

Northern Ireland Assembly News – February 2021

51 MLAs have signed our Charter to Protect and Restore Nature – [see here for more information](#)

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Executive Committee Business

The draft Direct Payments to Farmers (Amendment) Regulations (NI) 2021 & Direct Payments to Farmers (Simplifications) Regulations (NI) 2021 (22 February)

Members [debated](#) two motions to approve two draft statutory rules (SRs) that relate to direct payments to farmers with a single debate on both motions. Following debate both motions were approved. During the debate Members heard that the current direct agricultural support schemes, which include the basic payment scheme, are worth over £293 million annually to farmers in NI and that the purpose of the regulations were to 'ensure that the current schemes continue to operate effectively and to implement improvements and simplifications wherever possible'. In terms of the first regulations, the legislative amendments introduced in the draft Direct Payments to Farmers (Amendment) Regulations (N) 2021 will maintain the status quo as far as possible and are largely technical. No substantive policy changes are being made, and farmers will see no change on the ground as a result of the regulation. The SR makes minor amendments to ensure that the schemes can continue to operate effectively beyond 2020. That includes replacing some dates that were specific to the 2020 scheme year with equivalent dates that are not year-specific. It also removes from retained EU law provisions that are not applicable in Northern Ireland. The second regulations, which are the Direct Payments to Farmers (Simplifications) Regulations (Northern Ireland) 2021 are intended to make the direct agricultural support schemes simpler both for applicants and those administering them. Part 2 removes the greening payment, with the money being incorporated into the basic payment scheme. The requirement not to plough environmentally sensitive green land is retained while Part 7 sets the minimum control rate for inspections at 1% for scheme applications, but the Department can increase it, should the error rate increase. Part 8 makes some technical changes to the provisions on coupled payments, which allows the introduction of a protein crop payment in 2021 and 2022. Following representation to the AERA Committee from the RSPB who had concerns about the reduction of inspections outlined in Part 7 of the regulations, DAERA subsequently stated that the proposed reduction will apply only to land eligibility and not to cross-compliance measures.

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Answers to Written Questions

Minister of Agriculture, Environment and Rural Affairs

Update – Ammonia Strategy (9 February)

The Minister gave an [update](#) on the publication of the draft ammonia strategy. DAERA have developed a comprehensive ammonia strategy which he is actively considering. The draft strategy will propose a series of farm measures to reduce ammonia, conservation actions to improve the condition of habitats, and a revised operational protocol for the assessment of air pollution effects. The ammonia reduction element of the strategy will build on the significant support provided for low emissions slurry spreading equipment in the recent tranche of Tier 1 of the Farm Business Improvement Scheme (FBIS) Capital. DAERA intend to publish the ammonia strategy for consultation soon.

Degradable Plastics (12 February)

The Minister [outlined](#) the steps DAERA is taking to increase consumer awareness of (i) the impact of degradable plastics on the environment; and (ii) how best to dispose of degradable plastics. As part of his response he also outlined how he was working with his officials to introduce measures for the removal of 9 different single use items (including oxo-degradable plastics) in line with other UK administrations and his aim to bring the measures before the Assembly within the current mandate. Officials are also looking at resourcing work on further measures to address the impacts of plastics in line with significant elements of the EU Single Use Plastic Directive all of which will support the New Decade, New Approach commitment on plastics.

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Forests for Future & Afforestation Forum (11 February)

With regard to the Forests for Future pledge, the Minister provided a detailed [answer](#) on (i) what types of trees will be planted in NI as part of this programme; and (ii) whether the Afforestation Forum has been established. The Afforestation Forum of senior council and government department officials was established in 2020 and commenced work last autumn with a number of members already engaged in developing their plans. In December 2020 the Department hosted an online meeting at which all members could share the experience and approach to developing woodland plans that other members have taken to date.

Unauthorised Dumping of Used Tyres (11 February)

The Minister [stated](#) that end of life tyres are considered controlled waste and are regulated from the point of discard at the tyre retail businesses. The Duty of Care Regulations place a requirement on these businesses to handle the tyres appropriately and only pass the tyres to a suitably authorised facility. During 2019 and 2020, officers issued five fixed penalty notices totalling £1,800 to vehicle tyre suppliers for unauthorised dumping of used tyres. One fixed penalty notice of £300 was issued to a tyre supplier for a breach of duty of care in relation to the disposal of used tyres. Additionally, two enforcement notices were issued to tyre retail businesses to remove used tyres to authorised waste tyre facilities during the same period. NIEA focuses its resources on preventing unauthorised disposal of used tyres. In doing so they carry out visits to tyre retail premises, inspecting waste storage and duty of care documentation to ensure that waste tyres are properly secured, and are being disposed of at appropriately licensed facilities. NIEA completed 168 such inspections in 2019, and 35 by the end of February 2020 before restrictions under Covid 19 constrained this activity.

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bTB Strategy & Consultation with eNGOs (9 February)

The Minister was asked what plans he has to publish a new bovine tuberculosis strategy; and what consultation is taking place with the wildlife and conservation sector in relation to the formation of new policy. He [replied](#) that officials are working at pace to finalise the Strategy and the accompanying business case. Once this work has been completed, a final and informed decision can be made on the elements of the Eradication Strategy which will ensure a holistic approach and address all the key factors in the control and eradication of the disease. The Minister confirmed that while officials are finalising advice, changes relating to wildlife intervention if agreed, would require the introduction of new subordinate legislation and would be subject to further consultation. Stakeholder participation will be a central element of the process.

Update on the Outdoor Recreation Bill (15 February)

The Minister [stated](#) that DAERA issued an 8 week consultation to district councils, landowner organisations, recreation bodies and other key stakeholders with an interest in outdoor recreation on 27 January. A second general public consultation exercise will issue later in the year taking account of the findings of this initial exercise. The aim of this two stage consultation process is to seek views on the current legislative provision relating to outdoor recreation in NI and to investigate how provision can be improved, while protecting the environment and recognising the needs of landowners.

Update - Review of the Bateman Formula and Coastal Management (15 February)

The Minister [revealed](#) that he had recently written to the Infrastructure Minister to discuss future arrangements for the Coastal Forum. The Coastal Forum was formed and co-chaired by previous AERA and Infrastructure Ministers and members included the Chief Executives of coastal Councils and the NI Director of the National Trust. Previous Ministers concluded that the Bateman Formula from 1967 is now outdated. The absence of specific legislation in NI governing coastal change has resulted in a lack of data on the state of our coastline, and little understanding on how our coastline is changing. An analysis of existing NI coastal data commissioned by the previous DAERA and DfI Ministers and published in 2019, concluded that scientifically robust data was required for the entire NI coast to provide a basis for effective management policies. DAERA officials have worked closely with DfI to devise a comprehensive Work Programme which is being managed by a Working Group. The priority objective is to address the significant gaps in our coastline data and provide a reliable evidence base for effective coastal management. The

Working Group has also provided decision makers with a position paper outlining current policy and best practice for NI in the absence of data on coastal change. DAERA has recently secured £400,000 funding to address the lack of coastal data and contracts have been let to undertake a comprehensive coastal survey covering the entire Northern Ireland coast in early 2021. Supporting research on wave climate affecting the Ards Peninsula is ongoing, funded by the European Maritime Fisheries Fund.

Operation of North/ South Institutions (24 February)

When asked whether he had made a decision to withdraw from operation of the North/South institutions, the AERA Minister [replied](#) that given the negative impacts of the protocol he cannot proceed on the basis of business as usual in respect of North/South relations.

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Minister of Finance

Impact of loss of European Structural Funds (1 February)

The Minister of Finance [stated](#) that EU Structural Fund Programmes, funded under the 2014-20 Multiannual Financial Framework, will continue until their completion. Therefore, no current programmes should be affected in the 21-22 financial year. However, the delay by the UK Government in providing detail or information on replacement funds will prevent the development of new programmes and creates the risk of a funding gap in the transition from current EU funds to future domestic funds. To help alleviate this pressure and mitigate this risk the Executive have approved a £42m bid from the Department for the Economy to help bridge the potential gap caused by the delay in the commencement of the proposed Shared Prosperity Fund.

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Minister for Infrastructure

Planning Applications - Battery Energy Storage Systems (2 February)

The Minister [stated](#) that a small number of applications for battery energy storage systems have been approved by local councils. Following concerns raised by members of the public and elected representatives it became apparent that clarification was needed on how these developments should be classified for the purposes of planning. Subsequently, on 16 December 2020 the Chief Planner formally confirmed that, for the purposes of planning, the Department considers electricity storage development falls within the meaning of an 'electricity generating station'. This aligns with the approach in England, Scotland and Wales where the government has also confirmed the position that, in relation to planning, electricity storage facilities are a form of generating station. This means that an electricity storage development of over 5 megawatts is considered 'major development', and over 30 megawatts could potentially be 'regionally significant development' for the purposes of section 26 of the Planning Act (NI) 2011. It will also mean that, while the decision on whether such development proposals constitute 'EIA development' is ultimately a matter for each local planning authority, developments with a site over 0.5 hectares in size should be subject to screening for environmental impact assessment. The Minister is also aware of the concerns in relation to extant permissions for electricity storage developments and this will be a matter for the relevant local planning authority to consider and take any action if deemed appropriate. In relation to existing planning applications in the system, it is the responsibility of the relevant planning authority to ensure that it processes and determines each application properly, within the legislative and policy context, and taking into account the individual circumstances of each case.

Update - Review of the Planning Act (NI) 2011 (4 February)

Minister Mallon [revealed](#) that DfI officials have commenced work on the review within the terms set out in the regulations, and the Department aims to undertake a targeted call for evidence exercise, to include councils, statutory consultees and other community, business and environmental representatives. The evidence gathered as part of this engagement exercise will help inform the preparation of the review report.

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Oral Answers to Questions

Minister of Agriculture, Environment and Rural Affairs

Curlew Population (8 February)

The Minister was asked what plans his Department has to protect the declining curlew population. He [replied](#) that the breeding populations of curlew have declined significantly in our lifetime. A range of legislative and policy measures is in place to protect curlews. They are fully protected under the Wildlife Order when they are nesting. They are also protected in a number of areas of special scientific interest (ASSIs). Curlew are also protected in the planning system: advice from officials in NIEA to planning authorities is to avoid and mitigate any potential impacts to curlew, including on a suitable habitat that they could utilise, from land development and associated activities. Officials are involved in undertaking the third UK special protection area (SPA) network review under the birds directive, along with the other UK nature conservation agencies. As part of the review, officials have considered protection for significant breeding curlew sites in the Northern Ireland SPA network. Once advised to do so by his officials, he will consider proposals to protect the areas supporting the remaining significant breeding curlew populations in Northern Ireland.

Deposit Return Scheme (8 February)

Minister Lyons [stated](#) that in February 2020, DAERA committed to Northern Ireland's continued participation in the development of UK-wide proposals to reform the packaging producer responsibility system and the introduction of a deposit return scheme (DRS). The plan is to consult on these schemes this year. Powers are being taken in the Westminster Environment Bill to provide for a deposit return scheme for Northern Ireland, alongside England and Wales. Such a scheme can significantly increase the recycling and recyclability of single-use drinks containers. A deposit return scheme could also result in a substantial reduction in the amount of littering in NI. Germany, Norway and the Netherlands, for example, have achieved collection and recycling rates of 98%, 97% and 95% respectively for plastic drinks bottles. The options for the scope of material and size of container, deposit level and model of a DRS will be presented in the forthcoming consultation.

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Minister for Infrastructure

Transport Decarbonisation (2 February)

Minister Mallon outlined the measures Department is taking to facilitate decarbonisation in transport. She [stated](#) that her officials have been working closely with the Office for Zero Emission Vehicles on the development of transport decarbonisation plans, and they are leading on the transport elements of the Department for the Economy's proposed new energy strategy. The work focuses on four main themes: a modal shift that includes active travel options; the electrification of transport; alternative fuels capability; and the future of mobility, which looks at IT solutions, such as Mobility as a Service, and micro-mobility options, such as the use of electric bikes and e-cargo bikes for short journeys and last-mile delivery. Consideration is also being given to how alternative fuels can be deployed across the transport sector, including the use of compressed natural gas/liquid natural gas for freight; the electrification of transport, including opportunities for greening the public-sector fleet; how green hydrogen can be used to power heavier vehicles other than buses, exploring its potential use in refuse collection and in the marine and retail sectors. The Minister also outlined ongoing improvements in the commercial provision of electric vehicle (EV) charging infrastructure with plans to install 73 new EV rapid charging points across the island of Ireland and the west of Scotland by 31 March 2023.

Planning: Ammonia Guidance (2 February)

The Minister for Infrastructure was asked (Topical Q1) for an update on her review of the planning application process to ensure that planners have all the appropriate guidance on ammonia and are led by the science and data to mitigate emissions. The Minister [stated](#) that Ammonia is an issue of

regional significance and presents a significant challenge to planning authorities in determining applications for ammonia-emitting development proposals. Following a recent Assembly debate on ammonia Minister Mallon had written to the Minister of Agriculture, Environment and Rural Affairs, who advised that the work on the ammonia strategy, including a review of its operational protocol, is in its final stages of preparation prior to public consultation. While that has led to delays in determining a number of applications for agricultural development, Minister Mallon hopes that future DAERA advice, based on up-to-date scientific data and consistent with recent case law, will see councils in a position where they have confidence to make such determinations.

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