

# **EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL**

5960/22

[COM (2022) 23 FINAL]

## **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1025/2012 as regards the decisions of the European standardisation organisations concerning European standards and European Standardisation deliverables**

Submitted by the Department for Business, Energy and Industrial Strategy on 10 March 2022.

### **SUBJECT MATTER**

1. The proposal aims to amend Regulation (EU) No 1025/2012. Regulation (EU) No 1025/2012 - also known as the Standardisation Regulation. Although Regulation (EU) No 1025/2012 was not retained in the GB statute book at the end of the transition period (the domestic version was revoked under EU Exit legislation), it is included in Annex 2 of the Northern Ireland Protocol. This amending regulation, if adopted, will require implementation in Northern Ireland.
2. The Regulation provides a legal framework allowing the European Commission to request European Standardisation Organisations (ESOs) to draft standards and standardisation deliverables for goods and services in support of EU policies and EU law. It also provides for EU support to the functioning of the European Standardisation System (ESS).
3. The Regulation gives a central role to CEN, CENELEC and ETSI, the three ESOs that are European regional private sector bodies - not EU bodies. These are the only entities allowed to develop European standards in support of EU legislation.
4. The proposed amendment to the Regulation seeks to improve the governance in the ESS. It prescribes that mandates, at the request of the Commission to the ESOs, must be handled by national delegates – the national standardisation bodies – from the EU and EEA Member States. The intention is that this will avoid any undue influence of actors from outside the EU and EEA in the decision-making processes during the development of standards for key areas, for example cybersecurity standards. Alongside its Proposal, the Commission calls on the ESOs to modernise their governance structures and will launch a peer review process among Member States and national standardisation bodies to achieve

better inclusiveness for civil society, users and SMEs-friendly conditions for standardisation.

## SCRUTINY HISTORY

5. The original proposal was EU 11300/11: ***Proposal for a Regulation of the European Parliament and of the Council on European Standardisation and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and of the Council.*** Completed by the Department of Business, Innovation and Skills, EM dated 04/07/2011. The European Scrutiny Committee considered in Report 37 on 13/07/2011 and Report 01 on 09/05/2012 as Politically Interesting in Report 11 on 05/09/2012 cleared. The Lords European Union Committee Chairman's Sift no. 1435 on 12/07/2011 cleared on 20/07/2011
6. A similar document EU 10381/21: ***Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council.*** Completed by BEIS EM dated 21/09/2021. The European Scrutiny Committee considered in Report 12 on 17/11/2021 as Legally and Politically Interesting Not Cleared. The Lords European Affairs Committee Chairman's Sift no. 8 on 14/10/2021 sifted for scrutiny to the Protocol on Ireland/Northern Ireland Sub-Committee.

## MINISTERIAL RESPONSIBILITY

7. The Secretary of State for the Department for Business, Energy and Industrial Strategy has responsibility for product safety standards and HMG relationship with the British Standards Institution.

## INTEREST OF THE DEVOLVED ADMINISTRATIONS

8. European standardisation in relation to goods is a reserved matter under the UK's devolution settlements. The Devolved Administrations have been notified of this Explanatory Memorandum. As the Standardisation Regulation is included in Annex 2 of the Northern Ireland Protocol, any amendments will need to be implemented in Northern Ireland.

## **LEGAL AND PROCEDURAL ISSUES**

- i. Legal Base – Article 114 of the Treaty on the Functioning of the European Union (approximation of laws)
- ii. Voting Procedure – ordinary legislative procedure
- iii. Timetable for adoption and implementation – The Regulation would enter into force on the twentieth day following its publication in the Official Journal. It is intended to apply 6 months from the date of its entry into force, to enable the European Standards Organisations – where necessary – to adapt their internal rules of procedure.

## **POLICY IMPLICATIONS**

9. The European Standards Organisations are private organisations. Approximately 80% of the standards they produce are unrelated to regulations and are driven by stakeholder demand. The remaining 20%, commissioned by the EC, allow manufacturers to claim a “presumption of conformity” with regulations.
10. The proposed amendments to 1025/2012 affect the governance of the European Standards Organisations when responding to EC requests to develop a standard to support a regulation. They do not change the content of existing essential requirements within existing GB or EU product regulations - which manufacturers must meet in order to place a product on the market.
11. Although Regulation (EU) No 1025/2012 was not retained in the GB statute book at the end of the transition period (the domestic version was revoked under EU Exit legislation), its provisions still apply to Northern Ireland under the Protocol.
12. The British Standards Institution (BSI) is the UK’s national standardisation body so should not be unduly affected by these new provisions. They are notified under article 27 of Regulation (EU) No 1025/2012 as the national standardisation body for Northern Ireland.
13. The proposed amendment should therefore have no impact on Northern Ireland nor does it result in the divergence of Regulations between Northern Ireland and GB.

## **CONSULTATION**

14. There has been no consultation on this change. In accordance with the Northern Ireland Protocol, the changes made by this Regulation will be automatically applicable in NI.

## **FINANCIAL IMPLICATIONS**

15. There is no specific information available on the financial impact of these changes.

A handwritten signature in blue ink, appearing to read 'Paul Scully', is centered on the page.

**PAUL SCULLY MP**

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Minister for London

Department for Business, Energy and Industrial Strategy