

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK

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**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directives 1999/2/EC, 2000/14/EC, 2011/24/EU and 2014/53/EU as regards
certain reporting requirements in the fields of food and food ingredients, outdoor
noise, patients' rights, and radio equipment**

Submitted by Department for Business and Trade

13 December 2023

SUBJECT MATTER

1. This explanatory memorandum sets out the implications to Northern Ireland of the EU's proposed directive to amend Directives 1999/2/EC, 2000/14/EC, 2011/24/EU and 2014/53/EU. These directives concern product safety (in respect of outdoor noise and radio equipment), food and food ingredients, and patients' rights. I am submitting this Explanatory Memorandum on behalf of Government as the issues concerned are the responsibility of multiple departments including Department for Business and Trade, the Department for Health and Social Care and the Food Standards Agency. They have been consulted in the production of this Explanatory Memorandum.
2. Directive 1999/2/EC provides that Member States report annually to the Commission the results of official controls they have carried out in food irradiation facilities and on irradiated food placed on the market. These reporting obligations have become redundant, as similar reporting obligations are also laid down in Articles 113 and 114 of Regulation (EU) 2017/625, so this proposal provides for their deletion. There are no food irradiation facilities in Northern Ireland.
3. Directives 2000/14/EC and 2014/53/EU both concern product safety – the former in respect of noise emissions from outdoor equipment and the latter in respect of radio equipment. The proposal will remove the requirement in Article 16 of the former, which provides that manufacturers or their authorised representatives shall send to both the authorities of Member States and to the Commission a copy of the EC declaration of conformity for equipment covered by that Directive. It also removes the obligation in Article 20(1), point (a) to

submit a review of the noise data collected in accordance with Article 16 to the European Parliament and the Council. The proposal will also amend Article 47(1) of Directive 2014/53/EU such that Member States shall submit a report on the application of the Directive to the Commission every 5 years, rather than every 2 years as at present.

4. Directive 2011/24/EU concerns the application of patients' rights in cross-border healthcare. The proposal will amend Article 20(1) of the Directive such that the Commission shall draw up a report on the operation of the Directive every 5 years, rather than every 3 years as at present.

SCRUTINY HISTORY

5. There has been no previous scrutiny of this proposal.

MINISTERIAL RESPONSIBILITY

6. The Secretary of State for Business and Trade is responsible for Directive 2000/14/EC and Directive 2014/53/EU. The Secretary of State for Health and Social Care is responsible for Directives 1999/2/EC and Directive 2011/24/EU.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

7. Consumer safety in relation to goods is reserved in respect of Northern Ireland (though the NI Assembly may legislate on reserved matters with the consent of the Secretary of State). Food and food ingredients, and patients' rights, are both devolved matters in Northern Ireland. Given these are minor technical changes to the law relating solely to reporting requirements, the Government has not consulted with the DAs on this proposal.

LEGAL AND PROCEDURAL ISSUES

8. The Directives which would be amended by this proposal are implemented in Northern Ireland by secondary legislation. Any amendments made to the Directives covered by Annex 2 of the Windsor Framework Agreement (which include Directives 1999/2/EC, 2000/14/EC and 2014/53/EU but not Directive 2011/24/EU) must be implemented in Northern Ireland in accordance with the Windsor Framework Agreement.

POLICY AND LEGAL IMPLICATIONS

9. The proposed changes to the law aim to make limited and targeted changes to legislation to rationalise reporting requirements without undermining the

related policy objectives. If adopted this proposal will apply in Northern Ireland but will not apply in GB.

10. The proposal to amend Directives 2000/14/EC and 2014/53/EU reduces the direct requirements on Member States and, due to the Windsor Framework Agreement, Northern Ireland. While this reduction is not directly on businesses there will be a minor but positive impact on businesses as authorities will not have to request information from business as frequently to fulfil the reporting requirement.
11. The Commission considers that an impact assessment is not necessary as the impact is a reduction of burdens as a result of the proposed change. While no impact assessment has been undertaken, it is not expected that there will be any negative policy or legal impact on UK businesses from this minor change. Additionally, it is not envisaged that there will be any impact on the ability of UK authorities to fulfil their duties due to a reduction in reporting.
12. Directive 2011/24/EU is not covered by Annex 2 of the Windsor Framework Agreement, and the Directive no longer applies to the UK; therefore the amendment to Article 20(1) of that directive will bear no impact on the UK.
13. There are no effects on NI's participation in the UK's free trade agreements or in the UK's Common Frameworks.
14. There have been no discussions with the EU on this proposal within the dialogue structures established under the Withdrawal Agreement.

CONSULTATION

15. No consultations or impact assessments have been undertaken by the Government for this proposal.

FINANCIAL IMPLICATIONS

16. There are no financial implications for the UK.

MINISTERIAL NAME AND SIGNATURE



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