



Northern Ireland
Assembly

Windsor Framework Democratic Scrutiny Committee

Minutes of Proceedings

28 November 2024

Meeting Location: Room 30

Present:

David Brooks MLA (Deputy Chairperson)

Steve Aiken MLA

Declan Kearney MLA

Emma Sheerin MLA

Eóin Tennyson MLA

Present by Video:

Philip McGuigan MLA (Chairperson)

Jonathan Buckley MLA

Joanne Bunting MLA

Apologies:

Kate Nicholl MLA

In Attendance:

Marie Austin (Clerk)

Jessica Jacques (Senior Assistant Clerk)

Victoria Bourquin (Assistant Clerk)

Sinead Kelly (Assistant Clerk)

Suzanne Walsh (Clerical Supervisor)

Shelley Garner (Clerical Officer)

In Attendance by Video:

Leigh Gibson (Senior Assistant Clerk)

The meeting commenced at 10.03am in closed session.

1. Apologies

As above.

2. Declaration of Members' Interest

Steve Aiken MLA advised that he would declare an interest at agenda item 14, Any Other Business.

3. Regulation (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and No 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act) – Legal Advice

Caroline Byers, Legal Adviser, Assembly Legal Services, joined the meeting at 10.03am.

Members considered a notification from the Cabinet Office in relation to the following published replacement EU act:

Regulation (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and No 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act).

The Legal Adviser provided advice on whether it appears likely that the published replacement act differs significantly (in whole or in part) from the content or scope of the EU act it is amending/replacing.

Declan Kearney joined the meeting at 10.08am.

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

The Legal Adviser left the meeting at 10.16am.

4. Directive (EU) 2024/2853 on liability for defective products and repealing Council Directive 85/374/EEC – Legal Advice

Avi McCabe, Legal Adviser, Assembly Legal Services, joined the meeting at 10.16am.

Members considered a notification from the Cabinet Office in relation to the following published replacement EU act:

Directive (EU) 2024/2853 on liability for defective products and repealing Council Directive 85/374/EEC.

The Legal Adviser provided advice on whether it appears likely that the published replacement act differs significantly (in whole or in part) from the content or scope of the EU act it is amending/replacing.

A question and answer session followed.

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

The Legal Adviser remained in the meeting for agenda item 5.

5. Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures – Legal Advice

Members considered a notification from the Cabinet Office in relation to the following published replacement EU act:

Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

The Legal Adviser provided advice on whether it appears likely that the published replacement act differs significantly (in whole or in part) from the content or scope of the EU act it is amending/replacing.

Emma Sheerin joined the meeting at 10.17am.

The Legal Adviser left the meeting at 10.23am.

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

Agreed: Members agreed to move to public session at 10.29am.

The meeting commenced at 10.29am in public session.

6. Draft Minutes

Agreed: The Committee agreed the minutes of the meeting held on 21 November 2024.

7. Matters Arising

None.

8. Regulation (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and No 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act) – Departmental Oral Evidence

The Committee considered Regulation (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and No 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act).

The Chairperson reminded Members that only Articles 66 and 68 of the Regulation qualify as replacement legislation and would therefore be the only Articles under consideration.

The following officials joined the meeting at 10.41am:

Adrian Borland Head of Vehicle Policy Branch, Department for Infrastructure

Paddy Cairns Vehicle Policy Branch, Department for Infrastructure.

The officials gave oral evidence on Regulation (EU) 2024/2847.

A question and answer session followed.

The evidence session was reported by Hansard.

The officials left the meeting at 10.39am.

Members noted that, in order to meet its statutory requirements, the Committee must decide whether or not to hold an inquiry into the published replacement EU act. Further, Members noted that the question on the 'replacement EU act' should be treated as relating only to Articles 66 and 68 of Regulation (EU) 2024/2847.

The Committee had regard to:

(i) the legal advice on 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

(ii) the departmental assessment on whether it appears likely that the replacement act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

Steve Aiken MLA proposed that the Committee hold an inquiry into Regulation (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and No 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act).

The Committee divided: Ayes 4; Noes 4; Abstain 0.

Ayes	Noes
Mr David Brooks	Mr Philip McGuigan
Mr Steve Aiken	Mr Declan Kearney
Mr Jonathan Buckley	Ms Emma Sheerin
Ms Joanne Bunting	Mr Eóin Tennyson

The votes in the division were equal. Therefore, the proposal was not carried.

Agreed: The Committee agreed not to hold an inquiry into the replacement EU act, pursuant to paragraph 8(1) of Schedule 6B to the Northern Ireland Act 1998.

The Committee noted that its decision will be published on the Committee webpage.

9. Directive (EU) 2024/2853 on liability for defective products and repealing Council Directive 85/374/EEC – Departmental Oral Evidence

Steve Aiken MLA declared an interest as an acquaintance of one of the witnesses and therefore agreed not to question the witnesses during the evidence session.

The Committee considered Directive (EU) 2024/2853 on liability for defective products and repealing Council Directive 85/374/EEC.

The following officials joined the meeting at 10.39am:

Dennis Cunningham Head of Consumer Affairs Branch, Department for the Economy

Colin Jack Head of Business Regulation Division, Department for the Economy.

The officials gave oral evidence on Directive (EU) 2024/2853.

A question and answer session followed.

The evidence session was reported by Hansard.

The officials left the meeting at 10.53.am.

Members noted that, in order to meet its statutory requirements, the Committee must decide whether or not to hold an inquiry into the published replacement EU act.

The Committee had regard to:

(i) the legal advice on 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

(ii) the departmental assessment on whether it appears likely that the replacement act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

Eóin Tennyson MLA proposed that the Committee hold an inquiry into Directive (EU) 2024/2853 on liability for defective products and repealing Council Directive 85/374/EEC.

Agreed: The Committee agreed to hold an inquiry into the replacement EU act, pursuant to paragraph 8(1) of Schedule 6B to the Northern Ireland Act 1998.

The Committee noted that its decision will be published on the Committee webpage.

Agreed: The Chairperson proposed that the Committee write to the UK Government to urgently request an updated explanatory memorandum, and to emphasise the importance of receiving updated explanatory memoranda early in any inquiry process, and more generally to assist decision-making.

The Committee considered a draft inquiry timetable.

Agreed: The Committee agreed the inquiry timetable.

The Committee noted that, in line with agreed procedures, a Citizen Space survey would launch to seek views on the impact of the replacement EU act. The survey will be promoted widely and will be open to anyone to respond.

The Committee considered a short, focussed list of key representatives of businesses and civil society, identified by RaISe, who are affected by the EU act, or who would be affected if the act enters into force.

Agreed: The Committee agreed to write directly to the identified key representatives of businesses and civil society to seek their views on the impact of the replacement EU act.

Agreed: The Committee agreed to write to the UK Government to seek its views on the impact of the replacement EU act, and to ascertain the position in England, Scotland and Wales.

10. Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures – Departmental Oral Evidence

The Committee considered Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

The Chairperson reminded members that the Committee previously considered the act when it was at proposal stage, and received one response to its public consultation.

The following officials joined the meeting at 10.57am:

Mark McGregor	Principal, Legislation, Goods Regulation and Chemicals branch, Department for the Economy
Gareth Lyons	Deputy Principal, Legislation, Goods Regulation and Chemicals branch, Department for the Economy
Jennifer Stewart	Firearms and Explosives Branch, Department of Justice
Aaron McKendry	Principal Scientific Officer, Department of Health.

The officials gave oral evidence on Regulation (EU) 2024/2865.

A question and answer session followed.

The evidence session was reported by Hansard.

The officials left the meeting at 11.17am.

Members noted that, in order to meet its statutory requirements, the Committee must decide whether or not to hold an inquiry into the published replacement EU act.

The Committee had regard to:

(i) the legal advice on 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

(ii) the departmental assessments on whether it appears likely that the replacement act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

Declan Kearney MLA proposed that the Committee hold an inquiry into Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Agreed: The Committee agreed to hold an inquiry into the replacement EU act, pursuant to paragraph 8(1) of Schedule 6B to the Northern Ireland Act 1998.

The Committee noted that its decision will be published on the Committee webpage.

The Committee considered a draft inquiry timetable.

Agreed: The Committee agreed the inquiry timetable.

The Committee noted that, in line with agreed procedures, a Citizen Space survey would launch to seek views on the impact of the replacement EU act. The survey will be promoted widely and will be open to anyone to respond.

The Committee considered a short, focussed list of key representatives of businesses and civil society, identified by RaISe, who are affected by the EU act, or who would be affected if the act enters into force. Further, it considered a list of stakeholders identified by Fuels UK.

Agreed: The Committee agreed to write directly to the identified key representatives of businesses and civil society, including those identified by Fuels UK, to seek their views on the impact of the replacement EU act.

Agreed: The Committee agreed to write to the UK Government to seek its views on the impact of the replacement EU act, and to ascertain the position in England, Scotland and Wales. The Committee also agreed to ask the UK Government to comment on the survey response from Fuels UK.

11. Operating procedures for the Standing Order on Substitute Members

Members noted that Standing Order 59A: Windsor Framework Democratic Scrutiny Committee, was agreed by the Assembly on Tuesday 26 November 2024 and came into immediate effect. Standing Order 59A provides for both the Committee and for substitute members.

The Committee considered proposed operating procedures for substitute members.

Agreed: The Committee agreed the operating procedures, subject to one amendment.

Agreed: The Committee agreed to review the procedures on an ongoing basis.

12. Correspondence

David Brooks MLA left the meeting at 11.34am.

The Committee noted an updated Explanatory Memorandum on Directive (EU) 2024/2839 on certain reporting requirements in the fields of food and food ingredients, outdoor noise, patients' rights, and radio equipment.

12.1 Agreed: The Committee agreed to publish the Explanatory Memorandum on its webpage.

The Committee noted an updated Explanatory Memorandum on Regulation (EU) 2024/2838 on certain reporting requirements.

12.2 Agreed: The Committee agreed to publish the Explanatory Memorandum on its webpage.

13. Chairperson's Business

None.

14. Any Other Business

As referenced in agenda item 2, Steve Aiken MLA declared that he had been contacted by constituents and businesses in relation to Regulation (EU) 2023/988 on general product safety.

Steve Aiken MLA proposed that the Committee hold an inquiry into the impact of Regulation (EU) 2023/988.

The Committee divided: Ayes 3; Noes 4; Abstain 0.

Ayes	Noes
Mr Steve Aiken	Mr Philip McGuigan
Mr Jonathan Buckley	Mr Declan Kearney
Ms Joanne Bunting	Ms Emma Sheerin
	Mr Eóin Tennyson

The proposal was not carried.

Agreed: Given the public interest in this matter and the divergence issues raised, the Committee agreed to refer the matter to the Committee for the Economy, the Permanent Secretary of the Department for the Economy, the Committee for the Executive Office and the Permanent Secretary of the Executive Office.

15. Date, Time and Place of Next Meeting

The next meeting will be held on Thursday 5 December 2024 at 10:00am in Parliament Buildings.

The meeting was adjourned at 11.43am.

Philip McGuigan, MLA

Chairperson, Windsor Framework Democratic Scrutiny Committee