EXPLANATORY MEMORANDUM TO

The Aid in the Fruit and Vegetables Sector (Amendment) Regulations (Northern Ireland) 2027

S.R. 2027 No 000

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department/DAERA) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule (SR) is made under section 2(1) and (2) and section 4(1) of the Agriculture Act (Northern Ireland) 2025 (the Agriculture Act) and is subject to the Draft Affirmative resolution procedure.

2. Purpose

2.1. The SR makes changes to the legislation governing aid in the fruit and vegetables sector (the Fruit and Vegetable Aid Scheme/FVAS), in order to:

- ensure that only Northern Ireland based growers can benefit from DAERA support;
- make consequential amendments necessitated by provisions of the Agriculture Act; and
- provide for appeals against decisions in relation to the FVAS.

2.2. The SR also makes technical amendments to reflect that the FVAS is no longer an EU or UK-wide scheme and otherwise ensure that the legislation remains fully operable.

3. Background

3.1. Under legacy EU legislation, farmers and growers in a variety of sectors can come together to form producer organisations (POs) in order to strengthen their position in the supply chain and increase competitiveness. Under Regulation (EU) 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (the CMO), which is supplemented by Commission Delegated Regulation (EU) 2017/891 (Delegated Regulation) and Commission Implementing Regulation (EU) 2017/892 (Implementing Regulation), financial assistance is payable through the FVAS to POs for an approved operational programme, with operational funds part financed by contributions from PO members.

3.2. When the UK left the EU in January 2020, the European Union (Withdrawal) Act 2018 converted EU law into UK domestic law to provide a smooth transition after the UK's exit. The Retained EU Law (Revocation and Reform) Act 2023 preserved this legislation into domestic law at the end of 2023, when it became 'assimilated direct law'. It is the assimilated version of the CMO and the Delegated and Implementing Regulations that apply to the FVAS in Northern Ireland.

3.3. The Agriculture Act amended the CMO to remove a statutory requirement to fund all eligible claims from POs. In addition, section 2(1) of the Act provided the Department with the power to make regulations to modify the assimilated legislation. Section 4(1) also provided that any power to make regulations includes powers to make supplementary, incidental, consequential, transitional or savings provisions. The SR uses those powers to amend the assimilated legislation, as set out below.

4. The Statutory Rule

4.1. In order to ensure that only Northern Ireland-based growers can benefit from support provided by the Department, the SR inserts a new Article 32A into the CMO and new Articles 16A and 20A into the Delegated Regulation and makes associated amendments to provisions governing producer organisations and associations of producer organisations and the payment of aid.

4.2. The SR makes consequential amendments necessary on foot of the Agriculture Act, and specifically on the new Article 32(1A) inserted by the Agriculture Act. It replaces references to Article 32(1)(b) in Article 35(2)(b) of the CMO, as well as Articles 14A, 21A, 26, 40 and 54 and Annex III, paragraph 2(a) and Annex V, part IA, paragraph 3(a), of the Delegated Regulation and Annex II (table 3.1) of the Implementing Regulation, with references to the new Article 32(1A).

4.3. The SR introduces a review mechanism enabling persons affected by determinations relating to financial assistance under Article 34 of the CMO to seek review of those determinations.

4.4. The SR also makes some technical amendments to the CMO and to the Implementing and Delegated Regulations to ensure the legislation remains fully operable and to reflect that the UK is no longer in the EU as set out below:

- The SR removes the scope for advance payments to be made to POs, omitting Article 35 of the Delegated Regulation and Article 11 of the Implementing Regulation. This reflects Managing Public Money Northern Ireland, which states that advance payments should be made only in exceptional circumstances.
- The SR amends Article 27 of the Implementing Regulation to remove a requirement to undertake on-the-spot checks of 30% of the total aid applied for each year, which in effect would require such checks on each of the two Northern Ireland POs every year, with checks instead being undertaken on the basis of a risk analysis.
- The SR amends Articles 31, 36, 59, 60 and 67 of the Delegated Regulation to provide for the offsetting of recovered aid against sums otherwise payable in future, in line with good accounting practice.
- The SR amends Article 30 of the Delegated Regulation to reflect that there is no longer a Rural Development Programme for Northern Ireland under Regulation (EU) No 1305/2013 and also updates double funding rules to cover all potential UK public funding.
- The SR amends provisions in Articles 33, 36 of the CMO, Articles 2, 27, 30, 31, and 58 of the Delegated Regulation, and Articles 2, 3, 4, 25 and 34

and Annex I of the Implementing Regulation to better align the scheme with the Department's strategic objectives.

- The SR removes spent or obsolete provisions that are no longer relevant in a Northern Ireland context. In particular, it removes elements of Article 33 of the CMO, removes or replaces parts of Articles 14A, 16, 21A, 23 and 36 of the Delegated Regulation, omits Articles 35, 55 and 67A of the Delegated Regulation entirely, omits Annex VI in its entirety, and removes provisions from Annexes III and V. These include provisions concerning advance payments to POs, historical reporting and notification requirements, and administrative arrangements which are no longer required following EU Exit or are no longer relevant to the administration of the scheme in Northern Ireland. The SR also makes consequential amendments to a number of related provisions, including Article 67 of the Delegated Regulation, to ensure that the scheme remains fully operable.
- Finally, the SR updates terminology and references throughout the legislation to reflect that the United Kingdom is no longer a Member State of the European Union and that the scheme is administered by the Department in Northern Ireland. This includes substituting references to "appropriate authorities", "relevant authorities", EU institutions and UK-wide functions with Northern Ireland or Department-specific terminology, and updating related cross-references and definitions.

5. Consultation

5.1. A consultation with stakeholders was held between 29 June and 7 September 2026, during which officials met with key stakeholders representing mushroom growers, the two Northern Ireland fruit and vegetable POs and the Ulster Farmers' Union. In addition to feedback at the stakeholder meetings, three formal written responses were received.

6. Equality Impact

6.1. In accordance with obligations under Section 75 of the Northern Ireland Act 1998, the equality implications have been assessed. Given its very technical nature, the Department considers that the SR does not impact on equality differentials amongst Section 75 groups. Nothing was raised in engagement with stakeholders nor in consultation responses that changes this conclusion.

7. Regulatory Impact

7.1. A Regulatory Impact Assessment has not been prepared for this SR as it has no impact in terms of costs on businesses, charities, social economy enterprises or voluntary bodies.

8. Rural Needs Impact

8.1. A Rural Needs Impact Assessment was carried out on the SR, and it concluded that there would be no differential impact upon citizens in rural areas as a result of the legislation, given the very technical nature of the SR.

9. Financial Implications

9.1. There are no financial implications associated with the SR.

10. Section 24 of the Northern Ireland Act 1998

10.1. The SR does not have any human rights implications nor is it incompatible with EU Law. The SR was screened for impact on human rights and is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

11. EU Implications

11.1. The SR does not have any EU implications.

11.2. Powers to make this SR come from the Agriculture Act and do not fall under Annex 2 of the Windsor Framework. Minor changes are made in Annex III of the Delegated Regulation to update out-of-date references to EU legislation that does apply in Northern Ireland under the Windsor Framework. The SR does not, however, make any legislative amendments to those EU Regulations and does not have any Windsor Framework Implementation implications.

12. Parity or Replicatory Measure

12.1. The FVAS is no longer operating in England and Wales. The Scottish Government made minor changes to FVAS legislation as it applies in Scotland via The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetables) (Miscellaneous Amendment) (Scotland) Regulations 2026 which amongst other things restricts the funding provided to production grown only in Scotland.

13. Additional Information

13.1. Not applicable.