



# Product Regulation and Metrology

## Bill laid before Parliament

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**The new Bill, laid before Parliament on 4 September 2024, is intended to provide the framework for product safety and metrology in all parts of the United Kingdom. It is anticipated that the breadth of the powers (and the centralisation of regulation-making with the UK government) will be the subject of close scrutiny and intensive review by the Scottish, Senedd Cymru and Northern Ireland Assembly before it becomes law.**

### INTRODUCTION

1. Domestic legislation originally enacted to deal with product safety and metrology – the Consumer Protection Act 1987 and the Weights and Measures Act 1985, as well as the Consumer Rights Act 2015 – form the legislative bedrock in these areas. However, swathes of EU regulation dealing with consumer products (and, indeed of industrial products) and the overwhelming majority of secondary legislation derived from EU directives governing the same fields had, following Britain’s exit from the EU, become “assimilated law”, i.e. provisions transposed into UK law while the UK was part of the EU and then retained (or, as is now the case, “assimilated”) as part of the departure process.

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2. Whilst the UK was a member of the EU, the legislation also provided for various systems of mutual recognition and mandated conformity markings that are used across the EU. Following the departure from the EU, powers under the European Union (Withdrawal) Act 2018, were used to create a UK only system, using the UK Conformity Assessment (UKCA) marking. Part of this process involved permitting certain goods that meet current EU requirements on the market across the UK.

## CONTENT

3. The central purpose of the Product Regulation and Metrology Bill (the “PRM Bill”) (a copy of which can be found [here](#)) is to confer a wide regulation-making power on the Secretary of State to replace, amend or update such legislation. Thus, clause 1(1) of the PRM Bill gives the Secretary of State the authority to enact regulations with the intention of guaranteeing that products marketed or used in the UK reduce or mitigate any risk presented by those products, give accurate readings and operate efficiently and effectively. Clause 2 provides that product regulations (under clause 1) may identify requirements for products marketed or used in the UK. Clause 3 provides the framework for enforcement. However, clause 1(3) and the Schedule exclude certain areas from these powers, namely: (1) Agricultural food and feed; (2) Aircraft; (3) Military equipment; and (4) Medicines and medical devices.
4. Certain provisions confer the power on the Secretary of State to align with legislative developments within the EU. Thus, clause 1(2) of the PRM Bill empowers the Secretary of State to harmonise UK law with EU law in order to reduce or mitigate the environmental impact of products. Clause 2(7) allows regulation to recognise standards being satisfied on condition that an EU standard is met. This provision would facilitate international trade and,

indeed trade between Great Britain and Northern Ireland. The power is, however, subject to the clause 2(8) requirement for the Secretary of State to have regard to the social, environmental and economic impact of making the provision concerned. Indeed, such a limitation on the operation of the power is necessary to avoid any suggestion of unlawful sub-delegation.

5. Specific provision is made in clause 1(4) of the PRM Bill around risk. Thus, a product presents a risk *“if, when used for the purpose for which it is intended or under conditions which can reasonably be foreseen, it could—*
  - a. *endanger the health or safety of persons,*
  - b. *endanger the health or safety of domestic animals,*
  - c. *endanger property (including the operability of other products), or*
  - d. *cause, or be susceptible to, electromagnetic disturbance.”*
6. Some definitions within the legislation are bound to attract particular attention from product liability practitioners, as well intensive legislative review before the final version of the Bill may be passed. For example, in clause 1(5) of the PRM Bill, *“marketing”* is defined as *“making available on the market”* and *“use”* is defined as including *“storage, transportation, packaging, labelling or disposal.”* In the same provision, *“product”* is defined as *“a tangible item that results from a method of production.”*
7. Clauses 5 and 6 of the PRM Bill deal with metrology. Clause 5 provides that the Secretary of State can regulate what units of measurement must be used to express quantities of the regulated product and how they are to be (or may be) calculated, determined or referred to. Clause 6 makes provision for the regulation-making power in enforcement on metrology. Clause 7 provides for information sharing generally and clause 8 deals with the power

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to permit the recovery of fees in respect of costs incurred by relevant authorities in carrying out the functions conferred on it.

## POLICY

8. The explicit policy behind the PRM Bill is *“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”*, as well as enabling *“the UK to maintain high product standards, supporting businesses and economic growth, by allowing the UK Parliament the power to update relevant laws.”*
9. Amongst the objectives set out in the Explanatory Notes is to respond to *“new product risks and opportunities to enable the UK 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.”* Practitioners will see the parallels here with the policy objectives of the EU’s new [Product Liability Directive](#). However, the substantive content of UK legislation will only come when the Secretary of State exercises the powers conferred by the legislation.
10. Perhaps of more immediate interest will be the political process of consultation with the devolved administrations. Whilst those bodies may be well-disposed towards the alignment ethos of clauses 1(2) and 2(7), this legislative programme does not contain provision for any additional powers to be conferred on them to take legislative measures intended to increase harmonisation with EU laws (potentially leading to intra-UK divergence). The success of the Bill and the extent to which it will be passed with little amendment may depend on the detail of the operation of the proposed

inter-governmental body intended to minimise friction between central government and the devolved administrations.

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