



Windsor Framework
Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

COM(2024) 577 — Proposal for a Regulation Amending
Regulations (EU) 1308/2013, (EU) 2021/2115
and (EU) 2021/2116:
Department of Agriculture, Environment and Rural Affairs

20 February 2025

NORTHERN IRELAND ASSEMBLY

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1308/2013, (EU) 2021/2115 and (EU) 2021/2116:
Department of Agriculture, Environment and Rural Affairs

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Members present for all or part of the proceedings:

Mrs Ciara Ferguson (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Mr Jonathan Buckley
Mr Declan Kearney
Mr Peter Martin
Ms Kate Nicholl
Ms Emma Sheerin
Mr Eóin Tennyson

Witnesses:

Ms Elaine McCrory	Department of Agriculture, Environment and Rural Affairs
Ms Samantha Swann	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Ms Ferguson): I welcome Elaine McCrory, the head of the supply chain transition branch in the Department of Agriculture, Environment and Rural Affairs, and Samantha Swann, the head of the Department's poultry meat, eggs, dairy, wines and spirits, hops and hemp policy branch. Thank you very much, ladies, for coming along today. I invite you to brief the Committee.

Ms Elaine McCrory (Department of Agriculture, Environment and Rural Affairs): Thank you very much, Chair, and good morning, folks. I thank you for the opportunity to brief the Committee on a proposed EU regulation that seeks to strengthen the position of farmers in the food supply chain. I am the head of DAERA's supply chain transition branch, and my role is to ensure a smooth transition from legacy EU support schemes to new schemes and to provide input to Department for Environment, Food and Rural Affairs (DEFRA)-led reserved policies and legislation to improve fairness in agri-food supply chains. As you said, Chair, Samantha is the head of the poultry meat, eggs, dairy, wines and spirits, hops and hemp policy branch, and she is responsible for DAERA policy and marketing standards for the produce listed in those areas. The Committee has already received a copy of DAERA's initial assessment of impact of the proposed regulation, but it may be helpful if I provide a brief overview. The proposed regulation was published on 10 December 2024. It amends three EU common agricultural policy (CAP) regulations, with the stated purpose of strengthening the position of farmers in the food supply chain. The proposal, if adopted, will make amendments to regulations (EU) 1308/2013, (EU) 2021/2115 and (EU) 2021/2116. The regulation modifies aspects of a limited number of provisions in the existing regulations and seeks to strengthen the position of farmers in the agri-food supply chain by simplifying the rules on recognition of producer organisations; reinforcing the rules on contracts between farmers and other actors in the chain; setting out rules on the use of cross-sectoral

optional terms for "fair", "equitable" and equivalent terms, as well as for "short supply chains"; introducing the possibility to grant EU financial support to member states for measures undertaken by operators in periods of severe market imbalances; and supporting producer organisations that are implementing operational programmes and improving uptake of sectoral interventions in other sectors.

As you will have seen from the impact assessment, only one aspect of the proposal falls within the scope of annex 2 to the Windsor framework. That is one of the amendments to EU common market organisation (CMO) regulation 1308/2013. The amendment introduces a new subsection 3a, for which the heading is "Use of optional terms for products in all sectors listed in Article 1(2)" and a new article 88a, for which the heading is "Optional terms for commercial modalities". That amendment is made to section 1 of chapter I of title II of Part II of the CMO regulation. The amendment seeks to establish minimum requirements for the use of the optional terms "fair", "equitable" and equivalent terms and for "short supply chains" on the labelling, in the presentation, on advertising material or on commercial documents of agriculture products. The products covered by the amendment are listed in annex A to the impact assessment. They include fruit and vegetables, live trees and other plants, milk and milk products, beef, veal, pig meat, sheep meat, goat meat, eggs and poultry meat. The remaining elements of the proposed regulation do not fall within the Windsor framework and would not apply in the UK. Instead, the UK has its own separate legal provision for contracts in the agri-food sector, for producer organisations and for crisis support. That can be found in assimilated law and in the UK's Agriculture Act 2020.

The proposal for a new article 88a in 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, to prevent the misuse of such terms and to 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 reserve terms that can be used for marketing product features or production processes for the products of specific sectors. An example of that is "free range" for poultry meat. The new terms, however, would apply to a wider range of products in agriculture sectors.

Subject to EU adoption and the democratic mechanisms contained in the Windsor framework, the new articles 3a and 88a would apply in Northern Ireland owing to regulation 1308/2013's being listed at annex 2 to the Windsor framework. It is therefore the Department's assessment that any business that wishes to use the term "fair", "equitable" and equivalent terms or "short supply chain" on the labelling, in the presentation, on advertising material or on commercial documents of a product in one of the sectors listed in the annex would have to comply with the conditions in article 88a. Although the rules would apply in Northern Ireland only, businesses in England, Scotland and Wales would also need to comply with the requirements if they chose to market in Northern Ireland products using the new terms and do not qualify under the Northern Ireland retail movement scheme (NIRMS).

This is the first proposed version of the act, so there are no changes to it thus far. The amendments are at the proposal stage, and there is no detailed information about the implementation timetables, other than that the EU proposes to defer the application of the rules on the new terms by two years after the entry into force of the regulation. That is to give market operators time to adapt and to allow the European Commission time to assess existing national schemes and practices.

I turn to the impacts. As the Chair said before the evidence session, our initial assessment is that it is not likely that the proposed amendments will have a significant impact specific on the everyday life of communities in Northern Ireland in a way that is liable to persist. The new terms have never been regulated before, so, in advance of any specific UK stakeholder feedback, it is difficult to assess the potential uptake of such terms or the extent of the likely impact. It is not considered likely, however, that the proposal will have a detrimental impact on businesses in Northern Ireland, given that the use of the terms will be optional.

Paragraphs 3 and 4 of the new article 88a grant the Commission powers to adopt implementing or delegated acts to specify further conditions under which those terms can be used or to add terms that are considered equivalent and subject to the article's conditions. It is the Department's initial view that any such future acts would be automatically applicable to Northern Ireland under the Windsor framework and that the Department would assess the implications of any such act, including any proposed enforcement or reporting arrangements set out therein, when available.

It is not considered likely that the proposed amendment will have a significant impact on UK internal market movements. The existing section of the CMO that would be amended by the proposal is disappplied by annex 1 to regulation 2023/1231. That lays down specific rules on the entry into

Northern Ireland from other parts of the UK of consignments of certain retail goods for placing on the market here for the final consumer. That means that any qualifying goods will continue to move from Great Britain to Northern Ireland via the NIRMS without having to meet the new requirements. Moreover, in line with the UK Government's commitment to ensuring that Northern Ireland traders have unfettered access to the rest of the UK, those measures will not have any impact on the movement of qualifying Northern Ireland goods 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 enjoy unfettered access.

No formal consultation has taken place across the UK at this stage, and the European Commission conducted neither a public consultation on nor an impact assessment of the amendments before it published the proposal for the regulation. The reason that the Commission gave for that was that it needed to act urgently owing to the challenges that the sector faces. The Commission, however, opened an eight-week period of consultation until 10 March 2025 via the Have Your Say portal, and UK stakeholders will be able to respond to that. The Commission also plans, within three months of the adoption of the regulation, to produce a staff working document that will describe the issues addressed and the targeted changes proposed and their likely impact, as well as a summary of stakeholder feedback received.

That concludes the presentation, and we are happy to answer questions.

The Chairperson (Ms Ferguson): Thank you, Elaine. I have no questions at this stage, so I will bring in Committee members.

Dr Aiken: Thanks very much, Elaine and Samantha, for the presentation. What do we do now?

Ms McCrory: What do we do now?

Dr Aiken: Yes.

Ms McCrory: The proposal will be considered by the Commission, and it will be discussed, I believe, in a Council of the European Union working party by the member states.

Dr Aiken: What do the current regulations say about whether farmers can define the produce that they are producing as "fresh" or whatever it happens to be?

Ms McCrory: Are you asking what we do with the existing optional terms?

Dr Aiken: Yes.

Ms McCrory: Samantha, would you like to cover that?

Ms Samantha Swann (Department of Agriculture, Environment and Rural Affairs): There are no existing optional terms for supply chain fairness at the minute. There are no rules on that currently. For poultry meat, eggs and olive oil, there are particular sets of rules that have to be applied. If farmers want to mark their poultry meat as "free range", it has to meet a certain set of requirements and adhere to them. If eggs are labelled as "fresh" or "very fresh", the eggs have to be on the market within so long after they were laid. There are rules around that, but there are no optional term rules on supply chain fairness.

Dr Aiken: Thanks. You said that it cannot be said that there any detrimental impacts. Is that because the regulation is not coming in for 24 months, meaning that there is no impact at the moment? Something that is said in here is that any additional changes will come in automatically, because, once the regulation is part of the Windsor framework, no matter what happens, if it changes, it changes, and that will be the process. When you say that there is no detrimental impact, is that referring to the fact that we will not have anything for 24 months or to the fact that, even if there are changes, they will not make much difference?

Ms McCrory: I think that it is the latter, because those are optional, reserved terms and we do not know what their uptake will even be in the first instance. Furthermore, there will be no impact on anything that moves from GB to Northern Ireland under the Northern Ireland retail movement scheme and no impact on Northern Ireland goods moving to GB. That is the basis of our assessment.

Dr Aiken: Thanks.

Mr Brooks: You have answered my first question, which was to be about any current restrictions on the terms. My colleague Jonathan Buckley asked a question in an earlier evidence session. How do you see the changes affecting the operation of the Northern Ireland retail movement scheme?

Ms McCrory: I do not think that they will affect its operation, because the goods can still move from GB to Northern Ireland under the scheme. It therefore does not matter. Again, as I said, we are not really sure who will even use the terms in the first instance. We are not aware of anybody who currently uses them.

Mr Brooks: While not directly relevant, do you foresee any future expansion of the terms that are to be used?

Ms McCrory: It is hard to know. The regulation is at proposal stage. I listened to some of the Agriculture and Fisheries Council (AGRIFISH) discussions on the issue, and people would like clarity on what the terms mean. I think that it will want to establish what they mean before it rushes to adopt any other ones. The proposal could change as the discussions continue.

Mr Brooks: Thank you very much.

Mr Martin: Thanks for your evidence this morning. First, I will read out a small section from one of the papers in our pack:

"DAERA notes that the European Commission's consultation on the proposed act will run until 10 March 2025, and states that it will consider any feedback received from UK stakeholders."

I assume that that includes Northern Ireland stakeholders who feed into the European Commission's consultation.

Ms McCrory: Yes. Anybody can respond to the Commission's consultation.

Mr Martin: OK. That is fine. Secondly, as the regulation progresses, is it DAERA's intention to consult directly with Northern Ireland stakeholders who might be impacted on? Will you consult on the terms?

Ms McCrory: At this stage, we have no plans to do that. We will obviously keep a close eye on the Have Your Say portal. I know that there has been no UK feedback on it at the minute; in fact, there has been very limited feedback. We will therefore have to assess what happens in response to the proposal and what the final proposal looks like, and we will probably need to see what happens with the delegated and implementing acts, because, if conditions are suddenly imposed by them, we will want to look at what impact that would have. That would probably inform us.

Mr Martin: Is it fair to say that DAERA has a watching brief as the regulation progresses?

Ms McCrory: Yes, it is fair enough to say that. We are just keeping an eye on what is happening to see what the reaction to the regulation is and how the regulation develops.

Mr Martin: That is me, Chair.

The Chairperson (Ms Ferguson): No other members, including those online, have indicated to ask questions, so thank you very much, Elaine and Samantha, for your time this morning. We really appreciate it.