



Northern Ireland  
Assembly

**Windsor Framework Democratic Scrutiny Committee**

Inquiry into Regulation (EU) 2024/1252 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

Ordered by the **Windsor Framework Democratic Scrutiny Committee**

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Report: NIA 33/22-27 Windsor Framework Democratic Scrutiny Committee

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# Purpose and Membership

## Purpose

The Windsor Framework Democratic Scrutiny Committee is a standing committee of the Northern Ireland Assembly established under [Schedule 6B to the Northern Ireland Act 1998](#).

The purpose of the Committee is to assist with the observation and implementation of [Article 13\(3a\)](#) and [Article 13\(4\)](#) of the Windsor Framework.

The functions of the Committee include:

- a. the examination and consideration of new EU acts and replacement EU acts;
- b. the conduct of inquiries and publication of reports in relation to replacement EU acts;
- c. engagement with businesses, civil society and others as appropriate in relation to replacement EU acts;
- d. engagement with the UK Government in relation to replacement EU acts;
- e. engagement with Ministers and Northern Ireland departments in relation to replacement EU acts;
- f. the collation and publication of evidence collected as part of its other activities; and
- g. dealing with other matters (including legislative proposals which may become new EU acts or replacement EU acts) which the Committee considers to be connected with its purpose or other functions.

A replacement EU act means an EU law which updates, by amending or replacing, any of the relevant<sup>1</sup> EU laws *which already apply in Northern Ireland, as listed under Annex 2 of the Windsor Framework*. Areas of EU law that apply in Northern Ireland include legislation on goods, animal and plant health rules, rules on agricultural production, VAT and excise on goods, and state aid rules. The EU's Customs Code also applies to goods entering Northern Ireland. There is a procedure by which members of the Assembly may seek to prevent the application of a replacement EU act (an emergency brake mechanism known as the Stormont Brake). [Further information on the Stormont Brake can be found here.](#)

A new EU act means a new EU law which falls within the scope of the Windsor Framework, but which neither amends nor replaces an EU act listed in the Annexes. The Northern Ireland Assembly has a role, by means of an “applicability motion”, in setting out its position on whether a new EU act should be added to the list of EU laws applicable in Northern Ireland. Further information on Applicability Motions can be found [here](#).

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<sup>1</sup> Relevant EU laws those EU instruments referred to in the third subparagraph of Article 5(1) of the Windsor Framework, the first indent of heading 1 of Annex 2 to the Framework or headings 7 to 47 of Annex 2 to the Framework

## Membership

The Committee has nine members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

- Mr Philip McGuigan MLA (Chairperson) <sup>2</sup>
- Mr David Brooks MLA (Deputy Chairperson)
- Mr Eóin Tennyson MLA <sup>3</sup>
- Ms Connie Egan MLA <sup>4</sup>
- Ms Joanne Bunting MLA
- Mr Stephen Dunne MLA <sup>5</sup>
- Mr Declan Kearney MLA
- Ms Emma Sheerin MLA
- Dr Steve Aiken OBE MLA

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<sup>2</sup> Mr Philip McGuigan MLA replaced Mr Declan Kearney MLA as Chairperson of the Committee on 9/02/2024

<sup>3</sup> Mr Eóin Tennyson MLA replaced Ms Sorcha Eastwood MLA as a member of the Committee on 22/04/2024

<sup>4</sup> Ms Connie Egan MLA replaced Mr Patrick Brown MLA as a member of the Committee on 20/05/2024

<sup>5</sup> Mr Stephen Dunne MLA replaced Mr Jonathan Buckley MLA as a member of the Committee on 3/06/2024

# Introduction

1. This report sets out the conclusions of an inquiry by the Windsor Framework Democratic Scrutiny Committee ('the Committee') into a published replacement EU act: [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.
2. Most of the Regulation does not fall within the scope of the Windsor Framework and is therefore not a replacement act in its entirety. However, Articles 40, 41 and 43 make technical amendments to a number of EU Regulations that apply under the Windsor Framework. Therefore, references made throughout this report to the 'replacement EU act', either directly or indirectly, should be read as relating only to Articles 40, 41 and 43 of Regulation (EU) 2024/1252.
3. Articles 40, 41 and 43 amend Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, as listed in the Windsor Framework at Article 5(4) and Annex 2; heading 9, indents 7 and 12.
4. Articles 40, 41 and 43 of the EU Act apply in Northern Ireland under Article 13(3) of the Windsor Framework but are subject to the mechanism set out in Article 13(3a) of the Windsor Framework. This mechanism provides for a replacement EU act, or relevant parts of a replacement EU act, not to apply in Northern Ireland if the United Kingdom Government ('UK Government') notifies the EU within two months of the act's publication in the EU Official Journal.
5. The United Kingdom Government ('UK Government') may only make this notification if it is satisfied that the conditions in Article 13(3a) of the Windsor Framework have been met and that the procedures set out in its [Unilateral Declaration on the involvement of the institutions of the 1998 Agreement have been followed](#). These procedures provide, amongst other things, that 30 MLAs from at least two parties (and excluding the Speaker and Deputy Speakers) will

need to notify the UK Government of their wish that the emergency brake mechanism should be applied.<sup>5</sup>

6. If the UK Government is satisfied that the necessary conditions have been met, it will notify the EU in the Joint Committee. The EU law will not apply in Northern Ireland in its new form two weeks later. The older version of the EU law will still apply. The relevant law would then be discussed in the EU-UK Joint Committee under the process for new EU laws - Article 13(4). The UK Government must not agree (apart from in exceptional circumstances) to adopt the new law unless the Assembly has passed a motion with cross-community support, known as an applicability motion.
7. The EU act in question - Regulation (EU) 2024/1252 - was published in the EU Official Journal on 3 May 2024. The UK Government formally notified the Committee of the act's publication on 9 May 2024.
8. Under paragraph 8(1) of Schedule 6B to the Northern Ireland Act 1998, the Committee must decide no later than five working days after the day on which it was notified of the replacement Regulation whether it wishes to hold an inquiry. In reaching a decision, paragraph 8(2) of Schedule 6B requires the Committee to have regard to 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
  - would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.
9. The Committee may also have regard to any other matters it considers appropriate.

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<sup>5</sup> The emergency brake mechanism applies to EU acts referred to in the first indent of heading 1 and in headings 7 to 47 of Annex 2 to the Windsor Framework and to Article 2(1)(c) of Council Regulation (EC) 1186/2009 setting up a Community system of reliefs from customs duty.

# The Replacement EU Act

10. The EU's stated purpose of Regulation (EU) 2024/1252 is to ensure that the EU has access to a secure, resilient and sustainable supply of critical raw materials by enhancing its own production and processing capacities, diversifying its supply chains, improving resource efficiency, and encouraging 'circularity' through the recovery and recycling of critical raw materials from waste streams. The Regulation is part of the [EU's Green Deal Industrial Plan](#) to help industry meet the EU's net-zero climate targets.
11. Article 40 amends [Regulation \(EU\) 168/2013](#) on the approval and market surveillance of two- or three-wheel vehicles and quadricycles. Regulation (EU) 168/2013 sets out technical requirements for the type-approval and placing on the market of such vehicles. The Regulation adds 'permanent magnet circularity requirements' to the list of technical requirements specified at Section C1 to Annex II of Regulation (EU) 168/2013.
12. Article 41 amends [Regulation \(EU\) 2018/858](#), which deals with the approval and market surveillance of 'motor vehicles and their trailers, and of systems, components and separate technical units'. Regulation (EU) 2018/858 sets out technical requirements for the type-approval and placing on the market of all new vehicles. The Regulation adds 'permanent magnet circularity requirements' to the technical requirements specified at section G of Regulation (EU) 2018/858.
13. Article 43 adds the Regulation to Article 4 of [Regulation \(EU\) 2019/1020](#), which is a market conformity regulation. It deals with the obligations of economic operators, including manufacturers, importers and others engaged in the provision of goods to which one or more provisions of Union harmonisation legislation apply, and as such, is a consequential amendment that places these additional technical requirements within the scope of relevant market conformity provisions.
14. Policy in relation to these matters is substantively reserved, with the UK Government Department for Business and Trade having responsibility for the UK's Critical Minerals Strategy and vehicle type-approval requirements.



# The Committee's Decision on Whether to Hold an Inquiry

15. The Committee met on 16 May 2024 to decide whether or not to hold an inquiry into Regulation (EU) 2024/1252.
16. To assist it in reaching a decision, the Committee considered legal advice on whether it appeared likely that the replacement EU act differed significantly (in whole or in part) from the content or scope of the old Regulations which it seeks to amend or replace. The Committee noted that the legal advice indicated that the Regulation does not significantly differ, in whole or in part, from the content or scope of the Regulations which it amends.
17. The Committee also considered whether it appeared likely that the replacement EU act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist. It did this by examining Articles 40, 41 and 43 of the published EU act.
18. The Committee had requested, via the Executive Office (TEO), an assessment of impact from the relevant Northern Ireland department. TEO advised that, given the legislation under consideration relates to a reserved policy area, and is of limited technical interest to a number of Northern Ireland Civil Service departments, departmental officials would be unable to provide a written or oral assessment of impact. However, it indicated that a written assessment would be provided, at a later date, by the UK Government Department for Business and Trade.
19. Having had regard to 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
  - would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist,

the Committee decided to hold an inquiry into that act. This [decision](#) was published on the Committee's webpage.

## The Inquiry Process

20. In conducting an inquiry, paragraph 9(2) of Schedule 6B to the Northern Ireland Act 1998, requires the Committee to “seek substantive discussion and engagement” with the UK Government, the relevant Northern Ireland Minister or department, and, to the extent that the Committee considers appropriate, representatives of businesses and civil society affected by the replacement EU act, or who would be affected, if the act was to apply in Northern Ireland. The Committee may also consider any matters it deems appropriate.
21. The Department for Business and Trade is responsible for the UK’s Critical Minerals Strategy and vehicle type-approval requirements. Therefore, for this inquiry, there is no relevant Northern Ireland Minister or department.
22. The Committee had to conclude its inquiry and publish a report setting out its conclusions no later than 15 working days before the end of the two-month scrutiny period. The scrutiny period started when the replacement Regulation was published in the EU Official Journal on 3 May 2024, and therefore ends on 3 July 2024.
23. The Committee considered matters relating to its inquiry, including making a decision on whether to conduct an inquiry, at five meetings. The Minutes of Proceedings can be found at **Appendix A**.
24. At its meeting on 16 May 2024, the Committee agreed to seek substantive discussion and engagement with the UK Government. It therefore wrote to the UK Government to seek its views on whether applying, or not applying, the replacement EU act would have an impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist. In considering the matter of divergence, details of the position in England, Scotland and Wales was also requested. A copy of the Committee’s correspondence and the UK Government’s response, including the Explanatory Memorandum (EM) prepared by the Department for Business and Trade, dated 24 May 2024, can be found at **Appendix B**.

25. The Committee also agreed to seek substantive discussion and engagement with representatives of business and civil society. It opted to use Citizen Space as a platform to facilitate this engagement. A survey asking for views on the impact of the replacement EU act was launched on 17 May 2024.
26. At its meeting on 16 May 2024, the Committee agreed to write directly to key representatives of business and civil society, identified by the Assembly's Research and Information Service, as being affected, or who would be affected, if the replacement EU act was to apply in Northern Ireland, to alert them to the Citizen Space survey. The survey, which was publicised widely, was also open for response by any other representatives of business and civil society as well as members of the public. Three survey responses were received and these can be found at **Appendix C**.<sup>6</sup>
27. The Committee considered the survey responses at its meeting on 30 May 2024.
28. The Committee deliberated on the evidence received at its meeting on 6 June 2024. The evidence received is not rehearsed in this report; a complete picture of the written and oral evidence can be found in the Appendices.
29. At its meeting on 13 June 2024, the Committee agreed its Inquiry report and that it should be published.

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<sup>6</sup> One response was received after the survey had closed. It can be viewed [here](#).

## The Committee's Conclusions

30. In reaching its conclusions, the Committee has carefully considered all the evidence provided to it. The Committee has focused in particular on the two conditions that must be satisfied if the Stormont Brake is to be pulled.
31. In relation to the legal question of whether 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, the Committee noted the legal advice it commissioned which indicated that the replacement EU act does not significantly differ, in whole or in part, from the content or scope of the Regulations which it amends.
32. **Having considered its commissioned legal advice, the Committee concluded that the replacement EU act does not significantly differ, in whole or in part, from the content or scope of the Regulations which it amends.**
33. In relation to the question of whether the replacement EU act would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist, the Committee considered the assessment of impact as outlined in the EM from the UK Government dated 24 May 2024, and the responses to its Citizen Space survey.
34. In considering this evidence, the Committee took the view that for an act to have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist, that significant impact must be negative.
35. **Having considered the evidence received from the UK Government and respondents to its Citizen Space survey, the Committee concluded that the replacement EU act would not have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.**

## **Next Steps**

36. Having reached its conclusions, the Committee's Inquiry report will be issued to all Members of the Legislative Assembly for further consideration.

# Links to Appendices

## Appendix A: Minutes of Proceedings

View Minutes of Proceedings of Committee meetings related to the report

[Minutes of Proceedings – 16 May 2024](#)

[Minutes of Proceedings – 23 May 2024](#)

[Minutes of Proceedings – 30 May 2024](#)

[Minutes of Proceedings – 6 June 2024](#)

[Minutes of Proceedings – 13 June 2024](#) (available from 20 June 2024)

## Appendix B: Memoranda and Other Papers

View Memoranda and Other Papers considered by the Committee

[Response from the UK Government including an Explanatory Memorandum - 24 May 2024](#)

## Appendix C: Consultation Responses

View responses to the Committee's consultation

[Consultation Responses](#)

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