of an emergency to make payments to the beneficiaries. This allows the use of the urgent affirmative procedure when it is both necessary and justifiable, to ensure that beneficiaries can be paid. I commend the regulations to the Committee. [*Interruption.*]

The Chair: I can hear ringing—perhaps it’s my ears. Would someone throw whatever device is doing it out of the window, please?

2.37 pm

Ruth Jones (Newport West) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone. I am grateful to be back here with the Minister discussing more secondary legislation; in many ways, I do not feel that my week in London can be complete without a debate on delegated legislation from the Department for Environment, Food and Rural Affairs. I will put the Minister out of her misery and confirm that Labour will not be opposing the statutory instrument. However, before we pack up and go I want to say a few things that are important to keep in mind.

As we all know, the European Commission has powers related to directives concerning waste, including those specifically covering end-of-life vehicles, batteries and accumulators, and electrical and electronic equipment, as well as to the overarching waste framework directive. This instrument transfers several technical powers and functions relating to those resources and waste management directives from the European Commission to the Secretary of State—who I am sure is grateful to still be in his job—and, depending on the power, to his devolved Administration counterparts.

The transfer will allow for the correct functioning of the relevant retained EU legislation following the UK’s departure from the EU. This instrument seeks to enable the UK and the devolved Administrations to maintain their environmental standards on the safe handling of waste, levels of recovery, recycling and treatment of waste. The functions listed in the instrument are routine and in several cases, the standards, requirements or other functions set out are already in place and working well. The powers are purely to be able to change them in future should that be necessary, rather than seeking to actively update or amend them at the moment.

Although we on these Benches cannot see any immediately obvious pitfalls—and I can confirm that we have looked—the instrument does open the door to potential divergence in technical standards. It is also important to note that any regulations made under the new powers would be done via the negative procedure, so there would not be so much room for effective scrutiny. The Minister will know what we think about that.

The powers in question are to set or alter certain technical criteria related to waste and agriculture. In the waste sector, the technical functions relate to: standards for sampling of waste going to landfill, from the landfill directive; exemptions covering the use of heavy metals in vehicles; minimum requirements for the certificate of destruction; conditions for storage and treatment; material and component coding standards for vehicles from the end-of-life vehicles directive; guidelines for inspecting waste facilities and sampling methods; updating regulations in line with scientific and technical progress, from the mining waste directive; export criteria; exemptions from labelling requirements, from the batteries directive; definitions of “by-products” and “end of waste”; application of the efficiency formula for classifying incineration facilities, from the waste framework directive; minimum treatment technologies; technical requirements for WEEE

treatment and storage; categorisation of products specified in the directive; and the crossed-out wheeled bin symbol, from the waste electricals and electronic equipment directive, or WEEE.

As the Minister will know, I am a champion of our country as a Union of four equal nations; that is why I am concerned about the potential for divergence on technical standards between the European Union and the United Kingdom, and of course internally between the four nations of our country. I accept that there could be positives, too. For instance, the standards around WEEE treatment and storage could be strengthened and made more compatible with a circular economy for electronics.

Can the Minister confirm whether she plans to strengthen those standards? I would welcome an explicit answer, if possible, today. I also ask her to think about the formula for waste incineration facilities. That formula could be applied more stringently in conjunction with planning rules to ensure that only the most efficient facilities are permitted. Can the Minister let me know what the situation there would be?

These are important issues, albeit viewed as niche by most people in the real world out there—not least by my constituents in Newport West; I suspect that goes for the people of Bury St Edmonds, too. But that is why these debates are important. Our departure from the European Union changed life as we know it and required real change in what we do and how we do it. This instrument testifies to that.

In winding up, I would like to acknowledge Heeran Buhecha Fordyce and Pamela Frost for their work at the Department. Too often, our staff in this place and civil servants do not get the acknowledgement that they deserve.

2.41 pm

Martin Docherty-Hughes (West Dunbartonshire) (SNP): It is nice to see you in the Chair, Mr Bone. I join the official Opposition in saying that we will not oppose the delegated legislation in front of us. I am grateful that the Government were able to consult with the relevant Committee bodies on the SI that deal with devolved matters and that legislative consent motions were agreed to by each Committee.

I have one question. The notification states that in future the use of any of the regulation-making powers will be covered by the waste and resource common framework. How would that operate if, for example, the Scottish Government, the Welsh Government and the Northern Ireland Executive formulated policy commitments to continue to allow EU environmental standards, for example? Would UK Government Ministers override that by reducing legislative competencies in the devolved Governments and Administrations of the UK?

2.42 pm

Jo Churchill: I will address the WEEE regulations first. We are currently reviewing those regulations to find ways to drive up collection for reuse and recycling, encouraging better eco design and ensuring that manufacturers and retail, including online marketplaces, take greater responsibility—something we have often spoken about. We will consult on the proposals in the summer and the consultation will also be on behalf of the devolved

[Jo Churchill]

Administration at that point. As the hon. Member for Newport West knows, my door is always open. I would be happy to speak to others about how we can best work together. Although we all have jurisdiction on waste in our own areas, consistency around what we do benefits not only the industry but individuals.

If the hon. Member for West Dunbartonshire will excuse me, I will write to him rather than hold the Committee up, as his question involved a degree of complexity. We will make sure that we respond, but in short I do not anticipate the problem. I believe that Scotland would like to use the powers resulting from the directive change shortly. It is important that we build consistency and flexibility—that is my short answer, but we will write to the hon. Gentleman to cover it off completely.

I thank the hon. Members for Newport West and for West Dunbartonshire for their helpful contributions. Now that we have left the European Union it is essential that legislation should reflect this new future. I trust

that hon. Members accept the need for this instrument and I thank them for saying that they will make no objection.

The instrument makes small, crucial changes to repatriate powers and correct an additional accidental omission in a previous EU exit SI. The instrument will make it possible to swiftly update technical standards, criteria and thresholds in the field of waste management to reflect the latest developments and ensure that high environmental standards are maintained. It will also ensure that our agricultural legislation regarding the organisation of common markets and rural development measures functions as intended.

Once again, I thank hon. Members. I associate myself with the hon. Member for Newport West's comments about staff, who work diligently behind the scenes and very often do not get thanked. I thank them for their support of the Committee today. I hope that the Committee will join me in supporting the regulations.

Question put and agreed to.

2.45 pm

Committee rose.