

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT MANAGEMENT OF HEDGEROWS  
(ENGLAND) REGULATIONS 2024

*Wednesday 8 May 2024*

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

*Chair:* GRAHAM STRINGER

† Ali, Tahir (*Birmingham, Hall Green*) (Lab)  
† Byrne, Ian (*Liverpool, West Derby*) (Lab)  
† Fabricant, Michael (*Lichfield*) (Con)  
† Fletcher, Colleen (*Coventry North East*) (Lab)  
† Gullis, Jonathan (*Stoke-on-Trent North*) (Con)  
† Hardy, Emma (*Kingston upon Hull West and Hessle*) (Lab)  
† Jenkinson, Mark (*Workington*) (Con)  
† Lavery, Ian (*Wansbeck*) (Lab)  
Leadbeater, Kim (*Batley and Spen*) (Lab)  
† Logan, Mark (*Bolton North East*) (Con)

† Maclean, Rachel (*Redditch*) (Con)  
† Patel, Priti (*Witham*) (Con)  
† Pow, Rebecca (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)  
† Sambrook, Gary (*Birmingham, Northfield*) (Con)  
† Shelbrooke, Sir Alec (*Elmet and Rothwell*) (Con)  
† Slaughter, Andy (*Hammersmith*) (Lab)  
† Watling, Giles (*Clacton*) (Con)

Susie Smith, *Committee Clerk*

† **attended the Committee**

# Third Delegated Legislation Committee

Wednesday 8 May 2024

[GRAHAM STRINGER *in the Chair*]

## Draft Management of Hedgerows (England) Regulations 2024

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 Management of Hedgerows (England) Regulations 2024.

It is a pleasure to have you in the Chair, Mr Stringer, for what I hope will be a very positive debate. The regulations were laid before this House on 16 April. It is a very fitting time to discuss this legislation protecting our wonderful and precious hedgerows, which are so important in our landscapes and to wildlife, because, as I am sure all members of the Committee are aware, it is National Hedgerow Week.

**Michael Fabricant (Lichfield) (Con):** Will my hon. Friend take this opportunity to remember a former colleague of ours, Peter Ainsworth, who is no longer? Having got into the House of Commons in 1992, he introduced a private Member's Bill on hedgerows, to which this legislation is related.

**Rebecca Pow:** I thank my hon. Friend so much for that very fitting intervention. Of course, I would be delighted to remember and recognise Peter Ainsworth. That was such an important proposal, and it all builds up to the totality of legislation relating to our hedges.

Of course, we know that so many wild birds depend on our hedgerows, which provide food and habitat. Lots of our red-listed birds, such as the linnet, the yellowhammer and the goldfinch, use hedges as valuable habitats. They basically provide larders for feeding, with blackberries, sloes, and all the other fruits that the hedge provides. Hedgerows are brilliant for our pollinators as habitats, and provide food for them from the flowers within. They also provide wind breaks and shelter for protecting livestock, and protect soil by holding it in place.

With all that in mind, this is the perfect week to consider this statutory instrument in Committee, as it proposes to further protect hedgerows, demonstrating this Government's continuing commitment to the environment. The instrument establishes, by legislation, a common approach to managing hedgerows on agricultural land in England—that is the critical bit. As I have mentioned, it builds on existing legal protections for some hedgerows, as well as existing regulations for nesting birds.

In proposing this legislation, we have listened to the views of many who cherish our hedgerows, including organisations, colleagues, and the all-important farmers. I would very much like to thank everybody who responded to the consultation we held last year on protecting

hedgerows. It received more than 9,000 responses, which was wonderful; all have been considered carefully, and they have really helped to form this piece of legislation. I am pleased to say that there was a really strong consensus from environmental and farming stakeholders that hedgerows should be protected in domestic law in a similar way to the previous hedgerow management rules, provided under cross-compliance. That is what this statutory instrument does. Our aim is to provide a familiar baseline for hedgerow management, and we want to be sure that everyone knows what is expected. We will support this with some guidance and by sharing good practice. As a safeguard, we are also ensuring that there are clear, proportionate consequences for the small minority who might choose not to comply.

I grew up on a farm, and hedgerows were an absolutely integral part of our landscape. I come from the west country and, as Members know, hedgerows are important in that livestock region for their stock-proofing abilities.

These rules are a reasonable minimum, and most farmers have been practising this kind of management for many years. Farmers are the guardians of our hedgerows; they protect, plant and maintain them for future generations. I want to put on record my thanks to them for their continued efforts to help wildlife to thrive on their farms, alongside the all-important work they do in producing food. We need to trust them to continue to do the right thing. We had a Westminster Hall debate not very long ago on hedges; I mentioned my father then, and I will do so again. He was ahead of his time in hedgerow management. He devised a system of cutting the hedges every other year and only on one side, so that they and the trees could grow on the other side. All farmers are now encouraged to do that.

When I go back home to the farm, as I did at the weekend, I can see that legacy: the hedgerow trees have grown, and the thick, wonderful hedges are full of flowers and birds. It is absolutely the right thing to be doing, and I know that many farmers are already doing it—in fact, many are going further than these regulations require. We have seen a very strong uptake of options to manage and further improve hedges under our agri-environment schemes. Lots of colleagues have farmers in their constituencies who have done just that.

I am delighted to report that there are more than 20,000 agri-environment agreements in place or applications coming through, contributing to the management of 60,000 miles of hedgerow in England. We look forward to working in partnership with many more farmers to manage and improve even more hedgerows in the future.

**Giles Watling (Clacton) (Con):** As the Minister is mentioning farmers and hedgerows, which are a vital part not just of the west country but of Essex, I want to say that I recently visited a very small company called The Big Green Internet company, which is creating hedgerows and helping farmers to develop them. We must not forget the smaller outfits that are trying to develop hedgerows across the countryside.

**Rebecca Pow:** I thank my hon. Friend for that. I should add that company to my list for a visit. There is valuable work to be done in linking up hedgerows to make corridors across the countryside, which are so important to the movement of wildlife. That is something that our agri-environment schemes are trying to encourage.

Let me turn to the actual content of the regulations. Their purpose is to protect hedgerows to support biodiversity, benefit the environment and enrich the landscape. They will ensure that all farmers are treated fairly by upholding common rules for managing hedges and providing clarity on what to expect. They govern the management of important hedgerows on agricultural land. Broadly, that means hedgerows that have a continuous length of at least 20 metres; if shorter, they must meet another hedge at either end. The regulations do not apply to hedgerows within or forming the boundary of a dwelling house. Because the regulations apply to all important hedgerows growing on agricultural land, they will bring into scope some people who are not subject to cross-compliance, such as those who chose not to claim any direct payment previously or those who have farms under 5 hectares.

The regulations have two main requirements. First, a 2 metre buffer strip must be established and maintained to protect the hedgerow and its root system from the effects of cultivation or the application of fertilisers or pesticides. Subject to certain exceptions, those activities will not be allowed within the buffer strip. Secondly, cutting or trimming hedges will be banned between 1 March and 31 August, inclusive. That is to protect hedge-nesting birds and their habitats during the breeding season. There are some exceptions to that rule to give farmers and others flexibility where needed.

The requirement for a buffer strip will not apply to fields that are 2 hectares or smaller. We recognise that people who do not already have buffer strips in place may need time to establish them. We therefore propose that in cases where a field has no buffer strip and is in crop production on 1 July 2024, the requirements will not come into force until they have harvested the crop. That will give them time to get the crop out and then start work on the buffer strip.

The regulations will be enforced on behalf of the Secretary of State by the Rural Payments Agency. Although the rules themselves will be familiar to many farmers, there will be a different approach to enforcement, with an emphasis on being fair and proportionate. People may recall that under the common agricultural policy, the cross-compliance rules for farmers were somewhat draconian, so we have listened to what they said and we are taking a different enforcement approach. The RPA will take a primarily advice-led approach, which has definitely been shown to be the best for bringing farmers into compliance in other regulatory areas. However, the RPA will also be able to use a range of civil sanctions and criminal proceedings for the worst-case scenarios. Such action will be proportionate to the damage caused.

Subject to parliamentary approval, detailed information about how the regulations will operate will be provided once the statutory instrument has been made. The RPA will also hold a public consultation on its proposed enforcement policy. I know that it is committed to a modern, pragmatic, proportionate approach, with advice and guidance at the forefront.

Although the regulations govern the management of hedgerows on agricultural land, we recognise their value in other locations. Particularly in National Hedgerow Week, there can be no doubting their importance in other places such as our gardens and parks. Separately, I have therefore asked my officials to work with stakeholders to consider how to support the sustainable management

and protection of hedgerows more widely in the future. In conclusion, the statutory instrument will afford fuller protection to one of our countryside's best loved assets, the hedgerow, which will be widely welcomed.

2.42 pm

**Emma Hardy** (Kingston upon Hull West and Hessle) (Lab): It is a pleasure to serve under your chairmanship, Mr Stringer.

It is vital that our precious hedgerows once again enjoy the security that was granted to them under cross-compliance regulations. As we have heard, they serve as habitats for a huge array of wildlife, including bats, birds and bees, while playing an important role as stores of carbon. These incredible marvels also help land managers to adapt to climate change by sheltering livestock and crops, and mitigating flood risk by regulating water flows. We will not be opposing the draft legislation. However, it is concerning that it has taken the Government so long to bring the changes forward, and I have several questions for the Minister about the operation of the regulations.

Following the withdrawal of the cross-compliance regulations on 1 January this year, there has been a gap in the protection of hedgerows. This statutory instrument should have come much earlier to ensure that these remarkable wonders, and homes to a rich variety of natural life, were not vulnerable to damage. As mentioned, the no-cutting period has run from 1 March to 31 August in previous years, and will do so from next year. However, cutting is currently allowed, which presents a massive risk to hedgerows. Farmers and land managers, the erstwhile custodians of our fields and hedges, are under immense pressure at the moment, not least because of the Government's botched transition to environmental land management schemes.

It is worth reminding ourselves that the Department for Environment, Food and Rural Affairs has tarnished its covenant with English farmers by failing to spend over £200 million in support. That money is simply sitting in its coffers while farmers struggle to make ends meet. Removing protections at that moment created the real risk that stretched farmers will be presented with impossible choices, and that our exceptional network of hedges will suffer as a consequence.

The draft legislation is an opportunity for the Government to replicate the benefits provided by cross-compliance rules while amending and improving those regulations. The no-cutting period set out in the draft legislation replicates the previous March to August ban. We know that the break in cutting offers hedgerows and their inhabitants vital respite, so will the Minister explain why she did not consider extending the no-cutting period to September? That would have made good on a genuine positive of Brexit and helped wild species, such as the hazel dormouse, that breed into late September.

The draft regulations will keep the definition of important hedgerows that is set out in cross-compliance guidance. That is to be welcomed, but that definition differs from the one in the Hedgerows Regulations 1997, which is far too prescriptive and convoluted. The Department now has the chance to make these definitions consistent and remove any uncertainty for farmers and land managers, avoiding confusion and differing standards. Will the Minister commit to simplifying the definition of an

[Emma Hardy]

important hedgerow and making it consistent so that there can be no doubt what it is that we are so keen to protect?

Despite the chance to amend and improve cross-compliance rules, the regulations replicate exemptions for which there is simply no basis. The majority of respondents to the Minister's own consultation were against many of the exemptions and said that several should not be replicated. Why is the Minister so determined to repeat these errors in the face of evidence and informed opinion from the sector? In many cases, there is simply no need for the exemptions. Guidance to support land managers to plant sustainable and nature-boosting rotational management of hedgerows would be a viable alternative to creating unnecessary loopholes.

Under the rules that the Minister has presented, fields smaller than 2 hectares will not be required to have a buffer strip to protect their hedgerows. We know how essential buffer strips are to making sure that hedgerows can thrive and continue to perform their crucial role: as we have heard, they host a variety of threatened species and are corridors in what can be challenging terrain for mammals and invertebrates. Strips around hedgerows can also help to halt pesticides and fertilisers, meaning that they do not end up in our water system—and we know what a dire state our waterways are in. The recent, record-breaking sewage statistic showed that raw sewage was swilling into our rivers, lakes and streams for a staggering 3.6 million hours over the past 12 months, so it is difficult to understand why the Government would do anything to further degrade the quality of our water.

The exemption will lead to huge numbers of hedgerows being unprotected, despite the evidence that hedgerows in small fields punch well above their weight. They provide remarkably high-quality habitats for animals and offer sanctuary for wildlife, allowing connectivity between the animals' various homes. A staggering 77% of respondents to the Government's consultation said that the exemption for fields smaller than 2 hectares should not be replicated. Will the Minister commit to reviewing the replication of that exemption to make sure that all hedgerows, irrespective of the size of the field that they are in, can be protected for the benefit of nature?

Hedgerows that are less than five years old will not be protected by buffer strips. Youthful hedges are particularly vulnerable to the challenges that are occasionally—or more than occasionally—posed by British weather, chemical pesticide sprays and disturbances to their roots. The justification for the exemption is to

“allow spot-application of herbicides to control weeds”,

but the risk of damage from agricultural work within fields far outweighs the danger posed by weeds within hedges. When asked whether the exemption in cross-compliance rules—under which no buffer strips are required around hedges under five years old—should be replicated in the new legislation, an overwhelming 80% of respondents to the Government's own consultation answered no. Will the Minister commit to removing this exemption to make sure that nascent hedges, the ancient hedgerows of tomorrow, are given the best possible chance to thrive?

The draft regulations will also change the process that farmers have to follow for the exemption for cutting to sow oilseed rape or temporary grass in August.

Farmers will no longer have to apply to the Rural Payments Agency for the exemption; they will merely have to notify the RPA that they have undertaken the cutting. This relaxation could massively increase the use of the exemption. Has the Minister undertaken any assessment of the potential impact? The exemption could be avoided with stronger guidance to land managers on their use of margins.

I am sure that the Minister agrees that any plan is only as good as its implementation. That is why the Government really must say more about their approach to non-compliance and enforcement of protections. Under cross-compliance rules, non-compliance resulted in a reduction in the basic payment that a land manager received, potentially amounting to 5% of their basic payment.

Failure to comply with the new rules may result in a fine. We have no way of knowing how those fines will compare to the penalties that were given out in the past for failing to comply. Any watering down of enforcement tools would represent a retreat and would be to the detriment of our hedgerows. Will the Minister commit to publishing estimates on the level of fines that she expects to see for these new offences? Will she reassure me that they will be consistent with the previous penalty levels?

The draft regulations also mark a shift in the Government's approach to enforcement. Mistakes will not be penalised and are listed as a valid defence. It is absolutely right that the Department develop strong, collaborative relationships with farmers, and it is clear that the Government have much to do to regain the trust of the sector. However, does the Minister have any evidence to support this change to the enforcement approach? This alteration will mean much more work for the Environment Agency, which had its budget halved in the decade to 2022. Making sure that the new rules are observed by all land managers is vital if hedgerows are to thrive.

It is deeply disappointing that a gap in the protection of hedgerows was allowed to be created following the end of cross-compliance rules. We will not oppose these changes. I welcome the Government finally returning to the protections that these remarkable natural assets need. They do so much more than neatly divide our countryside; they suck down carbon, host a startling variety of wildlife, help to protect our waterways and act as essential highways for all creatures great and small. I look forward to the Minister's response.

2.50 pm

**Rebecca Pow:** I thank the shadow Minister for supporting the draft regulations and agreeing with Government Members about how important our hedgerows are for our landscape, our wildlife, our soil protection, our livestock protection and the all-important carbon storage. I think we are in complete agreement about that, and about the need for the draft regulations.

The shadow Minister raised a range of points. I will deal with some of them, but if she would like anything else in writing, I am happy to send it. There were a lot of individual points about all the different exemptions. Yes, there are quite a lot of exemptions, but there are reasons for them all that have been closely consulted on.

The shadow Minister raised a point about whether there was a delay. We held a consultation, as I mentioned, and there was such a strong response: more than 9,000 people responded. That all had to be considered before we could move on. That is partly why we have waited until now, but I am pleased to say that we are now moving on forthwith.

There are already many legal protections in place for hedgerows, as well as regulations to protect nesting birds. The shadow Minister mentioned that there might be a gap in protection before the draft regulations come in, but we have the existing regulations, as well as a load of other agri-environment schemes farmers are already in, which do a great deal of good work to protect hedges. As I have pointed out, farmers have been very supportive of the new legislation, which is partly why we are bringing it in. We have listened to them about some exemptions.

Mindful of the time factor, and mindful of nesting cycles and the seasons, we plan to bring the draft regulations into force as soon as possible: on the day after they are made. There will, however, be a phased approach for the buffer strip requirements for those who do not already have them in place, or for those who are going to harvest a crop first and then put the buffer in.

The draft regulations are designed to give our hedgerows the protection that they need. I have explained the need to consider the consultation; exceptions to the rules have been made, where necessary, to ensure a balance between hedge protection and effective farming. That is really important, especially in the light of food security.

The shadow Minister made particular mention of an exemption for buffer strips in fields of 2 hectares. She should consider that if buffer strips are put there, the field would largely be eaten up and there would not be a lot of room for growing crops. We have listened to comments about that, which is why that provision is there.

**Emma Hardy:** I am very happy for the Minister to write to me with a more detailed response to the questions I have raised. I apologise if she was about to do so, but can she comment on why there is an exemption for hedgerows under five years old? We are not going to have the ancient hedgerows of the future if we do not protect the new ones we are growing today? *[Interruption.]*

**The Chair:** Order. May I ask the Members in the corner to listen in silence, please? This is an important SI.

**Rebecca Pow:** I will send the shadow Minister that information in writing, but if one is establishing a new hedge—I am doing it myself—there may have to be a requirement for spot spraying to control the weeds, in order to let the hedge thicken up and develop. That was heavily debated and assessed, and that is the reason for it. Once it is five years old, it comes completely within the regime.

The shadow Minister asked why the ban on cutting is from March to 31 August, rather than going on into September. We have had scientific advice from the British Trust for Ornithology; bar a few exceptions, it was very happy that the main bulk of birds that need to be protected can be looked after. The main nesting season ends by 31 August, so it was happy with the decision on cutting date. I hope that that is clear.

On exemptions and enforcement, there is a commitment for the legislation and regulations to be reviewed every five years, so there is room to make improvements or tweaks. The enforcement and civil sanctions provisions are to be reviewed three years after coming into force, to see whether they are working effectively and the new approach whereby we are trusting farmers and being much more inclusive, is working as envisaged.

The new civil sanctions are coming in alongside the possibility of criminal proceedings, to ensure that the RPA has the right tools in its box to enforce the regulations correctly. We want the regulations to be enforced fairly and proportionately. The RPA will adopt an advice-led approach to monitoring and enforcement wherever it can. It will take criminal proceedings forward and use the new civil sanctions where appropriate, but each case will be considered on its merits.

The draft regulations deal with the protection of hedgerows on agricultural land. That is a very important part of the story, but of course all hedgerows are vital habitats. We have heard some arguments for extending protections beyond that. I recognise that that requires further investigation, but I have asked officials to look into what the options might be.

I thank the shadow Minister and, hopefully, all other Committee members for their support. This is the right thing to do: it is great for our environment and will protect our wonderful hedgerows and all who live in, on or under them. I commend the draft regulations to the Committee.

*Question put and agreed to.*

2.58 pm

*Committee rose.*

