

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT MOVEMENT OF GOODS (NORTHERN IRELAND TO GREAT BRITAIN) (ANIMALS, FEED AND FOOD, PLANT HEALTH ETC.) (TRANSITORY PROVISION AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2024

Tuesday 3 December 2024

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Saturday 7 December 2024

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The Committee consisted of the following Members:

Chair: DEREK TWIGG

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| † Beavers, Lorraine (<i>Blackpool North and Fleetwood</i>)
(Lab) | † MacDonald, Mr Angus (<i>Inverness, Skye and West Ross-shire</i>) (LD) |
| † Brandreth, Aphra (<i>Chester South and Eddisbury</i>)
(Con) | † Narayan, Kanishka (<i>Vale of Glamorgan</i>) (Lab) |
| † Collins, Tom (<i>Worcester</i>) (Lab) | † Robertson, Dave (<i>Lichfield</i>) (Lab) |
| Farron, Tim (<i>Westmorland and Lonsdale</i>) (LD) | † Smith, Jeff (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Gardner, Dr Allison (<i>Stoke-on-Trent South</i>) (Lab) | † Wilson, Sammy (<i>East Antrim</i>) (DUP) |
| † Glindon, Mary (<i>Newcastle upon Tyne East and Wallsend</i>) (Lab) | † Wood, Mike (<i>Kingswinford and South Staffordshire</i>)
(Con) |
| † Hall, Sarah (<i>Warrington South</i>) (Lab/Co-op) | † Woodcock, Sean (<i>Banbury</i>) (Lab) |
| † Hardy, Emma (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) | † Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| † Hudson, Dr Neil (<i>Epping Forest</i>) (Con) | Paul Owen, <i>Committee Clerk</i> |
| | † attended the Committee |

The following also attended, pursuant to Standing Order No. 118(2):

- | | |
|---|---|
| Allister, Jim (<i>North Antrim</i>) (TUV) | Lockhart, Carla (<i>Upper Bann</i>) (DUP) |
| Easton, Alex (<i>North Down</i>) (Ind) | Swann, Robin (<i>South Antrim</i>) (UUP) |

Fourth Delegated Legislation Committee

Tuesday 3 December 2024

[DEREK TWIGG *in the Chair*]

Draft Movement of Goods (Northern Ireland to Great Britain) (Animals, Feed and Food, Plant Health etc.) (Transitory Provision and Miscellaneous Amendments) Regulations 2024

4.30 pm

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

That the Committee has considered the draft Movement of Goods (Northern Ireland to Great Britain) (Animals, Feed and Food, Plant Health etc.) (Transitory Provision and Miscellaneous Amendments) Regulations 2024.

It is a pleasure to serve under your chairmanship, Mr Twigg. The draft regulations, which were laid before the House on 28 October, form part of the Government's commitment to implementing the border target operating model by ensuring that sanitary and phytosanitary controls are applied to European Union and rest-of-world goods entering Great Britain through Northern Ireland. These controls are essential to maintaining the United Kingdom's biosecurity and food safety, as well as focusing the benefits of unfettered access arrangements on qualifying Northern Ireland goods.

The draft instrument, which uses powers conferred by the European Union (Withdrawal) Act 2018, has two main purposes. The first is to apply pre-notification and sanitary and phytosanitary certification requirements to goods that are not qualifying Northern Ireland goods and that are entering Great Britain through Northern Ireland. These requirements are consistent with those already applied to certain European economic area goods and those entering Great Britain from Switzerland, Liechtenstein, the Faroe Islands and Greenland under the transitional staging period. This will mean that European Union and rest-of-world goods entering Great Britain through Northern Ireland are treated the same as such goods entering Great Britain through Ireland.

The second purpose of the draft instrument is to make consequential amendments to various pieces of sanitary and phytosanitary legislation. The definition of qualifying Northern Ireland goods was amended earlier this year for food and feed goods. The consequential amendments in the draft instrument will ensure that the updated definition is reflected consistently across the regulatory framework.

Let me emphasise from the outset that the Government remain fully committed to ensuring unfettered access for qualifying Northern Ireland goods to the rest of the UK market. The Windsor framework Command Paper, which was published by the previous Government in February 2023, and the border target operating model, which was published in August 2023, clearly state that Northern Ireland businesses will have unfettered access

when moving qualifying Northern Ireland goods into Great Britain. The border target operating model also states that European Union and rest-of-world goods will be subject to sanitary and phytosanitary controls when moving from Northern Ireland into Great Britain. The approach adopted in this legislation is consistent with these commitments.

The draft regulations will not make any changes to the arrangements for moving qualifying Northern Ireland goods into Great Britain. Qualifying Northern Ireland goods will not be required to undergo any of the controls implemented by this legislation and will continue to move freely within the UK internal market. Indeed, by applying controls to European Union and rest-of-world goods entering Great Britain through Northern Ireland, these measures will more closely focus the benefits of unfettered market access on Northern Ireland traders moving qualifying Northern Ireland goods. This will sharpen their competitive advantage.

The sanitary and phytosanitary controls applied to European Union and rest-of-world goods entering Great Britain through Northern Ireland under the draft instrument are temporary. We will revoke the instrument when the transitional staging period, which allows for easements in the performance of official controls, ends. This is currently set at 1 July 2025.

Tom Collins (Worcester) (Lab): I note that the long-term approach to NI-GB movements is still being developed. Should that programme of work extend beyond the end of the current transitional staging period on 1 July, will we then perform an impact assessment for the draft regulations, given that an impact assessment has not been prepared for them because of the short period for which they are to have effect?

Emma Hardy: We will absolutely be looking at all options. I cannot predict what will have happened by 1 July 2025; the legislation currently states that that is when the transitional staging period will end, but as my hon. Friend notes, work is ongoing.

A longer-term approach for further controls on European Union and rest-of-world goods entering Great Britain from the island of Ireland is yet to be implemented. The temporary nature of the draft instrument allows for biosecurity controls to be in place for those goods entering Great Britain from Northern Ireland ahead of that, although of course that is without prejudice to unfettered access protections granted to qualifying Northern Ireland goods. I must also highlight the fact that the draft instrument extends to England, Wales and Scotland.

I reaffirm the Government's steadfast commitment to supporting the businesses and communities of Northern Ireland while safeguarding the integrity of the UK internal market. I commend the draft instrument to the Committee and look forward to hon. Members' contributions.

4.35 pm

Dr Neil Hudson (Epping Forest) (Con): It is a privilege to serve under your chairmanship, Mr Twigg. I thank the Minister for bringing forward the draft regulations for the Committee to scrutinise. His Majesty's loyal Opposition have some significant doubts and concerns about them, however, because of the impact that they

might have on goods moving from Northern Ireland into Great Britain. Although we welcome the fact that some Northern Ireland goods that qualify will continue to have unfettered access to Great Britain and will not be subject to sanitary and phytosanitary controls, we have some concerns regarding the rest of the so-called non-qualifying goods and the impact that the regulations will have on businesses that regularly trade across the Irish sea.

The Opposition will continue to scrutinise this secondary legislation and assess its impact. As was raised by the hon. Member for Worcester, given the temporary nature of the guidance, impact assessments will be needed on what it means for secure unfettered trade between GB and Northern Ireland.

How will the Labour Government support businesses in Northern Ireland when trading across the sea to Great Britain? What about the other way around, where businesses in England, Scotland or Wales want to do business with Northern Ireland? How will the Government support that smooth trade? How will the Minister monitor the impact of this secondary legislation on the trade between Northern Ireland and Great Britain? How will the Minister monitor its impact on businesses in Northern Ireland dealing with the regulations, and their success?

Goods from Northern Ireland must be able to make it across the sea so that businesses there are not at an unfair disadvantage. Accordingly, as we have some concerns and reservations, the Opposition will be formally abstaining on this piece of secondary legislation.

We look forward to scrutinising further, and to the Minister's addressing our concerns about smooth trade between Northern Ireland and Great Britain and about upholding the importance of biosecurity. We will press the Government to bring forward plans to encourage businesses to trade across the sea, so that we all benefit across our entire United Kingdom.

4.38 pm

Sammy Wilson (East Antrim) (DUP): First, may I make it clear why these regulations are required? The only reason for introducing them is that the previous Government, supported by the present Government when they were in opposition, accepted that Northern Ireland should be divided from the rest of the United Kingdom. Normally, these checks for goods coming from a third country would have been done at the recognised international border of the country that is imposing them. However, because of the decision to divide Northern Ireland from the rest of the United Kingdom and to disregard the international border between Northern Ireland and the Irish Republic and the checks that would normally have taken place there, these checks are necessary for trade going from Northern Ireland into GB.

I welcome the fact that Northern Ireland trade has been differentiated from trade from the Republic of Ireland into GB, but the fact of the matter is that there will still be impositions for those who are trading across the border. Those impositions will be disruptive and will mean that trade is convoluted.

There is a certain irony in what is being proposed. First of all, we can do checks without physically stopping anything at the border. One of the reasons for a border between Northern Ireland and GB was that we were

told that it was impossible to do checks on trade from the Republic of Ireland into Northern Ireland or vice versa without having physical checks on the border. Now we are told that it can be done by the production of certificates, done at warehouses, done at the point of destination and so on.

There is a bigger question for the current Government. The issue is not going away; it is still causing difficulties for trade between GB and Northern Ireland. Why cannot the principle and the practice that are being established in these regulations be applied to all trade, including trade from Northern Ireland to the Irish Republic?

Secondly, the draft regulations will leave Northern Ireland exposed to the dangers, problems and issues against which we are trying to safeguard the rest of the UK market. The SPS checks and certifications apply to goods that are moving from the Irish Republic through Northern Ireland into GB; they do not apply if the goods are simply moving from the Republic of Ireland into Northern Ireland.

There are fears about that, and quite rightly so, because it is clear that the authorities in the Irish Republic have been lax in the past when it comes to imposing regulations on animal safety and so on. According to the draft regulations, goods can move from the Republic into Northern Ireland and can be used in Northern Ireland, be consumed in Northern Ireland or reach their final destination in Northern Ireland without any checks. It is only when they move into another part of the United Kingdom that such checks will be imposed. That indicates that as a result of the current arrangements with the European Union, Northern Ireland is being left exposed not only to the disruption of trade, but as regards the safety of some of that trade.

I would like to hear from the Minister what the intention is in the longer term. If checks away from the border prove ineffective, and traders decide to ignore them or abuse them, at what stage do the Government envisage the possibility of physical checks on lorries crossing into GB from Northern Ireland? How would those lorries be distinguished from lorries originating in the Irish Republic? What about lorryloads brought into Northern Ireland, put into Northern Ireland-owned lorries and taken into GB? It would be a constitutional and economic affront if we found ourselves in a two-way system. Vehicles are already being checked when coming from GB into Northern Ireland, even though very little of that trade will ever finish up in the Irish Republic. If barriers were imposed in the other direction, it would be a double affront to people in Northern Ireland.

Whatever approach is taken, the issue will always arise of where the international boundary is placed within the country that we belong to. The Minister says that the regulations are an interim measure and that she will look at the border operating model later on, whenever it is imposed, formalising it in a more structured way. We will closely monitor how this works and what happens in future.

As long as this uncertainty goes on, businesses in Northern Ireland will be left with the question of the cost of doing business in our main market. We have already seen the uncertainty that the checks on goods from GB to Northern Ireland have caused for businesses in GB and in Northern Ireland. This is yet another irritant—another barrier that will disrupt the flow of trade between the two parts of our country. It does not

[*Sammy Wilson*]

augur well for the promise of unfettered access. Indeed, the very fact that we have to impose these checks indicates that the flow of trade within the United Kingdom is not normal and will not be normal until the issue of the protocol and the Windsor framework is dealt with.

4.46 pm

Carla Lockhart (Upper Bann) (DUP): It is a pleasure to serve under your chairmanship, Mr Twigg. The regulations seek to address the issue of non-qualifying goods moving from Northern Ireland to GB requiring pre-notification, phytosanitary certification and other checks. While the intention might be to protect the integrity of trade flows, the reality is very different. These measures stem from a flawed premise that should never have been accepted in the first place.

Under changes made earlier this year, qualifying status for goods was amended to distinguish between goods genuinely produced in or linked to Northern Ireland and those from the Republic of Ireland. That distinction is now being embedded in law with additional controls for non-qualifying goods. While it is understandable to differentiate between goods originating from within Northern Ireland and those simply passing through, the fundamental problem lies with the decision to shift SPS controls from the international border with the Republic of Ireland to the Irish sea—a two-way Irish sea border that impacts GB-to-NI and NI-to-GB trade, which is something we were promised would never happen.

The shift has, again, created constitutional damage, as well as economic harm. It was inevitable that the system would lead to barriers, not just for goods coming into NI, but for those moving from NI to GB. The regulations will formalise a convoluted and difficult-to-enforce arrangement, potentially impacting the seamless movement of goods produced in Northern Ireland. Hauliers and logistics experts have highlighted the difficulty that that will create. A particularly troubling irony is that the regulations allow for checks on non-qualifying goods to be carried out away from traditional border control points at any point of destination, warehouse or other suitable location. If such flexibility is acceptable for trade moving from NI to GB, why is it not considered viable for trade across the land border between Northern Ireland and the Republic of Ireland?

The arrangements are transitional, as has been highlighted. We are told that a long-term framework for import controls will be introduced in the near future, but there has been little to no clarity about how the new system will work, and the balance that is needed for enforcement and the upholding of the commitment to unfettered access for Northern Ireland businesses.

Finally, there is a risk of real disruption. There is no clarity on whether businesses have been given adequate guidance on how the controls will operate in practice. Without clear advice, there will no doubt be confusion and delays, which will further harm trade between Northern Ireland and the rest of the United Kingdom. This screams of, “As long as GB is okay, don’t worry about Northern Ireland”—Northern Ireland does not matter when it comes to animal and plant health, disease and the protection of our market, given that the border has now moved from its rightful place.

These regulations attempt to address a problem that should never have existed. They put an extra burden on our agrifood businesses, which are already squeezed. They highlight the harm caused by the Irish sea border and the need for a solution that respects Northern Ireland’s integral place in the United Kingdom.

4.50 pm

Jim Allister (North Antrim) (TUV): Thank you, Mr Twigg, for the opportunity to contribute on this matter.

There are the practical considerations, and there is the ideology that lies behind these regulations. On the practical side, we are told that Northern Ireland qualifying goods—that is to say, those that originate only within Northern Ireland—will have free passage to GB. However, the very fact that we have to consider and discuss that within what is supposed to be one single country and one single internal market requires a commentary in itself.

The Minister would concede that to implement these regulations, there will have to be spot checks on NI qualifying goods moving to GB. Without them, there will be no protection against infringement, breaches and upset of the very thing that is meant to be protected. I suspect that, whereas it is easy to say that Northern Ireland qualifying goods will move unfettered from Northern Ireland to GB, the reality will be very different in time. Spot checks will inevitably be carried out as a protection, and that will have the full-frontal effect of fettering trade from Northern Ireland to GB.

The more fundamental point is that these regulations put the Government in something of a bind. They tell us, as their predecessor Government did, that trade from GB to Northern Ireland cannot be managed without an international customs border partitioning the United Kingdom down the Irish sea. Of course, that stems from the fact that the protocol surrendered customs control over Northern Ireland, because, under regulation (EU) 2017/625, Northern Ireland is deemed to be the entry point to the EU.

We are deemed to be EU territory, so all the rules relating to its customs code and single market apply to us—rules we do not make and laws we cannot change. This Government and the previous one said, “That’s the only way to manage the border, because having checks away from the border, and SPS facilities at factories and recipient points just wouldn’t work.” Yet that is precisely what these regulations are proffering, in terms of goods from the Republic of Ireland coming into Northern Ireland and going onward.

If the destination of the goods is Northern Ireland, there will be no checks whatever because Northern Ireland is deemed to be EU territory with regard to customs arrangements. If the goods are going onwards, they are to be subject to SPS checks, which can be carried out away from the border. If SPS checks can be carried out away from the border in a west-east transition, why on earth can they not be carried out away from the border in an east-west transition or a north-south transition?

That is the fundamental bind that the Government are putting themselves in. They are saying, on an unsustainable basis, “You must have an Irish sea border. You can’t have the checks at the international border, because you can’t do them away from the border at the

factories from which they come or the places to which they are going.” But that is exactly what is on offer here for goods coming from the Republic of Ireland: they can be checked at SPS facilities away from the border. If that is good enough for goods that are going from the Republic through Northern Ireland to GB, why is it not good enough for goods going from the United Kingdom through Northern Ireland to the Republic of Ireland? That is the fundamental question.

If it fits for one, why does it not fit for the other? Patently it would and it should, but it only could if the Government recover sovereignty over Northern Ireland by discontinuing our treatment as an EU territory. Then there can be SPS checks, not at the border if we do not want them there, but at any facility, so that the goods travelling from GB to the EU through Northern Ireland are treated exactly as the goods coming from the EU through Northern Ireland to GB. I would love the Minister to explain to us why it could not and should not be a two-way process, because without it we will end up with a two-way border in the Irish sea.

4.56 pm

Robin Swann (South Antrim) (UUP): It is a pleasure to serve under your chairmanship, Mr Twigg. There are basically three questions for the Minister about the regulations, following her opening speech.

The Minister said that the draft regulations would sharpen competitive advantage. I seek clarification from the Minister on the basis of and context for that phrase, because that is not the experience of the businesses that I represent in Northern Ireland.

I seek further clarification on how, if and when the regulations are adopted, they will be disseminated across businesses in Northern Ireland. We currently have the trader support service, which is out for a competitive procurement exercise at this moment on the support mechanisms that it delivers to businesses in Northern Ireland. I recently met a group of businesses in my constituency of South Antrim, as well as road hauliers and delivery companies that have been dealing with them. They do not have clarity from the trader support service about how these regulations and others are implemented, or on how they are meant to comply without being on the receiving end of financial penalties for regulations that are neither well explained nor well delivered, nor actually clarified.

The Minister referred on a number of occasions to the fact that the regulations are temporary in nature. I seek clarification from the Government on the costs, delivery and designations of the permanent check posts mentioned in regulation 2(2) and (3). What physical structures are to be put in, and what are the costs of implementing the checks? How does that balance against the threat to the UK economy, or indeed the EU's, relating to the delivery of the goods covered in the regulations and the relevant moneys?

4.59 pm

Emma Hardy: I recognise the significant strength of feeling and the concerns that hon. Members hold about the draft regulations. I have been scribbling away and will do my best to answer as many questions as I can, but if Members are not satisfied with the level of detail that I am able to give, I commit to ensuring that my

officials answer any other detailed questions in writing; I put that on the record. I am a little surprised, however, that the official Opposition are raising criticisms, considering that the regulations are a consequence of the Windsor framework, which was negotiated by the previous Government. If they had had concerns, that might have been the point at which to raise them. I will do my best to answer the questions of Northern Irish colleagues, but if they feel that I have not given them the detail that they require, I commit to ensuring that we follow up.

The full and constructive points that have been raised reflect the importance of the legislation and the principles that it upholds of maintaining our biosecurity, supporting the smooth functioning of the United Kingdom internal market and honouring the commitments made and negotiated under the Windsor framework. The draft instrument will deliver the necessary provisions to ensure that Great Britain's responsibilities on biosecurity and food safety are upheld, which will safeguard the health of our people, animals and plants. I strongly reaffirm and strengthen the Government's unwavering commitment to unfettered access for qualifying Northern Ireland goods to ensure that businesses in Northern Ireland continue to enjoy a unique position within the UK internal market.

I will cover as many as I can get through of the points that have been raised. I was asked about non-qualifying Northern Ireland goods. Non-qualifying Northern Ireland goods are any goods that fall outside the qualifying Northern Ireland goods definition, such as European Union and rest-of-world goods. For example, if goods have been moved into Northern Ireland from outside the UK, and one of the main purposes of that movement is to gain qualifying Northern Ireland goods status, in any subsequent move to Great Britain the goods are not qualifying Northern Ireland goods. Such goods do not benefit from unfettered market access. The draft instrument will ensure that they are subject to the relevant SPS and other controls on entering Great Britain through Northern Ireland. That will ensure that the benefits of unfettered access are targeted on Northern Ireland, rather than on EU and rest-of-world goods.

Sammy Wilson: Since those checks do not cover the goods when they come into Northern Ireland, but only when they go into GB, what assurances can the Minister give to people in Northern Ireland that they will not be subject to dangers or disadvantages that the rest of the United Kingdom will not face?

Emma Hardy: My understanding of the situation is that that is a consequence of the Windsor framework and the desire not to have a hard border within the island of Ireland, but if I am incorrect I will get the right hon. Gentleman a proper answer.

I was asked why the instrument is temporary. It will be revoked when the transitional staging period expires; as we have said, it is currently scheduled to end on 1 July 2025. The timeline for the implementation of further controls on non-qualifying goods entering Great Britain from the island of Ireland has not yet been announced. We will provide a further update on that in summer 2025. I repeat my commitment to inform and keep up to date all Northern Irish Members of Parliament especially, so that they know exactly what is happening and when.

Sammy Wilson: The move towards the border control operating model started under the last Government. As several hon. Members have already indicated, it was chaotic: no one could give any answers about how it would operate. I am sure that we have all met traders in our constituencies, especially hauliers, who could not get answers from His Majesty's Revenue and Customs or any other Department. Will the Minister make sure not only that Northern Ireland Members are informed, but more importantly that businesses, which know the difficulties of operating under that model, are informed and have discussions with her?

Emma Hardy: The right hon. Gentleman makes a very valid point. We will absolutely do our best to make sure that all businesses and Members of Parliament are fully updated.

The temporary nature of the draft instrument allows the Government to apply biosecurity controls to European Union and rest-of-world goods entering Great Britain from Northern Ireland ahead of a longer-term approach.

I was asked about the long-term approach for the treatment of non-qualifying Northern Ireland goods. The border target operating model outlines that the SPS import controls on European Union and rest-of-world goods entering Great Britain from the island of Ireland will progress on a separate timeline. Further to the right hon. Gentleman's point about businesses, we will continue to collaborate with the devolved Governments and all border stakeholders. We will support implementation readiness across vital points of entry to better protect UK biosecurity. We will communicate any additional updates well in advance to give traders time to prepare.

The UK Government will work closely with the devolved Governments to develop plans for the delivery of a long-term approach for the treatment of European Union and rest-of-world goods entering Great Britain from the island of Ireland. These plans will continue to preserve the unfettered movement of qualifying Northern Ireland goods into Great Britain, whether those goods

are moving directly from Northern Ireland to Great Britain or from Great Britain to Northern Ireland via Ireland.

I was asked whether the measure will give effect to an Irish sea border. The short answer is no, because the legislation applies only to sanitary and phytosanitary controls on European Union and rest-of-world goods entering Great Britain from Northern Ireland. Qualifying Northern Ireland goods are not required to undergo any of the sanitary or phytosanitary controls implemented by this legislation and will continue to move freely within the internal market. This sharpens the competitive advantage of Northern Ireland traders moving qualifying Northern Ireland goods by more closely focusing the benefits of unfettered access on them. I reassure the hon. Member for Upper Bann that guidance will be provided with a sufficient lead-in time for traders; there was a similar concern about businesses.

The benefit of the regulations is that they will strengthen Great Britain's biosecurity by delivering alignment in the treatment of European Union and rest-of-world goods entering Great Britain from the island of Ireland. It is right that goods from the European Union and the rest of the world are treated differently from goods moving within the UK's internal market. Additionally, the consequential amendments to the definition of qualifying Northern Ireland goods in existing legislation will ensure that the updated definition, which focuses the benefits of unfettered access more squarely on Northern Ireland traders, applies to the direct and indirect movement of such goods into Great Britain. I thank all hon. Members for their contributions.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Movement of Goods (Northern Ireland to Great Britain) (Animals, Feed and Food, Plant Health etc.) (Transitory Provision and Miscellaneous Amendments) Regulations 2024.

5.6 pm

Committee rose.