

**From the Office of the Minister
CONOR MURPHY MLA**



Mr Phillip Brett MLA
Committee for the Economy Chair
Northern Ireland Assembly

Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD
02890 529333
Private.Office@economy-ni.gov.uk

By email: phillip.brett@mla.niassembly.gov.uk
cc committee.economy@niassembly.gov.uk
peter.mccallion@niassembly.gov.uk

Our Ref: EXEC-1012-2024
Date: 18 November 2024

Phillip a chara

Product Regulation and Metrology Bill – Consent Request

Lord Leong, Minister at the Department for Business and Trade wrote to me on the 4th September to advise that he had introduced the Product Regulation and Metrology Bill (the bill) in the House of Lords the same day. There was no substantive engagement with me or my officials ahead of introduction and an agreement in principle was not sought. I am currently unable to support a legislative consent request due to several outstanding concerns.

The most significant issues are;

- Conferring broad non-concurrent powers on the Secretary of State (SoS) to make regulations in areas of devolved competence;
- Other departmental interests not being considered. For example, the bill confers powers on the SoS to make regulations related to environmental impacts likely of interest to the Department of Agriculture, Environment and Rural Affairs (DAERA) and the broad definition of product allows regulations to be made in areas where other departments have competence for many products. Examples may include:
 - DAERA, fertilisers and chemicals,
 - Department for Infrastructure, vehicle type approvals,
 - Department of Justice – firearms and explosives.

Other departments may also be impacted.

On 3rd October I spoke with Lord Leong about these issues and set out my concerns in writing after. Many of those concerns are shared by Scottish and Welsh ministers and were also raised at 2nd Reading of the Bill in the House of Lords on 8th October.

Lord Leong has now committed to engagement to address these concerns, and my officials will be leading on this.

As there are unresolved issues, I am not seeking Executive agreement to progress a legislative consent motion at this time. This letter and briefing paper are intended to update you on developments and provide an opportunity for the committee to consider ahead of a Memorandum being submitted.

I have attached a briefing paper (**Annex A**) for review but have not included a consent motion as I am currently unable to support. Also attached is a copy of the bill (**Annex B**) and explanatory notes (**Annex C**).

I will provide a further update, including a Legislative Consent memorandum with a consent motion and any amended bill with a formal request for the committee to consider once my concerns are resolved.

If you require further information, please contact: Mark McGregor;
mark.mcgregor@economy-ni.gov.uk.

Is mise le meas

A handwritten signature in brown ink, reading 'Conor Murphy'.

CONOR MURPHY MLA
Minister for the Economy

BRIEFING PAPER

Product Regulation and Metrology Bill

Background

1. The Product Regulation and Metrology Bill ('the Bill') was introduced in the House of Lords on 4th September 2024. The Department for Business and Trade (DBT) are seeking legislative consent for devolved provisions within the Bill.
2. The latest version of the Bill can be found at:

<https://bills.parliament.uk/bills/3752/publications>

Summary of the Bill and its policy objectives

3. The United Kingdom (UK)'s product safety and metrology framework is derived from European Union (EU) law and has developed over the past four decades, whilst the UK was a member of the EU. On leaving the EU, the UK set up an independent UK regime, which the Government considers needs to be able to adapt to new technologies such as Artificial Intelligence (AI), as well as to reflect the shift in both what consumers buy and how they buy it.
4. The Bill intends to ensure the UK is better placed to address modern day safety issues to protect consumers, harness opportunities that deliver economic growth, and ensure a level playing field for responsible businesses operating online or on the high street. The Bill is intended to enable the UK to maintain high product standards, supporting businesses and economic growth, by allowing the UK Parliament the power to update relevant laws.
5. The Bill aims to support economic growth, provide regulatory stability and deliver more protection for consumers by:
 - responding to new product risks and opportunities to enable the UK to keep pace with technological advances, such as AI, and address issues such as incidents from ingesting button batteries and fire risks associated with e-bikes.
 - identifying new and emerging business models in the supply chain, ensuring the responsibilities of those involved in the supply of products, such as online marketplaces are clear and modernised for increasingly complex supply chains, to support consumers' confidence in the products they buy and whom they buy them from.
 - ensuring that the law can be updated to allow a means of recognising new or updated EU product requirements, with the intention of

preventing additional costs for businesses and provide regulatory stability.

- enabling improvements to compliance and enforcement reflecting the challenges of modern, digital borders. This Bill seeks to enable the Government and its regulators to tackle non-compliance and target interventions by allowing greater sharing of data between regulators and market surveillance authorities.
- updating the legal metrology framework, which governs the accuracy of weights and measures for purchased goods. This seeks to give consumers and business confidence in what they are buying and to allow for technological progress, including in support of net zero aims and infrastructure, for example enabling innovation whilst ensuring energy smart meters are accurate in their readings

Provisions which deal with a Devolution Matter

6. Under the Sewel Convention, the UK Parliament does not normally legislate with regard to matters that are within the legislative competence of the Northern Ireland Assembly (NIA) without the consent of the legislature concerned.
7. All the clauses in the Bill have territorial extent and application in the UK and therefore legislative consent has been sought from each of the devolved legislatures. NIA is asked to provide consent for clauses 1 to 11 which includes powers for the SoS to:
 - Make product regulations
 - Make product requirements
 - Enforce product regulations
 - Make metrology regulations
 - Enforce metrology regulations
 - Make regulations in respect of data sharing
 - Make regulations in respect of cost recovery
8. The Scottish Government and Welsh Senedd have both published Legislative Consent Memorandums:
 - [Scottish Parliament - Legislative Consent Memorandum](#)
 - [Senedd Wales - Legislative Consent Memorandum](#)

Reasons for making the Provisions

8. The Bill gives the SoS the power to:
 - make product regulations for the purpose of reducing or mitigating the risks presented by products used or marketed in the UK; ensure those products operate effectively; and ensure they give accurate measurement

readings. Regulations would be able to set 'product requirements', including in relation to the marketing of products through an online marketplace.

- make metrology regulations about the units of measurement that must be used to express quantities. Regulations would be able to make provision about how units are to be calculated and how they should be referred to.
- allow regulations to give relevant authorities powers relating to monitoring and investigating compliance, securing compliance and mitigating the effect of non-compliance with product and metrology regulations.
- provide for the creation of new criminal offences and impose civil sanctions for non-compliance with product and metrology regulations

Reasons for utilizing the Bill rather than an Act of the Assembly

9. The subject of the Bill covers excepted, reserved and transferred matters and it would be excessively complex to extricate the transferred provisions. The existing body of legislation although in the transferred field often already operates on a UK-wide basis and it would for that reason be problematic to legislate for Northern Ireland separately

Consultation

10. There has been no public consultation conducted specifically for the Bill. The previous UK Government conducted a public consultation on the long-term approach to product safety in 2023 but no response was ever published.

11. DBT have provided an Impact Assessment:

<https://bills.parliament.uk/publications/56098/documents/5019>

Human Rights and Equality

12. The Government considers that the Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State (Minister for Legislation) at, has made a statement under section 19(1)(a) of the Human Rights Act 1998 this effect.

Financial Implications

13. The Bill contains enabling powers to make reforms to the UK's product regulation and metrology framework via secondary legislation. The financial implications of the Bill itself are therefore minimal; the resulting secondary legislation may have financial implications for the UK Government in terms of preparing and enforcing regulations under the relevant clauses, and for businesses in terms of adherence to regulations, sanctions for non-compliance, or cost recovery.

Summary of Regulatory Impact

14. The regulatory impact of each of the Bill's provisions will be considered in detail if a decision is taken that the provision should be implemented in the north of Ireland.

Engagement to date with the Committee for the Economy

15. There has been no consultation with the Committee to date. They will be advised through this briefing paper.

Conclusion

16. The view of the Minister for the Economy is that further engagement is required with DBT and Lord Leong on the bill to address my concerns before I can reconsider providing support for a consent request.

Department for the Economy
October 2024

References:

- Draft Bill:
<https://bills.parliament.uk/publications/56103/documents/5027>
- Explanatory Notes:
<https://bills.parliament.uk/publications/56104/documents/5029>
- Delegated Powers Memorandum:
<https://bills.parliament.uk/publications/56126/documents/5044>
- Amendment Paper HL Bill 18 Running list of amendments – 14 October 2024:
<https://bills.parliament.uk/publications/56381/documents/5147>
- Briefing papers:
<https://researchbriefings.files.parliament.uk/documents/LLN-2024-0053/LLN-2024-0053.pdf>
- Impact Assessments:
<https://bills.parliament.uk/publications/56098/documents/5019>
- Lords Hansard:
[https://hansard.parliament.uk/Lords/2024-10-08/debates/90B79649-7D3C-49AB-A82F-B0DA74985428/ProductRegulationAndMetrologyBill\(HL\)](https://hansard.parliament.uk/Lords/2024-10-08/debates/90B79649-7D3C-49AB-A82F-B0DA74985428/ProductRegulationAndMetrologyBill(HL))
- Minutes of Proceedings:
<https://lordsbusiness.parliament.uk/ItemOfBusiness?itemOfBusinessId=144003§ionId=40&businessPaperDate=2024-10-08>

Product Regulation and Metrology Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the [Department], are published separately as —EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

[Name of Minister] has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Product Regulation and Metrology Bill are compatible with the Convention rights.

ENVIRONMENTAL STATEMENTS

[Name of Minister] has made the following statements under section 20(2)(a) and (3) of the Environment Act 2021.

In my view—

(a) the Product Regulation and Metrology Bill contains provision which, if enacted, would be environmental law, and

(b) the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.

NORTHERN IRELAND-GREAT BRITAIN TRADE STATEMENT

[Name of Minister] has made the following statement under section 13C(2)(a) of the European Union (Withdrawal) Act 2018.

In my view the Product Regulation and Metrology Bill does not contain provision which, if enacted, would have a significant adverse effect on trade between Northern Ireland and the rest of the United Kingdom.

Product Regulation and Metrology Bill

[PRE-INTRODUCTION]

CONTENTS

Product regulation

- 1 Product regulations
- 2 Product requirements
- 3 Enforcement of product regulations
- 4 Emergencies

Metrology

- 5 Metrology regulations
- 6 Enforcement of metrology regulations

Supplementary provisions

- 7 Information sharing
- 8 Cost recovery
- 9 Consequential amendment of certain Acts

Final provisions

- 10 Interpretation
- 11 Regulations
- 12 Extent
- 13 Commencement
- 14 Short title

Schedule — Excluded products

[PRE-INTRODUCTION]

A

B I L L

TO

Make provision about the marketing or use of products in the United Kingdom; about units of measurement and the quantities in which goods are marketed in the United Kingdom; and for connected purposes

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Product regulation***1 Product regulations**

- (1) The Secretary of State may by regulations make provision, in relation to the marketing or use of products in the United Kingdom, for the purpose of—
 - (a) reducing or mitigating risks presented by products;
 - (b) ensuring that products operate efficiently or effectively;
 - (c) ensuring that products designed for weighing or measuring operate accurately.
- (2) The Secretary of State may also by regulations make provision, in relation to the marketing or use of products in the United Kingdom, which corresponds, or is similar, to a provision of relevant EU law for the purpose of reducing or mitigating the environmental impact of products.
- (3) But the Secretary of State may not make regulations under subsection (1) or (2) that relate to products listed in the Schedule.
- (4) For the purposes of this Act, a product presents a risk if, when used for the purpose for which it is intended or under conditions which can reasonably be foreseen, it could—
 - (a) endanger the health or safety of persons,
 - (b) endanger the health or safety of domestic animals,
 - (c) endanger property (including the operability of other products), or
 - (d) cause, or be susceptible to, electromagnetic disturbance.
- (5) In this Act—

“electromagnetic disturbance” means any electromagnetic phenomenon which adversely affects the operation of a product;

“marketing” means making available on the market; and related terms are to be interpreted accordingly;

“product” means a tangible item that results from a method of production;

“production” means manufacturing, packaging, labelling or any other process or operation carried out (whether on a large or small scale) which impacts on the character of an item;

“relevant EU law” means –

- (a) Decision 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products, or
- (b) other EU law that has the purpose of harmonising the conditions for the marketing or use of products in the European Union;

“use”, in relation to a product, includes storage, transportation, packaging, labelling or disposal; and related terms are to be interpreted accordingly.

- (6) Sections 2 to 4, 7 to 9 and 11 make further provision about the power conferred by this section.
- (7) Regulations under this section are referred to in this Act as “product regulations”.

2 Product requirements

- (1) Product regulations may make provision about requirements (“product requirements”) that must be met –
 - (a) in relation to products marketed or used in the United Kingdom;
 - (b) in order for products to be marketed or used in the United Kingdom.
- (2) The regulations may include product requirements in relation to –
 - (a) the production, components (whether tangible or intangible), composition or other characteristics of products;
 - (b) the use of products;
 - (c) the marking of products;
 - (d) the marketing of products through an online marketplace;
 - (e) the provision of information (including information about risk) in relation to products to –
 - (i) persons to whom products are marketed or who use products in the United Kingdom;
 - (ii) persons mentioned in subsection (3);
 - (iii) relevant authorities;
 - (f) the making of statements about products;
 - (g) the monitoring, assessment, verification or certification of products;
 - (h) the recording or investigating of complaints;
 - (i) the production or retention of documents or samples;
 - (j) co-operation with relevant authorities;
 - (k) the appointment of authorised representatives.

- (3) The persons on whom product regulations may impose product requirements include—
- (a) a manufacturer of a product or a person carrying out another method of production in relation to a product;
 - (b) a person who markets a product in the United Kingdom;
 - (c) a person who imports a product into the United Kingdom for it to be marketed or used in the United Kingdom;
 - (d) a person who—
 - (i) controls access to an online marketplace,
 - (ii) controls the contents of an online marketplace, or
 - (iii) acts as an intermediary for a person who controls such access or contents;
 - (e) an authorised representative of a person mentioned in paragraphs (a) to (d);
 - (f) a person carrying out monitoring, assessment, verification or certification of a product;
 - (g) a person carrying out activities in relation to the certification or accreditation of a person mentioned in paragraph (f);
 - (h) any other person carrying out activities in relation to a product.
- (4) Product regulations may make provision for or in relation to technical standards relating to product requirements.
- (5) Provision described in subsection (4) may include provision about—
- (a) the persons who may prepare technical standards;
 - (b) the procedure by which, and persons by whom, technical standards may be prepared;
 - (c) the matters that must or may be covered by a technical standard.
- (6) Product requirements may—
- (a) refer to technical standards published by a person specified in the regulations (including standards as amended from time to time), and
 - (b) provide that meeting a particular technical standard creates a presumption of compliance with a particular product requirement.
- (7) Product regulations may provide that a product requirement is to be treated as met if—
- (a) a requirement of relevant EU law specified in product regulations is met, or
 - (b) such a requirement is met and conditions specified in the regulations are also met.
- (8) Before making provision described in subsection (7), the Secretary of State must have regard to the social, environmental and economic impact of making the provision concerned.

3 Enforcement of product regulations

- (1) Product regulations may designate one or more persons as a relevant authority.

- (2) Product regulations may only designate a person under subsection (1) if the person exercises functions of a public nature.
- (3) Product regulations may make provision conferring on a relevant authority one or more of the following functions—
 - (a) monitoring compliance with product regulations;
 - (b) investigating suspected non-compliance with product regulations;
 - (c) securing compliance with product regulations;
 - (d) mitigating the effect of non-compliance with product regulations.
- (4) Product regulations may include provision—
 - (a) conferring power on a relevant authority to appoint inspectors to carry out functions under the regulations;
 - (b) conferring functions on a relevant authority or an inspector, including—
 - (i) power to enter, inspect and search premises;
 - (ii) power to seize and retain products or evidence of non-compliance with product regulations;
 - (iii) power to require a person to retain or provide a document or information;
 - (iv) power to dispose of a product or require a person to dispose of a product.
- (5) Product regulations may not authorise entry into premises used wholly or mainly as a dwelling without a warrant issued by—
 - (a) in England and Wales, a justice of the peace;
 - (b) in Scotland, a sheriff, summary sheriff or a justice of the peace;
 - (c) in Northern Ireland, a lay magistrate.
- (6) Provision described in subsection (3)(c) or (d) may include provision conferring power on a relevant authority by notice to require a person to do or cease to do something, including power to—
 - (a) require a person to warn others of risks presented by a product;
 - (b) require the marking of a product in respect of risks presented by it;
 - (c) prohibit the marketing or use of a product;
 - (d) require the recall of a product or its withdrawal from the market.
- (7) Product regulations may make provision for or in connection with sanctions for—
 - (a) non-compliance with product regulations;
 - (b) non-compliance with a notice issued by a relevant authority under powers conferred by product regulations;
 - (c) obstruction of, or failure to assist or co-operate with, a relevant authority or an inspector;
 - (d) provision of false or misleading information to a relevant authority or an inspector.
- (8) Product regulations may include—

- (a) provision for a relevant authority to accept undertakings relating to compliance with product regulations instead of taking other action;
 - (b) provision for sanctions for non-compliance with such undertakings;
 - (c) provision for the forfeiture of products by court order (or, in Scotland, order of the sheriff).
- (9) Provision described in subsection (7) or (8)(b) may include—
 - (a) provision creating, or widening the scope of, criminal offences;
 - (b) in relation to England and Wales and Northern Ireland, provision for the prosecution by a relevant authority of criminal offences created or widened under paragraph (a);
 - (c) provision conferring power on a relevant authority to impose civil sanctions (including fines).
- (10) Product regulations may make provision about appeals to a court or tribunal.
- (11) Where product regulations contain provision creating a criminal offence, the provision must have the effect that—
 - (a) the offence is—
 - (i) triable summarily only, or
 - (ii) triable summarily or on indictment;
 - (b) a person guilty of the offence is liable on summary conviction—
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months, or to both;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 3 months, or to both;
 - (c) a person guilty of the offence is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

4 Emergencies

- (1) Product regulations may provide for a provision in product regulations to be disapplied, or to apply with modifications, in cases of emergency.
- (2) The disapplication or modification may be made subject to conditions.

Metrology

5 Metrology regulations

- (1) The Secretary of State may by regulations make provision about the units of measurement that are used to express quantities (whether of goods or other things), including provision about—
 - (a) how units of measurement must or may be calculated or determined;
 - (b) how units of measurement must or may be referred to.
- (2) The Secretary of State may also by regulations make provision about—
 - (a) the quantities in which goods must or may be marketed in the United Kingdom, and

- (b) the units of measurement that must or may be used to express such quantities.
- (3) Provision described in subsection (2) may include—
 - (a) requirements in relation to the marking or packaging of goods;
 - (b) requirements in relation to the monitoring, assessment and verification of the quantities in which goods are marketed in the United Kingdom and the units of measurement used to express such quantities;
 - (c) requirements in relation to the retention of documents and information.
- (4) In this section—
 - “goods” means tangible items (including packaging or labels);
 - “quantity” means quantity expressed by number or a unit of measurement;
 - “unit of measurement” means any unit of measurement, including measurement of length, area, volume, capacity, mass, weight, time, temperature or electrical current.
- (5) Sections 6 to 9 and 11 make further provision about the power conferred by this section.
- (6) Regulations under this section are referred to in this Act as “metrology regulations”.

6 Enforcement of metrology regulations

- (1) Metrology regulations may designate one or more persons as a relevant authority.
- (2) Metrology regulations may only designate a person under subsection (1) if person exercises functions of a public nature.
- (3) Metrology regulations may make provision conferring on a relevant authority one or more of the following functions—
 - (a) monitoring compliance with metrology regulations;
 - (b) investigating suspected non-compliance with metrology regulations;
 - (c) securing compliance with metrology regulations;
 - (d) mitigating the effect of non-compliance with metrology regulations.
- (4) Metrology regulations may include provision—
 - (a) conferring power on a relevant authority to appoint inspectors to carry out functions under the regulations;
 - (b) conferring functions on a relevant authority or an inspector, including—
 - (i) power to enter, inspect and search premises;
 - (ii) power to seize and retain goods or evidence of non-compliance with metrology regulations;
 - (iii) power to require a person to retain or provide a document or information;
 - (iv) power to dispose of goods or require a person to dispose of goods.

- (5) Metrology regulations may not authorise entry into premises used wholly or mainly as a dwelling without a warrant issued by –
 - (a) in England and Wales, a justice of the peace;
 - (b) in Scotland, a sheriff, summary sheriff or a justice of the peace;
 - (c) in Northern Ireland, a lay magistrate.
- (6) Provision described in subsection (3)(c) or (d) may include provision conferring power on a relevant authority by notice to require a person to do or cease to do something.
- (7) Metrology regulations may make provision for or in connection with sanctions for –
 - (a) non-compliance with metrology regulations;
 - (b) non-compliance with a notice issued by a relevant authority under powers conferred by metrology regulations;
 - (c) obstruction of, or failure to assist or co-operate with, a relevant authority or an inspector;
 - (d) provision of false or misleading information to a relevant authority or an inspector.
- (8) Metrology regulations may include –
 - (a) provision for a relevant authority to accept undertakings relating to compliance with metrology regulations instead of taking other action;
 - (b) provision for sanctions for non-compliance with such undertakings;
 - (c) provision for the forfeiture of goods by court order (or, in Scotland, order of the sheriff).
- (9) Provision described in subsection (7) or (8)(b) may include –
 - (a) provision creating, or widening the scope of, criminal offences;
 - (b) in relation to England and Wales and Northern Ireland, provision for the prosecution by a relevant authority of criminal offences created or widened under paragraph (a);
 - (c) provision conferring power on a relevant authority to impose civil sanctions (including fines).
- (10) Metrology regulations may make provision about appeals to a court or tribunal.
- (11) Where metrology regulations contain provision creating a criminal offence, the provision must have the effect that –
 - (a) the offence is –
 - (i) triable summarily only, or
 - (ii) triable summarily or on indictment;
 - (b) a person guilty of the offence is liable on summary conviction –
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months, or to both;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 3 months, or to both;

- (c) a person guilty of the offence is liable on conviction on indictment to a fine or imprisonment for a term not exceeding 2 years, or to both.

Supplementary provisions

7 Information sharing

- (1) Product regulations or metrology regulations may make provision for or in connection with the disclosure of information—
 - (a) by a relevant authority carrying out functions under product regulations or metrology regulations to a person listed in subsection (2), or
 - (b) by a person listed in subsection (2) to such a relevant authority.
- (2) Those persons are—
 - (a) another relevant authority,
 - (b) the emergency services, or
 - (c) a person specified, or of a description specified, in product regulations or metrology regulations.
- (3) Provision described in subsection (1) may include provision about—
 - (a) the circumstances in which information may or must be disclosed;
 - (b) the type of information which may or must be disclosed;
 - (c) how information disclosed may or may not be used;
 - (d) sanctions for non-compliance with provision described in paragraphs (a) to (c) (including provision creating, or widening the scope of, criminal offences).
- (4) Except as provided by subsection (5), product regulations or metrology regulations may provide for the processing of information in accordance with the regulations not to be in breach of—
 - (a) any obligation of confidence owed by the person processing the information, or
 - (b) any other restriction on the processing of the information (however imposed).
- (5) A provision of product regulations or metrology regulations is not to be read as authorising or requiring such processing of information as would contravene the data protection legislation (but in determining whether particular processing of data would do so, take into account the power conferred or duty imposed by the provision in question).
- (6) In this section—
 - “the data protection legislation” and “processing” have the same meanings as in the Data Protection Act 2018 (see section 3 of that Act);
 - “emergency services” means—
 - (a) police, fire, rescue and ambulance services, and
 - (b) His Majesty’s Coastguard.

8 Cost recovery

- (1) Product regulations or metrology regulations may make provision for a relevant authority to impose fees in respect of any costs incurred by the relevant authority in carrying out functions conferred on the authority by or under such regulations.
- (2) The regulations may include provision about—
 - (a) who is liable to pay a fee;
 - (b) the circumstances in which a fee is payable;
 - (c) the amount of a fee (including how an amount is to be calculated);
 - (d) reductions, exemptions and waivers;
 - (e) how and when a fee is to be paid;
 - (f) the collection and recovery of payments;
 - (g) interest payable on outstanding payments;
 - (h) the resolution of disputes (including appeals to a court or tribunal).
- (3) Provision under subsection (2)(a) may only provide for a person to be liable if they are capable of being directly affected by the carrying out of functions conferred by product regulations or, as appropriate, metrology regulations.

9 Consequential amendment of certain Acts

- (1) Product regulations or metrology regulations may, in consequence of any provision made by or under this Act, repeal provision made by Parts 2, 4 and 5 of the Consumer Protection Act 1987.
- (2) Product regulations or metrology regulations may, in consequence of any provision made by or under this Act, amend or repeal provision made by—
 - (a) the Gun Barrel Proof Acts 1868 to 1978;
 - (b) section 77 and Schedule 5 to the Consumer Rights Act 2015 (investigatory powers etc).
- (3) Metrology regulations may, in consequence of any provision made by or under this Act, repeal provision made by the Weights and Measures Act 1985.
- (4) Regulations under this Act may, in consequence of any amendment or repeal made under subsection (1), (2) or (3), amend or repeal provision made by or under an Act passed—
 - (a) before this Act, or
 - (b) later in the same session of Parliament as this Act.

Final provisions

10 Interpretation

- (1) In this Act—

“authorised representative” means a person authorised to act on behalf of another person;

“document” means anything in which information of any description is recorded;

“domestic animal” means an animal which is not living wild;

“EU law” means an EU regulation, EU directive, EU tertiary legislation or EU decision (which each have the meanings given in section 20 of the European Union (Withdrawal) Act 2018);

“health”, in relation to a person, means physical or mental health;

“made available on the market”, in relation to a product or goods, means supplied or advertised for distribution or use on the market, whether in return for payment or free of charge; and related terms are to be interpreted accordingly;

“manufacture” includes assemble, integrate, design and engineer; and related terms are to be interpreted accordingly;

“marketing” has the meaning given in section 1(5);

“metrology regulations” has the meaning given in section 5(6);

“mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets;

“online marketplace” means a service on—

- (a) a website,
- (b) a mobile application, or
- (c) any other platform by means of which information is made available over the internet,

which facilitates the marketing of products in the United Kingdom by that means;

“premises” includes any land, stall, vehicle, vessel or aircraft;

“product” has the meaning given in section 1(5);

“product regulations” has the meaning given in section 1(7);

“production” has the meaning given in section 1(5);

“relevant authority” means a person designated as a relevant authority in provision described in section 3(3) or 6(3) (as the case may be);

“relevant EU law” has the meaning given in section 1(5);

“use”, in relation to a product, has the meaning given in section 1(5).

- (2) The Secretary of State may by regulations amend this section for the purposes of altering the definition of “online marketplace”.

11 Regulations

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) Regulations under this Act may —
 - (a) make provision generally or in relation to particular cases;
 - (b) make different provision for different purposes;
 - (c) make different provision for different areas;
 - (d) make provision about the form and manner in which things must or may be done;

- (e) make provision about the time by which, or period within which, things must or may be done;
 - (f) make provision binding the Crown;
 - (g) make consequential, supplementary, incidental, transitional or saving provision.
- (3) Regulations under this Act which contain provision specified in subsection (4) (with or without other provision) may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) The provision referred to in subsection (3) is—
 - (a) provision described in section 3(4)(b)(i) and 6(4)(b)(i);
 - (b) provision described in section 4;
 - (c) provision creating, or widening the scope of, a criminal offence;
 - (d) provision described in sections 7 to 9;
 - (e) provision described in section 10(2).
- (5) A statutory instrument containing regulations under this Act, other than regulations to which subsection (3) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.

12 Extent

This Act extends to England and Wales, Scotland and Northern Ireland.

13 Commencement

This Act comes into force on the day on which it is passed.

14 Short title

This Act may be cited as the Product Regulation and Metrology Act 2024.

SCHEDULE

Section 1(3)

EXCLUDED PRODUCTS

- 1 Food as defined in section 1 of the Food Safety Act 1990.
- 2 Feeding stuff and fertiliser as defined in section 66 of the Agriculture Act 1970.
- 3 Plants, fruit and fungi.
- 4 Plant protection products as defined in Article 2(1) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market.
- 5 Animal by-products as defined in Article 3(1) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption.
- 6 Products of animal origin as defined in point 8.1 of Annex 1 to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin.
- 7 Aircraft as defined in Article 3 of Regulation (EU) No 2018/1139 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency.
- 8 Military equipment as defined in section 7(7) of the Procurement Act 2023.
- 9 Medicines and medical devices as defined in the Medicines and Medical Devices Act 2021, other than devices designed for weighing or measuring for medical purposes.

Product Regulation and Metrology Bill

[PRE-INTRODUCTION]

A

B I L L

TO

Make provision about the marketing or use of products in the United Kingdom; about units of measurement and the quantities in which goods are marketed in the United Kingdom; and for connected purposes

*Presented by
supported by*

Ordered, by The House of Lords, to be Printed,
NaNth .

© Parliamentary copyright House of Commons

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright*

PUBLISHED BY THE AUTHORITY OF THE HOUSE OF COMMONS

PRODUCT REGULATION AND METROLOGY BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Product Regulation and Metrology Bill [HL] as introduced in the House of Lords on 4 September 2024 (HL Bill 18).

- These Explanatory Notes have been prepared by the Department for Business and Trade in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	3
Policy background	3
Legal background	4
Territorial extent and application	4
Commentary on provisions of Bill	5
Product regulations	5
Clause 1: Product regulations	5
Clause 2: Product requirements	5
Clause 3: Enforcement of product regulations	6
Clause 4: Emergencies	7
Metrology	7
Clause 5: Metrology regulations	7
Clause 6: Enforcement of metrology regulations	7
Supplementary provisions	8
Clause 7: Information sharing	8
Clause 8: Cost recovery	8
Clause 9: Consequential amendments of certain Acts	9
Final provisions	9
Clause 10: Interpretation	9
Clause 11: Regulations	9
Clause 12: Extent	9
Clause 13: Commencement	9
Clause 14: Short title	9
Schedule: Excluded products	9
Commencement	10
Financial implications of the Bill	10
Parliamentary approval for financial costs or for charges imposed	10
Compatibility with the European Convention on Human Rights	10
Duty under section 20 of the Environment Act 2021	10
Duty under section 13C of the European Union (Withdrawal) Act 2018	10
Annex A – Territorial extent and application in the United Kingdom	12

These Explanatory Notes relate to the Product Regulation and Metrology Bill [HL] as introduced in the House of Lords on 4 September 2024 (HL Bill 18)

Overview of the Bill

- 1 The Product Regulation and Metrology Bill [HL] contains measures that relate to the UK product safety, regulation and metrology framework.

Policy background

- 2 The United Kingdom (UK)'s product safety and metrology framework is derived from European Union (EU) law and has developed over the past four decades, whilst the UK was a member of the EU. On leaving the EU, the UK set up an independent UK regime, which the Government considers needs to be able to adapt to new technologies such as Artificial Intelligence (AI), as well as to reflect the shift in both what consumers buy and how they buy it.
- 3 The Bill intends to ensure the UK is better placed to address modern day safety issues to protect consumers, harness opportunities that deliver economic growth, and ensure a level playing field for responsible businesses operating online or on the high street. The Bill is intended to enable the UK to maintain high product standards, supporting businesses and economic growth, by allowing the UK Parliament the power to update relevant laws.
- 4 The Bill aims to support economic growth, provide regulatory stability and deliver more protection for consumers by:
 - responding to new product risks and opportunities to enable the UK to keep pace with technological advances, such as AI, and address issues such as incidents from ingesting button batteries and fire risks associated with e-bikes.
 - identifying new and emerging business models in the supply chain, ensuring the responsibilities of those involved in the supply of products, such as online marketplaces (which are online platforms that connect third-party sellers to consumers for distance sale and purchasing of products), are clear and modernised for increasingly complex supply chains, to support consumers' confidence in the products they buy and whom they buy them from.
 - ensuring that the law can be updated to allow a means of recognising new or updated EU product requirements, with the intention of preventing additional costs for businesses and provide regulatory stability.
 - enabling improvements to compliance and enforcement reflecting the challenges of modern, digital borders. This Bill seeks to enable the Government and its regulators to tackle non-compliance and target interventions by allowing greater sharing of data between regulators and market surveillance authorities.
 - updating the legal metrology framework, which governs the accuracy of weights and measures for purchased goods. This seeks to give consumers and business confidence in what they are buying and to allow for technological progress, including in support of net zero aims and infrastructure, for example enabling innovation whilst ensuring energy smart meters are accurate in their readings.

Legal background

- 5 The product regulatory framework in the UK covers most consumer products, for example toys and cosmetics, and a significant number of industrial products too, such as lifts and pressure equipment. The overwhelming majority of this legislation is assimilated law, transposed into UK law while the UK was part of the EU and then assimilated following the EU exit process. Much of the legislation is secondary legislation, made, at least in part, using powers in the European Communities Act 1972, powers which were also used to regularly update that secondary legislation.
- 6 Whilst the UK was a member of the EU, the legislation also provided for various systems of mutual recognition and mandated conformity markings that are used across the EU. On EU exit, powers under the European Union (Withdrawal) Act 2018, were used to create a UK only system, using the UK Conformity Assessment (UKCA) marking. However, to ensure a continued flow of goods, provision was also made to allow certain goods that meet current EU requirements on the market across the UK. The Bill would provide the Secretary of State with the ability to update relevant legislation to allow the UK to maintain high product standards.
- 7 Domestic legislation originally enacted to deal with product safety and metrology – the Consumer Protection Act 1987 and the Weights and Measures Act 1985 (respectively) were drafted before the shift in consumer buying behaviour and do not contemplate the technological advances that have taken place since then, for example the widespread use of new actors in the supply chain, such as online marketplaces.
- 8 Finally, the enforcement of product and metrology regulation is contained in a number of pieces of legislation including the Consumer Rights Act 2015, the Consumer Protection Act 1987, as well as some secondary legislation. The provisions of these pieces of legislation are not always consistent. Furthermore, they allow for limited civil enforcement measures. This Bill would provide the ability to rationalise enforcement provisions currently contained in existing legislation and provide for more civil sanctions, where appropriate.
- 9 A summary of the legal changes in each area of the Bill can be found in the commentary section.

Territorial extent and application

- 10 The Bill will extend and apply to England, Wales, Scotland and Northern Ireland. Clause 12 sets the territorial extent of the Bill. There is a convention that the UK Parliament will not normally legislate about matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned. Aspects of the Bill may fall within devolved competence. In line with the Sewel Convention, the UK Government will seek the legislative consent of the Devolved Legislatures for provisions that engage the Legislative Consent Motion process.
- 11 See the table in Annex A for a summary of the position regarding territorial extent and application in the UK. The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Product regulations

Clause 1: Product regulations

- 12 Clause 1(1) gives the Secretary of State the authority to enact regulations with the intention of guaranteeing that products marketed or used in the UK reduce or mitigate any risk presented by those products, give accurate readings and operate efficiently and effectively.
- 13 Clause 1(2) provides that in addition to the matters listed in clause 1(1), the Secretary of State may make provision for the purpose of reducing or mitigating the environmental impact of products where the EU makes provision in that area.
- 14 Clause 1(3) excludes products listed in the Schedule from the scope of product regulations.
- 15 Clause 1(4) and (5) set out the meanings of key terms including: “risk” in relation to products under typical or reasonably foreseeable use conditions (that is, where a product endangers the health or safety of individuals, domestic animals or property or causes electromagnetic disturbance); what constitutes “marketing” in the UK ; and that products for the purposes of the Bill are tangible items that are manufactured or result from another method of production.
- 16 Clause 1(6) makes clear that further provisions of the Bill give more detail on what is included in the clause 1 power. Clause 1(7) sets out that regulations made under clause 1 are “product regulations”.

Clause 2: Product requirements

- 17 Clause 2(1) sets out that product regulations (under clause 1) may set out requirements that relate to the conditions to be met for products which are marketed or used in the UK.
- 18 Clause 2(2) provides that the regulations may cover requirements relating to the characteristics of a product such as how it is manufactured or produced, its components (which may be intangible, such as software) or composition or other characteristics; requirements for marketing or use (which includes packaging, storage or transportation), and provision when products are marketed on an online marketplace. Provisions concerning statements about products, monitoring, assessments, certification and verification of products, recording or investigating complaints, production or retention of samples or documents, and cooperation with relevant authorities are other examples of provisions that can be made. Product regulations may also include provision about information about products, including information about risk that must be provided to consumers, other people who engage in activities in relation to the product, and relevant authorities.
- 19 Clause 2(3) gives examples of the persons on whom product regulations may impose requirements. This includes manufacturers, those who market a product (such as distributors and retailers) in, or import a product to, the UK and a person who controls access to, or contents of, an online marketplace or an intermediary. It also allows requirements to be placed on the authorised representatives of persons conducting product related activities. It extends to requirements on a person carrying out monitoring, assessment or verification of a product, or a person carrying out certification or accreditation activities on such a person. Clause 2(3)(h) makes clear that this is not an exhaustive list and requirements may be placed on any other person carrying out activities in relation to a product.
- 20 Clause 2(4) states that product regulations may make provision for and in relation to technical standards relating to product requirements and clause 2(5) provides that product regulations may set out what is to be covered by a technical standard and who may prepare them, as well

as the procedure by which technical standards may be prepared. Clause 2(6) explains that product requirements may include provision about published standards and that meeting a particular standard creates a presumption of compliance with a particular product requirement.

- 21 Clause 2(7) allows product regulations to provide that a product requirement may be treated as being met by meeting specified provision in relevant EU law (and may attach conditions to this) and clause 2(8) states that before making provision described in subsection (7) the Secretary of State must have regard to the social, environmental and economic impact before so exercising the power.

Clause 3: Enforcement of product regulations

- 22 Clause 3(1) and (2) provide that product regulations may designate a body as a relevant authority, but only if it exercises functions of a public nature. This can include the Secretary of State as well as other bodies exercising public functions.
- 23 Clause 3(3) enables regulations to be made in relation to the monitoring of compliance, investigating suspected non-compliance, ensuring compliance and mitigating the effect of non-compliance with product safety.
- 24 Clause 3(4) states that product regulations may make provision conferring powers on relevant authorities to appoint inspectors to carry out functions under the regulations. Regulations may include powers that allow inspectors appointed by relevant authorities powers of entry, search, inspection, as well as the ability to seize and retain products or other evidence of non-compliance. Product regulations may also make provision conferring a power on a relevant authority or an inspector to require a person to retain or provide a document or information, as well as a power to dispose of a product (either requiring a person to do so or for the authority or inspector to do so themselves). Powers under Clause 3(4) apply to premises including vehicles (see clause 10).
- 25 Clause 3(5) makes clear that product regulations may not authorise entry into premises used wholly or mainly as a dwelling without a warrant issued by a Justice of the Peace, sheriff (in Scotland), or a lay magistrate (in Northern Ireland).
- 26 Clause 3(6) states that any provisions under clause 3 may also allow a relevant authority to give notice to require a person to do something or to stop doing something, such as warning others of the risks relating to a product or require a product to display markings relating to such risks; prohibit or withdraw or require the recall of the product from the market.
- 27 Clause 3(7) states that regulations may be made for, and in connection with, sanctions for non-compliance with product regulations, non-compliance with a notice, the obstruction of, or failure to, assist or cooperate with relevant authorities or an inspector, or for providing false or misleading information to a relevant authority or an inspector.
- 28 Clause 3(8) makes clear that product regulations allow a relevant authority to agree to an undertaking by persons to be conducted to secure compliance with product regulations in place of enforcement actions; and put sanctions in place for a failure to comply with such agreements. Provisions under this clause may also cover forfeiting of products by court order or order of the sheriff.
- 29 Clause 3(9), (10) and (11) provides that any provisions in product regulations may include creating criminal offences, prosecution by relevant authorities of such offences, and the powers to impose civil sanctions including monetary fines. Where they concern criminal offences, those offences created must be tried summarily or on indictment and be punishable

by a fine or with a prison sentence. The provisions may also allow for an appeal against any decisions made by the relevant authority.

Clause 4: Emergencies

- 30 Clause 4 provides that product regulations may disapply or modify regulatory requirements in response to emergencies, which may be subject to conditions.

Metrology

Clause 5: Metrology regulations

- 31 Clause 5(1) provides the Secretary of State may make regulations which make provision about the units of measurement that must be used to express quantities (whether of goods or other things). It also sets out that such regulations may include provision about how units of measurement are to be calculated, determined, or must and may be referred to.
- 32 Clause 5(2) provides that the Secretary of State may make regulations concerning the quantities in which goods may or must be marketed in the United Kingdom, and the units of measurement that may or must be used to express such quantities.
- 33 Clause 5(3) states that such regulations may include setting requirements for the marking or packaging of goods; monitoring, assessing and verifying the quantities and units of goods being marketed, and the retention of documents and other information.
- 34 Clause 5(4) clarifies the meaning of the key terms, stating that ‘goods’ means any tangible item; ‘quantity’ means quantity expressed by number or a unit of measurement; and “unit of measurement” means any unit of measurement, including measurement of length, area, volume, capacity, mass, weight, time, temperature or electrical current.
- 35 Clause 5(5) makes clear that further provisions of the Bill give more detail on what is included in the clause 5 power. Clause 5(6) provides that these provisions are known as metrology regulations.

Clause 6: Enforcement of metrology regulations

- 36 Clause 6(1) and (2) provide that metrology regulations may designate a body as a relevant authority, but only if it exercises functions of a public nature. This can include the Secretary of State as well as other bodies exercising public functions.
- 37 Clause 6(3) enables regulations to be made in relation to the monitoring of compliance, investigating suspected non-compliance, ensuring compliance and mitigating the effect of non-compliance with metrology regulations.
- 38 Clause 6(4) states that metrology regulations may make provision conferring powers on relevant authorities to appoint inspectors to carry out functions under the regulations. Regulations may include powers that allow inspectors appointed by relevant authorities powers of entry, search, inspection, as well as the ability to seize and retain products or other evidence of non-compliance. Metrology regulations may also make provision conferring a power on a relevant authority or an inspector to require a person to retain or provide a document or information, as well as a power to dispose of a product (either requiring a person to do so or for the authority or inspector to do so themselves). Powers under Clause 6(4) apply to premises including vehicles (see clause 10).
- 39 Clause 6(5) makes clear that metrology regulations may not authorise entry into premises used wholly or mainly as a dwelling without a warrant issued by a Justice of the Peace, a sheriff (in Scotland), or a lay magistrate (in Northern Ireland).

- 40 Clause 6(6) states that any provisions under clause 6 may also allow a relevant authority to give notice to require a person to do something or to stop doing something to comply with metrology regulations.
- 41 Clause 6(7) states that regulations may be made for, and in connection with, sanctions for non-compliance with metrology regulations, non-compliance with a notice, the obstruction of, or failure to, assist or cooperate with relevant authorities or an inspector, or for providing false or misleading information to a relevant authority or an inspector.
- 42 Clause 6(8) makes clear that metrology regulations allow a relevant authority to agree to an undertaking by persons to be conducted to secure compliance with metrology regulations in place of enforcement actions; and put sanctions in place for a failure to comply with such agreements. Provisions under this clause may also cover forfeiting of products by court order or order of the sheriff..
- 43 Clause 6(9), (10) and (11) provide that any provisions in metrology regulations may include creating criminal offences, prosecution by relevant authorities of such offences, and the powers to impose civil sanctions including monetary fines. Where they concern criminal offences, those offences created must be tried summarily or on indictment and be punishable by a fine or with a prison sentence. The provisions may also allow for an appeal against any decisions made by the relevant authority.

Supplementary provisions

Clause 7: Information sharing

- 44 Clause 7(1) enables product regulations or metrology regulations to be made permitting the sharing of information between persons specified in clause 7(2).
- 45 Clause 7(2) provides that the information sharing regulations may be made to include a relevant authority, the emergency services, or any other person named in product or metrology regulations.
- 46 Clause 7(3) provides that such regulations may cover the circumstances in which information can or must be disclosed, the type of information which may or must be disclosed, how disclosed information may or may not be used and sanctions for non-compliance, including potential criminal offences.
- 47 Clause 7(4) provides that product or metrology regulations may specify that information processed in accordance with a regulation does not breach any duty of confidence or any other restriction on the processing of personal data, except as provided for by clause 7(5), which makes clear that regulations must not be read as authorising processing in breach of the data protection legislation taking into account the power or duty imposed by the regulation.
- 48 Clause 7(6) provides a definition of data protection legislation and the emergency services. Data protection legislation in this clause has the same meaning as in the Data Protection Act 2018.

Clause 8: Cost recovery

- 49 Clause 8(1) to (3) enables provisions to be made for fees to be imposed in respect of any costs incurred by relevant authorities in carrying out functions conferred on the authority. It sets out what such provisions may cover for example, who would be liable for a charge, the circumstances in which a charge may apply, the amount of the charge including any reductions, exemptions or waivers that may apply.

Clause 9: Consequential amendments of certain Acts

- 50 Clause 9(1) enables regulations to repeal Parts 2, 4 and 5 of the Consumer Protection Act 1987 in order to ensure that there is no overlap with regulations made under this Bill.
- 51 Clause 9(2) enables regulations to amend or repeal the Gun Barrel Proof Acts 1868 to 1978 and section 77 and Schedule 5 of the Consumer Rights Act 2015 in order to ensure that there is no overlap or inconsistency with regulations made under this Bill.
- 52 Clause 9(3) enables metrology regulations to repeal provisions under the Weights and Measures Act 1985 in order to ensure that there is no overlap with regulations made under this Bill.
- 53 Clause 9(4) makes clear that other legislation may be amended in consequence of any repeal of, or amendment to, the Acts specified above (for example, to remove or update references to provisions repealed or amended by those Acts).

Final provisions

Clause 10: Interpretation

- 54 Clause 10(1) defines key terms used in the Bill.
- 55 Clause 10(2) provides Secretary of State with the power to amend the definition of “online marketplace” (defined in clause 10(1)).

Clause 11: Regulations

- 56 Clause 11(1) sets out that regulations made under powers in the Bill must be made by statutory instrument and sets out the parliamentary procedures that must be followed when using those powers.
- 57 Clause 11(2) makes clear that regulations made under the Bill may include making provision generally or in relation to particular cases, making different provision for different purposes or areas and consequential, supplementary, incidental, transitional or saving provision (amongst other things).
- 58 Clause 11(3) and (4) set out when the affirmative parliamentary procedure will apply to regulations under the Bill. These include when making provision for a power of entry or creating, or widening the scope of, a criminal offence and where amending primary legislation (amongst other things).
- 59 Clause 11(5) provides that the negative procedure will apply to all other regulations made under the Bill.

Clause 12: Extent

- 60 The provisions of the Bill extend to England and Wales, Scotland and Northern Ireland.

Clause 13: Commencement

- 61 The Bill comes into force on the day on which the Bill is passed.

Clause 14: Short title

- 62 Clause 14 provides that the short title of the legislation will be the Product Regulation and Metrology Act 2024.

Schedule: Excluded products

- 63 The Schedule lists the products not within the scope of the provisions in clause 1.

These Explanatory Notes relate to the Product Regulation and Metrology Bill [HL] as introduced in the House of Lords on 4 September 2024 (HL Bill 18)

Commencement

- 64 Clause 13 provides for commencement of the provisions of this Bill.
- 65 The provisions of this Bill will come into force on the day on which the Act receives Royal Assent.

Financial implications of the Bill

- 66 An Impact Assessment has been prepared for the Bill. The Bill contains enabling powers to make reforms to the UK's product regulation and metrology framework via secondary legislation. The financial implications of the Bill itself are therefore minimal; the resulting secondary legislation may have financial implications for the Government in terms of preparing and enforcing regulations under the relevant clauses, and for businesses in terms of adherence to regulations, sanctions for non-compliance, or cost recovery. The accompanying Impact Assessment examines the economic and financial impacts of the Bill further.

Parliamentary approval for financial costs or for charges imposed

- 67 This section will be completed when the Bill transfers to the House of Commons.

Compatibility with the European Convention on Human Rights

- 68 The Government considers that the Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State (Minister for Legislation) at the Department for Business and Trade, has made a statement under section 19(1)(a) of the Human Rights Act 1998 this effect.

Duty under section 20 of the Environment Act 2021

- 69 Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State (Minister for Legislation) at the Department for Business and Trade, is of the view that the Bill as introduced into the House of Lords contains provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, a statement that the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law has been made.

Duty under section 13C of the European Union (Withdrawal) Act 2018

- 70 As required under the Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 which amend the European Union (Withdrawal) Act 2018 the Minister in charge of a Bill will need to make a written statement about the consistency of that Bill with the UK internal market.

- 71 The Government have determined that the Bill does contain provisions that affect trade between Northern Ireland and the rest of the UK but the provision(s) will not have a significant adverse effect on such trade. Accordingly, Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State (Minister for Legislation) at the Department for Business and Trade, has made a statement under section 13C(2)(a) of the European Union (Withdrawal) Act 2018 this effect.

Annex A – Territorial extent and application in the United Kingdom

72 The Bill extends to the whole of the UK.

73 The information provided is the view of the UK Government.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 2	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 3	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 4	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 5	Yes	Yes	No	Yes	No	Yes	In part
Clause 6	Yes	Yes	No	Yes	No	Yes	In part
Clause 7	Yes	Yes	No	Yes	No	Yes	No
Clause 8	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 9	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 10	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 11	Yes	Yes	In part	Yes	In part	Yes	In part
Clause 12	Yes	Yes	No	Yes	No	Yes	No
Clause 13	Yes	Yes	No	Yes	No	Yes	No
Clause 14	Yes	Yes	No	Yes	No	Yes	No
Schedule	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

74 There is a convention (“the Sewel Convention”) that the UK Parliament does not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.

75 See the table above for a summary of the position regarding territorial extent and application in the UK. The table also summaries the position regarding legislative consent motions. Legislative Consent Motions will be sought from each of the devolved legislatures.

These Explanatory Notes relate to the Product Regulation and Metrology Bill [HL] as introduced in the House of Lords on 4 September 2024 (HL Bill 18)

PRODUCT REGULATION AND METROLOGY BILL [HL]

EXPLANATORY NOTES

These Explanatory Notes relate to the Product Regulation and Metrology Bill [HL] as introduced in the House of Lords on 4 September 2024 (HL Bill 18).

Ordered by the House of Lords to be printed, 4 September 2024

© Parliamentary copyright 2024

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS