

Product Regulation and Metrology Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN GRAND COMMITTEE

*Tabled up to and including
28 October 2024*

[Amendments marked ★ are new or have been altered]

Clause 1

LORD FOX

Clause 1, page 1, line 6, leave out “or effectively” and insert “, effectively and safely”

Member's explanatory statement

The Amendment ensures that regulations relating to the marketing of use of products in the UK may have the purpose of ensuring that products are safe.

LORD FROST
LORD JACKSON OF PETERBOROUGH

Clause 1, page 1, line 9, leave out subsection (2)

Member's explanatory statement

This amendment removes from the Bill a broadly-drawn power to align with EU environmental regulation.

LORD FOX

Clause 1, page 2, line 3, leave out “item that results from a method of production” and insert “or intangible item that results from a method of production including operating systems and internet-connected products”

Member's explanatory statement

This amendment is intended to probe whether operating systems and internet-connected products would be covered by the provisions of the Act.

BARONESS CRAWLEY

- ★ Clause 1, page 2, line 3, leave out “item that results from a method of production” and insert “or intangible item, whether or not interconnected to other items, that results from a method of production, is supplied including in the context of providing a service, or made available on the market, whether in return for payment or free of charge”

Member's explanatory statement

This amendment would broaden the definition of items subject to the new regulatory framework of product regulation to ensure that all digital as well as non-digital products are within scope.

LORD FROST
LORD JACKSON OF PETERBOROUGH

Clause 1, page 2, leave out lines 7 to 13 and insert –

““relevant foreign law” means law of one or more of the United States of America, Canada, Japan, the European Union, Switzerland, Australia, or New Zealand relating to standards, the marketing, or use of products in those markets, which are in force on a specific date and only that date, as specified in regulations;”

Member's explanatory statement

This and other amendments in the name of Lord Frost open up the possibility of defining product regulations by relation to the laws of countries other than the European Union, require the justification of decisions to limit any such reference to the laws of one territory only, and prevent regulations providing for dynamic alignment to relevant foreign laws.

LORD FOX

Clause 1, page 2, line 13, at end insert –

“(c) EU REACH regulation restrictions that are applied to the manufacture, placing on the market, and use of certain chemicals to mitigate unacceptable risks to human health or the environment;”

Member's explanatory statement

The amendment ensures that EU REACH regulations covering certain chemicals are included in the Bill.

After Clause 1LORD RUSSELL OF LIVERPOOL
LORD KIRKHOPE OF HARROGATE
LORD BROWNE OF LADYTON
LORD FOX

Revised version of the amendment printed on 16 October 2024

After Clause 1, insert the following new Clause—

“Replication of EU law

- (1) Where equivalent or similar EU law exists in relation to relevant product regulations the Secretary of State must, when making provision under section 1, make provisions to equivalent effect as such EU law, except where subsection (2) applies.
- (2) If the Secretary of State does not believe replication of relevant EU law to be in the interests of the United Kingdom, they must make an assessment of the appropriate differences and provide for those differences by regulations.
- (3) The Secretary of State must arrange for a statement to be made in Parliament on any decision not to replicate EU law under subsection (2) at least fourteen days before regulations are laid before Parliament.”

Clause 2

LORD LUCAS

Clause 2, page 2, line 30, after “products” insert “with information including their origin, the identity of the local representative, their value and beneficial ownership”

Member's explanatory statement

This amendment will enable discussion of what information might usefully be marked on the product, such that the liability for regulations and charges can be clearly established.

BARONESS FINLAY OF LLANDAFF

- ★ Clause 2, page 2, line 42, at end insert “and emergency services”

Member's explanatory statement

This amendment is intended to ensure regulated marketplaces co-operate with emergency services (where appropriate) to protect consumers from unsafe products.

LORD LUCAS

Clause 2, page 2, line 43, after “representatives” insert, “including requirements related to the acceptance of liability by such representatives and the financial strength necessary to do so”

LORD LUCAS

Clause 2, page 2, line 43, at end insert—

- “(1) the collection of tax and charges related to products.”

LORD LUCAS

Clause 2, page 2, line 43, at end insert –

- “(1) charging fees designed to recoup government costs in administering and enforcing product regulation under this Act.”

LORD FOX

Clause 2, page 2, line 43, at end insert –

- “(2A) Product regulations must include requirements in relation to an environmental impact assessment, and provisions related to the right to repair and the circular economy.”

Member's explanatory statement

This amendment guarantees that future regulations under the Act will include provisions which relate to the circular economy and granting consumers the right to repair products.

LORD JACKSON OF PETERBOROUGH

Clause 2, page 3, line 19, leave out paragraph (h)

Member's explanatory statement

This amendment deletes a paragraph to remove both broad Ministerial powers to compel any person to follow regulations in respect of any products, and the ambiguous term “activities”.

LORD FROST

LORD JACKSON OF PETERBOROUGH

Clause 2, page 3, line 34, leave out “EU” and insert “foreign”

Member's explanatory statement

This and other amendments in the name of Lord Frost open up the possibility of defining product regulations by relation to the laws of countries other than the European Union, require the justification of decisions to limit any such reference to the laws of one territory only, and prevent regulations providing for dynamic alignment to relevant foreign laws.

LORD FROST

LORD JACKSON OF PETERBOROUGH

Clause 2, page 3, line 37, at end insert –

- “(7A) Any regulations under subsection (7) which specify a relevant foreign law must specify that the foreign law referred to is that which is in application on a particular date, which must be specified.”

Member's explanatory statement

This and other amendments in the name of Lord Frost open up the possibility of defining product regulations by relation to the laws of countries other than the European Union, require the justification of decisions to limit any such reference to the laws of one territory only, and prevent regulations providing for dynamic alignment to relevant foreign laws.

LORD LANSLEY

Clause 2, page 3, line 37, at end insert –

- “(7A) Provision made in reliance on subsection (1) may (among other things) identify product requirements by reference to international agreements or standards relating to the marketing or use of products, including agreements or standards as they have effect from time to time.”

Member's explanatory statement

This amendment would enable product requirements to be met by reference to international standards.

LORD FROST
LORD JACKSON OF PETERBOROUGH

Clause 2, page 3, line 40, at end insert –

- “(9) Before making provision described in subsection (7), the Secretary of State must make an explanatory statement if the provision relates to relevant foreign law of only one of the markets listed in the definition of “relevant foreign law” in section 1(5).”

Member's explanatory statement

This and other amendments in the name of Lord Frost open up the possibility of defining product regulations by relation to the laws of countries other than the European Union, require the justification of decisions to limit any such reference to the laws of one territory only, and prevent regulations providing for dynamic alignment to relevant foreign laws.

After Clause 2

LORD LANSLEY

After Clause 2, insert the following new Clause –

“International standards for products

- (1) The Secretary of State must commission a strategy from the Office for Product Safety and Standards for the delivery of international standards appropriate to the product requirements for the marketing or use of products.
- (2) The Secretary of State must publish the strategy prepared in accordance with subsection (1).

- (3) The Secretary of State and the Office for Product Safety and Standards may consult whoever they consider appropriate in preparing, publishing, and implementing the strategy under subsection (1).”

THE EARL OF LYTTON

After Clause 2, insert the following new Clause –

“Construction product safety: regulations and requirements

- (1) Within twelve months of the passing of this Act, the Secretary of State must, by regulations under section 1, make provision to reduce risks as defined in section 1(4) presented by construction products.
- (2) For the purposes of this section, construction products include, but are not limited to, any components used in the construction of buildings, such as external cladding.
- (3) Within twelve months of the passing of this Act, the Secretary of State must also make provision about construction product requirements by regulations under section 2.
- (4) Regulations under subsection (3) must set out requirements for the production, use, marking, marketing, testing, approval and provision of information (including information about risk) of construction products.”

Member's explanatory statement

This amendment intends to probe whether the Secretary of State will use powers under sections 1 and 2 to regulate products used in construction.

BARONESS BRINTON

Revised version of the amendment to Clause 2, page 3, line 19 printed on 21 October 2024

After Clause 2, insert the following new Clause –

“Obligations of private sellers under sections 1 and 2

The providers of online marketplaces used by private individuals are required to notify private sellers of their obligations under sections 1 and 2.”

Member's explanatory statement

This is a probing amendment, following the letter of Lord Leong dated 17 October 2024 (page 4), to understand whether true non-trading private sellers using online marketplaces such as eBay or Vinted will be covered by the provisions of Clause 2(3)(h) in particular.

LORD FOSTER OF BATH

After Clause 2, insert the following new Clause –

“Duty on online marketplaces

Product regulations must be made that require the persons described in section 2(3)(d) to ensure that products sold on their platform to customers in the United Kingdom meet United Kingdom product safety standards.”

Member's explanatory statement

The amendment ensures that online marketplaces have a duty to ensure that products sold by third parties on their platform are safe for consumers.

BARONESS CRAWLEY

★ After Clause 2, insert the following new Clause –

“Duties of online marketplaces

- (1) Without prejudice to the generality of any other powers or duties conferred by this Act, the Secretary of State must by regulations make provision about requirements that must be met by a person mentioned in section 2(3)(d), including regarding duties –
 - (a) to operate an online marketplace using effective systems and processes designed to monitor for, and identify, products presenting risks to consumers or other individuals and prevent such products being made available on or through the online marketplace;
 - (b) to cooperate with relevant authorities, with other persons mentioned in subsection 2(3) or any other relevant persons, to facilitate any action taken to eliminate or, if that is not possible, to mitigate the risks presented by a product that is or was made available on or through their online marketplace;
 - (c) to ensure that information regarding the identity and activities of persons marketing products on or through online marketplaces to consumers or other individuals is obtained and verified;
 - (d) to remove products presenting risks to consumers or other individuals from availability on or through an online marketplace as quickly as possible if alerted to their presence.
- (2) Within three months from the day on which this Act is passed, the Secretary of State must publish and lay before Parliament a statement that sets out how the Secretary of State is exercising, or expects to exercise, the powers under subsection (1) regarding the proposed duties that must be met by a person mentioned in section 2(3)(d).”

Member's explanatory statement

This new Clause provides a non-exclusive list of duties that must be imposed upon online marketplaces by regulations made by the Secretary of State, and for a statement by the Secretary

of State to be made to Parliament within 3 months of Royal Assent regarding the exercise of the duties conferred by this section.

Clause 3

LORD FOSTER OF BATH
BARONESS BRINTON

Clause 3, page 4, line 20, at end insert –

“(4A) The Secretary of State must ensure that all authorities with enforcement powers under this Act have the capacity to enforce product and metrology regulations, including provisions described in subsection (3).”

Member's explanatory statement

The amendment places a duty on the Secretary of State to ensure that there is adequate capacity for relevant authorities to ensure the enforcement of product and metrology regulations.

BARONESS BRINTON

Clause 3, page 4, line 20, at end insert –

- “(4A) Within six months of the day on which this Act is passed, the Secretary of State must designate Trading Standards Offices as relevant authorities under subsection (1).
- (4B) The Secretary of State must ensure that Trading Standards Offices operating under local authorities have the resources to enforce regulations under the Act, including, but not limited to, financial resources.”

Member's explanatory statement

The amendment ensures that Trading Standards Offices are designed as relevant authorities under the Act after a period of six months and have the resources, including financial, to enforce regulations under the Act.

BARONESS BRINTON

Clause 3, page 5, line 6, leave out subsections (9) to (11)

Member's explanatory statement

This probing amendment seeks to ensure that new criminal offences, which would have consequences for the Ministry of Justice and the criminal justice system, are not created through new product regulations under the Act.

After Clause 3

BARONESS CRAWLEY

★ After Clause 3, insert the following new Clause –

“Liability and redress for unsafe or defective products

The Secretary of State may by regulations make provision for –

- (a) the extension of liability for unsafe or defective products to online marketplaces and any other persons within the scope of section 2(3);
- (b) the disclosure of evidence in relation to claims for compensation or other rights of action in law for harm caused by unsafe or defective products and presumptions of liability that may arise accordingly;
- (c) proceedings, including collective proceedings, to ensure redress for consumers or other individuals suffering harm as a result of unsafe or defective products made available in breach of requirements imposed under powers given by this Act.”

Member's explanatory statement

This amendment allows the Secretary of State to make regulations providing for liability of online marketplaces for defective and unsafe products, and to ensure that those suffering harm from unsafe or defective products can obtain redress.

After Clause 4

BARONESS BRINTON

After Clause 4, insert the following new Clause –

“Regulations relating to lithium-ion batteries

- (1) The Secretary of State must lay before Parliament a statutory instrument containing regulations relating to lithium-ion batteries within six months of the passing of this Act.
- (2) Before laying the statutory instrument referred to in subsection (1), the Secretary of State must consult with the relevant statutory consultees including the fire services, and with relevant consumer, industry, manufacturing and trade bodies.”

Member's explanatory statement

The amendment seeks to clarify the issues relating to the regulation of lithium-ion batteries, including the increasing numbers of fires, deaths and injuries as a result of lithium-ion batteries.

LORD HOPE OF CRAIGHEAD
LORD FOX

After Clause 4, insert the following new Clause—

“Product regulations: devolved administrations

- (1) Product regulations may not be made until the Secretary of State has consulted the devolved administrations as to their impact and effect on the marketing and use of products in the areas within the United Kingdom over which they have legislative competence.
- (2) The Secretary of State may by Regulations exclude the application of this Act to products to be marketed or used in areas within the United Kingdom over which the devolved administrations have legislative competence to enable effect to be given to an agreement that forms part of a common framework agreement.
- (3) A “common framework agreement” is a consensus between a Minister of the Crown and one or more devolved administrations as to how devolved or transferred matters previously governed by EU law are to be regulated.”

Member's explanatory statement

This amendment ensures that devolved administrations are consulted before regulations are made under this Part of the Bill, and that common framework agreements receive the same protection to enable them to receive effect as they have under section 10 of the UK Internal Market Act 2020.

Clause 5

LORD FOX

Clause 5, page 6, line 8, at end insert—

- “(3A) Regulations under this section must have regard for the impact of metrology regulations on small and medium sized enterprises.”

Member's explanatory statement

The amendment ensures that new metrology regulations under the act have regard for impacts on small and medium sized enterprises.

Clause 6

BARONESS BRINTON

Clause 6, page 7, line 24, leave out subsections (9) to (11)

Member's explanatory statement

This probing amendment seeks to ensure that new criminal offences, which would have consequences for the Ministry of Justice and the criminal justice system, are not created through new metrology regulations under the Act.

LORD JACKSON OF PETERBOROUGH

Clause 6, page 7, line 30, at end insert –

“(9A) At least 30 days before making provisions as described in subsection (9), the Secretary of State must place in the library of both Houses an Explanatory Memorandum, outlining why such changes are necessary to meet the requirements in section 1(1) of the Act.”

Member's explanatory statement

This amendment creates a presumption that any changes to regulations in respect of criminal offences arising from non compliance will be subject to appropriate Parliamentary scrutiny and oversight.

After Clause 6

LORD FOX
LORD HOPE OF CRAIGHEAD

After Clause 6, insert the following new Clause –

“Regulations: devolved administrations

The Secretary of State must consult with the devolved administrations on the impacts of regulations made under this Act.”

Member's explanatory statement

This amendment ensures that devolved administrations are consulted with regards to the impacts of regulations under the Act.

LORD FOX

After Clause 6, insert the following new Clause –

“Regulations: international law

The Secretary of State, in making regulations under this Act, must have regard for current and future international law relating to product regulation and metrology, including, but not limited to, EU law.”

Member's explanatory statement

This amendment requires that new regulations made under the Act must have regard for current and future international product and metrology regulation.

LORD FOX
BARONESS BRINTON

After Clause 6, insert the following new Clause—

“Regulations: consumer safety and sustainability

Regulations made under this Act must have regard for consumer safety and wellbeing, and environmental sustainability, with particular reference to the disposal of chemical and lithium-ion products.”

Member's explanatory statement

This amendment ensures that regulations under the Act have regard for consumer safety and wellbeing, and environmental sustainability.

Clause 7

BARONESS FINLAY OF LLANDAFF

- ★ Clause 7, page 8, line 5, leave out “may” and insert “must”

Member's explanatory statement

This probing amendment seeks to ensure that regulations must make provision for sharing information about unsafe products with the emergency services, for the purposes of safety messaging or prevention campaigns.

LORD FOX

- ★ Clause 7, page 8, line 15, at end insert—

- “(d) coroners, medical examiners or procurators fiscal investigating the causes of deaths in England, Wales, Scotland or Northern Ireland,
- (e) the Office for National Statistics, National Records of Scotland or the Northern Ireland Statistics and Research Agency,
- (f) bodies designated to make super-complaints on behalf of consumers pursuant to section 11 of the Enterprise Act 2002 (super-complaints to OFT),
- (g) NHS England,
- (h) the Royal College of Emergency Medicine,
- (i) other bodies specified by the Secretary of State which play a role in representing the public interest in relation to reducing the risks presented by products,
- (j) persons conducting academic research into the extent, causes or reduction of harm arising from or potentially associated with the use of products, or
- (k) bodies or persons performing roles comparable to those in paragraphs (a) to (h) in this subsection in the European Union, OECD or individual member states of either of those organisations.”

Member's explanatory statement

The amendment ensures that the information sharing provisions of the Act apply to more bodies responsible for investigating harms and deaths caused by products.

BARONESS BRINTON

Clause 7, page 8, line 20, leave out paragraph (d)

Member's explanatory statement

This probing amendment seeks to ensure that new criminal offences, which would have consequences for the Ministry of Justice and the criminal justice system, are not created through new information sharing regulations under the Act.

Clause 9

LORD FOX

Clause 9, page 9, line 29, leave out subsection (4)

Member's explanatory statement

The amendment removes the power for consequential changes to be made by delegated legislation to Acts other than those specified, further to the concerns highlighted by the 2nd Report from the Delegated Powers and Regulatory Reform Committee (HL Paper 17), published on 15 October 2024.

After Clause 9

LORD FOX

After Clause 9, insert the following new Clause—

“Regard for United Kingdom Internal Market Act 2020

In exercising their functions under this Act, the Secretary of State must have regard to the provisions of Part 1 of the United Kingdom Internal Market Act 2020 (UK market access: goods).”

Clause 10

LORD FOX

Clause 10, page 9, line 38, at end insert—

““circular economy” means that products are manufactured to minimise waste and maximise the use, reuse, and recyclability of products;”

Member's explanatory statement

This amendment clarifies the meaning of “circular economy” as it relates to another amendment in the name of Lord Fox.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 19, after “service” insert “or feature of a service”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 20, after “website” insert “, in whole or in part”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 22, after “platform” insert “, interface or software”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 23, after “available” insert “digitally or”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 24, after “marketing” insert “or supply”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

BARONESS CRAWLEY

- ★ Clause 10, page 10, line 24, leave out “in the United Kingdom”

Member's explanatory statement

This amendment and others in the name of Baroness Crawley to Clause 10 would ensure that the definition of “online marketplace” for the purpose of imposing new product requirements is sufficiently wide to cover the many different types of platform and online services targeting users in the UK, and not be at risk of being subject to interpretation in a restrictive way.

LORD FOX

Clause 10, page 10, line 32, at end insert –

““right to repair” means the provision for manufacturers to conveniently sell replacement components for products they sell;”

Member's explanatory statement

This amendment clarifies the meaning of “right to repair” as it relates to another amendment in the name of Lord Fox.

Clause 11

BARONESS CRAWLEY

- ★ Clause 11, page 10, line 37, at end insert –

“(1A) Before making regulations under this Act, the Secretary of State must publish such regulations in draft form and consult such persons as the Secretary of State considers appropriate on the draft regulations, including organisations representing the interests of consumers and other relevant organisations.”

Member's explanatory statement

This amendment requires the Secretary of State to conduct appropriate consultation on draft regulations made under this Act.

LORD RUSSELL OF LIVERPOOL
LORD KIRKHOPE OF HARROGATE
LORD BROWNE OF LADYTON
LORD FOX

Clause 11, page 11, line 10, at end insert –

“(za) provision described in section (*Replication of EU law*)(2);”

LORD FROST
LORD JACKSON OF PETERBOROUGH

Clause 11, page 11, line 10, at end insert –

“(za) provision described in section 2(7);”

Member's explanatory statement

This amendment would ensure that the affirmative parliamentary procedure will apply to regulations under Clause 2(7), that is, any regulations which include references to relevant foreign law.

LORD FOX

Clause 11, page 11, line 18, at end insert –

“(6) Every six months after the date on which this Act is passed, the Secretary of State must publish an assessment of the impact of all of the regulations made by virtue of subsection (3) which have been laid since the previous report.”

Member's explanatory statement

This amendment requires the Secretary of State to publish a report every 6 months detailing draft regulations under the Act, to inform Parliamentary and industry scrutiny of the regulations.

LORD FOX
LORD ANDERSON OF IPSWICH

Clause 11, page 11, line 18, at end insert –

- “(6) A Minister of the Crown may not make a statutory instrument containing regulations until –
- (a) a document containing a proposal for those regulations has been laid before Parliament,
 - (b) the document has been referred to a Joint Committee of both Houses, and
 - (c) a period of at least 40 days has elapsed after that referral, not including any period during which Parliament is dissolved or prorogued, or either House is adjourned for more than four days.
- (7) If the Joint Committee referred to in subsection (6), after considering any regulations laid under this subsection, finds that –

- (a) the regulations represent a substantive change to product or metrology law, or
 - (b) the Minister of the Crown has not carried out public consultation lasting at least six weeks before laying the document before Parliament,
- a Minister of the Crown must table a motion for resolution in each House of Parliament to approve the instrument before the period in subsection (6)(c) elapses.”

Member's explanatory statement

This amendment ensures that regulations under the Act be referred to a Joint Committee of both Houses for review. Should the Committee deem it necessary, such as when the regulations represent a significant departure from existing law, it would have the authority to refer the instruments to a process requiring Parliamentary approval.

The Schedule

LORD FOX

★ The Schedule, page 12, line 20, at end insert –

“8A Civilian products which the Secretary of State has deemed to pose a national security threat.”

Member's explanatory statement

This probing amendment disapplies civilian products deemed to pose a threat to national security from the provisions of the Act, with the intention of seeking to understand the Government's position on product regulation in this area.

Product Regulation and Metrology Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN GRAND COMMITTEE

Tabled up to and including

28 October 2024

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