



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Agriculture and Miscellaneous Regulations:
Department of Agriculture, Environment
and Rural Affairs

8 October 2020

NORTHERN IRELAND ASSEMBLY

Committee for Agriculture, Environment and Rural Affairs

Agriculture and Miscellaneous Regulations:
Department of Agriculture, Environment and Rural Affairs

8 October 2020

Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Mr Ken Bradley	Department of Agriculture, Environment and Rural Affairs
Ms Elaine McCrory	Department of Agriculture, Environment and Rural Affairs
Mr John Mills	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McAleer): I welcome John Mills, head of environment policy, Ken Bradley, regulatory resources policy branch, and Elaine McCrory, head of Brexit. Before you give your presentation, I would like you to explain why two of the SIs that we were expecting have not been provided and whether the Minister intends to give consent to them being laid.

Ms Elaine McCrory (Department of Agriculture, Environment and Rural Affairs): Thanks for the opportunity to present on these two SIs.

Apologies that I have not been able to share the papers with the Committee at this stage. The main reason is that I have not obtained all the necessary clearances to share those papers. I am hopeful that I will be able to share them later this week. I am happy to take questions on them when you do receive them so that we can help with the Committee's consideration.

If it is useful, I can give an overview of what is in the two SIs.

The Chairperson (Mr McAleer): Yes, that would be helpful.

Ms McCrory: I can cover only two SIs: FD/06 and CMO/18. It would then be over to John's team to cover the other one. I will give you an overview of what is in my two, and, if you have any immediate questions, I could deal with those.

The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 is a bit of a mouthful, so I call it FD/06. DEFRA is proposing to make this legislation on a UK-wide basis to ensure a functioning statute book at the end of the transition period. It is planning to lay the SI on 14 October. We had originally categorised the SI as a category 3. That was because we had not seen a full set of papers for the SI, and there were some outstanding issues that we needed to discuss around its operation. Having looked at it in detail, we are fairly certain that it is a category 2 SI. It makes some policy changes, but nothing that will affect Northern Ireland substantially. However, it is up to the Committee to consider that when it gets the paper.

The SI deals with geographical indication (GI) schemes, as well as wines, aromatised wines and spirit sector standards. It revokes and reinstates a number of previous SIs and updates them where necessary. It also consolidates the previous SIs into one document. About 85% of the SI deals with GIs, which are a reserved matter because they are a form of intellectual property rights. It also provides the basis for the creation of UK schemes that will operate in GB. That is necessary for the UK to fulfil some of its obligations under WTO rules. Since the GI legislation is included at annex 2 of the protocol, Northern Ireland will continue to follow EU rules on GIs, so a large part of the SI strips Northern Ireland out and makes it clear that the new rules and new schemes apply to protection of products in GB. Northern Ireland will continue to follow the EU scheme rules. Despite the fact that they are a reserved matter, we have worked very closely with DEFRA on developing the new UK schemes and in developing new UK logos for the schemes, which have been just recently published. We will continue to work with DEFRA as it finalises the arrangements in detail for those new schemes.

The SI also deals with amendments in relation to wine, aromatised wines and spirits. Those matters are included at annex 2 of the protocol, so Northern Ireland will continue to align itself with EU rules, while GB will follow its own retained EU rules.

The SI amends the domestic enforcement legislation for GIs and wine and spirit standards. Due to the fact that GB will follow retained EU rules and Northern Ireland will follow the EU directly, we needed parallel amendments to the UK-wide enforcement regulations to make clear that Northern Ireland will continue to enforce EU rules in those areas.

Those are the main changes that are made by this SI. As I said, the majority relate to reserved matters, and only a very small number relate to domestic legislation in Northern Ireland. I do not think that existing GI holders will notice any difference as a result of the SI because they will continue to enjoy protection in GB and the EU.

The Chairperson (Mr McAleer): Thank you, Elaine. That was very helpful. Elaine, for clarity, you were talking about FD/06. Is that correct?

Ms McCrory: Yes. It relates to GIs. If it is helpful, I can move on, or I am happy to take questions.

The Chairperson (Mr McAleer): It would be helpful if you moved on, and, if there are any questions, we can ask them at the end. Are you covering CMO/18 and AG/26 as well?

Ms McCrory: I am just covering CMO/18.

The Chairperson (Mr McAleer): OK. Perfect. Thank you.

Ms McCrory: CMO/18 or the Common Organisation [*Inaudible.*]

The Chairperson (Mr McAleer): Elaine, we have lost you.

Ms McCrory: Sorry, I read out the full title of the SI. Can you hear me now?

The Chairperson (Mr McAleer): Yes. So it is CMO/18.

Ms McCrory: Yes. I will call it CMO/18 as it is easier. It is one of two SIs that will amend legislation on common market organisation marketing standards and organic production and labelling. Along with the reserved SI, it amends a number of retained EU regulations and domestic secondary legislation, as well as previous SIs that were made in preparation for a no-deal exit. The SI is needed to make sure that the law works properly in GB after the transition period, correct previous errors and inconsistencies, and the main thing that it does is to implement the Northern Ireland protocol.

A lot of the changes in this SI are technical amendments. As Northern Ireland follows EU rules, the SI removes Northern Ireland from the previous exit SIs in that respect. There are about 80 changes where it changes "member state", "Council" or "Commission" to "Great Britain". There are also a lot of other changes where it changes "community" or "union" to "Great Britain", and that covers the vast majority of the changes.

The SI also makes sure that any legislative and decision-making powers that are repatriated from the Commission to the UK apply to GB only. Northern Ireland will continue to follow EU rules on marketing standards, and that means that we do not have regulation-making powers to change the marketing standards. The same thing applies with the organic production and labelling, where it makes it clear that Northern Ireland and DAERA does not legislate in those areas; it will still be the Commission.

That covers the bulk of the changes in this SI. There are other changes in the SI that, unfortunately, I am not at liberty to talk about at the moment. The UK Government are probably going to announce those things, and the timing of that is not clear. I am not at liberty to share that information with you at this stage. I apologise, but I am just not able to do it. I am happy to take questions from the Committee. The second SI will be laid on 15 October.

The Chairperson (Mr McAleer): We might take the AG26 SI as well, and then we can ask questions about them all. Is that OK?

We have been briefed on the Genetically Modified Organisms (Amendment) (EU Exit) Regulations 2020 before. Have members any questions? We are talking about FD/06 on agricultural products, CMO/18 on common organisation and AG26 on genetically modified organisms. Has anyone any questions on the three SIs?

Is the Committee content to note the three SIs?

Ms Bailey: The officials say that they do not have the necessary clearance to give us details and are not at liberty to give us further information, but both SIs are classed as category 3. This needs to be a bit more than noting the SIs. We are being asked to do something with these SIs when they have not been laid, they contain big policy changes, and officials have not been cleared to give us the details. How can we even note the SIs?

Mr Irwin: Mr Chairman, we are only noting them. There is nothing wrong with noting them.

Mr McGuigan: We have not seen them.

Mr Irwin: We were told that they are mainly technical.

The Chairperson (Mr McAleer): When is the earliest that we will get sight of the information that we do not currently have?

Ms McCrory: I hope that you will get the first one, SI FD/06, today or tomorrow. It is just a technicality that we have not got released yet. Having looked at it again, I would say that that one is a category 2 SI because it is mainly technical changes and is 85% reserved. You should get that one very quickly.

The second one, which has some content *[Inaudible.]* Hopefully, again, that will be released this week.

The Chairperson (Mr McAleer): Do Committee members want to withhold any decision until we get that information?

Mr Blair: Chair, I think that that is the best thing to do. There are two sets of papers that we have not received. The third, on AG26, says that no consultation took place. I understand the rationale for that in the paper, and there are papers for that one in front of me.

More generally, is there an argument that there should be consultation, even within the sector or various sectors if that is applicable, given the unique circumstances of Northern Ireland with an EU interface that does not apply across the rest of the UK? Has that been considered?

Mr Ken Bradley (Department of Agriculture, Environment and Rural Affairs): Chair, could I provide clarification on AG26?

The Chairperson (Mr McAleer): The regulations on genetically modified organisms, yes.

Mr K Bradley: With regard to AG26 and the question of consultation, there was no formal consultation by DEFRA — no general consultation — but there was specific consultation with biotechnical companies, universities and NGOs. It is a very limited sphere and issue. The companies that were relevant to this were contacted. There are no policy changes; they are totally technical. Therefore, because there were no policy changes, it was felt that consultation was not required.

Mr McGuigan: I was going to make this point in closed session later, but it is probably more appropriate to make it now. With regard to discussing things today when we do not have the papers, and the potential of having to discuss them again, is the Committee at liberty to say that, if we do not have papers, we do not discuss it or make a decision on it until we get papers?

The Chairperson (Mr McAleer): Yes.

Mr McGuigan: I am not saying that we have wasted an hour, but we have spent an hour to an hour and a half this morning going through the SIs. We do not have papers or all the up-to-date information, and we are being asked to make a decision on them or, alternatively, we will be asked to discuss them again, maybe in a week's time at the next meeting. If we are OK to do it, I propose that, when we do not have papers, we do not discuss it until we have them.

Mr Blair: That makes sense and is a perfectly reasonable position.

The Chairperson (Mr McAleer): OK. No papers have been received for CMO/18 or FD/06. There is some correspondence. We will not make a decision until we get more information.

Are members content to note AG26?

Members indicated assent.