



The Scottish Parliament  
Pàrlamaid na h-Alba

## Delegated Powers and Law Reform Committee

Kate Forbes MSP

Deputy First Minister and Cabinet Secretary for Economy and Gaelic

**31 October 2024**

Dear Cabinet Secretary

### Product Regulation and Metrology Bill LCM

At its meeting on 29 October 2024, the Delegated Powers and Law Reform Committee (“the Committee”) considered the delegated powers exercisable within devolved competence in the Product Regulation and Metrology Bill (“the Bill”), as referred to in the Scottish Government’s [Legislative Consent Memorandum](#) (“the LCM”) lodged on 24 September.

To assist the Committee in its consideration of the LCM, it agreed to request further information in relation to **Clause 1 - Power to make product regulations**, which confers powers on UK Ministers only in devolved areas.

The Scottish Government states in its LCM that it is currently unclear as to why the Bill confers power to the Secretary of State in areas of devolved competence “except that the UK Government seeks wide-ranging powers on products to cover potential future technological, societal and legislative developments”. Further, the Scottish Government states that 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 even though this could lead to divergence from EU law on devolved matters and/or repeal Scottish legislation.

The Committee therefore asks the Scottish Government:

- **whether it considers it appropriate that the power to make product regulations is conferred on the Secretary of State alone, given that such regulations may make provision within devolved competence;**
- **whether, in its discussions with the UK Government, it intends to seek the conferral of an equivalent power to make product regulations on the Scottish Ministers, insofar as within devolved competence; and**

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

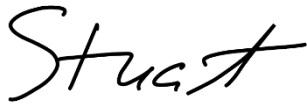
Email: [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot).

We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

- **given the reference to the lack of a consent mechanism in the LCM, if the Scottish Government does secure such a consent mechanism for exercise of the Secretary of State's power, how this Parliament is to scrutinise the Scottish Ministers' consent decisions to UK SIs made by the Secretary of State under powers conferred in devolved areas that do not fall within areas formerly within EU competence before the UK fully withdrew from the EU, and as such where the process for scrutiny by the Scottish Parliament set out in SI Protocol 2 will not apply?**

I would be grateful if you could please email your response to these questions to: [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot) by close on **Monday, 11 November**.

Yours sincerely,



**Stuart McMillan MSP**  
Convener