Department for Environment, Food & Rural Affairs

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Lord Carlile of Berriew CBE KC
Northern Ireland Scrutiny Committee
House of Lords
London
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5 June 2025

Dear Lord Carlile,

I am contacting you in regard to the Statutory Instrument, which has been laid today, 5 June, The Marking of Retail Goods Regulations 2025. This legislation will deliver the UK Government's longstanding public commitment to safeguard the supply of retail goods into Northern Ireland on an ongoing basis.

Since launching in October 2023, the Northern Ireland Retail Movement Scheme (NIRMS) has allowed eligible agrifood products to move between Great Britain (GB) and Northern Ireland (NI) without needing to go through full European Union (EU) Sanitary and Phytosanitary (SPS) requirements, provided they are not transported onwards to the EU for sale.

To prevent onward movement, relevant products require 'not for EU' labels to be printed or over-stickered onto packaging. In some cases, the labelling requirements may require businesses to establish new product lines and logistics facilities for their NI-bound products. For some businesses, the additional cost and complexity to apply labels and maintain separate production lines for different markets will not be financially viable, particularly given that NI represents 3% of the UK retail market. Manufacturers may choose not to label, leading to product removal from the NI market, known as delisting.

This legislation provides for a contingency power to introduce 'not for EU' labelling in Great Britain, where the Secretary of State determines there is a likelihood that the availability of goods in NI will be seriously adversely affected by delisting, and so intervention is required to safeguard the people of NI. The requirement would target individual retail goods specifically at risk. By mandating 'not for EU' labelling for the much larger GB market, the intention is to incentivise retailers and manufacturers to make the changes necessary for compliance with the smaller GB-NI route. This removes any financial incentives to delist in NI rather than comply with the labelling requirement.

In the Safeguarding the Union Command Paper, a commitment was made to legislate to ensure no incentive arises for businesses to avoid placing goods on the Northern Ireland market. This Government has been clear that it will deliver on the commitments made in the Safeguarding the Union Command Paper for the people of Northern Ireland. This SI will deliver on those commitments, by ensuring that the government is able to introduce ‘not for EU’ labelling where certain goods may be at risk from being removed from the Northern Ireland market.

The timing of this legislation is important. Phase 3 of NIRMS commences on 1 July 2025, bringing a much greater range of products into scope and potentially increasing the risk of delisting. Government requires a power of intervention to manage this risk and protect consumer choice in NI, which is why we have laid this SI with the intention that it is in force by 1 July.

The UK Government and the European Union have now reached a common understanding to proceed with an SPS Agreement which will facilitate the smooth flow of agrifood and plants from Great Britain to Northern Ireland, protecting the UK’s internal market, reducing costs for businesses and improving consumer choice. Once finalised, it will remove a broad and wide-ranging set of SPS and agri-food requirements for goods and plants moving from Great Britain to Northern Ireland.

Therefore, we expect that most goods will no longer need to be labelled ‘not for EU’ in the future. However, achieving such benefits relies on the UK being a reliable partner which delivers on its existing commitments. To that end, we are clear that we must implement the arrangements for the Windsor Framework in a faithful way - even where our ambition is that those arrangements may not be needed in the future.

Any decision to activate this power by the Secretary of State would be based on data gathered through robust stakeholder engagement and monitoring the market. It should be noted that the activation of the SI will be considered as a last resort, where other engagement methods have failed and supply is at risk. Defra will engage the Devolved Governments throughout this process, and Devolved Government ministers will be consulted before the Secretary of State triggers the SI with respect to a certain retail good.

This Instrument includes a legislative sub-delegation of power, allowing the Defra Secretary of State to make a determination to activate the power. This is because other approaches to implementing the ‘not for EU’ labelling requirement via additional secondary legislation, once a serious risk to supply of retail goods had been identified, could not be enacted quickly enough to prevent delisting by businesses. It is important that the Secretary of State is able to take swift, unhindered action to protect NI consumers. Transparency of the Secretary of State’s decision-making process is provided through the policy paper published to accompany this SI.

Please do not hesitate to get in touch if you need further information.

Yours sincerely,

BARONESS HAYMAN OF ULLOCK

MINISTER FOR ANIMAL WELFARE AND BIOSECURITY