PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT FOOD AND FEED (MISCELLANEOUS AMENDMENTS) REGULATIONS 2022

Monday 28 November 2022

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not later than

Friday 2 December 2022

The Committee consisted of the following Members:

Chair: Mr Virendra Sharma

Anderson, Lee *(Ashfield)* (Con)
† Baker, Duncan *(North Norfolk)* (Con)
† Blake, Olivia *(Sheffield, Hallam)* (Lab)
† Bonnar, Steven *(Coatbridge, Chryston and Bellshill)* (SNP)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Fell, Simon *(Barrow and Furness)* (Con)
† Firth, Anna *(Southend West)* (Con)
† Glindon, Mary *(North Tyneside)* (Lab)
† Hayes, Sir John *(South Holland and The Deepings)* (Con)
Lloyd, Tony *(Rochdale)* (Lab)
† O'Brien, Neil *(Parliamentary Under-Secretary of State for Health and Social Care)*
Ribeiro-Addy, Bell *(Streatham)* (Lab)
† Rimmer, Ms Marie *(St Helens South and Whiston)* (Lab)
† Solloway, Amanda *(Lord Commissioner of His Majesty's Treasury)*
† Warman, Matt *(Boston and Skegness)* (Con)
† Wild, James *(North West Norfolk)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Rebecca Lees, *Committee Clerk*

† attended the Committee

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[Mr Virendra Sharma *in the Chair*]

Draft Food and Feed (Miscellaneous Amendments) Regulations 2022

6 pm

The Parliamentary Under-Secretary of State for Health and Social Care (Neil O'Brien): I beg to move,

That the Committee has considered the draft Food and Feed (Miscellaneous Amendments) Regulations 2022.

It is a pleasure to serve under your chairmanship, Mr Sharma. The statutory instrument is made under powers in the European Union (Withdrawal) Act 2018. It follows on from the previous EU exit instruments in the field of food and feed safety made since 2019. The Government's priority is to ensure that we continue to maintain the same high standards of food and feed safety and consumer protection that we have established. The principal changes introduced by the instrument will ensure that national and GB-wide legislation continues to operate effectively following the UK's exit from the EU.

The purpose of the instrument is to amend national England regulations in the fields of articles in contact with food, extraction solvents and animal feed to remove cross-references to European Union directives and correct other EU exit-related inoperabilities. The instrument also addresses a range of remaining deficiencies in retained direct EU legislation in the field of food and feed safety and hygiene, to ensure the continued operability of that legislation after exiting the EU.

The instrument will also address inoperabilities that have arisen as a consequence of previous deficiency amendments made pursuant to the European Union (Withdrawal) Act 2018. It will extend the tolerance period of three withdrawn genetically modified organisms for a further three years until 31 December 2025, to align with the correction of a deficiency in retained EU regulation 619/2011. It will provide for a time-limited transitional period for edible insects specific to Great Britain. This will permit qualifying edible insects to remain on the market in GB after 31 December 2023, while applications for novel food authorisation are considered by the appropriate authority.

Let me be clear that the instrument does not introduce any changes that will impact the day-to-day operation of food or feed businesses. Nor does it introduce any new regulatory burden. The essence of the existing legislation is unchanged.

It is important to note that the devolved Governments have some shared and devolved legislative responsibilities in relation to food law. Both Scotland and Wales have provided their consent for the instrument. Amendments introduced by the instrument do not apply to Northern Ireland. In accordance with the Northern Ireland protocol, EU regulations will continue to apply; however, the Northern Ireland Department of Health has been briefed. We have engaged positively with the devolved Governments throughout the development of the instrument, and their ongoing engagement has been warmly welcomed.

I reassure hon. Members that the overarching aim of the draft regulations is simply to provide continuity for businesses and ensure that high standards of safety and quality for food and feed regulation continue across the UK. They do not affect the essence of existing legislation. Having effective and functional law in this area is key to ensuring that high standards of food and feed safety are continued. I ask hon. Members to support the amendments proposed in the instrument, to ensure the continuation of effective food and feed safety and public health controls. I commend the draft regulations to the Committee.

6.3 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve once again with you in the Chair, Mr Sharma. It is also a pleasure to respond once again to a Health Minister, as I did in March when we debated the Food and Feed Safety (Miscellaneous Amendments and Transitional Provisions) Regulations 2022—a very similar title, with the same words, possibly in a different order. There is also possibly still much being done to correct the inevitable drafting errors and inconsistencies that have emerged in legislation.

Frankly, the draft regulations before the Committee today are a bit of a hotchpotch, tying up loose ends. You will be glad to hear, Mr Sharma, that I do not feel the need to comment on each and every one of them. I am not critical of the mistakes, because it is a huge and complicated task. I am always keen to praise the work of the Food Standards Agency—a notable achievement of the last Labour Government. It is one of the oddities of the changes introduced by the Conservatives that Health Ministers now do animal feed. I am sure that they are very happy to do so. *[Interruption.]* Or not—who knows?

Let us focus on the finer details of the draft regulations. The assessment is that the statutory instrument is a tidying-up exercise, as the Minister said. It generally maintains existing regulations and does not introduce new requirements. No concerns were raised by the Joint Committee on Statutory Instruments or the Secondary Legislation Scrutiny Committee. Therefore, Members will be happy to hear that we will not oppose the draft regulations.

I cannot resist the temptation, though, to draw Members' attention to paragraph 7.10 of the explanatory memorandum, which reads very well. It states:

"Before Implementation Period completion day, relevant EU food and feed law provided a high level of consumer protection with regard to food and feed hygiene and safety. In particular, relevant EU food and feed law set out the general principles for the safe and hygienic production of food and feed. They also prescribed effective and proportionate controls which must be applied by food business operators and feed business operators throughout the food chain, from primary production through to the sale or supply to the final consumer. It continued to apply unchanged during the Implementation Period."

We had a really good food safety system. What was the problem? Of course, all this statutory instrument and others do is try to ensure that it continues.

The slight problem is that the world did not stop on implementation period completion day. As paragraph 7.13 of the explanatory memorandum tactfully puts it, what emerged were

"certain difficulties, especially in relation to the approval of new, or amendment of currently authorised, substances."

I wonder whether the Minister could elaborate on some of the difficulties posed, the potential costs that they bring, and what happens in terms of trade when we operate to different standards from those of our near neighbours. The SI addresses the administrative challenge but hardly solves the problem.

The review process is described in paragraph 7.15 of the explanatory memorandum. Could the Minister clarify the circumstances under which the Food Standards Agency will be required to review the operation and effect of the regulations? If a new extraction solvent is approved in the EU, does that automatically trigger a review? Will the FSA be required to undertake additional processes to deliver on that, and if so, has an assessment been made of whether the FSA has the capacity to undertake such duties? Perhaps the Minister will tell us that the FSA will be getting additional resource. I suspect that similar questions could be asked about a number of the other changes, but I am sure that he gets my drift.

I am also intrigued—as others may well be, if they got this far through the explanatory memorandum—by the issue of the "do not eat" pictograph referenced in paragraph 7.22, which apparently we cannot use because of uncertainty over the intellectual property rights applying to ownership of the picture. That seems somewhat bizarre. There must be many similar cases of artwork of uncertain provenance. Did we ask whether we could use it, if there was uncertainty? How much would a licence have cost? It seems an odd way to proceed. If we cannot agree on joint use of an existing symbol to promote food safety, it suggests that we have problems indeed.

I am intrigued by the need to reinstate powers to extend the transitional period for the trace presence of withdrawn GMOs. As the Minister will be aware, there is considerable interest in genetic modification, and some concern that rules on imported products are not consistent with rules governing domestic production. I wonder whether he will say a little about the scale of the issue. Just how much oilseed rape with traces of withdrawn GM products are we talking about?

I cannot resist touching on qualifying edible insects, as the Minister so delicately put it. The jokes about a previous Health Secretary are just too obvious, so I shall obviously resist them, but in the interest of full disclosure, I crunched a delicious insect bar at an event in Cambridge highlighting food futures, and very good it was too. Assuming that I am interpreting the changes correctly, I am pleased that the current rules appear to be being transposed to allow edible-insect foods to continue to be developed.

I also cannot resist quoting paragraph 10.18 of the explanatory memo. Again, not all Members may have got that far, but it bears re-reading. I particularly enjoyed this languid observation:

> "The remaining 251 comments were from members who did not provide comments of substance relevant to the proposals in the consultation. They either expressed a negative view or disgust on the principle of edible insects, interpreted the consultation as an intention to mislead consumers into unknowingly buying insect products and / or linked this policy to global conspiracy theories."

Wonderful. On that positive note, I conclude my remarks.

6.9 pm

Steven Bonnar (Coatbridge, Chryston and Bellshill) (SNP): It is a pleasure to see you in the Chair, Mr Sharma. The SI is required for the reasons that the Minister outlined, and I thank him for doing so. The Scottish Government have given their consent to it, so I will make only a short contribution.

Six years since the Brexit vote, and two years into its implementation, we are still implementing SIs to patch up Brexit legislation gaps. The Retained EU Law (Revocation and Reform) Bill is set to repeal thousands more laws, and ensure that even more time is taken up by patch-up jobs such as today's. Far too much legislative time has already been taken up with post-Brexit fixes because this Tory Government refuse to realise the futility of it all.

6.10 pm

Neil O'Brien: To take some of the important questions raised by the Opposition in reverse order, the hon. Member for Cambridge is right that there are no substantive changes on edible insects. It is already the case that the pictograph does not need to be used; only the "do not eat" wording is mandatory. A consultation was carried out to allow stakeholders to consider the proposal to remove the requirement to use the pictograph. We shared the consultation widely and did not receive any responses on that particular point, although we will of course review the implementation of the change to ensure that there are no negative impacts.

On the original point raised by the hon. Member, this is indeed a technical SI. The legislation as it stands is workable. He was right that the point is that, although relying on cross-references to lists in EU directives is legal and operable, an issue arises if any further amendments would require the creation of a separate list in domestic regulations. We would then have two lists, which would run the risk of creating confusion. That is the core of what the SI is about, and on that basis I commend it to the Committee.

Question put and agreed to.

6.12 pm

Committee rose.