

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)

Submitted by the Department for Science, Innovation and Technology

17 July 2024

SUBJECT MATTER

1. On 13 March 2024, the EU adopted a regulation to regulate artificial intelligence (full text [here](#)). The AI Act (AIA) sets a uniform legal framework for the development, the placing on the market, the putting into service and the use of artificial intelligence systems. The AIA will enter into force 20 days after publication on 12 July, with substantive requirements phased in over the following two years.
2. The AIA covers both public and private providers and deployers of AI systems, and places obligations on importers and distributors. Organisations can have one or multiple of these roles within the AI supply chain. The AIA contains a national security exemption.¹ Open source or free licence models meeting certain conditions, and some R&D activities are also outside its scope. The AIA also makes provisions for 'sandboxing'² to facilitate innovation.
3. The AIA introduces a horizontal regulatory approach setting different requirements and obligations for providers and deployers of AI systems depending on the intensity and scope of the risks that AI systems can generate. It therefore prohibits certain unacceptable AI practices, sets out requirements for high-risk AI systems, and transparency obligations for certain AI systems. Additional rules and requirements will apply to general-purpose AI models (GPAIs) that are deemed to carry systemic risk because of their high-impact capabilities or reach. The AIA also includes specific provisions around governance and enforcement - establishing an AI Office within the Commission and other governance structures and introducing penalties for non-compliance.

¹ Specifically, it does not apply to AI systems that are placed on the market, put into service or used exclusively for military defence or national security purposes. Additionally, where AI systems are not placed on the market or put into service in the EU, but their output is used in the EU exclusively for military defence or national security purposes, they are also outside of the scope of application of the AIA.

² This is an isolated testing environment that enables users to run programs or open files without affecting the application, system or platform on which they run.

4. Articles 103-107 and 109 of the Regulation amend legislation listed in Annex 2 of the Windsor Framework. Any application of this legislation in Northern Ireland, as amended by these articles, would therefore be subject to the democratic scrutiny process set out in Article 13(3a) of the Windsor Framework.
5. The remaining provisions of the regulation are set out as new provisions rather than those amending or replacing provisions of the Windsor Framework. As such, they would be subject to the process under Article 13(4) of the Framework, should they be notified formally in that regard by the European Commission. No notifications under Article 13(4) have been made at this stage. However, in the event of such a notification, they would apply only with the agreement of the UK and the EU at the Withdrawal Agreement Joint Committee, subject to the democratic safeguards engaged under Schedule 6B of the Northern Ireland Act 1998.

SCRUTINY HISTORY

6. Below are details of Explanatory Memoranda that have a relationship to this regulation:
 - a. DCMS submitted Explanatory Memorandum EU 6266/20: White Paper on Artificial Intelligence - A European approach to excellence and trust, on 12 March 2020.
 - b. On 10 February 2021, the House of Commons European Scrutiny Committee noted that the Committee will not consider the EM post-transition period and as such scrutiny of this document has been completed.
 - c. The AI communication was sifted to the EUC Services sub-committee and was cleared on 2 July 2020 following correspondence with Ministers. In a letter of 10 December 2020 to Minister Dinenage, Lord Kinnoull requested that the Government keep the Committee informed of Government thinking on AI.
 - d. DCMS and BEIS shared an Explanatory Memorandum for European Union Legislation and Documents 8115/21 Com(2021) 206 Final - 2021/0106 (Cod).

MINISTERIAL RESPONSIBILITY

7. The Secretary of State for Science, Innovation and Technology has responsibility for Artificial intelligence Policy.
8. The Secretary of State for Business and Trade has responsibility for product safety as well as the UK internal market.
9. The Secretary of State for Transport has responsibility for transport policy, in this context including rail, road and maritime.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

10. AI is a high interest subject area across the UK and Devolved Administrations. Engagement across Devolved Administrations and the UK Government is expected to continue so that the benefits of AI can be realised across the UK, and the risks associated with AI and its adoption can be mitigated.

LEGAL AND PROCEDURAL ISSUES

11.

- i. Legal Basis: Article 114 of the Treaty on the Functioning of the European Union (TFEU), which provides for the adoption of measures to ensure the establishment and functioning of the internal market; and Article 16 of the TFEU for the specific rules on the protection of individuals with regard to the processing of personal data.
- ii. Voting Procedure: Qualified Majority Voting
- iii. Timetable for adoption and implementation: The legislation will be implemented in phases:
 - a) 20 days after the date of publication: AIA enters into force.
 - b) 6 months after the date of entry into force: phase out of banned AI systems;
 - c) 12 months after the date of entry into force: obligations for GPAI governance become applicable/enforceable; and
 - d) 24 months after the date of entry into force: all the rules in AIA become applicable, including the obligations for high-risk systems.

POLICY AND LEGAL IMPLICATIONS

Domestic Policy Context

12. On the 17 July new legislation was announced as part of the King's Speech to place requirements on developers of the most powerful AI models and to strengthen the role of the AI Safety Institute.

Potential Impact Articles 103-107 and 109 of the AIA in Northern Ireland under Article 13(3) of the Windsor Framework

13. As set out above, only legislation amended by Articles 103-107 and 109 of the AIA will apply under Article 13(3) of the Windsor Framework. These articles of the AIA require that, when adopting certain delegated and/or implementing acts with respect to 'artificial intelligence systems which are safety components', the AIA's requirements on high-risk AI systems 'shall be taken into account' by the Commission. This relates in particular to areas such as vehicle approvals, marine equipment, rail interoperability and forestry equipment.

14. Requirements on high-risk AI systems themselves are set out elsewhere in the Act, so would not apply in the absence of any subsequent process as may be

proposed under 13(4). However, in any event, these provisions do not grant or increase the scope of any delegated powers. Accordingly, we consider that these provisions would have limited (if any) impact in practice.

Potential Impact of further articles under Article 13(4) of the Windsor Framework

15. Were substantive further measures to be added to the Windsor Framework via the Article 13(4) process, it could mean that businesses and developers in Northern Ireland would have to comply with further requirements of the AIA. We would undertake further analysis to inform any consideration of next steps in the event any further measures were to be notified under the 13(4) process. In that event, the Government would engage with the Democratic Scrutiny Committee to provide further information.

Prior engagement with the EU

16. The UK Government has discussed the EU AIA with the EU as part of wider engagement on AI policy.

CONSULTATION

17. The EU Commission ran a public consultation between February – September 2020 in preparation of the Act. A total of 76 UK responses were submitted.

FINANCIAL IMPLICATIONS

18. Currently, there are no direct financial implications for the UK. However, actors outside the EU will have to comply with AIA if their AI system is sold in the EU or if, when deployed, its output is used in the EU. There is therefore a possibility that the UK's AI ecosystem, where it seeks to trade with European Union Member States on AI products and services that meet the agreed definition of 'high-risk AI', will face new administrative and financial burdens. An impact assessment conducted previously on the Act notes these costs (please find full impact assessment [here](#)).

A handwritten signature in blue ink, appearing to read 'Peter J. Kyle', with a stylized flourish at the end.

Rt Hon Peter Kyle MP
Secretary of State for Science, Innovation and Technology