



**Windsor Framework Democratic Scrutiny Committee**

Inquiry into Regulation (EU) 2024/3110 of the European Parliament and of the Council of 27 November 2024 laying down harmonised rules for the marketing of construction products and repealing Regulation (EU) No 305/2011

Ordered by the **Windsor Framework Democratic Scrutiny Committee**  
to be published 23 January 2025.

Report: NIA 67/22-27 Windsor Framework Democratic Scrutiny Committee

# Contents

Purpose and Membership .....	3
Purpose.....	3
Membership.....	5
Introduction .....	6
The Replacement EU Act.....	8
The Committee's Decision on Whether to Hold an Inquiry .....	10
The Inquiry Process .....	12
The Committee's Conclusions.....	15
Next Steps.....	17
Links to Appendices .....	18
Appendix A: Minutes of Proceedings .....	18
Appendix B: Memoranda and Other Papers .....	18
Appendix C: Minutes of Evidence .....	19
Appendix D: Consultation Responses.....	19

# 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,

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<sup>1</sup> Relevant EU laws are 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

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](#).

## 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 Kate Nicholl MLA<sup>4</sup>

Mr Jonathan Buckley MLA<sup>5</sup>

Mr Peter Martin MLA<sup>6</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 on the Committee on 09/02/2024.

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

<sup>4</sup> Ms Kate Nicholl MLA replaced Ms Connie Egan MLA as a member on the Committee on 09/09/24. Ms Connie Egan MLA replaced Mr Patrick Brown MLA as a member of the Committee on 20/05/2024.

<sup>5</sup> Mr Jonathan Buckley MLA replaced Mr Stephen Dunne MLA as a member on the Committee on 16/09/2024. Mr Stephen Dunne MLA replaced Mr Jonathan Buckley MLA as a member of the Committee on 03/06/2024.

<sup>6</sup> Mr Peter Martin MLA replaced Ms Joanne Bunting MLA as a member of the Committee on 02/12/24.

# 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 \(EU\) 2024/3110](#) of the European Parliament and of the Council of 27 November 2024 laying down harmonised rules for the marketing of construction products and repealing Regulation (EU) No 305/2011.
2. The Regulation is a replacement EU act as it repeals and replaces [Regulation \(EU\) 305/2011](#), the Construction Products Regulation ('the 2011 CPR'), which is listed in Annex 2 of the Windsor Framework. Regulation (EU) 305/2011 is listed in the Windsor Framework at Article 5(4), Annex 2, heading 14, indent 1.
3. The replacement EU act applies in Northern Ireland under Article 13(3) of the Windsor Framework but is 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.
4. The 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.
5. 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.

6. The replacement EU act in question - Regulation (EU) 2024/3110 - was published in the EU Official Journal on 18 December 2024. The UK Government formally notified the Committee of the act's publication on 2 January 2025.
7. 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 EU act 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.
8. The Committee may also have regard to any other matters it considers appropriate.

# The Replacement EU Act

9. The replacement EU act was proposed by the European Commission (EC)<sup>7</sup>, because it identified shortcomings in the implementation of the 2011 CPR.

10. The replacement EU act:

- Aims to address bottlenecks in the functioning of the standardisation process - it gives the European Commission new 'fall-back' powers to develop harmonised technical specifications for assessing the performance of a construction product if European standardisation bodies are too slow to act. In addition, the Commission is empowered to supplement harmonised performance standards with specific product requirements relating to the functionality, safety and environmental impacts of a "product family" or product categories within it (for example, cladding, fire retardant products, flooring, roof coverings). In such cases, product manufacturers would be required to provide a declaration of conformity as well as the existing declaration of performance;
- Aims to clarify how the EU's power to regulate the marketing of construction products interacts with the right of Member States to set their own requirements for construction works (for example, through building regulations). It defines a 'harmonised zone' for regulation at EU level - harmonised EU standards or technical specifications in these areas cannot be altered by Member States;
- Aims to improve the availability of environmental and product safety information - it clarifies the obligations of manufacturers of construction products, as well as importers and other economic operators, including fulfilment service providers and online marketplaces;

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<sup>7</sup> [Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation \(EU\) 2019/1020 and repealing Regulation \(EU\) 305/2011](#)



- Seeks to enhance market surveillance, and strengthen enforcement powers. The Commission will set up a complaint portal for reporting possible breaches of the replacement act;
- Establishes a digital product passport system for construction products (similar to that envisaged in the Eco-design Regulation);
- Includes 3D-printed products within the definition of construction products, and its scope is extended to used products; and
- Gives the European Commission various powers to adopt implementing and delegated acts.

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

11. The Committee met on 9 January 2025, to decide whether or not to conduct an inquiry into the EU act: Regulation (EU) 2024/3110.
12. To assist it in reaching a decision, the Committee considered legal advice on whether it appeared likely that the published replacement EU act differed significantly (in whole or in part) from the content or scope of the EU instrument which it seeks to amend or replace. The Committee noted that the legal advice indicated that the published replacement act significantly differs, in part, from the content and scope of the EU instrument which it amends.
13. The Committee also considered whether it appeared likely that the published 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: considering the assessments of impact provided by the Department of Finance (DoF), Department for Infrastructure (DfI) and Department of Agriculture, Environment and Rural Affairs (DAERA). It also considered written clarifications provided by DoF and DfI in relation to their assessments of impact.
14. Officials from the relevant departments had also been invited to attend the Committee meeting to give oral evidence on the impact of the EU act but declined to do so. DfI and DoF both highlighted that the EU act concerns a reserved matter. They noted that an updated UK Government EM had not been received and commented that it was not possible for officials to consider the impact of the replacement act. Specifically, DfI stated that it “does not have any expertise, lead role or function in the implementation or enforcement” of the replacement act; DoF stated that the act does not fall within its area of responsibility and that it “has no remit to independently assess” the UK Government’s position on the impact of the act; and, DAERA stated that it has “limited remit” for the act.

15. It should be noted that, while the Committee acknowledges the challenges for departments arising from the provision of information (or lack thereof) from the UK Government in respect of relevant reserved matters, it does not accept that these are grounds for the non-attendance of departmental officials at its meetings. The Committee has emphasised this point to the Executive and expects attendance on all future occasions it considers it necessary.
16. The Committee also considered the [Explanatory Memorandum](#) (EM) on the proposed EU act from the UK Government Department for Levelling Up, Housing and Communities, dated 9 May 2022, as well as relevant reports and correspondence published by the House of Commons European Scrutiny Committee and correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework.
17. The assessments of impact, written clarifications from DoF and DfI, the EM on the proposed EU act, and the reports and correspondence published by the Westminster scrutiny committees, can be found at **Appendix B**.
18. Having had regard to whether it appears likely that Regulation (EU) 2024/3110:
- 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

19. 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.
20. 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 EU act was published in the EU Official Journal on 18 December 2024, and therefore ends on 18 February 2025.
21. The Committee considered matters relating to its inquiry, including making a decision on whether to conduct an inquiry, at three meetings. The Minutes of Proceedings can be found at **Appendix A**.
22. At its meeting on 9 January 2025, 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 were also requested. The UK Government responded by providing an updated EM. Additionally, the Committee asked the UK Government to respond to a series of questions on the replacement EU act. The UK Government’s response, dated 16 January 2025, and the updated EM, can be found at **Appendix B**.
32. At this meeting, the Committee also agreed to seek substantive discussion

and engagement with the relevant Northern Ireland departments – DoF, DfI and DAERA. Therefore, it requested that departmental officials attend the Committee meeting on 16 January 2025 to give oral evidence.

33. Further, the Committee agreed to seek substantive discussion and engagement with representatives of business and civil society. Key stakeholders were identified by the Assembly’s Research and Information Service (RaISe), as being affected, or who would be affected, if the replacement EU act was to apply in Northern Ireland. The list of stakeholders identified by RaISe is at **Appendix D**. The Committee opted to use Citizen Space as a platform to facilitate this engagement.
34. The Committee noted that the [European Commission had consulted on its proposed revision of the 2011 CPR](#), and that respondents included stakeholders from the United Kingdom.
35. A survey asking for views on the impact of the replacement EU act was launched on 9 January 2025. 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. The Citizen Space survey was also sent to relevant stakeholders who had engaged in the Commission consultations.
36. Officials from DfI, DoF and DAERA attended the Committee meeting on 16 January 2025, to give oral evidence as requested. The Hansard of the oral evidence can be found at **Appendix C**.
37. At this meeting, the Committee considered responses from relevant stakeholders to the European Commission’s consultation on the revision of the 2011 CPR. The EC ‘Roadmap’ consultation took place in 2020, and the ‘Adoption’ consultation took place following the Commission’s adoption of the proposal in 2022. The responses can be found at **Appendix D**.

38. At this meeting, the Committee also agreed to write to the Northern Ireland Statistics and Research Agency (NISRA) and relevant industry bodies to request information on the scale of trade in construction products between Great Britain and Northern Ireland; and to request their analysis of the impact of the replacement EU act<sup>8</sup>. The Committee received responses from NISRA, the Mineral Products Association Northern Ireland, the Construction Employers Federation, and the Federation of Small Businesses Northern Ireland. The responses can be found at **Appendix B**<sup>9</sup>.
39. The Committee also agreed to write to the Department for the Economy (DfE) to ask how many Northern Ireland businesses would be considered micro-enterprises under the replacement EU act; and to request its assessment of the simplified procedures for this category. DfE's response, dated 21 January 2025, can be found at **Appendix B**.
40. At its meeting on 23 January 2025, the Committee considered the responses to its Citizen Space survey. Four responses were received and these can be found at **Appendix D**.
41. The Committee deliberated on the evidence received at its meeting on 23 January 2025. The evidence received is not rehearsed in this report; a complete picture of the written and oral evidence can be found in the Appendices.
42. At its meeting on 23 January 2025, the Committee agreed its Inquiry report and that it should be published.

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<sup>8</sup> The Construction Employers Federation responded on 13 January 2025 to the Citizen Space survey but did not provide evidence on impact. However, it responded on 17 January 2025 to this further correspondence issued by the Committee.

<sup>9</sup> Build UK responded indicating that it did not hold the information requested.

## The Committee's Conclusions

43. 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.
44. 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 on the act, and considered on 9 January 2025, which indicated that the replacement EU act significantly differs, in part, from the content and scope of the EU instrument which it replaces.
- 45. Having considered its commissioned legal advice, the Committee concluded that the replacement EU act significantly differs, in part, from the content and scope of the EU instrument which it replaces.**
46. 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 UK Government's updated EM and response of 16 January 2025; written and oral evidence it received from DoF, DfI and DAERA officials; the responses to its Citizen Space survey; and further information received from industry associations, public bodies and DfE.
47. 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.
- 48. Having considered the evidence received from the UK Government, the Department of Finance, the Department for Infrastructure and the Department of Agriculture, Environment and Rural Affairs, the responses to its Citizen Space survey, and further information received from**

**industry associations, public bodies and the Department for the Economy, 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

49. Having reached its conclusions, the Committee's Inquiry report will be issued to all Members of the Legislative Assembly for further consideration.
50. The Committee's Inquiry report will also be issued to the Committee for Finance, Committee for Infrastructure and the Committee of Agriculture, Environment and Rural Affairs for information.

## Links to Appendices

### Appendix A: Minutes of Proceedings

View Minutes of Proceedings from evidence sessions related to the report:

[Minutes of Proceedings – 9 January 2025](#)

[Minutes of Proceedings – 16 January 2025](#)

[Minutes of Proceedings – 23 January 2025](#)

### Appendix B: Memoranda and Other Papers

View Memoranda and Other Papers considered by the Committee:

[Department of Finance Assessment of Impact – 6 January 2025](#)

[Department for Infrastructure Assessment of Impact – 6 January 2025](#)

[Department of Agriculture, Environment and Rural Affairs Assessment of Impact – 6 January 2025](#)

[Clarification from the Department of Infrastructure regarding its Assessment of Impact – 7 January 2025](#)

[Clarification from the Department of Finance regarding its Assessment of Impact – 8 January 2025](#)

[UK Government Explanatory Memorandum on the proposed EU act - 9 May 2022](#)

[Extracts from the House of Commons European Scrutiny Committee Fourth report of Session 2022–23 and First Report of Session 2023–24, and correspondence with the UK Government](#)

[Correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework](#)

[Correspondence to the UK Government – 9 January 2025](#)

[UK Government Explanatory Memorandum on the published EU act – 13 January 2025](#)

[Response from the UK Government – 16 January 2025](#)

[Response from NISRA - 20 January 2025](#)

[Response from the Mineral Products Association Northern Ireland - 16 January 2025](#)

[Responses from the Construction Employers Federation - 13 and 17 January 2025](#)

[Response from the Federation of Small Businesses Northern Ireland - 17 January 2025](#)

[Response from the Department for the Economy – 21 January 2025](#)

## **Appendix C: Minutes of Evidence**

View Minutes of Evidence of Committee meetings related to the report:

[Minutes of Evidence – 16 January 2025 \(DoF, DfI, DAERA\)](#)

## **Appendix D: Consultation Responses**

[RaISe – Potential Witness List](#)

[UK and Ireland stakeholder responses to the European Commission consultation on the proposed EU act](#)

View responses to the Committee's consultation:

[Consultation Responses](#)

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