

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

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON  
THE PRODUCTION AND MARKETING OF FOREST REPRODUCTIVE MATERIAL,  
AMENDING REGULATIONS (EU) 2016/2031 AND 2017/625 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL AND REPEALING COUNCIL DIRECTIVE  
1999/105/EC (REGULATION ON FOREST REPRODUCTIVE MATERIAL)**

Submitted by the Department for Environment, Food and Rural Affairs 30 June 2026

**SUBJECT MATTER**

1. This Regulation represents a restructure of the existing legislation on Forest Reproductive Material (“FRM regulation”). The published regulation will be followed by a series of implementing and delegated acts, which will contain technical detail and detail of how the regulations will be implemented in practice. As these acts are developed, further assessment will be made.
2. Access to high quality FRM is important to the successful establishment of forests, restoration of forest ecosystems, and sustainable production of wood and other forest products. European Union (EU) legislation aims to ensure access to FRM which is:
  - of high quality, sustainably produced and fully traceable;
  - adapted to the specific climatic and ecological conditions of the area where it is intended to be sown or planted; and
  - healthy and substantially free of pests which may reduce its quality and usefulness.
3. Some parts of the previous EU legislation on FRM dated back decades and therefore did not consider technological developments or address challenges posed by climate change which the new FRM regulation aims to address.
4. The requirements in Directive 1999/105/EC, which is revoked by this regulation, were made operable in Great Britain (GB) law prior to the UK’s leaving the EU.
5. Under the Windsor Framework, limited areas of EU law – including in relation to the production and marketing of FRM – continue to apply in Northern Ireland (NI).

## **SCRUTINY HISTORY**

6. An EM was published by Defra in August 2023 which also considered the proposed new regulation on Plant Reproductive Material see Annex A. This was considered by the UK Parliament's European Scrutiny Committee.

## **MINISTERIAL RESPONSIBILITY**

7. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

## **INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)**

8. The Department of Agriculture, Environment and Rural Affairs (DAERA) in the NI Executive will have an interest in this Regulation as it will apply directly to NI under the Windsor Framework. DAERA were consulted on this EM and agreed that the addition of species, especially the native ones, may have an influence should any nurseries in NI grow these for forestry purposes, however this is not currently done at scale. Including additional species may also be welcomed by suppliers, as an official documentation may be used to show where they were collected and grown.
9. Scottish Government and Welsh Government have an interest as this policy area is devolved and is subject to the Provisional Common Framework on Plant Varieties and Seeds.
10. Welsh Government were consulted and were content with the EM as drafted. Welsh Government stressed that changes would need to be communicated as early as possible to Welsh stakeholders to ensure compliance.
11. Scottish Government were consulted and stated they had no specific comments on the EM.
12. Forestry Commission, who manage the implementation of current FRM regulations across GB provided technical comments and corrections to the EM.

## **LEGAL AND PROCEDURAL ISSUES**

13.

### **I. EU Legal Base**

The legal basis is Article 43(2) of the Treaty on the Functioning of the European Union (TFEU), that provides the legal basis for adopting provisions necessary for the pursuit of the objectives of the common agricultural policy.

## II. **Voting Procedure**

Ordinary Legislative Procedure.

## III. **Timetable for adoption and implementation**

The regulation was adopted on 19 May 2026 and signed on 20 May 2026. The regulation will apply five years from the date of entry into force. FRM produced under the previous regulation will continue to be marketable until those stocks are exhausted.

## iv. **Application in Northern Ireland**

Directive 1999/105/EC is listed in paragraph 42 to Annex 2 of the Windsor Framework, and the new FRM Regulation will replace this Directive. In accordance with Article 13(3) of the Windsor Framework, the new FRM Regulation will therefore apply to the UK in respect of NI, subject to the democratic scrutiny mechanisms set out in Article 13(3a) of the Windsor Framework and Schedule 6B of the NI Act 1998.

## **POLICY AND LEGAL IMPLICATIONS**

14. The Government's review of the regulation suggests that much of the existing EU system related to production and marketing of FRM remains in place, especially in relation to technical requirements which are already based on and will continue to be based on international standards. Requirements concerning national registers of FRM are also broadly the same.
15. The generation of FRM in NI is relatively small with much of the material needed for forestry sourced from the Republic of Ireland. Consequently, applying this regulation is not expected to impact on many businesses.
16. Due to the small size of the FRM industry in NI, it is unlikely there are businesses or organisations not previously subject to any FRM regulations that will now fall within their scope as professional operators, due to the new definition of FRM and new species added to the regulation (see below).
17. **The definition of FRM** has been expanded in the FRM regulation, by listing a wider range of uses compared to the current legislation. This is to address a lack of clarity in the legislation which meant in some EU MS low-quality FRM was being used in some cases. FRM is now defined as material intended for one of the following purposes: multifunctional forestry, production of wood, biomaterials, biomass or other forest products; or conservation of forest genetic resources.

18. **Regulated species:** The number of species that are covered by the FRM regulation has increased – Directive 1999/105/EC controlled 47 tree species and artificial hybrids, with the new regulation covering 80 tree species and their hybrids. Two species regulated by 1999/105/EC are not included in the new regulation. Not all the new species are grown for forestry purposes in the UK. For new species that are used for forestry, any production and marketing of FRM of those species in NI would need to be conducted according to the regulation. FRM of those species moving between GB and NI for the purpose of marketing will also need to comply with the regulation and any associated equivalence arrangements. GB currently has a voluntary certification scheme for FRM which covers 12 of the new species grown for forestry purposes in GB, meaning those suppliers are likely to find complying with the new regulation easier. In Northern Ireland the addition of species is not expected to be additionally burdensome as the operators are already required to be in the FRM system.
19. The FRM regulation requires that all FRM be derived from a source approved by Competent Authorities – such material is then referred to as “Basic” material and can then fall into different categories depending on the type of material and the standards it is able to meet. The regulation contains a derogation whereby Competent Authorities may authorise professional operators to approve Basic material intended for the purpose of conserving forest genetic resources, provided they can meet eligibility requirements in respect of this type of material. Once authorised, this would simplify processes for operators involved in producing this type of material. It is not anticipated that this would impact operators in Northern Ireland.
20. **Contingency plans:** The regulation contains a voluntary option for Member States to develop a contingency plan to “ensure a sufficient supply of FRM to reforest areas affected by extreme weather events, wildfires, disease and pest outbreaks, disasters or any other event”. These contingency plans can include coordination with third countries and other MS.
21. **Obligations and Authorisation of Professional Operators:** As per the current directive, professional operators need to be registered. The FRM regulation also now introduces a requirement for them to be authorised to carry out activities. Professional operators will also have a new requirement in relation to import notifications when importing material from third countries using an existing EU system called IMSOC. Levels of import in NI from outside of the EU are minimal and so this will not have a significant impact.
22. This regulation also requires that professional operators, *“facilitate the access of potential users of their FRM to the existing available information concerning the FRM’s suitability for specific climatic and ecological conditions, in order to allow the users to select the most appropriate FRM for its intended use in the intended*

*location.*” This information can be provided through websites, planters’ guides, or other appropriate means. As a new obligation on professional operators, Competent Authorities might seek to provide guidance to support operators to comply. This obligation is not expected to be difficult to comply with for businesses in NI as it can be based on information that is already available. In addition, record keeping requirements have increased and records must be kept for ten years (previously it was five).

23. **Official Labels:** The new regulation introduces measures designed to increase traceability of FRM including use of Official Labels to replace the current system of supplier generated labels. Member States can choose to authorise professional operators to issue these labels themselves if they meet the requirements in the regulations. Material from GB that is to be marketed in NI is certified under OECD labels, so this trade will not be impacted.
24. **Official Controls on FRM:** Official controls on all professional operators are already in place under EU 2017/625, however have been included in this Regulation to harmonise official controls requirements for Member States. There are currently no charges for FRM related activities, and it is not anticipated that any changes associated with official controls activities would have significant impact on any costs based on the controls already in place. Publication of results is also required, which is not currently the case. Experts from the European Commission may also audit Member States for compliance.
25. **Reporting:** The regulation introduces new reporting requirements every 5 years (starting ten years after entry into force) which will require new systems to be developed to record and report. The regulation includes reporting requirements for:
  - I. quantities of certified FRM by category per year;
  - II. number of adopted national contingency plans;
  - III. information about the available and relevant websites and planters’ guides providing advice on the best use of FRM;
  - IV. quantities of FRM per genera and species imported from third countries;
  - V. penalties imposed pursuant to Article 34; and
  - VI. number of professional operators.
26. The regulation will be followed by implementing acts which will contain further details on how some articles are to be implemented. As such, there cannot be a full analysis of impact for some changes until these acts are available.
27. At EU-exit, the EU granted GB equivalence for FRM. The FRM regulation is not expected to affect the current equivalence decision of the EU in regard to FRM. For countries to be equivalent they must participate in the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade, and the UK is a member of this scheme. All of the species added to the FRM regulation

except one (which is not grown for forestry purposes in the UK) are part of the OECD forestry scheme, and so GB will be able to comply with OECD requirements allowing movement of material to continue between GB and NI. It is unlikely there will be divergence between certification standards in GB and NI as these are largely based on international standards.

28. The UK is currently negotiating an SPS Agreement with the European Union. This will involve dynamic alignment with the majority of EU SPS rules in GB. As negotiations are ongoing, we cannot assess the full implications of dynamic alignment for the impact of this regulation in NI yet.

## **CONSULTATION**

29. Specific consultation activities in relation to the new FRM regulations have not yet been carried out in GB and NI. We will look to engage stakeholders as appropriate, and as further detail on implementation emerges.

## **FINANCIAL IMPLICATIONS**

30. Financial implications have not been identified at this stage. This will be kept under review.

A handwritten signature in cursive script, reading "Sweetfayman".

**BARONESS HAYMAN OF ULLOCK  
PARLIAMENTARY UNDER- SECRETARY OF STATE  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PRODUCTION AND MARKETING OF FOREST REPRODUCTIVE MATERIAL, AMENDING REGULATIONS (EU) 2016/2031 AND 2017/625 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AND REPEALING COUNCIL DIRECTIVE 1999/105/EC (REGULATION ON FOREST REPRODUCTIVE MATERIAL)**

-----

**COM(23)414 + ANNEX: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PRODUCTION AND MARKETING OF PLANT REPRODUCTIVE MATERIAL IN THE UNION, AMENDING REGULATIONS (EU) 2016/2031, 2017/625 AND 2018/848 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AND REPEALING COUNCIL DIRECTIVES 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC AND 2008/90/EC (REGULATION ON PLANT REPRODUCTIVE MATERIAL)**

**COM(23)415 + ANNEX: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PRODUCTION AND MARKETING OF FOREST REPRODUCTIVE MATERIAL, AMENDING REGULATIONS (EU) 2016/2031 AND 2017/625 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AND REPEALING COUNCIL DIRECTIVE 1999/105/EC (REGULATION ON FOREST REPRODUCTIVE MATERIAL)**

**DATE DEFRA EM SIGNED: 11/08/2023**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
<b>CLEARED BY HOC LETTER DATED 29/11/23. SCRUTINY NOT COMPLETED (OUTCOME AGENDA 2 15/11/23)</b>	<b>SENT FOR EXAMINATION TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (CHAIR'S SIFT NO 40; 7/9/23)</b>