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Economy and Fair Work Committee

Report on two supplementary Legislative Consent Memorandums for the Product Regulation and Metrology Bill



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Economy and Fair Work Committee

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; and on matters relating to just transition.



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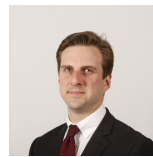
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Introduction

1. The [Product Regulation and Metrology Bill](#) is a UK Government Bill introduced in the House of Lords on 4 September 2024. Metrology is the science of measurement. The Bill completed its third reading in the second house [on 4 June 2025](#).
2. The Scottish Government lodged a [Legislative Consent Memorandum](#) (LCM) on 24 September 2024. The Parliamentary Bureau designated the Economy and Fair Work Committee as the lead committee to consider the LCM and report its views to the Parliament.
3. On [11 December 2024](#), the Committee heard evidence on the LCM from Richard Lochhead, then Minister for Business.
4. The Minister confirmed that the Scottish Government did not recommend that the Parliament consent to the relevant provisions of the Bill, due to the absence of a mechanism for the UK Government to seek consent from the Scottish Government when making regulations in devolved areas. He noted that discussions with the UK Government were ongoing and that a supplementary LCM would follow in due course. The Committee [published its report on 13 January 2025](#).
5. Following amendments to the Bill, a [supplementary LCM](#) was lodged on 3 March 2025, and a [second supplementary LCM](#) was lodged on 29 May 2025.
6. This report concerns the supplementary LCM and second supplementary LCM, which were both referred to the Economy and Fair Work Committee for consideration.

Provisions of the Product Regulation and Metrology Bill

7. The [Explanatory Notes](#) which accompany the Bill state that—
 - ” 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.¹
8. It is primarily an enabling Bill, conferring wide-ranging powers on the Secretary of State to make provisions applying across the UK in relation to product safety, efficiency, effectiveness, environmental impact and other standards, as well as on metrology issues.
9. The Bill has been described by some commentators as a framework bill. It provides a statutory framework for making regulations, rather than setting the policy direction for what those regulations might contain.
10. The Bill applies to “tangible” products. However, there are a range of product categories to which the regulation-making powers in the Bill will not apply listed in the schedule to the Bill, such as food, products of animal origin, aircraft, military equipment, and medicines.

Legislative Consent Memorandums

Supplementary Legislative Consent Memorandum

11. The [supplementary LCM](#), lodged on 3 March, stated that amendments made to the Bill did not resolve the Scottish Government's core concern about the need for a mechanism to seek Scottish Ministers' consent when powers are used in devolved areas.
12. While noting that discussions with the UK Government were ongoing, the Scottish Government did not recommend that the Parliament gives its consent to the relevant provisions of the Bill.

Second supplementary Legislative Consent Memorandum

13. The [second supplementary LCM](#), lodged on 29 May, followed a further amendment requiring the Secretary of State to seek the consent of Scottish Ministers when making regulations in devolved areas under Clause 1, unless the provision is incidental to, or consequential on, provision outside Scottish devolved competence.
14. The Scottish Government states that this amendment provides Scottish Ministers and the Scottish Parliament with "an acceptable level of control over the use of the Bill's powers in devolved areas" and therefore now recommends that the Parliament gives its consent to the relevant clauses in the Bill.

Committee Consideration

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15. At its meeting on 18 June 2025, the Committee took evidence on the supplementary LCMs from Richard Lochhead, Minister for Business and Employment.
16. The Minister stated that, in addition to seeking a consent mechanism, the Scottish Government had sought concurrent powers, and that devolved product categories, as defined in the Scotland Act, also be excluded from the Bill. Some Members questioned the rationale for recommending consent when only a consent mechanism had been agreed.
17. The Minister told the Committee the consent mechanism had been the Scottish Government's principal aim and stated that in policy areas such as the environment, existing legislation could provide an appropriate backstop.
18. The Committee discussed how a scrutiny role for the Scottish Parliament would work in practice. The Scottish Government's LCM states that regulations made under this power would "in many cases ... fall under the scope of the Protocol on scrutiny by the Scottish Parliament of consent by Scottish Ministers to UK secondary legislation in devolved areas arising from EU Exit."
19. It should be noted however that not all regulations would be covered by this protocol. This could potentially result in regulations being consented to without the knowledge or scrutiny of the Scottish Parliament.
20. In response to questions about devolution and policy divergence, the Minister confirmed that discussions are ongoing with the UK Government about these issues. The Committee hopes that these discussions will result in more transparency in relation to inter-governmental negotiations on any relevant forthcoming legislation.

Delegate Powers and Law Reform Committee

21. The Delegated Powers and Law Reform Committee (DPLRC) considered the delegated powers in the Bill exercisable within devolved competence at its [meeting on 10 June](#).
22. [In its report](#), the DPLRC reiterated its long-standing position that the Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence.
23. It highlighted the powers conferred and noted that the Bill had been amended to include a requirement that the Secretary of State to obtain the consent of Scottish Ministers before making regulations under Clause 1 in areas of devolved competence.

24. The DPLRC stated that, in many cases, the exercise of this power would fall under the scope of the [SI Protocol 2](#). It noted however that there will be cases where this protocol will not apply, and called for the Scottish Government to facilitate the Scottish Parliament's scrutiny of any decisions by Scottish Ministers to consent to the making of regulations which do not fall within the scope of SI Protocol 2.

25. The DPLRC also noted the power may be exercised within devolved competence by the Secretary of State with no equivalent power conferred on the Scottish Ministers and as such, product regulations will not be laid in the Scottish Parliament.

Conclusion

26. **The Committee notes the position of the Scottish Government, as set out by the Minister on 18 June, that the addition of a consent mechanism provides an acceptable level of control over the use of the Bill's powers in devolved areas.**
27. **The Committee notes however, the position of the DPLRC, as set out in its report, that in cases where the SI Protocol does not apply, there would be no scrutiny role for the Scottish Parliament. It reiterates the DPLRC's call for the Scottish Government to facilitate parliamentary scrutiny of any decisions by Scottish Ministers to consent to the making of regulations that fall outside the scope of SI Protocol 2.**
28. **The Committee welcomes the constructive discussions held between the two governments regarding consent for regulations made in areas of devolved competence.**
29. **The Committee also welcomes the Minister's assurances that the Scottish Government is in ongoing discussions with the UK Government on issues relating to devolution and divergence, and hopes for greater transparency in relation to future inter-governmental negotiations on relevant UK legislation.**
30. **Accordingly, the Committee recommends that the Parliament agrees to the draft legislative consent motion in the second supplementary legislative consent memorandum.ⁱ**

ⁱ Murdo Fraser and Jamie Halcro Johnston dissented from this paragraph.

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- [1] UK Parliament. (2024, September 4). Product Regulation and Metrology Bill - Explanatory Notes. Retrieved from <https://bills.parliament.uk/bills/3752/publications#collapse-publication-explanatory-notes>

