EXPLANATORY MEMORANDUM TO

THE BATTERIES (PLACING ON THE MARKET) (NORTHERN IRELAND) REGULATIONS 2026

2026 No. 1053

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Mary Creagh, CBE, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Nicola Hopley, Deputy Director for Circular Economy Growth Plan, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Joe Minns at the Department for Environment, Food and Rural Affairs can be contacted by email at the following address with any queries regarding the instrument: batteries@defra.gov.uk. Alternatively, the department can be contacted by telephone: +44 (0) 3459 335577.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument relates to implementation of Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries[1] which applies in Northern Ireland ("EU Batteries Regulation"). This instrument provides for the enforcement of the placing on the market obligations established under the EU Batteries Regulation, and introduces offences for a failure to meet those obligations, and penalties attached to those offences. This instrument also makes provision for the CE marking to be accompanied by the UK(NI) indication for batteries placed on the market or put into service in Northern Ireland where a UK notified body has carried out the mandatory third-party conformity assessment, designates the Secretary of State as the authority responsible for notified bodies and provides for the appeal of decisions made by notified bodies to the Secretary of State.

[1] Full title: Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument varies between provisions. Parts 1, 3, 4, 6 and 7 extend to England and Wales, Scotland and Northern Ireland. Parts 2, 5 and 9 extend to Northern Ireland only. Part 8, which covers amendment of other secondary legislation, has the same extent as the provision amended.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is largely Northern Ireland. Provisions relating to notified bodies in Parts 3, 4 and 6 also have effect in England, Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 The EU Batteries Regulation replaced the previous 2006 Batteries Directive[2]. The 2006 Directive was transposed into UK law in two stages with the placing on the market requirements implemented by the Batteries and Accumulators (Placing on the Market) Regulations 2008[3] The waste requirements were implemented by the Waste Batteries and Accumulators Regulations 2009[4].

5.2 Article 5(4), in conjunction with Article 13(3) of the Windsor Framework, provides that the EU law listed in Annex 2 to the Windsor Framework, including that law as amended or replaced, will apply to and in the UK in respect of Northern Ireland. Consequently, the EU Batteries Regulation has applied in Northern Ireland from 18 February 2024. Whilst the obligations established under that regulation apply directly in Northern Ireland, an enforcement, offence and penalty regime is required to fully implement those obligations, as well as a limited number of additional provisions to reflect the enhanced scope of the EU Regulation. This instrument implements those provisions in relation to the placing on the market requirements of the EU Batteries Regulation in Northern Ireland.

5.3 The former requirements of the placing on the market provision of the 2006 Batteries Directive were implemented in Northern Ireland through the Batteries and Accumulators (Placing on the Market) Regulations 2008 which applied across the UK. The EU Batteries Regulation which replaces the 2006 Batteries Directive has more extensive placing on the market requirements including measures designed to promote better environmental outcomes, safety and availability of information.

5.4 Although the breadth of placing on the market requirements has increased, the approach to enforcement of those requirements is intended to be consistent. The instrument provides for the enforcement powers under the Market Surveillance (Northern Ireland) Regulations 2021[5] to apply. New offences have been created in line with the new requirements, with as before penalties attached to offences varying according to the severity of the offence.

[2] Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC
[3] SI 2008 No 2164
[4] SI 2009 No 890
[5] SI 2021 No 858

6. Legislative and Legal Context

How has the law changed?

6.1 The EU regulatory framework for batteries and waste batteries was previously set out in the 2006 Batteries Directive. The placing on the market elements of the 2006 Directive were transposed into UK law by the Batteries and Accumulators (Placing on the Market) Regulations 2008 which was made under section 2(2) of the European Communities Act 1972 (ECA).

6.2 On 12 July 2023, the EU Batteries Regulation was adopted by the EU and subsequently entered into force on 17 August 2023. The EU Batteries Regulation amends Directive 2008/98/EC and Regulation (EU) 2019/1020 and repeals Council Directive 2006/66/EC. The EU Batteries Regulation applied in Northern Ireland from 18 February 2024 save for Articles 11, 17 and Chapter VI. Article 17 and Chapter VI has applied from 18 August 2024 and Article 11 is set to apply after 18 February 2027.

6.3 Regulation 19(1) of this instrument revokes the Batteries and Accumulators (Placing on the Market) Regulations 2008 in respect of Northern Ireland, with saving provisions under regulation 19(2), covering capacity labelling and appliances into which batteries can be placed, until the EU Batteries Regulation requirements in this area apply. Regulation 20 amends the Batteries and Accumulators (Placing on the Market) Regulations 2008 to reflect the changed Great Britain extent.

Why was this approach taken to change the law?

6.4 Under the terms of the Windsor Framework, the EU legislation that applies in Northern Ireland is listed in Annex 2 to that Framework and includes Council Directive 2006/66/EC. Where listed EU law is amended or replaced the legislation that replaces the listed law applies in its stead, here the EU Batteries Regulation. The EU Batteries Regulation is directly applicable EU law, which by virtue of section 7A of the EU (Withdrawal) Act 2018 applies in Northern Ireland and forms part of domestic law.

6.5 This instrument is being made under section 8C of, and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018. It is being made to:

a) Require the UK(NI) indication to accompany the CE mark where batteries are placed on the market or put into service under a certificate of conformity or approval decision issued by a UK notified body.

b) Make the Secretary of State the designated authority for notified bodies under Article 22 of the EU Batteries Regulation.

c) Make for provision for appeals to be made to the Secretary of State against decisions of notified bodies.

d) Provide for the enforcement powers under the Market Surveillance (Northern Ireland) Regulations 2021 to apply to the enforcement of the new regulations.

e) Establish offences for breaches of the placing on the market requirements of the EU Batteries Regulation, and penalties for those offences.

f) Make revocation, saving and amendment provisions with respect to Northern Ireland within the Batteries and Accumulators (Placing on the Market) Regulations 2008.

g) Amend the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Specification) Order 2004 to specify to new regulations for the purposes of Part 9 of the Enterprise Act 2002.

h) Make consequential amendments to assimilated law, Commission Regulation (EU) No 1103/2010, so it reflects the application of the EUBR in Northern Ireland. [6].

7. Consultation

Summary of consultation outcome and methodology

7.1 Defra ran a stakeholder workshop in December 2025 followed by further targeted engagement in early 2026 covering the measures to be taken under the SI. This included writing to 182 stakeholders with interests and operations across the batteries lifecycle in January 2026 setting out the proposed offences and penalties and inviting comments. Only 1 response was received from a trade body. The respondent's organisation operates in NI and agreed with the rationale behind the penalty groups, but felt it was outside of their scope of experience to comment on the allocation of Articles to penalty groups and the proportionality of the proposed penalties. The limited number of responses suggests that concerns related to this SI are low and stakeholders are content with the approach taken. This is reinforced by continued extensive stakeholder engagement on other batteries matters where no concerns relating to this SI have been raised.

7.2 Whilst the matters of this SI are in a reserved policy area, Defra has engaged extensively with the Department of Agriculture, Environment and Rural Affairs (DAERA) on those matters. Defra has also worked closely with the Office for Product Safety & Standards (OPSS), who are part of the Department for Business and Trade, and who currently enforce the existing placing on the market batteries requirements in Northern Ireland. The Secretary of State intends to appoint OPSS to enforce on her behalf under this SI.

8. Applicable Guidance

8.1 Existing guidance setting out the requirements of the Batteries and Accumulators (Placing on the Market) Regulations 2008 is available on gov.uk. This guidance is being updated to reflect the requirements under the EUBR and its application in Northern Ireland.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the cumulative impacts of the measures set out in the SI fall below the £10 million threshold. A De Minimis Assessment is being prepared.

Impact on businesses, charities and voluntary bodies

9.2 There is no significant impact on business, charities or voluntary bodies because this SI largely concerns itself with putting in place offences and penalties in Northern

[6] Commission Regulation (EU) No 1103/2010 of 29 November 2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automative batteries and accumulators.

Ireland to support the placing on the market requirements already established under the EU Batteries Regulation and address issues of non-compliance with those requirements.

9.3 The legislation does impact small or micro businesses. The requirements of the EU Batteries Regulation are designed amongst other things to improve battery safety and environmental performance by setting minimum standards and requirements for batteries placed on the market. It would undermine those aims to exclude a group of those placing batteries onto the market and the EU Batteries Regulation makes no provision for such an exclusion. However, as set out under 9.2 the impact across all groups should be low.

9.4 There is no significant impact on the public sector because this SI is largely concerned with putting in place offences and penalties to support compliance with the placing on the market requirements of the EU Batteries Regulation in Northern Ireland replacing existing offences and penalties in Northern Ireland under the Batteries and Accumulators (Placing on the Market) Regulations 2008. It is anticipated that there will be a limited increase in costs for enforcement in Northern Ireland associated with the increased breadth of placing on the market requirements under the EU Batteries Regulation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Regulation 9 of this instrument places a duty on the Secretary of State to enforce the regulations. Regulation 22 amends the Market Surveillance (Northern Ireland) Regulations 2021, providing for the powers of enforcement under those regulations to apply to the enforcement of these regulations and to the EU Batteries Regulation requirements.

12. European Convention on Human Rights

12.1 Mary Creagh CBE, Parliamentary Under-Secretary of State, has made the following statement regarding Human Rights:
"In my view the provisions of the Batteries (Placing on the Market) (Northern Ireland) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under section 8C of, and paragraph 21 of Schedule 7 to the European Union Withdrawal Act 2018 and therefore relates to the withdrawal of the United Kingdom from the European Union. Mary Creagh CBE, Parliamentary Under-Secretary of State, has made, below, the relevant statements under the 2018 Act.

Appropriateness statement

13.2 Mary Creagh, CBE, Parliamentary Under-Secretary of State has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Batteries (Placing on the Market) (Northern Ireland) Regulations 2026 does no more than is appropriate."

This is the case because: these regulations put in place the minimum requirements consistent with meeting the obligations established under the EU Batteries Regulation in Northern Ireland.

Good reasons

13.3 Mary Creagh, CBE, Parliamentary Under-Secretary of State has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018.

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

These are: the UK is legally required under the Windsor Framework to implement the requirements of the EU Batteries Regulation in Northern Ireland.

Criminal offences

13.4 Mary Creagh, CBE, Parliamentary Under-Secretary of State has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018.

"In my view there are good reasons for the creation of criminal offences and for the penalties in respect of those in The Batteries (Placing on the Market) (Northern Ireland) Regulations 2026."

These are: The UK is required to put in place the means of enforcing against the obligations established directly in Northern Ireland under the EU Batteries Regulation. This instrument achieves that.