

- Were stored in an approved/registered establishment and unloaded under the supervision of the competent authority.

This Export Health Certificate (EHC) makes it significantly simpler to certify certain consignments. Prior to the introduction of this EHC, this type of trade would have required a full EHC, with supporting information provided to the GB certifier by the original Food Business operator in the EU. This EHC simplifies the requirements, eliminating the need for much of this supporting information.

The EU's Animal Health Regulation introduces EHCs which limit the ability of GB traders to re-export third country product. This EHC means that exports that would otherwise be prohibited by the AHR certificates can continue.

4 February 2022

Letter from the Chair to the Rt Hon Lord Benyon, Parliamentary Under Secretary of State, (Minister for Rural Affairs, access to nature and Biosecurity), Department for Environment, Food and Rural Affairs

Thank you for your letter, dated 4 February 2022, on the above Regulations within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 23 February 2022.

We are grateful for your informative response to our questions, and on that basis we are now content to draw our scrutiny of these documents to a close.

24 February 2022

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SHIPMENTS OF WASTE AND AMENDING REGULATIONS (EU) NO 1257/2013 AND (EU) NO 2020/1056 (14135/21)

Letter from the Chair to Jo Churchill MP, Parliamentary Under Secretary of State, (Minister for Agri-Innovation and Climate Adaptation), Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum, dated 14 December 2021, on the above proposed Regulation within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 2 February 2022.

We regret the lack of information and detail concerning the Government's current analysis of the impact of the proposed Regulation on Northern Ireland and the UK as a whole. We note that the EM states that it is "is too early to assess additional costs of the proposed Regulation". Can you provide a timeframe for when you expect to be able to make such an assessment, and will you commit to share it with the Committee?

We are concerned about the possible implications of regulatory divergence between Great Britain and Northern Ireland as a consequence of the proposed changes to the EU Regulations on the shipment of hazardous waste. How would you summarise these implications?

In that context, the Committee would be grateful for further detail on the potential impact of the proposal on Great Britain as a third country, and for movement of waste between Northern Ireland and Great Britain. In particular:

- What are the practical implications of the new Regulation on the waste disposal industry both in Northern Ireland and the rest of the UK, including in terms of obtaining independent audits to verify that these facilities are able to manage waste in an environmentally sound manner?

- Can you provide further detail on the potential change in scale and cost of shipping “unsound transboundary shipments of waste” between the EU and Great Britain, and also between Northern Ireland and Great Britain?
- Can you confirm whether Great Britain will also be treated as a third country in regard to transports of “unsound transboundary shipments of waste” between Northern Ireland and Great Britain? What are the practical consequences of this.
- You state that, while international waste shipments is a reserved policy area, the Devolved Administrations have an interest in the proposal, they have been consulted in the preparation of the EM, and their views have been incorporated. Can you elaborate on the views and concerns of the Northern Ireland Executive and the other Devolved Administrations?
- You also note that the four UK Environmental Regulators (including the Council for Nature Conservation and the Countryside in Northern Ireland) are responsible for the implementation and regulation of the waste shipments regime in the UK. Have they been consulted on the impact of this Regulation, and if so, what views have they expressed? In particular, what is the view of the Council for Nature Conservation and the Countryside regarding the impact of this Regulation on Northern Ireland?
- Has the Government sought early engagement over this proposal with other stakeholders in the waste-disposal industry? If so, what was the outcome of such engagement?
- What clarity can you provide on the Government’s position on the potential for the EU to have powers to investigate illegal waste shipments to and from Northern Ireland, including illegal shipments between Great Britain to Northern Ireland? What are the practical implications of such powers.

We would be grateful for a response to this letter by 21 February 2022. In the meantime we retain an active interest in this document.

3 February 2022

**Letter to the Chair from Jo Churchill MP, Parliamentary Under Secretary of State,
(Minister for Agri-Innovation and Climate Adaptation), Department for Environment,
Food and Rural Affairs**

Thank you for your letter dated 3rd February 2022 in response to our Explanatory Memorandum on the above proposed Regulation. You have raised a number of questions on the implications of the application of the proposed Regulation to Northern Ireland, and the wider UK, under the Protocol.

In its Command Paper titled “Northern Ireland Protocol: The way forward”, published in July 2021, the UK Government set out that in any areas where EU law is applied or replicated in Northern Ireland, there should be more robust arrangements to ensure that rules being developed take account of implications for Northern Ireland – and provide a stronger role for those in Northern Ireland to whom they apply (including the Northern Ireland Assembly and Executive, and wider Northern Ireland civic society and business).

Talks continue with the EU on the outstanding issues, with both parties recently underlining their determination to ensure that the outstanding issues are addressed, and durable solutions found for the benefit of citizens, businesses and stability in Northern Ireland. These discussions may impact how the final EU proposal for a new Regulation on shipments of waste applies in Northern Ireland.

I have endeavoured to provide responses to your further questions in the attached Annex A.

Annex A

1. We note that the EM states that it is “is too early to assess additional costs of the proposed Regulation”. Can you provide a timeframe for when you expect to be able to make such an assessment, and will you commit to share it with the Committee?

As noted in the EM, the proposal for a new regulation will be considered according to the EU's ordinary legislative procedure; a process which is expected to take between 12-24 months to complete.

To date we have not received any further information on the proposal from the EU. When we do have sufficient information to complete an assessment of the potential regulatory costs, we will share that assessment with the Committee.

2. We are concerned about the possible implications of regulatory divergence between Great Britain and Northern Ireland as a consequence of the proposed changes to the EU Regulations on the shipment of hazardous waste. How would you summarise these implications?

The UK and the EU are both Parties to the Basel Convention and are both subject to the OECD decision on waste (OECD/LEGAL/0266). We therefore share a common objective to protect human health and the environment against the potential adverse effects of unsound waste exports, whilst facilitating the environmentally sustainable trade of recyclable waste. The UK Government is confident that going forward both the waste shipments regulatory regime in Northern Ireland (NI), and the regime in Great Britain (GB) will continue to meet that objective.

The main practical implications of the current proposal would be different requirements and restrictions for businesses based in NI and GB. Our preliminary assessment, based on the information available to us, is that the most significant aspects of the proposal in that regard are:

Article 37, which proposes to only allow the export of waste to non-OECD countries that have explicitly notified the European Commission of their willingness to receive the waste;

Article 43, which proposes to require businesses to obtain independent audits of the facilities they export waste to outside of the EU;

3. What are the practical implications of the new Regulation on the waste disposal industry both in Northern Ireland and the rest of the UK, including in terms of obtaining independent audits to verify that these facilities are able to manage waste in an environmentally sound manner?

The proposal if adopted would have practical implications for both businesses in NI and businesses in GB that trade in waste with the EU.

As discussed, Article 43 proposes a requirement for businesses arranging the export of waste to destinations outside of the EU to obtain independent audits of the receiving facilities in the country of destination. The proposal contains a possible derogation from this requirement where an international agreement between the EU and a third country, to which the OECD Decision applies, recognises that the facilities in that third country will manage waste in an environmentally sound manner. My officials have requested further information from the EU on the details of the derogation.

Article 12 proposes to incorporate an existing provision in the EU Waste Framework Directive for Member States to limit the import of waste destined for energy recovery operations, if those imports would have the effect of diverting domestic waste to disposal.

Article 26 proposes that the EU will move to using an electronic system for submission and sharing of information for movements of waste between Member States. If adopted this would be a requirement on businesses and the competent authority in Northern Ireland. Businesses and the competent authorities in GB would also have the option of submitting information on movements of waste between GB and the EU electronically.

4. Can you provide further detail on the potential change in scale and cost of shipping “unsound transboundary shipments of waste” between the EU and Great Britain, and also between Northern Ireland and Great Britain?

In 2020 an estimated 1.7m tonnes of waste was imported into the UK from the EU, according to data submitted to HMRC by businesses. That waste had an estimated value of £1.7bn. It is not possible at this time to assess the potential impact of the proposal on the scale and cost of waste shipments between the EU and GB.

As outlined in the main body of this letter, talks continue with the EU on finding solutions to the outstanding issues. The outcome of these talks may impact how the final EU proposal applies in NI, including regarding movements of waste from NI to GB.

5. Can you confirm whether Great Britain will also be treated as a third country in regard to transports of “unsound transboundary shipments of waste” between Northern Ireland and Great Britain? What are the practical consequences of this.

It is too early to confirm the practical implications of the EU proposal. As outlined above, the outcome of the UK Government's talks with the EU may impact how the final EU proposal applies in NI, including regarding movements of waste from NI to GB.

6. You state that, while international waste shipments is a reserved policy area, the Devolved Administrations have an interest in the proposal, they have been consulted in the preparation of the EM, and their views have been incorporated. Can you elaborate on the views and concerns of the Northern Ireland Executive and the other Devolved Administrations?

My officials are in close contact with officials from the Devolved Administrations. There is consensus that further information is needed from the EU before an assessment of the implications of the proposal can be completed.

7. You also note that the four UK Environmental Regulators (including the Council for Nature Conservation and the Countryside in Northern Ireland) are responsible for the implementation and regulation of the waste shipments regime in the UK. Have they been consulted on the impact of this Regulation, and if so, what views have they expressed? In particular, what is the view of the Council for Nature Conservation and the Countryside regarding the impact of this Regulation on Northern Ireland?

The Regulator for waste shipments in Northern Ireland is the Northern Ireland Environment Agency. My officials are in close contact with each of the four UK Environmental Regulators and will work with them to assess the implications of the proposal when further information has been made available by the EU.

8. Has the Government sought early engagement over this proposal with other stakeholders in the waste-disposal industry? If so, what was the outcome of such engagement?

My officials have briefed industry stakeholders based on the information available to us, and plans are being made for further engagement. As well as engaging with the Department for the Environment, Food and Rural Affairs, we would also encourage UK businesses that operate in the EU to discuss the proposals and any concerns they have with EU trade bodies.

9. What clarity can you provide on the Government's position on the potential for the EU to have powers to investigate illegal waste shipments to and from Northern Ireland, including illegal shipments between Great Britain to Northern Ireland? What are the practical implications of such powers?

We do not currently have sufficient information on this aspect of the proposal, or whether inclusion of this aspect in the final regulation will be supported by EU Member States. We will, however, be seeking clarification from the EU on the circumstances under which the proposed European Commission powers would be utilised.

28 February 2022#

**Letter from the Chair to Jo Churchill MP, Parliamentary Under Secretary of State,
(Minister for Agri-Innovation and Climate Adaptation), Department for Environment,
Food and Rural Affairs**

Thank you for your letter, dated 28 February 2022, on the above proposed Regulation within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 16 March 2022.

We regret the lack of information and detail concerning the Government's current analysis of the impact of the proposed Regulation on Northern Ireland. We note the Government's position that the proposal has "not been finalised" and there are "outstanding issues" yet to be addressed in regard to the way in which the proposal will apply in Northern Ireland, which therefore does not allow for an accurate assessment of the proposal's impact on Northern Ireland at this time. We therefore look forward to your full assessment of the impact of the proposal when, in your words, "sufficient information to complete an assessment of the potential regulatory costs" in Northern Ireland has been received. In the meantime we retain an active interest in this document.

18 March 2022

**PROPOSAL FOR A COUNCIL IMPLEMENTING REGULATION AMENDING
IMPLEMENTING REGULATION (EU) NO 282/2011 AS REGARDS THE UPDATE OF THE
VAT AND/OR EXCISE DUTY EXEMPTION CERTIFICATE (5394/22)**

**Letter from the Chair to the Rt Hon Lucy Frazer QC MP, Financial Secretary to the
Treasury, HM Treasury**

Thank you for your Explanatory Memorandum, dated 25 February 2022, on the above proposed Regulation within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 16 March 2022.

We are concerned about the lack of information and analysis in your EM on the potential implications of the proposed exemptions on Northern Ireland.

In that context, the Committee would be grateful for further detail on the potential impact of the proposal on Northern Ireland. In particular:

- You state that "the new exemptions have no significant effect on the United Kingdom as a whole". What is your assessment of the potential implications for and effects on Northern Ireland in particular?
- You note that Northern Ireland remains aligned to the EU in the area of VAT for goods, but that responsibility for disaster relief and crisis management in Northern Ireland remains with the UK. Do you foresee any constraints on the Government's ability to fulfil that responsibility in respect of Northern Ireland due to these new exemptions?
- Has the Government assessed the potential indirect effect where the exemptions would apply and UK exports to the EU of those goods and services imported by or supplied to the Commission or the armed forces of a Member State for the qualifying purposes may increase?

We would be grateful for a response to this letter by 31 March 2022. In the meantime, we retain an active interest in this document.

18 March 2022

**Letter to the Chair from the Rt Hon Lucy Frazer QC MP, Financial Secretary to the
Treasury, HM Treasury**

Thank you for your letter of 18 March regarding the above Explanatory Memorandum. You asked three questions in response to the EM, to which I will seek to respond.

What is your assessment of the potential implications of the proposal for and effects on Northern Ireland in particular?

We would not expect there to be any substantive implications for or effects on Northern Ireland because we do not foresee a situation in which the exemptions would be used in Northern Ireland. In the case of the exemption in relation to the Common Security and Defence Policy (CSDP), the UK is not a part of the CSDP and the CSDP provisions (which are separate from the exemption) do not apply to the UK (including to Northern Ireland). It is therefore reasonable to conclude that there cannot be

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SHIPMENTS OF WASTE AND AMENDING REGULATIONS (EU) NO 1257/2013 AND (EU) NO 2020/1056 (AND ADD 1-5) (14135/21)

Letter to the Chair from Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your letter of 18 March 2022 in response to our update of 28 February 2022 on the above proposal. You asked to be kept updated.

My officials enquired with the European Commission earlier this year on aspects of the proposal which have relevance to Northern Ireland and Great Britain, but limited information was provided beyond an indication of timelines for negotiations on the proposal.

UK Government Representatives in Brussels understand that, under the EU's Ordinary Legislative Procedure, amendments to the proposal prepared by the European Parliament's Environment, Public Health and Food Safety Committee will be voted on in Committee at the end of November this year.

Key draft amendments proposed by the European Parliament Rapporteur include:

- Increasing the frequency the European Commission must update the proposed list of non-OECD countries, to which the export of non-hazardous recoverable waste is permitted, from two years to annually
- increasing the validity period for written consent for notifiable waste shipments from one to two years; and
- increasing the validity period of consent for waste destined to pre-consented facilities from three to five years. These proposals would decrease the frequency of notification applications required for some business in Northern Ireland.

The full list of amendments can be found here: https://www.europarl.europa.eu/doceo/document/ENVI-PR-719861_EN.pdf

My Department will continue to monitor progress on the proposal and will be in a better position to assess the implications for the United Kingdom once the European Parliament and the Council have agreed a compromise text.

8 November 2022

Letter from the Chair to Rebecca Pow MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs

We note your letter, dated 8 November 2022, on the above Regulation applying to Northern Ireland under the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 23 November 2022.

We note the efforts of Defra officials to obtain information from the Commission on the implications of this Regulation for Northern Ireland. However, it is unacceptable in the Committee's view for so little further clarity to have been provided in the eight months since our last letter. What steps will you

take to rectify this, so as to meet the Government's obligations to provide to this Committee, and Parliament in general, the necessary information to enable us to scrutinise the impact of EU proposals applying to Northern Ireland under the Protocol?

In that context, we note the potential notification requirements for Northern Ireland businesses under the Regulation, albeit that these may be less burdensome should the European Parliament amendments be agreed. We would therefore be grateful to receive a full account of the implications of the Regulation for Northern Ireland, including the notification requirements for Northern Ireland businesses, as and when a compromise text emerges.

In the meantime, we retain an active interest in the document.

24 November 2022

Letter to the Chair from Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your letter, dated 14th January 2022, to Minister Churchill requesting further updates on the EU Batteries Regulation and its impacts on Northern Ireland. As I have now reassumed my responsibility for the batteries regulations, I am writing with the latest information and next steps being taken within Defra to minimise impacts of the EU Regulation on Northern Ireland and the Internal Market.

Provisional political agreement for the new EU Batteries Regulation was reached by the European Parliament and Council on 9th December 2022. I have included the approved text with this letter. The formal adoption of this agreement has been postponed and is not expected until June of this year, at the earliest. The Regulation includes stipulations concerning the placing on the market and waste treatment of all categories and types of batteries, including those used for traction power in electric vehicles. The Regulation aims to promote circular economy practices by gradually introducing sustainability requirements for carbon footprint, recycled content, and performance and durability, starting from 2024. Additionally, higher waste collection targets will be established for portable batteries and batteries used in light means of transport, for example those used in e-bikes and e-scooters, and this will take effect from 2027. The adoption of other measures outlined in the Regulation is contingent upon the date of its formal approval.

The implications of divergence in Northern Ireland as a result of EU Regulatory change will be dependent on how they dovetail with our own regulation review, both in timing and substance. The UK Government's review of the 2008 and 2009 UK-wide domestic batteries Regulations is now expected by the end of the year. As with the EU reform, the review covers the whole lifecycle of a battery, including what happens to batteries at waste. Preparation for this review will include analysis on the implications of the EU Regulations for Northern Ireland and the UK more widely, and to what extent taking a similar approach is in the UK's interest. It remains our intention to limit the indirect and cumulative effects, distortion of competition or trade and, the impact on prices, quality and choice for consumers of both sets of regulation on the UK internal market.

As waste is a devolved policy area, the review continues to be undertaken in close cooperation with all the devolved administrations and my officials are working with their counterparts in the Department for Agriculture, Environment and Rural Affairs (DAERA) and the UK Mission to the European Union to understand what the implications of the EU Batteries Regulation may be. Since our previous correspondence, the Government has been through a period of intense negotiations with the EU over the scope of the Northern Ireland Protocol, resulting in the new Windsor Framework agreement. The Windsor Framework is a positive step forward and we hope this provides a constructive political backdrop and a new set of institutions within which we can identify possible divergence issues.

I hope this update is helpful and I will continue to keep you informed of any significant developments.

11 May 2023

Letter from the Chair to Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your letter, dated 15 May 2023, on the above Regulation applying to Northern Ireland under the Windsor Framework. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 7 June 2023.

While we regret that it is still not possible to set out the implications of this Regulation for Northern Ireland, we welcome your commitment to write again as more detail becomes available on a compromise text. We request that this update sets out a full account of the implications of the Regulation for Northern Ireland, including the notification requirements for Northern Ireland businesses.

In the meantime, we retain an active interest in this document.

8 June 2023

COMMISSION REGULATION (EU) 2021/1372 OF 17 AUGUST 2021 AMENDING ANNEX IV TO REGULATION (EC) NO 999/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS THE PROHIBITION TO FEED NON-RUMINANT FARMED ANIMALS, OTHER THAN FUR ANIMALS, WITH PROTEIN DERIVED FROM ANIMALS (8537/21)

Letter to the Chair from The Rt Hon Lord Benyon, Minister for Biosecurity, Marine and Rural Affairs, Department for Environment, Food and Rural Affairs

Thank you for your letter of 14 January 2022 on the above Regulation applying to Northern Ireland under the Protocol on Ireland/Northern Ireland.

I apologise for the time it has taken to provide an update on the risk assessments undertaken by the Animal and Plant Health Agency (APHA). This delay has been caused by the prioritisation of resources onto the avian influenza outbreak.

APHA has undertaken two risk assessments of the potential impact on animal health. The first risk assessment considered if there would be an increased risk of animal Transmissible Spongiform Encephalopathies (TSEs) (including novel ones) developing in the United Kingdom (UK) from the import of live animals from the European Union (EU) fed according to the relaxed livestock feed rules. This assessment has concluded that the overall risk is very low (with high uncertainty) and would be no greater than before the changes to EU livestock feed controls were made.

The second risk assessment considered the increased risk of animal TSEs (including novel ones) developing in the UK from the relaxation of feed rules in line with the changes in the EU. This assessment has concluded that the overall risk from a relaxation of feed controls in the UK is very low (with medium uncertainty) and does not increase the current level of risk.

The Food Standards Agency (FSA) is currently considering the conclusions of APHA's risk assessments to determine whether a public health risk assessment is required. I will write again to the Committee with an update when the FSA has taken a decision and, if it is deemed necessary, the public health risk assessment has been completed.

You asked for an update on the views of stakeholders in Northern Ireland (NI) and Great Britain (GB) about the desirability of a relaxation of the feed controls and any intention to take advantage of such relaxations. Initial discussions with industry stakeholders in GB have shown that industry supports the relaxation of the feed controls to have a level playing field with producers in the EU, so long as the changes are acceptable to retailers, consumers and trade partners. Any changes to the livestock feed controls would be preceded by consultation with a wide range of stakeholders, including consumers, retailers, feed producers and livestock farmers.