

Product Risk Radar

UK Product Regulatory and Safety Reform

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Product safety and regulatory reform is beginning to take shape in the UK.

The Product Regulation and Metrology Bill, which was introduced in the House of Lords in September 2024, is making its way through the legislative process.

The purpose of the Bill is to provide a broad framework, under which secondary legislation can be made (see below). The devil will be in the detail and drafts of the proposed secondary legislation are not available yet. However, we have set out below a summary of the insights the Government has provided so far about the legislative proposals. It will come as no surprise that reform concerning online marketplaces remains a key priority.

Product safety reform in the EU is much further advanced, with the new General Product Safety Regulation (Regulation 2023/ 988) (the "**EU GPSR**") applying from 13 December 2024 (see here for further details). It is worth noting that the EU GPSR will apply in Northern Ireland from that date (but not the rest of the UK) given arrangements put in place following Brexit (see here for OPSS's guidance on this point).

What does the Bill itself say?

As originally drafted, the Bill (see [here](#)) would provide a broad framework of powers; for example, to pass regulations in relation to the marketing or use of products in the UK for the purpose of reducing or mitigating risks presented by products or ensuring that products operate efficiently or effectively. Those regulations could make provision about requirements that must be met in relation to products marketed or used in the UK or in order for products to be marketed or used in the UK (such as requirements in relation to the production, components, use or marking of products etc).

The Bill also provides that regulations may make provision about the enforcement of product regulations, such as by:

- (i) conferring functions on an authority (almost certainly OPSS) to monitor compliance, investigate suspected non-compliance, secure compliance or mitigate the effect of non-compliance with product regulations;

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- (ii) creating or widening the scope of criminal offences; or
- (iii) conferring power on an authority to impose civil sanctions (including fines).

The Bill is at the Committee stage in the House of Lords (it still needs to complete its legislative journey through the House of Lords and then the House of Commons). Even at this stage, a larger number of amendments have been proposed than OPSS expected. Therefore, it is likely to take longer than expected for this enabling legislation to be put in place, before the Government moves on to the detailed secondary legislation which will be needed to introduce the details of the proposed reform. The comments set out above are based on the Bill as originally drafted and do not take into account any of the amendments which have been proposed to date.

What can we glean from the background briefing notes to the King's Speech?

The background briefing notes to the King's Speech, which was delivered on 17 July 2024, gave us the first indications of how the new Labour Government intended to take forward the product safety reform started by the previous Conservative Government.

The background briefing notes (see [here](#)) stated that the Bill was intended to "*ensure the UK is better placed to address modern day safety issues, harness opportunities that deliver economic growth, and ensure a level playing field between the high street and online marketplaces*".

Based on the notes to the King's Speech, the Bill is intended to enable the Government to mirror or diverge from updated EU rules "*so that we can maintain high product safety while supporting businesses and economic growth*". The notes recognise the current divergence between rules in Northern Ireland and the rest of the UK following Brexit and the Windsor Framework and points to powers in the Bill to "*make changes to GB legislation to manage divergence and take a UK-wide approach, where it is in our interests to do so*".

According to the background briefing notes, the Bill is intended to address the following specific challenges:

- enabling the government and its regulators to tackle non-compliance and target interventions by allowing greater sharing of data between regulators and market surveillance authorities;
- enabling the UK to keep pace with technological advances, such as AI, and address challenges such as the fire risk associated with e-bikes and lithium-ion batteries;
- identifying new and emerging business models in the supply chain and ensuring the responsibilities of those involved in the supply of products, such as online marketplaces, are clear; and
- ensuring that the law can be updated to recognise new or updated EU product regulations, including CE marking, where appropriate to prevent additional costs for businesses and provide regulatory stability.

The background briefing notes also highlighted that there is an urgent need to legislate to respond to emerging threats to consumer safety, for example, to address incidents arising from ingesting button batteries.

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What did we learn from the Government's response to the Product Safety Review consultation?

On 5 November 2024, the Government published its response to the Product Safety Review consultation, which was carried out in 2023 (see [here](#)).

The Government listed the following short term key priorities for reform over the next year:

- addressing the issues faced by the sale of unsafe goods through online marketplaces (for example, by introducing new specific requirements on online marketplaces to clarify and modernise their responsibilities, by building on best practice to create a "proportionate regulatory framework", where online marketplaces take steps such as providing consumers with appropriate information, instructions and warnings about product prior to purchase.
- considering how new and emerging cross-cutting hazards are adequately addressed (for example, the choking hazard presented by button batteries or the fire hazard presented by lithium-ion batteries);
- monitoring immediate changes to the EU product and metrology legislation (e.g. in relation to common charger solutions and measuring noise from outdoor equipment).

The Government also commented that, in the coming months, it will consider the most effective way to progress voluntary digital labelling.

The Government recognised that these are complex reforms, which will require further consultation with businesses, consumer groups and other interested parties.

What did we learn from the recent OPSS delivery report?

OPSS published its delivery report for 2023 – 2024 on 19 November 2024 (see [here](#)). The report makes for interesting reading, particularly given that the proposed reforms outlined above are likely to result in greater powers for OPSS.

The report indicates that OPSS is increasingly using its enforcement powers to improve product safety in the UK. We have listed some examples of OPSS's actions below.

- In 2023 / 2024, targeting by OPSS's Border Profiling Unit (working with HMRC) resulted in checks on consignments covering over 15m goods at the border, with 2.4 million goods (16%) refused entry to the UK, for example, unsafe e-bikes, toys, cosmetics and electrical products.
- OPSS declared a national incident in relation to a faulty elbow joint fitted to around 100,000 gas hobs. OPSS served statutory information notices on the Chinese manufacturer of the joints and UK based businesses using them in their hobs. OPSS issued UK based businesses with Suspension Notices preventing further supply of the affected products. OPSS also issued Compliance Notices requiring corrective measures to address the risks for affected products and requiring the businesses to provide data on the effectiveness and quality of their corrective action programme.
- OPSS took enforcement action to remove two dangerous models of e-bike batteries from the market and issued 26 Withdrawal Notices to online marketplaces, sellers and manufacturers requiring them to immediately stop supplying those batteries. This resulted, for example, in one online marketplace removing over 500 product listings and contacting over 4,000 buyers as part of the recall of those products. OPSS also issued separate

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warnings to consumers to stop using the batteries immediately and to dispose of them safely. OPSS worked with consumer bodies, such as Citizens Advice, the Institute of Health Promotion and Education and the Child Accident Prevention Trust to extend the reach of its communications about the recall. Trade associations also shared OPSS advice on e-bike safety and the safety issues with the specific recalled batteries with their members.

- OPSS tested a battery powered musical cot mobile intended for use by young children, supplied by a third party supplier on an online marketplace. OPSS assessed the product as high risk due to choking hazards presented by small parts. OPSS requested corrective action and the business recalled the product from UK consumers. Given the level of risk, OPSS considered that it was proportionate to undertake a prosecution and the business was found guilty, incurring fines and costs of over £16,000.

What does this mean for your business?

The UK product regulatory and safety landscape is continuing to evolve. Concrete developments are underway and change is likely to gather pace quickly once the Product Regulation and Metrology Bill is passed by Parliament.

Businesses in the UK should take every opportunity to engage with OPSS and the Government on any specific proposals for reform which are particularly relevant for them. It appears that OPSS and the Government are keen to ensure that reform is effective and proportionate. Businesses are best placed to flag if particular proposals are not feasible or if there is a better way in practice of achieving the same goal.

Whilst the Government's focus at the moment appears to predominantly be on the issues outlined above, it is likely that the Government will also turn to consider changes to the strict product liability regime in the UK (particularly as the new EU Product Liability Directive (2024 / 2853) will apply from 9 December 2026).

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