

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU)
2021/2116 as regards the strengthening of the position of farmers in the food
supply chain (COM/2024/577)**

Submitted by the Department for Environment, Food and Rural Affairs on 27
February 2025

SUMMARY

1. This proposed Regulation would make amendments to three EU Regulations, namely Regulation (EU) No 1308/2013 (the CMO Regulation), Regulation (EU) 2021/2115 and Regulation (EU) 2021/2116 with the stated purpose of strengthening the position of farmers in the food supply chain (the Proposed Regulation).
2. Subject to EU adoption and the democratic mechanisms contained within the Windsor Framework, one of the proposed amendments would apply in Northern Ireland due to it being listed in Annex 2 of the Windsor Framework. Namely, that is the proposed insertion of Article 88a into the CMO Regulation.
3. The effect of this part of the proposal would be to introduce requirements for using the optional terms “fair”, “equitable” (and equivalent terms), as well as “short supply chain” in the presentation, on advertising material or on commercial documents of the agricultural products set out in Article 1(2) of the CMO Regulation (see Annex B).
4. This explanatory memorandum outlines the Proposed Regulation and sets out the proposed new requirements for using optional terms and assesses, as far as possible, their potential impact on businesses in Northern Ireland.

SUBJECT MATTER

5. On 10 December 2024, the EU published the Proposed Regulation. The proposed amendments seek to strengthen the position of farmers in the agri-food supply chain by: (i) simplifying the rules on recognition of producer organisations and clarifying the rules surrounding producer organisations including in relation to negotiating contract terms; (ii) reinforcing the rules on contractualisation; (iii) setting out rules on the use of cross-sectoral optional terms for “fair”, “equitable” and equivalent terms, as well as for “short supply chain”; (iv) introducing the possibility to grant Union financial support to Member States for measures undertaken by operators in periods of severe

market imbalances; and (v) improving the degree of organisation of the farming sector in Member States by supporting producer organisations implementing operational programmes, and improving the take-up of sectoral interventions in the other sectors as referred to in Article 42(f) of Regulation (EU) 2021/2115.

6. The proposals would modify and supplement aspects of a limited number of provisions in the existing Regulations. They seek to enhance and further strengthen provisions regarding contracts involving farmers and their organisations with other actors in the chain, as well as reinforce the bargaining power of producer organisations and their associations, reduce the administrative burden for their recognition, and establish an inductive framework for voluntary schemes and agreements aimed at improving farmers' remuneration and social sustainability initiatives.
7. Of these proposals, only the amendment which introduces Article 88a "*Optional terms for commercial modalities*" to the CMO Regulation falls within scope of Annex 2 of the Windsor Framework. This amendment seeks to establish requirements for the use of optional terms "fair", "equitable" (and equivalent terms), and "short supply chain", on the labelling, in the presentation, on advertising material or on commercial documents of agricultural products.

SCRUTINY HISTORY

8. The parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

9. The Secretary of State for Environment, Food and Rural Affairs is responsible for agricultural marketing standards, which include rules on the use of optional reserved terms, in England.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

10. The Devolved Governments have been consulted in the preparation of this explanatory memorandum and their views have been included in it. Scottish and Welsh Governments and the Northern Ireland Executive are responsible for policymaking in their respective nations, and subject to The Agricultural Support Provisional Common Framework.

LEGAL AND PROCEDURAL ISSUES

11. i. EU Legal Basis

Articles 42 and 43(2) of the Treaty on the Functioning of the European Union.

ii. Voting Procedure

Ordinary legislative procedure.

iii. Timetable for adoption and implementation

The amendments are at proposal stage and there is no detailed information about implementation timetables, other than the EU proposes to defer the application of the rules relating to new optional terms by two years after the entry into force of the Regulation to give market operators time to adapt and to allow the Commission to assess existing national schemes and practices.

POLICY IMPLICATIONS

Intent and Focus

12. The Commission contends that the proposal as a whole aligns with existing EU commitments to enhance the position of farmers in the food supply chain. The wider context of the commitments cited by the Commission is the continuing pressure on farmers' incomes due to the increase of energy-related agricultural input costs, as well as consumption patterns moving towards less expensive food products due to the increased cost of living. This has further destabilised the distribution of value added along the food supply chain, creating instability in the allocation of profits and costs between the actors of the chain, fuelling protests and increasing mistrust.
13. The proposal to introduce requirements for the use of optional terms "fair", "equitable" and "short supply chain" by inserting Article 88a of the CMO Regulation, is the only element of the proposal within scope of Annex 2 of the Windsor Framework. It would apply via the Windsor Framework Article 13(3) process, subject to the democratic scrutiny mechanisms within the Framework.
14. The proposal for insertion of Article 88a of the CMO Regulation aims to increase the transparency and reliability of the use of the optional terms to ensure the fair allocation of value added along the food supply chain, prevent the misuse of such terms and ensure that consumers have reliable information about the fair allocation of value-added to farmers and short supply chains. The terms would have a similar purpose to existing value added optional reserved terms that can be used for marketing product features or production processes for the products of specific sectors, such as "free range" eggs. The new terms, however, would apply to the products of a wider range of agricultural sectors (see Annex B).

15. Summary of the provisions of the proposed Article 88a:

- 88a(1): Provides that the terms “fair” and “equitable” (or equivalent terms) can only be used where the terms are used to inform purchasers about existing modalities for the organisation of production, distribution, or placing on the market, which contribute at least to (a) stability and transparency in the relations of farmers with purchasers along the supply chain, (b) a price considered equitable by participating farmers for their products, and (c) collective initiatives pursuing one or several of the United Nations Sustainable Development Goals.
- 88a(2): Provides that the term “short supply chain” can only be used if the term is used to inform purchasers about existing modalities for the organisation of production, distribution, or placing on the market, which provide for a direct or geographically close connection between farmers and consumers.
- 88a(3): Provides that the Commission may further specify the conditions for the use of terms referred to in paragraphs 88a(1) and 88a(2) by implementing acts.
- 88a(4): Empowers the Commission to adopt delegated acts to add terms that are equivalent to “fair” or “equitable”.
- 88a(5): Provides that Member States (and Northern Ireland) may adopt national rules for the use of the terms “fair”, “equitable” (or terms equivalent) and “short supply chain”, provided they do not prohibit, restrict or impede the use of optional terms for products legally produced/marketed in another Member State.
- 88a(6): Mandates that Article 88a is without prejudice to food labelling regulations (EU Regulation no.1169/2011).

16. If Article 88a applied in Northern Ireland, businesses that wished to use the terms would have to comply with the conditions set out at 88a(1) and/or 88a(2). Furthermore, paragraphs 88a(3) and 88a(4) grant the Commission the power to adopt implementing or delegated acts to specify further conditions under which these terms can be used, or to add terms that are considered equivalent and subject to the Article’s conditions. The implications of any such acts, including any proposed enforcement or reporting arrangements set out therein, and any potential change required to domestic legislation to enable enforcement, would be assessed when available.

Business Impact

17. On initial reading it seems unlikely that the proposal to establish requirements for the use of the optional terms ‘fair’, ‘equitable’ or equivalent terms, and ‘short supply chain’, in the marketing of agricultural products would have an impact on businesses in Northern Ireland.

18. In terms of benefits to businesses, the proposed amendment aims to increase transparency and reliability of the use of the terms to ensure the fair allocation of value-added along the food supply chain. Given the terms would be newly regulated, and that the EU Commission did not conduct a public consultation or impact assessment on their use before it published its proposals, there is little evidence available to make a robust assessment of potential uptake or the extent to which the regulation would achieve its aims. However, it is not considered likely that the proposal would have a detrimental effect on businesses in Northern Ireland given use of the terms would be optional.
19. It is not considered likely that the regulation would have a significant impact on UK internal market movements. The existing section of the CMO that would be amended by the proposal is disapplied by Annex I of Regulation (EU) 2023/1231. This means that eligible goods would continue to move from Great Britain to Northern Ireland via the Northern Ireland Retail Movement Scheme (NIRMS) without having to meet any new requirements. Movements under NIRMS would therefore be entirely unaffected by the proposal.
20. Moreover, in line with the Government's commitment to ensuring Northern Ireland traders have unfettered access to the rest of the UK internal market, these measures would not have any impact on the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. Such goods would also continue to benefit from the market access principles set out in the United Kingdom Internal Market Act 2020 and retain their privileged unfettered access.

FINANCIAL IMPLICATIONS

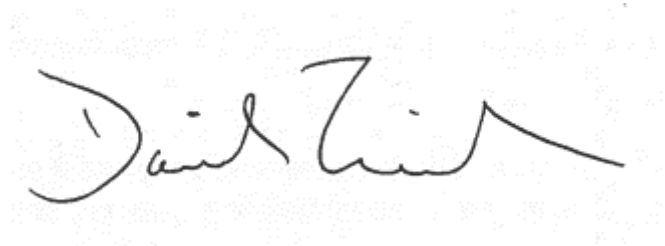
21. Not applicable.

CONSULTATION

22. No formal consultation has taken place across the UK at this stage. Introduction of the EU amendments is expected to follow the ordinary co-legislative process by the European Parliament and Council. No timeline for that procedure has been set out at present, but the EU proposes to defer the application of the rules relating to new optional terms by two years after the entry into force of the Regulation to allow the Commission to assess existing national schemes and practices.
23. The European Commission did not conduct a public consultation or impact assessment on the amendments before they published the proposal for a regulation, giving as the reason the need to act urgently due to the challenges the agricultural sector is facing. Rather, the Commission state that the proposed measures were developed based on input received from stakeholders, in particular the enlarged Civil Dialogue Group meeting, the European Network of the Competition authorities and in bilateral meetings involving all relevant EU based associations within the agri-food supply chain,

including consumers, as well as from the Chairman of the European Parliament's Committee for agriculture and rural development. As normal, the Government will engage with the Commission on this proposed Regulation.

24. As of 13 January, the Commission opened an eight week period of consultation until 10 March 2025 via the ['Have Your Say' portal](#), that UK stakeholders are able to respond to. The Commission also plan to produce a staff working document within three months after the adoption of the proposed regulation that will describe the issues addressed, the targeted changes proposed and their likely impact, as well as a summary of stakeholder feedback received.
25. Once the Commission release further information, Defra and the devolved Governments will engage the sector regarding these matters, and will work with them to assess potential impacts of this provision.

A handwritten signature in black ink, appearing to read 'Daniel Zeichner', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

DANIEL ZEICHNER MP
MINISTER OF STATE (MINISTER FOR FOOD SECURITY AND RURAL AFFAIRS)
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

Annex A – Parliamentary Scrutiny History

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on strengthening the position of farmers in the food supply chain and amending Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products

Several EU acts have amended/supplemented Regulation (EU) 1308/2013 and have been subject to parliamentary scrutiny since the UK's exit from the EU. These acts are:

- Regulation 2024/1143 of the EP and Council concerning geographical indications for wine, spirits and agricultural products (EU documents 7639/22, COM(22)134). An EM was submitted to the NI Assembly on the adopted regulation published in the EU Official Journal.
- Commission delegated regulation 2023/2429 of 17 August 2023 concerning marketing standards for the fruit and vegetable sector, certain processed fruit and vegetables and bananas (EU document C(23)6448).
- Commission implementing regulations 2023/2464 and 2023/2466 of 17 August 2023 and concerning marketing standards for eggs (EU documents C(23)5508 and 5510).
- Commission delegated regulation 2022/2104 of 29 July 2022 on marketing standards for olive oil (EU document C(22)4755).
- Commission delegated regulation 2021/68 of 27 October 2021 on authorised oenological practices (EU document C(21)7572).

Regulation (EU) 2021/2115 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD)

This Regulation was subject to parliamentary scrutiny as a EU Commission proposal subsequently adopted as regulation 2021/2115 (EU document 7707/20, COM(20)186).

Regulation (EU) 2021/2116 on the financing, management and monitoring of the common agricultural policy

This regulation was subject to parliamentary scrutiny as a Commission proposal subsequently adopted as regulation 2021/2116 (EU document 9634/18, COM(18)393).

Annex B – List of sectors that Article 88a would apply to (as set out at Article 1(2) of (EU) No. 1308/2013)

- cereals
- rice
- sugar
- dried fodder
- seeds
- hops
- olive oil and table olives
- flax and hemp
- fruit and vegetables
- processed fruit and vegetable products
- bananas
- wine
- live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage
- tobacco
- beef and veal
- milk and milk products
- pigmeat
- sheepmeat and goatmeat
- eggs
- poultrymeat
- ethyl alcohol of agricultural origin
- apiculture products
- silkworms
- other products