EXPLANATORY MEMORANDUM TO

The Official Controls (Plant Protection Products) (Amendment) Regulations (Northern Ireland) 2026

S.R. 2026 No. 179

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under section 11 of, and paragraph 11M of Part 1C of Schedule 2 to, the European Union Withdrawal Act 2018 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule amends the Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020 to introduce a clear right of appeal against specified Departmental decisions relating to non-compliance with requirements for the placing on the market and use of plant protection products and the sustainable use of pesticides (excluding pesticide application equipment), thereby enhancing procedural fairness and legal certainty for affected parties.

2.2. The Statutory Rule gives effect to Article 7 of Regulation (EU) 2017/625 ("the OCR") in respect of official controls on plant protection products.

3. Background

3.1. The OCR is included in the list of EU acts in Section 43 of Annex 2 to the Windsor Framework and is therefore directly applicable in NI.

3.2. The Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020 ("the 2020 Regulations") supports the implementation of the plant protection product elements of the OCR for NI. At the time of initial drafting, the right of appeal was deferred until an operational official controls programme for plant protection products could be put in place. This mirrors the approach taken in GB.

3.3. This Statutory Rule implements a technical amendment. It introduces a statutory right of appeal for all regulated persons subject to regulatory decisions concerning plant protection products. It does not provide for the extension or creation of offences or penalties, does not involve checks at points of entry, and does not require Executive approval.

4. Consultation

4.1. No consultation with regulated operators has been undertaken as the Statutory Rule makes a procedural amendment and does not introduce further regulatory requirements and therefore is anticipated to have a nominal impact on them as it is already a highly regulated field.

4.2. It supports the implementation of EU legislation that was consulted upon at EU level.

5. Equality Impact

5.1 In accordance with the Department's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. No adverse equality impacts have been identified under the Equality and Human Rights screening procedures. The Department considers the introduction of a right of appeal allows individuals from any of the Section 75 groups to challenge the Department's decisions, reinforcing general principles of fairness, transparency, and equal access to justice for all people including those within Section 75 categories.

6. Regulatory Impact

6.1. The policy has a direct but minimal impact on businesses within the plant protection products sector, such as distributors, retailers and professional users. It introduces a formal right to challenge enforcement decisions but does not impose new regulatory requirements, standards, or penalties. Any costs are voluntary and arise only where a business chooses to appeal and are expected to be infrequent and proportionate. There is no anticipated impact on normal business operations, productivity, or competitiveness.

6.2. No direct or indirect impacts on the voluntary and community sector have been identified. The provisions apply to regulated operators and do not impose additional duties or administrative burdens on voluntary or community organisations as such. Any engagement with the appeals mechanism by such bodies would occur solely in their capacity as regulated entities, rather than by virtue of their sectoral status.

6.3. Based on the screening exercise and considering the limited and non-significant impacts identified, a full Regulatory Impact Assessment has not been undertaken. The Department is satisfied that the overall regulatory impact of this Statutory Rule is nominal, with benefits in terms of fairness, transparency, and accountability outweighing the modest administrative costs for both the Department and regulated parties.

7. Financial Implications

7.1. The introduction of a right of appeal under these Regulations is not expected to have significant financial implications for the public sector. Some additional administrative activity may arise for the Department in establishing and maintaining appeal procedures for the plant protection products regime, including staff resources associated with the administration and consideration of appeals. However, these costs are expected to be absorbed within existing staffing and budget allocations, and no additional resources are anticipated. There may also be minor costs in relation to legal advice and, where applicable, tribunal processes.

7.2. For regulated parties, including professional users of plant protection products, distributors, and retailers the financial effects are expected to be limited. Businesses choosing to lodge an appeal may incur minor, discretionary costs, such as time spent preparing information or obtaining professional advice.

7.3. It is anticipated that the number of appeals will be low, reflecting the evidence-based nature of regulatory decisions, the high level of compliance among operators and the opportunity for engagement with the Department to resolve issues prior to formal determination. This expectation is consistent with experience across comparable regulatory regimes in the United Kingdom, where appeal mechanisms exist but are used infrequently

7.4. The overall financial impact on both the Department and affected operators is expected to be minimal.

8. Section 24 of the Northern Ireland Act 1998

8.1. This Statutory Rule will ensure the Department complies fully with its obligations under European law. The introduction of a statutory right of appeal will provide legal certainty and ensure that enforcement actions are fully compliant with Article 6 of the European Convention on Human Rights (ECHR), which requires access to an independent body or court. This enhancement mitigates the risk of Judicial Review challenges that could otherwise arise in the absence of an operative appeal mechanism. This Statutory Rule therefore is deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. This Statutory Rule enables the Department to fully meet its legal obligations by completing the implementation of the OCR provisions relating to plant protection products, thereby ensuring the Northern Ireland Statute Book is accurate, up to date, and fully compliant.

10. Parity or Replicatory Measure

10.1. The Statutory Rule is not necessary for parity elsewhere. Similar instruments, however, may be made in other parts of the UK.

10.2. A right of appeal provision has already been introduced in NI in relation to other elements of the OCR including plant health and food and feed. Bringing the legislation forward for plant protection products will ensure alignment with other areas under the OCR in NI.

11. Additional Information

11.1. Not applicable.