



The Scottish Parliament  
Pàrlamaid na h-Alba

Rt Hon Philip Dunne MP  
Chair  
Environmental Audit Committee  
House of Commons

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

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Dear Mr Dunne,

### **Deposit and Return Schemes**

Apologies for the delay in responding to the query from your Clerk in relation to the Scottish DRS scheme, issues of inter-operability and implications for local authorities. The Committee has been focused on completing its work programme before the pre-election recess which begins on 25 March. Successor committees will be established following the election on 6 May and I have asked our clerks to bring your work on DRS to their attention.

We have provided some background information on the Committee's work in this area, and on recent related discussion with the Scottish Government. We hope that this is useful to you in the course of your inquiry.

The Scottish Parliament passed [the Deposit and Return Scheme for Scotland Regulations 2020](#) in April 2020. From July 2022, under the Regulations people in Scotland will be required to pay a returnable deposit when buying a drink in certain single-use drinks containers. Aims include to boost recycling, reduce litter and reduce emissions. The Regulations set a target of 90% of scheme packaging being recycled from 2025 onwards (with interim targets of 70% in 2023 and 80% in 2024). Scotland has been the first mover on DRS in the UK, with enabling powers introduced in the [Climate Change \(Scotland\) Act 2009](#).

The Scottish Government [informed the Scottish Parliament in March 2021](#) that it has commissioned an "independent gateway review" to assess the impact of the pandemic on the go-live date for the DRS. The Government also said that despite the pressures of COVID-19 and EU Exit, industry has made "good progress" towards implementing the scheme, including the establishment of a body seeking to operate as a scheme administrator, subject to approval by Scottish Ministers.

## Consideration of DRS and the Regulations by the ECCLR Committee

In 2016, a sub-group of the ECCLR Committee considered the potential for a DRS in Scotland [and reported its work to the Scottish Government](#). The Scottish Government confirmed its intention to introduce a DRS in its Programme for Government in 2019 [following a consultation in 2018](#). Proposed [draft Regulations were laid in Parliament on 10 September 2019](#) and referred to the ECCLR Committee for consideration. The Committee [issued a call for evidence](#) and invited key stakeholders to submit their views in oral evidence. A [summary of written evidence was published by the Committee](#). The Committee [published its report on the draft Regulations](#) with detailed recommendations on 10 December 2019. The Committee welcomed the impact the DRS is expected to have on reducing emissions and litter, including in the marine environment, and consequential positive impacts on the environment, biodiversity and quality of life.

Public engagement was undertaken by the Scottish Parliament's Community Outreach Team to explore potential barriers to engagement with the Scheme. Views were sought from a range of people including from island and rural communities, older people, people with disabilities, young people, and people who are socially or economically excluded. There was broad support for the principle of introducing a DRS given the need to transition to a circular economy and net zero.

### Scottish and UK Government ambitions to pursue a coherent approach

The Committee notes that the Scottish and UK Governments have expressed intentions to work together to pursue a coherent approach on DRS. [The Scottish Government said in February 2021](#) that officials are engaging regularly with representatives of the other UK administrations on DRS, and it is open to working with the other administrations to ensure schemes are compatible, but that "this must be on the basis of any UK-wide DRS matching the ambition of our own".

The Committee further notes that English, Scottish and Welsh ministers [agreed a set of principles for cooperation on a DRS](#) in the DEFRA, Welsh Government and DAERA consultation in 2019. They include that DRS should seek to deliver a step change in recycling and litter reduction, and should form part of a coherent system for improving recycling and reducing use of virgin materials, alongside producer responsibility, kerbside collection and consideration of other fiscal measures. Subsequently, [the UK Government said in 2019](#) that its ambition was "to implement a scheme which ensures regulatory consistency across the UK, noting the Scottish Government has already brought forward proposals for a wide-ranging DRS" and committed to continue to work towards "a coherent UK-wide approach".

### Interoperability

The Committee considered the issue of interoperability of a Scottish scheme with potential future DRS schemes elsewhere in the UK. In written evidence, there was a strong industry preference for a UK-wide DRS or for the Scottish DRS to be interoperable with other schemes. Benefits raised of interoperability included:

- Reduced scope for fraud or waste tourism e.g. if there are different fees or requirements across borders;
- Mitigating costs/complexities in relation to packaging and warehousing logistics;
- Reduced potential for consumer confusion;
- Mitigating costs for small businesses.

Some stakeholders said that although a UK-wide DRS would make logistics easier, if introduced in Scotland first it should be possible to align with future schemes later, and that a comprehensive DRS in Scotland should be pursued as soon as possible in order to drive action elsewhere.

The Committee recognised industry concerns in relation to this issue. However, the Committee concluded that a Scottish scheme should not be delayed in order to wait for a UK-wide scheme, as the challenges and opportunities in relation to meeting Scotland's ambitious and distinct climate change targets, including achieving net zero by 2045, necessitate considerable change in the way we consume.

In light of these considerations and commitments made by the Scottish and UK Governments and other devolved administrations to pursue a coherent approach if possible, the ECCLR Committee is of the view that:

- The Scottish Government should continue to work with the UK Government and other devolved administrations with a view to aligning plans for DRS at a UK-wide level with a view to optimising environmental outcomes and enabling efficiencies;
- Given Scottish Regulations have been passed and significant work has been undertaken already to progress DRS in Scotland– the UK Government should take detailed consideration of work already done in Scotland and to what extent a scheme introduced in England, Wales and Northern Ireland could align with the regulatory approach in Scotland, recognising Scotland has been a first mover. The Committee understands that clauses to create delegated powers to regulate for DRS in other parts of the UK are now included in the UK Environment Bill, but the Bill has been significantly delayed by the pandemic.

The Committee also notes that both the Scottish Government and the UK Government have committed to, where appropriate, implement the EU Circular Economy Programme including ambitions of the Single Use Plastics Directive. A comprehensive DRS across the UK, either through an interoperable system or a UK-wide scheme – could support delivery of those ambitions.

Whilst waste is generally a devolved area, there is a history of collaboration between the UK and devolved Governments on aspects of waste management including [UK-wide producer responsibility schemes](#) for four waste streams. The Committee is aware that post EU exit, regulation of producer responsibility schemes is likely to continue to operate UK-wide to a large extent, with the UK Environment Bill setting out shared powers to regulate on producer responsibility and resource efficiency with the agreement of the Scottish Government. The Committee has welcomed plans for reform and expansion of producer responsibility schemes and considers that DRS can work alongside this. As DRS is mainly about increasing recycling, rather than encouraging re-

use or 'eco-design', it is only one part of a package of measures needed to 'move up the waste hierarchy'. The Committee [recently asked the Scottish Government for more detail on timeframes for this broader reform](#) as part of its scrutiny of the draft Climate Change Plan update. However, action to transition to a more circular economy is urgent, and it is right to introduce DRS at the earliest opportunity – especially given there is evidence of DRS operating successfully in a number of other countries for many years.

There may be various ways in which interoperability of UK schemes could be facilitated, including:

- Alignment of regulatory approaches to key aspects of schemes such as the scope of the scheme in terms of materials and retailers, the level of deposit, key producer obligations and targets and approaches to enforcement;
- Alignment of approaches and systems beyond regulations e.g. approaches to labelling/identification of materials, technical systems or infrastructure, or potentially joint governance arrangements.
- Interoperability of schemes, a UK-wide scheme, or agreement on areas where divergence may be necessary or appropriate, could be facilitated through the Common Frameworks process – particularly important in light of potential implications of the UK Internal Market Act 2020 (discussed further below).

The above issues will require detailed consideration and this Committee encourages the Scottish Government and UK Government, other devolved administrations and industry stakeholders to work together to support a rapid transition to a circular economy and to net zero.

### **Implications of the UK Internal Market Act 2020**

The UK Internal Market Act 2020 has raised serious questions about implications for devolved competence in areas which may be impacted by the internal market principles in the Act. The mutual recognition principle provides that goods that have been produced in, or imported into, one part of the UK and comply with relevant requirements there, can then be sold in any other part of the UK without adhering to different regulatory requirements in that part. The non-discrimination clauses set out if a regulatory requirement in a part of the UK is directly or indirectly discriminatory against incoming goods, it will have no effect to the extent that the effect is discriminatory.

The Act does not prevent the Scottish Parliament from passing circular economy legislation or enforcing any requirements on goods produced in Scotland or imported directly into Scotland from outside the UK. However, there are clearly questions around how and to what extent certain devolved circular economy policies will be able to effectively operate under this legislation, where the policy or scheme is not UK-wide and requires businesses to adjust products or practices in different parts of the UK. The [UK Government's White Paper on the Bill](#) specifically referenced recycling of drinks containers, including DRS, as an example where future divergence could be problematic.

The Bill allows for 'existing divergences' to continue, where they exist on the day before that clause comes into force. However, while the Scottish DRS Regulations were formally considered by the Committee in 2019, and business

has been preparing for their introduction, the Regulations do not currently come into force until 2022.

The Cabinet Secretary for Environment, Climate Change and Land Reform [has recently told the ECCLR Committee](#) that Scottish Government officials are undertaking an analysis to map out the potential implications of the UK Internal Market Act 2020 across devolved policy areas. However, the Scottish Government's initial assessment is that it could significantly undermine the effectiveness of DRS in Scotland. The Committee is concerned about the potential for the Act to impact on the introduction of DRS in Scotland and has requested that the Scottish Government keep the Committee updated on this matter.

### **Key recommendations of the ECCLR Committee**

The Environmental Audit Committee may find it useful to note some key aspects of the Scottish scheme, as well as some recommendations and conclusions of the ECCLR Committee following its work on the draft Scottish DRS Regulations. Full recommendations [can be found in the ECCLR Committee's 2019 report](#).

- **Scope of the Scheme - materials**

The Scottish DRS will require the deposit to be applied to containers of all drinks (soft and alcoholic) that come in PET plastic, metal and glass, sized 50ml to three litres. Mixed material pouches, cartons, HDPE and cups are excluded.

The Committee heard a range of views on what materials should be included. There were strong business concerns about the inclusion of glass and a preference for glass recycling to be improved via Extended Producer responsibility (EPR). On the other hand, there was a strong public desire to include glass in the Scheme. While there are challenges in including glass, the Committee concluded that the Scheme should be as comprehensive as possible and retrofitting glass into the scheme later would be challenging. The Committee encouraged the Scottish Government to work closely with the industry to address concerns.

The Committee also concluded that the Scheme should be designed to include cartons, pouches, HDPE plastic, biodegradable and other emerging plastics in the future. However, the Committee accepted that additional materials will require to be phased in when outstanding issues e.g. on contamination can be addressed.

- **Scope of the Scheme – retailers**

The Scottish Regulations require any retailer selling drinks covered by the scheme to accept returns, including online retailers – with some separate requirements around where businesses sell DRS items to be consumed on-site. Where specified criteria are met, retailers can be exempted from acting as a return point.

The Committee found there was broad support for this broad 'return-to-retail' model, but a number of concerns were raised about potential impacts on small retailers and how exemptions will work in practice. The Committee concluded that accessibility will be fundamental to the success of the Scheme, inclusion of online sales was critical, and that the exemption procedure was a matter to be delegated to the Scheme Administrator(s), agreed by the Scottish Government, to provide a fair and transparent process. The Committee also considered that there is likely to be a need for community-based and shared return points e.g. in rural communities.

Since the Regulations were passed, further work has been done to develop the approach to exemptions with [information available via Zero Waste Scotland](#). The Scottish Government has also [removed the need to apply for planning permission for reverse vending machines](#) to facilitate their introduction.

- **Level of the deposit**

The Scottish DRS Regulations set the deposit for a scheme item at 20 pence. The Committee explored the evidence-base for this, implications of setting a flat deposit versus a variable one, and the approach the Regulations take to setting the deposit. The Committee concluded that there should be a minimum level of deposit set in Regulations and was content with the proposed level of 20 pence. The Committee also considered that there should be scope for the Scheme Administrator(s) to set a variable rate above the minimum level, for example based on product size or to discourage materials switching or other unintended consequences, with 20 pence being the minimum level of deposit. The Scottish Government did not take up this recommendation however and considered a flat rate of deposit was appropriate.

### **VAT on the deposit**

The Committee supported the deposit not being subject to the application of VAT and considered that clarity that the deposit will be exempt from VAT was required. The Committee encouraged the Scottish Government to pursue this with the UK Government as a matter of priority.

### **Implications for local authorities**

The [Scottish Government DRS Full Business Case Addendum](#) - published March 2020 - includes information on anticipated impacts of DRS on local authorities. Costs to local authorities were estimated to be £46m over the 25 years, based on sorting costs for remaining recyclate and lost income from selling materials. However, the report estimates an £214 million benefit over the same period from collection efficiencies and reduced costs for disposal, resulting in a £168 million net benefit.

The Committee was advised that Zero Waste Scotland was also in the process of undertaking an impact assessment for each local authority, but this was not available before ECCLR completed its scrutiny of the Draft Regulations. The Committee was also informed that Zero Waste Scotland is working with local authorities to review the Scottish Household Recycling Charter, taking DRS into account.

Some concerns were raised by local authorities - despite DRS being broadly welcomed - that the removal of higher value recyclables from collections will leave local authorities with a higher proportion of lower value recycle to dispose of. There were also industry concerns in relation to specific materials such as remaining volumes of aluminium in kerbside collections, with suggestions that some e.g. aerosols may become prohibitively expensive to collect. Re-loop suggested however that there is a lack of understanding about how kerbside collection can be adjusted to run alongside DRS, including opportunities to reduce collections and collect additional materials. They stated that DRS should not be seen as diverting from one system to another, as DRS enables more close-loop recycling, whereas kerbside collection is often mixed and materials 'down-cycled' or incinerated.

The Committee recognised that introducing DRS will impact local authorities, but that moving towards a circular economy and forthcoming EPR reform is already driving change. The Committee also welcomed the Scottish Government commitment to invite the Convention of Scottish Local Authorities (COSLA) to sit on its DRS Implementation Advisory Group.

### **Provisions for review**

The Committee explored the scope for inclusion of provisions for reviewing the Scheme in future in the Regulations, to take into account performance, public attitudes, or new materials e.g. bio-plastics and the potential to expand the scheme. A duty to review the Regulations was introduced to the final Regulations, which requires Scottish Ministers to, before 1 October 2026, review the operation of the Regulations and lay a report before the Scottish Parliament. The review must include consultation with SEPA (the enforcement authority) and any approved scheme administrator, consideration of the materials included in the scheme, the level of the deposit, and the legal collection targets.

Yours sincerely



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Convener  
Environment, Climate Change and Land Reform Committee