Draft Order laid before the Scottish Parliament under section 58(3) of the Regulatory Reform (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

ENVIRONMENTAL PROTECTION

ENFORCEMENT

The Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026

Made - - - -	*****
Coming into force - -	*2026*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 20(1), 23(1), 27(1) and 58(1) of the Regulatory Reform (Scotland) Act 2014(**a**) and all other powers enabling them to do so.

In accordance with section 58(3) of that Act(**b**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 and comes into force on the day after the day on which it is made.

Amendment of the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015

2.—(1) The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015(**c**) is amended in accordance with paragraphs (2) and (3).

(2) For the rows in the table in schedule 4 (relevant offences and fixed penalty amounts) under the heading "The Deposit and Return Scheme for Scotland Regulations 2020", substitute (as new rows and in the appropriate columns)—

"The Deposit and Return Scheme for Scotland Regulations 2020(d)

(**a**) 2014 asp 3.
(**b**) The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). This Order is subject to the affirmative procedure by virtue of section 33(3) of that Act.
(**c**) S.S.I. 2015/383, as relevantly amended by S.S.I. 2020/155, S.S.I. 2023/69 and S.S.I. 2025/199.
(**d**) S.S.I. 2020/154, as amended by S.S.I. 2022/76, S.S.I. 2023/201, S.S.I. 2023/334, S.S.I. 2025/188 and S.S.I. 2026/xx.

Regulation 31(1)(za) (failure to comply with requirement to register as producer to market, offer for sale or sell a low volume drink product under regulation 3A(1))	YES	YES	YES	MEDIUM
Regulation 31(1)(zb) (failure to communicate certain information when marketing, offering for sale or selling a low volume drink product under regulation 3A(3))	YES	YES	YES	LOW
Regulation 31(1)(a) (failure to comply with requirement to fulfil certain conditions in order to market, offer for sale or sell a scheme article under regulation 4(1))	YES	YES	YES	MEDIUM
Regulation 31(1)(b) (failure to comply with requirement to be registered producer to market, offer for sale or sell a scheme article under regulation 4(2))	YES	YES	YES	MEDIUM
Regulation 31(1)(c) (failure to comply with requirement to charge a deposit when marketing, offering for sale or selling a scheme article in Scotland under regulation 5(2)(a))	YES	YES	YES	MEDIUM
Regulation 31(1)(d) (failure to comply with requirement to display certain information when marketing, offering for sale or selling a scheme article under regulation 5(2)(b))	YES	YES	YES	LOW
Regulation 31(1)(e) (failure to communicate certain information when marketing, offering for sale or selling a non-scheme article under regulation 5(3))	YES	YES	YES	LOW
Regulation 31(1)(f) (failure to communicate certain information when marketing, offering for sale or selling a non-Scottish article under regulation 5(3A))	YES	YES	YES	LOW
Regulation 31(1)(g) (failure to comply with requirement to ensure scheme article carries scheme logo and scheme return code under regulation 5(3B))	YES	YES	YES	MEDIUM
Regulation 31(1)(h) (failure to comply with requirement to ensure scheme article in multipack carries scheme multipack logo under regulation 5(3C))	YES	YES	YES	MEDIUM
Regulation 31(1)(i) (failure to comply with requirement to ensure low volume drink product does not carry scheme logo,	YES	YES	YES	MEDIUM

multipack logo or scheme return code under regulation 5(3D))				
Regulation 31(1)(j) (failure to comply with requirement to ensure low volume drink product in multipack does not carry multipack logo under regulation 5(3F))	YES	YES	YES	MEDIUM
Regulation 31(2) (offences in relation to knowingly or recklessly supplying of false information)	YES	YES	YES	HIGH
Regulation 31(3) (failure to comply under regulation 10(4) with certain requirements on a producer whose registration has been cancelled)	YES	YES	YES	MEDIUM
Regulation 31(4)(a) (failure by registered producer to comply with requirement to notify material change of information under regulation 10(1)(a))	YES	YES	YES	MEDIUM
Regulation 31(4)(b) (failure by registered producer to comply with requirement to collect and keep records relating to scheme articles under regulation 10(1)(b))	YES	YES	YES	MEDIUM
Regulation 31(4)(c) (failure by registered producer to comply with requirement to provide records relating to scheme articles to scheme administrator under regulation 10(1)(c))	YES	YES	YES	MEDIUM
Regulation 31(4)(d) (failure by registered producer to comply with requirement to provide other information to the scheme administrator under regulation 10(1)(d))	YES	YES	YES	MEDIUM
Regulation 31(4)(e)(failure by registered producer to comply with requirement to notify ceasing to be a producer under regulation 10(3))	YES	YES	YES	MEDIUM
Regulation 31(4)(f) (failure by registered producer to comply with requirement to pay registration fees to scheme administrator under regulation 11(1)(a))	YES	YES	YES	HIGH
Regulation 31(4)(g) (failure by registered producer to comply with requirement to pay amount equivalent to deposits to scheme administrator under regulation 11(1)(b))	YES	YES	YES	HIGH
Regulation 31(7)(a) (failure by scheme administrator to operate in accordance with	YES	YES	YES	HIGH

approved operational plan under regulation 16(1))				
Regulation 31(7)(b) (failure by scheme administrator to submit annual report under regulation 16(2))	YES	YES	YES	HIGH
Regulation 31(7)(c) (failure by scheme administrator to meet minimum collection targets under regulation 16(5))	NO	YES	YES	NOT APPLICABLE
Regulation 31(7)(d) (failure by scheme administrator to comply with the obligations to collect scheme packaging under regulation 16A(1))	YES	YES	YES	HIGH
Regulation 31(7)(e) (failure by scheme administrator to comply with various obligations under regulation 16A(2) to (4) to pay deposit and handling payment)	YES	YES	YES	HIGH
Regulation 31(7)(f) (failure by scheme administrator to comply with the obligations in regulation 16B(1) to supply data to registered producers and SEPA)	YES	YES	YES	HIGH
Regulation 31(7A) (failure by scheme administrator to comply with request for payment from SEPA under regulation 30A)	YES	YES	YES	HIGH
Regulation 31(8)(a) (failure by groceries retailer to comply with requirement to operate return point under regulation 19(2))	YES	YES	YES	MEDIUM
Regulation 31(8)(b) (failure by groceries retailer to comply with requirement to be registered under regulation 19(3)(a))	YES	YES	YES	MEDIUM
Regulation 31(8)(c) (failure by groceries retailer to comply with requirement to notify material change of information under regulation 20ZA(4)(b))	YES	YES	YES	MEDIUM
Regulation 31(8)(d) (failure by groceries retailer exempted from operating return point to comply with requirement to display information under regulation 24(4)(a))	YES	YES	YES	LOW
Regulation 31(8)(e) (failure by groceries retailer exempted from operating return point to comply with requirement to notify material change of information under regulation 24(4)(b))	YES	YES	YES	MEDIUM
Regulation 31(8A)(a) (failure by groceries retailer to comply with requirement to	YES	YES	YES	LOW

display information about redeeming deposit under regulation 19(3)(b))				
Regulation 31(8A)(b) (failure by groceries retailer to comply with requirement to register to operate return point under regulation 20ZA(1)(a) or (b))	YES	YES	YES	MEDIUM
Regulation 31(8B) (failure by retailer to comply with requirement to display information under regulation 19(4) about redeeming deposit)	YES	YES	YES	LOW
Regulation 31(8C) (failure by hospitality retailer to comply with requirement to clearly display certain information when not charging deposit on scheme articles under regulation 19(4B))	YES	YES	YES	LOW
Regulation 31(9)(a) (failure by return point operator to comply with certain obligations in relation to return of scheme packaging and payment of deposit under regulation 20(2))	YES	YES	YES	MEDIUM
Regulation 31(9)(b) (failure by return point operator to comply with requirement to display certain information under regulation 20(3))	YES	YES	YES	LOW
Regulation 31(9A) (failure by takeback service provider to comply with requirement to register with scheme administrator under regulation 21(1))	YES	YES	YES	MEDIUM
Regulation 31(9B)(za) (failure by takeback service provider to comply with requirement to notify material change of information under regulation 21(6))	YES	YES	YES	MEDIUM
Regulation 31(9B)(a) (failure by takeback service provider to comply with requirement to pay deposit under regulation 21(7))	YES	YES	YES	MEDIUM
Regulation 31(9B)(b) (failure by takeback service provider to comply with requirement to retain scheme packaging or returnable packaging under regulation 21(9))	YES	YES	YES	MEDIUM
Regulation 31(9C) (failure by voluntary return point operator to comply with requirement to register with scheme administrator under regulation 25(1))	YES	YES	YES	MEDIUM
Regulation 31(10) (failure by registered voluntary return point operator to comply	YES	YES	YES	MEDIUM

with requirement to notify material change of information under regulation 25(8)(b))				
Regulation 31(11) (obstruction of, or failure to assist, an authorised person exercising enforcement powers under regulation 30(4))	YES	NO	NO	LOW
Regulation 31(12) (failure to comply with a notice under regulation 30(4)(l))	YES	YES	YES	LOW".

(3) At the end of the table in schedule 4, after the final row insert (as new rows and in the appropriate columns)—

"**The Digital Waste Tracking (Scotland) Regulations 2026**(**a**)

Regulation 15(2)(a) (failure to comply with specified steps under regulation 4(3))	YES	YES	YES	MEDIUM
Regulation 15(2)(b) (failure to comply with requirement to notify outage under regulation 6(2)(a))	YES	YES	YES	MEDIUM
Regulation 15(2)(c) (failure to comply with requirement to make written record during outage under regulation 6(2)(b))	YES	YES	YES	MEDIUM
Regulation 15(2)(d) (failure to comply with requirement to enter written record into digital waste tracking system under regulation 6(2)(c))	YES	YES	YES	MEDIUM
Regulation 15(2)(e) (failure to comply with requirement to retain and make available outage written record under regulation 6(3)(b))	YES	YES	YES	MEDIUM
Regulation 15(2)(f) (failure to comply with requirement to correct digital waste record under regulation 7(2))	YES	YES	YES	MEDIUM
Regulation 15(2)(g) (failure to comply with requirement to make a written record under regulation 8(3)(b)(i))	YES	YES	YES	MEDIUM
Regulation 15(2)(h) (failure to comply with requirement to record digitally excluded number in written record under regulation 8(3)(b)(ii))	YES	YES	YES	LOW
Regulation 15(2)(i) (failure to comply with requirement to apply for digitally excluded number under regulation 9(1))	YES	YES	YES	MEDIUM

(**a**) S.S.I. 2026/145.

Regulation 15(2)(j) (failure to comply with requirement to give notice of ceasing to be digitally excluded person under regulation 10(1))	YES	YES	YES	MEDIUM
Regulation 15(2)(k) (failure to comply with requirement to give notice of ceasing to be digitally excluded person by deadline under regulation 10(2))	YES	YES	YES	LOW
Regulation 15(2)(l) (failure to comply with requirement to retain and make available written record under regulation 12)	YES	YES	YES	MEDIUM
Regulation 15(3) (failure to comply with compliance notice imposed under regulation 18)	YES	YES	YES	MEDIUM
Regulation 15(4)(a) (offence in relation to knowingly or recklessly making false or misleading statement)	YES	YES	YES	HIGH
Regulation 15(4)(b) (offence in relation to intentionally making a false entry in any record)	YES	YES	YES	HIGH
Regulation 15(4)(c) (offence in relation to knowingly or recklessly providing false or misleading information to SEPA)	YES	YES	YES	HIGH".

Revocation

3. The following are revoked—

(a) the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2020(**a**),

(b) article 2(2) of the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2023(**b**).

Name
A member of the Scottish Government

St Andrew's House
Edinburgh

(**a**) S.S.I. 2020/155.
(**b**) S.S.I. 2023/69.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 ("the 2015 Order").

Article 2(2) substitutes offences under the Deposit and Return Scheme for Scotland Regulations 2020 as relevant offences under the 2015 Order; those offences come into force on 1 October 2027, apart from offences under regulation 30(7), (7A), (11) and (12) of those Regulations which come into force in relation to the scheme administrator on the same day as this Order.

Article 2(3) inserts new offences under the Digital Waste Tracking (Scotland) Regulations 2026 as relevant offences under the 2015 Order and those offences come into force on 1 January 2027.

The amendments made by this Order enable the Scottish Environment Protection Agency to impose civil enforcement measures on persons in relation to those offences.

Article 3 revokes the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2020 and article 2(2) of the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2023 as those amendments to the 2015 Order are superseded by the provisions in article 2(2) of this Order.

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