



The Scottish Parliament  
Pàrlamaid na h-Alba

Cabinet Secretary for Environment,  
Climate Change and Land Reform  
Roseanna Cunningham MSP

c/o Clerk to the Committee  
Room T3.40  
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***By email only***

(RNID Typetalk calls welcome)

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19 September 2019

Dear Roseanna,

**The Deposit and Return Scheme for Scotland Regulations 2020: proposed regulations**

At its meetings on 3 and 17 September 2019, the Committee agreed its approach to consideration of the proposed regulations.

The Committee noted that the time for consideration of and reporting on the draft regulations is limited and it is anticipated that there will be significant interest from the public and interest groups. The Committee has launched a call for evidence to gather views on the draft regulations.

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/112832.aspx>

As the draft regulations are detailed and technical, the Committee agreed to write to the Scottish Government at the earliest opportunity with a detailed set of questions and consider the written response before hearing, at a future meeting, from officials from the Scottish Government and Zero Waste Scotland, to explore outstanding issues and areas of concern.

The detailed questions are attached as an annexe to this letter.

We would welcome a response from you by 1 October 2019.

Yours sincerely,

Gillian Martin MSP  
Convener  
Environment, Climate Change and Land Reform Committee

## **The Deposit and Return Scheme for Scotland Regulations 2020: proposed regulations**

### **Scope (materials)**

- How will scheme packaging be made identifiable in practice?
- How will it be ensured that deposits are not returned for items not covered by the scheme?
- Does the Scottish Government intend to review the scope of the DRS (in terms of materials included) in future and is there potential for further materials to be added?
- What are the reasons for including glass in the scheme and what impact does the Scottish Government aim the scheme will have on glass recycling and use?
- Does the Government expect any issues in relation to determining whether materials are designed for single or multiple uses (and therefore are included or not included)?
- Will the scheme apply to 'bio-based' or 'compostable' plastics or other emerging materials?
- What are the key concerns of the glass industry in relation to their inclusion in the scheme and how is the Scottish Government responding to those concerns?
- In the Scottish Government's consideration of international DRS models which include glass, what lessons were learned and how successful were these schemes in their objectives?

### **Scope (retailers)**

- How does the Scottish Government intend to interpret 'reasonable proximity' under Regulation 22(a) and 'reasonable access' under Regulation 22(b) when considering exemptions?
- Where the grounds for exemption is based on distance to other return points – what are the implications of this in an urban retail setting where retailers might 'compete' for an exemption?
- Has the Scottish Government considered workplace health and safety implications of retailers accepting scheme articles manually?
- Regarding the ease of defining and determining on-site consumption and closed-loop settings – how will the Regulations apply to settings such as food courts, shopping centres and workplace canteens where there is a mixture of on and off-site consumption of items?
- Regarding distance sales - how will the requirement to accept returns be affected if the retailer conducting sales and the delivery body are different organisations (e.g. a courier service)?

### **Environmental impacts and targets**

- Regarding the targets in Schedule 3 – what are the consequences of producers failing to meet targets – would any penalty apply to the scheme administrator or to individual producers?

- What assessment has been carried out of the potential for the Regulations to incentivise producers or consumers to switch packaging (e.g. from multi-pack cans to single plastic bottles) and associated environmental impacts?
- Will the scheme generate funds for good causes (similarly to the carrier bag charge) and if so how will those funds be disbursed? Will funds be earmarked for environmental projects?
- Even though the scheme applies to single-use containers, is there scope via the DRS to promote circular product design or packaging re-use (e.g. making use of DRS infrastructure)?

### **Employment and business impacts and opportunities**

- What employment opportunities will be created by the scheme and how will they be maximised, including the potential for local groups to provide services e.g. collection services?
- How will the DRS affect reprocessing capacity in Scotland, and is there a need for Government support to maximise the reprocessing capacity that can be delivered?

### **Level of deposit**

- Has the Scottish Government assessed the implications of the charge being a uniform 20p and identified any potential negative impacts e.g. encouraging producers to increase packaging size with associated environmental or health impacts?
- Does the Scottish Government consider there may be potential to review or vary the charge to deal with 'problem' items (e.g. for environmental or health reasons) in future?

### **Local authorities**

- What work has been done to assess the potential impacts of the Regulations on local authority kerbside collections or other local authority services?
- Are any estimates available of financial impacts of the Regulations on local authorities?
- Is the DRS likely to free up capacity in local authorities (due to less materials for kerbside collections) and how could that be used (e.g. to expand collections in priority waste areas)?

### **Timing and implementation**

- What exactly needs to be in place before the Regulations will be commenced?
- Can the required infrastructure be delivered by 2021 (in particular including the required central counting centres), and what will enable that to happen?
- What has Zero Waste Scotland been asked to deliver by Scottish Government to support commencement of the Regulations?
- Are there broader developments or events that may significantly affect the timetable for commencement of the Regulations (including EU Exit outcomes)?
- What is the rationale for setting fixed dates for the scheme targets in Schedule 3, starting from 1 January 2022, when the commencement date for the Regulations is caveated?

- Is the full infrastructure and operational capacity required for the DRS at national level required from day 1, or is there any potential for staged implementation?

### **Financial model, governance and ownership**

- How will the financial sustainability of the scheme administrator be secured under the proposed private ownership model?
- What is the process for securing the £28 million capital investment that is estimated to be required and what is the role of Scottish Government in this?
- The operational costs of the scheme are estimated to be £75 million a year, with 42% from unredeemed deposits. How does this take into account the phased increasing targets for the first 3 years (70%-90%) and what would the implications be of this level of funding not being available?
- What will the Scottish Government consider when approving a scheme administrator?

### **Rural and islands impacts**

- Is additional Scottish Government support required (and if so provided) to develop scheme infrastructure in rural areas?

### **Pilot scheme**

- How was the pilot scheme evaluated and what lessons were learned from it?

### **Broader waste policy context/interaction with other measures**

- How does the Scottish Government expect the scheme might interact with a future DRS in the rest of the UK?
- How will the DRS interact with UK-level plans under development to expand extended producers responsibility schemes?

### **Cross-border issues and waste fraud**

- What cross-border issues are there likely to be in implementing the Regulations?
- What is the legal basis for requiring producers that are not based in Scotland to charge the deposit and accept returns?
- How are fraud prevention measures going to be developed and agreed?

### **SEPA**

- What capacity and resources are expected to be required by SEPA to fulfil the functions set out in the Regulations?

### **Offences**

- It is understood that the intention is that a separate Instrument be brought forward to include specified offences in relation to the deposit and return scheme in the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015. Why is a separate instrument required to introduce offences?

**Public/business communication**

- What will Scot Gov do to prepare the public for the changes?

**Review/evaluation**

- How will the scheme be evaluated and reviewed and what will the timetable be for that?