

# Supplementary Legislative Consent Memorandum

## Product Regulation and Metrology Bill

### Background

1. This supplementary memorandum has been lodged by Kate Forbes MSP, Deputy First Minister and Cabinet Secretary for Economy and Gaelic, in accordance with Rule 9B.3.1(c) of the Parliament’s standing orders, and is supported by Richard Lochhead MSP, Minister for Business.
2. The Product Regulation and Metrology Bill (“the Bill”) was introduced by the UK Government in the House of Lords on 4 September 2024. The Bill is available at the UK Parliament website: [Product Regulation and Metrology Bill | UK Parliament](#).
3. The Scottish Government lodged an LCM ([LCM-S6-50](#)) on 24 September 2024 recommending that consent be withheld to clauses 1-4 and 7-11 of the Bill as introduced.
4. A UK Government amendment to introduce a new clause, entitled “Application to existing product and metrology provision”, after clause 8 in the name of Lord Leong was lodged on 12 February 2025 that makes further relevant provision beyond that covered by LCM-S6-50. A running list of amendments tabled up to and including 12 February is available at the UK Parliament website: [HL Bill 18—R—Running List 12 February | UK Parliament](#).

### Content of the Bill

5. The Bill is primarily an enabling Bill which gives wide-ranging powers to the Secretary of State to make provisions in relation to the UK’s product safety and metrology regulatory framework.
6. The high-level objectives of the Bill are to:
  - Ensure that product regulations can keep pace with and respond to new technologies and address new challenges, enable recognition of new or updated EU product requirements, including conformity assessment (CE) marking, or to end recognition of EU product requirements in Great Britain where it is in the interests of UK consumers and businesses.
  - Modernise product safety legislation to clarify duties for online marketplaces and to allow the UK Government to identify new actors in the supply chain and place obligations on them to protect the safety of consumers.

- Improve enforcement and compliance mechanisms to respond to and reflect the challenges of modern, digital borders and improve data sharing between regulators and market surveillance authorities.
- Ensure appropriate powers are in place to update and future-proof the metrology framework (metrology is the science of measurement).

## Provisions which require the consent of the Scottish Parliament

7. The Bill as a whole extends to Scotland. Initially, the UK Government's published view was that clauses 1-4 and 8-11 of the Bill engage the legislative consent process in the Scottish Parliament. The Scottish Government agreed with this assessment but also considered that clause 7 required consent. The UK Government has since agreed. The Scottish Government's position regards clauses 1-4 and 7-11 as introduced can be found in LCM-S6-50.

### New clause after clause 8

8. The UK Government has lodged an amendment to introduce a new clause, entitled "Application to existing product and metrology provision", after clause 8 that enables the Secretary of State to use the powers in clause 1 to amend or supplement provision in existing secondary legislation (which may include secondary legislation with the status of assimilated law) or assimilated direct legislation regarding products regulations and requirements.

9. The new clause extends the scope of the power in clause 1 and related provisions. As devolved provision can be made under clause 1 in relation to regulations containing product technical requirements and standards (those excluded from the Scotland Act 1998 C8 reservation), as well as regulations in relation to product efficiency and regulations relating to mitigating the environmental impact of products, then this amendment expands the scope of the Secretary of State's proposed powers within devolved areas.

10. The Bill does not currently contain any consent mechanism which would prevent the Secretary of State from using the powers in devolved areas without the consent of Scottish Ministers. It would be within the Scottish Parliament's legislative competence to make similar provision for Scotland in respect of these areas. Therefore it is the Scottish Government's view that this amendment requires the consent of the Scottish Parliament. The UK Government's position on whether the new clause covers devolved matters remains unclear.

11. The new clause introduces similar powers in relation to metrology regulations. Metrology is reserved under Section C9 (weights and measures) of schedule 5 of the

Scotland Act 1998. Therefore, legislative consent is not required for those aspects of the amendment.

## Reasons for not seeking legislative consent

12. Section 28(8) of the Scotland Act 1998 recognises that the UK Government will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament. UK Parliament Bills, and amendments to such Bills, require the consent of the Scottish Parliament if they contain provisions applying to Scotland and which are for devolved purposes or if they alter the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers.

13. As described above, the Scottish Government is currently of the view that the proposed new clause after clause 8 relates to devolved matters by expanding the scope of powers of the Secretary of State in areas of devolved competence as proposed by the Bill.

14. As the underlying issues around devolution outlined in LCM-S6-50, and which apply to the new clause after clause 8, have yet to be addressed, it is the Scottish Government's view that the Scottish Parliament should similarly withhold consent to this amendment until such time as any further government amendments are lodged which adequately address those issues.

15. In view of this fact, the Scottish Government has included in this Memorandum a draft Motion on Legislative Consent to withhold consent.

16. However, the Scottish Government remains of the view that, should the Bill be amended in such a manner that would give the Scottish Government and the Scottish Parliament an acceptable level of control and oversight over the proposed powers created by the Bill, the Scottish Government will lodge a supplementary memorandum recommending consent.

## Consultation

17. No public consultation was conducted specifically for the Bill. The previous UK Government conducted a public consultation on the long-term approach to product safety in 2023. A response to this was published on 5 November 2024, after the introduction of the Bill. The response is available at: [Government response to the Product Safety Review and next steps | Office for Product Safety & Standards \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-response-to-the-product-safety-review-and-next-steps).

## Financial implications

18. It is not anticipated that the Bill will have any financial implications for the Scottish Government.

## Other relevant considerations

19. Discussion with the UK Government around potential changes to the Bill are ongoing and could yet alter the Scottish Government's position.

## Post EU scrutiny

20. As stated at paragraph 8, the amendment expands the scope of the power in clause 1 so that the Secretary of State may amend or supplement existing subordinate legislation or assimilated direct legislation, including Scottish legislation. The relevant forms of secondary legislation may include secondary legislation with the status of assimilated law (assimilated direct legislation being just one particular form of assimilated law). It enables the Secretary of State to amend or supplement such legislation for instance to provide for continued recognition of CE marking. The Secretary of State would be granted powers also to make changes to devolved provisions (including in Scottish law), to align with new or updated EU product regulations. However, this does not limit the power of the Secretary of State to make changes to existing regulations to *diverge* from EU regulations.

## Conclusion

21. It is the recommendation of the Scottish Government that the Scottish Parliament does not grant legislative consent to clauses 1-4 and 7-11 of the Product Regulation and Metrology Bill as introduced and the subsequent amendment to add after clause 8, a clause on the application to existing product and metrology provision.

## Draft motion on legislative consent

22. The draft motion, which will be lodged by the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, is:

“That the Parliament refuses consent to all the relevant provisions in the Product Regulation and Metrology Bill, introduced to the House of Lords on 4 September 2024, and refuses consent to the subsequent amendment to add after clause 8, a clause on the application to existing product and metrology provision, being considered by the UK Parliament.”

Scottish Government  
March 2025



This Supplementary Legislative Consent Memorandum relates to the Product Regulation and Metrology Bill (UK legislation) and was lodged with the Scottish Parliament on 3 March 2025

# Product Regulation and Metrology Bill – Supplementary Legislative Consent Memorandum

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