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**FROM: PAUL MCGRANAGHAN
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DATE: 08 OCTOBER 2026

**TO: DR. JANICE THOMPSON
AERA COMMITTEE CLERK**

**The Farm Sustainability Payment Scheme (Eligibility Etc) (Amendment) Regulations
(Northern Ireland) 2026**

Summary: The Farm Sustainability Payment Scheme (Eligibility etc) (Amendment) Regulations (Northern Ireland) 2026 are intended to provide DAERA with the legal powers to introduce participation in the Carbon Footprinting Project as a conditionality for the Farm Sustainability Payment (FSP) with effect from 1 January 2027. They also amend the Direct Payments Regulation to align the maximum Tetrahydrocannabinol (THC) content of hemp varieties eligible for direct payments with that for hemp imports from third countries. Finally, the Regulations amend Article 15(2) of Commission Implementing Regulation 809/2014 to reflect the decision to disapply late field claim penalties going forward. This will enable applicants to amend their FSP applications up to the closing date of 9 June without penalty. They will come into operation on 1 January 2027.

Business Area: Agricultural Policy Division

Issue:	To invite the AERA Committee to consider the Farm Sustainability Payment Scheme (Eligibility etc) (Amendment) Regulations (Northern Ireland) 2026 and agree that they can move forward to the next stage of the legislative process.
Restrictions:	None
Action Required:	That you consider the contents of this SL1.
Officials Attending:	George Moffett, Deputy Director of Agricultural Policy Division, Gregor Kerr, Deputy Director of Agricultural and Environmental Schemes Division, and Richard Magowan, Farm Sustainability and Development Policy Branch.

Background

The Department of Agriculture, Environment and Rural Affairs proposes to make the above-named Statutory Rule under powers conferred on it by Section 48 of and paragraphs 2(1) and 5(1) of Schedule 6 to, the Agriculture Act 2020 and Article 35 of Regulation (EU) No. 1307/2013 of the European Parliament and of the Council of 17 December 2013.

The Rule is being laid before the Assembly under the draft affirmative resolution procedure. A copy of the Statutory Rule is attached at **Annex A** for AERA Committee scrutiny.

Purpose of legislation/policy background

The Farm Sustainability Payment Scheme (Eligibility etc) (Amendment) Regulations (Northern Ireland) 2026 provide DAERA with the legal powers to introduce participation in the Carbon Footprinting Project as a conditionality for the FSP with effect from 1 January 2027. In addition, the Regulations amend Regulation (EU) No. 1307/2013 (the Direct Payments Regulation) to align the maximum tetrahydrocannabinol (THC) content of hemp varieties eligible for direct payments with that for hemp imports from third countries. Finally, the Regulations amend Article 15(2) of Commission Implementing Regulation 809/2014 to reflect the decision to disapply late field claim penalties going forward. This will enable applicants to amend their FSP applications up to the closing date of 9 June without penalty.

Carbon Footprinting Project FSP Conditionality

The Regulations provide DAERA with the legal powers to introduce participation in the Carbon Footprinting Project as a conditionality for the Farm Sustainability Payment with effect from 1 January 2027.

The Carbon Footprinting Project conditionality is the third FSP conditionality to be introduced with, participation in the Soil Nutrient Health Scheme (date of first penalty 2027) and, participation in the Bovine Genetics Project (date of first penalty 2028) in place from 1 January 2026.

Carbon Footprinting is an important action that farmers can undertake to measure the Greenhouse Gas emissions from their farm businesses and identify where improvements can be made at farm level.

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Under Section 19 of the Climate Change Act (NI) 2022, the Department must develop and publish sectoral plans for the agriculture sector. Sectoral plans for agriculture must contain proposals for carrying out fully funded carbon audits of farms to assess where improvements and savings can be made. As part of the carbon auditing process, carbon sequestration measures already being conducted by the sector should be calculated. The department has developed the Carbon Footprinting Project in response to this legislative requirement.

The Carbon Footprinting Project has been developed with industry to provide a whole farm carbon footprint to all farm businesses in Northern Ireland in a standardised and consistent way. Participating farm businesses will be provided with their whole farm carbon footprint free of charge.

Participation in the Project provides an important management tool to help farm businesses drive better environmental performance and sustainable practices. It will set a baseline from which to measure and evaluate progress in reducing emissions at individual farm business and farm enterprise level and across Northern Ireland. The Carbon Footprinting Project will use one carbon calculator to ensure that standardised and consistent results are produced for all farms in Northern Ireland. CAFRE training will be provided to farm businesses to help them understand their carbon footprint reports and identify ways to reduce emissions. The Project was developed in co-design with the Carbon Farming Partnership, which comprises representatives from the UFU and NIAPA, industry processors and environmental organisations.

The definition of participation in the Carbon Footprinting Project included in the Regulations means farm businesses must have registered for the Carbon Footprinting Project and completed training offered to it by the closing of the Single Application window (15 May 2029) to be compliant. For those farm businesses that are not compliant at this stage, the Regulations legislate that a 10% penalty will be applied to their Farm Sustainability Payment in 2029. The penalty will be increased to 15% for continued non-compliance in 2030 and will continue to be applied at 15% until the conditionality has been met. This is consistent with FSP conditionalities already in place for participating the Soil Nutrient Health Scheme and Bovine Genetics Project.

Amendment to Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries

The European Commission has amended the legislative framework governing hemp imports. As this legislation is directly applicable in Northern Ireland under the Windsor Framework, corresponding amendments to domestic legislation are required to increase the allowable THC content for hemp imports from third countries from 0.2% to 0.3%. This is being taken forward separately by an amendment within the draft Hemp (Third Country Imports) (Amendment) Regulations (Northern Ireland) 2026

For direct payment purposes, Article 32(6) the Direct Payments Regulation specifies that areas used for the production of hemp are only 'eligible hectares' for direct payments if the THC content does not exceed 0.2%. Therefore, to ensure parity with European Commission and domestic regulations these Regulations amend the Direct Payment Regulation to align with the maximum THC content for hemp imports from third countries.

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Amendment to the Commission Implementing Regulation

The late field penalty for Farm Sustainability Payment (FSP) applications was removed by the Department in 2026. This amendment to Article 15(2) of EUR 809/2014 reflects that policy change and enables applicants to amend their FSP applications up to the closing date of 9 June without penalty.

Previous Engagement with the Committee

Carbon footprinting Project FSP Conditionality

The AERA Committee received a written briefing and an oral briefing on the Carbon Footprinting Project on 23 May 2024. This briefing included reference to the Carbon Footprinting Project becoming one of the conditionalities for the FSP.

The AERA Committee was further briefed on 25 June 2025 on FSP and were advised that as part of FSP it is proposed to introduce conditionalities, to encourage uptake and participation of the 3 data platform projects within the Sustainable Agriculture Programme to maximise the benefits to farm business that these projects can deliver. The data platforms include the SNHS, Bovine Genetics Project and Carbon Footprinting Project.

Amendment to Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries

The Committee was provided with written briefing on 30 June 2026, prior to the launch of the consultation regarding proposed changes to the domestic Hemp regulations. This briefing included reference to the change required to the Direct Payments Regulation.

Financial Implications

Carbon Footprinting Project FSP Conditionality

The Carbon Footprinting Project is projected to require £12.7 million Resource DEL and £2.8 million Capital DEL over the four years of the project.

Current proposals include this project being funded from the Executive Earmarked allocation for agriculture, agri-environment and rural development (Resource DEL) and the Executive Earmarked Just Transition fund for Agriculture (Capital DEL). While an Executive-agreed multi-year Budget has not yet been established, a Resource DEL allocation of £1.72 million from the Executive Earmarked budget for Agriculture, Agri-Environment, and Rural Development has been made for 2026–27 to support delivery of this project.

The amendment to the Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries and the amendment to the Commission Implementing Regulation that removes late field penalties for FSP will not create any financial implications.

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Consultation

Carbon Footprinting Project FSP Conditionality

The development of the Carbon Footprinting Project was initiated in September 2022 following a meeting of the then DAERA Minister with industry representatives at which an industry proposal for a pilot Carbon Footprinting Project was discussed. Officials subsequently commenced work to develop the project and the business case for the project, in co-design with industry.

Plans to include participation in the Carbon Footprinting Project as a conditionality of the FSP have also been discussed with the Agricultural Policy Stakeholder Group.

The Carbon Farming Partnership comprises key stakeholders representing farmers, processors and environmental organisations. The Group was established by DAERA to ensure that stakeholder views are understood and properly considered during the development of the Carbon Footprinting Project. A number of presentations have been made to this group to discuss the inclusion of the Carbon Footprinting Project as a conditionality for receipt of FSP.

Amendment to Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries

An eight week consultation regarding proposed changes to the domestic Hemp regulations took place from 7 July 2026 until 1 September 2026. This included a question in relation to direct payments. No responses were received in respect to the direct payments question.

Compliance with Section 24 of the Northern Ireland Act 1998

The Regulations do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

When the Rule together with the Explanatory Memorandum has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

This SL1 will be copied to the Human Rights Commission and Legislative Programme Secretariat whenever the Statutory Rule is provided to the AERA Committee for scrutiny.

Consideration by the Executive

This does not require Executive referral as the introduction of these regulations should not be considered cross-cutting, contentious or controversial.

Equality Impact

In accordance with DAERA's obligations under section 75 of the Northern Ireland Act 1998, the potential equality impact of the statutory rule has been assessed. Inclusion of the Carbon Footprinting Project as a FSP conditionality is not targeted at any one particular Section 75 category. All eligible farm businesses have the opportunity to benefit from this policy regardless of which section 75 category they fall into. The screening assessment in respect of

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this element decision was however that the SR should be screened out with mitigations. These mitigations are designed to ensure that all farm businesses are provided with adequate guidance, training and time to comply with the Regulations.

No adverse equality impacts are anticipated in respect of the amendment to the Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries and the amendment to the Commission Implementing Regulation that removes late field penalties for FSP.

Regulatory Impact

Participation in the Carbon Footprinting Project is anticipated to have a positive impact by providing participating farm businesses with an important management tool to help them drive better environmental performance and sustainable practices. Participating farm businesses will be provided with their whole farm carbon footprint free of charge.

It is unlikely therefore that there will be any mandatory costs, savings or administrative burdens placed on NI farm businesses by the introduction of the Carbon Footprinting Project as an FSP conditionality. Rather, its introduction is anticipated to have a direct positive impact on eligible farm businesses.

The amendment to the Direct Payment Regulations to align the maximum THC content of hemp varieties eligible for direct payments with that for hemp imports from third countries and the amendment to the Commission Implementing Regulation that removes late field penalties for FSP represent easements to the current approach. No adverse or differential impact to any farm business in Northern Ireland which claims direct payments is anticipated.

For these reasons a full Regulatory Impact Assessment has been screened out.

Data Protection Impact

Following the introduction of these Regulations the FSP scheme will continue to operate using the same procedures and systems for data recording as are currently in place. No data protection issues are therefore, anticipated.

Child Rights Impact

N/A as policy changes included in Regulations are anticipated to impact farm businesses and have no impact on child rights.

Position in Great Britain (if appropriate).

Work is ongoing across the other UK Devolved Administrations to develop and implement new farm support policies following UK exit from the EU. While there are agricultural support schemes in GB there aren't any that are directly comparable to the FSP scheme. Rof will deliver payment schemes in line with stipulations set out in the EU CAP 2023-27 programme.

Carbon footprinting is being undertaken to a limited extent in GB and there is strong interest from the Devolved Administrations in the DAERA project.

ROI is currently developing its Carbon Farming Framework which includes incentivising farmers to achieve GHG emission reductions through their Signpost Programme. One of the tools developed to assess and verify farm GHG emissions is the AgNav Sustainable Digital Platform.

Any other information

N/A

Proposed timing of consideration of the SL1

The SL1 has been submitted to the Committee in accordance with the minimum four-week timeframe, and is scheduled to be considered by the Committee on 5 November 2026.

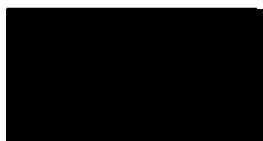
Proposed Operational Date

It is proposed that the rule will come into operation on 1 January 2027.

The draft of the proposed Statutory Rule and Explanatory Memorandum are attached, and you will wish to bring this matter to the attention of the Committee for Agriculture, Environment and Rural Affairs.

This SL1 is being copied to the Human Rights Commission, Equality Commission and Assembly & Legislation Section of The Executive Office.

Yours sincerely,



Paul McGranaghan
Departmental Assembly Liaison Officer

Enc.

Annex A: Draft Farm Sustainability Payment Scheme (Eligibility etc) (Amendment) Regulations (Northern Ireland) 2026

Annex B: Draft Explanatory Memorandum - Farm Sustainability Payment Scheme (Eligibility etc) (Amendment) Regulations (Northern Ireland) 2026

Cc: Assembly & Legislation Section (Executive Office)
Human Rights Commission
Equality Commission