



Windsor Framework Democratic Scrutiny Committee

Inquiry into Regulation (EU) 2024/3115 of the European Parliament and of the Council of 27 November 2024 amending Regulation (EU) 2016/2031 as regards multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements and establishment of procedures for granting them, temporary import requirements for high-risk plants, plant products and other objects, the establishment of procedures for the listing of high-risk plants, the content of phytosanitary certificates and the use of plant passports, and as regards certain reporting requirements for demarcated areas and surveys of pests and amending Regulation (EU) 2017/625 as regards certain notifications of non-compliance

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

to be published 23 January 2025.

Report: NIA 66/22-27 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 relevant¹ EU laws which already apply in Northern Ireland, as listed under Annex 2 of the Windsor Framework. Areas of EU law that apply

¹ 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.

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)²

Mr David Brooks MLA (Deputy Chairperson)

Mr Eóin Tennyson MLA³

Ms Kate Nicholl MLA⁴

Mr Jonathan Buckley MLA⁵

Mr Peter Martin MLA⁶

Mr Declan Kearney MLA

Ms Emma Sheerin MLA

Dr Steve Aiken OBE MLA

² Mr Philip McGuigan MLA replaced Mr Declan Kearney MLA as Chairperson of the Committee on 09/02/2024.

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

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

⁵ Mr Jonathan Buckley MLA replaced Mr Stephen Dunne MLA as a member of 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.

⁶ Mr Peter Martin MLA replaced Ms Joanne Bunting MLA as a member of the Committee of 02/12/2024.

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 \(EU\) 2024/3115](#) of the European Parliament and of the Council of 27 November 2024 amending Regulation (EU) 2016/2031 as regards multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements and establishment of procedures for granting them, temporary import requirements for high-risk plants, plant products and other objects, the establishment of procedures for the listing of high-risk plants, the content of phytosanitary certificates and the use of plant passports, and as regards certain reporting requirements for demarcated areas and surveys of pests and amending Regulation (EU) 2017/625 as regards certain notifications of non-compliance.
2. The Regulation is a replacement EU act because it amends [Regulation \(EU\) 2016/2031](#), as listed in the Windsor Framework at Article 5(4), Annex 2, heading 41, indent 1, and amends [Regulation \(EU\) 2017/625](#), as listed in the Windsor Framework at Article 5(4), Annex 2, heading 43, 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) 2024/3115 - was published in the EU Official Journal on 16 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 amends [Regulation \(EU\) 2016/2031](#) (the 'Plant Health Regulation'). The Plant Health Regulation is the basic legal framework for EU plant health policy. It establishes protective measures against pests, including rules on classification criteria for pests; requirements for imports and movements of plants in the EU; and reporting and certification obligations.
10. It also amends [Regulation \(EU\) 2017/625](#) (the 'Official Controls Regulation'). The Official Controls Regulation regulates the movement of plants, plant health and protection products.
11. Together these regulations constitute the EU system of risk management and import controls for plants, plant products, and related material.
12. The replacement EU act aims to improve the application and enforcement of the Plant Health Regulation and the Official Controls Regulation, by streamlining and simplifying reporting requirements, and promoting standardised and digitalised procedures.
13. In order to achieve these aims, changes made the replacement EU act include:
 - empowering the Commission to adopt a delegated act, supplemental to the Plant Health Regulation, which sets out the relevant procedures for identifying and listing high-risk plants;
 - clarifying measures for pests which qualify as quarantine pests, but which have not yet been fully assessed;
 - rationalising reporting obligations (through digitalisation);
 - creating an EU plant health emergency team to provide Member States with urgent assistance on measures concerning quarantine pests;
 - increasing the duration of multiannual survey programmes (5-10 years rather than 5-7 years);

- empowering the European Commission to adopt implementing acts so certain plants can move without plant passports physically attached to them; and
- creating an exemption from a requirement, under the Official Controls Regulation, to notify the European Commission about the absence of valid phytosanitary certification when this relates to personal baggage or postal movements for personal consumption.

The Committee's Examination of the Proposed Replacement EU Act

14. At its meeting on 12 September 2024, the Committee considered information provided by the Executive Office on proposed new and replacement EU acts that had started their legislative passage before the Committee was established.
15. The proposed EU act, [COM/2022/661](#) (which was later to become the replacement act which is the subject of this report), was identified by the Committee as an act that was likely to be notified as a published act in the coming months.
16. The Committee considered matters relating to its examination of the proposed replacement EU act, including its decision to consider the proposed act, at two meetings. The Minutes of Proceedings can be found at **Appendix A**.
17. Following its decision to consider the proposed act, the Committee agreed to request an initial departmental assessment of impact on the proposed EU act, to consider 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.
18. The Committee considered an initial assessment of impact from the Department of Agriculture, Environment, and Rural Affairs (DAERA) into the proposed EU act at its meeting on 24 October 2024. The Committee also considered the UK Government's Explanatory Memorandum (EM) on the proposed EU act, dated 6 February 2024, as well as correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework. The assessment of impact from DAERA, the EM, and the correspondence published by the Westminster scrutiny committee can be found at **Appendix B**.
19. The Committee agreed to write to UK Government to request an updated Explanatory Memorandum on the agreed final text be shared with the

Committee as soon as possible. A copy of the Committee's correspondence and the response, dated 7 November, which indicated that an updated EM was being prepared, can be found at **Appendix B**.

20. The Committee also agreed to inform Legal Services and the Assembly's Research and Information Service of its interest in the proposed replacement EU act.

The Committee's Decision on Whether to Hold an Inquiry

21. The Committee met on 9 January 2025 to decide whether or not to conduct an inquiry into the *published* EU act: Regulation (EU) 2024/3115.
22. 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 old Regulations, which it seeks to amend or replace. The Committee noted that the legal advice indicated the changes in the published replacement act were not significantly different in content or in scope from the EU instruments it amends.
23. 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: examining all the evidence gathered as part of its consideration of the proposed EU act; considering an [updated EM](#) on the published EU act which was received from the UK Government on 9 January 2025; considering an updated assessment of impact provided by DAERA; and listening to evidence from DAERA officials.
24. The evidence gathered as part of the Committee's consideration of the proposed replacement EU act, the updated assessment of impact, and the updated EM can be found at **Appendix B**. The Hansard of the evidence session can be found at **Appendix C**.
25. Having had regard to whether it appears likely that Regulation (EU) 2024/3115:
 - significantly differs (in whole or in part) from the content or scope of the EU instruments 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

26. 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.
27. 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 16 December 2024, and therefore ends on 16 February 2025.
28. 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**.
29. 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. Additionally, the correspondence noted the updated EM received by the Committee and welcomed any further information the UK Government could provide in relation to these matters. The UK Government’s response, dated 22 January 2025, can be found at **Appendix B**.
30. At this meeting, the Committee also agreed to seek substantive discussion and engagement with the relevant Northern Ireland department - DAERA.

Therefore, it requested that departmental officials attend the Committee meeting on 16 January 2025, to give oral evidence.

31. 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.
32. A survey asking for views on the impact of the replacement EU act was launched on 10 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.
33. Departmental officials 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**. A written response from DAERA to queries raised by Members during this session was received on 23 January 2025, and this can be found at **Appendix B**.
34. At its meeting on 23 January 2025, the Committee considered the responses to its Citizen Space survey. Two responses were received, and these can be found at **Appendix D**.
35. 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.
36. At its meeting on 23 January 2025, the Committee agreed its Inquiry report and that it should be published.

The Committee's Conclusions

37. 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.
38. 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 instruments 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 changes in the amending Regulation were not significantly different in content or in scope from the EU instruments it amends.
39. **Having considered its commissioned legal advice, the Committee concluded that the replacement EU act does not significantly differ from the content or scope of the EU instruments which it amends.**
40. 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 evidence received from the UK Government, written and oral evidence from DAERA officials, and the responses to its Citizen Space survey.
41. 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.
42. **Having considered the evidence received from the UK Government, the Department for Agriculture, Environment and Rural Affairs, and responses 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

43. Having reached its conclusions, the Committee's Inquiry report will be issued to all Members of the Legislative Assembly for further consideration.
44. The Committee's Inquiry report will also be issued to the Committee for 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 – 12 September 2024](#)

[Minutes of Proceedings – 24 October 2024](#)

[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:

Consideration of the proposed EU Act:

[Department of Agriculture, Environment and Rural Affairs Initial Assessment of Impact on the proposed EU act – 7 October 2024](#)

[UK Government Explanatory Memorandum on the proposed EU act – 6 February 2024](#)

[Correspondence published by the House of Lords European Affairs Sub-Committee on the Windsor Framework Session 2023-24](#)

[Response from the UK Government - 7 November 2024](#)

Consideration of the published EU Act:

[Department of Agriculture, Environment and Rural Affairs Assessment of Impact on the published EU act – 2 January 2025](#)

[UK Government Explanatory Memorandum on the published EU act – 9 January 2025](#)

[Response from the UK Government – 23 January 2025](#)

[Response from the Department of Agriculture, Environment and Rural Affairs – 23 January 2025](#)

Appendix C: Minutes of Evidence

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

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

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

Appendix D: Consultation Responses

View responses to the Committee's consultation:

[RaISe – Potential Witness List on the published EU act](#)

[Consultation responses on the published EU act](#)

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Windsor Framework Democratic Scrutiny Committee

Marie Austin, Committee Clerk

Northern Ireland Assembly

Parliament Buildings

Ballymiscaw

Stormont

Belfast BT4 3XX

Telephone: 028 90 520302

Email: windsorframework.committee@niassembly.gov.uk

Twitter: @NIA_DSC