

## **EXPLANATORY MEMORANDUM TO**

### **The Marketing of Bananas Regulations (Northern Ireland) 2019**

#### **S.R. 2019 No. 66**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Department makes this Statutory Rule (SR) in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The SR is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 The SR provides for the enforcement of EU banana marketing standards contained in Commission Implementing Regulation (EU) No 1333/2011.

#### **3. Background**

- 3.1 EU banana marketing standards are provided for by Article 75 of Council Regulation (EC) No 1308/2013 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), and are contained in Commission Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector. EU Regulation 1333/2011 imposes requirements relating not only to quality, but also to the size, presentation and labelling of bananas, and is directly applicable in Northern Ireland.
- 3.2 The purpose of those standards is to ensure that the market is supplied with products of uniform and satisfactory quality, in particular in the case of bananas harvested in the Union, for which efforts to improve quality should be made.
- 3.3 The SR provides for the enforcement of these marketing standards. It makes the failure to comply with the EU banana marketing standards an offence and provides a range of enforcement powers, including the power to serve a non-compliance notice and a power to prohibit the movement of bananas (with a right of review to those served with a written notice informing of the exercise of that power). Regulation 21 provides that the penalty for offences is on summary conviction a fine not exceeding level 5 on the standard scale.

#### **4. Consultation**

- 4.1 There is currently no relevant trade in bananas in Northern Ireland, and bananas are not imported directly to Northern Ireland from a third country. Instead they come through either another part of the United Kingdom or another Member State, where any necessary checks take place before being transported here. Such businesses will therefore already be aware of the enforcement provisions for the EU Regulations. Any new importers in Northern Ireland who set up in future will be made aware of the requirements at that stage.
- 4.2 No consultation was carried out on the SR. Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 states that “there shall be open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law, except where the urgency of the matter does not allow it”. While the Department would consult on such legislation under normal circumstances, no consultation was carried out on this occasion as this legislation was required to be made against an urgent Brexit deadline to ensure a fully functioning statute book and to allow for enforcement of EU retained legislation.

#### **5. Equality Impact**

- 5.1 In accordance with the Department’s obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. The Department considers that the Regulations will not result in any equality differentials amongst Section 75 groups.
- 5.2 A record of the screening exercise has been placed on record with the DAERA Equality Unit.

#### **6. Regulatory Impact**

- 6.1 There are no or negligible impacts on the private, voluntary or public sector as a result of this SR.

#### **7. Financial Implications**

- 7.1 There are no financial implications associated with the introduction of this SR.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 The Regulations do not have any human rights implications, nor are they incompatible with EU law. The Regulations were screened for impact on human rights. The Rule is therefore deemed to comply with the requirements of Section 24 of the Northern Ireland Act 1998.

## **9. EU Implications**

9.1 The introduction of this Statutory Rule is required in order to provide the necessary powers to enforce the EU Regulations 1333/2011.

## **10. Parity or Replicatory Measure**

10.1 There are equivalent Regulations in GB.

## **11. Additional Information**

11.1 Not applicable.