

# Parliamentary Bureau - Supplementary Legislative Consent Memorandum

## Product Regulation and Metrology Bill (UK legislation)

### Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

## Product Regulation and Metrology Bill

2. This Bill was introduced in the House of Lords on 4 September 2024.
3. An LCM was lodged by Kate Forbes MSP, Deputy First Minister and Cabinet Secretary for Economy and Gaelic on 24 September 2024. It was supported by Richard Lochhead MSP, Minister for Business. Following the tabling of relevant amendments on 12 February 2025, a supplementary LCM was lodged by Kate Forbes MSP on 3 March 2025, also supported by Richard Lochhead MSP. Both the initial LCM and first supplementary LCM recommended that consent be withheld in respect of the relevant provisions.
4. The Bill's main purpose is to give wide-ranging powers to the Secretary of State to make provisions in relation to the UK's product safety and metrology regulatory framework. Its objectives include:
  - Ensuring that product regulations can keep pace with and respond to new technologies and address new challenges, to enable recognition of new or updated EU product requirements, including CE marking, or to end recognition of EU product requirements in Great Britain where it is in the interests of UK consumers and businesses;
  - Modernising product safety legislation to clarify duties for online marketplaces and allowing the UK Government to identify new actors in the supply chain and placing obligations on them to protect the safety of consumers;
  - Improving 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; and
  - Ensuring appropriate powers are in place to update and future-proof the metrology framework (metrology is the science of measurement).
5. This second supplementary LCM relates to a clause inserted into the Bill through amendment by the UK Government, which provides that the Secretary of State may only make regulations under clause 1 of the Bill in areas of devolved competence with the consent of the Scottish Ministers, unless the provision is merely incidental to, or consequential on, provision outside Scottish devolved competence.

6. Clause 1 of the Bill allows the Secretary of State to make regulations in relation to the marketing or use of products in the UK 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.
7. This relates, in part, to the section C8 reservation in schedule 5 of the Scotland Act 1998, which reserves technical standards, safety and labelling of products, and product liability. However, this reservation is subject to a number of exceptions being food, agricultural and horticultural produce, fish and fish products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of section 16(16) of the Food and Environment Protection Act 1985) and, in relation to food safety, materials which come into contact with food. As these matters are excluded from the C8 reservation, it is within the legislative competence of the Scottish Parliament to legislate in respect of technical standards, safety and labelling of products, and product liability in relation to them. In addition, regulations to ensure that products operate efficiently or effectively are generally devolved.
8. The original LCM and the first supplementary LCM indicated the Scottish Government's recommendation that the Scottish Parliament refuse consent to all relevant provisions of the Bill. This recommendation was based on the Scottish Government's view that the UK Government's reasons for conferring powers to the Secretary of State in areas of devolved competence were unclear, and that the Bill did not previously contain any consent mechanism which would prevent the Secretary of State from using the powers in devolved areas without the consent of the Scottish Ministers, even though this could lead to divergence from EU law on devolved matters and/or repeal Scottish legislation.
9. The second supplementary LCM indicates that the Scottish Government intends to lodge a motion seeking the Scottish Parliament's consent to *all* the relevant provisions in this Bill, in light of this amendment to the Bill, which it considers addresses its concerns about the lack of a consent mechanism as described above.

### Designation of lead committee

10. Both the original LCM and the first supplementary LCM were referred to the Economy and Fair Work Committee as the relevant provisions fell within its remit.
11. Similarly, the relevant provisions of the Bill for the purposes of the second supplementary LCM fall within the remit of the Economy and Fair Work Committee. The committee's remit is (among other things) to consider and report on matters within the responsibility of the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, with the exception of Gaelic. The Deputy First Minister and Cabinet Secretary has responsibility (among other things) for business, industry and manufacturing support. She is supported by the Minister for Business, who has responsibility (among other things) for trade and advanced manufacturing.

12. The initial LCM and first supplementary LCM were considered by the Delegated Powers and Law Reform Committee in relation to provisions in the Bill conferring powers on the Secretary of State to make subordinate legislation in areas of devolved competence.
13. The second supplementary LCM will also be considered by the Delegated Powers and Law Reform Committee in relation to any provisions in the Bill conferring powers to make subordinate legislation in areas of devolved competence.

### **Recommendation**

14. The Bureau is invited to refer, under Rule 9B.3.5, the second supplementary LCM to the Economy and Fair Work Committee as lead committee.

Parliamentary Business Team  
May 2025