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Minister for Parliamentary Business <MinisterPB@gov.scot>; (Redacted)
@gov.scot>; (Redacted) @gov.scot>;
Cabinet Secretary for Net Zero, Energy and Transport <CabSecNetZET@gov.scot>; (Redacted)
@gov.scot>; First Minister <firstminister@gov.scot>

Subject: RE: Immediate: Ministerial Statement: Scotland's Deposit Return Scheme - Ms Slater -
Draft for First Minister's Comments/Clearance

Hi (Redacted)

Here is a clean version of the speech, incorporating the FM's change at p.3, for Ms Slater's
briefing pack and for Mr Adam's office to distribute this afternoon. It's standing at 1539 words,
just over 10 minutes.

(Redacted)

| **Circular Economy Unit | Environmental Quality and Circular
Economy Division | Environment and Forestry Directorate | Scottish Government |**
(Redacted)

From: (Redacted) @gov.scot> **On Behalf Of** First Minister

Sent: 14 December 2021 09:12

To: Minister for Green Skills, Circular Economy and Biodiversity <MinisterGSCEB@gov.scot>; First
Minister <firstminister@gov.scot>

Cc: Director of Environment & Forestry <director.enfor@gov.scot>; DG Net Zero

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Minister for Parliamentary Business <MinisterPB@gov.scot>; (Redacted)

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Cabinet Secretary for Net Zero, Energy and Transport <CabSecNetZET@gov.scot>; (Redacted)

@gov.scot>

Subject: RE: Immediate: Ministerial Statement: Scotland's Deposit Return Scheme - Ms Slater -
Draft for First Minister's Comments/Clearance

(Redacted)

Many thanks for this.

The First Minister has a change on page 3 of the speech. Attached and tracked for your
info.

Best wishes

(Redacted)

Scotland's Deposit Return Scheme

Introduction

When I updated Parliament last month I underlined the Scottish Government's commitment to delivering an operational Deposit Return Scheme as soon as practicably possible.

Since then we have continued to work closely with both Circularity Scotland and industry to agree a final timescale and clear milestones for delivery. Members have also had the opportunity to be briefed by Circularity Scotland on implementation.

Implementation Date

When parliament passed legislation to establish deposit return last year we all hoped we would be further along the path to introduction than we are. As a result of the pandemic and uncertainties caused by Brexit, an independent review of the scheme was commissioned, and we have published that today.

The review concluded that:

- the July 2022 implementation date was not achievable;
- the likelihood of July-September 2023 delivery was possible but with significant risk to achievement.

The review also identified the following actions:

- agreeing a critical path with key stakeholders for delivery a viable product by the agreed start date;
- reaching a decision from the UK Government with respect to the VAT treatment of deposits;
- reviewing the governance structure to reflect the implementation phase and to establish an objective assurance regime aligned with key milestones;
- work with industry to develop and resolve practical issues to online sales.

Since taking up my position as Minister for Circular Economy I have worked intensively to put the DRS scheme back on track. My background is in engineering project management, and I have made it my priority to develop and agree a project plan to deliver the scheme that I, the industry and stakeholders can have confidence in. Implementing the Deposit Return Scheme is a massive national undertaking involving contracts with 4,000+ producers and tens of thousands of return points to manage more than 2 billion containers per annum, with a total turnover of around £500million. It is essential that this scheme is a success, not just in the short-term, but for decades to come.

Taking into account the independent advice we have received and input from stakeholders, I can announce today that the work to implement Scotland's, and the UK's, first Deposit Return Scheme will conclude with the Scheme's launch on 16 August 2023. However, work will intensify immediately and, as I will mention shortly, I hope we will see the scheme in operation on a voluntary basis in some premises before then.

Our DRS will be among the most environmentally ambitious and accessible in Europe, including tens of thousands of return points for plastic, metal and glass containers, as well as pick-ups for online deliveries.

Though some have asked for a reduction in the scope of the scheme, I can also confirm today that this will not happen. Having an ambitious Deposit Return Scheme that can equitably cover both on-line and high-street sales brings challenges, but I am also confident that industry can deliver solutions to these, particularly given the extra time they now have. My officials will host a workshop with SEPA and retailers early in 2022 to focus on online takeback.

Despite the delay, I can also confirm that producers will be required to meet a 90% collection target by the second calendar year of operation, rather than the third year as previously planned. This will ensure that the scheme is maximising its environmental impact from 2024, as before.

I, Circularity Scotland and the Scottish Government are keen to support businesses in their planning to make sure that this implementation date happens.

Retailers are playing an essential part of the Deposit Return Scheme, as most of us will use their stores to return the containers and receive the deposit back.

I know from speaking to them that they are strongly committed to DRS being a success and that they have already put in a lot of time and resource to prepare for the rollout of the scheme and this will ramp up in the year ahead.

As part of the phased implementation of DRS, a key visible milestone for consumers will be when retailers start rolling out the return infrastructure in stores from summer 2022. We are working together with the retail industry to start phasing in the use of this infrastructure on a voluntary basis from November 2022. We recognise that the needs of rural areas may be different from other more populated parts of the country. I am pleased therefore to let you know that there will be a return scheme in place in Orkney, also in November, which will provide benefits to the community.

Regulations

Regulations asking Parliament to approve the change in go-live date will be laid tomorrow.

We will also take this opportunity to make several smaller amendments to the 2020 Regulations. In the year and a half since the Regulations were passed many organisations across the private and public sectors have been working hard to consider how DRS can best be implemented and these have thrown up points where we accept small changes will provide additional clarity or help to de-risk implementation.

I am looking forward to engaging with Members across the chamber as we move into the scrutiny process. But I can confirm that the changes will include:

- Allowing online retailers, and others selling through a distance sale, to refuse to accept a return of a disproportionately large number of containers;
- Clarifying that, for products that are filled and sealed in a retail or hospitality setting, for example ‘crawlers’, the person filling them will bear responsibility for their collection;
- Creating a duty for wholesalers or others selling articles not intended for sale in Scotland to disclose that at point of sale, which will help to prevent fraud;
- Bringing SEPA’s enforcement powers more into line with existing legislation.

Milestones

There will also be a number of milestones on the path to August 2023

- By **March 2022**, Circularity Scotland will have signed contracts with partners to deliver its logistics, operations and IT systems;
- By **August 2022**, the public awareness campaign will be launched;
- In the **same month**, counting and sorting centres will start to be built;
- As I've mentioned already, retailers will start rolling out the return infrastructure in earnest from next summer and we are working with them to start using that infrastructure on a voluntary basis from **November 2022**.
- In **January 2023**, Circularity Scotland and SEPA will begin the process to register producers;
- And in **July 2023**, there will be end-to-end testing of a DRS container through the system.

Governance

Strong and robust governance structures must be in place to oversee the scheme's implementation, recognising that, with the appointment of Circularity Scotland and passage of legislation, responsibility for successful delivery is increasingly dependent on the actions of producers and retailers across Scotland.

This is a shared endeavour, and my officials will be establishing a system-wide assurance group early next year with all those involved in delivering the scheme, so that collectively we can monitor delivery and manage risks. Senior executives from Scottish Government, Circularity Scotland and our environmental public bodies will meet regularly to review progress against milestones and take action where required. I have established a communications and engagement group, led by Zero Waste Scotland, to ensure that business and the public have the information they need as we progress towards full launch. As with this year's independent review, we will ensure that external, expert assurance is provided at key points.

I will receive regular updates from these groups, and will personally meet regularly with Circularity Scotland to discuss progress. This close oversight, coupled with the public milestones I have just laid out, gives me confidence that all organisations have the right governance arrangements in place to collectively deliver the deposit return scheme on time and in a way that works for people and businesses in Scotland.

VAT

It couldn't be clearer that the purpose of deposit return is environmental, not to raise revenues, and it is hugely disappointing that the UK Government are maintaining that VAT does apply.

It is not just about the additional cost that this brings. I understand from industry that there are still many details to be ironed out with HM Treasury's proposal and that there are specific technical challenges that exist, for example because VAT is not applied equally through all parts of the system. This will affect the financial flows between thousands of different actors in the scheme.

We will, of course, continue to work constructively with Her Majesty's Treasury, Circular Economy Scotland and wider industry to ensure a solution is put in place in a way that is workable, effective and efficient for businesses.

Conclusion

Between now and August 2023, there is a lot of work to be done and a lot of investment will be made. I will be keeping in close contact with industry on the delivery of the key milestones as different parts of the system roll out their implementation plans.

You will see in the documents I've released today that the independent reviewers recognise the co-operation, effort and enthusiasm of all stakeholders working constructively to achieve an effective scheme. I am appealing to everyone in the Chamber today to work with us to make it the best scheme for Scotland.

[1539 words, approx. 10 minutes]

From: (Redacted) on behalf of [First Minister](#)
To: [Public Engagement Unit](#)
Cc: [First Minister](#); [Cabinet Secretary for Rural Affairs and Islands](#)
Subject: FW: FOR THE ATTENTION OF THE FIRST MINISTER
Date: 26 October 2021 10:23:05
Attachments: [Letter to First Minister, October 2021.pdf](#)
[image003.png](#)
[image004.jpg](#)

Grateful if a response can issue from the relevant portfolio Minister please

Thanks

(Redacted)

Office of the First Minister

Scottish Government

5TH floor/St Andrews House/Regent Road

Edinburgh EH1 3DG

(Redacted)

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From: (Redacted) @sgfscot.co.uk>

Sent: 26 October 2021 09:33

To: First Minister <firstminister@gov.scot>

Cc: Pete Cheema (Redacted)

Subject: FOR THE ATTENTION OF THE FIRST MINISTER

Dear Sirs, please see attached letter for the attention of the First Minister. We look forward to receiving a response.

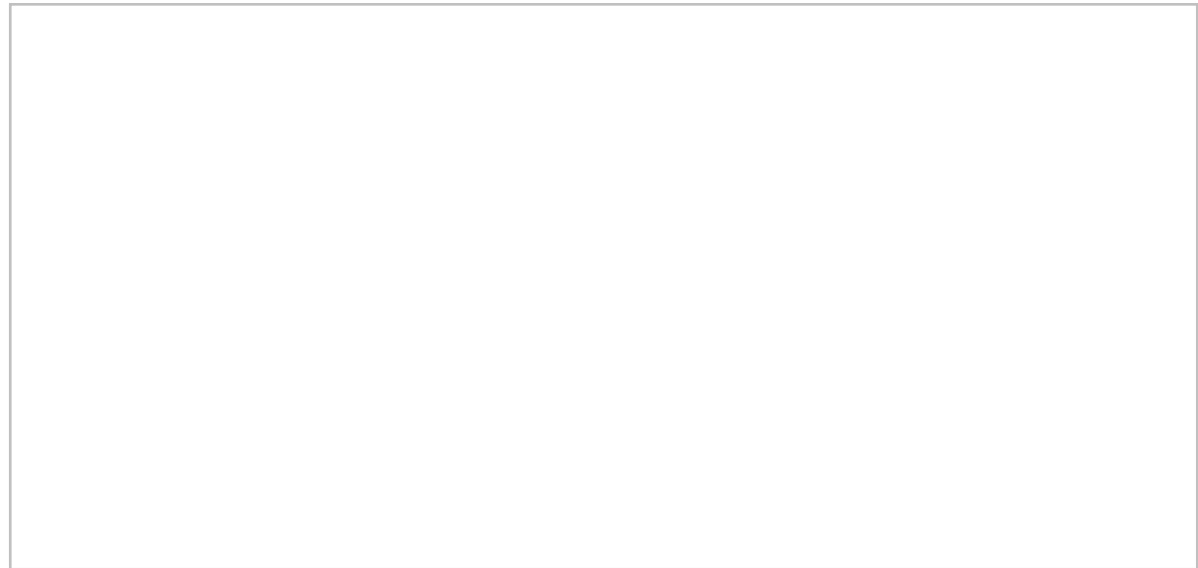
Kind regards

(Redacted)

PA TO CHIEF EXECUTIVE/BUSINESS MANAGER

TEL: (Redacted)





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26th October 2021

The Right Honourable First Minister Nicola Sturgeon
Office of the First Minister
Scottish Government
St. Andrew House
Edinburgh
EH1 3DG

Dear First Minister

As you know convenience retailers will play a key role in ensuring the success of the Deposit Return Scheme in Scotland. SGF has become a founder member of Circularity Scotland, the company approved by the Scottish government to be the scheme administrator; SGF represents the largest block of return point operators within the company.

We are writing to you to express our strong concerns about the impact of the currently planned VAT treatment of the deposits within the deposit return scheme (namely that the deposits charged on 'scheme packaging' under DRS would be subject to VAT). Circularity Scotland are of the view – and this is a view which we fully share – that this decision by HMRC creates obstacles which seriously undermine the integrity of the DRS design, particularly relating to its financial viability.

HMRC's proposed VAT treatment would burden retailers and hospitality businesses – particularly SMEs – with significant administrative costs at a time when many businesses are already struggling, both by increasing the negative impact felt by them and also increasing the risk of the DRS itself failing to function adequately. Where a retailer/hospitality business engages in both closed loop (consumed on premises) and open loop (consumed off premises) sales, they will sell containers on which no deposit is charged and containers on which a deposit has been charged.

Under HMRC's envisaged VAT treatment, these businesses would therefore have to implement systems capable of differentiating between those two types of returned container. This is because HMRC's proposed VAT treatment requires two different refund processes depending on whether a product is sourced directly or indirectly (producer output VAT adjustment compared with credit note and Reg 38 adjustment).

Further difficulties ensue where a retailer sources the same product both directly from a producer and indirectly via a third-party wholesaler. Even if the challenges around wholesalers are met, the administrative burden of implementing systems that can cope with the VAT requirements remains. To add further complexity to the data collection system requirements, retailers will also have to differentiate between returns via cash and via voucher, since a producer cannot reduce their output VAT when a deposit is returned in the form of a voucher. This is because, as per HMRC's analysis, the voucher is a discount against a future supply, not a reduction in a previous supply.

Given the above we would ask that the Scottish government request to HMRC and the UK Treasury that the VAT treatment of the DRS deposits is completely reconsidered. Simplifying the scheme from a VAT perspective would make it easier and less costly to operate, thereby encouraging uptake of recycling in Scotland and ultimately ensuring the success of the scheme.

This will help successfully achieve the policy objectives defined by Scottish Government without additional difficulties and significantly greater costs.

Yours sincerely



DR PETE CHEEMA OBE
Chief Executive, SGF