

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT PRODUCT SAFETY AND METROLOGY
ETC. (AMENDMENT) REGULATIONS 2024

Monday 13 May 2024

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The Committee consisted of the following Members:

Chair: CHRISTINA REES

† Ali, Rushanara (*Bethnal Green and Bow*) (Lab)

† Creasy, Stella (*Walthamstow*) (Lab/Co-op)

De Cordova, Marsha (*Battersea*) (Lab)

† Dixon, Samantha (*City of Chester*) (Lab)

† Eustice, George (*Camborne and Redruth*) (Con)

† Henderson, Gordon (*Sittingbourne and Sheppey*)
(Con)

† Hollinrake, Kevin (*Minister of State, Department for
Business and Trade*)

Long Bailey, Rebecca (*Salford and Eccles*) (Lab)

† Mills, Nigel (*Amber Valley*) (Con)

† Morris, Anne Marie (*Newton Abbot*) (Con)

† Quince, Will (*Colchester*) (Con)

† Shah, Naz (*Bradford West*) (Lab)

Spellar, John (*Warley*) (Lab)

† Stafford, Alexander (*Rother Valley*) (Con)

† Vara, Shailesh (*North West Cambridgeshire*) (Con)

† Wood, Mike (*Lord Commissioner of His Majesty's
Treasury*)

† Wright, Sir Jeremy (*Kenilworth and Southam*) (Con)

Chris Watson, *Committee Clerk*

† **attended the Committee**

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Monday 13 May 2024

[CHRISTINA REES *in the Chair*]

Draft Product Safety and Metrology etc. (Amendment) Regulations 2024

4.30 pm

The Minister of State, Department for Business and Trade (Kevin Hollinrake): I beg to move,

That the Committee has considered the draft Product Safety and Metrology etc. (Amendment) Regulations 2024.

It is a pleasure to serve with you in the Chair, Ms Rees. To place many manufactured goods on the market in Great Britain, ranging from toys to machinery, manufacturers must ensure that products comply with the requirements of product regulations. Following EU exit, many EU product regulations were integrated into UK law and we introduced the UK conformity assessed regime, or UKCA, as our domestic product regulation approach in Great Britain. Since 1 January 2021, the UKCA has been in use alongside recognition of the EU's CE and reversed epsilon markings.

That recognition of the EU's CE and reversed epsilon markings is due to end on 31 December 2024. Many manufacturers with products in the scope of this draft statutory instrument would therefore have no choice but to meet UKCA requirements to legally sell their products in Great Britain. The Government know that businesses are facing increasing burdens, with cost of living pressures and global supply chain challenges. As part of our smarter regulation programme, we are minimising regulatory burdens where feasible, to reduce business costs and to help grow the economy. That is why we are introducing this instrument to continue the recognition of the EU requirements, using powers under the Retained EU Law (Revocation and Reform) Act 2023.

Last year, the Government held a series of roundtables to hear views from industry, including representatives from about 200 domestic and 50 international businesses. Industry in the UK and businesses that supply Great Britain from abroad indicated that ending CE recognition and mandating UKCA would cause issues for their businesses. It could increase costs and require duplicative processes, leading to higher prices and less choice for consumers in Great Britain. Some overseas suppliers also reported that they might reduce or stop sales to Great Britain entirely. This draft instrument will continue recognition of EU requirements, including the CE and reversed epsilon markings, providing businesses with the choice to use either EU markings or UKCA to place products on the market in Great Britain.

Furthermore, the draft instrument will introduce a fast-track UKCA measure, which will provide manufacturers with more flexibility when using the UKCA marking to place products on the market in Great Britain without compromising on the legal requirements. This instrument will apply to 21 product regulations managed by the Department for Business and Trade, the Department

for Energy Security and Net Zero, the Department for Environment, Food and Rural Affairs, and the Health and Safety Executive under the Department for Work and Pensions. The Government are taking a tailored approach to ensure that regulation works for sectors and consumers covered by different regulations, including those outside the scope of the draft instrument. We have listened to feedback from the industry, and this draft instrument is designed to remove costs and burdens for businesses and to provide certainty on our approach to product regulation.

Nigel Mills (Amber Valley) (Con): Will the Minister expand a bit further? Is he in discussion with any other regulatory regimes around the world that we think might have a sufficiently robust regime? We could just recognise those regimes for certain product lines and so reduce costs, not just for EU manufacturers. Are any such discussions about that being reciprocal, so that they recognise our quality standards as well?

Kevin Hollinrake: That is an interesting point. We are always keen to look at best practice internationally. Conversations are going on with other international regimes, including the USA, in particular in other areas not covered by this draft statutory instrument—for example, in the medical products sector. Although we are keen to strike mutual recognition agreements with different jurisdictions, I think it is fair to say that the EU is less keen to strike one. We should bear in mind some of the history and the proximity of the UK to EU markets. That is something that we are definitely keen to engage with, in particular under the auspices of our trade and co-operation agreement, which is the overriding mechanism for easing those barriers at the borders.

We estimate the draft instrument will save UK businesses £558 million over the next 10 years. It will also help ensure that goods in scope can be sold throughout the UK without needing different product markings and the associated conformity assessments required for each. We recognise that the instrument may reduce demand for the UK's conformity assessment market. My officials continue to work with the UK Accreditation Service—UKAS—and industry to monitor the capacity of the conformity assessment body market, ensuring there is sufficient capacity to support a domestic route to market for relevant UKCA products.

Technology and manufacturing will continue to evolve. Therefore, in future the UK or the EU might need to make changes to product regulations. The Government remain able to mandate different rules in Great Britain, where we have relevant powers and it is in the interests of UK businesses and consumers. The product safety review is looking at the regulatory framework as a whole to ensure it is fit for the digital age and takes advantage of the UK's regulatory autonomy to deliver a regime suited to the needs of UK businesses and consumers. Officials will continue to monitor ongoing EU product regulation reviews and updates.

Where EU regulations change, we will consider whether to continue recognition of EU rules on a case-by-case basis, taking into account the views of industry and consumer safety. The Government will introduce legislation later this year for additional measures to support businesses, including introducing permanent labelling flexibility and voluntary digital labelling as an alternative means

of product labelling. I will share information with the House in due course. In the meantime, I trust Members will support this important instrument.

4.36 pm

Rushanara Ali (Bethnal Green and Bow) (Lab): It is a pleasure to serve under your chairmanship, Ms Rees. The statutory instrument will extend the validity of EU product standards, known as CE or European conformity, in the UK indefinitely. When the UK left the European Union, the Government intended to replace, as the Minister pointed out, the CE standard with the UK's own UKCA. Like so many of the Government's Brexit promises, it has fallen by the wayside when meeting the cold reality of what it actually means.

Under current law, all firms would have to begin using the new UKCA mark by 1 January 2025, because recognition of the EU's CE regime is due to expire by the end of this year. The Government have already postponed the deadline twice, but, as we have heard, the statutory instrument will remove the expiry date altogether, meaning that the CE scheme will now be valid indefinitely. The move has been welcomed by industry, with many businesses and trade associations speaking in favour of the Government's change in direction due to the need to avoid a dual testing and standards regime for businesses that operate and trade in Europe.

It is good that the Minister is taking pragmatic action. It is a shame his predecessors had not done it sooner because that would have saved businesses a great deal of work in setting up a parallel system and wasting much-needed resources that they could have invested elsewhere. The British Chambers of Commerce described the Government's move as a "welcome change in direction", and techUK stated that the move was a

"positive step that will make it easier and cheaper to place products on the GB market."

The Labour party welcomes the changes as they will make it easier for firms to trade with our European neighbours, reduce operating costs for business by mitigating the need to comply with two regulatory regimes, and help protect prices for consumers. The instrument's impact assessment lays out a fairly compelling, as the Minister pointed out, justification for the intervention. The Government predict that the benefit to business of maintaining the validity of the CE regime will be £558 million, but that gives rise to the question why, before the announcement of this U-turn, the Government had pursued the removal of the CE's validity with such persistence, despite the obvious problems it would present for businesses, trade and consumers. I hope the Minister can address that. I appreciate he was not in place at the time, but perhaps he can address the points because they are relevant to his Government.

The ongoing uncertainty has been disruptive to businesses as they have had to prepare for this ever-moving cliff edge—in some cases re-designing and re-manufacturing products to replace the CE mark with a UKCA one. Many firms will understandably feel as though they have wasted money, while other firms will likely have held off investments because of the policy uncertainty and the fact that they have had to spend money complying with this parallel system. What has changed? Why did the Government continue to insist for so long that businesses work to this superficial cliff edge, which created needless

hassle, only now to pull the plug on the whole plan? What assessment have the Minister and his Department made of the overall cost to business of preparing for the parallel UKCA process, as opposed to sticking to the CE process that we are now reverting back to?

As welcome as this move is for businesses, it is far from ending the uncertainty for firms. Two critical questions remain. First, will the Minister confirm that this statutory instrument's removal of any expiry date for the CE regime's validity means that there will be no subsequent attempts to reinstate an expiry date? Secondly, do the Government intend to modify or water down the existing UKCA regulation, thus effectively creating a two-tiered regulatory system for firms and consumers to operate in?

I speak regularly to businesses, their representatives and intermediary organisations, and many have deep concerns about the state of the business environment, particularly in recent years, the lack of consistency and clarity in policy, and the constant chopping and changing. That is set out very clearly in proposals and changes resulting from Brexit uncertainties, and this is yet another example of that. Although this particular decision is welcome, the fact is that this should never have happened. It would have been far better if the Government had stuck to the CE regime that they are now reverting back to, rather than letting businesses waste so much time, energy, money and effort in addition to the burden they already faced.

The Government's dogmatic, ideological approach has been really damaging for businesses, and they are fed up with it. It is good that the Minister has responded and we will support this SI, but I very much hope that he will look at other provisions containing needless disruptions. We need a pragmatic approach to support businesses rather than an ideological one that damages them and their ability to generate growth and power our economy.

4.43 pm

Stella Creasy (Walthamstow) (Lab/Co-op): It is a pleasure to serve under you in the Chair, Ms Rees, and to be in this room. My hon. Friend the Member for Bethnal Green and Bow on the Front Bench was incredibly polite, whereas I shall not be. What a mess! What an absolute mess this is for British business, and what a symbol of the failures of Brexit.

Over the past year, while serving on bodies such as the Retained EU Law (Revocation and Reform) Bill Committee, I had the pleasure, shall we call it, of looking at the great powers and freedoms that Brexit offered us to set our own standards on toy safety. But what today tells us is that it is through collaboration that we keep our children safe and our standards high. This mess, this uncertainty and all the money that businesses have had to spend over the past couple of years amount to an honest admission—and this is what I hope the Minister will give us later—that trying to set our own regulatory regime in an international global economy when our businesses want to compete and to sell across the world is completely counterproductive to the British interest and to British businesses. A smarter regulatory regime? We all knew that Brexit ultimately was just about more paperwork.

George Eustice (Camborne and Redruth) (Con): Of course, the European Union does not represent the entire world and not every country in the world is a member of the European Union, so is the hon. Lady saying that the European Union should also forgo its right to set its regulations and should perhaps accept Codex as a standard to abide by?

Stella Creasy: I am not quite sure why the right hon. Member came up with that analysis. I am trying to make the point that we as a country, having left—*[Interruption.]* I would love to answer his question. I know that he has to chunter from a sedentary position because today is an embarrassment for him as somebody who also promoted the idea that, somehow, if we left the regulatory regime of the European Union, our country's businesses would benefit. They have not, and this instrument today proves why, because it is about how people can trade together and how regulatory regimes interact with each other. The point about CE marking is one that any business could have told him before we left the European Union. This is not an argument for us to rejoin; it is an argument for some honesty about why having common frameworks and common standards matters.

The right hon. Member would do well to look at the explanatory memorandum and what it means when it says on page 4:

“This EU recognition is implemented in GB legislation”.

What it is actually saying is that our standards are lower than the standards that the EU has set, because through this statutory instrument the Minister is admitting that GB standards will already be being met if EU standards are met. The tail is not wagging the dog; the dog is fully in the doghouse, because the reality is that it is better for British business to have one set of regulations to comply with. There is less paperwork, not more.

The paperwork that came from Brexit shows the fallacy of the idea—the fantasy—that somehow we, a country of 70 million consumers, could set a separate regulatory regime and tell British businesses that they could still trade across the world without incurring additional costs or facing additional barriers, including additional non-tariff barriers, and friction. That is the reality of this SI. My hon. Friend the Member for Bethnal Green and Bow was being kind about it. It is an admission of failure when it comes to the freedoms that British businesses were promised.

In that sense, I have a number of questions for the Minister, because I think British business deserves some honesty about the lessons that can be learned from the mess created over the charter mark in the last couple of years. Will he be honest? Given that the explanatory memorandum says that if EU standards are met, GB standards will have been judged to be met automatically, is that dynamic alignment? Are we saying that if, for example, new toy standards are set by the European Union, we will expect British business to follow them in order to meet the standards set out in this SI? Are we dynamically aligning? If we are not, the Minister needs to tell British business what will happen if British businesses do not meet those standards. Is there a cut-off point? At what point do these standards fall away?

Will the Minister be honest? We have talked about a figure of £583 million in terms of the cost. Of course, that is the cost of not implementing a British standards

charter, so this is not actually some great benefit to British businesses. This is an admission that all the time, effort and energy that went into trying to make the Brexit fallacy work in relation to British paperwork has cost them money, so actually, if we do not do this, we can save them money by not implementing the Brexit standards. But the impact assessment says that the total net impact for British business is actually £1.6 billion. Can the Minister clarify what the other £1 billion-worth of impact might be? Is it all that extra paperwork, the time, the cost and the business lost from trying to come up with two different charter marks to meet two different standards?

At what point did the Government recognise that this was in the British interest? How many stakeholder meetings were there? How loud did British business have to shout about the impossibility of trying to run two regulatory regimes at the same time? Why have we not learned the lesson from Northern Ireland on this? The Retained EU Law (Revocation and Reform) Act was about a bonfire of 4,000 regulations. To date, only a handful have been deleted. There is a good reason why that is the case. That is why it is important that we support this SI today. It is better for British businesses to have stability and to have less paperwork if they want to sell both in the UK and to Europe. It is better to be part of a standards regime that, through this SI, we are saying is a high-standards regime, because we are saying that we want to meet those standards.

What else will the Minister admit we have learned? The retained EU law Act gives his Department multiple pieces of legislation to review. Right now, across Parliament, in rooms like this, there are people looking at retained EU law legislation and whether we should have variation, and finding, oddly enough, when we look at it, that we should not. As my hon. Friend the Member for Bethnal Green and Bow says, it falls apart on hard contact with reality. It is better for British business to be able to share one set of regulatory regimes. What lessons have the Government learned from that experience, from all those stakeholder meetings and from all the money, effort and time that has been spent trying to come up with our own set of standards, when it was better for British business, toy safety and British consumers to share EU standards and be part of the CE mark? What will happen if those standards are not met?

The Minister will suggest that I am making an argument for remain, but this is not an argument for remain; it is an argument for sanity. That is what the British people deserve, given the damage being done by the hard Tory Brexit that is now being implemented in this country, and it is what this meeting needs.

4.50 pm

Kevin Hollinrake: I thank hon. Members for their contributions, I will deal with the key points raised. The shadow Minister, the hon. Member for Bethnal Green and Bow, talked about a dogmatic, ideological approach and about the Government persisting in travelling in the same direction, but admitted in the same breath that we have twice changed the deadline on the CE marking, and we have now changed it again to make it indefinite. As will always be the case with the Conservative party, we are for business because we are from business; we listen to businesses and we are pragmatic. As I said earlier, we have had 46 roundtables and engaged with

200 domestic and 50 international businesses. As the facts change, we change our mind, and it is important that we reflect the needs of businesses.

The hon. Lady talked about wasted money, but this money has not been wasted, in that the UKCA regime still applies and is still available to businesses that want to place goods just in the GB market. We have not legislated permanently never to reintroduce the UKCA marking; we are very much taking a case-by-case approach to sectors and products that we feel will benefit from a UKCA marking rather than a CE marking.

The point I would put back to the hon. Lady is that, as is often the case with the Opposition, we hear lots of criticism from people standing on the sidelines, but they do not have any definite plans themselves. Is she saying that she would not have a UKCA marking? Is she saying that she would permanently adopt a CE marking, which would mean she would have to settle for dynamic alignment? I am interested to know what her approach would be, so perhaps she could set it out when she addresses these points in future. *[Interruption.]* Does she want to intervene?

Rushanara Ali: Yes, I would be happy to. If the hon. Gentleman wants to get the Prime Minister to call a general election, I would be very happy to set out what the Labour party would do if we were in government, but he is the Minister. I have acknowledged the positive role he personally has played, but his predecessors were moved around—week after week, in some cases—and businesses unfortunately had to deal with industrial-scale uncertainty. As he will have heard, that was extremely damaging for confidence and made it hard for businesses to operate. I have separated out his role from those of his predecessors and previous Prime Ministers, and I hope he can acknowledge that I have been fair in the way I have reflected on it versus what happened before, but I call on him to call a general election so that the Labour party can get going and deliver for business.

Kevin Hollinrake: That is slightly above my pay grade, but I acknowledge what the hon. Lady said about my role. I have been here 18 months, and I am pleased to have been in the job, but I also have great respect for my predecessors.

The hon. Member for Walthamstow described what has happened as an unmitigated disaster for businesses. I would point out that the UK is now fifth in the global league table for trade; it was sixth, but we have just gone past France. We are the fourth largest exporter in the world; we were seventh, and we have again gone past France. We are third in terms of GDP growth, whether we look at the period since 2010, since the pandemic or indeed since Brexit. We are the second largest exporter in the world of financial services. We have the largest number of unicorns in Europe—businesses that have gone from start-up to a \$1 billion valuation—and twice as many as France and Germany combined. So there are many, many positive things that the hon. Lady might reflect on rather than looking at the difficulties she describes for businesses.

I think the hon. Lady said that we should dynamically align with everything the European Union does and that that would be helpful for business. Let me point out some of the things that she would forgo if she took that

approach: the move to digital labelling on a voluntary basis, which businesses greatly welcome; the changes we have made to things such as the working time directive, holiday pay and GDPR, and to the product safety regulations, which will make it easier for businesses to comply with those regulations; the Digital Markets, Competition and Consumers Bill, which will hold big tech companies to account to help small and medium-sized enterprises, in a completely different and we think much better way than the EU; free trade agreements with 73 countries, including Australia and New Zealand; and accession to the comprehensive and progressive agreement for trans-Pacific partnership and thus one of the largest growing markets in the world. None of those things would have been possible had we stuck in the European Union, as the hon. Lady wanted, or continued with dynamic alignment with European Union rules. She asked whether we will continue to dynamically align. We will take that on a case-by-case basis. The UKCA mark is still there where we decide to diverge from the European Union.

I did not get the hon. Lady's point about the net benefit. The net benefit is set out quite clearly in the impact assessment: £64.8 million in the first year and £558 million over a 10-year period. I am happy to write to her if she wants to write to me—

Stella Creasy rose—

Kevin Hollinrake: Or she can come in now.

Stella Creasy: I thank the Minister. I am merely pointing out that the reason why those net benefits exist is about the option of keeping the existing CE mark, as opposed to moving wholly to the UKCE mark that the Government originally put out. The Minister's own impact assessment suggests that for British business to have done that would have cost them £1.6 billion. That is why this is a fantasy, and that is why the question what happens if businesses diverge from these requirements comes into play. I hope the Minister will answer that, because it would be helpful to understand what the Government think will happen if businesses do, after all that, still want to follow his UKCE mark and pay that cost.

Kevin Hollinrake: I thank the hon. Lady for her intervention. It is the UKCA mark, by the way. The reality is that we will take this on a case-by-case basis. Where there are good reasons to diverge for a product or sector, we could use the UKCA mark and diverge from the European Union. We are not going to diverge right across the piece; we can have the best of both worlds. We can make it easier for businesses that want to trade across borders in the European Union and the UK, but we can diverge where necessary using the UKCA mark.

Before I conclude, I will give way to my right hon. Friend.

George Eustice: I am grateful to the Minister for giving way so late. I assure him that I am not going to be difficult; I support what he is trying to do. Paragraphs 44 and 45 of the impact assessment make it clear that, under the Product Safety and Metrology (Amendment

[George Eustice]

and Transitional Provisions) Regulations 2022, the Government intended for there to be a very strong dose of mutual recognition. Those regulations provided that if somebody had a CE mark, that could be recognised and used and they would not have to go through additional tests, and that that would stand until 2027 or for the life of the certificate. What consideration did the Government give to just extending that 2027 deadline so that we retained control while having very sensible easements in place and recognising the CE mark for as long as it is valid enough to be recognised?

Let me make a second point about spreading this approach to other areas. I encourage the Minister to resist that. I looked at it very closely on issues such as chemicals and pesticides when I was in DEFRA, and there were serious doubts about whether the European Union would have the technical expertise to do some of these things correctly once British officials had been withdrawn from working groups. We cannot rely on the European Union to make adequate assessments of these products in the long term.

Kevin Hollinrake: I am very happy to take up my right hon. Friend's first point in more detail offline. The thing that we are dealing with here is the expiry of CE certification by the end of this year. On UKCA certification, he is right to say that the deadline is 2027,

but that tackles a separate problem. The problem we are trying to solve here is making sure that businesses have the consistency and continuity of being able to use the CE marking. On other sectors, such as chemicals, my right hon. Friend is a much greater expert than I am, and I am sure he will be making approaches to the relevant Ministers about those areas. I certainly urge him to do so and to use his experience in that regard.

Without this legislation, from 1 January 2025 businesses that do not comply with UKCA requirements will not legally be able to place their products on the Great British market. Industry identified that that could increase costs, leading to higher prices and less choice for UK consumers—indeed, as I said, there will be a saving of £558 million to businesses over 10 years. Our officials will of course continue to engage with industry. The Government are committed to high levels of protection for UK consumers and continue to take a pragmatic approach to improving regulation to benefit businesses and consumers. I urge the Committee to approve the regulations.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Product Safety and Metrology etc. (Amendment) Regulations 2024.

5 pm

Committee rose.