

Submission from Jim Allister KC MP, Member of Parliament for North Antrim, on the draft Plant Health, Seeds, Seed Potatoes and Plant Propagating Material (Amendment) (Northern Ireland) Regulations 2026

I write regarding the Plant Health, Seeds, Seed Potatoes and Plant Propagating Material (Amendment) (Northern Ireland) Regulations 2026, and make submissions in relation to them under the headings of three components of your terms of reference:

i. '3 (a): That the regulations are politically or legally important, or raise issues of public policy likely to interest the House.'

These regulations are of great concern because they pertain to a key dimension of one of the essential functions of the state in the provision of security for its citizens, biosecurity.

This is problem because while the Explanatory Memorandum states 'The purpose of these regulations is that they (in the words of the EM at para 5.1) 'will ensure that DAERA has the powers to enforce regulations which apply in Northern Ireland as a result of the implementation of the Windsor Framework', they are not consistent with Article 1 of the Windsor Framework, which defines the objectives of the Windsor Framework to which the operation of its subsequent articles must be called to account.

Article 1 (2) of the Protocol/Windsor Framework states, 'this Protocol respects the essential State functions and territorial integrity of the United Kingdom.'

To the extent that these regulations are supposed to be for the purpose of complying with the Windsor Framework they are problematic, raising issues of public policy likely to be of interest to the House because they contradict the objectives of the Windsor Framework in two critical respects:

First, they do not respect the essential state functions of the UK, because they take an important dimension of UK essential state functions as they pertain to biosecurity and effectively submit them to the EU.

Second, in not respecting the essential state functions of the UK in relation to part of the UK, imposing different standards to those that apply to the rest of the UK as determined by the UK rather than the EU, they do not respect the territorial integrity of the UK or the integrity of the UK Internal Market.

Thus, the regulations are not only controversial in their own terms, but they actually violate the objectives of the Windsor Framework.

Moreover, there is no clarity about the implications arising from enforcing EU law in one part of the UK that is not enforced in another part of the UK, in terms of divergence.

There may be an attempt to argue that these regulations are less important because the substantive legislative change has already been made and these regulations merely provide for enforcement.

However, the opposite is the case for three reasons:

In the first instance, to the extent that legislation only really lands from the point at which it is enforceable, the moment from which the legislation is enforceable is the moment from which the legislation really takes effect. In this context we not only need to know about the cost of enforcement but the cost of the actual legislation to the NI economy as enforced.

In the second instance, to the extent that the legislative change was just imposed as a result of dynamic alignment with EU law, and there has been no prior opportunity/need for Parliament to consider the cost implication of the legislation, it must now rise to this challenge, conscious that the enforcement legislation it is now being asked to sanction will also give practical effect to the wider legislation from which it cannot be abstracted.

In the third instance, to the extent that legislation only really lands from the point at which it is enforceable, the moment from which the legislation is enforceable is the moment from which we experience to what extent these provisions align with those of GB and to what extent they differ.

To what extent will their enforcement not only disrespect the territorial integrity of the UK but fracture the UK Internal Market and the UK as the bearer of a coherent and common security identity.

If our standing as a common bio-security identity is placed in jeopardy, then our standing as a security identity will be compromised. This unbundles the UK as a national security and political community, in violation of international law. For example, the UN Declaration on Principles of International Law, Friendly Relations and Co-operation among states in accordance with the Charter of the United Nations censures 'any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country.'¹

(d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

The explanatory material laid in support of this legislation is insufficient in two critical respects:

In the first instance, it does not explain how the enforcement of the relevant legislation in Northern Ireland will cause the bio-security laws in operation in Northern Ireland to diverge from those in Great Britain.

That is a major oversight which must be fully addressed because the divergence threatens to fracture the UK Internal Market for Goods as it relates to plants.

The Government might seek to argue that it is trying to negotiate an SPS Agreement with the EU. This Agreement, however, is not in place, and the planned summit on the subject has been pushed back till October.

¹ <https://digitallibrary.un.org/record/202170?ln=en&v=pdf>

We need to know the impact of this legislation when it comes into effect, 21 days after it is made.

In the second instance, we don't have a credible assessment of the cost which must be presented meaningfully, setting out the cost of enforcement not in the meaningless abstract, but in the context of an appreciation of the cost of enforcement of the laws in question and their costs to NI both in terms of compliance and enforcement.

(e) that there appear to be inadequacies in the consultation process which relates to the instrument.

The Explanatory Memorandum states at

71. 'No public consultation has been undertaken. However, businesses and stakeholders impacted have had many opportunities to feed into the development of the EU Regulations through various formal EU consultations.'

Given the terms of reference of the Committee, this admission is plainly a problem.

Rather than calling into question the need for a consultation the response of the EM affirms the appropriateness of that expectation but then suggests it has been met in relation to UK citizens by the actions of what is, since Brexit, a foreign government.

This is plainly a completely indefensible position.

How many people in NI knew about the consultations and responded??

I would urge the Committee to draw these regulations to the attention of the House.

7 July 2026