

## **Submission from Wildlife and Countryside Link on the draft Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 and response by the Department for Environment, Food and Rural Affairs (Defra)**

The Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 introduces a deposit return scheme for drinks containers in England and Northern Ireland. Whilst Link is in principle very supportive of the regulations, there are a number of points where the explanatory material laid in support provides insufficient information about intended implementation. We therefore have some questions relating to the operation of the scheme as defined in the regulations.

- In regards to Schedule 3, “return point exemptions”, retailers can be exempted from providing return points on proximity grounds or premises grounds.
  - Exemptions on proximity grounds can be granted if "there is one or more alternative return points located within reasonable proximity to the premises specified in the application" but reasonable proximity is not defined.
  - Retailers can be exempted on premises grounds if "the location, layout, size, design, or construction of the specified premises does not permit, or does not easily permit, or cannot reasonably be altered to permit, the operation of a return point". Again, this is not defined further in the regulations.

The lack of clarity surrounding the proposed exemptions could lead to an inadequate provision of return points if too many exemptions are granted, which would reduce collection rates due to greater inconvenience to scheme consumers. We would therefore be grateful if the committee could ask:

- **how the department intends for applications for exemptions on proximity and premises grounds to be assessed to ensure that exemptions do not affect consumers’ ability to return deposit items.**

### Defra’s response:

*Following engagement with industry and international schemes, the exemptions criteria in the regulations has been designed to reduce the burden on businesses (and the Deposit Management Organisation) in areas where there is already likely to be good return point coverage whilst also ensuring sufficient coverage of return points for consumers.*

*It is the responsibility of the Deposit Management Organisation (DMO) to apply the exemption criteria set out in the regulations. It will assess exemption applications from retailers and undertake regular reviews of the return point network (this is an obligation set out in the regulations and therefore enforceable by regulators) to consider the number, location and accessibility of return points. The DMO is incentivised to ensure there is a comprehensive network of return points in order to meet the collection targets - providing the primary driver for strong coverage across the UK.*

*The DMO application form requires the applicant to provide information on how they intend to review a mandatory return point operator's application for a return point exemption, and how they will review the operation of the return point network. Government will not approve an application for the DMO position which does not effectively consider the need for reasonable return point accessibility for consumers in both urban and rural areas.*

*This detail will also be captured within the DMOs 'Operational Plan' which is enforceable by regulators and an updated version is approved by government every 12 months. If the DMO does not deliver as expected, the Environment Agency is able to work with the DMO to improve access and ultimately take enforcement action in the event of non-compliance. Government is also able to agree updates to the operational plan as needed to ensure implementation and operation of the return point network meets and reflects the needs of consumers as the scheme matures.*

- Although glass containers are included in the scope of the Packaging Extended Producer Responsibility scheme, we are concerned that the decision to exclude glass from the DRS could cause suppliers to increase use of glass containers in order to avoid deposits applying to their items. This could lead to an overall increase in the supply of glass containers. Given glass containers often have higher environmental impacts than plastic or aluminium containers, this could increase the overall environmental impact of drinks containers.<sup>1</sup> Not including glass also means glass items are more likely to be littered or not recycled than other containers, once the scheme is in place. Therefore, to properly assess the impact of the policy on the purposes set out in Schedule 8 of the Environment Act 2021 – (a) sustaining, promoting or securing an increase in the recycling or reuse of materials; and (b) reducing the incidence of littering or fly-tipping – it will be necessary to monitor whether use of glass increases and whether glass is recycled and littered at different rates to in-scope materials to avoid unintended consequences. We would therefore be grateful if the committee could ask the department, with respect to regulation 53:
  - **whether the deposit management organisation will be required to report on the changes in usage, incidences of littering and recycling rates of drinks containers considered for inclusion in this scheme but ultimately exempted from the final scope (including glass).**

Defra's response:

*The DMO is not required to report on materials outside of the scheme's scope, however, under Regulation 52(2)(a) the DMO must consider how it's operational plan would adapt to and manage any expansion of the types of in-scope material.*

*As part of the post-implementation review set out in Regulation 108, government is required to assess the effectiveness, costs and benefits of the existing scheme, including the environmental objectives. As set out in the Impact Assessment, an impact and process evaluation will also be conducted which will support the review. It will assess a range of questions including, to what extent the scheme has met its intended objectives and if the mechanisms are sufficient to drive the key changes required. This would include the consideration of updated litter figures and impacts on drinks containers. Additionally, environmental NGOs, who have supported our analysis of UK littering, will also monitor the impacts of the scheme.*

- Under Regulation 8, in-scope materials are defined as aluminium, polyethylene terephthalate (PET) plastic, or steel. It may be necessary to update this regulation to include other materials at a later date as packaging types develop. For example, the government may wish to include beverage cartons (e.g. Tetra Pak) or glass. We also note that under Regulation 52, Paragraph (2)(a) the deposit management organisation “must consider how its operational plan would adapt to and manage any expansion of the types of in-scope material”. However, within the current regulations there is no ability to update the list of in-scope materials.

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<sup>1</sup> <https://digital.detritusjournal.com/articles/life-cycle-assessment-of-beverage-packaging/368>

Additionally, once in place, adapting the infrastructure to include other beverage container formats and materials will be costly. We would therefore be grateful if the committee could ask the department:

- **what monitoring, consultation and review mechanisms it intends to put in place to assess whether the list of in-scope materials needs to be updated**

Defra's response:

*Regulation 108 sets out the requirement for government to conduct a post implementation review of the scheme to consider the effectiveness, costs and benefits of the deposit return scheme. This will be conducted once the scheme has been operational for enough time to allow sufficient data to be available. The first report must be published before the end of the period of five years from the point the scheme goes live on 1st October 2027. Subsequent reports must be published at intervals not exceeding five years.*

*Such reviews will likely be wide ranging in scope and approach and utilise available data looking at the performance of the scheme and key metrics. Data will likely be both qualitative and quantitative and collected both from the scheme itself and separately collected / reported, including bespoke research commissioned where necessary. The impact assessment also sets out details for the requirements of an impact and process evaluation.*

*When considering whether the scope of the scheme needs to be updated, the department would be open to considering the views of those managing the DRS and those who represent materials which could be considered as part of the scope of a DRS in the future. Any changes being considered would be subject to the standard practices of consultation and analysis / impact assessment development.*

*Such reviews would also need to give consideration to other associated policies, such as extended producer responsibility for packaging, which captures all non-DRS packaging. Potential changes to the materials scope would also need to reflect the additional costs from infrastructure requirements such as changes to collection, logistics, retrofitting, and equipment lifespan.*

*If there is sufficient evidence to support changes to the scheme's scope, changes could be made by introducing secondary legislation.*

- Under Regulation 68, Paragraph (1) "The deposit management organisation must make arrangements for the recycling of the in-scope material from which returned items are made." However, the government has not taken the opportunity to leverage the DRS infrastructure to facilitate the scaling up of reuse and refill systems for drinks. Germany's DRS system has this capability and, currently, 42% of beverages are sold in refillable containers.<sup>2</sup> Effective reuse systems can contribute to an increase in resource efficiency, resulting in lower environmental impact overall. The scheme should consider opportunities for supporting the scale-up of reuse and refill as well as recycling. We would therefore be grateful if the committee could ask the department:
  - **if it intends to enable reuse systems for beverage containers as well as recycling as part of the scheme.**

Defra's response:

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<sup>2</sup> <https://www.tomra.com/en/reverse-vending/media-center/feature-articles/germany-deposit-return-scheme>

*We want to work with industry on a re-use and refill initiative. Reuse has potential to support significant emissions reductions for drinks containers. However, international examples suggest that re-use sits alongside a DRS, typically using different collection processes and infrastructure. Glass drinks containers will be included in the packaging Extended Producer Responsibility (pEPR) scheme. Under pEPR there are already incentives to support the adoption of reusable packaging, as producers are only obligated once for a piece of packaging, not for each time it is collected and reused. Additionally, where re-usable items are collected for recycling by businesses these can be offset against their overall pEPR obligation. These measures incentivise a move to reuse, driving a move away from single use packaging.*

**4 & 6 December 2024**