EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH, SEEDS, SEED POTATOES AND PLANT PROPAGATING MATERIAL (AMENDMENT) (NORTHERN IRELAND) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Northern Ireland Department of Agriculture, Environment and Rural Affairs (DAERA) under the direction and control of the Secretary of State for Environment, Food and Rural Affairs and is laid by the Department for Environment, Food and Rural Affairs (Defra) before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Hayman of Ullock, the Parliamentary Under Secretary of State for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.

2.2 John Joe O'Boyle, Chief Executive Officer for the Forest Service at the Department of Agriculture, Environment and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claire Roulston at the Department of Agriculture, Environment and Rural Affairs can be contacted by email at the following address with any queries regarding the instrument: PlantHealth.Policy@daera-ni.gov.uk. Alternatively, the department can be contacted by telephone: 02866343125/ 35125.

3.2 Henrietta Townsend at the Department for Environment, Food and Rural Affairs can be contacted by email at the following address with any queries regarding the instrument:WFImplementationTeam@defra.gov.uk. Alternatively, the department can be contacted by telephone: 07833082139.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this Statutory Instrument is to ensure that relevant domestic legislation governing plant health, seeds, seed potatoes and plant propagating material operates in accordance with the Windsor Framework. This Instrument will also amend domestic regulations which implement plant health EU Directives and Regulations. This will ensure that references to (EU) plant health legislation in DAERA plant health domestic legislation are updated, ensuring the rules are operable and enforceable at domestic level to prevent the spread of plant health pests and diseases in Northern Ireland. The majority of the amendments in this Statutory Instrument are technical in nature and do not implement policy changes.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The instrument makes amendments to Northern Ireland domestic regulations in the areas of plant health, seeds, seed potatoes and plant propagating material. This will ensure that DAERA has the powers to enforce regulations which apply in Northern Ireland as a result of the implementation of the Windsor Framework.

5.2 These amendments accordingly update references to prohibited lists of plants and pests, phytosanitary measures for regulated movements of plants for planting and other objects, conditions in relation to planting material, destruction and disposal requirements of infected material and reporting requirements, ensuring they are enforceable in Northern Ireland. The particular EU Regulations referred to are as follows:

- Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018(1) establishing a provisional list of high-risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031(2) and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation
- Commission Delegated Regulation (EU) 2019/2125 of 10 October 2019(3) supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council(4) as regards rules concerning the performance of specific official controls of wood packaging material, notification of certain consignments and measures to be taken in cases of non-compliance
- Commission Implementing Regulation (EU) 2020/178 of 31 January 2020(5) on the presentation of information to passengers arriving from third countries and to clients of postal services and of certain professional operators concerning the prohibitions as regards the introduction of plants, plant products and other objects into the Union territory in accordance with Regulation (EU) 2016/2031 of the European Parliament and of the Council
- Commission Implementing Regulation (EU) 2020/1201 of 14 August 2020(6) as regards measures to prevent the introduction into and the spread within the Union of Xylella fastidiosa (Wells et al.)
- Commission Implementing Regulation (EU) 2020/1213 of 21 August 2020(7) concerning the phytosanitary measures for the introduction into the Union of certain plants, plant products and other objects which have been removed from the Annex to Implementing Regulation (EU) 2018/2019
- Commission Implementing Regulation (EU) 2022/1192 of 11 July 2022(8) establishing measures to eradicate and prevent the spread of Globodera pallida (Stone) Behrens and Globodera rostochiensis (Wollenweber) Behrens
- Commission Implementing Regulation (EU) 2022/1193 of 11 July 2022(9) establishing measures to eradicate and prevent the spread of Ralstonia solanacearum (Smith 1896) Yabuuchi et al. 1996 emend. Safni et al. 2014
- Commission Implementing Regulation (EU) 2022/1194 of 11 July 2022(10) establishing measures to eradicate and prevent the spread of Clavibacter sepedonicus (Spieckermann & Kotthoff 1914) Nouioui et al. 2018

- Commission Implementing Regulation (EU) 2022/1195(11) of 11 July 2022 establishing measures to eradicate and prevent the spread of Synchytrium endobioticum (Schilbersky) Percival
- Commission Implementing Regulation (EU) 2022/1941 of 13 October 2022(12) on the prohibition of introduction, movement, holding, multiplication or release of certain pests pursuant to Article 30(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council
- Commission Implementing Regulation (EU) 2022/2095 of 28 October 2022(13) establishing measures to prevent the introduction into, establishment and spread within the Union territory of Anoplophora chinensis (Forster) and repealing Decision 2012/138/EU
- Commission Implementing Regulation (EU) 2023/2091 of 28 September 2023(14) laying down rules for the application of Regulation (EU) 2023/1231 of the European Parliament and of the Council(15) as regards the requirements for the entry into Northern Ireland from other parts of the United Kingdom of consignments of tubers of Solanum tuberosum L. for planting (seed potatoes), their use in Northern Ireland, and the model form of the plant health label for seed potatoes
- Commission Implementing Regulation (EU) 2025/311 of 14 February 2025(16) on measures to eradicate and to prevent the establishment and spread within the Union territory of fruit flies of the species Bactrocera dorsalis (Hendel), Bactrocera latifrons (Hendel) and Bactrocera zonata (Saunders)

5.3 The amendments in this SI will also update definitions and references which are no longer applicable following the implementation of the Windsor Framework, including: I) References to legislation that is not included in the Windsor Framework; II) Omissions of references related to specific arrangements for goods moving from Great Britain to Northern Ireland as these are no longer applicable; III) References to "representatives of the European Commission" have been removed; IV) The inclusion of a GB-NI code to be used for official labelling; V) Fixes to legislative drafting to the Plant Health (Official Controls and Miscellaneous Provisions) Regulations (NI) 2020.

5.4 The EU amendments listed in this SI are already in effect across the EU. This legislation must be made to fully implement them in Northern Ireland, extending the scope for DAERA to use its powers in relation to the additional amendments, including enforcement action where non-compliance is identified. As EU legislation takes effect when this is published in the Official Journal, these amendments are already operational in Northern Ireland.

What was the previous policy, how is this different?

5.5 The majority of amendments in this Statutory Instrument are technical in nature and do not implement policy changes. The EU amendments included as part of the SI introduced changes to how policy was implemented operationally, however these changes came into effect in Northern Ireland once the amendments were published in EU legislation. Therefore, the making of this Statutory Instrument presents no new policy changes. The EU amendments referenced introduced changes, at the time of their publication, related to amendments to prohibited lists of plants and pests, phytosanitary measures for regulated movements of plants for planting and other objects, conditions in relation to planting material, destruction and disposal requirements of infected material and reporting requirements.

6. Legislative and Legal Context

How has the law changed?

6.1 The Instrument makes technical amendments, which include updating definitions and references which are no longer applicable. These amendments are made to:

- The Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995 (S.R 1995 No. 415),
- The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999 (S.R 1999 No. 502),
- The Forest Reproductive Material Regulations (Northern Ireland) 2002 (S.R 2002 No. 404),
- The Seed Potatoes Regulations (Northern Ireland) 2016 (S.R 2016 No. 190),
- The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017 (S.R 2017 No. 119), and
- The Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020 (S.R 2020 No. 293).

6.2 Plant Health Legislation in Northern Ireland is included in Article 5(4) of the Windsor Framework. The EU Acts which are directly applicable are the Plant Health Regulation (EU 2016/2031) and the Marketing of Forest Reproductive Material (1999/105/EC), the Marketing of Seed Potatoes (2002/56/EC), the Marketing of Fruit Plant Propagating Material(2008/90/EC).

Why was this approach taken to change the law?

6.3 This SI is necessary to ensure that the relevant arrangements under Windsor Framework are implemented.

7. Consultation

Summary of consultation outcome and methodology

7.1 No public consultation has been undertaken. However, businesses and stakeholders impacted have had many opportunities to feed into the development of the EU Regulations through various formal EU consultations.

7.2 DAERA, in conjunction with Defra, has engaged with key stakeholders on various aspects of the new legislation and notified stakeholders to outline the main changes and implications of the new regulations. No significant objections were raised, and the legislative changes support streamlined processes to facilitate the flow of trade within the internal market of the UK.

7.3 These regulations have already been implemented by the relevant sectors and DAERA continue to support and provide guidance as required.

8. Applicable Guidance

8.1 Guidance in relation to regulatory requirements set out in this Instrument is published on the DAERA website.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared as there are no significant financial impacts on the private or voluntary sectors arising from this Instrument. Any policy or legislative provisions as a result of this instrument has no additional impact on stakeholders as the regulatory requirements already apply.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the relevant regulations already apply in Northern Ireland. This instrument ensures that Competent Authorities are sufficiently empowered to enforce these rules appropriately.

9.3 There is no, or no significant impact on small or micro businesses because these regulations already apply in Northern Ireland.

9.4 There is no, or no significant, impact on the public sector because of this Statutory Instrument as enforcement provisions being implemented reflect legal obligations already applicable and implemented under the Windsor Framework.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 No specific monitoring arrangements are needed

10.2 As this instrument is only made under the relevant European Union Acts (as defined at 13.1), no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State for Environment, Food and Rural Affairs, Baroness Hayman of Ullock has made the following statement regarding Human Rights:
"In my view the provisions of the Plant Health, Seeds, Seed Potatoes and Plant Propagating Material (Amendment) (Northern Ireland) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 The Secretary of State makes these Regulations in exercise of the power conferred by section 8C (1) and (2) of, and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 ("EUWA") which relates to the withdrawal arrangements of the United Kingdom from the European Union.