



Minister's Office
Clare House
303 Airport Road West
Sydenham Intake
Belfast BT3 9ED
Telephone: 028 905 45117
Email: paul.mcgranaghan@daera-ni.gov.uk

**FROM: PAUL MCGRANAGHAN
DAERA DALO**

DATE: 24 AUGUST 2026

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

The Official Controls (Plant Protection Products) (Amendment) Regulations (Northern Ireland) 2026

Summary: The Department of Agriculture, Environment and Rural Affairs (DAERA) intends to bring forward a statutory rule under powers conferred on it by section 11 of, and paragraph 11M of Part 1C of Schedule 2, to the European Union Withdrawal Act 2018.

The Statutory Rule is required to give effect in Northern Ireland to Article 7 (Right of Appeal) of Regulation (EU) 2017/625 ("the Official Controls Regulation" (OCR)), as applicable under the Windsor Framework, in respect of official controls on plant protection products (PPPs).

Business Area: Natural Environment Policy Division, Environmental Farming Branch

Issue: The AERA Committee is being asked to approve the laying of the above Statutory Rule which is subject to negative resolution.

Restrictions: None

Action Required: To approve the Statutory Rule

Officials Attending: Helen Thompson, Pesticides Projects Manager
Bronagh Mallon, Senior Pesticides Policy Officer

Background

The Department of Agriculture, Environment and Rural Affairs (DAERA) proposes to make the above named Statutory Rule (SR) under powers conferred on it by section 11 of, and paragraph 11M of Part 1C of Schedule 2 to, the European Union Withdrawal Act 2018.

The SR is required to give effect in Northern Ireland to Article 7 (Right of Appeal) of *Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products* ("the Official Controls Regulation" (OCR)), in respect of plant protection products (commonly referred to as pesticides or PPPs).

The OCR is included in the list of EU acts in Section 43 (Official Controls, veterinary checks) of Annex 2 to the Windsor Framework and is directly applicable in Northern Ireland. The Statutory Rule will be subject to negative resolution procedure, as it establishes a right of appeal only and does not engage any of the statutory grounds requiring affirmative resolution under Schedule 7 to the European Union (Withdrawal) Act 2018.

It is anticipated that it will come into operation on 30 November 2026. A copy of the draft SR is attached at **Annex A** and associated Explanatory Memorandum is at **Annex B**.

Purpose of legislation/policy background

Article 7 (Right of Appeal) of the OCR states that where a competent authority makes a decision following a failure by an operator to comply with official controls, the person or business concerned must have the right to appeal that decision, in line with national law.

The Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020 (2020 Regulations) support the implementation of the plant protection product elements of the OCR for Northern Ireland. At the time of initial drafting, the intention was to defer introduction of the right of appeal until an operational official controls programme for PPPs could be put in place. This mirrors the approach taken in GB.

Without a right of appeal in place, any attempts to enforce the regulation could potentially lead to legal challenge on a point of law, by Judicial Review through the High Court, on the grounds that no right of appeal is currently in operation in breach of Article 6 of the European Convention on Human Rights (ECHR) which requires a right of appeal to an independent body or court.

Continued reliance on the judicial review process alone does not adequately implement Article 7 in that it only provides operators with the opportunity to challenge whether a decision was lawfully made.

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Further failure to progress the amendment to the 2020 Regulations would mean that DAERA remains unable to meet its legal obligations, specifically the full implementation of the OCR in respect of plant protection products, leaving the Northern Ireland Statute Book deficient.

While this position has persisted since 2020 without immediate financial, legal, or operational consequences, that has only been the case because the official controls programme for plant protection products has not yet been brought into effect. As the programme advances, it is essential that appropriate legislative cover is put in place.

The proposed Official Controls (Plant Protection Products) (Amendment) Regulations (Northern Ireland) 2026 give effect to Article 7 (Right of Appeal) of the OCR by amending the Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020 to establish a right of appeal against specified Departmental decisions relating to plant protection products and the sustainable use of pesticides (excluding pesticide application equipment).

The Statutory Rule introduces two key changes:

- i. A requirement that all notices of decision must inform recipients of their right of appeal and the time limit for doing so; and
- ii. The creation of a statutory right of appeal to a court of summary jurisdiction, with procedures aligned to the Magistrates' Courts (Northern Ireland) Order 1981.

Previous Engagement with the Committee

The Committee was consulted on, and gave its approval to the making and laying of the principal legislation, namely the Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020.

Financial Implications

The introduction of a statutory right of appeal is expected to have minimal financial implications for both the Department and regulated businesses. Any additional administrative, legal or tribunal-related costs for the Department are anticipated to be low and absorbed within existing resources. Businesses choosing to appeal may incur discretionary costs, such as preparing submissions or obtaining professional advice, but this is voluntary and the number of appeals is expected to be low. Overall, the financial impact of the Regulations is considered negligible.

Consultation

No consultation with regulated operators has been undertaken as the SR makes a procedural amendment and does not introduce further regulatory requirements and therefore is anticipated to have a nominal impact on PPP operators as it is already a highly regulated field.

The Department of Justice (DoJ) has been consulted and sees no difficulty with the proposed right of appeal and notes clear precedent for appeals related to official controls, to be heard at a court of summary jurisdiction. While the Northern Ireland Courts and Tribunals Service will be informed, the DoJ advised that the expected low volume of appeals means minimal, if any, operational impact.

Compliance with Section 24 of the Northern Ireland Act 1998

The SR is technical in nature, introducing a statutory right of appeal - it is not considered to have any human rights implications, nor is it incompatible with the Windsor Framework. The Department is satisfied that this SR complies with the requirements of section 24 of the Northern Ireland Act 1998.

Consideration by the Executive

Executive approval is not required as the Regulations are made under existing statutory powers and give effect to a technical amendment to official controls for plant protection products, without introducing new or contentious policy. There are no cross-cutting, significant or controversial issues arising.

Equality Impact

In accordance with Section 75 of the Northern Ireland Act 1998, the Department has screened the proposed Regulations. No adverse, differential, or disproportionate impacts have been identified for any of the Section 75 groups. The Regulations are technical and procedural in nature, introducing a statutory right of appeal that applies uniformly to all regulated persons. The Department considers that the SR will not result in any equality issue and a full Equality Impact Assessment is not required.

Regulatory Impact

The proposed Regulations will have a direct but minimal impact on the SR introducing a statutory right of appeal against enforcement decisions but do not create any new regulatory requirements or compliance costs on businesses in the plant protection products sector. Any appeal-related costs would be voluntary and arise only where a business chooses to challenge a decision. On this basis, a full Regulatory Impact Assessment has not been undertaken, as the overall regulatory impact is considered negligible.

Rural Needs Impact

As required by the Rural Needs Act (Northern Ireland) 2016, a Rural Needs Impact Assessment has been completed by the Department.

Data Protection Impact

Introducing a right of appeal is a procedural and governance change, rather than a data-driven or technology-driven one. A screening exercise was carried out and from a data protection perspective, the SR was assessed as low risk. On this basis a full data Protection Impact Assessment has not been undertaken.

Child Rights Impact

The proposed SR does not directly affect children or young people, and no significant direct or indirect impacts on children's rights have been identified. A full Child Rights Impact Assessment is therefore not considered necessary.

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Position in GB (if appropriate)

The GB Official Controls (Plant Protection Products) Regulations 2020 do not yet contain provisions for right of appeal for operators. The Defra policy team intend to introduce the provisions for GB when time and resources allow.

Any other information

A right of appeal provision has already been introduced in Northern Ireland in relation to other elements of the OCR including plant health and food and feed. Bringing the legislation forward for PPPs will ensure alignment with other areas under the OCR in Northern Ireland.

Proposed timing of consideration of the SL1

The SL1 has been submitted to the Committee in accordance with the minimum four-week timeframe. The Department proposes that the Committee consider the SL1 at the meeting of the Committee for Agriculture, Environment and Rural Affairs taking place on Thursday 1 October 2026.

Proposed Operational Date

It is proposed that the rule will come into operation on 30 November 2026.

The draft of the proposed Statutory Rule and Explanatory Memorandum are attached in **Annex A and B**, 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 and Equality Commission.

Yours sincerely,



Paul McGranaghan
Departmental Assembly Liaison Officer

Annex A: Draft SR: 'The Official Controls (Plant Protection Products) (Amendment) Regulations (Northern Ireland) 2026

Annex B: Explanatory Memorandum

Cc: Human Rights Commission
Equality Commission