POLICY NOTE

THE ENVIRONMENTAL REGULATION (ENFORCEMENT MEASURES) (SCOTLAND) AMENDMENT ORDER 2025

SSI 2025/199

The above instrument was made in exercise of the powers conferred by Sections 20(1), 23(1), 27(1) and 58(1) of the Regulatory Reform (Scotland) Act 2014. The instrument is subject to the affirmative procedure.

Summary Box

To amend the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (2015 Order) to include offences created by the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024.

Policy Objectives

This SSI will enable SEPA to use civil sanctions in relation to offences under the UK packaging extended producer responsibility (EPR) regulations, the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (the "2024 Regulations") which came into force on 1 January 2025.

The 2024 Regulations impose various obligations on packaging producers, compliance scheme operators and, reprocessors and exporters of packaging waste with related offences for breaching those obligations. The 2024 Regulations also include civil sanctions for the other three UK nations regulators, including compliance notices, fixed and variable monetary penalties and enforcement undertakings.

SEPA is responsible for regulating the 2024 Regulations in Scotland. The 2015 Order provides SEPA with a suite of civil enforcement measures, including the imposition of both fixed and variable monetary penalties and the power to accept enforcement and other within the scope of the 2015 Order we will provide SEPA with a flexible and proportionate set of tools for dealing with these offences to support it in discharging its responsibilities as regulator appropriately.

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 Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

As the responsible regulator, SEPA was involved in the development of this Order, and the Scottish Ministers have had regard to SEPA's views on which penalties should be applicable to the range of offences.

Impact Assessments

A Fairer Scotland Duty (FSD) assessment, Equality Impact Assessment (EQIA), and Island Communities Impact Assessment (ICIA) have been completed and published in respect of extended producer responsibility for packaging. A Child Rights and Wellbeing Impact Assessment (CRWIA) was also completed for this SSI.

Financial Effects

A partial and final Business and Regulatory Impact Assessment[1] (BRIA) has been published for extended producer responsibility for packaging. A separate BRIA was not completed for this SSI.

Scottish Government
Directorate for Environment and Forestry

April 2025

[1] Supporting documents - Packaging - extended producer responsibility: full business and regulatory impact assessment (BRIA) - gov.scot https://www.gov.scot/publications/extended-producer-responsibility-packaging-full-business-regulatory-impact-assessment-bria/documents/