

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

C(2024) 1309 FINAL + ANNEXES 1 TO 2

**COMMISSION DELEGATED REGULATION (EU) 2024/1682 OF 4.3.2024
AMENDING REGULATION (EU) 2019/1009 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL AS REGARDS ADDING PROCESSED MANURE AS A
COMPONENT MATERIAL IN EU FERTILISING PRODUCTS**

Submitted by the Department for Environment, Food and Rural Affairs

22 October 2024

SUBJECT MATTER

1. This is a delegated regulation of the European Parliament to amend Regulation (EU) 2019/1009 to allow fertilising products to contain processed manure as a component material.
2. Animal by-products, as defined by Article 3(1) of Regulation (EC) No 1069/2009, are “entire bodies or parts of animals, products of animal origin or other products obtained from animals, which are not intended for human consumption”. Derived products, as defined by Article 3(2) of Regulation (EC) No 1069/2009, are “products obtained from one or more treatments, transformations or steps of processing of animal by-products”.
3. Accordingly, fertilising products may contain derived products, as defined in Regulation (EC) No 1069/2009, provided that such derived products are listed in the table in Component Material Category 10 in Annex II to Regulation (EU) 2019/1009.
4. This delegated regulation amends Part II of Annex II (component material) and Part 1 of Annex III (labelling requirements) of Regulation (EU) 2019/1009 to include processed manure as a component material in Component Material Category 10. It sets out requirements necessary to ensure that fertilising products containing this component material are safe and agronomically efficient – along with the associated labelling requirements – thereby allowing for processed manure to be used as a component material in fertilising products marketed under Regulation (EU) 2019/1009.

SCRUTINY HISTORY

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

MINISTERIAL RESPONSIBILITY

6. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED GOVERNMENTS

7. We contacted Scottish, Welsh and Northern Ireland (NI) officials with regards to this EM to provide comments. The NI Ireland Executive, Scottish Government and Welsh Government Officials confirmed that they are content with the EM.

LEGAL AND PROCEDURAL ISSUES

8.

i. **Legal Base**

Article 114 of the Treaty on the functioning of the European Union on the approximation of national rules for the establishment and functioning of the internal market. Article 42(1) of Regulation (EU) 2019/1009 provides for the amendment of Regulation (EU) 2019/1009 via delegated acts.

ii. **Voting Procedure**

Qualified majority council vote.

iii. **Timetable for adoption and implementation**

The delegated act entered into force on the 3 July 2024

POLICY AND LEGAL IMPLICATIONS

9. To ensure dual access to both the UK Internal Market and EU Single Market, NI applies certain EU rules relating to fertilisers under the terms of the Windsor Framework. Regulation (EU) 2024/1682 amends Regulation (EU) 2019/1009,

which is listed in Annex 2 of the Windsor Framework, and therefore applies in NI subject to the process set out in Article 13(3) of the Windsor Framework.

10. The impact of this delegated regulation in NI is minimal. The delegated regulation simply allows for processed manure to be used as a component material in fertilising products marketed in NI under Regulation (EU) 2019/1009. As this is just an addition to a component material category of Regulation (EU) 2019/1009 and associated requirements, it does not make any significant changes to the functioning of this regulation. It merely means fertilising products will now be allowed to contain processed manure as a component material, providing they meet all the applicable regulatory requirements.
11. This delegated regulation will not lead to significant regulatory divergence between Great Britain (GB) and NI, except that fertilising products containing processed manure will now be able to be marketed under Regulation (EU) 2019/1009 in NI.
12. As a result, fertilising products containing processed manure can now be legally marketed as fertilisers under fertiliser legislation (Regulation (EU) 2019/1009) in NI.
13. The practical implications for the movement of fertilising products from NI into GB are likely to be extremely minimal because of the market access principles. Under the United Kingdom Internal Market Act 2020 (UKIM), the market access principles apply to Qualifying NI Goods (QNIGs) moving from NI to GB. If a fertilising product compliant with Regulation (EU) 2019/1009 moves from NI to GB and is not covered by the exclusions under Schedule 1 of UKIM, then it would have free access to GB's market. Under this scenario, the product has access to GB's market through mutual recognition and so only needs to continue to comply with the requirements of Regulation (EU) 2019/1009, which it was originally marketed under in NI. As a result, fertilising products containing processed manure as a component material marketed under Regulation (EU) 2019/1009 with a CE mark in NI may still be able to access GB's market.
14. There are some exclusions to market access. Schedule 1 of UKIM contains specific exclusions from the market access principles for fertilisers, which will have to be assessed on a case-by-case basis. We do not anticipate these exemptions having a significant impact because of the small amount of NI fertiliser that accesses GB's market, and the minor nature of the amendment in question.
15. This delegated regulation will result in no wider impacts for the UK, beyond that it may provide NI businesses with a slight competitive advantage over GB's businesses, as NI businesses will be able to market fertilising products containing processed manure as fertilisers under Regulation (EU) 2019/1009.

CONSULTATION

16. There is no planned Government consultation on this delegated regulation. No consultation has been undertaken either by the UK Government or the NI Executive with stakeholders on the impact of the EU legislation, as this is only making a minor amendment to regulation, and therefore it will not be necessary to consult with stakeholders.

FINANCIAL IMPLICATIONS

17. There are no significant financial implications for UK Government, industry or consumers. Because of the partial harmonisation of fertiliser regulations in NI, businesses in NI can continue to freely market their fertilising products under either of the domestic fertiliser regulations which continue to operate there alongside Regulation (EU) 2019/1009, entirely unimpacted by this amendment to Regulation (EU) 2019/1009.

A handwritten signature in blue ink, appearing to read 'Daniel Zeichner', is centered on the page.

**DANIEL ZEICHNER MP
MINISTER OF STATE (MINISTER FOR FOOD SECURITY AND RURAL AFFAIRS)
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO:

COMMISSION DELEGATED REGULATION (EU) .../... AMENDING REGULATION (EU) 2019/1009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS ADDING PROCESSED MANURE AS A COMPONENT MATERIAL IN EU FERTILISING PRODUCTS

COM(2023) 98 FINAL: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2019/1009 AS REGARDS THE DIGITAL LABELLING OF EU FERTILISING PRODUCTS

COM(2023) 98 FINAL ANNEXES 1 TO 2 ANNEXES TO THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2019/1009 AS REGARDS THE DIGITAL LABELLING OF EU FERTILISING PRODUCTS

AND

- **SEC(2023)99: OPINION OF THE REGULATORY SCRUTINY BOARD**
- **SWD(2023)48: SUBSIDIARITY GRID**
- **SWD(2023)49: IMPACT ASSESSMENT**
- **SWD(2023)50: IMPACT ASSESSMENT EXECUTIVE SUMMARY**

DEFRA EM DATED: 18/10/2023

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
CLEARED FROM SCRUTINY (OUTCOME AGENDA 3, 29/11/23)	CLEARED SENT FOR INFORMATION TO THE ATTENTION OF THE PROTOCOL ON IRELAND/NORTHERN IRELAND SUB-COMMITTEE (AT CHAIR'S SIFT NO 42; 9/11/23)

ADOPTED REGULATION 2019/1009 WAS SUBJECT TO SCRUTINY AS EM 7396/16, COM (16/157). THE FOLLOWING ALSO REFERENCE 2019/1009: 10166/21+ ADD 1, C (2021) 4250; 10630/21 +ADD 1, C (2021) 4743; 10634/21 +ADD 1, C (2021) 4751 AND 10840/21 +ADD 1, C (2021) 4764.