



Department for the

**Economy**

An Roinn

**Geilleagair**

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**Our Ref: SUB-0040-2025**

**Date: 22 01 2025**

Dear Peter

**Product Regulation and Metrology Bill**

Please see briefing paper below for the upcoming Committee for the Economy Meeting on 29 January 2025. This information is fully disclosable under Freedom of Information.

Yours sincerely

**GARY FINLAY**  
**Departmental Assembly Liaison Officer**

**Request**

As part of the Committee's forward work programme, the Department for the Economy has been asked to provide written and oral briefing on the work the Department is undertaking on Product Regulation and Metrology Bill.

**Response**

Set out below is a written briefing paper.

**Officials Attending**

Mark McGregor - Head of Legislation, Goods Regulation and Chemicals branch

## **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 4<sup>th</sup> 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's product safety and metrology framework is derived from European Union law and has developed over the past four decades, during the time when the UK was a member of the EU. On leaving the EU, the UK set up an independent UK regime.
4. The Bill intends to ensure the British Government 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.
5. The Bill aims to support economic growth, provide regulatory stability, maintain high product standards and deliver more protection for consumers by allowing the British Government the power to:
  - respond to new product risks and opportunities, 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.
  - identify 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.

- ensure 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.
- enable 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.
- update 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 British Parliament does not normally legislate with regard to matters that are within the legislative competence of the Northern Ireland Assembly 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. The Assembly is asked to provide consent for clauses 1 to 11 which includes powers for the Secretary of State for Business and Trade 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 Parliament and Welsh Senedd have both published Legislative Consent Memorandums (LCM):

Scottish Parliament - Legislative Consent Memorandum

Senedd Wales - Legislative Consent Memorandum

9. DBT provided devolution analysis of the Bill, which identified that legislative consent is required in relation to Clauses 1 to 11. Clauses 1 and 5 respectively provide power to make product regulations and metrology regulations. Clause 2 sets out the detail of the provisions that may be made under Clause 1 and Clause 4 allows disapplication of regulations in an emergency. Clauses 3 and 6 allow for the enforcement of regulations, including the creation of criminal and civil sanctions. Clause 7 allows for regulations to include provision on information sharing. Clause 8 provides for cost recovery in certain circumstances. Clause 9 and 11 provides power to make incidental and supplemental provision including to primary legislation and Clause 10 provides a power to amend the definition of 'online marketplace'.
10. Although metrology is generally a devolved matter, product regulation is generally reserved.
11. The Department agrees with the position set out in DBT's devolution analysis. Legislative Consent for Clauses 1-11 is therefore required.
12. DBT's devolution analysis of the Bill recognises that much of the subject matter that would flow from the Bill falls under the terms agreed in the Windsor Framework. The exercise of powers granted in the Bill would be subject to the provisions to the application in this jurisdiction of EU law relating to product regulation and metrology which apply under the Windsor Framework.
13. The analysis suggests that where the Windsor Framework does not apply, or where it has been disapplied under the mechanisms available, the powers in the Bill would be largely exercisable under reservations in Schedule 3 of the Northern Ireland Act. The analysis considers that there may be subject matter that would go beyond the scope of reserved areas, and it is therefore requesting an LCM.
14. The powers granted in the Bill are broad and, as such, DBT anticipates that regulations may touch upon transferred matters would seem valid. Particularly in the area of metrology which is only reserved insofar as relates to units of measurements and primary standards. The Weights and Measures (Northern Ireland) Order 1981 contains provision relating to metrology.

15. Where provision is not covered by the Windsor Framework, the powers in the Bill allow the Secretary of State to make regulations relating to product safety and efficiency and regarding metrology. It is likely that such provisions will largely fall under matters reserved by Schedule 3 of the Northern Ireland Act, but the powers are broad enough that they may contain provision relating to transferred area; this is likely to particularly be the case regarding metrology.
16. Clause 1(2) allows the Secretary of State to make regulations which correspond or are similar to EU law, where regulations relate to the marketing or use of certain products for the purpose of reducing or mitigating the environmental impact of those products. Given the Department for the Environment, Agriculture and Rural Affairs (DAERA) remit with respect to the environment, it is possible that regulations made under this power may fall under DAERA's competence.
17. It should be noted that while the Secretary of State power to make regulations for Northern Ireland are anticipated to be limited due to the relevant legislation mainly falling under the Windsor Framework, the power to make regulations being sought by the Secretary of State for Business and Trade is wide, could expand to new product types and has no requirement to seek agreement from Northern Ireland to make these regulations even in devolved areas.

### Reasons for making the Provisions

18. The Bill gives the Secretary of State 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

19. 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

20. There has been no public consultation conducted specifically for the Bill. The previous British Government conducted a public consultation on the long-term approach to product safety. On the 5 November 2024, the new Labour government published an outcome called the 'Government response to the Product Safety Review and next steps':

<https://www.gov.uk/government/consultations/smarter-regulation-uk-product-safety-review/outcome/government-response-to-the-product-safety-review-and-next-steps>

21. DBT have provided an Impact Assessment:

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

### Human Rights and Equality

22. The British 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

23. 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 British 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

24. This is an enabling bill, and direct regulatory impacts are limited. Impacts will be dependent on the nature of any future regulations made under the Bill's powers.
25. Most future regulations, excepting Metrology, made under the Bill's powers are anticipated to extend to England, Scotland and Wales only as they are likely to be Windsor Framework areas for Northern Ireland.
26. Future regulations applying to Britain may limit regulatory divergence between Northern Ireland and Britain due to the Windsor Framework.

## Concerns and issues

27. The Bill would confer broad non-concurrent powers on the Secretary of State for Business and Trade to make regulations in areas of devolved competence.
28. Other departmental interests not being considered. For example, the Bill confers powers on the Secretary of State to make regulations related to environmental impacts likely of interest to 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 and;
  - Department of Justice, firearms and explosives.



## Conclusion

29. The view of the Minister for the Economy is that further engagement is required with DBT and Lord Leong on the Bill to address his concerns before he can reconsider providing support for a consent request.
30. DBT are now also engaging with other Northern Ireland departments.
31. Officials are currently discussing possible solutions with DBT.

## 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&sectionId=40&businessPaperDate=2024-10-08>