

# **BRIEFING NOTE ON EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK**

**PE-13-2024**

## **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2019/1009 AS REGARDS THE DIGITAL LABELLING OF EU FERTILISING PRODUCTS**

Submitted by the Department for Environment, Food and Rural Affairs

14 October 2024

### **SUBJECT MATTER**

1. This is a Regulation of the European Parliament to amend Regulation (EU) 2019/1009 to allow fertilising products to be digitally labelled at the choice of the manufacturer, distributor or importer.
2. Under the Windsor Framework, Northern Ireland (NI) applies certain EU fertiliser regulations in order to preserve its unique dual market access to both the EU single market and UK internal market.
3. Within NI, in respect of the applied EU regulations, the rules and requirements around the manufacturing and marketing of fertilisers are partially harmonised. This means that Regulation (EU) 2019/1009 operates alongside the domestic regimes in NI (The Fertilisers Regulations (NI) 1992 and the “UK fertiliser” regime” under the assimilated version of Regulation 2003/2003 as it applies in NI). Because of this partial harmonisation, manufacturers wanting to market fertilising products in NI can choose to market their products under Regulation (EU) 2019/1009, or under one of the domestic regulations in operation.
4. This Regulation amends Regulation (EU) 2019/1009, and its application in NI therefore follows the process, and is subject to the democratic scrutiny mechanisms, set out in Article 13(3) of the Windsor Framework and Schedule 6B of the Northern Ireland Act 1998. The impact of any application of this Regulation in NI is understood to be minimal as this is a voluntary measure.
5. This proposal aims to make the labels on fertilising products more accessible to users and easier to manage by economic operators.
6. Currently, under Regulation (EU) 2019/1009, all the information needed to meet the labelling requirements must be provided on a physical label.

This proposal amends Regulation (EU) 2019/1009 to introduce 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 which is included in the labelling requirements as set out in Annex III to Regulation (EU) 2019/1009.

7. 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.
8. If an economic operator chooses to market fertilising products with a digital label, this Regulation lays down mandatory rules, such as a requirement to ensure that the digital label is accessible wherever Regulation (EU) 2019/1009 is operable, and that it can be accessed free of charge. The digital label must be made available for a period of 10 years after the fertilising product is placed on the market.

## **SCRUTINY HISTORY**

9. The Parliamentary scrutiny history relevant to this Regulation is contained in the attached Annex A.

## **MINISTERIAL RESPONSIBILITY**

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

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

11. We contacted Scottish, Welsh and NI officials with regards to this memorandum to provide comments. Northern Ireland Executive, Scottish Government and Welsh Government Officials confirmed they were content with the memorandum.

## LEGAL AND PROCEDURAL ISSUES

12.

i. **Legal Base**

Article 114 of the Treaty on the functioning of the EU on the approximation of national rules for the establishment and functioning of the internal market.

ii. **Voting Procedure**

Qualified majority council vote.

iii. **Timetable for adoption and implementation**

The Regulation was published in the EU Official Journal on 30 September 2024 as Regulation (EU) 2024/2516 of the European Parliament and of the Council of 18 September 2024. The Regulation will apply from 1 May 2027.

## POLICY AND LEGAL IMPLICATIONS

13. The impact of any application of this Regulation in NI is understood to be minimal as this is a voluntary measure. The Regulation gives economic operators the choice to market fertilising products with digital labels under Regulation (EU) 2019/1009 and will not make any significant changes to the functioning of this regulation.

14. As manufacturers can continue to choose how to market their fertiliser products, this new proposal will not lead to any significant regulatory divergence between Great Britain (GB) and NI.

15. Under Regulation (EU) 2019/1009 in NI, fertilising products will now be able to be marketed with a digital label.

16. The practical implications on the movement of fertilising products from NI to GB will be extremely minimal because of the market access principles. Under the United Kingdom Internal Market Act 2020 (UKIM), the market access principles apply to Qualifying Northern Ireland Goods (QNIGs) that have moved from NI to GB. If a fertilising product compliant with Regulation (EU) 2019/1009 moves from NI to GB and is not covered by the exclusions under Schedule 1 of UKIM, then it would have free access to the GB market, whether digitally labelled or not.

17. There is an exclusion under Schedule 1 of UKIM relating to fertilisers moving within the UK internal market that are subject to prohibition, restriction or regulation that has been put in place due to specific risks to safety or health of humans, animals or plants or a risk to the environment.

In theory, if a digitally labelled fertiliser is subject to one of these exclusions, then it would not be able to access the GB market, but given the narrow nature of the exclusions we do not anticipate them having a significant impact.

18. There are minimal concerns surrounding this Regulation, as its impact will be minor as it makes small amendments to an already operable regulation.
19. The UK Government recognises the potential merits of allowing information on the label to be provided in a digital format. If there is potential that some labelling information could be better provided in an electronic or digital format, this option could be explored in the future.

## **CONSULTATION**

20. There is no planned Government consultation on this proposal. No consultation has been undertaken either by the UK Government or the Northern Ireland Executive with stakeholders on the impact of the EU legislation, as this is only making a minor amendment to Regulation (EU) 2019/1009 with limited practical impact, and therefore it is not necessary to consult with stakeholders.
21. The European Commission has produced its own impact assessment.

## **FINANCIAL IMPLICATIONS**

22. There are no significant financial implications for the UK Government, industry or consumers.

## **ANNEX A**

### **PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO:**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING  
REGULATION (EU) 2019/1009 AS REGARDS THE DIGITAL LABELLING OF EU  
FERTILISING PRODUCTS**

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**COM (2023) 98 FINAL - 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**

**COM (2023) 98 FINAL - ANNEXES TO THE PROPOSAL**

**SEC (2023) 99 FINAL - REGULATORY SCRUTINY BOARD OPINION**

**SWD (2023) 48 FINAL - SUBSIDIARITY GRID ACCOMPANYING THE PROPOSAL**

**SWD (2023) 49 FINAL - IMPACT ASSESSMENT REPORT ACCOMPANYING THE  
PROPOSAL**

**SWD (2023) 50 FINAL - COMMISSION STAFF WORKING DOCUMENT  
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT  
ACCOMPANYING THE PROPOSAL**

**DEFRA SUBMITTED AN EM DATED 18 OCTOBER 2023**

### **SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS</b>	<b>LORDS</b>
CLEARED FROM SCRUTINY (OUTCOME AGENDA 3, 29/11/23)	CLEARED SENT FOR INFORMATION TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB- COMMITTEE (AT CHAIR'S SIFT NO 42; 9/11/23)