



Windsor Framework Democratic Scrutiny Committee

Inquiry into Regulation (EU) 2026/2108 of the European
Parliament and of the Council of 16 September 2026
establishing the Union Customs Code and the European
Union Customs Authority, and repealing Regulation (EU)
No 952/2013

Ordered by the **Windsor Framework Democratic Scrutiny Committee**

to be published 22 October 2026.

Report: NIA 205/22-27 Windsor Framework Democratic Scrutiny Committee

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Purpose and Membership

Purpose

The Windsor Framework Democratic Scrutiny Committee is a standing committee of the Northern Ireland Assembly established under [Schedule 6B to the Northern Ireland Act 1998](#).

The purpose of the Committee is to assist with the observation and implementation of [Article 13\(3a\)](#) and [Article 13\(4\)](#) of the Windsor Framework.

The functions of the Committee include:

- (a) the examination and consideration of new EU acts and replacement EU acts;
- (b) the conduct of inquiries and publication of reports in relation to replacement EU acts;
- (c) engagement with businesses, civil society and others as appropriate in relation to replacement EU acts;
- (d) engagement with the UK Government in relation to replacement EU acts;
- (e) engagement with Ministers and Northern Ireland departments in relation to replacement EU acts;
- (f) the collation and publication of evidence collected as part of its other activities; and
- (g) dealing with other matters (including legislative proposals which may become new EU acts or replacement EU acts) which the Committee considers to be connected with its purpose or other functions.

A replacement EU act means an EU law which updates, by amending or replacing, any of the relevant¹ EU laws which already apply in Northern Ireland, as listed under Annex 2 of the Windsor Framework. Areas of EU law that apply

¹ Relevant EU laws are those EU instruments referred to in the third subparagraph of Article 5(1) of the Windsor Framework, the first indent of heading 1 of Annex 2 to the Framework or headings 7 to 47 of Annex 2 to the Framework.

in Northern Ireland include legislation on goods, animal and plant health rules, rules on agricultural production, VAT and excise on goods, and state aid rules. The EU's Customs Code also applies to goods entering Northern Ireland. There is a procedure by which members of the Assembly may seek to prevent the application of a replacement EU act (an emergency brake mechanism known as the Stormont Brake). [View further information on the Stormont Brake.](#)

A new EU act means a new EU law which falls within the scope of the Windsor Framework, but which neither amends nor replaces an EU act listed in the Annexes. The Northern Ireland Assembly has a role, by means of an “applicability motion”, in setting out its position on whether a new EU act should be added to the list of EU laws applicable in Northern Ireland. [View further information on applicability motions.](#)

Membership

The Committee has nine members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

Ms Ciara Ferguson MLA (Chairperson)²

Mr David Brooks MLA (Deputy Chairperson)

Dr Steve Aiken OBE MLA

Mr Cathal Boylan MLA³

Mr Jonathan Buckley MLA⁴

Mr Pádraig Delargy MLA⁵

Mr Peter Martin MLA⁶

Ms Kate Nicholl MLA⁷

Mr Eóin Tennyson MLA⁸

² Ms Ciara Ferguson replaced Mr Philip McGuigan MLA as Chairperson of the Committee on 04/02/2025. Mr Philip McGuigan MLA replaced Mr Declan Kearney MLA as Chairperson of the Committee on 09/02/2024.

³ Mr Cathal Boylan MLA replaced Ms Emma Sheerin MLA as a member of the Committee on 24/11/2025.

⁴ Mr Jonathan Buckley MLA replaced Mr Stephen Dunne MLA as a member of the Committee on 16/09/2024. Mr Stephen Dunne MLA replaced Mr Jonathan Buckley MLA as a member of the Committee on 03/06/2024.

⁵ Mr Pádraig Delargy MLA replaced Mr Declan Kearney MLA as a member of the Committee on 02/03/2026.

⁶ Mr Peter Martin MLA replaced Ms Joanne Bunting MLA as a member of the Committee on 02/12/2024.

⁷ Ms Kate Nicholl MLA replaced Ms Connie Egan MLA as a member of the Committee on 09/09/2024. Ms Connie Egan MLA replaced Mr Patrick Brown MLA as a member of the Committee on 20/05/2024.

⁸ Mr Eóin Tennyson MLA replaced Ms Sorchá Eastwood MLA as a member of the Committee on 22/04/2024.

Introduction

1. This report sets out the conclusions of an inquiry by the Windsor Framework Democratic Scrutiny Committee ('the Committee') into a published replacement EU act: [Regulation \(EU\) 2026/2108](#) of the European Parliament and of the Council of 16 September 2026 establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013.
2. The Regulation is a replacement EU act because it repeals and replaces [Regulation \(EU\) 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, as listed in the Windsor Framework at Article 5(4), Annex 2, heading 1, indent 1.
3. The replacement EU act applies in Northern Ireland under Article 13(3) of the Windsor Framework but is subject to the mechanism set out in Article 13(3a) of the Windsor Framework. This mechanism provides for a replacement EU act, or relevant parts of a replacement EU act, not to apply in Northern Ireland if the United Kingdom Government ('UK Government') notifies the EU within two months of the act's publication in the Official Journal of the EU.
4. The UK Government may only make this notification if it is satisfied that the conditions in Article 13(3a) of the Windsor Framework have been met and that the procedures set out in its [Unilateral Declaration on the involvement of the institutions of the 1998 Agreement have been followed](#). These procedures provide, amongst other things, that 30 MLAs from at least two parties have notified the UK Government of their wish that the emergency brake mechanism should be applied. The 30 MLAs cannot include the Speaker or a Deputy Speaker.
5. If the UK Government is satisfied that the necessary conditions have been met, it will notify the EU in the Joint Committee. The EU law will not apply in Northern Ireland in its new form two weeks later. The older version of the EU law will still apply. The relevant law would then be discussed in the EU-UK Joint Committee under the process for new EU laws - Article 13(4). The UK Government must not agree (apart from in exceptional circumstances or where the new EU act would not create a new regulatory border between Great Britain and Northern Ireland)

to adopt the new law unless the Assembly has passed a motion with cross-community support, known as an applicability motion.

6. The replacement EU act in question - [Regulation \(EU\) 2026/2108](#) - was published in the Official Journal of the EU on 19 September 2026. The UK Government formally notified the Committee of the act's publication on 24 September 2026.
7. Under paragraph 8(1) of Schedule 6B to the Northern Ireland Act 1998, the Committee must decide no later than five working days after the day on which it was notified of the replacement EU act whether it wishes to hold an inquiry. In reaching a decision, paragraph 8(2) of Schedule 6B requires the Committee to have regard to whether it appears likely that the replacement EU act:
 - significantly differs (in whole or in part) from the content or scope of the EU instrument which it amends or replaces; and
 - would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.
8. The Committee may also have regard to any other matters it considers appropriate.

The Replacement EU Act

9. As outlined in the Introduction Section, the replacement EU act repeals and replaces [Regulation \(EU\) 952/2013 laying down the Union Customs Code](#) (the ‘UCC’). Following publication of the replacement EU act in the Official Journal of the EU, the European Commission [stated](#) that the changes to the UCC will “modernise the EU customs system, by making it more digital, data-driven and responsive to the growing challenges of international trade.”
10. Measures introduced by the replacement EU act include:
 - Establishment of a single centralised IT environment for customs data, known as the EU Customs Data Hub, and a new EU Customs Authority;
 - A new ‘Trust and Check’ trader status, building on the EU’s existing Authorised Economic Operator (AEO) scheme;
 - A common EU framework establishing a minimum list of customs infringements which must be subject to penalties in each Member State, and rules regarding the penalties for those infringements;
 - A new category for e-commerce sale of products from outside the EU, known as the ‘importer for distance sales’;⁹
 - A new handling fee per item imported into the EU, payable by the importer for distance sales;¹⁰ and
 - Penalties for importers systematically failing to comply with customs rules.

⁹ This makes the seller or online marketplace responsible for providing data to customs before release, paying customs duties, and ensuring goods comply with EU requirements. Previously, consumers were considered to be the importers of the goods they ordered online from third countries.

¹⁰ The replacement EU act enabled the European Commission to determine the handling fee amount in a delegated act. A [Commission Delegated Regulation](#) fixing the fee amount at 2 EUR per item has been published in the Official Journal of the EU and will apply from 1 November 2026. The fee is designed to compensate for the costs incurred by customs authorities when processing imported goods, and the fee amount will be designed to correspond with those costs.

The Committee's Examination of the Proposed Replacement EU Act

11. On 20 February 2025, the Committee considered information provided by the Executive Office on proposed new and replacement EU acts that had started their legislative passage before the Committee was established.
12. The proposed EU act, [COM/2023/258](#) (which was later to become the replacement act which is the subject of this report), was identified by the Committee as an act that was likely to be notified as a published act in the future.
13. The committee considered matters relating to its examination of the proposed replacement EU act, including its decision to consider the proposed act, at six meetings. The Minutes of Proceedings can be found at **Appendix A**.
14. Following its decision to consider the proposed act, the Committee agreed to request a departmental assessment of impact, to consider whether it appeared likely that the proposed EU act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist. An assessment of impact from the Department for the Economy ('DfE') (with input from HMRC) can be found at **Appendix B**.
15. At its meeting on 10 April 2025, the Committee considered the assessment of impact and agreed to schedule a departmental oral evidence session, and to request written and oral legal advice.
16. At its meeting on 29 May 2025, the Committee received legal advice on the proposed replacement EU act and noted that it indicated that the proposed EU act significantly differed in part from the content and scope of the UCC.
17. At the same meeting, the Committee heard oral evidence from a DfE official. The minutes of the evidence session can be found at **Appendix C**. A series of questions were sent to DfE in advance of the evidence session and, while written answers were not provided before the evidence session, these answers were addressed by the DfE official during oral evidence.
18. The Committee also considered the UK Government's Explanatory Memorandum (EM) on the proposed EU act dated 3 August 2023, a report from the House of

Commons European Scrutiny Committee published in November 2023 covering the proposed EU act, and relevant correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework from 2023. These documents can be found at **Appendix B**.

19. The Committee agreed to seek the views of stakeholders identified by the Assembly's Research and Information Service (RaISe) as being affected, or who would be affected, if the proposed replacement EU act was to apply in Northern Ireland. A list of the stakeholders identified by RaISe can be found at **Appendix D**. The Committee agreed to include HMRC in its request for views. The Committee opted to use Citizen Space as a platform to facilitate this engagement. The Citizen Space survey launched on 29 May 2025 and closed on 26 June 2025.
20. The Committee also agreed to write to DfE with a series of follow-up questions and write separately to the UK Government to request an update on its discussions with the European Commission on the potential application of the proposed EU act under the Windsor Framework, and regarding its implementation of the Border Target Operating Model (BTOM) and Single Trade Window (STW).
21. A joint response from DfE and HMRC to the questions issued in advance of the meeting on 29 May 2025 and the separate questions to the UK Government – dated 29 May 2025 – can be found at **Appendix B**. Also included at **Appendix B** is a joint response from DfE and HMRC to the Committee's follow-up questions arising from the oral evidence session on 29 May 2025 - dated 11 July 2025. The Committee considered both responses at its meeting on 11 September 2025.
22. At the same meeting, the Committee considered responses to its Citizen Space survey from the British International Freight Association, the British Ports Association, and the Consumer Council for Northern Ireland. These can be found at **Appendix D**.
23. The Committee agreed to request that DfE provide an updated assessment of impact (including input from HMRC as appropriate) if any changes were proposed by the Council of the EU or the European Parliament which would have a significant impact specific to everyday life of communities in Northern Ireland in

a way that is liable to persist. The Committee also requested that in any revised assessment of impact, or its assessment of the published act, DfE include:

- Comments on the consultation responses received by the Committee;
- Updates (where appropriate) on DfE and HMRC's previous answers to questions posed by the Committee; and
- A summary of any input received from trade bodies through DfE and HMRC's engagement.

24. The Committee also invited the Office of the Northern Ireland Executive in Brussels (ONIEB) to provide oral evidence on the proposed EU act – the ONIEB oral evidence session took place at the meeting on 6 November 2025. The minutes of evidence can be found at **Appendix C**.
25. At this meeting, the Committee agreed to write to the UK Government asking that HMRC officials attend a meeting of the Committee to discuss the implications of relevant current and proposed EU customs legislation. The Committee also shared a copy of this correspondence with the Independent Reviewer of the Windsor Framework. The UK Government's response dated 15 December 2025 can be found at **Appendix B**. The Committee considered this response at its meeting on 8 January 2026 and agreed to share it with the Committee for the Economy and the Committee for Agriculture, Environment and Rural Affairs.
26. Following publication of the provisionally agreed text of the proposed EU act, the Committee requested a revised assessment of impact from DfE, or confirmation that the previous assessment remained unchanged. However, the EU act was published in the Official Journal of the EU and notified to the Committee before a response was received.

The Committee's Decision on Whether to Hold an Inquiry

27. The Committee met on 1 October 2026 to decide whether or not to conduct an inquiry into the published EU act: [Regulation \(EU\) 2026/2108](#).
28. To assist it in reaching a decision, the Committee considered legal advice on whether it appeared likely that the published replacement EU act significantly differs (in whole or in part) from the content or scope of the EU instruments which it amends or replaces. The Committee noted that the legal advice indicated that the replacement EU act significantly differs, in part, from the content and scope of the Regulation which it replaces.
29. The Committee also considered whether it appeared likely that the published replacement EU act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist. It did this by: considering an assessment of impact provided by DfE and listening to oral evidence from a DfE official; examining all the evidence gathered as part of its consideration of the proposed EU act; and considering an Explanatory Memorandum on the published EU act from the UK Government (dated 28 September 2026).
30. The evidence gathered as part of the Committee's consideration of the proposed replacement EU act, the assessment of impact, and the Explanatory Memorandum can be found at **Appendix B**. The minutes of the oral evidence session can be found at **Appendix C**.
31. Having had regard to whether it appears likely that Regulation (EU) 2026/2108:
- significantly differs (in whole or in part) from the content or scope of the EU instrument which it amends or replaces; and
 - would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist,

the Committee decided to hold an inquiry into the replacement act. This [decision](#) was published on the Committee's webpage.

The Inquiry Process

32. In conducting an inquiry, paragraph 9(2) of Schedule 6B to the Northern Ireland Act 1998, requires the Committee to “seek substantive discussion and engagement” with the UK Government, the relevant Northern Ireland Minister or department, and, to the extent that the Committee considers appropriate, representatives of businesses and civil society affected by the replacement EU act, or who would be affected, if the act was to apply in Northern Ireland. The Committee may also consider any matters it deems appropriate.
33. The Committee had to conclude its inquiry and publish a report setting out its conclusions no later than 15 working days before the end of the two-month scrutiny period. The scrutiny period started when the replacement EU act was published in the Official Journal of the EU on 19 September 2026 and therefore ends on 19 November 2026.
34. The Committee considered matters relating to its inquiry, including making a decision on whether to conduct an inquiry, at three meetings. The Minutes of Proceedings can be found at **Appendix A**.
35. At its meeting on 1 October 2026, the Committee agreed to seek substantive discussion and engagement with the UK Government. It therefore wrote to the UK Government to seek its views on whether applying, or not applying, the replacement EU act would have an impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist. In considering the matter of divergence, details of the position in England, Scotland and Wales were also requested. The UK Government’s response, dated 12 October 2026, can be found at **Appendix B**.
36. At this meeting, the Committee also agreed to seek substantive discussion and engagement with the relevant Northern Ireland department – DfE. Therefore, it requested that departmental officials attend the Committee meeting on 15 October 2026 to give oral evidence. DfE officials were also asked to provide further written information on any questions which were not fully addressed in the evidence session on 1 October 2026, and to present an update on those

questions during oral evidence on 15 October 2026. A response from DfE - dated 12 October 2026 - can be found at **Appendix B**.

37. Further, the Committee agreed to seek substantive discussion and engagement with representatives of business and civil society. Key stakeholders were identified by the Assembly's Research and Information Service, as being affected, or who would be affected, if the replacement EU act was to apply in Northern Ireland. The list of stakeholders identified by RalSe is at **Appendix D**. The Committee opted to use Citizen Space as a platform to facilitate this engagement.
38. A Citizen Space survey asking for views on the impact of the replacement EU act was launched on 1 October 2026 and closed on 18 October 2026. The survey, which was publicised widely, was also open for response by any other representatives of business and civil society as well as members of the public.
39. A departmental official attended the Committee meeting on 15 October 2026 to give oral evidence, as requested. The minutes of the evidence session are included at **Appendix C**. At the same meeting, the Committee agreed that any responses received to its Citizen Space survey on the replacement EU act would be forwarded to the UK Government for comment. The Committee also agreed to seek further comments from HMRC on the issues raised in the survey responses concerning the proposed EU act and requested information from HMRC on the responses received to its own consultation on the act.
40. The Committee also requested that DfE provide further information on:
 - HMRC's analysis of the likely impact of future global trade instability, sanctions, or trade disputes on the proportion of distance sales which the UK Government expects to be classified as 'not at risk' and therefore not subject to additional fees (as stated at paragraph 24 of the UK Government's Explanatory Memorandum);
 - Information on the actual volume/number, and types, of parcels moving into Northern Ireland that would be considered 'at risk'; and

- Information on how public bodies in Northern Ireland will be notified of relevant changes relating to the Union Customs Code.

41. DfE's response – dated 20 October 2026 – can be found at **Appendix B**. The Committee considered this response at its meeting on 22 October 2026.
42. At the same meeting, the Committee considered responses to its Citizen Space survey from: the Inter-Trade UK Business Association; the Montgomery Transport Group; Gray & Adams (Ireland) Ltd; AJ Power Ltd; and two individuals. The Committee also considered an emailed response from the Traditional Unionist Voice. Each of the responses can be found at **Appendix D**.
43. The responses were shared with the UK Government for comment. A response from the UK Government dated 21 October 2026 – covering the responses to the Committee's Citizen Space survey and the Committee's previous correspondence on 15 October 2026 – can be found at **Appendix B**.
44. The Committee deliberated on all the evidence received at its meeting on 22 October 2026. The evidence received is not rehearsed in this section of the report; a complete picture of the written and oral evidence can be found in the Appendices.
45. At its meeting on 22 October 2026, the Committee agreed its Inquiry report and that it should be published.

The Committee's Conclusions

46. In reaching its conclusions, the Committee has carefully considered all the evidence provided to it. The Committee has focused in particular on the two conditions that must be satisfied if the Stormont Brake is to be pulled.
47. In relation to the legal question of whether the replacement EU act significantly differs (in whole or in part) from the content or scope of the EU instruments which it amends or replaces, the Committee noted the legal advice it commissioned on the act, and considered on 1 October 2026, which indicated that the replacement EU act significantly differs, in part, from the content and scope of the Regulation it replaces.
48. **Having considered its commissioned legal advice, the Committee concluded that the replacement EU act significantly differs in part from the content and scope of the EU instrument which it replaces.**
49. In relation to the question of whether the replacement EU act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist, the Committee considered the evidence received from DfE and the UK Government.
50. In considering this evidence, the Committee took the view that for an act to have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist, that significant impact must be negative.
51. **Having considered the evidence received from DfE and the UK Government, and the responses to its consultation, the Committee concluded that the replacement EU act would not have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.**

Next Steps

52. Having reached its conclusions, the Committee's Inquiry report will be issued to all Members of the Legislative Assembly for further consideration.
53. The Committee's Inquiry report will also be issued to the Committee for the Economy.

Links to Appendices

Appendix A: Minutes of Proceedings

View Minutes of Proceedings from evidence sessions related to the report:

[Minutes of Proceedings – 20 February 2025](#)

[Minutes of Proceedings – 10 April 2025](#)

[Minutes of Proceedings – 29 May 2025](#)

[Minutes of Proceedings – 11 September 2025](#)

[Minutes of Proceedings – 6 November 2025](#)

[Minutes of Proceedings – 8 January 2026](#)

[Minutes of Proceedings – 1 October 2026](#)

[Minutes of Proceedings – 15 October 2026](#)

[Minutes of Proceedings – 22 October 2026](#)

Appendix B: Memoranda and Other Papers

View Memoranda and Other Papers considered by the Committee:

Consideration of the proposed EU act:

[Assessment of impact from the Department for the Economy \(with input from HMRC\) on the proposed EU act – 7 March 2025](#)

[UK Government Explanatory Memorandum on the proposed EU act – 3 August 2023](#)

[Extract from the House of Commons European Scrutiny Committee First Report of Session 2023-24](#)

[Correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework](#)

[Written answers from the Department for the Economy and HMRC on the proposed EU act – 29 May 2025](#)

[Written answers from the Department for the Economy and HMRC on the proposed EU act – 11 July 2025](#)

[Response from the UK Government – 15 December 2025](#)

Consideration of the published EU act:

[Assessment of impact from the Department for the Economy on the published EU act – 28 September 2026](#)

[UK Government Explanatory Memorandum on the published EU act – 28 September 2026](#)

[Written answers from the Department for the Economy on the published EU act – 12 October 2026](#)

[Response from the UK Government – 12 October 2026](#)

[Written answers from the Department for the Economy on the published EU act – 20 October 2026](#)

[Response from the UK Government – 21 October 2026](#)

Appendix C: Minutes of Evidence

View Minutes of Evidence of Committee meetings related to the report:

[Minutes of Evidence – 29 May 2025](#) (Department for the Economy)

[Minutes of Evidence – 6 November 2025](#) (Office of the Northern Ireland Executive in Brussels)

[Minutes of Evidence – 1 October 2026](#) (Department for the Economy)

[Minutes of Evidence – 15 October 2026](#) (Department for the Economy)

Appendix D: Consultation Responses

[RaISe – Potential Witness List on the proposed EU act – 19 May 2025](#)

[RaISe – Potential Witness List on the published EU act – 24 September 2026](#)

View responses to the Committee’s consultation on the proposed EU act:

[Consultation Response from the British International Freight Association – 23 June 2026](#)

[Consultation Response from the British Ports Association – 16 June 2025](#)

[Consultation Response from the Consumer Council for NI – 25 June 2025](#)

View responses to the Committee's consultation on the published EU act:

[Consultation Response from Gray & Adams \(Ireland\) Ltd – 16 October 2026](#)

[Consultation Response from the Inter-Trade UK Business Association – 16 October 2026](#)

[Consultation Response from the Montgomery Transport Group – 16 October 2026](#)

[Consultation Response from AJ Power Ltd – 17 October 2026](#)

[Consultation Response from an individual \(ANON-3E4Q-3J4F-M\) – 17 October 2026](#)

[Consultation Response from an individual \(ANON-9P9F-8Q5K-H\) – 17 October 2026](#)

[Consultation Response from the Traditional Unionist Voice \(TUV\) – 17 October 2026](#)

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