

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK

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**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 and
Regulation (EU) No 1379/2013 of the European Parliament and of the Council as
regards certain reporting requirements**

Submitted by Department for Transport

18 January 2024

SUBJECT MATTER

1. This explanatory memorandum sets out the implications to Northern Ireland of the EU's proposed regulation to amend Regulation (EU) 167/2013, and Regulation (EU) 168/2013 and Regulation (EU) 1379/2013. These regulations concern vehicle standards and fishery and aquaculture policy as well. I am submitting this explanatory memorandum as the responsible minister in the lead department. Officials from the Department for the Environment, Food and Rural Affairs have contributed to this explanatory memorandum.
2. Regulation (EU) 167/2013 is the type-approval framework for agricultural and forestry vehicles, it sets the rules on the approval and market surveillance of them. The proposal will remove the requirements in Article 74 and 75.
3. Article 74 requires Member States to inform the Commission about how they have applied the type-approval framework by 31st December 2019. The Commission is also required to report to the EU Parliament and Council by 31st December 2020 on the basis of the information received from the Member States.
4. Article 75 requires the Commission to submit reports by 31st December 2020 to the European Parliament and the Council regarding the number of individual approvals issued by Member States since 1st January 2016. The report must include how the national criteria used for those approvals deviated from those applicable for mass production, and whether harmonised EU requirements are required for them under the framework.

5. Regulation (EU) 168/2013 is the type-approval framework for two- or three-wheel vehicles and quadricycles, it sets the rules on the approval and market surveillance of them. The proposal will remove the requirements in Articles 78 and 80.
6. Article 78 obliges the Member States to report to the Commission by 31st December 2020 on the application of the type-approval procedures laid down in the Regulation. The Commission is then required to report to the European Parliament and Council by 31st December 2021 on the basis of the information received from Member States, including whether an EU small-series approval scheme should be provided in addition to existing national small series approval schemes.
7. Article 80 obliges the Commission to report to the European Parliament and Council by 31st December 2021 on the number of individual approvals issued by Member States since 1st January 2016. The report is to include information about how the national criteria used for individual approvals deviated from the requirements applicable for mass production, and whether harmonised EU requirements are required for individual approvals under the framework.
8. Regulation (EU) 1379/2013 concerns the common organisation of the markets in fishery and aquaculture products. The proposal will remove the reporting obligation in relation to the marketing of fish below a given degree of freshness for human consumption.

SCRUTINY HISTORY

9. There has been no previous scrutiny of this proposal. However, the proposal that resulted in Regulation (EU) 1379/2013 was the subject of EM 12516/11. The proposal that resulted in Regulation (EU) 167/2013 was the subject of EM 12604/10. The proposal that resulted in Regulation (EU) 168/2013 was the subject of EM 14622/10.

MINISTERIAL RESPONSIBILITY

10. The Secretary of State for Transport is responsible for Regulation (EU) 167/2013 and Regulation (EU) 168/2013. The Secretary of State for the Environment, Food and Rural Affairs is responsible for Regulation (EU) 1379/2013.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

11. The topic of type approval is a reserved matter. The topic of fisheries and agriculture is a reserved matter. The Devolved Administrations, particularly in Northern Ireland, have an interest and have been consulted in the preparation of this EM. They raised no concerns.

LEGAL AND PROCEDURAL ISSUES

- i. Legal Base

12. The proposal's legal base are Articles 43(2) and 114 of the Treaty on the Functioning of the European Union, which are the legal basis of the acts it amends.

- ii. Voting Procedure

13. Voting will be via qualified majority.

- iii. Timetable for adoption and implementation

14. The proposal is currently at the preparatory phase in European Parliament. There is no set timetable for its progress through the EU's ordinary legislation process. However, officials advise that, given the amendments do not affect policy it is likely to progress quickly. Once agreed the regulation will enter into force on the day after its publication in the Official Journal of the EU. There are no transitional provisions so the amendments will take effect immediately.

POLICY AND LEGAL IMPLICATIONS

15. The EU's version of Regulation 1379/2013 applies in Northern Ireland (NI) insofar as it concerns provisions relating to marketing standards and consumer information under Annex 2 of the NI Protocol. This includes Chapter III 'Common Marketing Standards', articles 33 and 34 and Chapter IV 'Consumer Information', articles 35-39 of that regulation. With the exception of those provisions, the UK's retained version of 1379/2013 applies in NI, as retained by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019.
16. The proposed EU amendment will amend Article 47 'Rules establishing common marketing standards' to effectively state that Article 13 of Regulation (EC) No 2406/96 should be excluded. While the EU's version of 2406/96 also applies in NI by virtue of the NI Protocol, Article 13 of the UK's retained version of that regulation has been revoked. Given this, and that the relevant provisions of the EU's version of 1379/2013 being amended do not apply in NI, this change will have no effect on NI and result in no divergence.

17. Due to the similarity of the amendments to Regulation (EU) 167/2013 and Regulation (EU) 168/2013 the policy implications will be set out jointly. At present interim GB schemes for both agricultural and forestry vehicles and motorcycles are in place. Under these schemes provisional GB approvals are issued to products with valid EU approvals. As such, the same technical requirements apply across the UK. As these are reporting requirements on Member States and the Commission, their removal would have no practical effect on Northern Ireland and officials advise that there are no implications for the Windsor Framework.
18. The draft proposal will undergo the EU's ordinary legislative procedure. Officials, advise that given its uncontroversial nature officials advise that it is therefore likely to pass quickly through the EU's co-decision process. In addition, amendments are not expected as part of that process. However, if amendments were to be made, they would be unlikely to have a material effect on Northern Ireland given they relate to internal EU administrative provisions.
19. There is no effect on NI's participation in the UK's free trade agreements.
20. There is no effect on NI's participation in the UK's Common Frameworks.
21. All of the Regulations to be amended apply directly in Northern Ireland, no further legislation is required.
22. There have been no discussions with the EU on this amending regulation within the dialogue structures established under the Withdrawal Agreement.
23. There are no legal implications arising from this Regulation.

CONSULTATION

24. No consultations or impact assessments have been undertaken by the Government for this Regulation. The motor vehicle manufacturing industry were consulted by the Commission during the development of these measures. The Commission prepared impact assessments for the regulations these proposals will amend, but it has not prepared impact assessments for this proposal.

FINANCIAL IMPLICATIONS

25. There are no financial implications for the UK.

MINISTERIAL NAME AND SIGNATURE

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