

AREAS WITH NATURAL CONSTRAINTS (PAYMENTS) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by Declan McAleer MLA (“Member”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, and where a clause or any part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Areas with Natural Constraints (Payments) Bill proposes the reintroduction of payments to farmers operating in Areas with Natural Constraints (ANCs). The policy objectives of the Bill are to:
 - Compensate farmers for all or part of the additional costs and income foregone due to production constraints in ANCs;
 - Alleviate the burden of production costs in these difficult farming environments;
 - Address the reduction in agricultural opportunities for those farming in designated ANC areas; and
 - Better promote equality of opportunity for farmers in these regions.
4. The Member aims to restore income from support payments that were vital to farmers in upland areas socially, economically, environmentally, and financially. These payments helped ensure the continuation of hill farming, supported low-carbon livestock production, and maintained areas of outstanding natural beauty.
5. ANC farmers typically experience highly seasonal income patterns, selling most livestock in the summer and autumn and relying heavily on support payments to cover substantial winter feed and housing costs. Many are small family farms with limited alternative income opportunities due to geographic isolation, planning constraints, and the nature of the land. The recent 17% reduction in Farm Sustainability Payments has placed further strain on these businesses, with little scope to offset the shortfall given the physical limitations of ANC land.
6. Farmers in ANC areas work on marginal, poorer-quality land such as mountainous or severely disadvantaged land, making farming inherently more difficult and less productive. These areas typically coincide with broader economic disadvantage, including limited employment opportunities and long-standing underinvestment. As a

result, farm incomes are low and local economies rely heavily on agricultural activity. An ANC payment scheme provides vital direct income support that farmers depend on to keep their businesses viable, while also delivering important indirect benefits to the wider rural economy by sustaining local shops, contractors, schools, sports clubs, and community services. Given the structural disadvantages faced by these farmers are not adequately addressed under the current Farm Sustainability payment, the Member considers the ANC payment is essential for maintaining farm viability, supporting rural economies, and sustaining communities in these disadvantaged regions.

7. The [Agriculture Act 2020](#) is one of the main pieces of legislation regulating local agriculture post EU exit. That Act contains provisions to allow the modification of the basic payment scheme to include a payment for ANCs. The Act provides a power to make regulations to provide for ANC payments, which has not been exercised by the Minister of Agriculture, Environment and Rural Affairs (“the Minister”) to date. The current Bill places a statutory duty on the Department of Agriculture, Environment and Rural Affairs (“the Department”) to do so.
8. The Bill provides that ANC payments should be reinstated at no less than the levels provided for under the Areas of Natural Constraint 2018 Regulations, which specified payment rates in Schedule 2 based on qualifying forage area. This allows the 2018 rates to serve as a floor, with the Department building the rest of the regulations to establish and operate the scheme. The 2018 regulations have expired, and fresh regulations are required to establish a new ANC scheme.

CONSULTATION

9. The Member conducted a consultation from 4 November 2024 which closed on 28 March 2025 (having been extended from 5 March). A total of 431 responses were received to the consultation comprising 78 individual submissions via the online platform: a petition signed by 353 individuals and one submission emailed from a farming group. The Member has also engaged directly with representative groups in the agricultural sector and has shared his legislative proposal with the Equality Commission for Northern Ireland, and the Northern Ireland Human Rights Commission.
10. The Member wrote to the Minister on two separate occasions, in October and November 2024, regarding the need to reinstate the ANC Scheme. On both occasions, the Minister advised that he had no plans to reintroduce the scheme. The Member subsequently submitted a written question on the same issue, and in July 2025 the Minister again confirmed that he had no intention of reinstating the ANC Scheme.
11. Farmers operating in ANCs face a unique combination of environmental and economic pressures that significantly limit their productivity and income. The land in these areas is characterised by poor soil quality, steep gradients, excess moisture, and short growing seasons, making it unsuitable for crops and restricting farmers largely to low-density sheep and cattle grazing. These natural constraints, combined with lower forage quality and lighter livestock weights, result in higher production costs and reduced output compared with lowland farms. ANC farmers are typically located in areas that are economically disadvantaged, experiencing poor employment opportunities, and

underinvestment. By targeting support to these areas, the scheme ensures that money flows directly into local rural economies, benefiting local businesses, schools, and community services.

12. Taking into consideration the views of stakeholders, who highlighted in their responses to the consultation the severe challenges faced by ANC farmers and the essential role they play in sustaining rural communities and environmental stewardship, it is clear targeted support remains necessary. The recent 17% reduction in Farm Sustainability Payments has placed further strain on these businesses, with little scope to offset the shortfall, given the physical limitations of ANC land.
13. Reinstating an ANC scheme is therefore justified to ensure the financial viability of farms in these marginal areas, protect rural economies, and support the continued management of environmentally important landscapes. This approach recognises the significant contribution ANC farmers make to carbon sequestration, biodiversity, and sustainable food production while addressing the structural disadvantages inherent in farming these constrained areas.

OPTIONS CONSIDERED

14. **Option 1:** Do Nothing: Under this option farmers would not be compensated for any additional costs or income forgone because of production constraints in ANC areas, unless the Department was to exercise the discretionary powers to make regulations under the Agriculture Act 2020.
15. **Option 2:** Legislate via a Member's Bill to mandate the Department use its existing powers under the Agriculture Act 2020 to reintroduce payments to farmers operating in ANCs. This will ensure ANC payments are made to eligible farmers. The Member considers the use of resources necessary to meet the policy objectives of the Bill.
16. Following consultation, the Member considers that Option 2 is the mechanism by which to achieve the policy objectives of the Bill.

OVERVIEW

17. The Bill makes it mandatory for the Department to make regulations under the powers contained in Part 1 of Schedule 6 to the Agriculture Act 2020. These regulations must deal with ANC payments.
18. The Bill has two clauses and no schedules.

COMMENTARY ON CLAUSES

Clause 1: This is the only substantive clause in the Bill. It obliges the Department to use its powers under [Part 1 of Schedule 6 to the Agriculture Act 2020](#) to make regulations for ANC payments. Subsection (2) requires this to be done within 12 months. As a similar scheme has previously existed, the Member considers this a reasonable period to allow the Department to make regulations whilst at the same time ensuring payments are made as early as possible.

The clause goes on to specify some of the content of these Regulations. Under clause 1(3)(a), ANC payments must not be less than the equivalent payments that were made under the Areas of Natural Constraint Regulations (Northern Ireland) 2018. These Regulations have expired. Under clause 1(3)(b), these payments must increase annually as a prices index (for example the Retail Price Index, or the Consumer Price Index established by the Office for National Statistics) increases.

Clause 2: provides for the Bill to come into operation on the day after it receives Royal Assent.

FINANCIAL EFFECTS OF THE BILL

19. The Bill itself has no direct financial effects. The financial effects of the regulations made under the powers set out in the Bill will be assessed separately.
20. Based on the rate of payment for the 2018 ANC scheme, in line and with the Retail Price Index for 2025, any scheme under the proposals would cost approximately £11.4 million per annum. Other measures of inflation may be used, so the Bill has been crafted to allow the Minister to use a recognised model of inflation with reference to the Statistics Board.
21. It is acknowledged that the Minister would need to fund this from within the existing departmental budget and that will increase pressures and the need to reallocate funds. To be eligible for the 2018 scheme, there was a requirement that claimants be active farmers. It is anticipated that the proposed scheme would operate on these terms and be adjusted to allow for inflation on an annual basis. Of course, this is likely to increase the costs of the regulations on an annual basis.
22. The Bill if enacted, would also create a potential ‘public impact’ on departmental resources in terms of administering the scheme. This would also apply to the management of claimant eligibility, the role of the Department in dealing with any false claims and the potential employment of additional inspectors to farms. This would require to be integrated with existing processes. It should be noted that the Department has experience of delivering these schemes, which should reduce the lead time and burden. The Member is open to hearing from the Minister on what the appropriate lead time for the regulations would be and will consider whether any amendments are required to the Bill as a result. The Member has suggested 12 months in view of this prior experience of the scheme but will listen carefully to debate on the issue.
23. The Bill would also have public purse implications regarding the pursuit of a conviction for offences relating to provision of false or misleading information, and/or in any other way interfering in the execution of the regulations. Some of these costs may be offset by fines if a conviction is successful; however, all costs may not be recovered fully. The risk of this is considered to be minimal.
24. Other public purse implications could arise from the proposed ANC scheme coming into operation alongside other currently available schemes. Failure to address or exempt the ANC scheme from the issue of double funding could see the Department assume additional costs in the process of recovery of payments. This should be manageable, but the Member is open to further discussion with the Department on this.

HUMAN RIGHTS ISSUES

25. The Member is satisfied that the Bill does not contain any provisions which are incompatible with the Human Rights Act 1998. Nor does the Member consider that the Bill deals with any matter referred to in Article 2(1) of the Windsor Framework. The Member shared an outline of his proposal with the Northern Ireland Human Rights Commission and looks forward to further engagement on the issue.

EQUALITY IMPACT ASSESSMENT

26. The Member is satisfied that the provisions within the Bill do not discriminate against any of the equality groups set out in section 75 of the Northern Ireland Act 1998. The Member has shared an outline of his proposal with the Equality Commission for Northern Ireland and looks forward to further engagement on the issue.

LEGISLATIVE COMPETENCE

27. At Introduction the Member in charge of the Bill, Mr Declan McAleer, had made the following statement under Standing Order 30:

“In my view the Areas with Natural Constraints (Payments) Bill would be within the legislative competence of the Northern Ireland Assembly.”



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