

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

**Decision of the Joint Committee established by the Agreement on the
Withdrawal of the United Kingdom of Great Britain and Northern Ireland from
the European Union and the European Atomic Energy Community to add the
following EU legislation to the Windsor Framework.**

Unnumbered EM

Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 Text with EEA relevance.

Submitted by the Department for Business and Trade, on 23 April 2025.

SUMMARY

1. The following explanatory memorandum relates to the above Regulation (the Critical Raw Materials Act, or 'CRMA'), whereby the EU has adopted new rules on the labelling of specified goods that contain permanent magnets and to environmental footprint declarations for certain critical raw materials. If accepted at the Withdrawal Agreement Joint Committee under the Article 13(4) procedure, these rules would apply in Northern Ireland.

SUBJECT MATTER

2. On 18 March 2024, the EU adopted a Regulation for the provision of a new framework aimed at providing access to a secure, diversified, affordable and sustainable supply of critical raw materials (CRM). This framework entered into force on 23 May 2024.

3. CRM have special characteristics that make them essential in a wide variety of everyday applications, such as for renewable energy production, micro-chips, aerospace, agriculture and defence. They are critical to numerous industries because they may be subject to supply risks due to high extraction and processing concentration in third countries (for example, 97% of the EU's supply of magnesium comes from China¹). Well known examples are rare earths used in magnets for wind turbines, lithium used for batteries, and silicon used for semiconductors. The new regulatory framework seeks to address potential supply disruptions and ensure market stability accordingly.

¹ https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/green-deal-industrial-plan/european-critical-raw-materials-act_en Accessed 16/04/2025

4. This framework establishes a list of 34 CRM of which 17 are listed as “strategic raw materials” (SRM) (list enclosed at Annex A). The Regulation allows for the list to be adapted through delegated legislation. The stated objectives for the legislation are:

- a. Provide common objectives and a shared definition of CRM and SRM.
- b. Create a CRM Board tasked with coordination, delivery monitoring and evaluation of the Regulation, as well as identifying synergies and facilitating best practices between members.
- c. Set non-binding benchmarks for improved domestic capacities for SRM relating to extraction, processing and recycling, as well as diversification of imports from third countries.
- d. Establish a common and consistent approach to increasing capacities by supporting and facilitating projects of strategic importance.
- e. Introduce risk monitoring, preparedness measures.
- f. Introduce new requirements for placing on the market products containing permanent magnets and designated CRM, whilst facilitating free movement.
- g. Encourage new and existing strategic partnerships with third countries.

5. Articles 1-4, 28-29, 31-34, 38-39, 44(6) and 46-49 have been formally notified by the European Commission under Article 13(4) of the Windsor Framework. As such, these provisions would apply in Northern Ireland only if agreed by the UK at the UK-EU Joint Committee, subject to the democratic safeguards engaged under Schedule 6B of the Northern Ireland Act 1998. Articles 40, 41 and 43 of the Regulation amend legislation listed in Annex 2 of the Windsor Framework. These articles have already followed the democratic scrutiny process set out in Article 13(3a) of the Windsor Framework and should now be understood in conjunction with provisions notified under Article 13(4) of the Windsor Framework, which this assessment will outline.

SCRUTINY HISTORY

6. The Critical Raw Materials Act was outlined in an explanatory memorandum on the European Commission’s 2024 work programme, submitted by the FCDO on 16 November 2023.

7. An explanatory memorandum on the amending or replacing elements of the Critical Raw Materials Regulation was submitted by the Department for Business and Trade to the Windsor Framework Scrutiny Committee as well as the Northern Ireland Assembly’s Windsor Framework Democratic Scrutiny Committee in May 2024.

MINISTERIAL RESPONSIBILITY

8. The Secretary of State for the Department for Business and Trade is responsible for the UK’s Critical Minerals Strategy.

9. The Secretary of State for the Department for Transport is responsible for vehicle type-approval requirements.

10. The Secretary of State for Foreign, Commonwealth & Development Office will have an interest in matters related to international engagement on critical minerals.

11. The Secretary of State for the Department for Energy Security and Net Zero will have an interest in matters relating to the presence of critical minerals in energy supply chains.

12. The Secretary of State for the Department for the Environment, Food and Rural Affairs will have an interest in matters relating to the recyclability of critical minerals and the transition to a more circular economy.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

13. This is a substantively reserved policy matter which the UK Government will continue to discuss with devolved counterparts as needed.

LEGAL AND PROCEDURAL ISSUES

14. i. EU Legal Basis

Article 114 of the Treaty on the Functioning of the European Union, which allows the European Parliament and the Council to adopt measures to establish and ensure the proper functioning of the EU Single Market.

ii. Voting Procedure

Qualified Majority Voting.

iii. Timetable for adoption and implementation

The Regulation entered into force on 23 May 2024, except Articles 40 and 41 of the Regulation which will come into force from 24 May 2028.

POLICY IMPLICATIONS

Potential Impact of Articles 1-4, 28-29, 31-34, 38-39, 44(6) and 46-49 of the Regulation on Northern Ireland

Overview of provisions

15. Any addition of measures of the Regulation to the Windsor Framework via the Article 13(4) process would require the UK's agreement at the UK-EU Joint Committee.

This agreement is subject to the provisions of Schedule 6B of the Northern Ireland Act 1998.

16. The requirements notified under 13(4) consist of the following:

- a. Article 1-4 – Set out the general objectives of the CRMA, applicable definitions including for intermediate and finished goods, and the lists of strategic and critical raw materials. The European Commission is empowered to update these lists via delegated acts to reflect changing economic importance and supply risks.
- b. Articles 28-29 – New requirements on the recyclability and reusability of permanent magnets, which introduce a new labelling system for finished goods, centred on the provision of product information and inclusion of data carriers, e.g. QR code, and delegated acts setting minimum shares of reused CRMs in certain products.
- c. Article 31 – Provides for environmental footprint declarations accompanying the sale of certain CRMs which have a significant environmental footprint, and which are not included in intermediate or finished goods, covering e.g., location of extraction, processing, refining and recycling. The exact CRMs subject to this will be specified in delegated legislation.
- d. Article 33 – Provides for conformity and market surveillance, including rules ensuring the manufacturer or its authorised representative place goods on the market in compliance with EU law, including relevant documentation and affixing the CE marking.
- e. Article 32 – Provides for free movement, meaning products that comply with the above cannot be precluded from the market for reasons relating to permanent magnet circularity or environmental footprint concerns.
- f. Article 34 - Empowers the European Commission to adopt delegated acts to supplement Articles 28, 29, 30, 31 and 33, encompassing requirements for data carriers and unique product identifiers, non-compliance procedures, and conditions for affixing the CE marking.
- g. Articles 38-39 – Conditions where the European Commission is able to make delegated acts for the purposes of the CRMA, and the relevant committee procedures.
- h. Article 44(6) – Requirement for the European Commission to request the development of European standards by the European Standardisation Organisation to underpin regulatory requirements under the CRMA.
- i. Article 46 – Provides for the handling of confidential information.
- j. Article 47 - Enforcement provisions including penalties for non-compliance.
- k. Article 48-49 – Provides for evaluation of the CRMA by 24 May 2028, and its entry into force.

Potential Impact of provisions

17. In summary, the Article 13(4) provisions that may potentially affect businesses are the labelling requirements for finished goods, including whether they contain permanent magnets, to facilitate recyclability, and levels of recycled content. Such goods affected by this labelling requirement include motor vehicles, Magnetic Resonance Imaging devices, and certain domestic appliances and renewable energy products. The provisions also require environmental footprint declarations to be available for certain CRM placed on the market. The exact requirements relating to the labelling of products that contain a permanent magnet and environmental footprint declarations will be dependent on future industry consultation and legislation.

18. Following assessment of trade data, supplemented by engagement with a subset of affected stakeholders, the Government's assessment is that most of the affected products are likely to be traded on a pan-European basis. As such, manufacturers and traders across the UK are likely to adopt the requirements of the CRMA to maintain such trade. The Government therefore considers that this Regulation would not create a new regulatory border between Great Britain and Northern Ireland as it would not lead to a material trade diversion or materially impair the free flow of goods between them.

Recyclability of permanent magnets and recycled content requirements

19. To incentivise large-scale recycling of permanent magnets, new requirements will apply to a specified list of finished goods with regard to the recyclability of permanent magnets, as well as recycled content of permanent magnets. In particular, these relate to product labelling and the provision of product information, with the potential for delegated acts setting certain minimum shares of reused CRM in certain products.

20. The finished goods captured by these provisions are:

- a. motor vehicles,
- b. magnetic resonance imaging devices,
- c. wind energy generators,
- d. industrial robots,
- e. light means of transport,
- f. cooling generators,
- g. heat pumps,
- h. electric motors, including where electric motors are integrated in other products,
- i. automatic washing machines,
- j. tumble driers,
- k. microwaves,
- l. vacuum cleaners,
- m. dishwashers

21. New recyclability provisions will mean that businesses placing these goods on the market will be required to attach labelling indicating whether the product has incorporated one or more permanent magnets, and their type. In addition, they will need to include a data carrier (e.g., QR code or bar code) linked to a unique product identifier which confirms relevant contact details of individuals in the supply chain, information on magnetic composition, and details informing how to access or remove incorporated magnets. This information must also be included in the digital product passport of the product, should a passport be required in other EU legislation. The format for labelling will be established through an implementing act by 24 November 2026.

22. Businesses placing these goods on the market will also be required to provide information on the recycled content of permanent magnets, including the share of recovered post-consumer magnetic waste present in the permanent magnets. This concerns the following CRM: neodymium, dysprosium, praseodymium, terbium, boron, samarium, nickel and cobalt.

23. The purpose of these requirements is to aid and encourage the recycling of the CRM contained within permanent magnets, given their significant value to advanced technology as well as everyday products. Therefore the broad impacts of these new requirements could be beneficial to Northern Ireland in fostering a secondary market for permanent magnets, contributing to the UK market's access to CRM. Greater transparency with regard to the composition of permanent magnets within intermediate and finished goods could also contribute to broader recyclability and circularity objectives of the UK Government.

24. The Government's assessment of the movement of relevant goods from Great Britain to Northern Ireland, based on non-published data from HMRC customs declarations, suggests that the value of affected goods (aggregated up to a defined end product) in 2024 was estimated at £2.7 billion. The vast majority of the value of goods is concentrated within the automotive sector, specifically for motor vehicles (97%). The Government's assessment is that most of the affected products are likely to be traded on a pan-European basis. As such, manufacturers and traders are likely to adopt the requirements of the CRMA to maintain such trade and so will not have an incentive to cease trade to Northern Ireland.

25. Whilst these requirements will apply to a range of advanced manufacturing and domestic appliances which meet the specific requirements of the CRMA, given the transition period to a new regulatory framework that is afforded to manufacturers, in particular to the automotive industry, the likelihood is that new requirements will be integrated into existing business processes and therefore there is no expectation this will lead to any disruption on the trade of these goods.

Environmental footprint declarations

26. Businesses placing individual CRM types on the market for bulk sale, including those which are processed, will need to publish environmental footprint declarations. This will not apply to CRM included in intermediate or final products and would only apply to individual types of CRM. This will require certain information, including, for example, information about the country and region where the CRM was extracted, processed, refined and recycled.

27. Similar to the abovementioned requirements, persons placing the CRM on the market will need to ensure that customers have access to the environmental footprint declarations, and must present the information in a transparent manner. Greater transparency over the source of CRM would be of benefit to Northern Ireland manufacturers, sellers and consumers, enabling more informed purchases.

28. Not all CRMs placed on the market in Northern Ireland will require an environmental footprint declaration. This will only apply to those CRMs considered to have a significant environmental footprint, expected to be a subset of the list (as per Annex A). Rules for the calculation and verification of the declarations will be established following consultation and further legislation.

29. Given the new environmental footprint declarations will apply only to the bulk sale of individual CRM types we expect the majority of businesses (mostly multi-national mining and extraction companies and related supply chains) engaged in such sales will in any case comply with the regulation to continue to serve both the UK and EU market.

30. The Government's assessment of the movement of relevant goods from Great Britain to Northern Ireland, based on non-published data from HMRC customs declarations of relevant CRMs was £143 million in 2024. Three of the highest value products were Aluminium (69%), Bauxite (10%) and Gallium (5%). Available information, supplemented by stakeholder engagement, suggests that most affected products are likely to be traded on a pan-European basis by large multi-national companies. It can be reasonably assumed that UK-based traders would adopt the additional requirements under the CRMA in order to maintain trade with the EU, regardless of whether or not they applied in NI.

Conformity and market surveillance

31. The Regulation also introduces provisions concerning conformity assessment procedures and market surveillance for products captured by the abovementioned recyclability requirements. Persons placing products on the Northern Ireland market covered by recyclability of magnet requirements would be required to carry out

applicable conformity assessment procedures, drawing of technical documentation and affixing CE markings.

32. Conformity assessment procedures for the specific list of products covered by Article 28 will be subject to procedures set out in Annex IV to Directive 2009/125/EC, whereas products covered by Article 29 of the Regulation will be subject to conformity assessment procedures set out by calculation and verification rules which will be established no later than 24 May 2026. Goods captured by this Regulation are already trading into the European market.

33. Other provisions concern the ability to adopt delegated acts, comitology procedures, how underlying rules and standards will be set, as well as measures for handling confidential information.

Penalties

34. The provisions would also require the UK Government to lay down rules on penalties applicable to infringement of the Regulation by 24 November 2026. A competent authority would need to be appointed with responsibility for monitoring and enforcement of the penalties regime as set out in Article 47 of the Regulation.

35. Monitoring and enforcement activities would be similar to those conducted for the existing regulations, that is via an intelligence-led and risk-based approach, including responding to reports about suspected non-compliance.

Provisions already applicable in Northern Ireland

36. Articles 40, 41 and 43 of the CRM Regulation already apply in Northern Ireland under Article 13(3) of the Windsor Framework. These interact with the provisions subject to the Article 13(4) procedure of the Windsor Framework.

a. *Amendments to type approval frameworks*—Articles 40 and 41 amend vehicle type approval frameworks, meaning requirements set out elsewhere in the CRM Regulation must be considered for two- or three-wheeled vehicles and quadricycles as well as vehicles, systems, components, or technical units.² These requirements - relating to the provision of information on permanent magnet circularity - will not apply in Northern Ireland under the Article 13(3) process alone and in practice the effect of these Articles will be minimal unless provisions subject to Article 13(4) are added.

² The amendments will become applicable no sooner than 2027.

- i. With regard to Article 40, there is currently no full GB type approval scheme for L category vehicles. GB approval for L category is issued where a vehicle is already approved to EU requirements.
 - ii. Article 41 may result in different rules applying to relevant M and N category vehicles, but will not affect a manufacturer's ability to obtain dual approval of vehicles to both GB and EU schemes, provided the manufacturer complies with the CRM Regulation.
 - iii. By way of derogation, Articles 40 and 41 would in any case only apply from 24 May 2028.
- b. Market surveillance and compliance—Article 43 updates the existing regulation related to market surveillance and compliance of products, adding the CRM Regulation to legislation in so far as it concerns regulatory requirements regarding permanent magnet recyclability and environmental footprint declarations.
- i. Article 43 interacts with measures in the wider Regulation notified under the 13(4) process. Those measures, if applied, would set out the requirements against which compliance would be assessed under market surveillance measures. The effect of Article 43 in the absence of those other articles' application is limited.
 - ii. Article 43 requires economic operators placing certain products on the Northern Ireland market to undertake certain compliance tasks. However, in practice, market surveillance is already required for the products listed in this Regulation. Where these products are sold in Northern Ireland, it is expected that there are already responsible economic operators or relevant natural or legal persons established in Northern Ireland (or in the EU) conducting relevant compliance.

UK Government policy

37. The UK Government is in the process of developing a new Critical Minerals Strategy to be published later this year. The primary aim of the Strategy is to secure UK supply chains for the long term and drive forward the green industries of the future. The Strategy will refine our approach to domestic production, the circular economy, the UK's future demand, and international partnerships. The Strategy will also consider the best way to track progress to ensure that Government can be held to account for delivering on our promises.

38. The new Critical Minerals Strategy will support the aims of Defra's forthcoming Circular Economy Strategy. It will drive ambitious reform to promote recycling and the retention of critical minerals within the UK economy. Incentivising the recycling of critical minerals will be a key tenet of the Strategy given the importance of recyclability and circularity from 2030 onwards as net zero technology rich in critical minerals reach their end of life.

39. It is the Government's assessment that the CRMA would have a limited impact on movements between Great Britain and Northern Ireland. This is based on the fact that most affected products in Northern Ireland are likely to be traded on a pan-European basis. As such, manufacturers and traders are unlikely to have additional barriers to placing products on the Northern Ireland market or an incentive to cease doing so.

40. In addition, the objectives of the Regulation are broadly in line with those of the Government, in terms of securing stable supplies of critical raw materials. The Government therefore considers that this Regulation would not create a new regulatory border as it would not lead to a material diversion of trade or materially impair the free flow of goods.

41. In order to provide additional confidence that manufacturers and traders will not face new regulatory barriers to placing goods on the Northern Ireland market, the Government will commit to taking any necessary steps to protect the UK's internal market, including considering equivalent measures in Great Britain where necessary. The Government considers it is therefore unlikely that the supply of relevant goods to Northern Ireland would be materially impacted by this legislation.

CONSULTATION

42. The Commission launched a consultation, which included a call for evidence and a public online consultation in preparation for the CRM Act. This was open from 30 September until 25 November 2022, and contained multiple choice and open questions covering regulatory and non-regulatory measures.

43. A total of 9 UK responses were submitted to the public consultation³. Overall, stakeholders were broadly supportive of the establishment of a specific regulatory framework for CRM.

44. The Department for Business and Trade has been conducting ongoing business engagement on the CRMA. This has found broad support for the aims of the CRMA, including industry appreciation that recyclability, sustainability and circularity practices are becoming increasingly prevalent and integrated into business models and operations.

FINANCIAL IMPLICATIONS

45. The measures described above would have no significant financial implications for public authorities. The administration of type approval and market surveillance and compliance activities, as well as a penalties regime, would continue to be undertaken for the products in question, albeit taking into account the broader scope of the CRM

³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13597-European-Critical-Raw-Materials-Act_en

Act. UK Government will continue to monitor developments should any further financial implications be identified.

Annex A—CRM list, SRM indicated with an asterisk

- | | |
|--------------------------------|---------------------|
| 1. Antimony | 32. Titanium metal* |
| 2. Arsenic | 33. Tungsten* |
| 3. Bauxite/Alumina/Aluminium* | 34. Vanadium |
| 4. Baryte | |
| 5. Beryllium | |
| 6. Bismuth* | |
| 7. Boron* | |
| 8. Cobalt* | |
| 9. Coking coal | |
| 10. Copper* | |
| 11. Feldspar | |
| 12. Fluorspar | |
| 13. Gallium* | |
| 14. Germanium* | |
| 15. Hafnium | |
| 16. Helium | |
| 17. Heavy rare earth elements* | |
| 18. Light rare earth elements | |
| 19. Lithium* | |
| 20. Magnesium* | |
| 21. Manganese* | |
| 22. Graphite* | |
| 23. Nickel — battery grade* | |
| 24. Niobium | |
| 25. Phosphate rock | |
| 26. Phosphorus | |
| 27. Platinum group metals* | |
| 28. Scandium | |
| 29. Silicon metal* | |
| 30. Strontium | |
| 31. Tantalum | |

Note - lithium, manganese and graphite are only considered SRMs if they are battery grade. Only rare earth metals for permanent magnets are also considered to be SRMs (neodymium, praseodymium, terbium, dysprosium, gadolinium, samarium, and cerium).

A handwritten signature in black ink, reading "Douglas Alexander". The signature is fluid and cursive, with the first name "Douglas" and the last name "Alexander" clearly distinguishable.

The Rt Hon Douglas Alexander MP
Minister for Trade Policy and Economic Security
Department for Business and Trade