

Minister for Agriculture and Connectivity
Ministear an Àiteachais agus Ceangal
Jim Fairlie MSP
Jim Fairlie BPA



T: 0300 244 4000
E: scottish.ministers@gov.scot

Finlay Carson MSP
Convener
Rural Affairs and Islands Committee
Scottish Parliament
EDINBURGH
EH99 1SP
By email rural.committee@parliament.scot
Copied to UKSIs@parliament.scot and
DPLR.Committee@parliament.scot

23 February 2026

Dear Convener,

**EU EXIT LEGISLATION – PROTOCOL 2 WITH SCOTTISH PARLIAMENT:
THE WINDSOR FRAMEWORK (RETAIL MOVEMENT SCHEME: PLANT AND ANIMAL
HEALTH) (AMENDMENT ETC.) REGULATIONS 2026 – “DEFRA NID/022”**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI, and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

Defra NID/022 is subject to the negative procedure and in exercise of powers conferred by section 8C(1) and (2) of, and paragraph 21 of schedule 7 of, the European Union (Withdrawal) Act 2018. On current Defra plans it is to be laid in the UK Parliament on 28 April 2026.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE™
We invest in people Silver



I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee, and I look forward to hearing from you by 26 March at the latest.

Yours sincerely,



JIM FAIRLIE

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE™
We invest in people Silver



SI NOTIFICATION: SUMMARY

Title:

The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) (Amendment etc.) Regulations 2026 – “Defra NID/022”

Proposed laying date at Westminster:

28 April 2026

Date by which Committee is to respond:

By 25 March 2026

Power(s) under which SI is to be made:

This SI is subject to negative procedure and is made in exercise of powers conferred by section 8C(1) and (2) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations are part of the on-going implementation of the Windsor Framework, particularly the requirements in Article 9 of Regulation (EU) 2023/1231 – “Specific rules for consignments of rest of the world retail goods”.

Categorisation under SI Protocol:

Type 1

Purpose:

Defra NID/022 makes amendments to assimilated direct legislation namely Annex VII of the EU Commission Implementing Regulations (EU) 2019/2072 (“The Phytosanitary Conditions Regulations (PCR)”) for the purpose of implementing the Windsor Framework.

Other information

- The instrument is linked to ‘Windsor Framework.’ This is an agreement between the UK Government and EU which modifies the NI Protocol. The Framework aims to significantly reduce the number of checks on any goods arriving in Northern Ireland from Great Britain. Five Statutory Instruments were related to the implementation of this agreement which were presented to the Rural Affairs and Islands Committee (RAI) for consideration and approved on 28 June 2023.
- The changes in NID/022 involve consignments of tomato and peppers from Israel and Taiwan and ginger imported from the Rest of the World (i.e. all non-EU countries).
- For clarity, imports of these commodities are permitted from the RoW, so this is not a new pathway, but it is necessary to ensure UK align with updated EU import requirements and that these commodities can continue to move under the Northern Ireland Retail Movement Scheme (NIRMS) and is included in the Written guarantees associated with NIRMS.
- The World Trade Organization will be notified, and Defra will be notifying all International Plant Protection Convention (IPPC) contacts.

SG Policy contact:

Plant Health: Yvonne Hay (Yvonne.Hay@gov.scot)

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Windsor Framework (Retail Movement Scheme: Plant and Animal Health) (Amendment etc.) Regulations 2026 – “Defra NID/022”

Is the notification Type 1 or Type 2?

Type 1

A brief overview of the SI

The SI is made in exercise of powers conferred by section 8C(1) and (2) of, and paragraph 21 of schedule 7 of, the European Union (Withdrawal) Act)

The SI is subject to negative procedure and is to be laid on 28 April 2026.

This will align GB sanitary and phytosanitary measures (SPS) with the EU for certain plant and products from non-EU (RoW) to allow these goods to be moved to Northern Ireland (NI) from GB under the Northern Ireland Retail Movement Scheme (NIRMS), established under the Windsor Framework. This is necessary as NI remain subject to EU SPS laws and if these goods do not meet same import requirements on entry to Great Britain (GB) as would apply on entry to the EU, they will not be able to move to NI under NIRMS.

This SI does not transfer any legislative functions.

Details of the provisions that Scottish Ministers are being asked to consent to

Summary of the proposals:

The purpose of the instruments is to ensure that UK aligns with the EU's import requirements for *Capsicum* (pepper), *Solanum lycopersicum* (tomato), and *Zingiber officinale* (ginger) to ensure these goods are eligible for movement under the Northern Ireland Retail Movement Scheme (NIRMS). For clarity, imports of these commodities are permitted from the RoW, so this is not a new pathway, but it is necessary to ensure UK align with updated EU import requirements.

NID/022 does this by making amendments to: Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants (Phytosanitary Controls Regulations (PCR)) – Annex 7 by:

- Adding Israel and Taiwan to import requirements relating to entries of peppers and tomatoes for the pest of *Bactrocera latifrons* (Solanum fruit fly); and
- New entry requirements for ginger from all non-EU countries (Rest of World (RoW)) against the pest of *Ralstonia pseudosolanacearum* (soil-borne bacterium).

Background

The Northern Ireland Protocol sets out the post-Brexit relationship between NI, the EU, and GB. Effective from 1 January 2021, it has ensured that zero checks have been placed on goods moving between NI and Ireland (and the rest of the EU) by applying the EU's Single Market rules for goods and customs rules to Northern Ireland. As a result, goods entering NI from GB require to undergo checks and/or have paperwork to show they comply with the relevant EU regulations.

The Windsor Framework was agreed by the UK and EU in February 2023 and represents a more risk-based and proportionate approach to border controls. It acknowledges the principle that the final destination of goods determines the level of risk and allows for goods remaining in NI to be treated differently from those moving on to the EU single market.

In October 2023, the Windsor Framework was implemented through a package of five UK Regulations as well as an EU Regulation in relation to sanitary and phytosanitary measures. These regulations facilitate the flow of trade from GB into NI and ensure that movements entirely within the UK are made as seamless as possible.

The UK Government is committed to delivering the Windsor Framework in a way that meets its objectives - supporting internal UK trade while providing appropriate protections for the EU market. Where there is manifest abuse or disregard for the arrangements, such as any attempts to trade NIRMS goods out with the scheme requirements, the Government will retain the ability to take enforcement action, as necessary.

Why the need for change?

Under NIRMS the goods imported into GB from non-EU (RoW) countries can only move via the scheme if they are subject to the same import requirements as for entry to the EU. Although the EU agreed the list of goods when the scheme was introduced, it was made known that a further subset of goods would be added.

GB currently align with the EU's import controls on *Bactrocera latifrons* on imports of tomatoes and peppers. However, the EU mistakenly did not apply these measures to Taiwan and Israel in entry 72.1 in Annex VII of the EU 2019/2072. As a result of this error, the EU are now planning to extend the requirements to these specific countries. These measures are contained in a draft EU Regulation, which is anticipated to be adopted in April 2026, with implementation following six months after adoption.

GB needs to introduce equivalent changes to maintain alignment.

The EU is planning to introduce new measures to address the growing pest risk posed by *Ralstonia pseudosolanacearum* on ginger imports from third countries. As a result, GB will no longer be dynamically aligned with EU rules, meaning GB will need to implement equivalent import requirements for ginger.

These measures are intended to fully mitigate the risk of *Ralstonia pseudosolanacearum* entering the UK through ginger imports. This bacterium is currently listed as a GB Quarantine Pest. It is a highly destructive pathogen that affects a wide range of plant hosts and is not currently present in the UK.

Does the SI relate to a common framework or other scheme?

Plant Health Framework
Northern Ireland Retail Movement Scheme
Windsor Framework

Other information:

The World Trade Organization will be notified of these changes, and Defra will be notifying all International Plant Protection Convention (IPPC) contacts.

Summary of stakeholder engagement/consultation

There has been no formal consultation on these specific amendments. NIRMS was devised to support trade between NI and GB whilst protecting biosecurity on the Island of Ireland following the agreement of the Windsor Framework. When the Scheme was introduced, it was apparent that the list of non-EU (RoW) goods would be expanded to ensure these goods comply with EU SPS measures rather than UK SPS measures. The changes are considered necessary, considering the European Commission concerns and UK Government commitment to Northern Ireland and its integral place in the UK. Failure to introduce these requirements would mean these goods could not be moved on from GB to NI under NIRMS. This could also have implications on future engagement with the European Commission, who expect these requirements to be fully implemented.

As SPS matters are devolved, Defra has made Scottish Government aware of this gap and taking action via this SI will continue to facilitate the free flow of these goods between GB and Northern Ireland. Defra will be updating the NIRMS guidance before the legislation comes into force and communicate these changes with the scheme participants.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation.

This SI takes account of devolved competence.

The Scottish Ministers' reasons for consenting to the proposals are as follows:

- The policy intention is aligned across GB (which consist of England, Scotland, and Wales), and by consenting to the use of devolved provision within NID/022 is consistent with previous plant health provisions and amendments to the PCR.
- Scottish Ministers consider that consenting to NID/022 is the most effective and transparent way to introduce these amendments. It provides clarity and confidence and continues close collaboration across the UK.

Intended laying day (if known) of instruments likely to arise.

NID/022 will be made using negative procedure, and it is intended to be laid on 28 April 2026.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposals to consent, why not?

N/A

Information about any time dependency associated with the proposal.

N/A

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal.

None.

Any significant financial implications?

No significant financial implications.