POLICY NOTE

THE DEPOSIT AND RETURN SCHEME FOR SCOTLAND (DESIGNATION OF SCHEME ADMINISTRATOR) ORDER 2025

SSI 2025/XXX

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 85 and 96(2) of the Climate Change (Scotland) Act 2009(a). The instrument is subject to the affirmative procedure.

Summary Box

Purpose of the instrument is to designate a Scheme Administrator to operate the Deposit and Return Scheme in Scotland and to confer functions on it to do so.

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 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.

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

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

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 and is to be responsible for deciding on the deposit level, which may be a variable or flat rate depending on the size of the 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.

[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

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

The main purpose of this instrument is to designate a scheme administrator which will operate and manage the DRS in Scotland. It also sets out the obligations and functions of that scheme administrator. These functions are broadly consistent with those given to the Deposit Management Organisation (DMO) for DRS in England and Northern Ireland. The DMO for England and Northern Ireland and the SA for Scotland will operate under the relevant legislation in each nation.

The main provisions made by this instrument are set out below:

Scheme administrator

This instrument designates UK Deposit Management Organisation Limited as the Scheme Administrator (SA) for Scotland. Scottish Ministers made their decision that it was appropriate for UK Deposit Management Organisation Limited to be designated as the SA for Scotland following an adminstrative application and assessment process. The assessment carried out by Scottish Ministers was in line with the process set out in application documents[4]. During its assessment of the scheme administrator application, the Scottish Government worked cooperatively with DEFRA, acting on behalf of the UK Government for the scheme in England, and DAERA, acting for the scheme in Northern Ireland.

Operational plan

This instrument makes provisions regarding the operational plan for the SA. It requires the SA to submit its operational plan to SEPA by 31 March 2026 for approval. The operational plan must set out how the SA intends to exercise its DRS functions. The SA must review its operational plan at least every year and if it revises it, SEPA must agree any revisions to the SA's operational plan. Under the 2020 Regulations the SA is required to act in accordance with its approved operational plan.

Scheme logo and scheme code

This instrument makes provision for a scheme logo, scheme packaging logo (if required) and requirements of a scheme return code to be issued by the SA. The SA must issue a logo which will allow scheme articles to be recognised by consumers and a machine readable code which will allow the labels to be read by reverse vending machines. The SA may also choose to issue a logo to identify multipacks containing scheme articles. Under the 2020 Regulations, scheme articles can be sold only if they bear the scheme logo and code.

Deposit level

[4] Apply to manage the Deposit Return Scheme for drinks containers - GOV.UK - 2 December 2024.

This intrument makes provision for the determination of the deposit level and the use of such deposit by the SA. The SA must determine the deposit level, which may be a flat or variable rate. The SA must retain the deposit amounts paid to it by registered producers and use those amounts to meet the costs of paying the return point operators, hospitality retailers or takeback service providers the deposits for each item of scheme packaging which the SA collects. Any remaining funds after these costs have been met, must be used towards any of SEPA's costs which have not otherwise been met. Once these costs have been met the SA may use any remaining amount to fund operation of scheme.

Handling payment

This instrument makes provision for the SA to determine the payment to be paid to each return point operator, referred to as the 'handling payment'. The SA is required to calculate the handling payment having regard to a range of factors, including costs for collection/storage of scheme packaging and for staff time. It further allows for the SA to calculate the handling payment based on average costs incurred by return point operators or a class of return point operators; it therefore does not need to be based on the individual costs of each return point operator. The SA could, for example, set a handling payment for small retailers in a rural area. This will, however, be a matter for the SA to determine.

Return points

Under the 2020 Regulations, groceries retailers (in effect supermarkets, convenience stores and newsagents) are required to host return points, unless their retail premises are less than 100m2 and in an urban area. This instrument requires the SA to review return points at such intervals as it considers appropriate, taking into account particular specified matters including whether there is sufficient access to return points for persons living in villages and rural areas and on islands. As a result of such a review it could increase or decrease the number of return points. The SA must collect all scheme packaging accepted by return point operators as well as scheme packaging retained by hospitality retailers who sell scheme articles or scheme packaging collected by takeback service providers.

The SA must register a groceries retailer as a return point operator if that retailer is required to operate a return point. Under the 2020 Regulations, groceries retailers may apply for a return point exemption 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 should be granted. This is a change from the existing legislation which required Scottish Ministers to determine return point exemptions.

The SA must publish and maintain a register of groceries retailers who operate return points as well as a register of any groceries retailers to whom it grants an exemption from operating a return point.

The SA may operate return points itself.

Registration of voluntary return points and takeback service providers

Voluntary return point operators and takeback service providers are required to register with the SA. The SA is required to publish and maintain a register of voluntary return point operators and takeback service providers.

Cooperation between other SAs

This instrument allows the SA to enter into arrangements with its counterpart scheme adminstrators in other parts of the UK where it considers that it is appropriate to do so to ensure the efficient and effective performance of the DRS.

Producer registration fees

The SA may charge a fee to registered producers. That fee may be used to cover SEPA's costs and the costs incurred by the SA in exercising its functions in relation to DRS. The amount the SA can charge registered producers is the aggregate of the amount of the items of scheme packaging made from each of the scheme materials (PET plastic, steel and aluminium) which the producer expects to market, offer for sale or sell in a relevant year, multiplied by the fee for the relevant year for each type of scheme material.

When determining the registration fee, the SA must have regard to the likely value, or if known the actual value, of each type of material which the SA expects to be recycled from all the scheme packaging which is collected by, or returned to, the SA in the relevant year. The registration fees for one scheme material may not subsidise the costs for another scheme material.

Registration of producers

The SA is required to register producers who intend to market, offer for sale or sell any scheme articles to consumers in Scotland if they apply for registration and provide specified information about their scheme articles. The SA must also publish and maintain a register of producers. This is a change from the registration requirement placed on SEPA under the existing legislation.

Consultation requirements

Where the SA is required to determine the logo, deposit level, producer registration fee, and handling payment, the SA will be required to consult with affected producers or retailers. It must also consult their representatives and any other persons it considers appropriate. In particular, the SA must consult persons who represent the interests of small producers or small retailers or wholesalers, as appropriate.

Internal review of SA decisions

Under this instrument the SA will be required to take a number of decisions, for example on cancellation of the registration of producers or decisions on registration fees or handling payment. This instrument also provides a right of internal review by the SA in relation to specified decisions on request from an affected person. If the person remains dissatified with a decision of the SA following an internal review, then the remedy for an affected person would be to challenge it by means of judicial review.

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 (Designation of Scheme

Administrator) Order 2025 is 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 requirements in relation to a scheme administrator such as:

- a single system operator is established or, in the case there is more than one system operator, there are to be measures in member states to ensure coordination between the different system operators;
- the system operator is a non-profit and independent legal entity;
- the system operator coordinates the functioning of the deposit and return system.

This instrument together with the 2020 Regulations 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 Amendment Regulations have been made to provide sufficient time for businesses to prepare ahead of 1 October 2027.

Impact Assessments

The following impact assessments have been update 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 Amendment Regulations.
- An updated Equality Impact Assessment (EQIA) will be published to coincide with the laying of this instrument and the Amendment Regulations.
- A Fairer Scotland Duty Assessment (FSDA) will be published to coincide with the laying of this instrument and the Amendment Regulations.
- An Island Communities Impact Screening Assessment (ICIA) will be published to coincide with the laying of this instrument and the Amendment Regulations.
- A Child Rights and Wellbeing Impact Assessment (CRWIA) will be published to coincide with the laying of this instrument and the Amendment Regulations.

It is recognised, taking into account experiences of existing deposit return schemes in other countries, that the scheme imposed by this instrument and the 2020 Regulations 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

A Final Business and Regulatory Impact Assessment (BRIA) has been completed for this policy and will be published alongside the Amendment Regulations.

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