

# Net Zero, Energy and Transport Committee

## 27<sup>th</sup> Meeting, 2023 (Session 6)

Tuesday, 26 September 2023

### Scotland's Deposit Return Scheme

#### Introduction

1. The Net Zero, Energy and Transport Committee has been referred an affirmative instrument, the main purpose of which is to delay the commencement of the new Deposit and Return Scheme (DRS) to October 2024. Further details on the instrument is set out below, including the Scottish Government's Explanatory and Policy Notes in **Annexe A**.
2. The Minister for Green Skills, Circular Economy and Biodiversity will attend the Committee to speak to and move the motion to agree this instrument. The Committee has also agreed to take the opportunity of the Minister's appearance to take evidence from her wider developments on DRS since she last gave evidence on this on 13 June.

#### Background

3. Section 84 of [the Climate Change \(Scotland\) Act 2009](#) empowers the Scottish Ministers to introduce, by regulations, a "deposit and return scheme". A [2 March 2023 blog from the Scottish Parliament Information Centre \(SPICe\)](#) provides further information about the background to the Scheme's launch, how it was intended to operate (including the distinct roles of Circularity Scotland, Zero Waste Scotland and the Scottish Environment Protection Agency).
4. The following provides a timeline of the key dates in development of the scheme and legislative/parliamentary milestones. Unless otherwise stated, all references to "the Minister" are to Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity—

Date	Event	Detail
2018	<a href="#">Scottish Government consultation on DRS</a>	
2019	<a href="#">Draft Regulations</a> laid in Scottish Parliament	These draft Regulations provided for the DRS to go live on 1 July 2022. The Environment, Climate

		Change and Land Reform Committee <a href="#">reported</a> on these.
2020	<a href="#">The Deposit and Return Scheme for Scotland Regulations 2020</a> were <a href="#">passed by the Scottish Parliament in 2020</a>	
January 2022	The <a href="#">Deposit and Return Scheme for Scotland Amendment Regulations 2022</a> passed by Parliament	These delayed the 'go live' date from 1 July 2022 to 16 August 2023, after a review found that, due to the pandemic and EU exit, the 2022 date was not practical. The NZET Committee took evidence on, and debated, these Regulations at its <a href="#">meeting of 25 January 2022</a> .
3 November 2022	The Minister <a href="#">wrote</a> to the NZET Committee	The letter provided an update on preparedness for the introduction of the scheme.
14 December 2022	The Minister <a href="#">wrote</a> to the NZET Committee	She said she recognised concerns from the business community, but that the Scottish Government was "committed to a pragmatic approach to implementation"
1 March 2023	The Minister <a href="#">wrote</a> to the NZET Committee 1 March, the deadline for business registration with the scheme's administrator.	The Minister said that "businesses representing over 90% of the total volume of drinks containers sold in Scotland each year" had completed DRS registration with Circularity Scotland
6 March 2023	The Minister <a href="#">wrote</a> to the NZET Committee.	She confirmed that the next in a series of gateway reviews of the DRS would take place in the week commencing 13 March.
14 March 2023	NZET Committee <a href="#">evidence session</a> with the Minister	The Minister undertook to provide the Committee with the March 2024 Gateway Review.
24 March 2023	The Minister <a href="#">wrote</a> to the NZET Committee.	The Minister confirmed the March 2024 Gateway Review was being finalised and the findings would be shared with the Committee in due course.

<p>28 March 2023</p>	<p>NZET Committee <a href="#">evidence session</a> with Circularity Scotland, the DRS administrators</p>	
<p>18 April 2023</p>	<p>The Minister <a href="#">wrote</a> to the NZET Committee.</p>	<p>In the letter, she said the Scottish Government’s had now decided to delay DRS implementation by ten months to 1 March 2024. She said the additional time “will allow for confirmation of the Internal Market Act exclusion, resolution of outstanding operational issues and extensive testing of IT and logistic systems”.</p>
<p>27 April 2023</p>	<p>The Convener of the NZET Committee <a href="#">wrote</a> to the Minister</p>	<p>The letter asked when the March Gateway Review would be shared with the Committee.</p>
<p>17 May 2023</p>	<p><a href="#">The Deposit and Return Scheme for Scotland Amendment Regulations 2023</a> laid in Parliament and were agreed</p>	<p>These changed the implementation date from August 23 to March 24, as well as other amendments.</p>
<p>26 May 2023</p>	<p>UK Government <a href="#">policy statement on DRS on 26 May</a> outlining its decision to grant a partial exemption to the UK Internal Market Act</p>	<p>The statement explains that the exemption was allowed with three conditions—</p> <p>(1) The temporary exclusion will only last until other planned schemes are in place in the rest of the UK, “at which point there will be maximum alignment and interoperability as a safeguard for businesses and consumers;</p> <p>(2) The temporary exclusion will only cover Polyethylene terephthalate plastic, and aluminium and steel cans; and</p> <p>(3) “a maximum cap on deposit levels will have to be agreed with the rest of the UK before the Scottish scheme launches to ensure maximum interoperability and ease of use for consumers”.</p>
<p>6 June 2023</p>	<p>The Minister responded to a <a href="#">topical question</a> on DRS in the Chamber</p>	<p>She said the Scottish Government were considering next steps on DRS following the decision by the UK Government on an exclusion to the UK</p>

		Internal Market Act . She said the scope and form of the scheme “cannot go ahead as currently planned”.
7 June 2023	The Minister <a href="#">announced</a> in the Scottish Parliament Chamber that the Scottish Government will delay the launch date of the Scheme to October 2025. She also <a href="#">wrote</a> to the NZET Committee expanding on the reasons for this.	This followed a UK Government <a href="#">policy statement on DRS on 26 May</a> outlining its decision to grant a partial exemption to the UKIMA.
8 June 2023	The NZET Convener <a href="#">responded</a> to the Minister	The Convener invited the Minister to give evidence on these recent developments. He also again asked when the Committee would see the March 2023 Gateway Review.
9 June 2023	The Minister <a href="#">wrote</a> to the NZET Committee.	The Minister explained that she would still seek agreement to the Regulations laid on 17 May, even though the new implementation date set out in them was no longer Scottish Government policy, otherwise the DRS would come into force on 16 August 2023. Further regulations to push the date implementation back to 2025 would follow. She said “There is not sufficient time, in line with Parliamentary procedures, to conclude that process in the current Parliamentary term but I will aim to begin that process during this term (ie before the end of June)”.
13 June 2023	The Committee considered The Deposit and Return Scheme for Scotland Amendment Regulations 2023 and <a href="#">took evidence</a> from the Minister. The Regulations were agreed	
15 June 2023	The Convener <a href="#">wrote</a> to the Minister	The letter again requested sight of the March 2023 Gateway Review.

16 June 2023	The Minister <a href="#">wrote</a> to the Committee.	The letter contained an Annex with the “findings and the Scottish Government response to a March 2023 Gateway Review.”
20 June 2023	In an answer to a Topical Question, the Minister <a href="#">confirmed</a> the Scottish Government had been informed that day that a process was “under way to appoint administrators to Circularity Scotland Ltd”.	
21 June 2023	The Committee <a href="#">reported</a> on the Deposit and Return Scheme for Scotland Amendment Regulations 2023	
	The Convener <a href="#">wrote</a> to the Minister for Green Skills, Circular Economy and Biodiversity	The letter sought a complete and unamended version of the March 2023 Gateway Review.
28 June 2023	The Minister <a href="#">wrote</a> to the Committee.	A copy of the March 2023 Gateway review was provided.
30 June 2023	The Convener of the Net Zero, Energy and Transport Committee <a href="#">wrote</a> to the Secretary of State for Scotland.	The letter invited the Secretary of State to give evidence to the Committee on the UK Government decision to grant the DRS only a partial exemption to the UK Internal Market Act
	The Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 (draft) were laid in Parliament.	The draft Regulations give effect to the 7 June announcement that the implementation date for DRS would be postponed until October 2025.
20 July 2023	The Secretary of State for Scotland <a href="#">responded</a> to the Committee	He said the Committee should contact the Secretary of State for Environment, Food and Rural Affairs for a response.
26 July 2023	The Convener <a href="#">extended the invitation</a> to give evidence to the UK Secretary of State for Environment, Food and Rural Affairs.	

22 August 2022	The UK Minister for Environmental Quality and Resilience <a href="#">responded</a> to the Committee	She declined the invitation to give evidence
8 September 2023	The Convener <a href="#">wrote</a> to the Secretary of State for Scotland	The Convener emphasised the Committee's continued interest in hearing from the UK Government.
11 September 2023	The Committee received <a href="#">correspondence</a> from the Minister	Provides an updated impact assessments for the new regulations (appended to this paper for ease of reference at Annexe B).

## Other written evidence: views from industry

5. The Committee has received submissions on DRS from—

- [Marine Conservation Society](#), 24 January 2022
- [Shoogle Spirits](#), 18 May 2022
- [Beer52](#), 6 March 2023
- [British Glass](#), 24 March 2023
- [Scottish Grocers' Federation](#), 24 March 2023
- [Scottish Wholesale Association](#), 6 April 2023
- [Circularity Scotland Ltd](#), 6 April 2023

## The Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023

**Title of Instrument:** [The Deposit and Return Scheme for Scotland \(Miscellaneous Amendment\) Regulations 2023 \[draft\]](#)

**Type of Instrument:** Affirmative

**Laid Date:** 30 June 2023

**Circulated to Members:** 28 July 2023

**Meeting Date:** 26 September 2023

**Minister to attend meeting:** Yes

**Motion to approve:** [S6M-09842](#)

**Drawn to the Parliament’s attention by the Delegated Powers and Law Reform Committee?** Not formally but see discussion below and Annex C

**Reporting deadline:** 28 October 2023

## Purpose

6. To amend the Deposit and Return Scheme for Scotland Regulations 2020 (“the original Regulations”), to alter the full implementation date for Scotland’s Deposit Return Scheme (“DRS”) to 1 October 2025 and to make other consequential amendments. The Regulations also amend the Deposit and Return Scheme for Scotland Amendment Regulations 2023 (“the 2023 Regulations”).

## Delegated Powers and Law Reform (DPLR) Committee consideration

7. At its meeting on 12 September 2023, the DPLR Committee considered the draft Regulations. The Committee agreed to draw its correspondence with the Scottish Government to the attention of the Net Zero, Energy and Transport Committee on the basis that it provides further information on the Scottish Government’s policy intentions regarding registration fees already paid. This correspondence can be found in **Annexe C**.

## Procedure for affirmative instruments

8. The draft Regulations were laid on 30 June 2023 and referred to the Net Zero, Energy and Transport Committee. The Regulations are subject to affirmative procedure (Rule 10.6). It is for the Net Zero, Energy and Transport Committee to recommend to the Parliament whether the Regulations should be approved. The Minister for Green Skills, Circular Economy and Biodiversity has, by motion [S6M-09842](#) (set out in the agenda), proposed that the Committee recommends the approval of the Regulations. The Committee will take evidence on the Regulations from the Minister and officials before the motion is debated.

## Recommendation

9. The Committee must decide whether to agree to the motion, and then report to Parliament accordingly, by 28 October 2023.

Clerks  
Net Zero, Energy and Transport Committee

# Annexe A - Subordinate legislation accompanying documents from Scottish Government

## **EXPLANATORY NOTE** **(This note is not part of the Regulations)**

These Regulations amend the Deposit and Return Scheme for Scotland Regulations 2020 (“the 2020 Regulations”) which make provision for the operation of a deposit and return scheme. These Regulations come into force on the day after the day on which they are made.

Regulation 3 amends the date in regulation 1(5) of the 2020 Regulations (the date on which parts 2, 7 and 8, and certain provisions in Part 5, of the 2020 Regulations come into force).

Regulation 4 amends the definition of scheme article in the 2020 Regulations.

Regulation 5 amends regulation 5 of the 2020 Regulations so that the obligations there take effect from 1 October 2025. Regulation 6 amends the dates by which a producer must apply for registration under regulation 7(2) of the 2020 Regulations. Regulation 7 amends the dates from which such registration takes effect under regulation 8 of the 2020 Regulations.

Regulation 8 amends the date by which the 2020 Regulations must be reviewed. Regulation 9 amends paragraph 1 of schedule 3 so that the collection target of the first full year of the scheme is 80% and the target for subsequent years is 90%.

Regulation 10 amends the date by which a producer must first apply to be listed as a producer of a low volume drink product under schedule 5 of the 2020 Regulations as well as the date from which such listing takes effect in 2025.

Regulation 11 amends the Deposit and Return Scheme for Scotland Amendment Regulations 2023 to omit the transitional provision.

An update to the Business Regulatory Impact Assessment will be published by the Scottish Government online at [gov.scot](http://gov.scot).



## POLICY NOTE

### THE DEPOSIT AND RETURN SCHEME FOR SCOTLAND (MISCELLANEOUS AMENDMENT) REGULATIONS 2023

#### SSI 2023/XXX

The above instrument was made in exercise of the powers conferred by sections 84 and 96(2) of the Climate Change (Scotland) Act 2009. The instrument is subject to the affirmative procedure.

**Purpose of the instrument. To amend the Deposit and Return Scheme for Scotland Regulations 2020 (“the original Regulations”), to alter the full implementation date for Scotland’s Deposit Return Scheme (“DRS”) to 1 October 2025 and to make other consequential amendments.; it also amends the Deposit and Return Scheme for Scotland Amendment Regulations 2023 (“the 2023 Regulations”).**

#### Policy Objectives

The main policy driver for Scotland’s Deposit Return Scheme (DRS) is to promote and secure an increase in recycling of materials by applying a deposit of 20p. This forms part of the Scottish Government’s response to the global climate emergency by ensuring the targeted materials are collected in larger quantities and separately to other materials, making them easier to recycle.

The original Regulations passed by Parliament on 13 May 2020 were amended to alter the original full implementation date to 16 August 2023.

The original Regulations were further amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2023 (“the 2023 Regulations”). The 2023 Regulations amended the full implementation date of the scheme from 16 August 2023 to 1 March 2024 and also simplified the scope of the scheme in order to respond to an independent Gateway Review, ongoing internal review of scheme readiness, and wider stakeholder concerns.

The Scottish Government completed a review of readiness of the DRS in March 2023. Delivery of the scheme relied, in part, on a UK Government decision on an exclusion from the UK Internal Market Act 2020. Given the decision by the UK Government in late May 2023 not to issue a full exclusion from the Internal Market Act, and associated concerns from business around the imposition by the UK Government of uncertain interoperability conditions and the removal of glass from any scheme planned to launch on 1 March 2024, the Scottish Government took the decision to delay the launch of Scotland’s DRS. The representations made by businesses at that time were that they could no longer prepare for a March 2024 launch given the uncertainty about the changes that would require to be made to the scheme ahead of March 2024 in consequence of the UK Government decision. A considerable majority of businesses therefore supported the option to re-set the launch date to 1 October 2025, matching the UK Government’s planned date for DRS operating across other parts of the UK.

## **Amendment of the Original Regulations**

Regulation 3 of this instrument amends the implementation date for DRS from 1 March 2024 to 1 October 2025, in line with the UK Government's planned date for DRS operating across other parts of the UK. As a consequence of this date change, it then amends other relevant dates in line with the revised implementation date as follows:

- The date is amended to 1 October 2025 in the definition of scheme article in regulation 3(2) of the original regulations (regulation 4)
- The date is amended to 1 October 2025 in the information display obligations relating to sale of a non-scheme article or a non-Scottish article in Scotland in regulation 5 of the original regulations (regulation 5)
- The dates by which producers (both of scheme articles and low volume drink products) must apply for registration in 2025 and subsequent years are amended, noting that the last date for submission of applications before DRS commences is 13 August 2025 (regulations 6 and 10(a)); in addition, the dates from which a producer registration for scheme articles/producer listing for low volume drink products takes effect in 2024 and subsequent years are amended (regulations 7 and 10(b)).
- The date for review of the regulations is amended to 1 October 2029, 4 years after launch in 2025 (regulation 8).
- Collection targets are amended to 80% in the first full calendar year of the scheme (2026), rising to 90% in the second calendar year (2027), maintaining the ambition of the original scheme design while also providing the likely time required for operational issues to be resolved after launch (regulation 9).

## **Amendment of the 2023 Regulations**

Regulation 11 of this instrument revokes the transitional provision in regulation 22 of the 2023 Regulations which enabled the rollover of producer registration fees for producer registration in 2024 for those producers who had already registered with the Scottish Environment Protection Agency (SEPA), in advance of 1 March 2023 in anticipation of the planned go-live date of 16 August 2023. This transitional provision is no longer required.

## **Consultation**

An extensive public consultation was carried out in 2018 to inform the design of Scotland's DRS. The Scottish Government reviewed the implementation timetable in 2022 following an independent gateway review and engagement with industry stakeholders, resulting in a revised launch date of 16 August 2023.

Further stakeholder engagement as part of scheme assurance processes throughout March and April 2023 included providers, retailers, the scheme administrator and hospitality sector representatives had raised concerns about scheme readiness. As a result of that further stakeholder engagement the 2023 Regulations were made to delay the scheme's coming into force date.

Following the decision of the UK Government on 26 May 2023 to refuse a full exclusion for Scotland's DRS from the UK Internal Market Act 2020 and to impose interoperability conditions which created uncertainty, the Scottish Government arranged a meeting which was attended by more than 80 stakeholders from a broad range of sectors including retailers, producers and hospitality. The overwhelming feedback from businesses at that meeting was the UKG exclusion of glass and the vague and unworkable conditions imposed by Westminster made a March 2024 launch impossible.

The Scottish Government will continue to work closely with industry at every stage to deliver Scotland's Deposit Return Scheme.

### **Impact Assessments**

The following impact assessments were published alongside the original Regulations: a final Equality Impact Assessment, a Fairer Scotland Impact Assessment, an Islands Communities Impact Assessment, a final Business and Regulatory Impact Assessment, and a Strategic Environmental Assessment. Updates were made when the Deposit and Return Scheme for Scotland Amendment Regulations 2022 and the 2023 Regulations were made.

The Scottish Government considers that the Equality Impact Assessment, Fairer Scotland Impact Assessment, and Islands Communities Impact Assessment (as previously updated) remain valid for the policy. The Scottish Government is updating the final Business and Regulatory Impact Assessment, and the Addendum to the Strategic Environmental Assessment (both published on 16 March 2020) to reflect the changes made by these Regulations and these updates will be published on the Scottish Government website.

Scottish Government

Directorate for Environment and Forestry

## Annexe B – Updated Impact Assessments

Letter from Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity on updated Business and Regulatory Impact Assessment and Strategic Environmental Assessment

11 September 2023

Dear Edward

I wrote to you in June following confirmation of the UK Government's decision to refuse a full IMA exclusion for our Deposit Return Scheme (DRS), alongside confirmation of our decision to re-set the launch date of the scheme to October 2025 at the earliest.

I laid the Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 on 30 June to make this change to the date in the Deposit and Return Scheme for Scotland Regulations 2020 and I am attending committee on 26 September to provide evidence on the draft Regulations.

Officials have carried out impact assessments of this further delay, and I am pleased to be able to share a supplementary assessment to the Business and Regulatory Impact Assessment, and a Strategic Environmental Assessment addendum with Committee members for consideration alongside the draft Regulations.

It should be noted that these assessments focus solely on the impacts associated with the changes to the proposed launch date, and relate to the Scottish scheme as it is currently set out in the DRS Regulations. An assessment of the requirements set out in the UK Government's letter on an IMA exclusion is not yet possible because the design of the scheme proposed by the UK government is ongoing.

The Scottish Government remains committed to introducing a DRS and we continue to work constructively with other UK nations to develop an interoperable scheme which will provide the environmental and economic benefits that we know DRS can bring. I would be happy to update on this work when I attend the committee on 26 September.

Kind regards

**LORNA SLATER**

## Supplementary Assessment to DRS BRIA – Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023

September 2023

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### 1. About this document

This document is a supplementary assessment setting out the business and regulatory impacts of amendments being made to Scotland’s Deposit and Return Scheme (DRS) established under the Deposit and Return Scheme for Scotland Regulations 2020 (“the 2020 Regulations”).

On 30 June 2023 the draft Deposit and Return for Scotland (Miscellaneous Amendment) Regulations 2023 (“the 2023 Miscellaneous Amendment Regulations” were laid to amend the launch date of Scotland DRS from 1 March 2024 to 1 October 2025 following the UK Government’s offer of an exclusion to the UK Internal Market Act only on a time-limited and conditional basis.

The purpose of this document is to provide updated assessments on the impacts of the change in launch date from 1 March 2024 to 1 October 2025.

### 2. Background

Scotland’s household recycling rate increased markedly between 2011 and 2017. This was driven by substantial investment by central and local government in kerbside collections. But this trend has since slowed, and then reversed. In 2018, recycling rates dropped (by 0.9%) for the first time. It did recover slightly by 0.2% in 2019 but it has since fallen by 2.1% reaching 42.7% in 2021<sup>1</sup> (disruptions due to COVID-19 pandemic will have played a role in this fall).

Alongside litter reduction, the main policy driver for DRS is to promote and secure an increase in recycling of materials by requiring a deposit of 20p to be applied when drinks containers are sold. This forms part of the Scottish Government’s response to

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<sup>1</sup> <https://informatics.sepa.org.uk/HouseholdWaste/>

the global climate emergency by ensuring the targeted materials are collected in larger quantities and separately to other materials, making them easier to recycle.

The 2020 Regulations were previously amended by the Deposit and Return for Scotland Amendment Regulations 2022 to alter the original full implementation date from 1 July 2022 to 16 August 2023. The 2020 Regulations were further amended by the Deposit and Return for Scotland Amendment Regulations 2023 to alter the implementation date from 16 August 2023 to 1 March 2024 (and to make some other changes to Scotland's DRS).

On 27 May 2023, the UK Government issued a Policy Statement<sup>2</sup> in which it offered a conditional and temporary exclusion from the UK Internal Market Act 2020. The temporary exclusion was to cover the period from the launch of the Scottish DRS until planned schemes were in place in the rest of the UK. The conditions of such an exclusion were stated as:

- A maximum cap on deposit levels will have to be agreed with the rest of the UK before the Scottish scheme launches to ensure maximum interoperability and ease of use for consumers;
- Containers in scope are consistent across all schemes, with materials covering PET plastic, aluminium, and steel cans only;
- Processes are in place for collections and refunds of scheme items sold and returned in any part of the UK, with scheme administrators reconciling to ensure fair distribution of payments;
- Processes are in place to minimise the registration and reporting burden for producers, including only one administration fee required per participating company, and producers not required to join multiple schemes separately; and
- One marking (e.g. barcode) for use throughout all parts of the UK, and a single common UK logo, recognisable across all systems.

Following consultation with key businesses on the impact of these conditions upon the deliverability of Scotland's DRS, on 7 June 2023, the Scottish Government announced<sup>3</sup> that certainty on critical elements of the scheme could not be provided until the UK Government published more detail on its DRS and therefore Scotland's Deposit Return Scheme would not go live until October 2025 at the earliest, in line with schemes in other parts of the UK.

On 30 June 2023 the draft 2023 Miscellaneous Amendment Regulations were laid to amend the launch date of Scotland DRS from 1 March 2024 to 1 October 2025 and to effect consequential date changes in the 2020 Regulations.

The impacts of the change in launch date are considered below. A sensitivity analysis that tests the overall impact on the DRS model Net Present Value (NPV) is presented at the end of this document. Zero Waste Scotland (ZWS) also completed a model that identified the costs and benefits of a Scottish DRS. This modelling was outlined in the Full BRIA<sup>4</sup> and will be referred to hereafter as 'the model'.

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<sup>2</sup> [Policy statement: Scottish Deposit Return Scheme - UK internal market exclusion](#)

<sup>3</sup> [Deposit Return: Scottish scheme delayed until October 2025 at the earliest](#)

<sup>4</sup> [Supporting documents - A Deposit Return Scheme for Scotland: Final Business Regulatory Impact Assessment - gov.scot \(www.gov.scot\)](#)

### **3. Consultation**

An extensive public consultation was carried out in 2018 to inform the design of DRS.

Stakeholder engagement as part of scheme assurance processes during March and April 2023 included producers, retailers, the scheme administrator and hospitality sector representatives and raised concerns about scheme readiness. (See Appendix 1 for details). Amendments to delay and simplify the scheme directly respond to that engagement, seeking to reduce regulatory burden on business, while upholding the intended scheme benefits.

Further consultation with affected businesses was completed in May and June 2023 following the UK Government's decision to offer only a partial and time-limited exclusion to the UK Internal Market Act 2020, that would have required the exclusion from glass from Scotland's DRS, in addition to other significant conditions.

### **4. Revised launch date to 1 October 2025**

#### *Views from Stakeholders on adjusting launch date to 1 October 2025*

Stakeholder feedback from the majority of business organisations favoured a delay to DRS launch in Scotland given the significant conditions and last-minute changes to scheme design required for a UK Internal Market Act (IMA) exclusion. While some stakeholders welcomed the condition to exclude glass and requirement of maximum interoperability across UK schemes, there was consensus that this could not be achieved in time for a March 2024 launch given the late notice from UK Government of these requirements, especially where requirements were conditional upon UK Government policies that had not yet been agreed or set in legislation in other parts of the UK.

Most producers agreed with the decision to delay Scotland's DRS to align across the rest of the UK given this change in context with conditions being imposed on an IMA exclusion. There were varying stances on the potential removal of glass from the scheme. Many producers welcomed the lower costs, lower complication, and potential for greater alignment across the UK. One large producer highlighted that removing glass from the scheme would put jobs and investment in Scotland at risk. Other drinks businesses raised concerns that including glass could create barriers to existing sustainability targets. However, most producers were of the view that it would not be possible to adjust to the removal of glass from the scheme to go live in March 2024.

There were varied responses from retailers in response to the longer delay. Some large retailers noted disappointment in the decision, citing serious implications for the investment already made to date. However, retailers also noted that the significance of changes, including potentially to the level of the deposit, labelling requirements, and the removal of glass, meant that a March 2024 launch date was undeliverable.

There was opposition to a substantial delay from those involved in the DRS supply and delivery chain, including from RVM manufacturers and the scheme logistics provider.

There was opposition to a substantial delay from the scheme administrator in Scotland (Circularity Scotland Limited) given the high risk it would pose to its business viability. This risk was highlighted to the UK Government through correspondence ahead of its decision in relation to conditions which it would have imposed on a UK Internal Market Act exclusion.

**5. Impact of the 2023 Miscellaneous Amendment Regulations – economic assessment (net present value)**

The following scenarios were tested using the DRS Economic model. The impact on the overall scheme net present value (NPV) is presented in Table 5. Year 1 is the first **full** year of DRS implementation in the model, when the recycling improvements begin to be counted, and Year 0 is the year of the modelled ‘go live’ date.

- Scenario 1: scheme implementation date set to March 2024 (Year 0 = 2024)
- Scenario 2: scheme implementation date set to October 2025 (Year 0 = 2025)

Scenario	Time period modelled	Revised NPV (£)
1 (2024 launch)	2024-2049	£570,321,693
2 (2025 launch)	2025-2049	£552,365,825

Table 5: Impact of exclusions on scheme NPV

The modelling of the revised scheme resulted in an NPV of approximately £570 million over a 25 year period starting in 2024. When accounting for the delay to the start date to 2025, the scheme NPV is reduced to approximately £552 million, over the 24 year period from 2025 to 2049. It should be noted that both scenarios do not adjust the scheme for interoperability requirements set out in the UK Government IMA letter and are based on the Scottish Scheme as currently set out in regs, including the fact that the scheme continues to include glass.

**Modelling assumptions and limitations**

Large parts of the model, including the tonnages of waste managed and the carbon benefits of the scheme are based on waste tonnages rather than the number of in-



scope containers placed on the market, and are therefore insensitive to changes in modelled container numbers.

To ensure the reduction in in-scope containers was reflected in the assumed recycling tonnage within the model, the same percentage reduction was applied to the tonnage of DRS recycling for each of the in-scope materials.

It is still assumed that the 90% container return rate target is met by the second full year of operation (Year 2), and interim 80% target met in the first full year (Year 1) in line with the amended collection targets. The modelled NPV changes below assume that there is no overlap between the two excluded categories of low volume drink products and containers under 100ml volume. Hence, the container number reductions are considered a “Worst Case Scenario”, with the total number of containers removed from the scheme (and the corresponding reduction in scheme NPV) likely to be exaggerated.

Appendix 1.

**Table 6. Businesses Consulted for Views on Amending Regulations**

<b>Business</b>	<b>Type</b>
AB InBev	Producer
Aldi	Retailer
Asda	Retailer
Association of Convenience Stores	Trade Body
British Beer and Pub Association	Trade Body
British Soft Drinks Association	Trade Body
C&C Group	Producer
Circularity Scotland Ltd	Scheme Administrator
Coca-Cola	Producer
Co-Op	Retailer
Food & Drink Federation Scotland	Trade Body
G101 Stores	Retailer
John Lewis	Retailer
Lidl	Retailer
Marks & Spencer	Retailer
Morrisons	Retailer
Sainsburys	Retailer
Scotmid	Retailer
Scottish Environmental Services Association	Trade Body
Scottish Food and Drink	Trade Body
Scottish Grocers' Federation	Trade Body
Scottish Retail Consortium	Trade Body
Scottish Wholesale Association	Trade Body
Society of Independent Brewers	Trade Body
Suez	Waste Management
Tesco	Retailer
Uber Eats	Retailer
Viridor	Waste Management

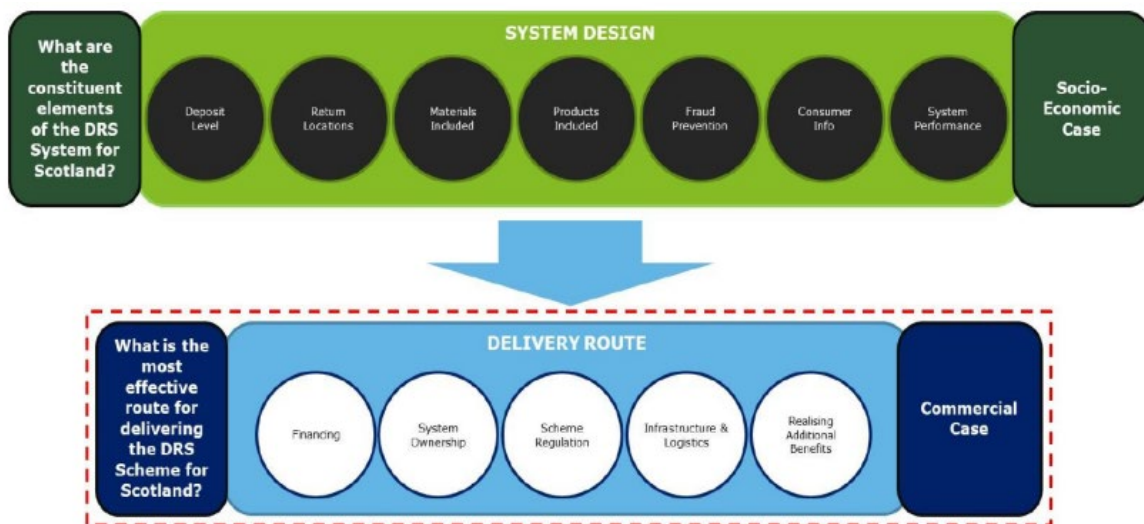
# A Deposit Return Scheme for Scotland

Strategic Environmental Assessment Addendum  
September 2023

## Background

In the Environmental Report<sup>5</sup>, developed as part of the Strategic Environmental Assessment for Scotland’s Deposit Return Scheme (DRS), four ‘example deposit return systems’ were presented.

These were selected to illustrate different possible configurations of the 12 components which make-up a functioning DRS system:



Extensive modelling was undertaken to determine the likely performance and environmental impacts of these example systems, and the results were presented for public consultation in the Environmental Report.

The scheme design for the Scottish DRS was then developed through public consultation and extensive stakeholder engagement.

The Scottish Parliament passed the Deposit and Return for Scotland Regulations 2020 (“the 2020 Regulations”) giving effect to DRS on 13 May 2020. At that time, the Scottish Government committed to closely monitoring the impact of the COVID-19 pandemic on implementation of DRS. In line with that commitment, on 8 March 2021

<sup>5</sup> [The Scottish Government \(2018\) A Deposit Return Scheme for Scotland - Strategic Environmental Assessment](#)

the Scottish Government announced an independent review into the implementation timetable for the scheme. The final report<sup>6</sup> from this gateway review was published on 14 December 2022. A second independent gateway review was undertaken in March 2023 and the results were published<sup>7</sup> on 7th July 2023.

On 14 December 2021 Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity announced that the Scottish Government would seek to change the full implementation date for DRS from 1 July 2022 to 16 August 2023 in light of the impact of COVID-19 and EU Exit. A revised final BRIA was published<sup>8</sup> in December 2021 reflecting this change and also the following key provisions of the Deposit and Return Scheme for Scotland Amendment Regulations 2022:

- Clarification of the definition of a producer in respect of ‘crawlers’ and similar containers.
- Additional flexibility for retailers obligated to provide a distance takeback service.
- Additional safeguard against fraud in the ‘grey market’.
- Other provisions to support enforcement of DRS.

The Deposit and Return for Scotland Amendment Regulations 2023 made further amendments to change the full implementation date for DRS from 16 August 2023 to 1 March 2024, and made a number of changes to the scheme. This was as a result of the uncertainty caused by the UK Government delaying the decision to exclude the scheme from the UK Internal Market Act 2020, and in response to an independent Gateway Review, an internal review of scheme readiness, and wider stakeholder concerns.

The main amendments were:

- Change to implementation date to 1 March 2024
- Amended takeback obligations
- Exclusion of low volume drink products
- Amended minimum size of scheme articles
- Exemption for retailers from acting as a return point where 90% or more of scheme articles are sold for consumption on the premises of sale
- Right to refuse packaging made of a particular type of material in specific circumstances
- Retention of scheme packaging by hospitality retailers

While the 2023 Amendment Regulations were still undergoing scrutiny by the Scottish Parliament, the UK Government, on 27 May 2023, issued a Policy Statement<sup>9</sup> in which it offered a conditional and temporary exclusion from the UK Internal Market Act 2020. The temporary exclusion was to cover the period from the

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<sup>6</sup> [Deposit return scheme - gateway review: final report](#)

<sup>7</sup> [Deposit return scheme: gateway review report - March 2023](#)

<sup>8</sup> [A Deposit Return Scheme for Scotland: Final Business Regulatory Impact Assessment](#)

<sup>9</sup> [Policy statement: Scottish Deposit Return Scheme - UK internal market exclusion](#)

launch of the Scottish DRS until planned schemes were in place in the rest of the UK. The conditions of such an exclusion were stated as:

- A maximum cap on deposit levels will have to be agreed with the rest of the UK before the Scottish scheme launches to ensure maximum interoperability and ease of use for consumers;
- Containers in scope are consistent across all schemes, with materials covering PET plastic, aluminium, and steel cans only;
- Processes are in place for collections and refunds of scheme items sold and returned in any part of the UK, with scheme administrators reconciling to ensure fair distribution of payments;
- Processes are in place to minimise the registration and reporting burden for producers, including only one administration fee required per participating company, and producers not required to join multiple schemes separately; and
- One marking (e.g. barcode) for use throughout all parts of the UK, and a single common UK logo, recognisable across all systems.

Following consultation with key businesses on the impact of these conditions on the deliverability of Scotland's DRS, on 7 June 2023, the Scottish Government announced<sup>10</sup> that businesses had made it clear that due to the fact that certainty on critical elements of the scheme could not be provided until the UK Government published more detail on its DRS Scotland's Deposit Return Scheme would not feasibly go live in March 2024 and therefore the decision was taken to delay the scheme until October 2025 at the earliest, in line with schemes in other parts of the UK.

On 30 June 2023 the draft Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 were laid to amend the launch date of Scotland DRS from 01 March 2024 to 01 October 2025 and to effect consequential date changes in the 2020 Regulations.

This document sets out the key elements of the expected environmental performance of the revised Deposit Return Scheme following the amendments described above, and assuming implementation in 2025. Updated projections of the proposed environmental benefits of the same revised scheme, if it had been implemented in 2024, are presented alongside these results for comparison.

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<sup>10</sup> [Deposit Return: Scottish scheme delayed until October 2025 at the earliest](#)

# Comparison of environmental impact of scheme launch dates

The Scottish DRS will be a national ‘return to retail’ model covering collection of drink containers made of PET, steel and aluminium or glass, with a deposit of 20p per container. Cartons, cups and HDPE are excluded from the Scottish DRS – for more information, see Section 5.1 of the Post Adoption Statement<sup>11</sup>.

The Scottish DRS was designed to achieve higher recycling performance outcomes for target materials (PET, steel and aluminium, glass) compared to business as usual kerbside recycling, and the four example deposit return scheme designs set out in the original Strategic Environmental Assessment.

This higher performance is driven by a combination of features:

- National return to retail coverage is designed to maximise accessibility and return convenience across Scotland
- 20p deposit provides a stronger incentive for consumer participation
- Cost recovery requirement<sup>12</sup> encourages producers to maximise scheme performance and minimise instances of fraud

Either option for the launch of Scotland’s DRS is expected to support greater levels of recycling and greater carbon savings compared to the Business as Usual scenario (no DRS) where recycling is covered by existing kerbside schemes (Table 2).

It is estimated that a DRS in Scotland scheduled to launch in March 2024 would save approximately 3,972 ktCO<sub>2</sub>eq between 2024 and 2049 (Table 3).

It is estimated that the revised option for a DRS in Scotland scheduled to launch in October 2025 will save approximately 3,806 ktCO<sub>2</sub>eq between 2025 and 2049.

The environmental impact of a delay to the implementation of a Scottish DRS from 2024 to 2025 is therefore 166 ktCO<sub>2</sub>e.

However, following the UKG’s conditional decision on the Internal Market Act and based on extensive stakeholder engagement, the revised option still represents an optimum environmental outcome taking account of legal requirements and technical practicalities in establishing and operating a successful scheme.

This analysis is based on the Scottish scheme as is currently in regulations. While there is work continuing on interoperability with the other nations of the UK, there have not been any agreements as yet on these and therefore the Scottish schemes remains as set out in regulations.

<sup>11</sup> [The Scottish Government \(2019\) A Deposit Return Scheme for Scotland – Strategic Environmental Assessment: Post Adoption Statement](#)

<sup>12</sup> The administrative costs of the scheme will be funded by producers – this will incentivise them to maximise performance of the scheme, as the more it costs to run, the more it will cost producers.

Table 2. Expected performance of Scottish DRS vs. BAU<sup>13</sup>

	Business As Usual	Revised Scottish DRS				
		2024 launch			2025 launch	
Container type	Recycle Rate	DRS Target Capture Rate <sup>14</sup>	Increased recycling 2024-2049 (kt)	Carbon savings 2024-2049 (ktCO <sub>2</sub> eq)	Increased recycling 2025-2049 (kt)	Carbon savings 2025-2049 (ktCO <sub>2</sub> eq)
Glass drink container	63%	90%	1,310	1,252	1,256	1,200
Steel drink container	46%	90%	40	72	39	69
Aluminium drink container	48%	90%	187	1,876	179	1,798
PET drink container	50%	90%	360	772	345	739
<b>Total</b>	<b>57%</b>	<b>90%</b>	<b>1,897</b>	<b>3,972</b>	<b>1,818</b>	<b>3,806</b>

<sup>13</sup> Glass carbon factors have been updated as a result of ongoing modelling efforts informed by stakeholder engagement. These changes have been applied to all schemes to maintain comparability.

<sup>14</sup> Target DRS recycling rate from the third year of scheme operation, as established in Scottish DRS Regulations. Internationally comparable schemes have achieved higher recycling rates of at least 95%.

## Annexe C

### **Delegated Powers and Law Reform Committee –[Report on Subordinate Legislation Considered by the Committee on 12 September 2023](#)– The Committee agreed to draw to the attention of the NZET Committee**

Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 (SSI 2023/Draft): On 17 August, the Committee asked the Scottish Government:

#### **Transitional Provision**

1. Regulation 11 of this instrument revokes regulation 22 of the Deposit and Return Scheme for Scotland Amendment Regulations 2023 and as a result there is no longer any transitional provision for a rollover of previous registrations/applications/fees paid.

The Policy Note simply states that “this transitional provision is no longer required.” While it is understood that this provision was in respect of the year beginning 1 March 2024 and that the new implementation date is 1 October 2025, it is not clear what the policy intention now is in relation to those producers who had already registered/applied/paid fees in advance of 30 June 2023. These producers who were covered by the transitional provisions were not required to re-apply or to pay a fee as either a registered producer of scheme articles under regulation 8 or as a listed producer of low volume drink products under schedule 5.

It would seem from the amendments made by this instrument to the Deposit and Return Scheme for Scotland Regulations 2020 (the “2020 Regulations”) that producers will now have to make new applications for registration or listing and pay the required fee by 13 August 2025 in advance of the new implementation date of 1 October 2025, however it is not clear what the status of previously paid fees will be, for example will these be refunded or set-off against the new applications? We would welcome your clarification of the policy intention in these respects. Is the intention that previous fees paid would be lost without reimbursement or compensation?

#### **Fees**

2. It appears from the proposed amendments to the 2020 Regulations that producers will now require to apply for registration/listing twice in a period of around 6 months, that is (a) by 13 August 2025 to take effect from 1 October 2025 and (b) by 1 March 2026 to take effect from 1 April 2026; and therefore the initial registration will only have effect for 6 months. This is based on:

- regulation 6 of this instrument which amends the dates by which a producer must apply for registration under regulation 7 of the 2020 Regulations to 13 August 2025; and to before 1 March in any relevant year beginning on or after 1 January 2026; and
- regulation 7 of this instrument which amends the dates registration takes effect from under regulation 8 of the 2020 Regulations, where the application is made by 13 August 2025, to 1 October 2025; and is 1 April in any subsequent relevant year where the application is made by 1 March.



It therefore seems that producers will require to pay the full fee of £365, where applicable, for an initial period of 6 months rather than a year, rather than the fee being pro-rated. Could you confirm that this is the policy intention?

On 5 September 2023, the Scottish Government responded:

### **Transitional Provision**

1. The Scottish Government confirms that, since regulation 11 of this instrument revokes regulation 22 of the Deposit and Return Scheme for Scotland Amendment Regulations 2023, it is intended that there is no longer a transitional provision for a rollover of previous registrations/applications/fees paid. The Scottish Government also confirms that the effect of the amendments made by this instrument to the Deposit and Return Scheme for Scotland Regulations 2020 (the “2020 Regulations”) is that producers will have to make new applications for registration or listing and pay the required fee by 13 August 2025 in advance of the new implementation date of 1 October 2025.

When the Deposit and Return Scheme (DRS) was delayed until 1 March 2024, SEPA intended to retain the producer registration fees which had been paid to it during 2023. Under the regulation 22 of the Deposit and Return Scheme for Scotland Amendment Regulations 2023, the transitional provision would have ensured that producers who had already registered in 2023 would not have to pay a registration fee when they registered with SEPA for DRS in 2024. Under the 2020 Regulations producers are required to register annually and pay an annual registration fee. So, in effect, the registration fee that had been paid by producers in 2023 was simply being rolled over for their 2024 registration, and they suffered no disadvantage from having registered timeously in 2023 when DRS did not in fact go live as originally planned in August 2023.

When DRS was delayed further to October 2025, SEPA indicated that they would not retain these registration fees until 2025. There is therefore no rollover of any producer registration fees to 2025 and any fees paid in 2023 are being refunded to producers. This means that producers will start from scratch in relation to registration for DRS in 2025. For completeness, the Committee may wish to note that Scottish Ministers withdrew from Circularity Scotland its approval as scheme administrator with effect from 18 August 2023. SEPA was then required, under regulation 17(6) of the 2020 Regulations, to contact producers in relation to their registration following the withdrawal of CSL’s approval. SEPA also took that opportunity to set out the refund process for their 2023 registration fees. SEPA wrote to producers on 28 August confirming that they would be refunding the registration fees received, and requesting bank details from the producers affected. SEPA will process all refunds after receiving bank details.

### **Fees**

2. The Scottish Government confirms that the current intention is that the 2020 Regulations (as amended) require producers to pay the full fee of £365, where applicable, for an initial period of 6 months rather than a year, rather than the fee being pro-rated.