

Second Reading Briefing

Product Regulation and Metrology Bill

October 2024

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

We welcome the opportunity to consider and comment on the Product Regulation and Metrology Bill¹ (“the Bill”) ahead of the second reading in the House of Lords scheduled for 8 October 2024.

General Comments

The Bill contains measures that relate to the UK product safety, regulation and metrology framework.

The Bill extends to England and Wales, Scotland and Northern Ireland.² As noted in the Explanatory Notes accompanying the Bill, there is a convention (known as 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 (or of the Senedd Cymru or the Northern Ireland Assembly) without the consent of the legislature concerned.³

The convention is subject to a statutory declaration in the Scotland Act 1998 section 28(8).

The Explanatory Notes indicate that a Legislative Consent Motion will be sought from the Scottish Parliament. The Explanatory Notes further indicate that the UK Government’s view is that the legislative consent motion process is engaged in part for Scotland in respect of clauses 1-4 and 8-11 of the Bill only.

The UK Government should be asked to detail for the record the discussions it has had with the devolved administrations on legislative consent.

Clauses 1-4 and 8-11 would empower the Secretary of State to make regulations in areas which are within the devolved competence of the Scottish Parliament. There is no requirement for the Secretary of State to consult with or obtain consent from the Scottish Ministers before making regulations which apply to

¹ <https://bills.parliament.uk/bills/3752>

² Section 12

³ Explanatory Notes, para 74



Scotland. This is a matter of concern and the Government should be asked in what circumstances it would proceed to make regulations without consent.

The Bill is also silent on how it will interact with the United Kingdom Internal Market Act 2020.

These points are explored in greater depth by Thomas Horsley in *“Relations Reset or Regression? Devolution and the Product Regulation and Metrology Bill”* published by the UK Constitutional Law Association.⁴

⁴ <https://ukconstitutionallaw.org/>



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