



Society of Chief Officers of Trading Standards in Scotland (SCOTSS) written submission to Public Bill Committee – Product Regulation and Metrology Bill

Response sent to – scrutiny@parliament.uk

This response is being sent on behalf of The Society of Chief Officers of Trading Standards in Scotland (SCOTSS) and has been compiled through the expertise of SCOTSS members and professional Trading Standards Officers in Scotland.

About SCOTSS:

Founded in 1996 The Society of Chief Officers of Trading Standards in Scotland is a Scottish Charitable Incorporated Organisation (SC047951) and is the professional body representing the heads of service for all 31 trading standards services in Scottish local authorities.

SCOTSS liaises with local council colleagues across the UK, and engages with government and others around the operation of the consumer protection landscape, providing leadership and consistency to Scotland's trading standards teams. We aim to educate, coordinate, and support.

Any queries can be directed to our National Coordinator at coordinator@scotss.org.uk

Written Evidence Submission:

1. Product Safety – The Landscape and the Scale of the Challenge

The current scale of landscape and the businesses operating within it are ever changing, and often largely unknown. There is no coherent registration process by which the National and Local Regulators can identify the businesses which are operating within their area, whether in traditional retail or online. Businesses can enter the market without having identified themselves to any regulator and simply begin trading.

We currently have limited organised data on the scale of the challenge, and no systematic approach to address that challenge, especially when dealing with duties spanning multiple regulators.

There should be a mandatory scheme, as there is with food business operators, to register with an authority to alert them to the trading areas in which they are engaging. This will allow appropriate risk assessment to be carried out, and allow for an appropriate level of local market surveillance to be established.

Inclusion of a small fee for this registration, which could contribute to the establishment of a system which is sustainable and more able to be self funding, similar to that operated by the MHRA.

There should be a thorough evaluation of capacity within the current system, combined with a coherent set of expectations in so far as what the 'statutory duty to enforce' actually means in practice, set against the scale assessment above. Consideration should be given to the

likelihood of diversion of trading standards officers from the range of other statutory duties when undertaking this capacity assessment.

2. Small businesses

Small businesses are often under prepared to address the legislative hurdles with which they must comply. Local Market Surveillance, in the form of Trading Standards Officers, are ideally placed to help provide advice and guidance to small businesses. Support should be provided for small businesses to get their product right, through access to standards which should be facilitated by government and supported by Trading Standards Officers. Combined with the requirement to register above, this would allow for proactive provision of this such support.

3. Powers

The provisions of the bill as written do not seem to allow for a power of Test Purchase within subordinate legislation, which is a vital part of the enforcement toolkit.

The Bill implementation must allow for a coherent system of Ports and Borders work under GBRAMS, alongside inland and online market surveillance.

Online marketplace protection should be strengthened, with associate provisions to avoid dumping of products, or re-entry of unsafe products onto the market through subsequent re-sale of 'liquidated stock'. Furthermore, with a view to a circular economy, these should also not facilitate the unsustainable practices of import of low price, low quality items, which are then simply abandoned or thrown away.

The UK should not facilitate business with no 'real' UK presence doing business with UK consumers -current practice allows for business with no controlling mind to operate, and

A significant proportion of goods sold online are found to be non-compliant (OPSS surveys). We must ensure that the regulatory framework is able to assess the scale of this challenge, and respond appropriately at a suitable scale.

Businesses who operate via online marketplaces should take an appropriate degree of responsibility for their business users, which should include additional responsibilities.

Care must be taken in relation to the structure of regulations, and should not divert from a principles-based approach which allows Legislation to set the Essential Safety Requirements (ie the What) and allow voluntary standards to set the 'how' which also allows for businesses to innovate to achieve compliance, but have certainty of what is acceptable (presumption of conformity).

There should be no loss of gradation within enforcement notices, which allow escalating action to be taken with varying degrees of knowledge relating to product risk (ie, suspicion, belief) which allows for reasonable and pragmatic enforcement (ie suspension notices).

4. Information sharing and identification of emerging issues

The UK currently has no established 'early warning system' in relation to Product Safety, meaning identification of emerging issues is particularly challenging. Previous HASS/LASS statistics gathered have been abandoned. A previous OPSS project in this area, has not yet been published. This type of system does exist in relation to medicines in the forms of the yellow card system.

The UK must establish a means by which emerging issues taken from e.g. healthcare settings can be identified and collated, and early intervention taken to protect consumers.

Information sharing provisions are welcome, to ensure that operators at all levels share appropriate information, possibly in terms of a system as mentioned above, to identify problem products and sectors, but also emerging issues. This is especially true of a duty to report within e.g. the healthcare sector when injuries are linked with specific goods. These must be regarded in terms of their cumulative burden, however, and consideration given.

5 Metrology

The Bill provides wide powers for the Secretary of State to create regulations regarding various aspects of metrological enforcement. In respect of this, SCOTSS are very keen to ensure that to access local and national expertise within the Trading Standards profession is an integral part of the process when developing such secondary legislation under this Bill.

Looking at individual parts of the Bill as relevant to Metrology:

- **Clause 5**
It is important that there is only one coherent system of measurement allowed for use for trade (with some few traditional exceptions) throughout the UK. This allows for consistency and easier comparison of prices. It is a concept that can be traced back to Medieval times. The use of consistent measurement must be supported at all stages of the supply chain. The use of prescribed quantities, which Clause 5(2) would appear to make possible, does allow easy comparison of prices across comparable products. Again, consistency of units used to express quantity, and pricing allows fair comparison by consumers. Any new regulation made under this Bill must not dilute this concept. As put in Magna Carta in 1215- 'There is to be one measure of wine throughout our kingdom, and one measure of ale, and one measure of corn...'. History has shown this to be a sound concept.
- **Clause 6**
This would appear to allow the widening of bodies allowed to enforce Metrology legislation. Any such power needs to be used sensibly and in full consultation with the Trading Standards profession. In addition, there is a power to make regulations to confer powers on relevant authorities to appoint inspectors. It is key to the effective and knowledgeable enforcement that the current qualification to be an inspector of Weights and Measures under S73 of The Weights and Measures ACT 1985 is supported and its status maintained and not diluted by allowing the appointment of unqualified or lesser qualified persons to enforce Metrology regulations.
The concept of widening the scope and approach of Metrological legislation and possible sanctions is interesting and potentially valuable if done with the full engagement of the Trading Standards profession to ensure that any changes are proportionate and workable.