POLICY NOTE

THE DEPOSIT AND RETURN SCHEME FOR SCOTLAND AMENDMENT REGULATIONS 2025

SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by sections 84, 89, 90 and 96(2) of the Climate Change (Scotland) Act 2009. The instrument is subject to the affirmative procedure.

Summary Box

Purpose of the instrument is to amend the Deposit and Return Scheme for Scotland Regulations 2020 to alter the full implementation date for Scotland's Deposit Return Scheme ("DRS") to 1 October 2027 and to make other amendments designed to support delivery and operation of a successful DRS, and technical amendments. These amendments align with schemes due to be introduced in England and Northern Ireland on 1 October 2027.

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 to single-use drinks containers made of PET plastic and metal from 1 October 2027.

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 Scottish Government initially announced the design of a DRS on 8 May 2019 and published draft Regulations on 10 September 2019. The DRS design and the draft Regulations were informed by extensive public consultation, international best practice and engagement with a broad range of stakeholders.[1]

The Deposit and Return Scheme for Scotland Regulations 2020 ("the 2020 Regulations") were approved by the Scottish Parliament in May 2020 and have subsequently been amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2022, the Deposit and Return Scheme for Scotland Amendment Regulations 2023 and the Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023.

1 https://www.gov.scot/policies/managing-waste/deposit-return-scheme/

Following the UK Government's decision on a UK Internal Market Act exclusion for DRS, the Scottish Government confirmed on 7 June 2023 its intention to align with the introduction of deposit return schemes in other parts of the UK.

In a Joint Policy Statement published in April 2024, the Scottish Government, alongside the UK Government, Welsh Government and the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland, committed to working together to introduce Deposit Return Schemes across the UK in October 2027.[2] In November 2024, the Welsh Government announced that they would not be proceeding with the four nation joint DRS process.[3]

The Scottish Government, alongside the UK Government and DAERA, have agreed to proceed with DRS on a three-nation basis. There is a shared ambition to increase recycling rates of single-use plastic and metal drinks containers to at least 90%, to significantly cut littering, and to expand opportunities to collect and reprocess high quality materials.

In order to move forward with a DRS in conjunction with the UK Government and DAERA, the Scottish Ministers have decided to make certain policy changes to Scotland's DRS which include:

- DRS launch date moved from October 2025 to October 2027.
- Glass single-use drinks containers will no longer be scheme articles under the 2020 Regulations and will therefore not be part of DRS.
- Retailers who sell scheme articles online will not be obligated to provide takeback of drinks containers from consumers who have purchased scheme articles online.
- The scope of return point obligations on retailers is reduced. Groceries retailers must operate a return point at any retail premises in Scotland unless they have an exemption. They are automatically exempt if the premises of the groceries retailer has limited retail space (less then 100m2), and is situated in an urban area. A groceries retailer can apply for an exemption from operating a return point if there is an alternative return point within reasonable proximity; or if the location, layout, size, design, or construction of the retail premises does not permit, or cannot reasonably be altered to permit, the operation of a return point.
- Groceries retailers who sell scheme articles online will no longer be required to provide a takeback service; but any person can apply to be registered as a takeback service provider.
- Minimum size of scheme article has increased from 100ml to 150ml.
- Retailers will only be able to sell scheme articles which are marked with a label and a scheme code showing that the drink is within the scope of DRS.
- Designation of a new Scheme Administrator (SA), UK Deposit Management Organisation Limited, by the Scottish Ministers which will be responsible for operating DRS in Scotland.
- The SA will be subject to certain obligations, including operating in accordance with its approved operational plan, collecting empty scheme packaging from return points and refunding deposits, as well as meeting collection targets.
- The SA will also have additional functions; it is to be responsible for deciding on the deposit level, which may be a variable or flat rate depending on the size of the

[2] https://www.gov.uk/government/publications/deposit-return-scheme-for-drinks-containers-policy-statements/deposit-return-scheme-for-drinks-containers-joint-policy-statement
[3]https://www.gov.wales/written-statement-development-deposit-return-scheme-wales

container, and determining the scheme logo to appear on all scheme articles, as well as registering producers, groceries retailers (both those operating return points and those which apply for an exemption), voluntary return points and takeback service providers.

This policy note relates to the Deposit and Return Scheme for Scotland Amendment Regulations 2025, referred to in this note as "this instrument". This instrument amends the 2020 Regulations. The Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025) ("the Order") was made at the same time. Therefore the 2020 Regulations (as amended by this instrument) and the Order both comprise the legislation which establishes the DRS in Scotland. The 2020 Regulations and the Order should therefore be read together. The policy note for the Order explains in more detail the provisions contained within the Order.

This instrument in particular makes the following amendments to the 2020 Regulations:

Launch date for DRS

The coming into force provisions in the 2020 Regulations are amended so that DRS is to launch on 1 October 2027. This is a change from the current launch date of 1 October 2025 and aligns with the scheme in England and Northern Ireland. The revised timeline allows time for the SA to establish itself as an organisation to run DRS on behalf of industry and to set up the necessary infrastructure it needs to operate DRS, as well as to provide businesses with the information needed to prepare for DRS launch. It further allows the time for businesses to make the changes required for DRS including for example: IT infrastructure, retailer activity on return points, producer activity on labelling and consumer engagement activity.

Scheme articles

The materials within scope of the DRS will be PET plastic, steel and aluminium. Glass bottles have been removed from the scope of the scheme and they will therefore no longer fall within the meaning of 'scheme article'.

The Scottish Government continues to believe that including glass in DRS is the best way to achieve our 90% target glass recycling rate, as demonstrated by successful international schemes. However, the Scottish Government is keen to progress with DRS and it is therefore accepted that having a scheme with a more limited scope is better than having no DRS at all. This instrument amends the 2020 Regulations to require the Scottish Ministers to review DRS, including the materials within the scope of the scheme, by 1 October 2032 (which is within 5 years of launch). The Scottish Government will therefore continue to work constructively with the UK Government and Northern Ireland on the material scope of DRS and maintain its commitment to achieving high levels of glass recycling.

Size of scheme articles

The sizes of scheme articles within the scope of the DRS will be between 150ml and 3 litres. This is a change from existing legislation which included containers between 100ml and 3 litres. Any containers outside of this range will be in scope of the Extended Producer Responsibility for packaging (packaging EPR)[4]. Setting the minimum level for the size of

[4] https://www.gov.uk/guidance/extended-producer-responsibility-for-packaging-who-is-affected-and-what-to-do

scheme articles at 150ml will improve the efficiency and effectiveness of the returns process from scheme launch, as very small containers can be challenging to label, or may cause issues with reverse vending machines. The Scottish Government, together with the other nations, will review the size of scheme articles once the scheme is operational to ensure the scheme is meeting its environmental objectives.

Low volume drink products

In relation to low volume drink products, producers may choose to notify the SA if they will have product lines which will not exceed more than 5000 units placed on the market across the UK (or 6250 in the first 15 months of operation). This is a change from the existing legislation which specified a threshold of 5000 units placed on the market only in Scotland. However, consistent with the previous policy, these low volume drink products will be exempt from specific DRS obligations, such as the requirement to pay producer fees, apply deposits, and carry DRS labelling.

Producers of low volume drink products will still register with the SA and report to it the number of containers placed on the market for each product. This exemption is designed to support producers with very specialist or low volume sales products (such as those being sold at a farm shop or market) who would find DRS requirements disproportionately burdensome.

The low volume drink products exemption will be reviewed once the scheme has launched, and we will consider whether to adjust or remove the exemption over time. The low volume drink products will still have obligations under the DRS, so will not be in scope of packaging EPR.

Producer registration

Producers who wish to market, offer for sale or sell scheme articles to a consumer in Scotland will be required to register with the SA before 1 October 2027. This is a change from the existing legislation which required producers to register with SEPA. As part of their registration information, producers will be required to provide the SA with data on the volume and size of the scheme articles placed on the market. It is expected that the SA will develop a single registration and reporting process where producers can register for all three-nation schemes through a single system. This will reduce the administrative burden on drinks producers. However, these systems are for the SA to design and operate.

A registered producer is subject to new obligations under the amendments made by this instrument to pay to the SA any producer registration fees which the SA may charge and the amount of the deposit for each scheme article that they market, offer for sale or sell in Scotland. Producers will no longer be required to pay an annual registration payment. The SA will recover the costs associated with operating DRS, including the fees charged to them by SEPA, through 3 key revenue streams:

- producer fees charged on a per container basis
- revenue from the sale of collected materials
- unredeemed deposits.

Scheme administrator

This instrument revokes from the 2020 Regulations the provisions regarding the approval of a scheme administrator since the scheme administrator is designated by the Scottish Ministers under the Order. This instrument, however, imposes an obligation on the scheme

administrator to operate in accordance with the operational plan which has been approved by SEPA under the Order. The scheme administrator is also required to submit an annual report to the Scottish Ministers and to SEPA, within 6 weeks of the end of each calendar year.

Collection targets

The collection targets for single-use plastic and metal drinks containers set out in schedule 3 of the 2020 Regulations are now imposed on the scheme administrator, rather than on producers. A year 1 (by end of 2028) collection target of 70% has been reinstated into schedule 3.

The scheme administrator must also collect scheme packaging from return points, hospitality retailers and takeback service providers and refund deposit amounts which they have repaid to consumers. In addition, the scheme administrator must pay a handling payment to the return point operators. The scheme administrator must supply returns data to registered producers and to SEPA.

Return points

Groceries retailers (in effect supermarkets, convenience stores and newsagents) will be required to operate return points, unless their retail premises are less than $100m^2$ and in an urban area (as defined in the amendments made by this instrument). This is a change from all retailers of scheme articles being obligated to act as return points. Other types of organisations that sell scheme articles including hospitality venues, food to go stores, schools, gyms, sports or recreation centres, community centres, and mobile caterers would not be groceries retailers and will not be required to host a return point, but they will be able to apply to host a voluntary return point. Experience from international schemes shows that hosting a voluntary return point is popular, as organisations see the benefit of increased footfall.

Groceries retailers which require to operate a return point will be required to register with the SA.

Groceries retailers may still apply for an exemption from the requirement to operate a return point on the grounds of either (1) the retail premises' location, layout, size, design, or construction does not permit operation of a return point or (2) close proximity to another return point. Retailers will apply to the SA, which will determine whether an exemption can be granted. This is a change from the existing legislation which required Scottish Ministers to determine applications for return point exemptions. There will also no longer be a need for a groceries retailer applying for an exemption on the grounds that there is an alternative return point to secure the agreement of the alternative return point in advance of submitting an application.

Return points will still be required to accept returns of empty scheme packaging. This is also extended by this instrument to require them to accept returns of equivalent drinks containers which are subject to the DRS in England and Northern Ireland. Groceries retailers who do not sell alcohol for reasons of faith or belief will be able to refuse returns of containers of alcoholic drinks. This new provision is in response to stakeholder feedback.

Voluntary return points: as noted above, people or organisations may apply to the SA to be registered to operate a return point voluntarily. The SA will be required to register voluntary

return point operators. This is a change from the existing legislation which required Scottish Ministers to determine applications for registration as a voluntary return point operator.

Takeback services

Takeback service providers are people or organisations which collect empty scheme packaging from consumers, refund deposits, and return the material to the SA. People or organisations must register with the SA to operate a takeback service on a voluntary basis. This is a change from requirements in the existing legislation which required large groceries retailers to provide a takeback service to consumers who had purchased scheme articles online.

This requirement to provide a takeback service was removed partly in response to feedback from industry who consistently expressed their concerns about the feasibility of providing such a service. The equivalent DRS Regulations for England and Northern Ireland do not impose takeback obligations for drinks containers sold online; therefore, large groceries retailers in Scotland would have had to develop bespoke takeback services for Scotland only. The need for a Scotland-only takeback service increases the risk that retailers would restrict online drinks sales in Scotland which would mean that they would not have corresponding takeback obligations. This potential restriction of online drinks sales would have had a wider and more detrimental impact on all consumers in Scotland.

Irrespective of how consumers purchase scheme articles, the Scottish Government's aim is that access to return points is as broad as possible, and that no one is excluded from participating in the scheme and unable to redeem their deposit. Officials across the three-nations have developed mitigations to review progress towards the establishment of takeback services. If voluntary models developed with the support of the SA are not sufficient, then the Scottish Government would have the option to review this policy again and to consider an alternative solution which could include re-introducing mandatory provision of online takeback services.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

"In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Deposit and Return Scheme for Scotland Amendment Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act."

EU Alignment Consideration

The relevant EU legislation that relates to Scotland's DRS includes Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment; Directive 94/62/EC on packaging and packaging waste (PPWD); and Regulation (EU) 2025/40 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (PPWR).

Under the PPWD EU member states were required to take measures, such as national programmes, incentives through extended producer responsibility schemes and other economic instruments, to prevent the generation of packaging waste and to minimise the environmental impact of packaging and to meet recycling targets. This will be repealed by the PPWR which applies from August 2026. Amongst other things, the PPWR establishes further requirements for extended producer responsibility, packaging waste prevention, such as the reduction of unnecessary packaging and the re-use or refill of packaging, as well as the collection and treatment, including recycling, of packaging waste. In particular, it obliges EU member states, by 1 January 2029, to ensure the separate collection of at least 90% per year by weight of the following packaging formats which are introduced on to its market for the first time in a given calendar year:

- single-use plastic beverage bottles with a capacity of up to 3 litres;
- single-use metal beverage containers with a capacity of up to 3 litres.

To achieve these targets, EU member states must ensure that deposit and return systems (DRS) are set up for the relevant packaging formats and that a deposit is charged at the point of sale.

The PPWR also stipulates minimum requirements that DRS systems must meet, including:

- ensuring equal access and fair conditions for all economic operators,
- establishing control procedures and reporting systems,
- fixing a minimum deposit amount to achieve the collection targets,
- obliging final distributors to accept the deposit bearing packaging,
- deposit bearing packaging is clearly labelled.

In line with a derogation in the PPWR, hospitality retailers are not required to charge a deposit for scheme articles which are consumed on the premises. The PPWR also allows a derogation to exclude scheme articles with a minimum size of 100ml where it is technically not feasible to include them in DRS. At the moment this instrument provides for a minimum scheme article size of 150ml, but this will be kept under review.

The 2020 Regulations (as amended by this instrument) together with the Order provide the necessary legislation to align with the requirement of the PPWR to increase recycling rates of single-use plastic and metal drinks containers to at least 90% and to establish a DRS to do so.

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 implementation date of 16 August 2023.

Stakeholder engagement as part of scheme assurance processes throughout March and April 2023 included producers, retailers, the then scheme administrator and hospitality sector representatives.

Since publication of the Joint Policy Statement, stakeholder engagement has continued on a three-nation basis. This includes a regular Industry Forum and its associated industry sub-

groups, attending meetings with the scheme administrator candidate, comprised of a cross section of industry - as well as regular meetings with environmental groups and individual stakeholder meetings. Scottish specific industry engagement will continue to address any issues as the scheme develops.

As a result of continued stakeholder engagement these policy changes to delay and align the scheme with other schemes in the UK have been developed to provide certainty of the scheme scope, and this instrument and the Order have been made to provide sufficient time for businesses to prepare ahead of 1 October 2027.

Impact Assessments

The following impact assessments have been updated to evaluate the likely impacts of the amended policy.

- A Partial Business and Regulatory Impact Assessment was published on 9 January 2025. A Final Business and Regulatory Impact Assessment (BRIA) has been completed following consultation feedback and will be published to coincide with the laying of this instrument and the Order.
- An updated Equality Impact Assessment (EQIA) will be published to coincide with the laying of this instrument and the Order.
- A Fairer Scotland Duty Assessment (FSDA) will be published to coincide with the laying of this instrument and the Order.
- An Island Communities Impact Screening Assessment (ICIA) will be published to coincide with the laying of this instrument and the Order.
- A Child Rights and Wellbeing Impact Assessment (CRWIA) will be published to coincide with the laying of this instrument and the Order.

It is recognised, taking into account experiences of existing deposit return schemes in other countries, that the scheme imposed by the 2020 Regulations and the Order will have an impact upon industry and consumers. The DRS will be reviewed once it is fully operational and sufficient time has passed to allow data to be available to evaulate its impact on all sectors. Scottish Ministers must complete a review of the scheme by October 2032.

Financial Effects

As noted above, a Final Business and Regulatory Impact Assessment (BRIA) has been completed for this policy and will be published alongside this instrument.

Over the 10-year assessment period, the DRS in Scotland is estimated to cost £900 million and to deliver a benefit of £1,270 million. This gives a Net Present Value of £366 million and a Benefit Cost Ratio of 1.4.

Scottish Government
Environment and Forestry Directorate

2 May 2025