

# **PROPOSED REPLACEMENT EU ACT INITIAL ASSESSMENT OF IMPACT**

**DSC REF: DSC/08a/2024**

## **Proposed Replacement EU Act**

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2019/1009 as regards the digital labelling of EU fertilising products.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A0098%3AFIN>

The proposed regulation will amend Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products which falls under Annex 2 to the Windsor Framework, heading 23 Chemicals and related.

Regulation (EU) 2019/1009 repealed and replaced Regulation (EC) No 2003/2003.

Regulation (EU) 2019/1009 already applies in Northern Ireland.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1009>

## **Summary of the Act**

Regulation (EU) 2019/1009 has much more extensive labelling requirements than those under Regulation (EC) 2003/2003. This is in response to concerns about newer, innovative and unknown fertilising products which can be marketed under Regulation (EU) 2019/1009, which require more stringent labelling requirements.

Currently, all information needed to meet Regulation (EU) 2019/1009 labelling requirements must be provided on a physical label. This has resulted in overcrowded labels making it difficult for end users to interpret essential information and the frequent update of labels. This proposal aims to make the labels on fertilising products more accessible to users and easier to manage for economic operators.

This proposal introduces the voluntary digitalisation of labelling of fertilising products, and gives manufacturers, importers or distributors of EU fertilising products the option to market their fertilising products with digital labels.

Labelling information can be provided solely in a digital format under two scenarios: when the fertilising product is sold unpackaged, or when the fertilising product is sold to an intermediate seller, who is not the end-user of the fertilising product. The digital label must include all the information that currently appears on a physical labelling (as set out in Annex III to Regulation (EU) 2019/1009).

If a fertilising product is supplied to an end user in packaging with a digital label, certain information must still be provided on a physical label as well. This essential information includes information relating to the protection of human health and the environment, alongside the contents of the fertilising product and agronomic efficiency. The digital label must include all the information, even if some information is included in the physical label.

Digital labels must be made available for a period of 5 years after the fertilising product is placed on the market.

### **Department(s) Responsible**

DAERA is responsible for fertiliser policy as this is a devolved matter, with the exception of Ammonium Nitrate fertiliser which is reserved.

### **Initial Assessment of Impact**

Defra as the Notifying Authority under the EU Fertiliser Regulation 2019/1009 has assessed the impact and prepared the UK Explanatory Memorandum.

From the information provided by Defra it does not appear likely that the application of the proposed EU regulation would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

As this is just a minor amendment to Regulation (EU) 2019/1009, it will not make any significant changes to the functioning of this regulation. Therefore, it will continue to apply as it does now under the Windsor Framework, just with economic operators now having the choice to market fertilising products with digital labels.

The impact of this will be extremely minimal as it is a voluntary measure, and so economic operators can choose to digitally label their products or not. Therefore, if they foresee any adverse impacts, they can simply choose not to use digital labelling.

The rules and requirements around the manufacturing and marketing of fertilisers are partially harmonised. This means that Regulation (EU) 2019/1009 operates

alongside domestic regimes here in Northern Ireland. As a result, this means that manufacturers can choose to market their product under either regulatory regime.

As manufacturers have a choice whether to comply with this regulation at all, and as they then have a further choice as to whether they will digitally label their products, the impact of this voluntary measure would be minor.

This new proposal will not lead to any significant regulatory divergence between Great Britain and Northern Ireland. .

Despite this, the practical implications for the movement of EU fertilising products from NI to GB will be minimal because of the unfettered market access principles under the United Kingdom Internal Market Act 2020. As a result, although the digital labelling of fertilising products is not permitted under UK domestic fertiliser regulations, digitally labelled fertilising products can still access the GB market.

This Regulation amends Regulation (EU) 2019/1009, which applies in Northern Ireland under the Windsor Framework. If this regulation is not adopted in Northern Ireland, then manufacturers would not be able to use a digital label under the EU framework.

There are no concerns surrounding this proposal as it will have minimal impact as it is a small amendment to a regulation which is already in operation. Therefore, there has been no engagement undertaken by the UK Government with the EU.

### **UK Government Explanatory Memorandum**

A UK Government Explanatory Memorandum was published on 18<sup>th</sup> October 2023 and is attached as Annex A.

The EM outlines the scope of the proposal and its application in Northern Ireland and concludes that the changes are minor in nature. It cites minor regulatory divergence but raises no concerns about such divergence or any financial impact the proposal may have on businesses. The EM stresses that this proposal introduces a voluntary measure that will only be adopted by a business if beneficial to do so.

The EM provides information on the benefits of this proposal. These include more accessible safety information on a less cluttered physical label resulting in environment and human health protection and positive social impacts, such as enhancing the readability of the physical label, and greater potential accessibility of the label in a digital format. There is also a potential positive environmental impact, such as less disposal of labels.

## **Analysis by the European Commission on its Impact Assessment**

The Commission Summary of the Impact Assessment is attached as Annex B.

The European Commission found broad support for allowing digital labelling. There was support for varying levels of digital information on the label which may be explained by what some companies are already doing (74% of respondents to the public consultation indicated they already provide product information digitally).

One-off costs (e.g. costs for purchasing equipment reading QR codes, redesigning labels) was estimated at €14,998 for large companies and €1,796 for small/medium companies.

Ongoing costs (e.g. re-training staff, equipment depreciation and maintenance of software and web pages) was estimated at €2,700 for large companies, and €1,170 for small/medium companies.

The impact assessment considered the total accruing annual benefits to be €6,857 for small/medium companies and €62,833 for large companies. These savings offset the costs identified above.

## **Departmental Engagement**

No consultation has been undertaken by either the UK Government, the NI Executive or DAERA with stakeholders on the impact of this amending EU legislation, as this is only making a minor amendment to a regulation which is already in place and operates alongside domestic regulations.

The vast majority of fertilisers are produced by large companies and traded on an international basis. It is therefore likely that most large EU fertiliser producers will choose to use digital labelling in future, where it is advantageous for them to do so.

DAERA officials meet with the other Devolved Administrations on a bi-weekly basis through the UK Fertilisers Regulatory Committee to discuss fertiliser policy across the UK. This enables all parties to participate in decision making at policy and implementation levels. The governance arrangements are laid out in the Fertiliser Common Framework.

## **ATTACHMENTS**

Annex A - Digital Labelling of Fertilisers Exploratory Memorandum

## Annex B - Digital Labelling of Fertilisers Commission Summary of Impact Assessment