**EXPLANATORY MEMORANDUM TO**

**THE SEED MARKETING AND FERTILISERS (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020**

**2020 No. 319**

## 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 to be laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under the powers conferred by section 11 of, and Part 1C of Schedule 2 to, the European Union (Withdrawal) Act 2018.

1.3 The Statutory Rule is due to come into operation on 31 December 2020

## 2. Purpose of the instrument

2.1 The purpose of the Statutory Rule is to implement the EU Withdrawal Agreement and the Northern Ireland Protocol in relation to the marketing of agricultural seed and fertilisers in Northern Ireland.

## 3. Background - Seeds

3.1 The legislative framework for the marketing of agricultural seed in the UK is provided for through a suite of EU marketing directives. Council Directives 66/402/EEC (cereal seed), 2002/54/EC (beet seed), 2002/55/EC (vegetable seed) and 2002/57/EC (oil and fibre plant seed) are listed in Annex 2 to the Northern Ireland Protocol (the Protocol), which means that EU law will continue to apply in Northern Ireland at the end of the Implementation Period. However council Directive 66/401/EEC (fodder seed), was omitted, meaning that EU law will cease to apply. The result is that different marketing rules will apply to these materials based on whether they are listed in Annex 2 to the Protocol

3.2 These EU marketing directives were transposed by the Seed Marketing Regulations (Northern Ireland) 2016 (the 2016 Regulations). This Statutory Rule amends the 2016 Regulations to implement the Northern Ireland Protocol in respect of seed of cereal, beet, vegetables and oil and fibre plants. It also provides for the marketing of fodder seed to continue under the UK regime. In addition, the amendments provide for fodder seed which has been certified in the EU to be marketed in Northern Ireland under OECD trade rules.

3.3 Schedule 3 of the 2016 Regulations is amended to reflect the difference in labelling requirements between fodder as part of the UK regime and the other species of seed which will continue to use EU labels.

3.4 The amendments to Schedule 4 of the 2016 Regulations reflect the different requirements between fodder seed and the other species of seed with regards to the exceptions to the regulations, such as early movement of seed, labelling of

preservation varieties and seed not finally certified.

3.5 The Rule also provides that references to Directive 66/401/EEC (fodder seed) in the 2016 Regulations are to be read as if references to the EU in the Directive are reference to the UK or NI, as the case may be.

**Background – Fertilisers**

3.6 Rules and requirements around the manufacturing and marketing of fertilisers in the UK are currently partially harmonised with the EU. This means that, in Northern Ireland, there are two regulatory frameworks - a domestic framework (the Fertiliser Regulations (Northern ireland) 1992) and an EU regulatory framework, Regulation (EC) 2003/2003, which is given effect in NI by the EC Fertilisers Regulations (Northern Ireland) 2006.

3.7 Regulation 5 of the Rule amends the EC Fertilisers Regulations (Northern Ireland) 2006 to reflect the fact Northern Ireland will not be part of the EU.

3.8 At the end of the Implementation Period, retained EU law will apply in GB and a new designation “UK fertilisers” will be able to be manufactured and marketed in GB. The SR amends the 1992 Regulations to permit the marketing of fertilisers designated as “UK fertilisers” in Northern Ireland without prejudice to the application in Northern Ireland of Regulation (EC) No 2003/2003.

## 4. Consultation

4.1 The amendments made by the regulations are as a consequence of the EU Withdrawal Agreement and the Northern Ireland Protocol. Therefore, consultation did not take place.

## 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 Regulations will not result in any equality differentials amongst Section 75 groups.

## 6. Regulatory Impact

6.1 A full impact assessment has not been produced for these Regulations, which implement the NI Protocol. It is not possible to gauge the impact of any changes at this time.

## 7. Financial Implications

7.1 These Regulations implement the requirements of the NI Protocol and do not result in any financial implications.

## 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 and the Northern Ireland Protocol. The Regulations do not have any human rights implications, nor are they incompatible with EU law. It is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

## 9. EU Implications

9.1 The Statutory Rule supports the implementation of the EU Withdrawal Agreement and the Northern Ireland Protocol. It ensures that the Department complies with its obligations under EU law.

## 10. Parity or Replicatory Measure

Authorities in GB are bringing forward legislation for seed marketing and fertilisers to reflect that the UK has left the EU.

## 11. Additional Information

11.1 Not applicable.