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1. Deposit Return Scheme - Meeting with Chief Executives and Senior Managers of key Producers, Retailers, and Circularity Scotland 20 April 2023 – Meeting Note

Deposit Return Scheme - Meeting with Chief Executives and Senior Managers of key Producers, Retailers, and Circularity Scotland

Note of Meeting

16:15-17:00, Thursday 20 April, 2023

In Attendance

Name	Organisation	Attended in Person or Virtually?
First Minister	Scottish Government	In Person
Minister for Green Skills, Circular Economy & Biodiversity	Scottish Government	In Person
[redacted]	UK Hospitality	In person
[redacted]	Lidl	Virtually
[redacted]	Scottish Hospitality Group	In person
[redacted]	Glenmorangie	In person
[redacted]	Asda	In person
[redacted]	Campaigns Public Affairs	
[redacted]	Fyne Ales	In person
[redacted]	Amazon	Virtually
[redacted]	Highland Spring	In Person
[redacted]	Circularity Scotland Limited	In Person
[redacted]	Circularity Scotland Limited	In Person
[redacted]	Circularity Scotland Limited	In Person
[redacted]	Amazon	In Person
[redacted]	Booker	Virtually
[redacted]	Beer and Pub	In Person
[redacted]	Booker	Virtually
[redacted]	Scottish Wholesale	In Person
[redacted]	A.G. Barr	In Person
[redacted]	Accolade wines	Virtually
[redacted]	Morrisons	Virtually
[redacted]	Scottish Grocers Federation	In Person
[redacted]	Suntory	Virtually
[redacted]	Scottish Grocers Federation	In Person
[redacted]	Marks & Spencers	Virtually
[redacted]	One O Retail	In Person
[redacted]	Scotch Whisky Association	Virtually
[redacted]	British Retail Consortium	In Person
[redacted]	Lidl	Virtually
[redacted]	Lidl	Virtually

[redacted]	Beer and Pub	Virtually
[redacted]	Coca Cola European Partners	Virtually
[redacted]	The Scottish Licensed Trade Association	In Person
[redacted]	Aldi	In Person
[redacted]	Marks & Spencers	In Person
[redacted]	Heineken	
[redacted]	Suntory	In Person
[redacted]	Suntory	Virtually
[redacted]	Heineken UK	Virtually
[redacted]	Asahi-beer	Virtually
[redacted]	Wine and Spirit Trade Association	Virtually
[redacted]	Scotch Whisky Association	
[redacted]	Sainsburys	
[redacted]	Federation of Independent Retailers	Online

Official Support

Kevin Quinlan	Scottish Government
Elisabeth Campbell	Scottish Government
[redacted]	Scottish Government
[redacted]	Scottish Government
[redacted]	Scottish Government

Note of Meeting

Item 1: Welcome – FM

- FM welcomed attendees.
- FM reaffirmed his commitment to delivering the DRS on 1 March 2024 to help address the climate emergency, reduce litter and create a circular economy for Scotland.
- FM recognised the huge level of investment and progress already made by so many businesses across Scotland.
- FM stressed momentum must be maintained over the next 10 months to ensure the scheme is ready for successful launch.
- FM asked that businesses continue to call upon the UK Government to make the exclusion from the Internal Market Act, noting that the process to secure this has been underway for almost 2 years. UK Government delay has caused great uncertainty for businesses and clarity is required as soon as possible.
- POST MEETING NOTE: FM wrote to the Prime Minister on 22 April seeking UKG confirmation of the IMA exclusion by the end of April.
- Successful delivery requires us all to work together and to pave the way for other successful schemes across the UK.
- Whilst significant progress has been made, we have been listening to businesses and recognise that many have legitimate concerns about the impact of the scheme on their business.

- FM is aware many retailers have stated that they would not be ready for launch in August and are concerned about the impact that will have on their customers.
- Some small businesses had also highlighted that they were finding it difficult to fully prepare for the August launch, particularly given the challenges they have faced in recent years.
- To address these concerns, the FM said he announced on Tuesday that the launch of the scheme would be delayed until 1 March 2024 to allow for a little more time for those businesses to prepare, which now gives us 10 months to get this right.
- Additionally, in parliament the Circular Economy Minister outlined the wider measures we are undertaking to adjust some elements of scheme to respond to those concerns from business.
- FM stressed that the fundamentals of the scheme remain. Overall the measures announced this week support all businesses, but particularly small businesses.
- While the measures will have a positive impact on many businesses, FM understands they will not be universally welcomed
- It is essential that we retain the integrity and ambition of the scheme as a whole that it is workable for all relevant businesses and for consumers and that we continue to work together.

Item 2: Package of measures in place – Minister for Green Skills, Circular Economy & Biodiversity

- Minister thanked colleagues from across industry – producers, retailers and trade associations – for taking time to meet with us.
- Minister is committed to take a pragmatic and collaborative approach to implementation of DRS, that is why we are, for example, removing the obligation on the vast majority of online retailers to provide takeback services.
- We have been listening to the concerns raised by businesses.
- In addition to the revised go live date, we have developed a package that is fair, pragmatic and supports the overall aims of the scheme:
 - All drinks containers under 100ml will be completely excluded for the scheme. We estimate this will remove 0.2% of articles from the scheme but it will simplify things, and particularly address the concerns around miniatures.
 - Secondly, the Minister said that all products with low sales volumes under 5,000 items a year will not need to be part of the scheme. This will apply to all businesses so a large business which has a niche product line with low sales volume will not need to apply a deposit to that line and a small business which only sells low volume products will not need to apply a deposit to any of their products. This change will only remove around 0.5% of articles from the scheme but will remove the need for around 44% of businesses to apply a deposit to their products, effectively removing many of the smallest producers from the scheme.
 - Thirdly, the Minister said we plan to exempt all hospitality premises who sell the majority of their drinks products for consumption on the premises from acting as a return point. Officials will engage with

hospitality businesses on the proportion of sales to which this will apply, and if this affects businesses to make their views known.

- In partnership with Zero Waste Scotland we have simplified the online process for retailers to apply for an exemption from operating a return point following feedback.
- Circularity Scotland has agreed to consider creating a short-form producer agreement. Those here who represent small businesses should engage with Circularity Scotland on this.
- The Minister has heard calls to change the scope of the scheme, to improve governance and most importantly the need for certainty.
- We are not changing the fundamentals of the scheme. It remains a producer responsibility scheme built on the polluter pays principle. There is no change to the materials in scope, and glass remains part of the scheme as does our commitment to accessibility, meaning return-to-retail model is essential.
- We have always said this is an ambitious scheme, and stick by this given the climate emergency.
- Success of the scheme will be down to the implementation, and most of the responsibilities for that lie with Businesses.
- SG team to come forward with holistic governance plans for scheme delivery.
- Regular communication is key. We need clear processes for resolution of issues, to mitigate risks and a clear set of milestones between now and launch to achieve successful delivery.
- Minister has agreed with FM that she will chair an assurance group for programme delivery and has asked officials to work with partners to set this up. The purpose of this group is to drive momentum, work collectively to develop resolutions and give businesses certainty so they can use the 10 months ahead to plan their own operational systems.
- Some of the measures announced 20 April and previously (changes to online takeback), require changes to the DRS Regulations. Officials are working now to ensure they are laid in Parliament as soon as possible and are live at the end of the summer, again to contribute to certainty.
- Minister gave her thanks to everyone for meeting the FM and looks forward to continuing to work with Businesses over the next 10 months.

Item 3: FM invited comment from participants

Key points from producers

(Contributors Coca-Cola and Highland Spring, Glenmorangie, Society of Independent Brewers, British Beer and Pubs Association, Scotch Whisky Association, Wine & Trade Association, Scottish Wholesaler Association)

- Welcomed the announcements, assurance group and FM engagement.
- Exclusion of products where sales are less than 5,000 units is welcome as a measure for smaller producers.
- Launch 1 March is now an achievable target.
- There are still issues with the scheme.

- The delay will impact on large producers who are ready - asked for discussion about compensation.
- Some asked for glass to be removed from DRS.
- Raised the preference for UK wide issue of label change to prevent border fraud as something we need to look at.
- Raised issue around labelling and producer agreement with Circularity Scotland and their ability to give appropriate time to digest and understand the contract.
- Asked if new governance and assurance groups replace the existing System Wide Assurance Group.
- Asked to be part of the assurance group.

Ministers' response

- Glass is not being removed from DRS.
- Agreed to keep up momentum and need for clearer, inclusive governance.
- Agreed operation clarity required and that all parties should work together to achieve this, businesses are essential part of finding solutions.

Key points from retailers

(Sainsbury's, Scottish Retail Consortium, Scottish Grocers Association, Federation of Independent Retailers, Association of Convenience Stores)

- Welcomed the delay to scheme launch and commitment to working together.
- Need to keep up momentum to ensure ready for 1 March 2024 launch.
- Asked for an operational blueprint and clear guidance.
- Concerned that online takeback will not work for businesses.
- Consider there are issues around consumer communication.
- Concerns that excluding products with low sales volumes from requiring a deposit will create additional complexity for retailers.
- Some retailers have invested in Reverse Vending Machines (RVMs) and will have costs associated with them given the 6 month delay, affordability is a big issue for small businesses.
- Payment terms for smaller retailers going from 7 days to 28 days presenting a huge cashflow issue.
- Request for cash flow assistance or grants.
- Need for greater transparency.
- Request to be part of new assurance group.
- Consider Christmas trading period in planning.
- Still issues with exemption process.
- Calls to align across UK.
- Need clarity on shelf edge labelling.
- SGF seek response to issues raised in earlier correspondence.
- Highlighted that the planning regulations do not exist for reverse vending machines in local community areas and that they need support.
- Issues around a lack of clarity from Trading Standards on pricing and labelling, which could potentially result in retailers inadvertently operating illegally.

Response

- Current arrangement is 7 days for manual handling, monthly for RVM. CSL happy to follow up. (CSL)
- Committed to systematically work through delivery issues as a group. (Ministers)
- Putting RVMs into community parades is not part of the policy. (Ministers)
- Changes have been made to simplify RPO exemption process.

Key Points from Hospitality Businesses

(UK Hospitality, Scottish Hospitality, British Beer and Pub Association)

- Need for greater certainty and operational detail to continue investments.
- Need to see timescales and milestones for the scheme as soon as possible.
- Highlighted that the blueprint/guidance needs to be in place very quickly.
- Welcomed the exemptions announcement but this may cause confusion for consumers about return point operators.
- Asked if we can remove hospitality completely.
- Asked to be part of the assurance group for programme delivery. Recommended that Biffa be on the assurance group.
- Raised the issue of £22m cash flow support package for producers and if hospitality can also receive support.

Actions/Commitments

- Assurance Group chaired by the Minister to be set up. Confirm if this will replace the current System Wide Assurance Group and membership.
- All partners work together to find solutions to remaining issues to provide operational certainty as soon as possible.
- CSL to work with businesses to ensure they have relevant operational detail.
- Set clear timescales and milestones for the scheme delivery.

2. Email from SG officials with Ministerial briefing for 20 April 2023 meeting – dated 19 April 2023

From: [redacted]
Sent: 19 April 2023 18:08
To: Minister for Green Skills, Circular Economy and Biodiversity;
First Minister
Cc: Director of Environment & Forestry; Elisabeth Campbell;
[[redacted]; [redacted]; [redacted]; [redacted]; [redacted];
[redacted]; [redacted]; David McPhee; Harry Huyton;
[redacted]; [redacted]
Subject: Immediate: Stakeholder meeting : Deposit Return Scheme 20
April 2023
Attachments: FM Speaking Notes for Meeting With Businesses on DRS on
Thursday 20 April (1).docx; Cover Sheet with Logistics for DRS
Business Meeting with Ministers.docx; Minister speaking note
for meeting with businesses 20 April 2023.docx; DRAFT
BRIEFING - DRS - MINISTERIAL STATEMENT - 20TH APRIL 2023
revised DMC.docx; DRS FMQ 19042023.docx

PO

Please find details for FM and Minister for Green Skill, Circular Economy and Biodiversity for their meeting tomorrow with stakeholders regarding the deposit return scheme.

Enclosed:

1. Cover sheet with logistical info (Attendee list to follow once acceptance of invitation is confirmed)
2. FM Speaking Note
3. Minister speaking Note
4. Briefing pack for Ministerial Statement which is also to be used for this meeting.
5. FMQ

Should any of this change as a result of pre-meet with the Minister updates will be provided.

Regards
[redacted]

[redacted]
Circular Economy Division
Directorate for Environment and Forestry

3. Attachment to document 2 – FM speaking notes

Suggested First Minister Speaking Points for Meeting with Businesses about the Deposit Return Scheme on 20 April

Introduction

- Thank you all for attending today at short notice, it is an important opportunity to spend some time together to discuss progress on the deposit return scheme and the changes that have been announced this week.
- I want to begin by reaffirming that I am committed to delivering the deposit return scheme on 1 March 2024. I firmly believe it is the right scheme for Scotland to help address the climate emergency and create a circular economy for Scotland.
- I recognise, and am grateful for, the huge level of investment and progress already made by so many of your businesses across Scotland.
- A significant amount of the required systems and infrastructure are in place; however there is more to do and therefore it is important we use the next 10 months to ensure the scheme is ready for successful launch.

Changes Announced This Week

- Whilst significant progress has been made, we have been listening to businesses and recognise that many have legitimate concerns about the impact of the scheme on their business.
- Many retailers have stated that they would not be ready for launch in August and are concerned about the impact that will have on their customers.

- Some small businesses had also highlighted that they were finding it difficult to fully prepare for the August launch, particularly given the challenges they have faced in recent years.
- I know many businesses have found the uncertainty around the UK Government position on the exclusion for the Internal Market Act concerning and some have indicated they have paused preparations while they wait for an outcome on that.
- To address these concerns, I announced on Tuesday that the launch of the scheme will be delayed until 1 March 2024 to allow for a little more time for those businesses to prepare. That now gives us 10 months to get this right.
- Additionally, in parliament this afternoon the Circular Economy Minister outlined the wider measures we are undertaking to adjust some elements of scheme to respond to those concerns from business.
- I must stress, the fundamentals of the scheme remain. This remains a producer responsibility scheme, built on the polluter pays principle. There is no change to the materials in scope. It remains a return-to-retail model, seeking to maximise accessibility for consumers and achieve the highest possible return rates.
- Adjustments include measures to support hospitality, and to address challenges for those who produce only small volumes of product lines.
- These changes overall will support all businesses, but particularly small businesses.
- I know these measures will not be universally welcomed; however it is essential that we retain the integrity and ambition of the scheme as a

whole. The scheme needs to be able to work well for all relevant businesses and for consumers.

- I want to be clear that we are not looking to make any more adjustments to the scheme but are focussed on delivering the scheme with announced adjustments on 1st March.

Working Together to Deliver

- It is important that the 10 months we now have are used to full effect to enable us to launch a successful scheme that is understood by the people of Scotland.
- My ask of you today is to continue the work you are doing to prepare at full speed. It is essential that we do not take our foot off the gas during this delay as there is still much to do.
- I have also asked partners in this scheme – Circularity Scotland, SEPA and Zero Waste Scotland - to work with businesses to ensure that we can deal with any remaining issues to allow businesses to prepare.
- Successful delivery requires us all to work together to deliver this and to pave the way for other successful schemes across the UK.
- My other ask of you is to continue to call upon the UK Government to make the exclusion from the Internal Market Act that we have been asking for since 2021.
- This UK Government delay has caused great uncertainty for businesses and clarity is required as soon as possible. We continue to press the UK Government for confirmation that they will exclude DRS from the IMA.
- I will hand over to the Minister to outline in a little bit more detail the package of measures we have announced and there will then be an

opportunity to discuss how we use the time until March 2024 to ensure a successful scheme launch.

4. Attachment to document 2 – cover sheet with logistics

Date and Time of debate	Thursday 20 April, 4.15-5pm
Where	T1.04, Committee Room 5, Scottish Parliament (Hybrid)
Purpose of Meeting	<p>Meeting with Chief Executives and Senior Managers of key producers, retailers, and Circularity Scotland:</p> <ul style="list-style-type: none"> - to reaffirm the First Minister and Minister’s commitment to successful implementation of DRS on 1 March 2024 - to thank producers, retailers and Circularity Scotland for their efforts in preparing for DRS to-date - to ask them to now work together to deliver the Scotland’s DRS scheme paving the way for other schemes across the UK - to continue to listen to business concerns - to urge them to call on UKG to do the right thing on the Internal Market Act exclusion
Official Support Required	Kevin Quinlan, Director Environment and Forestry Elisabeth Campbell, Deputy Director, DRS [redacted], DRS Policy
Comms Support/Media handling	Non media private meeting.

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5. Attachment to document 2 – Ministerial speaking note

Suggested Ministerial Speaking Points for Meeting with Businesses on Thursday 20 April

Introduction

Thank you First Minister for those opening words and your clear support for Scotland's deposit return scheme.

And thank you to colleagues from across industry – producers, retailers and trade associations – for taking time to meet us this afternoon. I appreciate some of you have already met with me this week and I am grateful for your time, expertise and commitment to DRS.

It is important that you have the opportunity to hear from me what decisions have and haven't been made and to discuss directly how we move forward together.

I have just announced in Parliament the measures we will be taking forward,

- To exclude completely drinks containers under 100ml

- Exclude low sales volume products from the scheme
- Exempt all hospitality premises who sell the majority of their drinks products for consumption on the premises from acting as a return point.
- As announced by the First Minister, delay the launch date until 1 March 2024

These measures are designed to respond to the operational issues raised by industry. I will come back to these in a moment as I appreciate not everyone will have heard my statement.

In addition to operational considerations I have heard calls to change the scope of the scheme, to improve governance and most importantly the need for certainty.

We are not changing the fundamentals of the scheme. As the First Minister said this remains a producer responsibility scheme, built on the polluter pays principle. There is no change to the materials in scope, glass remains part of the scheme as does our commitment to accessibility meaning return-to-retail model essential. We have always said it is an ambitious scheme and stick by this given the

climate emergency. We aim to achieve the highest possible return rates.

Governance

Success of this scheme will be down to the implementation, and most of the responsibilities for that lie with you. It is an industry led scheme.

However many of you have asked me to put holistic governance around the scheme and this is something I have asked my team to come forward with plans for.

I understand the need for regular communication between us, clear processes for resolution of issues, the need to mitigate risks and a clear set of milestones between now and launch to achieve successful delivery.

I have agreed with the First Minister that I will chair an assurance group for programme delivery. I have asked officials to work with partners to set this up. The purpose of this is to drive momentum, work collectively to develop resolutions and give businesses certainty

so you can use the 10 months ahead to plan your own operational systems.

We cannot ignore the issue of the IMA exclusion and the uncertainty it is creating. I can assure you I and my officials are doing everything we can to gain that exclusion.

The support package

This week's announcements are in addition to our previous commitment to change online takeback requirements so that the majority of online retailers would not be obliged to provide takeback services.

And the £22m package of support put in place earlier this year by CSL to improve cashflow for producers.

Listening to businesses we are committed to bringing forward a package of measures that are fair and pragmatic and support the overall aims of the scheme.

The key elements of that package are as follows.

Firstly, all drinks containers 100mls and under will be completely excluded for the scheme. This will benefit businesses in the soft drinks, wine and particularly the spirits industry, who have raised particular concerns about miniatures, while removing just 0.2% of articles from the scheme.

Secondly, products with low sales volumes will be excluded from the scheme. This change applies to any product which sells less than 5,000 items a year. This will apply to all businesses so a large business which has a niche product line with low sales volume will not need to apply a deposit to that line and a small business which only sells low volume products will not need to apply a deposit to any of their products. This change will only remove around 0.5% of articles from the scheme but will remove the need for around 44% of businesses to apply a deposit to their products, effectively removing many of the smallest producers from the scheme.

Thirdly, we plan to exempt all hospitality premises who sell the majority of their drinks products for consumption on the premises from acting as a return point. Regulations already exempt premises that exclusively sell drinks on site, such as restaurants pubs and nightclubs. However, many hospitality businesses also sell a small proportion of drinks to take away. Where this is the case, we agree

that it is disproportionate to ask them to operate as a return point, given that they will already be operating a closed loop system for drinks on site. We will engage with hospitality businesses on the proportion of sales at which this will apply to ensure a balance between support for businesses and accessibility for consumers.

In partnership with Zero Waste Scotland we have simplified the online process for retailers to apply for an exemption from operating a return point following feedback from businesses that have used the online application system.

Finally we are aware of the concern that some businesses have around the size and complexity of the producer agreement with Circularity Scotland and their ability to give appropriate time to digesting and understanding this contract, given their limited resource. To help with this Circularity Scotland has agreed to consider creating a short-form producer agreement which will help reduce the burden on these businesses

Let me turn now to what we need from the UK Government.

Final words

Some of the measures announced this week and previously require changes to the DRS Regulations. Officials are working now to ensure they are laid in Parliament as soon as possible and are live at the end of the summer, again to contribute to certainty.

I thank you again for meeting the First Minister and myself this afternoon and the opportunity to share our decisions with you directly.

6. Attachment to document 2 – Briefing pack for Ministerial statement on 20 April

<p>Date and Time of debate</p>	<p>14:25 – 14:55 Thursday 20th April 2023</p>
<p>Where</p>	<p>Scottish Parliament</p>
<p>Purpose of Evidence session</p>	<p>To provide Parliament with an update on DRS following Government's decision to delay the launch date and bring forward measures to address the concerns of small businesses, hospitality and others.</p>
<p>Official Support Required</p>	<p>Elisabeth Campbell, Deputy Director, DRS [redacted], Head, DRS Unit [redacted],</p>
<p>Comms Support/Media handling</p>	<p>Name of Comms support Proposed media handling</p>

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Briefing Contents

Annex A	<i>Motion</i>
Annex B	<i>Speaking notes - attached as a separate word document</i>
Annex C1 Annex C2 Annex C3 Annex C4	Key messages: New package of measures Key messages: IMA exclusion Key messages: Governance/Assurance Key messages: Need for amended Regulations
Annex D	DRS FMQ brief
Annex E	Supportive Quotes for a delay to DRS launch date
Annex F	Historical relevant briefing
Annex G	Q&A - <i>should include any known questions (in sequence)</i> - <i>bullet point answers/comments</i> - <i>keep short and to the point</i>

Annex A

Motion/reason for statement

To provide Parliament with an update on DRS following Government's decision to delay the launch date and bring forward measures to address the concerns of small businesses, hospitality and others.

Key messages: New package of measures

Benefits of Scotland's DRS

- reducing littering by a third and increase recycling rates of single-use drinks containers towards 90%.
- reducing CO2 emissions by 4 million tonnes over 25 years – the equivalent to taking 83,000 cars off the road.
- We will ensure we will work with all parties involved in DRS to ensure that there is a clear path to delivery for 1st March
- Save local authorities £xm

6 months Delay

- The continued failure of the UK government to issue an IMA exclusion created intolerable uncertainty for businesses. A chilling effect compounded by briefings against the scheme from the Secretary State for Scotland. There was no possibility, 4 months out from the go-live date, of proceeding with the August launch.
- We now need timely decisions from the UK Government, and we will work intensively over the next 10 months with the scheme administrator, businesses, SEPA and Zero Waste Scotland to ensure we are ready for 1st March.

Why have you not announced this delay before now, this has caused anxiety for businesses.

- A lot of progress has been made in preparing for delivery of scheme, but as I said in my statement that progress stalled in recent months, largely due to the uncertainty caused by the Internal Market Act.
- There have been a range of views from business with some businesses asking for a delay and others asking for the scheme to go ahead in August
- The 1st March 2024 strikes a good balance. It provides 10 months from now for businesses to prepare for the launch of the scheme, and is eminently achievable as long as an IMA exclusion is issued promptly.

If you are delaying the scheme anyway why not just delay until the UK scheme comes into force?

- There has been significant work to get ready for the launch of the DRS scheme and many businesses have invested heavily to make this a reality
- There is no need for us to wait beyond 1st March 2024 and it is important that we realise the environmental benefits of this scheme as soon as possible
- While the UK will also have a DRS scheme, the Scottish one is a devolved policy and will have differences to the UK scheme so there is no need to wait until that scheme is in place.

Did the recent Gateway Review recommend a delay? When will it be published?

- The Scottish Government will consider carefully the recommendations from the recent Gateway Review, and will share recommendations and our response with the Net Zero, Energy and Transport Committee in due course.
- While the primary reason for the delay is the absence of an IMA exclusion, it's also true that Scotland's DRS is a major infrastructure scheme being delivered at pace and so this extra time will allow for resolution of outstanding operational issues, and extensive testing of IT and logistic systems, ensuring a positive customer experience from day one.

Given you are delaying will you provide compensation to producers who have invested heavily?

- *While many businesses were ready for the launch in August, many others told us they would not be.*
- *This was partly caused by the UK Government's delay in reaching a decision on an Internal Market Act exclusion for the scheme and we have called on them to make this now to provide certainty to businesses in Scotland.*
- We are grateful to all businesses for the investment they have made in preparing for DRS.
- This investment will be important for the success of the scheme when it launches on 1 March.
- As Circularity Scotland is a private company, contractual arrangements they have with their members is a matter for them and it would not be appropriate for the Scottish Government to intervene in such commercial arrangements between private companies."

Support for Small Producers

- I have met with representatives of small producers on many occasions in recent months, and I have listened carefully to their concerns and worked hard to ensure they are addressed.
- This 6 month delay will provide them with additional time to prepare for the launch of the scheme.
- We have also announced a range of other adjustments which will be extremely helpful for small producers including:
 - Removing the need for a deposit on products which sell less than 5000 items annually
 - Removing containers below 100ml from the scope of the scheme
 - CSL will be working to simplify their producer agreements for small producers
- We will look to ensure small businesses are clear on the approach that SEPA will take to enforcement which will be supportive to businesses developing systems.
- It is also worth noting that CSL have already delivered a package which supports the smallest producers including:
- Removal of the day one and month one charges for all producers, up to a threshold of three million units per year.
 - Above the three million unit threshold, the Day 1 payments for producers using UK wide barcodes has previously been reduced by two thirds, from 2.4 months of fees to 3 weeks of fees (announced in December 2022).

- providing two month credit terms on deposits and fees up to the same volume threshold to reduce the working capital impact on all producers.
- Circularity Scotland will be offering the option to use self-adhesive barcode labels for producers placing less than 25,000 units per year of a specific product on to the Scottish market, alleviating administrative burden.
- DRS is a form of extended producer responsibility – part of the ‘polluter pays principle’ so that producers have obligations to recycle and recover packaging that they place on the market
- Producers with an annual turnover of £ 2 million and who place specified amounts of packaging on the market already have to meet their extended producer responsibility obligations
- Producers who are part of DRS will no longer need to meet obligations under wider packaging obligations in relation to DRS scheme articles since their participation in DRS will ensure they meet obligations to recycle and recover that packaging

Specialist products exclusion

- Any product which sells less than 5000 articles a year in Scotland will no longer have to place a deposit on the article.
- This change was asked for by business and will apply to producers of all sizes. However, it will particularly help small producers and hospitality businesses. It also means that specialist product lines from large producers will also not require a deposit.

Business requirements

- Any producer that wishes to apply a deposit to their low volume products can still do so. We would encourage this where possible.
- Producers must still register with SEPA to sell products in Scotland, in line with all other drinks covered by DRS. The registration fee will be waived for businesses with a turnover under £85,000 per year, as is currently the case.
- Producers must still provide information on the volume of their products sold in Scotland to SEPA.
- We will keep this measure under review once the scheme is live.

Impacts

- Business: Allowing products with sales of under 5000 units per year to be exempt from carrying a deposit would mean that:
 - 44% of drinks producers, primarily the smallest drinks producers, could be exempt from applying a deposit to any of their products,
 - around 80% of all drinks producers could be exempt from applying a deposit to at least one of their products
- Environment: Only 0.5% of scheme articles (around 13 million containers) would be affected by this change, meaning that there would be a very minimum impact on the material covered by the scheme.
- Products can still be recycled in the same way as any other non-scheme materials.

- 5000 units per year equates to sales of fewer than 100 units per week. We therefore expect this impact to be very low and primarily affect specialist retailers and hospitality businesses, who were among those that requested we consider removing deposits on products which sell low volumes.
- There is the potential for greater consumer confusion. However, many of the products affected are sold in hospitality settings where the deposit is not charged to the consumer, and will already have a long cut-over period as they tend to flow more slowly through the drinks supply chain.

Change in minimum container size to 100ml

- We have increased the minimum size of a scheme article from 50ml to 100ml. Containers below 100ml will no longer be part of DRS.
- This is a change that was requested by drinks producers to reduce complexity and remove the operational challenges associated with small containers.
- It also addresses the concerns by retailers that small containers may not be accepted by reverse vending machines.
- We estimate that it will remove approximately 0.2% of total scheme articles from the scheme, so will have a minimal effect overall.
- The change brings us in line with many of the other countries who have DRS schemes.

Reduced obligation for hospitality venues to act as return points

- Hospitality venues that sell most scheme articles for consumption on the premises will no longer need to act as return points.
- It is already the case that any retailer that sells drinks exclusively on the premises does not need to operate a return point.
- This change expands this exemption to also cover premises that sell a small number of off-sales.
- We are working to agree the exact amount of offsales that would be required to exempt premises and want to work with the sector on this
- Other hospitality venues will also have the ability to apply for an exemption through the existing exemptions system, which already has a streamlined process
- Why are you not just exempting all of hospitality
- Many premises have multiple uses and it would not be appropriate for them to not act as a return point given the amount of articles they will sell
- The aim of this exemption is to remove a significant amount of hospitality while still maintaining a suitable set of return points for customers
- Any hospitality venue not automatically exempted can apply for an exemption in the normal way

Operational information

- I understand that this is a big change for businesses to manage, and that businesses require certainty in order to complete their operational planning.

- That is why we are giving businesses six more months to prepare for the new launch date of 1 March 2024.
- This is an industry-led scheme, with many operational issues resting with Circularity Scotland as the scheme administrator.
- While I am confident that CSL have now provided the information at businesses need, the additional six months will provide more time for businesses to act on this information and prepare for scheme launch.
- However, I know that there are also several critical issues that must be resolve urgently, not least confirmation from the UK Government of an exclusion from the Internal Market Act, a process we began in 2021.
- I am therefore committed to the swift and decisive resolution of outstanding operational issues, and their prompt communication to businesses.

If pressed

- Online takeback: I will shortly bring forward amendments to DRS Regulations so that initially only the largest grocery supermarkets will be obliged to provide a takeback service for those unable to get to a physical return point
- We cannot have a situation where customers can buy drinks online but have no means of redeeming a deposit.
- Retailers have had this obligation since Regulations were laid in 2020. The additional six months for implementation announced this week provides retailers with even more time to deliver this service.
- Trading Standards: Scottish Government officials are working closely with Defra, Welsh Government and the Dept. Business and Trade to seek a consistent approach to deposit pricing across the UK. Acknowledging that this is an area of reserved policy, we have requested amendments to the 2004 Price Marking Order to confirm how deposits should be displayed.
- Return point exemptions: Following feedback from businesses, we have streamlined the return point exemption online application process by:
 - Simplifying the application form by including drop down answers rather than free text answers
 - Retailers under 100m² and food to go retailers under 280m² do not now need to provide additional information like floor plans and photographs in their initial application for an exemption from being a return point
 - This will reduce the administrative burden particularly for small retailers.
- VAT: This is a matter for the UK Government, who shared their decision on VAT in February. Any further guidance would be issued by HMRC.
- Packaging Recycling Notes (PRNs): To ensure that producers are not charged twice, recycling obligations under the packaging producer responsibility system currently placed on drinks containers in scope of a Scottish DRS will no longer apply once DRS is introduced, and as a result this material will no longer have to obtain PRNs to evidence its recycling

- Other operational issues (systems, finance, contacts etc.): This is an operational / contractual matter for Circularity Scotland as scheme administrator. CSL are working directly with businesses on this matter. We will work with CSL and industry to understand if there is additional support that Scottish Government can provide.

Investment that has already taken place

- The investment made up till now will ensure that businesses are ready for the 1st of March launch date
- There has been a mixture of views across businesses on the readiness for an August launch
- We have had to balance these views and the risks posed to the scheme as a whole against the time and investment businesses have put in to be ready for August
- The decision to delay by 6 months ensures that there is a minimum delay, ensuring we avoid the busy festive period, while providing time for businesses to be ready to ensure an affective delivery of DRS.

Key messages: IMA exclusion**The Scottish Government has fully followed the agreed process for securing an exclusion from the Internal Market Act for Scotland's Deposit Return Scheme. This is acknowledged by UK Government ministers.**

- The Scottish Parliament approved the Deposit and Return Scheme for Scotland Regulations in 2020. The Regulations were made for the purpose of environmental protection and are wholly within devolved competence.
- The DRS regulations were made several months before the UK Internal Market Bill was introduced to the UK Parliament in September 2020 and subsequently came into force on 1 January 2021 despite the Scottish Parliament and Senedd Cymru voting against giving consent to it.
- There is an agreed and published process between the UK Government and devolved governments for excluding certain areas within Common Frameworks from the Internal Market Act.
- While the Internal Market Act gives UK Ministers unilateral power to change what is in, and out of scope of the Act, the expectation is that through this agreed process, UK Ministers will respect the conclusions of Common Frameworks – and respect the principles upon which Common Frameworks are built: of equal partnership and respect for devolution.
- Common Frameworks are agreed ways of working between the UK Government and devolved government in devolved areas that were subject to EU Single Market rules. Importantly, they are underpinned by ministerially agreed principles including respect for devolution, Sewel Convention, and the democratic accountability of the devolved institutions. It is the view of the Scottish Government that Common Frameworks were, and are, all that is needed to manage policy divergence in devolved matters previously subject to EU law, but they are undermined by the existence of the Internal Market Act.
- The published process to exclude certain matters falling within Common Frameworks from the Act sets out that the relevant Common Framework will robustly consider policy divergence, evidence and options before agreeing a recommendation of an exclusion to the Internal Market Act – at which point a final position will be confirmed by respective Ministers.
- UK Government has recognised that Scottish Government has fully followed this process in seeking an exclusion for our DRS regulations. It has been the subject of discussion with UK Government for many months.
- We first raised the need for an exclusion in July 2021 when we proposed a broad exclusion which would have covered single-use plastics and DRS.
- This was not agreed by UK ministers, resulting in a narrow exclusion for single-use plastics only, and the ongoing process since October 2022 to secure a specific DRS exclusion.
- The 6 March Inter-Ministerial Group addressed the recommendation of the Resources and Waste Common Framework that an exclusion should be sought.

- Contrary to previous indications that we could expect a decision from UKG at the Inter-Ministerial Group this week (Monday 17 April), no decision was forthcoming.
- It is frustrating that UKG has not indicated when it will make a decision, resulting in further uncertainty for business and undermining progress
- In addition to the risks to effective delivery of the scheme, the continued delay from UK Ministers and misrepresentations of how the process works from certain parts of the UK Government undermines the entire Common Frameworks process and is a cause of serious concern.
- I will continue to press UK Government to follow the process, engage constructively and provide urgent clarity on an exclusion.

Without an exclusion, the impact of the Internal Market Act will present a risk to the effective implementation and delivery of Scotland's DRS Regulations, which are wholly within devolved competence and were approved by the Scottish Parliament in 2020.

- Following work in the Resources and Waste Common Framework, all four governments of the UK are aware that, without an exclusion, the impact of the IMA will present a risk to the effective implementation and delivery of Scotland's DRS regulations. Given plans in development across UK nations, it is also likely the IMA will impact on the effect of policy across nations.
- The agreed exclusion process should prevent this from happening – it is intended to enable common frameworks to do their job, which is to manage policy divergence in a way that respects devolved competency.
- The UK Government recognises that waste management is a devolved policy area – its own Government Response of 20 January 2023 on introducing a deposit return scheme for England, Wales and Northern Ireland stated this and went on to say that "...it is the responsibility of each nation of the UK to decide on the approach to a DRS that fits its policy needs".
- That is what Scotland's DRS regulations do; it is now for UK Government to respect devolution and honour the commitments made: to support common frameworks and the exclusion process as a means to manage – not remove – policy divergence on the basis of agreement between equals.
- **The common framework has considered the evidence in detail and recommended Ministers consider an exclusion. We expect the UKG to follow this evidence-based approach and provide urgent clarity on a decision.**

The Internal Market Act represents an unprecedented attack on the powers of the Scottish Parliament and an ongoing threat to the proper operation of common frameworks.

- The frameworks exclusions process is the result of amendments introduced late in the Act's parliamentary passage. Speaking to these amendments, UK ministers made clear that the delegated powers conferred under the Act on them and them alone can be used to:

...[exclude] from [the Act] a specific agreed area of divergence. That would follow consensus being reached between the UK Governments and all the relevant parties that that was appropriate, in respect of a specific defined topic within a common framework.

- Guidance on how that process should operate is available on the UK Government website and UK Ministers have confirmed that the Scottish Government has followed this process at all times in respect of DRS. The process makes clear that it is for the relevant common framework to consider the evidence of direct and indirect economic impacts of any exclusion from the Act, which is precisely what it did in this case.
- Central to the process's effective operation must be a shared recognition that the evidence and recommendations coming from the collaborative common framework should form the basis of decisions on exclusions. The work of common frameworks cannot simply be set aside – to argue otherwise would be to concede that the Act overrides common frameworks, despite assurances from UK Ministers that frameworks and the Act can operate in a complementary manner.
- The jointly agreed communiqué following the Inter-Ministerial group on 6 March makes clear that that the relevant Common Framework has “agreed to seek ministerial views on its recommendations of an exclusion”. This follows more than two years’ consideration of an exclusion covering DRS. The suggestion that this matter was brought to UK ministers’ attention only with a non-existent “formal request” on 6 March is entirely untrue.
-

If required on Alister Jack claims regarding “requests” for exclusions

- No “formal request” was required to be made by SG at the IMG because that is not how the agreed and published process works.
- It is extremely disappointing to hear repeated inaccurate claims on the operation of the common frameworks exclusion process from some UK Ministers. This helps no-one – it undermines trust, reduces the effectiveness of the process, and denies clarity and transparency to business and consumers.
- It also significantly cuts across Common Frameworks, which depend on good faith from all nations in the UK and is a cause of serious concern.
- This is at odds with the constructive engagement on Scotland’s DRS that we have experienced from Defra and other parts of UKG.
-

Background on Common Framework process for excluding DRS from the Internal Market Act

- SG has followed the agreed four nation process for excluding certain areas within Common Frameworks from the IMA and has been seeking a specific exclusion for DRS from the IMA since 2022.

- This is because it is SG's view, and we understand this is accepted by Defra, that various provisions of our DRS regulations are likely to fall within the market access principles of the IMA. This means Scottish DRS obligations would apply to products produced in, or imported to Scotland, but not to products coming into Scotland that are produced in, or imported into other parts of the UK. In other words, it would be possible for drinks producers outwith Scotland to sell into Scotland without registering with the scheme and without charging a 20p deposit.
- On 13 February, the relevant common framework (Resources and Waste) agreed that: policy alignment was not possible ahead of Scotland's launch in August; without an exclusion, the IMA will have a significant effect on Scotland's DRS; and that ministers should consider an IMA exclusion.
- At the 6 March IMG, Ms Slater pressed Defra for clarity on UKG support for an exclusion and by end of March at the latest. Minister Pow suggested a decision may be likely by 17 April IMG. The jointly agreed communiqué following the Inter-Ministerial group on 6 March made clear that that the relevant Common Framework had "agreed to seek ministerial views on its recommendations of an exclusion".
- On 14 March, Ms Slater and officials gave evidence to the Net Zero, Energy and Transport Committee, noting that any attempts by UK Ministers to block an exclusion would have constitutional consequences that go well beyond DRS, and that UK Ministers would want to reflect carefully before taking such a step.
- On 3 April, the Cabinet Secretary for Net Zero and Just Transition wrote to the Secretary of State for Defra seeking urgent reassurance that the exclusion was progressing and offering a meeting.
- Through intensive official-level engagement, Defra emphasised that SG's position was clear and that the proposed ministerial bilateral, although welcome, was not essential.
- Defra subsequently undertook pre-write round engagement with Whitehall departments. The Defra Director responsible for DRS shared, in confidence, that whilst the Defra Secretary of State remains supportive, they have sought a steer from No.10 before taking steps to initiate their formal write round. We understand some UK Ministers (notably Secretary of State for Scotland) continue to link considerations on DRS delivery – which are devolved functions – with UKG considerations on agreeing an exclusion.
- This delay for further consideration by UK Government meant that Defra was not in a position to confirm a UK Government position on at IMG on 17 April. The Secretary of State for Defra's letter of 13 April in reply to the Cabinet Secretary set this out and that UKG is unable to consider the exclusion until our DRS is finalised.
- We will continue to press that it is not for UKG to "approve" devolved policy; we expect UKG to respect devolution, follow the evidence-based approach of the Common Framework which recommended an exclusion, and provide urgent clarity on a decision on an exclusion.

Key messages: Governance/Assurance

There have been a series of independent Gateway Reviews undertaken throughout the design of the Deposit Return Scheme, with the most recent looked at operational readiness.

- Businesses require certainty in order to complete their operational planning. Without this I am concerned that customer experience of DRS will be poor.
- A delay to scheme launch must be used to provide certainty; allow for resolution of outstanding operational issues, confirmation of IMA exclusion, and extensive testing of IT and logistic systems.
- The Scottish Government will consider carefully the recommendations from the recent Gateway Review, and will share recommendations and its response with the Net Zero, Energy and Transport Committee in due course.
- I have agreed to leads an operational delivery group to produce assurance to me and the whole system that issues are resolved promptly and that key success criteria are achieved.

Key messages: Need for new regulations

Some of the measures that will support small producers, hospitality and others, and a new launch date require amendments to the Deposit and Return Scheme for Scotland Regulations.

- I appreciate that these amendments are part of giving businesses certainty in what they must deliver.
- That is why we are pressing forward to lay amending regulations [a draft Scottish Statutory Instrument (SSI) by affirmative procedure] in May. Subject to parliamentary approval the amendments will come into force by the end of June 2023.
- This will set the new launch date of 1st March 2024 for DRS in Scotland and will be accompanied by an updated suite of Impact Assessments.
- I welcome the scrutiny of the draft SSI by both the Delegated Powers and Law Reform Committee and the Net Zero, Energy and Transport Committee as it makes its way through the parliamentary process.

FMQ – DRS

Provided in separate document

Supportive Quotes For Delay

Maurice Golden (Con) 21st February 2023 - *“MSPs from all parties – but especially the SNP – have the chance to prevent Armageddon by supporting our motion for the scheme to be paused pending an independent review. If SNP backbenchers support it, we have the votes to do just that.” “It must be paused immediately. A successful Deposit Return Scheme could have a positive impact on business and the [environment](#). But, as it stands, this one is assisting neither.”*

Maurice Golden (Con) 17th April 2023 – *“Tomorrow @HumzaYousaf will set out his governments priorities. One of those must be delaying deposit return. Launched with good intent, it’s become a costly, complex and confusing mess. For the sake of businesss, consumers and the environment it’s time to hit the pause button.”*

Colin Smyth (Labour) 28th February 2023 – *“There remain a number of issues with the scheme as it is currently proposed that need to be addressed. We have failed to give those small businesses the information that they needed for a fair lead-in time, and they should not be punished for the incompetence of Circularity Scotland and others.”*

Liam McArthur (Lib Dem) 26th February 2023 - *“The Scottish Government needs to press pause on this scheme, undertake an independent review and fully address the concerns of businesses. To fail to do this would risk harming businesses, damaging public confidence and weakening the case for a deposit return scheme.”*

UKHospitality Scotland on Twitter: The Deposit Return Scheme has been delayed to March 2024, following significant campaigning by UKHospitality Scotland. We urged the First Minister to implement an immediate delay and review of the scheme and we're delighted he's acted on our calls

Wine and Spirits Trade Association on Twitter: "Scotland's controversial Deposit Return Scheme has been delayed until March 1, 2024 The WSTA has long argued that the scheme was not ready to be rolled out this year."

Daniel Lambert (Wines) on Twitter: "Finally DRS has been kicked into next year. Make it another 13 months and the problems will fade away!"

Scottish Chambers of Commerce: “The business community will welcome the First Minister’s sensible move to delay the launch of the Deposit Return Scheme to March 2024.”

Campaign for Real Ale: The First Minister’s announcements this afternoon will be welcomed by beer drinkers and pub goers across the country.....delaying its introduction until March 2024 gives ministers the chance to make the scheme

workable and make sure consumers can still have a decent choice of beer and cider from small and independent producers across these islands

Scottish Retail Consortium: “The decision to delay is sensible; but this must be a pause with a purpose.”

Association of Convenience Stores “We are disappointed that we’ve not been able to meet the timetable for DRS in Scotland, but local shops will welcome the additional time to ensure that the scheme can run as smoothly as possible when it is introduced next March.”

Scotch Whisky Association: “This is a very welcome announcement by the First Minister, who has listened to the concerns voiced by industry on the alcohol marketing consultation and the Deposit Return Scheme”

Further Background Briefing

We must take bold and ambitious action to tackle the climate emergency. Our Deposit Return Scheme will launch in March 2024 and will be a major part of our efforts to reduce littering, cut emissions, and build a more circular economy.

- Our scheme will reduce littering by a third and increase recycling rates of single-use drinks containers towards 90%.
- The scheme will reduce CO2 emissions by 4 million tonnes over 25 years – the equivalent to taking 83,000 cars off the road.
- The Circular Economy Minister, government officials and Circularity Scotland continues to meet regularly with industry to ensure a pragmatic approach to the implementation of DRS.

In line with the ‘polluter pays’ principle, and just like similar schemes around the world, Scotland’s deposit return scheme is being delivered and funded by industry, led by the scheme administrator, Circularity Scotland. This approach was supported by Labour and the Conservatives.

- An extension to the go live date was announced in December 2021, giving industry additional time to prepare.
- The regulations require producers to register ahead of the launch and registration is open until January 12th 2024.
- We continue to work with Circularity Scotland and businesses as they finalise their operational delivery plans ahead of the launch in March 2024.
- As an industry-led scheme, the industry needs to work with the scheme administrator on a joined-up approach to delivering the scheme.
- The costs of the scheme are the responsibility of the scheme administrator, Circularity Scotland.
- Circularity Scotland is developing and constructing the logistical network that will support the effective operation of the scheme:
 - It has signed contracts with Reverse Logistics Group (RLG) for the scheme IT system and with Biffa for operations, logistics, and plastics reprocessing.
 - It has secured a number of sites across Scotland to deliver the scheme, including a recycling site in Aberdeen, creating up to 60 jobs. This has been followed by 140 new jobs at a recycling plant in Motherwell. Further announcements will follow for sites in locations across Scotland.

CSL / Biffa

- Like similar schemes around the world, Scotland’s deposit return scheme is being delivered and funded by industry, led by the scheme administrator, Circularity Scotland Ltd (CSL).
- CSL is a private non-profit company and is responsible for operating the scheme, including logistics.
- As a private company, it is not subject to public procurement requirements.
- Decisions regarding their contracts are for them – this is entirely appropriate for a scheme that has industry responsibility at its heart.

- An extensive tender process was carried out by Circularity Scotland over a period of around 12 months.
- The process involved extensive due diligence by Circularity Scotland.
- Circularity Scotland and Biffa are jointly engaged with local authorities, many existing waste and logistics operators and retailers. They are seeking to use existing infrastructure as much as possible.
- Any companies which wish to participate in the DRS activities should contact the DRS enquires team at Biffa and this will be discussed with Circularity Scotland.

Producers

In response to industry concerns we have worked with Circularity Scotland to reduce costs to producers.

- I understand that implementing DRS is a big change for small businesses to manage and that is why Circularity Scotland has announced a package of support in February to improve cashflow for producers which equates to £22m of support:
 - Removal of the day one and month one charges for all producers, up to a threshold of three million units per year.
 - Above the three million unit threshold, the Day 1 payments for producers using UK wide barcodes has previously been reduced by two thirds, from 2.4 months of fees to 3 weeks of fees (announced in December 2022).
 - providing two month credit terms on deposits and fees up to the same volume threshold to reduce the working capital impact on all producers.
 - Circularity Scotland will be offering the option to use self-adhesive barcode labels for producers placing less than 25,000 units per year of a specific product on to the Scottish market, alleviating administrative burden.
 - DRS is a form of extended producer responsibility – part of the ‘polluter pays principle’ so that producers have obligations to recycle and recover packaging that they place on the market
 - Producers with an annual turnover of £ 2 million and who place specified amounts of packaging on the market already have to meet their extended producer responsibility obligations
 - producers who are part of DRS will no longer need to meet obligations under wider packaging obligations in relation to DRS scheme articles since their participation in DRS will ensure they meet obligations to recycle and recover that packaging

In December, Circularity Scotland announced new producer fees that are 8%, 30% and 40% lower than originally planned for glass, PET plastic and metal containers respectively.

- There is no registration fee for producers with an annual turnover of £85,000 or lower or producers that only fill and seal single-use drink containers at point of sale (e.g. crowlers). For all other producers, the registration fee will be £365 (annually).
- Circularity Scotland’s producer fee is charged for each individual container, so will be proportionate to the size of the business. So a small producer like a craft brewery will pay less than a larger producer.

- Circularity Scotland announced a package of cashflow support that responds directly to many of the concerns that had been raised, particularly from smaller producers. ,

Retail

Grace Period

- The DRS launch on the 1st March will be set out in legislation and will apply to all producers.
- Changing the fundamental approach of the scheme to exempt some producers from that agreed by Parliament raises a number of issues about how this would work as it would potentially give different producers a competitive advantage relative to other producers.
- These issues must be fully explored to ensure the scheme is fair and legal for all businesses. That includes recognising the investment and preparations already by made by both large and small producers to prepare for launch on 16 august.
- That is why the focus has been and will continue to be on providing support to help producers to comply with the scheme.
- I will continue to keep Parliament updated on this.

Further Delay to align with launch of UK scheme.

- The UK Government's decision to deliver a smaller scheme that excludes glass and on a slower timetable should not be used as an excuse to undermine ambition in Scotland.
- We are disappointed that the UK Government has chosen to exclude glass from its scheme. Including glass delivers significant environmental benefits, and this decision will result in a narrower scheme in England, that is at odds with our own and that being developed in Wales.
- We will continue to work closely with the UK and devolved governments to maximise interoperability of the schemes when they go live, and hope that the UK government will, over time, follow the other UK nations and reconsider its decision to exclude glass.
- The UK Government first announced that they would introduce a deposit return scheme in 2018, with an original implementation date of 2023.

Glass

- Glass is one of the three main materials used to make single-use drinks containers and accounts for more than a quarter of all the containers due to be included in our Deposit Return Scheme
- To put that into context, the Scottish DRS will include an estimated 560 million containers that reach the Scottish market each year.
- Of the 44 territories operating deposit return schemes, only four of them do not include glass [Kiribati, Netherlands, Norway & Sweden] – See Annex A.

- Glass is one of the most common items to pollute our beaches and broken glass poses a hazard to the public and wildlife.
- It also poses a threat to local authority, private sector and voluntary clean-up crews. Including it in DRS will help reduce the amount of littered glass.
- The Scottish DRS business case suggests that including glass will save over 1.2 megatonnes CO2 equivalent over 25 years, and will significantly increase the quantity and quality of glass recycle.
- The 2019 Conservative manifesto committed to “introduce a deposit return scheme to incentivise people to recycle plastic and glass”

Compliance and Fraud

- SEPA has been provided funding by the Scottish Government to establish their regulatory service for the scheme.
- Once the scheme is operational, SEPA will be funded for the service via the producer registration fees collected.
- SEPA has agreed that, where there are clearly evidenced operational challenges, they will take a proportionate approach to compliance.
- They have committed to providing advice and guidance as the preferred route to achieving compliance for businesses who are striving to meet their obligations.
- SEPA already has a range of civil sanctions, such as fixed monetary penalties or enforcement undertakings, which it can impose as part of its enforcement of a wider range of existing environmental legislation.
- Civil sanctions mean that SEPA has a flexible range of enforcement tools available to deal with any breach of environmental legislation. The Lord Advocate has issued guidance to SEPA on its use of civil sanctions.
- These civil sanctions are also now available to SEPA to enforce the requirements of DRS. Any sums received from financial penalties, whether for DRS or for any other environmental offences, must be paid by SEPA to Scottish Ministers
- This is an approach used for a range of environmental legislation. Penalties are not used to raise funds and are paid into the Scottish Consolidated Fund.
- Fraud is an inherent risk in any commercial project, modelling undertaken by Zero Waste Scotland estimates fraudulent activity will be in the range of 0.79-1.06%.

Consumer Behaviour

We do not think there will be extensive format switching, for instance from small units to large units, in order to reduce any perceived mark-up from the deposit.

- The deposit will be fully returnable and retailers will be required to display information about this.
- There will be other deciding factors for consumers, such as practicality, convenience, brand preference and presentation of the product.
- Evidence suggests that where product or format switching has occurred in other countries with DRS, it is rare that this can only be attributed to DRS.
- We believe there will be limited impacts on cross-border purchases, for instance people shopping in England in order to avoid paying a deposit.

Interaction with Minimum Unit Pricing

- Scottish Government officials are undertaking work to ensure that the interactions between Minimum Unit Price and the Deposit Return Scheme are fully understood. This work includes engagement with stakeholders.
- A planned evaluation of the Deposit Return Scheme will explore consumer behaviours prior to the scheme's introduction, a year after implementation and two years after implementation.

Known Q&A

(to be updated when known)

7. Attachment to document 2 – Deposit Return Scheme First Minister Question

20 Apr: Labour has written to you calling for responsibility for DRS to be removed from Ms Slater and have indicated they may call for a vote of no confidence.

19 Apr: Daily Mail and Daily Express have followed up on a tweet from Maurice Golden asking whether the government will intervene to provide compensation to producers liable for advance payments to Circularity Scotland of up to £1.5 million per month.

19 Apr: Extensive media coverage of your announcement of a 6 month delay to the launch of DRS. Business stakeholders have generally welcomed the delay while environmental NGOs have been critical.

17 Apr: Circular Economy Minister attended Inter-Ministerial Group meeting to discuss IMA exclusion.

15 Apr: Business leaders including CBI Scotland, the Federation of Small Businesses Scotland, the Scottish Chambers of Commerce have written to you calling for a halt to DRS claiming "the scheme as it currently stands will fail".

2 Apr: Tesco, Asda, Sainsbury's, Morrisons and Waitrose call for a delay to DRS.

29 Mar: Reports of breweries in England are labelling their products as "not for sale in Scotland" to avoid being fined under the deposit return scheme.

29 Mar: Media coverage of David Harris, CEO of Circularity Scotland at NZET Cttee where he stated they had initially suggested a later start date to ministers and did not expect all return points to be "up and running and functioning on August 16".

DEPOSIT RETURN SCHEME

We must take bold and ambitious action to tackle the climate emergency. Our Deposit Return Scheme will be a major part of our efforts to reduce littering, cut emissions, and build a more circular economy.

- This government remains committed to DRS. However, we recognise the uncertainty that continues to be created as a result of the UK Government delaying the decision to exclude the scheme from the Internal Market Act.
- In addition, we have been listening to businesses about their concerns. That is why I announced yesterday that we are delaying the launch until 1 March 2024, giving businesses 10 months to prepare for the scheme.
- I understand that this is a big change for businesses to manage and retailers and small producers have specifically called for a delay. The Circular Economy Minister will provide further details to parliament later today on the timeline for the scheme and further support for businesses.

- The delay has been welcomed by the business community:
 - Scottish Whisky Association said: **[QUOTE]** *“This is a very welcome announcement by the First Minister, who has listened to the concerns voiced by industry”* (18 Apr)
 - Dr Liz Cameron CBE, Chief Executive, Scottish Chambers of Commerce, said: **[QUOTE]** *“The business community will welcome the First Minister’s sensible move to delay the launch of the Deposit Return Scheme to March 2024. The Scottish Government must now work with the business community to ensure that the scheme is redesigned to address the magnitude of concerns that firms have put forward, and to make it workable for all effected businesses.”* (18 Apr)

Our scheme will reduce littering by a third and increase recycling rates of single-use drinks containers towards 90%.

- The scheme will reduce CO₂ emissions by 4 million tonnes over 25 years – the equivalent to taking 83,000 cars off the road.
- The scheme has already delivered hundreds of millions of pounds of investment across Scotland, and is creating over 500 new green jobs.
- The Circular Economy Minister, government officials and Circularity Scotland continue to meet regularly with industry to ensure a pragmatic approach to the implementation of DRS.

GRACE PERIOD FOR SMALL PRODUCERS

I know that some small producers feel there is a disproportionate burden on them to get ready for the deposit return scheme.

- This 6 month delay will provide everyone with additional time to prepare for the launch of the scheme, including small producers and retailers.
- We are also planning to deliver a range of other measures to support the delivery of the Deposit Return Scheme, that will support small producers, hospitality and others.
- The Minister for Circular Economy will announce full details in a statement to parliament later today.

INTERACTION WITH INTERNAL MARKET ACT

The process for securing an exclusion from the Internal Market Act for Scotland’s Deposit Return Scheme has been underway for nearly two years now.

- The Internal Market Act radically undermines the powers of the Scottish Parliament and was imposed without the Parliament’s consent.
- The Scottish Parliament approved the Deposit and Return Scheme for Scotland Regulations in 2020. The Regulations are wholly within devolved competence.
- The Scottish Government has been following the agreed and published process for excluding the deposit return scheme regulations from the Internal Market Act

and it has been the subject of discussion with UK Government for nearly two years. No-one in the UK Government has disputed the timeline we published in February confirming this.

- Last month at the inter-ministerial group meeting, UK Government ministers acknowledged that the Scottish Government has followed the agreed process at all times and indicated UK Ministers would likely reach a view by the next meeting.
- That meeting took place on 17 April and frustratingly UK Ministers confirmed that no decision had been made and they were unable to provide a timeline for an exclusion.
- The UK Government's delay in reaching a decision has created continuing uncertainty for business and undermined progress.
- We will continue to keep Parliament updated on the exclusion process.

SUPPORT FOR SCOTLAND'S DRS

There is strong support for Scotland's DRS from the public, businesses, and civil society.

- Polling carried out in February showed that 70% of Scots support Scotland's DRS.
- Environmental organisations from around Europe wrote to Circular Economy Minister (27 Mar) to show support for our scheme **[QUOTE]**: *"We are pleased to see the Scottish Government's bold ambition to introduce a comprehensive system from the start."*

GATEWAY REVIEWS

There have been a series of independent Gateway Reviews undertaken throughout the design of the Deposit Return Scheme, with the most recent carried out last month.

- The Scottish Government will consider carefully the recommendations from this review, and will share these and its response with the Net Zero, Energy and Transport Committee in due course.
- Gateway Review teams normally speak with 12-15 interviewees including relevant commercial and external stakeholders (e.g. prime contractors and consultants).
- For the latest review, reviewers spoke to 45 people which included CSL, a range of producers, retailers, wholesaler, hospitality representatives, SEPA, Zero Waste Scotland and Scottish Government.

PRODUCER NUMBERS

The number of companies in the drinks industry inevitably changes over time and, at the outset of developing a deposit return scheme, approximately 4,500 companies were estimated to have an interest in the scheme.

- However, significantly fewer would have to register – for example, once groups of companies registering under one registration are identified, the number of individual producers/importers are likely to be below 2,000.
- We are therefore very encouraged by the fact that more than 670 businesses have registered, representing 95% of products sold in Scotland.

PRODUCER REGISTRATION

As at 10 March, more than 670 producers responsible for more than 2 billion drinks containers have signed up with Circularity Scotland – this represents the full range of drink producers from global brands to small craft breweries and distilleries.

- This means 95% of the annual total volume of products are included in scheme.
- Producers must be registered by 12 January 2024 before the scheme launches on 1 March.
- For the producers that have not yet registered, SEPA will continue to work with Circularity Scotland and producers to support businesses with compliance before the go live date.
- As set out in the DRS Regulations, SEPA will publish a register of all producers who are registered ahead of the scheme launching.
- It is a commercial decision for individual businesses whether they wish to participate in this important environmental scheme by selling products in the Scottish market but we would encourage any business to contact Circularity Scotland in the first instance for support and to discuss any concerns they have.

COSTS TO PRODUCERS

I understand that implementing DRS is a big change for small businesses to manage and the Circular Economy Minister will set out this afternoon further measures to support them ahead of the scheme's launch.

- We have previously worked with Circularity Scotland to reduce costs to producers.
- Circularity Scotland announced a £22m package of support earlier this year to improve cashflow for producers, including:
 - Removal of the day one and month one charges for all producers, up to a threshold of three million units per year.
 - Above the three million unit threshold, the Day 1 payments for producers using UK wide barcodes has previously been reduced by two thirds, from 2.4 months of fees to 3 weeks of fees (announced in December 2022).

- Providing two month credit terms on deposits and fees up to the same volume threshold to reduce the working capital impact on all producers.
- As Circularity Scotland is a private company, contractual arrangements they have with their members, including the producer agreement, is a matter for them and it would not be appropriate for the Scottish Government to intervene in such commercial arrangements between private companies.

In December, Circularity Scotland announced new producer fees that are 8%, 30% and 40% lower than originally planned for glass, PET plastic and metal containers respectively.

- There is no registration fee for producers with an annual turnover of £85,000 or lower or producers that only fill and seal single-use drink containers at point of sale (e.g. crowlers). For all other producers, the registration fee will be £365 (annually).
- Circularity Scotland's producer fee is charged for each individual container, so will be proportionate to the size of the business. So a small producer like a craft brewery will pay less than a larger producer.

IMPLEMENTATION COSTS TO RETAILERS

We are working with industry to ensure that there are pragmatic approaches to implementation and, in direct response to feedback from retailers, a number of measures have been introduced.

- The retailer handling fee – the amount a retailer will be paid per container to cover their operational costs as a return point – was increased by up to 19% .
- This means Scotland's deposit return scheme offers the highest retail handling fee compared to other deposit return schemes around the world. [see annex B].
- Businesses should contact Circularity Scotland for advice and support if they have any concerns.

Under the DRS Regulations, payment terms are entirely a commercial matter between Circularity Scotland and retailers. Scottish Government and Scottish Ministers were not, and should not, be consulted on such commercial arrangements between private companies.

- Last month was the first time that Circularity Scotland has issued a commercial contract for retailers setting out payment terms.
- The payment terms have been informed by other DRS schemes around the world and Circularity Scotland held discussions with industry representatives in advance of issuing the contract.

- Payment terms do not represent a change from the information submitted in Circularity Scotland’s draft operational plan and assessed as part of their application to be a scheme administrator.

RETAILER REGISTRATION AND EXEMPTIONS

- Retailers can now register with Circularity Scotland as a return point.
- Smaller retailers can apply to be exempt from being a return point for environmental health reasons such as the footprint of the premises or where they have an agreement with another nearby return point to take back containers on their behalf.
- However, many small retailers want to be part of the scheme as this will attract footfall to their businesses.
- We have proposed to bring forward amendments to the DRS regulations so that only the largest grocery retailers will initially be obliged to provide an online takeback service and all other businesses will be exempt (further work will be undertaken to identify how elderly and disabled people will be protected during this phasing-in of online takeback).

LOCAL AUTHORITY SUPPORT AND KERBSIDE RECYCLING

We are supporting local authorities to prepare for the introduction of the scheme.

- £46m of public money is spent every year removing litter and fly tipping from the Scottish environment.
- Our scheme will mean that local authorities will have less waste to handle, as well as reducing litter and associated clean-up costs, which is good for residents and council budgets.
- Many deposit return schemes in Europe operate alongside kerbside collections including Norway, Germany and Croatia.

Our £70m Recycling Improvement Fund is delivering one of the biggest investments in recycling in Scotland in a generation.

- It is supporting Scottish councils to modernise recycling services, align with our forthcoming deposit return scheme, and make it easier for households to recycle and increase local recycling rates.

rUK DEPOSIT RETURN SCHEME

We welcome the UK Government’s plans for a deposit return scheme which will bring the rest of the UK in line with Scotland.

- Many aspects of their scheme have been informed by work already undertaken in Scotland.
- However, we are disappointed that the UK Government has chosen to exclude glass from its scheme. Including glass delivers significant environmental benefits, and this decision will result in a narrower scheme in England, that is at odds with our own and that being developed in Wales.
- We will continue to work closely with the UK and devolved governments to maximise interoperability of the schemes when they go live (such as already not requiring Scottish specific barcodes), and hope that the UK government will, over time, follow the other UK nations and reconsider its decision to exclude glass.

SCHEME DELIVERY

In line with the ‘polluter pays’ principle, and just like similar schemes around the world, Scotland’s deposit return scheme is being delivered and funded by industry, led by the scheme administrator, Circularity Scotland.

- Circularity Scotland is a not-for-profit company which is separate from government.
- The Scottish Government has no role in the recruitment of staff or their pay levels, as is appropriate for a private company that is delivering an industry-led scheme.
- As a private company, Circularity Scotland is not subject to the Freedom of Information Act.
- The Scottish Government is committed to reviewing the operation of Scotland’s FOI regime, and is currently analysing the results of its recent consultation on Access to Information Rights in Scotland with the aim of publishing a report later in the spring.
- Circularity Scotland is developing and constructing the logistical network that will support the effective operation of the scheme:
 - It has signed contracts with Reverse Logistics Group (RLG) for the scheme IT system and with Biffa for operations, logistics, and plastics reprocessing.
 - It has secured a number of sites across Scotland to deliver the scheme, including a recently announced recycling site in Aberdeen, creating up to 60 jobs.
- Any unredeemed deposits from Scotland’s Deposit Return Scheme will be reinvested into keeping the costs of running the scheme as low as possible for producers of all sizes across Scotland.

FRAUD

Fraud is an inherent risk in any commercial project, modelling undertaken by Zero Waste Scotland estimates fraudulent activity will be in the range of 0.79-1.06%.

CONSUMER BEHAVIOUR

We do not think there will be extensive format switching, for instance from small units to large units, in order to reduce any perceived mark-up from the deposit.

- As has been noted, the deposit will be fully returnable and retailers will be required to display information about this.
- There will be other deciding factors for consumers, such as practicality, convenience, brand preference and presentation of the product.
- Evidence suggests that where product or format switching has occurred in other countries with DRS, it is rare that this can only be attributed to DRS.
- We believe there will be limited impacts on cross-border purchases, for instance people shopping in England in order to avoid paying a deposit.

ANNEX A – Details of announcement being made on 20 April 2023**[redacted]****Retailer handling fees**

- Circularity Scotland's retailer handling fees (payment given to retailers for being a return point) are higher than other European countries.

Country	Manual Handling Fee (pence)	Automatic Handling Fee (pence)
Scotland	2.69	1.6 – 3.7
Norway	0.4 – 0.8	0.4 – 2.1
Denmark	0.6 – 1.6	0.2 – 0.8
Finland	1.6	1.6 – 2.4
Estonia	1.0 – 1.1	1.8 – 2.8
Lithuania	1.2 – 1.7	1.2 – 2.7
Croatia	0.8	2.0

8. Email to the Minister for Green Skills, Circular Economy and Biodiversity seeking approval of 20 April 2023 meeting note – dated 25 April 2023

From: [redacted]
Sent: 25 April 2023 16:00
To: Minister for Green Skills, Circular Economy and Biodiversity
Cc: Huyton H (Harry); Director of Environment & Forestry; [redacted]; [redacted]; Campbell E (Elisabeth); McPhee D (David) [redacted], [redacted]; [redacted]; [redacted]; [redacted]
Subject: DRS Stakeholder Meeting - FM & Minister - 20 April - Meeting Note
Attachments: Deposit Return Scheme (DRS) Stakeholder meeting FM and Minister - Parliament 20 April 2023 - Meeting note.docx

Hi [redacted]

Please find attached meeting note for the meeting last week with stakeholders.

Once the Minister has approved, I will send to FM's office for sign off.

Many Thanks,
[redacted]

DRS Division

9. Email exchange between SG officials on the 20 April 2023 meeting note – dated 26 April 2023

From: [redacted] on behalf of Minister for Green Skills, Circular Economy and Biodiversity
Sent: 26 April 2023 09:35
To: [redacted]; Minister for Green Skills, Circular Economy and Biodiversity
Cc: Harry Huyton; Director of Environment & Forestry; [redacted]; [redacted]; Elisabeth Campbell; David McPhee; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]
Subject: RE: DRS Stakeholder Meeting - FM & Minister - 20 April - Meeting Note

Hi [redacted]

Can you send on the eRDM link please for this meeting please.

Thanks
[redacted]

[redacted]– Deputy Private Secretary to the Minister for Green Skills, Circular Economy and Biodiversity – Lorna Slater MSP
Scottish Government | St Andrew's House, Regent Road, Edinburgh EH1 3DG |
Email: ministerforgsceb@gov.scot [redacted]

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From: [redacted]
Sent: 25 April 2023 16:00
To: Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>
Cc: Harry Huyton [redacted]; Director of Environment & Forestry <director.enfor@gov.scot>; [redacted]; [redacted]; Elisabeth Campbell [redacted]; David McPhee [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]
Subject: DRS Stakeholder Meeting - FM & Minister - 20 April - Meeting Note

Hi [redacted],

Please find attached meeting note for the meeting last week with stakeholders.

Once the Minister has approved, I will send to FMs office for sign off.

Many Thanks,
[redacted]

DRS Division

10. Email exchange confirming the First Minister's approval of the 20 April 2023 meeting note – dated 2 May 2023

From: [redacted] on behalf of First Minister
Sent: 02 May 2023 10:51
To: [redacted]; Minister for Green Skills, Circular Economy and Biodiversity; Harry Huyton; Director of Environment & Forestry; [redacted]; [redacted]; Elisabeth Campbell; David McPhee; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted] Permanent Secretary; David McPhee; Roy Brannen; DG Net Zero; Harry Huyton
Cc: First Minister; Cabinet Secretary for Net Zero & Just Transition
Subject: RE: DRS Stakeholder Meeting - FM & Minister - 20 April - Meeting Note
Attachments: RE: DRS: Letter from First Minister to Prime Minister - next steps

Hi [redacted]

To confirm FM is content with the minute. I would be grateful if you could send me a copy of the eRDM link once uploaded.

All,

Per the attached the Permanent Secretary has noted that *“FM would appreciate a meeting later in May to take stock on all the agreed actions from the Gateway report and stakeholder event to assure delivery progress is being made, including clarity on the data and reporting mechanism which will enable FM to be confident this is going from Amber-Red to Amber-Green in the next 10 months, accepting there will be always some residual risk with complex transformation”*

FM would like to see a detailed plan on what needs done to get us to the launch date of 1st March 2024 with confidence. FM wants officials, and the Minister, to work backwards from 1st March 2024 and detail the milestones that need completed for launch. FM would like this detailed plan ready in the next couple of weeks. FM has asked that this information is presented to him with Ministers talking him through it.

I would propose that we schedule the meeting to go through the above Thursday 25 May 2023 13:30 – 14:00.

I would be grateful for confirmation that the above is being pick up and also grateful for confirmation as to who will attend the meeting from an official / Ministerial capacity and I can issue invites.

Happy to have a chat through if that would be helpful.

Many thanks,
[redacted]

[redacted]
Deputy Private Secretary to the First Minister

Office of the First Minister

5th Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG

[redacted]



Office of the First Minister of Scotland

FirstMinister.gov.scot

Prìomh Mhinistear na h-Alba

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Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016.

See www.lobbying.scot

From: [redacted]

Sent: 26 April 2023 11:35

To: First Minister <FirstMinister@gov.scot>

Cc: Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>; Harry Huyton [redacted]; Director of Environment & Forestry <director.enfor@gov.scot>; [redacted]; [redacted]; Elisabeth Campbell [redacted]; David McPhee [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]

Subject: DRS Stakeholder Meeting - FM & Minister - 20 April - Meeting Note

First Minister,

Please find attached meeting note from the Deposit Return Scheme Stakeholder meeting on Thursday 20th April. Ms Slater has confirmed she is content with her part of the note.

I would be grateful if you could confirm you are content with the note for sign off.

Many Thanks,
[redacted]

DRS Division

ERDM Link – Meeting Note

<https://erdm.scotland.gov.uk/documents/A43477629/details>