

AGRICULTURE BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) 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 needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Common Organisation of the Markets in Agricultural Products (CMO) was part of the Common Agriculture Policy that governed UK agricultural support as a member of the European Union (EU). The CMO provided market-support tools and aid schemes for certain sectors, including fruit and vegetables under the Fruit and Vegetable Aid Scheme (FVAS), encouraged cooperation through Producer Organisations (POs), laid down common marketing standards for certain products, and set out specific rules on competition and trade. The UK, including Northern Ireland, continues to operate legacy EU schemes derived from EU CMO legislation.
4. Under the CMO Regulation, farmers and growers in a variety of sectors are incentivised to come together to form POs in order to strengthen their position in the supply chain and increase competitiveness. POs also provide a mechanism for promoting environmentally sound cultivation practices and production techniques, and climate change mitigation. When the UK left the EU in January 2020, the European Union (Withdrawal) Act 2018 converted EU law into UK domestic law. This provided a smooth transition after the UK's exit from the EU and was generally referred to as Retained EU Law, until it was preserved into domestic law at the end of 2023 as 'assimilated law' by the Retained EU Law (Revocation and Reform) Act 2023.
5. It is the assimilated law version of the CMO Regulation that now applies to the FVAS. Financial assistance is payable to POs in the horticulture sector who submit an operational programme that meets the FVAS regulatory requirements and fits within the UK Strategy and Environmental Framework. Operational funds are part financed by contributions from PO members.

6. There is currently one mushroom PO headquartered in Northern Ireland supported by the Department under the FVAS. As a legacy of the scheme being an EU scheme, under which the EU would have provided the support, there is a continuing legal obligation for the Department to fund eligible claims under assimilated law. This has implications for the future Northern Ireland budget, given the potential for new 3-year programmes to be submitted for approval before September 2025. Therefore, as it stands, there is a reduced scope for the Department to decide on funding priorities, to provide support where it provides best value for money and to target support where it best meets local needs. Furthermore, there are also two other POs with local members funded by Defra because their PO is headquartered in England where the scheme is currently scheduled to close at the end of the 2025. While these growers are not currently eligible for funding by the Department, this may change.
7. In addition, the Department is undertaking post-EU policy development of agricultural support, including in relation to future support for the horticulture sector and supply chains. Part of this is a review of the operation of the FVAS in Northern Ireland. New powers are needed to ensure that the Department has the scope to amend the governing FVAS legislation to align with new policy as this is developed.
8. Separate EU legislation provides for support for agri-food information and promotion for agricultural products (promotion schemes). Under this legislation, not-for-profit organisations could apply for EU support for food promotion campaigns, primarily in third countries. The aim of this legislation is to open new market opportunities for farmers and the wider food industry, help them build their existing businesses and sell their products in an increasingly competitive global marketplace, while delivering jobs and growth. Since June 2003, under the EU legislation, there have been 35 promotion schemes running campaigns with UK beneficiaries, but the largest and most successful UK beneficiary is based in Northern Ireland. Following the end of EU funding in October 2020 it is the assimilated version of the legislation that now applies here. However, new powers would allow these schemes to be tailored to the specific needs of Northern Ireland, informed by a wider review of food promotion.
9. Therefore, the policy objective is to make FVAS funding discretionary prior to the end of the current programme, in order that support can be prioritised and used where it best provides value for money and best meets specific local needs. The aim is to provide scope for the Department to consider on a case-by-case basis whether to grant financial assistance to a PO in respect of a particular operational programme.
10. At the same time, the aim is to provide the Department with the scope to amend the law governing the FVAS and promotion schemes, so that they can reflect future policy developments.

CONSULTATION

11. Consultation on proposals for a small Bill opened on 3 April 2024 and closed on 27 May. The Department wrote to key stakeholders including POs in the fruit and vegetable sector with members located in Northern Ireland, and to the Department's Agricultural Policy

Stakeholder Group (which includes representatives from across food, farming, and environmental organisations). Section 75 groups and other statutory consultees were also notified with notice of the consultation sent to 214 individuals and organisations in total. The consultation was placed on the Department's website and on Citizen Space, and its launch was highlighted via the Department's social media.

12. Officials met with representatives of the three mushroom POs which are either based in Northern Ireland, or have members here, and are current recipients of support under the FVAS. Officials also spoke to Dairy Council for Northern Ireland (DCNI), as it had successfully applied to the EU for support under the promotion schemes in the past.
13. Seven written responses were received, including from representatives of mushroom growers, as well as Fermanagh and Omagh District Council and Sinn Féin. DCNI also responded specifically in relation to promotion schemes. The comments received regarding the FVAS highlighted stakeholders' views on the importance of the scheme to the local mushroom sector with calls for the scheme to continue after 2025. Some stakeholders questioned the impact of making funding under the scheme discretionary as they were concerned that this would signal the end of the scheme in Northern Ireland. There was a call for changes to be made to some aspects of the FVAS, particularly to align with the scheme as it had evolved in the EU since Brexit given that such changes apply in RoI. DCNI expressed support for the proposal to take amending powers in relation to promotion schemes.
14. A summary of the consultation and the Department's response can be found at [Proposed Bill to Amend Legacy EU Common Market Organisation Schemes](#).

OPTIONS CONSIDERED

15. Four options were considered.

Option 1: Do nothing

16. With this option the Department could not amend the legislation governing the FVAS and as a result would have a continuing statutory requirement to fund all eligible claims after December 2025. The Minister would not have the scope to fully decide how to spend the Department's budget, nor to ensure it best provides value for money and best meets local needs.
17. Furthermore, without the new enabling powers, there would be limited scope to amend the two legacy EU CMO schemes and they would remain as they are currently, and therefore would not be tailored specifically to Northern Ireland. This does not therefore meet the policy objectives.

Option 2: The Retained EU Law (Revocation and Reform) Act

18. The Retained EU Law (Revocation and Reform) Act 2023 (REUL Act) could potentially provide the scope to modify the relevant assimilated EU legislation via draft affirmative

subordinate legislation. However, there are constraints relating to the use of REUL Act powers. The one-stop nature of the powers means that the Department would need to have completed its review of policy and fully determined the future policy direction before using them. Importantly, there would be no scope for any future amendments thereafter to allow for ongoing policy development and, consequently, new powers would still be needed. This option does not therefore meet the policy objectives.

Option 3: Small Agriculture Bill

19. This option amends the assimilated law governing the FVAS to make funding discretionary and do so before new programmes are due to be submitted to the Department for approval in 2025. This option would also provide enabling powers to amend both the FVAS and promotion schemes to allow these schemes to be changed to reflect future Northern Ireland specific policy developments. This is the preferred option.

Option 4: Comprehensive Agriculture Act

20. Scoping is at an early stage in relation to the need for a comprehensive Northern Ireland Agriculture Bill, and whether there are any gaps in the primary powers needed for the Department's new Farm Support and Development Programme. While a more comprehensive Bill, if progressed, could potentially provide a route to deliver the powers the Department needs, this would not be done within the required time limits.
21. As a result, there would still be the statutory requirement to fund all claims that meet FVAS regulatory requirements and fit within the UK Strategy and Environmental Framework. The Minister would not have the scope to fully decide how to spend the Department's budget, nor to ensure support provides best value for money and meets specific local needs. There would also be limited scope to amend the two legacy EU CMO schemes and they would remain as they are currently, and therefore would not be tailored specifically to Northern Ireland. This does not therefore meet the policy objectives.

OVERVIEW

22. The Bill has six clauses. It amends, and confers power to make further modifications of, assimilated direct legislation in relation to aid in the fruit and vegetables sector. It also provides power to modify promotion schemes for agricultural products.

COMMENTARY ON CLAUSES

Clause 1 – Aid in the fruit and vegetables sector: amendment of CMO Regulation

This clause amends assimilated law EU 1308/2013 (the CMO Regulation) in relation to the FVAS, so as to remove any requirement for all eligible claims to be funded and enable the Department to continue the FVAS on a discretionary basis. The clause also includes transitional provisions in relation to existing FVAS programmes.

Clause 2 - Aid in the fruit and vegetables sector: power to modify

Subsection (1) of this clause confers a power on the Department to make regulations to modify the listed assimilated direct legislation relating to aid in the fruit and vegetables sector.

Subsection (2) provides power to make regulations regarding the review of decisions relating to such aid. This includes power to make provision similar to existing regulations about review, and so will allow provision to be made establishing review procedures, enabling remuneration and allowances to be paid in connection with the procedures, and allowing fees to be charged in respect of the costs of the procedures.

Subsection (3) clarifies that the power to modify in subsection (1) includes power to modify provisions inserted in the CMO Regulation by clause 1.

Clause 3 - Information provision and promotion measures: power to modify

This clause confers a power on the Department to make regulations to modify the listed assimilated direct legislation relating to information provision and promotion measures.

Clause 4 – Regulations

This clause provides that regulations made under the Bill may contain supplementary, incidental, consequential, transitional, transitory or saving provisions, and that such provision includes modification of any statutory provision. This clause also provides that regulations under the Bill can only be made following approval by the Assembly.

Clause 5 – Interpretation

This clause provides interpretation of terms used in the Bill, including that “modify” includes amend, repeal or revoke.

Clause 6 – Commencement and short title

This clause provides that the Bill will come into operation on the day after the day it receives Royal Assent. The clause also specifies the short title of the Bill namely, The Agriculture Act (Northern Ireland) 2024.

FINANCIAL EFFECTS OF THE BILL

23. There are no direct costs associated with the Bill. Failure to progress the Bill will mean the Department will continue to have a statutory requirement to fund all claims that meet FVAS regulatory requirements and fit within the UK Strategy and Environmental Framework after December 2025.

HUMAN RIGHTS ISSUES

24. The provisions of the Bill are compatible with the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

25. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department considered the policy proposal for the Bill for its impact on equality. It concluded that the Bill would have no differential impact on any of the specified groups. The draft Section 75 Screen can be viewed at [Proposed Bill to Amend Legacy EU Common Market Organisation Schemes](#) and this will be reviewed and updated, as necessary, as the Bill progresses through the Assembly.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

26. None required, as the Bill does not introduce any new direct regulatory impacts.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

27. None required as the Bill does not require the processing of personal information.

RURAL NEEDS IMPACT ASSESSMENT

28. A draft Rural Needs Impact Assessment concluded that the Bill would have no negative rural impacts. The draft Impact Assessment can be viewed at [Proposed Bill to Amend Legacy EU Common Market Organisation Schemes](#) and this will be reviewed and updated, as necessary, as the Bill progresses through the Assembly.

LEGISLATIVE COMPETENCE

29. At Introduction, the Minister of Agriculture, Environment and Rural Affairs had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Agriculture Bill would be within the legislative competence of the Northern Ireland Assembly.”



**Northern Ireland
Assembly**

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