

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

C(2023)5448 FINAL+ ANNEXES 1-2

C(2023) 5449 FINAL+ ANNEX

**COMMISSION DELEGATED REGULATION (EU) .../... OF 17.8.2023
SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL AS REGARDS MARKETING STANDARDS
FOR THE FRUIT AND VEGETABLES SECTOR, CERTAIN PROCESSED FRUIT
AND VEGETABLE PRODUCTS AND THE BANANAS SECTOR, AND REPEALING
COMMISSION REGULATION (EC) NO 1666/1999 AND COMMISSION
IMPLEMENTING REGULATIONS EU) NO 543/2011 AND (EU) NO 1333/2011**

**COMMISSION IMPLEMENTING REGULATION (EU) .../...OF 17.8.2023 LAYING
DOWN RULES CONCERNING CHECKS ON CONFORMITY TO MARKETING
STANDARDS FOR THE FRUIT AND VEGETABLES SECTOR, CERTAIN
PROCESSED FRUIT AND VEGETABLE PRODUCTS AND THE BANANAS
SECTOR**

SUBJECT MATTER

Submitted by the Department for Environment, Food and Rural Affairs
19 February 2024

1. The primary purpose of the draft delegated regulation now published as Commission Delegated Regulation (EU) 2023/2429 is to combine the previously separate legislation for fruit & vegetables, bananas, and dried grapes, in compliance with the framework for empowerments introduced by the Lisbon Treaty. The regulation therefore also repeals the former separate pieces of EU legislation; 543/2011, 1333/2011, and 1666/1999. There are also minor alterations that are intended to improve food information to consumers and reduce food waste and to update any marketing standards which are based on recently revised United Nations Economic Committee for Europe (UNECE) standards.
2. This draft Implementing Regulation (now published as Commission Implementing Regulation (EU) 2023/2430)) consolidates the rules concerning checks on conformity with the marketing standards that previously existed in 543/2011 and 1333/2011 for fruit and vegetables and green bananas respectively.
3. 5448 is number 2023/2429 [EUR-Lex - 32023R2429 - EN - EUR-Lex \(europa.eu\)](#)

4. 5449 is number 2023/2430 [EUR-Lex - 32023R2430 - EN - EUR-Lex \(europa.eu\)](#)

SCRUTINY HISTORY

5. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

6. The Secretary of State for the Department of Environment, Food and Rural Affairs, the Right Honourable Steve Barclay MP, has responsibility for this policy area in England. Marketing standards is a devolved matter.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

7. Scottish Government Ministers, Welsh Government Ministers and Northern Ireland Executive Ministers have an interest in this policy area and the devolved administrations have been consulted in the preparation of this Explanatory Memorandum. Officials from the Scottish and Northern Irish administrations confirmed they were happy with the Explanatory Memorandum and that it covered the relevant points on divergence. Officials from the Welsh administration were given an opportunity to comment but did not respond to provide comment.
8. Once 2023/2429 is in force, traders in Northern Ireland will be obliged to abide by the rules set out in this regulation for goods not covered under the Northern Ireland Retail Movement Scheme when importing, exporting, and selling fruit and vegetables, dried grapes, and bananas.
9. 2023/2430 has no substantive differences to previous legislation for enforcement authorities and there will be negligible practical impact. However, once 2023/2430 is in force, enforcement authorities in Northern Ireland will be bound by this regulation rather than 543/2011 and 1333/2011 as in GB.

LEGAL AND PROCEDURAL ISSUES

10.
 - i. **Legal Bases:** The legal basis cited by EU Regulation 2023/2429 is Article 75(2), 76(4) and 89 of Regulation (EU) No 1308/2013. This legal basis cited by EU Regulation 2023/2430 is Article 90a(6), first subparagraph, point (c), and Article 91, first paragraph, points (b), (f) and (g), of Regulation (EU) No 1308/2013.

- ii. **Voting Procedure:** The examination procedure set out in Article 229(2) of Regulation (EU) No 1308/2013 applies.
- iii. **Timetable for adoption and implementation:** Both draft EU Regulations were adopted 17 August 2023 and will enter into force on 1 January 2025.

POLICY AND LEGAL IMPLICATIONS

11. The terms of the Withdrawal Agreement and Windsor Framework provides that limited areas of EU law will continue to apply to, and in, the UK in respect of Northern Ireland. These proposed regulations are listed in Annex 2 of the NI Protocol and therefore the EU's proposal, if adopted, will apply in NI.
12. Although the primary purpose of both regulations is to combine the previously separate legislation for fruit & vegetables, green bananas, and dried grapes and to make the regulation compliant with the Lisbon Treaty, other minor changes are introduced by the regulations.
13. Alterations to the standards themselves are minor and in line with the latest UNECE or Codex Alimentarius quality standards. These are detailed below and cover changes to country of origin requirements for bananas and dried fruit and changes to the Specific Marketing Standard (SMS) for green bananas, citrus fruit, and strawberries. While this means that in some cases there will be technical differences between UK & EU standards, this will have a minimal impact on businesses and consumers.
14. For example, Article 3 of Commission Delegated Regulation (EU) 2023/2429 introduces a requirement for an indication of country of origin for ripened bananas and dried fruit including dried figs and dried grapes. This requirement was not part of the former legislation 1333/2011 or 1666/1999 for ripened bananas and dried fruit respectively and will therefore be a new requirement for businesses in NI. However, requirements for country of origin indications are now widespread across agrifood so this will not create a significant additional burden. . The same requirement was already in place for fruit & vegetables under Article 76 of Regulation (EU) No 1308/2013 and will continue to be so across the UK.
15. 2023/2429 Annex I Part 11 sets out updated marketing standards for green and unripened bananas and this includes an expansion of the varieties of bananas covered by the marketing standard to align with the Codex Alimentarius international standard. There are also minor changes to the standard itself to better align with the Codex standard. There are two further changes which differ from the Codex standard. Firstly, the inclusion of bananas from the Canary Islands in a list of EU production areas exempt from minimum size requirements. The second is a provision to remove the requirement to present bananas in clusters of at least four

fingers. These changes are expected to have minimal impact on producers and businesses in the UK, and in some cases are a simplification.

16. 2023/2429 Annex I Part 3 contains the specific marketing standard for citrus fruit which covers a wider range of citrus fruit varieties than specified in 543/2011. This change brings the standard in line with the UNECE quality standard on which it is based . This change is unlikely to have a significant impact on businesses, given that the citrus fruit varieties now specified in 2023/2429 were already covered by the general marketing standard under Commission Implementing Regulation (EU) No 543/2011 and trade practices will mean additional grading and labelling requirements will usually be met. There will be a new requirement for traders importing the newly specified citrus into Northern Ireland from non-EU countries to prenotify and acquire a certificate of conformity. Minor changes are also made to the strawberry specific marketing standard in Annex I Part 7 which aligns the standard to the UNECE. These changes will not have a significant impact on businesses or lead to practical difficulties in Northern Ireland as there is little direct trade from non-EU countries into Northern Ireland for these citrus species and previous minor changes in EU standards such as those made by 2021/1890 have not caused issues in Northern Ireland.
17. The Windsor Framework allows for GB marketing standards to apply for goods moved via the agrifood green lane through the Northern Ireland Retail Movement Scheme and placed on the NI market. Therefore, GB goods moving via this route will not need to meet these new EU requirements. The framework also guarantees unfettered access for Northern Ireland businesses to the GB market.
18. While all these changes are relatively minor, if DEFRA considers it appropriate to update requirements in line with international standards we shall do so. The Department will work with the Devolved Administrations to review relevant legislation applicable in GB as part of that process.

CONSULTATION

19. If, following discussions with the Devolved Administrations, it is deemed appropriate to amend legislation in England, we will consider whether those changes should be subject to a consultation with external stakeholders.

FINANCIAL IMPLICATIONS

20. There are no financial implications arising from the impact of this draft Regulation.

A handwritten signature in blue ink that reads "M Spencer". The signature is written in a cursive style with a large initial "M" and a trailing flourish.

**THE RT. HON. MARK SPENCER MP.
MINISTER OF STATE FOR FOOD, FARMING AND FISHERIES
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO:

COMMISSION DELEGATED REGULATION (EU) .../... OF 17.8.2023 SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MARKETING STANDARDS FOR THE FRUIT AND VEGETABLES SECTOR, CERTAIN PROCESSED FRUIT AND VEGETABLE PRODUCTS AND THE BANANAS SECTOR, AND REPEALING COMMISSION REGULATION (EC) NO 1666/1999 AND COMMISSION IMPLEMENTING REGULATIONS EU) NO 543/2011 AND (EU) NO 1333/2011

COMMISSION IMPLEMENTING REGULATION (EU) .../...OF 17.8.2023 LAYING DOWN RULES CONCERNING CHECKS ON CONFORMITY TO MARKETING STANDARDS FOR THE FRUIT AND VEGETABLES SECTOR, CERTAIN PROCESSED FRUIT AND VEGETABLE PRODUCTS AND THE BANANAS SECTOR

C(23)5508: COMMISSION DELEGATED REGULATION (EU) /... AMENDING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AS REGARDS MARKETING STANDARDS FOR EGGS AND

C(23)5510: COMMISSION IMPLEMENTING REGULATION (EU) /... LAYING DOWN RULES FOR THE APPLICATION OF REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MARKETING STANDARDS FOR EGGS

DEFRA EM 19 FEBRUARY 2024

COMMONS	LORDS
NOT SCRUTINISED YET	NOT SCRUTINISED YET

11940/22 C(22)4755 + ANNEX: COMMISSION DELEGATED REGULATION (EU) .../... OF 29.7.2022 SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MARKETING STANDARDS FOR OLIVE OIL, AND REPEALING COMMISSION REGULATION (EEC) NO 2568/91 AND COMMISSION IMPLEMENTING REGULATION (EU) NO 29/2012

DEFRA EM DATED 11 NOVEMBER 2022

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 12 11/1/23)	CLEARED. SENT FOR INFORMATION TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 26; 24/11/22)

7639/22: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS, AND QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS, AMENDING REGULATIONS (EU) NO 1308/2013, (EU) 2017/1001 AND (EU) 2019/787 AND REPEALING REGULATION (EU) NO 1151/2012

PROPOSAL FOR A ANNEX TO THE REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS, AND QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS, AMENDING REGULATIONS (EU) NO 1308/2013, (EU) 2017/1001 AND (EU) 2019/787 AND REPEALING REGULATION (EU) NO 1151/2012

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PROPOSAL FOR A ANNEX TO THE REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS, AND QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS, AMENDING REGULATIONS (EU) NO 1308/2013, (EU) 2017/1001 AND (EU) 2019/787 AND REPEALING REGULATION (EU) NO 1151/2012

DEFRA EM DATED 4 MAY 2022

COMMONS	LORDS

SCRUTINY COMPLETED (OUTCOME AGENDA NO 3 25/5/22)	CLEARED BY HOL LETTER 21/7/2022. SIFTED FOR SCRUTINY TO THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 18; 16/5/22)
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13313/21 COMMISSION DELEGATED REGULATION (EU) .../... OF 27.10.2021 AMENDING DELEGATED REGULATION (EU) 2019/934 SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS AUTHORISED OENOLOGICAL PRACTICES

ANNEXES TO THE COMMISSION DELEGATED REGULATION AMENDING DELEGATED REGULATION (EU) 2019/934 SUPPLEMENTING REGULATION (EU) NO 1308/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS AUTHORISED OENOLOGICAL PRACTICES

DEFRA EM DATED 05/01/22

COMMONS	LORDS
SCRUTINY COMPLETED (OUTCOME AGENDA NO 26 26/1/22)	DRAWN TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 13; 25/1/22)