



House of Commons
European Scrutiny Committee

**Sixth Report of Session
2023–24**

Documents considered by the Committee on 17 April 2024

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 17 April 2024*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

| | |
|------|--|
| AFSJ | Area of Freedom Security and Justice |
| CFSP | Common Foreign and Security Policy |
| CSDP | Common Security and Defence Policy |
| ECA | European Court of Auditors |
| ECB | European Central Bank |
| EEAS | European External Action Service |
| EM | Explanatory Memorandum (submitted by the Government to the Committee)* |
| EP | European Parliament |
| EU | European Union |
| JHA | Justice and Home Affairs |
| OJ | Official Journal of the European Communities |
| QMV | Qualified majority voting |
| SEM | Supplementary Explanatory Memorandum |
| TEU | Treaty on European Union |
| TFEU | Treaty on the Functioning of the European Union |

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday and is

also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in “Remaining Business”: www.parliament.uk/escom. The website also contains the Committee’s Reports.

*Explanatory Memoranda (EMs) can be downloaded from GOV.UK: <https://www.gov.uk/government/collections/explanatory-memoranda-on-eu-documents>. EMs can be searched by Council or Commission reference number. Letters from the Committee and those issued by Ministers can be found in the correspondence section of the Committee’s website: <https://committees.parliament.uk/committee/69/european-scrutiny-committee/publications/3/correspondence/>.

Explanatory Memoranda and letters published before 31 March 2022 can be found on the National Archives website — <https://webarchive.nationalarchives.gov.uk/search/> — by restricting searches to <https://europeanmemoranda.cabinetoffice.gov.uk/>

Primary briefs are documents that are detailed as chapters, secondary briefs are listed in the final chapter of the report.

Staff

The staff of the Committee are Ravi Abhayaratne (Committee Operations Assistant), Hannah Barlow (Committee Specialist), Joanne Dee (Deputy Counsel for European and International Law), Nat Ireton (Committee Operations Officer), Danniella Kinder (Committee Specialist), Daniel Moeller (Committee Operations Manager), Indira Rao MBE (Counsel for European and International Law), Emily Unwin (Deputy Counsel for European and International Law), Dr George Wilson (Clerk).

Contacts

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1 Windsor Framework: Bananas¹

Overview

1.1 Documents (a) (42255) and (b) (42256) concern a Delegated Regulation and Implementing Regulation which relate to marketing standards for the fruit and vegetable sectors. Both the Delegated Regulation and the Implementing Regulation amend legislation that is listed in Annex 2 of the Windsor Framework, so the Regulations will apply in Northern Ireland (NI) in accordance with the terms of the Windsor Framework. Both Regulations will apply from 1 January 2025.²

Document (a) (42255)

1.2 Document (a) (42255) concerns Commission Delegated Regulation (EU) 2023/2429 which combines legislation on fruit and vegetables and repeals formerly separate pieces of EU legislation. It also includes alterations intended to improve food information to consumers, reduce food waste, and update marketing standards based on recently revised United Nations Economic Committee for Europe (UNECE) standards.³

1.3 The [Explanatory Memorandum \(EM\)](#) from the Department for Environment, Food and Rural Affairs lays out the changes implemented by 42255 which includes:

- an indication of country of origin for ripened bananas and specified dried fruit;
- minor changes to the strawberry specific marketing standards, which will align them with UNECE standards;
- a specific marketing standard for citrus fruit which covers a wider range of citrus fruit varieties than previously specified;
- a new requirement for traders importing the newly specified citrus into Northern Ireland from non-EU countries to pre-notify and acquire a certificate of conformity;

1 (a) [COMMISSION DELEGATED REGULATION \(EU\) 2023/2429 of 17.8.2023 supplementing Regulation \(EU\) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector, and repealing Commission Regulation \(EC\) No 1666/1999 and Commission Implementing Regulations \(EU\) No 543/2011 and \(EU\) No 1333/2011; C\(2023\)5448; Legal base: Article 75\(2\), 76\(4\) and 89 of Regulation \(EU\) No 1308/2013; Department for Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 42255.](#)

(b) [COMMISSION IMPLEMENTING REGULATION \(EU\) 2023/2430 of 17.8.2023 laying down rules concerning checks on conformity to marketing standards for the fruit and vegetables sector, certain processed fruit and vegetable products and the bananas sector; C\(2023\)5449; Legal base: Article 90a\(6\), first subparagraph, point \(c\), and Article 91, first paragraph, points \(b\), \(f\) and \(g\), of Regulation \(EU\) No 1308/2013; Department for Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 42256.](#)

2 The exception to this is Article 5(1), point (c), which applies the same day of entering into force of the Regulation. The documents fall within the scope of the Stormont Brake but the time period for the use of the Stormont Brake has now passed.

3 The UK is a [member](#) of the UNECE.

- updated marketing standards for green and unripened bananas which includes an expansion of the variety of bananas covered by the marketing standard to align with the ‘Codex Alimentarius’ international standard;⁴
- minor changes to the standard itself to better align with the Codex standard;
- the inclusion of bananas from the Canary Islands in a list of EU production areas exempt from minimum size requirements; and
- a provision to remove the requirement to present bananas in clusters of at least four, with these two latter changes different from the Codex standard.

Document (b) (42256)

1.4 Document (b) (42256) concerns Commission Implementing Regulation (EU) 2023/2430 which consolidates rules concerning checks on conformity with market standards, which previously existed in Commission Implementing Regulation No 543/2011 of 7 June 2011 and Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011 for fruit and vegetables and green bananas respectively.⁵

1.5 The Implementing Regulation will bind enforcement authorities in NI, while enforcement authorities Great Britain (GB) will continue to apply the previous EU legislation (543/2011 and 1333/2011) that was previously applicable across the entirety of the UK. The preamble to the Implementing Regulation suggests that the EU is creating detailed rules on how selected checks based on a risk analysis should be done. However, according to the Government’s EM, document 42256 brings no substantive differences to the previous legislation for enforcement authorities and would have “negligible practical impact”.

The Government’s Position

1.6 In his EM the Minister of State for Food, Farming and Fisheries (Rt Hon Mark Spencer MP) acknowledges that “there will be technical differences between UK & EU standards” as a result of the EU’s new rules but states that “this will have a minimal impact on businesses and consumers.” The EM indicates that the adopted alterations to the various fruit and vegetable standards are “minor and in line with the latest UNECE or Codex Alimentarius quality standard.” The Government’s EM also states that the changes would not have a significant impact or lead to practical difficulties in the UK “as there

4 The Food and Agriculture Organization of the United Nations [states](#) that “The Codex Alimentarius, or “Food Code”, is a collection of international standards, guidelines and codes of practice to protect the health of consumers and ensure fair practices in the food trade. Codex standards are used worldwide to harmonize national food safety regulations and are recognized in the WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures as the international reference point for food safety.” The UK is a [member](#) of the Codex Alimentarius Commission.

5 The full titles of the legislation are [Commission Implementing Regulation \(EU\) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation \(EC\) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors and Commission Implementing Regulation \(EU\) No 1333/2011 of 19 December 2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector \(codification\).](#)

is little direct trade from non-EU countries into NI for these citrus species and previous minor changes in EU standards such as those made by 2021/1890 have not caused issues in NI.”

1.7 The EM also notes that, under the Windsor Framework, GB marketing standards can apply for goods that meet the criteria to be moved through the NI Retail Movement Scheme via the agrifood green lane and placed on the NI market. NI business also have “unfettered access” to the GB market.

1.8 The EM states that “if DEFRA [the Department for Environment, Food and Rural Affairs] considers it appropriate to update requirements in line with international standards we shall do so” and it that it will work with the Devolved Administrations to review relevant legislation applicable in GB. The Minister adds that if it is deemed appropriate to amend legislation in England, it will consider whether to consult external stakeholders on those changes.

The Committee’s Position

1.9 We note that the legislation will create further divergence between NI and GB in respect of fruit and vegetable standards and that, while the Government do not believe this will create a practical challenge, the UK Government has not consulted businesses on whether this divergence will cause any challenges for them or their consumers in NI.

Actions

1.10 We are reporting document (a) to the House as politically important and writing to the Secretary of State for Environment, Food and Rural Affairs.

Letter from the Chair to the Minister of State for Food, Farming and Fisheries (Rt Hon Mark Spencer MP)

We considered your Explanatory Memorandum (EM) on the above proposals at our meeting of 17 April 2024. We request answers to the following questions:

- Is the Government content for new EU rules concerning bananas and other fruits and vegetables to apply in NI?
 - If not, what steps is the Government taking to prevent the application of these new EU rules?
- Is the Government content that, under these EU changes, bananas will have to be sold with an indication of their country of origin in NI but not GB? As another example, will the Government align with new EU rules allowing bananas to be presented in clusters of less than four?
- Under what timeline and process will DEFRA decide whether to update UK standards on fruit and vegetables in line with the changes by the EU to better adhere to UNECE and Codex Alimentarius standards to which the UK has also signed up?

- Why has the Department not consulted with relevant external stakeholders in NI in respect of the impact of upcoming regulatory divergences on fruit and vegetables, particularly those that are different from the Codex standard?
- What assessment has your Department made of the cost implications changes in bananas labelling rules will have in NI and have you spoken to industry and consumer bodies about the EU's updated rules?
- What assessment has the Department made of the impact of greater divergence of standards for fruit and vegetables on (a) businesses and (b) trade and supply chains between the EU and UK?

We look forward to further information from you as your assessment evolves, notably around the implications for divergence between GB and NI.

We ask that you respond to us within one month.

2 Windsor Framework: Tumble dryers⁶

Overview

2.1 Documents (a) (42245) and (b) (42246) concern changes to the EU’s Ecodesign Regulation and the Energy Labelling Regulation regarding tumble dryers, both which supplement legislation that is listed in Annex 2 to the Windsor Framework.

Document (a) 42245

2.2 On 17 November 2023, the EU adopted [Commission Regulation \(EU\) 2023/2533 \(The Ecodesign Regulation\)](#), implementing [Directive 2009/125/EC](#) which lays down ecodesign requirements for the placing on the market or the putting into service of electric mains-operated and gas-fired household tumble dryers. It also applies to built-in household tumble dryers, multi-drum household tumble dryers and electric mains-operated household tumble dryers that can also be powered by batteries.

2.3 The Ecodesign Regulation sets out new and updated minimum requirements for household tumble dryers placed on the EU market, including:

- i) household tumble dryers must now include an eco-programme, which should be set as the default programme or available for direct selection;
- ii) the energy efficiency index must not be higher than 85;
- iii) the condensation efficiency of condenser tumble dryers must not be lower than 80%;
- iv) household tumble dryers must also now have an off-mode or a standby mode, or both. The power consumption in off-mode and standby mode must not exceed 0.50 W, with this reducing in off-mode further from 2027;
- v) new rules on the availability of spare parts and access to repair and maintenance information; and
- vi) user and installer instructions should also be provided in the form of a user manual.

2.4 The Commission will review the operation of these changes in light of technological progress and will present the results of that review, including if appropriate, a draft revision proposal to the ‘Consultation Forum’ by 12 December 2029.

6 (a) Proposal for implementing [Directive 2009/125/EC](#) of the European Parliament and of the Council with regard to ecodesign requirements for household tumble dryers, amending [Commission Regulation \(EU\) 2023/826](#), and repealing Commission Regulation (EU) No 932/2012; COM number: C(2023)7671; Legal base: Article 15 of the Ecodesign Directive; Department for Energy Security and Net Zero; Devolved Administrations: Not consulted; ESC number: 42245.

(b) Proposal for Commission [Delegated Regulation \(EU\) 2023/2534](#) of 13 July 2023 supplementing [Regulation \(EU\) 2017/1369](#) of the European Parliament and of the Council with regard to energy labelling of household tumble dryers and repealing Commission [Delegated Regulation \(EU\) No 392/2012](#); COM number: C(2023)4741; Legal base: Article 16 of Regulation (EU) 2017/1369; Department for Energy Security and Net Zero; Devolved Administrations: Not consulted; ESC number: 42246.

Document (b) 42246

2.5 In addition, on 13 July 2023, the EU adopted [Commission Delegated Regulation \(EU\) 2023/2534](#) supplementing [Regulation \(EU\) 2017/1369](#) regarding energy labelling of household tumble dryers and repealing [Commission Delegated Regulation \(EU\) No 392/2012](#). This Delegated Energy Labelling Regulation is intended to complement the Ecodesign Regulation by providing information to consumers with the aim of encouraging them to purchase products that have a better energy performance than the minimum, by:

- i) including a new definition of ‘guarantee’,⁷ following the same approach as the Regulation on energy labelling for washing machines;
- ii) the energy efficiency classes in the energy label have been adapted to provide for an empty A class and a rescaling of the rest of the classes from B to G;
- iii) the new label will also display a new noise emission scale, and the condensation efficiency scale is modified;
- iv) removing the icon of the energy powering the tumble dryer;
- v) adapting the measurement methods to weighing between full and partial loads and the delivery of the results per cycle instead of per year;
- vi) the information on the product information sheet is also adapted to the information included in the new label;
- vii) Annexes VII and VIII will replace Annex IV in [Regulation \(EU\) No 392/2012](#) and will provide requirements about the information that needs to be displayed in distance selling; and
- viii) the principles applicable to the verification procedure remain, although there will be a new validity criteria to ensure that the adequate humidity level is reached at the end of a test.

The Government’s Position

2.6 In his [Explanatory Memoranda](#) (EM) on the proposal, the Minister for Energy Efficiency and Green Finance (Lord Callanan) confirmed that the new EU Regulations will apply in Northern Ireland (NI) in accordance with the Windsor Framework and products meeting these EU rules will have access to the Great Britain (GB) market.⁸

2.7 The Minister refers to the Department for Business, Energy and Industrial Strategy’s published [Energy-related Products Policy Framework](#) November 2021 which sets out how the Government plans to encourage manufacturers to design products to use less energy and other resources to help achieve Carbon Budgets 5 and 6 and to save consumers money on their energy bills.

7 ‘guarantee’ means any undertaking by the dealer or supplier to the consumer to either reimburse the price paid, or replace, repair or handle the household tumble dryer in any way if it does not meet the specifications set out in the guarantee statement or in the relevant advertising

8 The documents fall within the scope of the Stormont Brake but the time period for the use of the Stormont Brake has now passed.

2.8 The Minister says that the Department for Energy Security and Net Zero has commissioned research into the impact of UK/EU divergence, which will help provide an evidence base to determine the Government’s response to the new EU energy-related products regulations. The Minister has promised that once this research is completed, he will work with the NI Executive to examine the impacts of divergence on the UK internal market and will update the Committee further on any potential impact.

2.9 The Minister notes that as part of the EU Ecodesign and Energy Labelling Work Plan 2022–24, the Commission was required to review household tumble dryers before the end of 2025. He says that the review was carried out in close cooperation with stakeholders and interested parties from the Union and third countries, and the results of the review were made public and presented to the ‘Consultation Forum’.

2.10 The EU’s own impact assessments revealed that SMEs belonging to the repair and maintenance sector will benefit strongly from its changes due to the impact of the proposed Ecodesign requirements on repairability and ease of disassembly. It is said that not only would new repairers be attracted to the sector but existing ones will also grow.

The Committee’s Position

2.11 We note that the Government’s assessment is at an early stage and that research is underway into the impact of divergence of UK and EU rules in this area on the UK internal market. We therefore look forward to further information in due course.

2.12 We also note that the Government intends to work closely with the NI Executive to examine any impacts highlighted in the EU Commission’s review as part of the EU Ecodesign and Energy Labelling Working Plan 2022– 2024. We look forward to those findings in due course.

Actions

2.13 We are reporting these documents to the House as politically important.

2.14 We have written to the Minister requesting further information.

Letter from the Chair to the Minister for Energy Efficiency and Green Finance (Lord Callanan)

We considered your Explanatory Memorandum on the above proposals at our meeting on 17 April 2024. We look forward to further information from you on these new EU rules as your assessment evolves, notably around the implications of the proposal for regulatory divergence between Great Britain and Northern Ireland.

2.15 When you next write, we ask that you also update us on your progress towards reviewing the findings of the EU Commission’s review into household tumble dryers as part of the EU Ecodesign and Energy Labelling Working Plan 2022–24.

2.16 We ask that you respond to this letter within four months.

3 Documents not considered to be legally and/or politically important

Department for Environment, Food and Rural Affairs

| | |
|-----------------------------------|--|
| (42238) | Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/2031 of the European Parliament and of the Council 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, the use of plant passports and as regards certain reporting requirements for demarcated areas and surveys of pest. |
| — | |
| COM(2023) 661 | |
| (a) (42250); (b) (42251) | Commission Delegated Regulation (EU) .../... of 17.8.2023 amending Regulation (EU) No 1308/2013 of the European Parliament and of the Council, as regards marketing standards for eggs |
| — | |
| (a) C(2023) 5508; (b) C(2023)5510 | Commission Implementing Regulation (EU) .../... of 17.8.2023 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for eggs. |
| (42254) | Commission delegated regulation (EU) / amending annex IV to Regulation (EU) No 576/2013 of the European Parliament and of the Council as regards the validity requirements for the rabies antibody titration tests for dogs, cats and ferrets. |
| — | |
| COM(2023) 7658 | |

Formal Minutes

Wednesday 17 April 2024

Members present:

Sir William Cash, in the Chair

Jon Cruddas

Mr David Jones

Gavin Robinson

Greg Smith

Document scrutiny

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraph 1.1 to 3 read and agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Adjournment

Adjourned till Wednesday 24 April 2024 at 1.45 pm.

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

Current membership

[Sir William Cash MP](#) (Conservative, Stone) (Chair)

[Tahir Ali MP](#) (Labour, Birmingham, Hall Green)

[Jon Cruddas MP](#) (Labour, Dagenham and Rainham)

[Geraint Davies MP](#) (Labour, Swansea West)

[Allan Dorans MP](#) (Scottish National Party, Ayr Carrick and Cumnock)

[Richard Drax MP](#) (Conservative, South Dorset)

[Mr Marcus Fysh MP](#) (Conservative, Yeovil)

[Dame Margaret Hodge MP](#) (Labour, Barking)

[Adam Holloway MP](#) (Conservative, Gravesham)

[Dame Andrea Jenkyns MP](#) (Morley and Outwood)

[Mr David Jones MP](#) (Conservative, Clwyd West)

[Stephen Kinnock MP](#) (Labour, Aberavon)

[Craig Mackinlay MP](#) (Conservative, South Thanet)

[Gavin Robinson MP](#) (Democratic Unionist Party, Belfast East)

[Greg Smith MP](#) (Conservative, Buckingham)