



Northern Ireland  
Assembly

# Windsor Framework Democratic Scrutiny Committee

Minutes of Proceedings 18 April 2024

**Meeting Location:** Room 30

**Present:**

Philip McGuigan MLA (Chairperson)

David Brooks MLA (Deputy Chairperson)

Steve Aiken MLA

Patrick Brown MLA

Jonathan Buckley MLA

Joanne Bunting MLA

Declan Kearney MLA

Emma Sheerin MLA

**Apologies:**

Sorcha Eastwood MLA

**In Attendance:** Marie Austin (Assembly Clerk)  
Sinead Kelly (Senior Assistant Clerk)  
Oliver Bellew (Assistant Clerk)  
Marion Johnston (Assistant Clerk)  
Victoria Bourquin (Assistant Clerk)  
Suzanne Patton (Clerical Officer)  
Shelley Garner (Clerical Officer)

**In Attendance by Video:**

Leigh Gibson (Senior Assistant Clerk)

The meeting commenced at 10:02am in closed session.

**1. Apologies**

As above.

**2. Legal Advice on Communication from Cabinet Office**

Simon Kelly, Legal Adviser, Assembly Legal Services, joined the meeting at 10.04am.

Members considered a notification and correspondence from the Cabinet Office in relation to the following two published replacement EU acts:

Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014.

Regulation (EU) 2024/590 of the European Parliament and of the Council of 7 February 2024 on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009.

Steven Aiken joined the meeting at 10.07 a.m.

The Legal Adviser provided legal advice on the implications of the timing of the notification and on whether it appeared likely that the published replacement acts differ significantly (in whole or in part) from the content or scope of the EU acts they are amending/replacing.

A question and answer session followed.

**Agreed:** The Committee agreed to continue its consideration of the published replacement EU acts in public session.

### **3. COM/2023/395 Proposal to amend Regulation (EU) 2017/852 on Mercury**

Simon Kelly, Legal Adviser, Assembly Legal Services, provided legal advice on COM/2023/395: Proposal to amend Regulation (EU) 2017/852 on Mercury.

A question and answer session followed.

The meeting was suspended at 10.53am.

The Legal Adviser left the meeting at 11.04am.

The meeting resumed at 11.04am.

**Agreed:** Members agreed to move to open session at 11.05am.

### **4. Declaration of Interests**

No interests were declared.

## **Legal Advice on Communication from Cabinet Office - continued (Agenda Item 2)**

Members considered the following two published replacement EU acts:

Regulation (EU) 2024/573 of the European Parliament and of the Council of 7 February 2024 on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014.

Regulation (EU) 2024/590 of the European Parliament and of the Council of 7 February 2024 on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009.

Members noted that, in order to meet its statutory requirements, the Committee must decide whether to hold an inquiry into each of the published replacement EU acts that have been notified.

Members noted that legal advice indicated that the published replacement EU acts do not appear likely to significantly differ (in whole or in part) from the content or scope of the EU instruments they are amending or replacing.

Members noted that the assessments of impact provided by the Department of Agriculture, Environment and Rural Affairs, in relation to the published replacement EU acts, indicated that applying either of the acts is not likely to have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

**Agreed:** Members noted with grave concern that the EU acts were published in the EU Official Journal on 20 February 2024. Therefore, the scrutiny period, which is two months beginning with the day on which a replacement EU act is published, ends on 20 April 2024. Consequently, the deadline for the Committee to publish a report on the outcome of an inquiry it might have decided to take has already passed. Further, the deadline for 30 members to submit a written notification seeking to prevent the application of either of the EU acts has also already passed. Given the late notifications from Cabinet Office, it would be impossible for the Committee to hold an inquiry. Therefore,

the Committee agreed not to make a decision on whether to hold an inquiry into either of the two acts and recorded its dissatisfaction at the handling of these notifications by the Cabinet Office.

**Agreed:** The Committee agreed to write to the Cabinet Office to express grave concern at the lateness of the notification, and the negative consequences for the application of the democratic mechanisms in the Windsor Framework, and to:

- Request details of the processes that are in place to identify relevant published EU acts, at the earliest stage, for notification to the Committee, and assurances of accuracy and timeliness;
- Seek clarity on the position with respect to: Regulation (EU) 2024/568 of the European Parliament and of the Council of 7 February 2024 on fees and charges payable to the European Medicines Agency, amending Regulations (EU) 2017/745 and (EU) 2022/123 of the European Parliament and of the Council and repealing Regulation (EU) No 658/2014 of the European Parliament and of the Council and Council Regulation (EC) No 297/95. The Committee identified this as a further replacement EU act which might have been notified;
- Ask whether Ministers intend to discuss, at the UK-EU Withdrawal Agreement Joint Committee, horizon scanning and arrangements for early sight of published EU acts, and the potential to apply a derogation with respect to the scrutiny period for the two EU acts detailed above; and,
- Request that consideration be given to amending the Windsor Framework (Democratic Scrutiny) Regulations 2024, to waive the requirement for 30 MLAs to provide the Speaker with a written notification seeking to prevent the application of an EU act no later than 10 working days before the end of the scrutiny period. A view was expressed that this is feasible given that Article 13(3a) of the Windsor Framework and accompanying Joint Declaration make no mention of the 10-day period, and is therefore entirely an internal matter for the UK Government.

## 5. Draft Minutes

**Agreed:** The Committee agreed the minutes of the meeting held on 11 April 2024.

## 6. Matters Arising

None.

## 7. COM/2024/148: Proposal for a Council Regulation amending Annex 1 to Regulation (EEC) No.2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff

The Committee considered the proposed replacement EU act:

COM/2024/148: Proposal for a Council Regulation amending Annex 1 to Regulation (EEC) No.2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff.

**Agreed:** The Committee agreed to request legal advice and an initial departmental assessment of impact to help inform its decision on whether to monitor the proposed EU Act.

## 8. COM/2023/395 Proposal to amend Regulation (EU) 2017/852 on Mercury: Oral Evidence World Alliance for Mercury-Free Dentistry

The following witnesses joined the meeting at 11.14am

Charles Brown	President, World Alliance for Mercury-Free Dentistry (via Zoom)
Florian Schulze	Administrative Vice President, World Alliance for Mercury-Free Dentistry
Graeme Munro-Hall	Chief Dental Officer, World Alliance for Mercury-Free Dentistry

The witnesses gave oral evidence on COM/2023/395: Proposal to amend Regulation (EU) 2017/852 on Mercury.

A question and answer session followed.

The evidence session was reported by Hansard.

The Chairperson thanked the witnesses for their attendance.

The witnesses left the meeting at 12.27pm.

#### **9. COM/2023/395 Proposal to amend Regulation (EU) 2017/852 on Mercury: Oral Evidence**

The following officials joined the meeting at 12.28pm.

Caroline Lappin	Chief Dental Officer, Department of Health;
Gearóid Cassidy	Director of Primary Care; Department of Health;
Michael O'Neill	Head of General Dental and Ophthalmic Services, Department of Health
Anthony Miller	Director, Post EU Exit Co-ordination Group, the Executive Office

The officials gave oral evidence on COM/2023/395: Proposal to amend Regulation (EU) 2017/852 on Mercury.

A question and answer session followed.

Declan Kearney left the meeting at 12.40pm.

The evidence session was reported by Hansard.

The Chairperson thanked the officials for their attendance.

The officials left the meeting at 12.48pm.

#### **10. Correspondence**

There was no correspondence for consideration.

**11. Chairperson's Business**

No business was raised.

**12. Any Other Business**

No business was raised.

**13. Date, Time and Place of Next Meeting**

The next meeting will be held on Thursday 2 May 2024 at 10:00 am. in Room 30, Parliament Buildings.

The meeting was adjourned at 12.49pm.

**Philip McGuigan, MLA**

**Chairperson, Windsor Framework Democratic Scrutiny Committee**