

## **ANNEX A**

Some information has been withheld under regulation 10(4)(e) (internal communication). This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in releasing the information as part of an open, transparent and accountable government. However, this is outweighed by the greater public interest in allowing a private space for officials to share information and have open discussion with ministers on the development of any given policy.

Some information has been withheld under regulation 10(5)(f) (third party interests). This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in releasing the information as part of an open, transparent and accountable government. However, disclosure of this commercially sensitive information would, or would be likely to, prejudice substantially the confidentiality of commercial information provided by third parties.

Some information has been withheld under Regulation 11(2) – Personal Data as it contains personal information and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulations (GDPR) and in Section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test'.

**Correspondence between the First Minister and the Minister for Green Skills, Circular Economy and Biodiversity that relates to the Deposit Return Scheme between 01 March 2023 and 16 June 2023:**

**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 07 June 2023 13:54

**To:** DL Cabinet Secretaries <[Redacted]@gov.scot>; DL Ministers <[Redacted]@gov.scot>; First Minister <FirstMinister@gov.scot>

**Cc:** Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>; McAllister C (Colin) <[Redacted]@gov.scot>; Dobson L (Leanne) <[Redacted]@gov.scot>; Corbett GN (Gavin) <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** Ministerial Statement: Deposit Return Scheme Update EMBARGO UNTIL 14:50

**Importance:** High

Colleagues

Please find attached Ms Slater's Ministerial statement which she will deliver at 14:50 this afternoon.

**[Redacted]** - 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 |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister

**Sent:** 07 June 2023 13:43

**To:** [Redacted] <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>; First Minister <FirstMinister@gov.scot>; zzzCabinet Secretary for Net Zero & Just Transition <CabSecNZJT@gov.scot>

**Cc:** Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; Solicitor to the Scottish Government <[Redacted]@gov.scot>; Lord Advocate <[Redacted]>; Cabinet Secretary for Constitution, External Affairs & Culture <CabSecforCEAC@gov.scot>; Cabinet Secretary for Wellbeing Economy, Fair Work & Energy <CabSecWEFWE@gov.scot>; Campbell E (Elisabeth) <[Redacted]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; DG Strategy and External Affairs

<DGSEA@gov.scot>; Quinn M (Michelle) <[Redacted]@gov.scot>; Ford N (Nick) (DirectorSPPD) <[Redacted]@gov.scot>; Bruce A (Andrew) <[Redacted]@gov.scot>; Aylesbury P (Pauline) <[Redacted]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Legal Secretariat to the Lord Advocate <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Communications Net Zero & Rural Affairs <[Redacted]@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>; McAllister C (Colin) <[Redacted]@gov.scot>; Crawford E (Ewan) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; zzzMinister for Small Business, Innovation & Trade <MinisterSBIT@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>; Minister for Parliamentary Business <MinisterforPB@gov.scot>; [Redacted] <[Redacted]@gov.scot>; zzzCabinet Secretary for Net Zero & Just Transition <CabSecNZJT@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McPhee D (David) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Cabinet Secretary for Constitution, External Affairs & Culture <CabSecforCEAC@gov.scot>; Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>; Corbett GN (Gavin) <[Redacted]@gov.scot>; Quinlan K (Kevin) <[Redacted]@gov.scot>

**Subject:** RE: Urgent Submission - Options following UKG Decision on IMA Exclusion

[Redacted]

Shortly after your submission, the Permanent Secretary confirmed the decision of Ministers in a separate email, copy attached.

Please treat Perm Sec's message as an official record.

Many thanks

[Redacted]

[Redacted]

**Unit Head, Ministerial Private Office  
The Scottish Government**

St Andrew's House | Regent Road | Edinburgh | EH1 3DG

**T:** [Redacted] | **M:** [Redacted] | **Email:** [Redacted]@gov.scot

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You may already be aware that the details and timings of this meeting have changed, for the benefit of the copy list the meeting will now be virtual and will take place 11:30 – 12:30 tomorrow.

FM would like to open up to wider retailers and producers. I have discussed this with David who has pulled together the attendee list and issued invites. David I would be grateful if you could share this list of attendees.

Many thanks,  
[Redacted]

**[Redacted]**  
**Deputy Private Secretary to the First Minister**  
**Office of the First Minister**  
5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG  
**M:** [Redacted]



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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister  
**Sent:** 23 May 2023 14:57  
**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterforGSCEB@gov.scot>; [Redacted] <[Redacted]@gov.scot>  
**Cc:** McPhee D (David) <[Redacted]@gov.scot>; Campbell E (Elisabeth)  
<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>; First Minister <FirstMinister@gov.scot>; Mackintosh E  
(Emily) <[Redacted]@gov.scot>  
**Subject:** RE: FM meeting with Deposit Return Scheme (DRS) stakeholders on 7  
June 2023

Thanks [Redacted].

[Redacted] - can I check whether I can confirm the below slot in diaries? Have the invites to stakeholders issued, and if so could you share a copy please?

Many thanks,

[Redacted]

**[Redacted] (she/her)**  
**Deputy Private Secretary**  
**Office of the First Minister**

5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG | [Redacted]

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 15 May 2023 17:43

**To:** First Minister <FirstMinister@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Cc:** David McPhee <[Redacted]@gov.scot>; Elisabeth Campbell <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>

**Subject:** RE: FM meeting with Deposit Return Scheme (DRS) stakeholders on 7 June 2023

Hi [Redacted]

Thank you for copying us in.

Confirming that we have held this time in Ms Slater's diary on 07 June.

Many thanks and kind regards

**[Redacted]** – Assistant 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: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 30 May 2023 13:36

**To:** First Minister <FirstMinister@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>; McPhee D (David) <[Redacted]@gov.scot>

**Cc:** McAllister C (Colin) <[Redacted]@gov.scot>; Dobson L (Leanne) <[Redacted]@gov.scot>; Corbett GN (Gavin) <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Quinlan K (Kevin) <[Redacted]@gov.scot>

**Subject:** IMMEDIATE: Ministerial Statement: Deposit Return Scheme Update  
EMBARGO UNTIL 14:50

Hi [Redacted]

Thanks for this feedback.

David – grateful if you can update the speech (use the attached version) accordingly and provide a clean version asap, please.

**[Redacted]** - 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 |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister

**Sent:** 30 May 2023 13:32

**To:** Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>

**Cc:** Colin McAllister <[Redacted]@gov.scot>; Leanne Dobson <[Redacted]@gov.scot>; Gavin Corbett <[Redacted]@gov.scot>; Callum McCaig <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** RE: Ministerial Statement: Deposit Return Scheme Update EMBARGO UNTIL 14:50

Hi [Redacted],

FM has stated that the statement looks good. [Redacted]

Many thanks,  
[Redacted]

[Redacted]

**Deputy Private Secretary to the First Minister**  
**Office of the First Minister**

5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG

**M:** [Redacted]



Office of the First Minister of Scotland

**FirstMinister.gov.scot**

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 30 May 2023 11:24

**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterforGSCEB@gov.scot>; DL All Scottish Government Ministers  
<[Redacted]@gov.scot>

**Cc:** Colin McAllister <[Redacted]@gov.scot>; Leanne Dobson  
<[Redacted]@gov.scot>; Gavin Corbett <[Redacted]@gov.scot>; Callum McCaig  
<[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted]  
<[Redacted]@gov.scot>

**Subject:** Ministerial Statement: Deposit Return Scheme Update EMBARGO UNTIL 14:50

Colleagues

Please find attached Ms Slater's Ministerial statement which she will be delivering at 14:50 this afternoon.

**[Redacted]** - 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 |  
Mob: [Redacted] | Email: [MinisterGSCEB@gov.scot](mailto:MinisterGSCEB@gov.scot)

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity

**Sent:** 19 April 2023 18:19

**To:** First Minister <FirstMinister@gov.scot>

**Cc:** Minister for Green Skills, Circular Economy and Biodiversity

<MinisterforGSCEB@gov.scot>; Director of Environment & Forestry

<director.enfor@gov.scot>; Campbell E (Elisabeth) <[Redacted]@gov.scot>;

[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;

[Redacted] <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>;

McAllister C (Colin) <[Redacted]@gov.scot>; Dobson L (Leanne)

<[Redacted]@gov.scot>; McPhee D (David) <[Redacted]@gov.scot>; Huyton H

(Harry) <[Redacted]@gov.scot>; Minister for Green Skills, Circular Economy and

Biodiversity <MinisterforGSCEB@gov.scot>; [Redacted] <[Redacted]@gov.scot>;

[Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>;

zzzCabinet Secretary for Net Zero & Just Transition <CabSecNZJT@gov.scot>

**Subject:** Immediate:: Ministerial Statement: Deposit Return Scheme Update 200423 - Ms Slater

**Importance:** High

Hi [Redacted]

I attach Ms Slater's Ministerial statement – grateful if you can confirm First Minister is content asp, please.

**[Redacted]** - 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 |

Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister

**Sent:** 14 April 2023 12:10

**To:** Minister for Green Skills, Circular Economy and Biodiversity

<MinisterforGSCEB@gov.scot>; Cabinet Secretary for Wellbeing Economy, Fair

Work & Energy <CabSecWEFWE@gov.scot>; [Redacted] <[Redacted]@gov.scot>;

Director of Environment & Forestry <director.enfor@gov.scot>; First Minister

<FirstMinister@gov.scot>; zzzMinister for Small Business, Innovation & Trade

<MinisterSBIT@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and

Islands <CabSecRALRI@gov.scot>; Lord Advocate <[Redacted]@gov.scot>;

Solicitor General <SolicitorGeneral@gov.scot>; Deputy First Minister and Cabinet

Secretary for Finance <DFMCSF@gov.scot>; Cabinet Secretary for Constitution,

External Affairs & Culture <CabSecforCEAC@gov.scot>; zzzCabinet Secretary for

Net Zero & Just Transition <CabSecNZJT@gov.scot>; Cabinet Secretary for Rural

Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>

**Cc:** Permanent Secretary <PermanentSecretary@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; [Redacted] <[Redacted]@gov.scot>; DG Strategy and External Affairs <DGSEA@gov.scot>; DG Economy <DGEconomy@gov.scot>; DG Corporate <dgcorporate@gov.scot>; Quinn M (Michelle) <[Redacted]@gov.scot>; Ford N (Nick) (DirectorSPPD) <[Redacted]@gov.scot>; Bruce A (Andrew) <[Redacted]@gov.scot>; Grisewood A (Aidan) <[Redacted]@gov.scot>; McPhee D (David) <[Redacted]@gov.scot>; Campbell E (Elisabeth) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Solicitor to the Scottish Government <[Redacted]@gov.scot>; Coull AJ (Alison) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Legal Secretariat to the Lord Advocate <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Communications Net Zero & Rural Affairs <CommunicationsNetZeroandRuralAffairs@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>; McAllister C (Colin) <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>; PLU SSI Programme Mailbox <[Redacted]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <[Redacted]@gov.scot>; Page E (Euan) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Crawford E (Ewan) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** RE: OFFICIAL SENSITIVE - COMMERCIAL - Update for FM on DRS

Thanks [Redacted] – FM has now had sight on the response.

His view is that this is, of course, a red herring from the UK Government. Regardless of the changes we make to the scheme, operating different schemes in Scotland and in England is entirely the purpose of devolution. [Redacted].

Thanks,  
[Redacted]

[Redacted]

**Deputy Private Secretary to the First Minister  
Office of the First Minister**

5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG | [Redacted]



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**FirstMinister.gov.scot**  
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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** Minister for Green Skills, Circular Economy and Biodiversity2023

**Sent:** 14 April 2023 09:21

**To:** Cabinet Secretary for Wellbeing Economy, Fair Work & Energy <CabSecWEFWE@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Director of Environment & Forestry <director.enfor@gov.scot>; First Minister <FirstMinister@gov.scot>; Minister for Small Business, Innovation & Trade <MinisterSBIT@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>; Minister for Green Skills, Circular Economy and Biodiversity2023 <MinisterforGSCEB@gov.scot>; Lord Advocate <[Redacted]@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Deputy First Minister and Cabinet Secretary for Finance <DFMCSF@gov.scot>; Cabinet Secretary for Constitution, External Affairs & Culture 2023 <CabSecforCEAC@gov.scot>; Cabinet Secretary for Net Zero & Just Transition <CabSecNZJT@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>

**Cc:** Permanent Secretary <PermanentSecretary@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; DG Strategy and External Affairs <DGSEA@gov.scot>; DG Economy <DGEconomy@gov.scot>; DG Corporate <dgcorporate@gov.scot>; Michelle Quinn <[Redacted]@gov.scot>; Nick Ford <[Redacted]@gov.scot>; Andrew Bruce <[Redacted]@gov.scot>; Aidan Grisewood <[Redacted]@gov.scot>; David McPhee <[Redacted]@gov.scot>; Elisabeth Campbell <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Solicitor to the Scottish Government <[Redacted]@gov.scot>; Alison Coull <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Legal Secretariat to the Lord Advocate <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Communications Net Zero & Rural Affairs <[Redacted]@gov.scot>; Harry Huyton <[Redacted]@gov.scot>; Colin McAllister <[Redacted]@gov.scot>; Callum McCaig <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; David Rogers <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Ewan Crawford <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>

**Subject:** RE: OFFICIAL SENSITIVE - COMMERCIAL - Update for FM on DRS

Morning all

Sharing the attached response from the UKG to Ms McAllan with this wider copy list.

**[Redacted]** - 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 |  
Mob: [Redacted] | Email: MinisterGSCEB@gov.scot

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister

**Sent:** 05 June 2023 18:28

**To:** Minister for Green Skills, Circular Economy and Biodiversity <MinisterforGSCEB@gov.scot>; [Redacted] <[Redacted]@gov.scot>; First Minister <FirstMinister@gov.scot>

**Cc:** zzzCabinet Secretary for Net Zero & Just Transition <CabSecNZJT@gov.scot>; Cabinet Secretary for Constitution, External Affairs & Culture <CabSecforCEAC@gov.scot>; Cabinet Secretary for Rural Affairs, Land Reform and Islands <CabSecRALRI@gov.scot>; zzzMinister for Small Business, Innovation & Trade <MinisterSBIT@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; DG Net Zero <DGNetZero@gov.scot>; Quinlan K (Kevin) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McPhee D (David) <[Redacted]@gov.scot>; Campbell E (Elisabeth) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Corbett GN (Gavin) <[Redacted]@gov.scot>; Glen L (Lauren) <[Redacted]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Coull AJ (Alison) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Carmichael K (Katriona) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; McAllister C (Colin) <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; [Redacted] <[Redacted]@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>; Cabinet Secretary for Wellbeing Economy, Fair Work & Energy <CabSecWEFWE@gov.scot>; [Redacted] <[Redacted]@gov.scot>  
**Subject:** RE: IMMEDIATE - DRS - FM to PM Letter

Colleagues

The First Minister has noted the letter and said that it gives us an idea of the lines the UK Government will deploy making it clear that their partial exemption would allow the scheme to go ahead. However, the point is it that it could not go ahead without putting Scottish businesses at a competitive disadvantage.

Thanks

[Redacted]

**[Redacted]**

**Unit Head, Ministerial Private Office**

**The Scottish Government**

St Andrew's House | Regent Road | Edinburgh | EH1 3DG

**T:** [Redacted] | **M:** [Redacted] | **Email:** [Redacted]@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a



**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** First Minister  
**Sent:** 12 June 2023 17:50  
**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterforGSCEB@gov.scot>  
**Cc:** First Minister <FirstMinister@gov.scot>  
**Subject:** FW: Letter For Attention Of Rebecca Pow MP and Lorna Slater MSP

Afternoon PO,

Although addressed to Ms Slater, I flagged this correspondence to FM, he has noted and has commented that he does think there is some merit in CLS's asks.

FM has commented that if he can, he will try to catch up with Ms Slater to get an update and an overview of the DRS situation ahead of summer recess.

I will not schedule anything formal in the diary for this at this time but wanted to flag for your awareness, it may be the case that you have a written update or response to the attached that you wish to flag to FM in the meantime.

Many thanks,  
[Redacted]

**[Redacted]**  
**Deputy Private Secretary to the First Minister**  
**Office of the First Minister**  
5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG  
**M:** [Redacted]



Office of the First Minister of Scotland  
**FirstMinister.gov.scot**  
Prìomh Mhinistear na h-Alba

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**From:** [Redacted] <[Redacted]@gov.scot> **On Behalf Of** zzzFirst Minister 2021 to 2023  
**Sent:** 05 April 2023 15:19  
**To:** Minister for Green Skills, Circular Economy and Biodiversity  
<MinisterforGSCEB@gov.scot>; zzzCabinet Secretary for Net Zero & Just Transition  
<CabSecNZJT@gov.scot>  
**Cc:** Permanent Secretary <PermanentSecretary@gov.scot>; Director of Environment & Forestry <director.enfor@gov.scot>; DG Net Zero

<DGNetZero@gov.scot>; Quinn M (Michelle) <[Redacted]@gov.scot>; zzzFirst Minister 2021 to 2023 <zzzfirstminister@gov.scot>; McAllister C (Colin) <[Redacted]@gov.scot>; McCaig C (Callum) <[Redacted]@gov.scot>; Huyton H (Harry) <[Redacted]@gov.scot>  
**Subject:** DRS Meeting

PS/ Ms Slater (and relevant others)

FM would like to convene a meeting over the course of next week to discuss DRS. In particular, FM would like to focus the discussion on the various options relating to DRS and the proposed way forward. I should note that FM is especially interested in the exploration of - should a delay to the scheme be agreed upon - whether a milestone point could still be marked around August time nonetheless.

As a starter, I propose timings of 1430 on Tuesday 11<sup>th</sup> April. If possible, the meeting would take place here at Bute House, however, appreciative of the fact that we are in recess and leave plans may impact that, so a virtual meeting could be facilitated as a contingency.

Grateful for confirmation that this is possible and a suggested cast list provided in advance.

Kind regards,  
[Redacted]

**[Redacted]**

**Diary Secretary**

**Office of the First Minister**

5<sup>th</sup> Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG | [Redacted]

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**Correspondence between the First Minister and the Westminster Government  
over the scheme since 28 March 2023 and 16 June 2023:**

Humza Yousaf MSP  
First Minister of Scotland  
St Andrew's House  
Regent Road  
Edinburgh EH13DG

The Rt Hon Therese Coffey MP  
Secretary of State Environment, Food & Rural Affairs  
Seacole Building  
2 Marsham Street  
London  
SW1P 4DF  
T: +44 (0) 3459 335577  
E: [correspondence.section@defra.gov.uk](mailto:correspondence.section@defra.gov.uk) W: [gov.uk/defra](http://gov.uk/defra)

15 May 2023

Dear First Minister,

Thank you for your letter to the Prime Minister of 3 May 2023. As the Secretary of State with responsibility for Deposit Return Schemes, he has asked me to respond on his behalf. I share your ambition to improve the environment, while meeting the needs of consumers and businesses.

Thank you for sending additional information about Scotland's DRS on 28 April, as requested by the Secretary of State for Scotland at the Inter-Ministerial Group for Environment, Food and Rural Affairs on 17 April. Officials are currently processing and reviewing the information sent to Defra and will revert if any further details are required.

The information you have provided will be factored into UK Government's careful and full consideration of Scottish Government's request for an exclusion from the UK Internal Market Act. This includes ensuring we fully understand the impact of your request on intra UK trade, businesses, and consumers.

While we are considering this information, the UK Government cannot commit to a specific deadline, but I assure you that we are working to respond in a timely manner.

Yours sincerely,

Thérèse Coffey MP





10

**DOWNING STREET  
LONDON SW1A 2AA**

21 April 2023

THE PRIME MINISTER

*Dear Nigel,*

Thank you for your letter of 6 April, in response to my previous letter.

I agree that we face major challenges right now - restoring economic stability, gripping inflation, supporting people with their energy bills, strengthening our NHS, combatting climate change, supporting Ukraine and levelling up our country. I reiterated my priorities in our call, and I believe that now is the time for politicians across the UK to work together on tackling those challenges for the people we represent. I believe that is what people in Scotland want to see.

As you know, the UK Government has launched Track-2 of the Carbon Capture Usage and Storage (CCUS) cluster sequencing process and named Acom in Aberdeenshire as one of the leading contenders. The carbon capture sector is a priority for the UK Government, so we are progressing at pace and investing up to £20 billion over the next 20 years to help decarbonise our industries.

The introduction of a Deposit Return Scheme is a challenging and complex piece of work. I understand you have announced a delay to the implementation of the Scottish Government's scheme and are continuing to work with businesses to address their concerns. Once your policy has been finalised, we will be able to fully consider the Scottish Government's UKIM exclusion request. I am committed to working together on solutions which work for businesses and consumers across the UK.

Our officials will take forward plans for a further meeting between myself and the Heads of Devolved Governments Council later this year. I understand the Minister for Intergovernmental Relations is arranging an Inter-ministerial Standing Committee meeting in the coming weeks.

Thank you, once again, for taking the time to write.

Your sincerely,  
Rishi

Humza Yousaf MSP  
First Minister of Scotland

St Andrew 's House, Regent Road, Edinburgh EH1 3DG  
T: 0300 244 4000

Rt. Hon. Rishi Sunak MP Prime Minister  
10 Downing St London SW1A 2AA

03 May 2023

Dear Rishi,

I'm writing to you following our meeting on 24 April. During the meeting you said the UK Government's decision on agreeing an exclusion for Scotland's Deposit Return Scheme (DRS) from the Internal Market Act was delayed as a result of the Scottish Government's lack of response to correspondence from the UK Government.

I have confirmed with my officials that no such correspondence was received by us. I would be grateful if you can confirm this is also your understanding.

At the inter-ministerial group meeting on 17 April the Secretary of State for Scotland verbally requested further information about Scotland's DRS that duplicates much of the detailed work and conclusions already completed under the Resources and Waste Common Framework.

Nonetheless, the Scottish Government continues to engage in good faith to secure an exclusion and my officials provided this information on 28 April. I trust this will be the final ask of the UK Government in advance of agreeing an exclusion.

For the avoidance of doubt, the details of Scotland's scheme are now final and we will continue to work closely with businesses and partners to ensure that arrangements are in place for the launch on 1 March 2024.

In order to give businesses the clarity they urgently need, and to allow preparations to continue, an agreement on an exclusion from the Internal Market Act is needed by the end of May at the latest. Otherwise the UK Government would be putting the

entire scheme at risk. This is not in anyone's interest, particularly businesses that have already invested millions of pounds preparing for the launch.

## HUMZA YOUSAF

Humza Yousaf MSP  
First Minister of Scotland

St Andrew 's House, Regent Road , Edinburgh EH1 3DG  
T: 0300 244 4000

Rt Hon Rishi Sunak Prime Minister  
10 Downing Street London SW1A2AA

16 May 2023

Dear Rishi,

I want to follow up on my letter of 3 May about the timescales for an exclusion from the Internal Market Act (IMA) for Scotland's Deposit Return Scheme (DRS).

As you know, the Scottish Parliament approved the Deposit and Return Scheme for Scotland Regulations in 2020. Since then, my Government has consistently followed the agreed process in relation to managing the policy difference resulting from the introduction of a DRS in Scotland in advance of the rest of the UK, first raising the need for an exclusion from the IMA in July 2021. There has since been years of dialogue on this matter and although the process had been exhausted, in recent weeks we have responded in good faith to new requests for additional information from the UK Government. We have done so because we are committed not only to the success of our DRS scheme but to its interoperability with and the success of all forthcoming DRS schemes in the UK.

Devolved governments have a legitimate expectation that the UK Government will adhere on a reasonable timescale for the common framework process initiated by your government to manage policy divergence. Whilst there has been positive ongoing engagement between officials from both Governments, for which I am grateful, I am concerned that a decision from the UK Government continues to be delayed.

Put simply unless the UK Government agrees the Scottish Government proposal for an exclusion for DRS from the Internal Market Act by the end of May 2023 Scotland's DRS will collapse. Circularity Scotland Ltd (CSL), the DRS scheme administrator requires certainty on an IMA exclusion by the end of May to avoid a going concern audit qualification which is essential for it to renegotiate with its financiers (banks and large producers) to fund their operating deficit until they go live on 1 March 2024. CSL's Chair and CEO are explicit that without an IMA exclusion from the UK Government by the end of May the company will very rapidly become unviable and it and DRS will need to be wound up.

Apart from being a disaster for the environment, this will have three direct implications for our Governments:

- It will compromise the £300m investment that industry has already committed to the scheme; there are already comments made by businesses about compensation from both the Scottish and UK Governments.
- It will damage the good relationships between our governments and business including some of the largest supermarkets and drinks producers in the UK.
- It will seriously damage the investment climate for finding a scheme administrator for all other UK DRS schemes.
- Whilst committed to inter-operability of schemes across the UK, I should re-iterate that the removal of glass from our DRS would be an unacceptable condition on an IMA exclusion because:
  - Inclusion of the glass is the settled will of the Scottish Parliament after very extensive debate.
  - Glass is now baked into the investment plans and commercial and physical business models for market players (glass is between a quarter to third of project volumes).
  - Of c.40 DRS schemes globally, all but 4 include glass as glass makes the most important contribution to emissions reductions and is the most harmful form of litter.

My understanding is that there are key UK Government meetings on this issue taking place this week. I trust that these will allow for a decision by the end of May which will provide clarity to businesses in Scotland and allow for the delivery of this important and ambitious scheme which will be of benefit to Scotland and to the rest of the UK.

I am copying this letter to the Deputy First Minister, Cabinet Secretary for Net Zero and Just Transition, Cabinet Secretary for Constitution, External Affairs and Culture, Cabinet Secretary for Wellbeing Economy, Fair Work and Energy, Minister for Green Skills, Circular Economy and Biodiversity, the Deputy Prime Minister, the Secretary of State for Environment Food and Rural Affairs, the Secretary of State for the Department for Business and Trade and the Cabinet Secretary and Head of the Civil Service.

I look forward to a positive response

HUMZA YOUSEF

Humza Yousaf MSP  
First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1  
3DG  
T: 0300 244 4000

Rt Hon Rishi Sunak MP  
Prime Minister  
10 Downing Street  
London  
SW1A 2AA

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22 April 2023

Dear Rishi,

I am writing to you regarding Scotland's Deposit Return Scheme (DRS) and to seek your support in finalising an exclusion from the Internal Market Act in line with the process agreed between our governments and by the end of April.

Scotland's DRS will reduce littering, cut emissions and build a more circular economy, ambitions which I know you share in tackling the climate and nature emergencies. Since Scotland's DRS regulations were approved by the Scottish Parliament in 2020, there has been substantial progress with around £300m of private investment made across the country in systems and infrastructure, creating hundreds of new green jobs in the recycling industry ahead of the scheme's launch.

This significant progress has, however, stalled over recent months. This has, unfortunately, largely been driven by the uncertainty that has been created by the ongoing absence of an Internal Market Act (IMA) exclusion. This is despite the Scottish Government consistently seeking an exclusion over the last two years, including a final detailed paper proposing the exclusion that our governments discussed in the Resources and Waste Common Framework on 13 February. Subsequently, we expected the UK Government to confirm a final position on an exclusion at the 17 April meeting of the Inter-Ministerial Group on Environment, Food and Rural Affairs. It was disappointing that this did not happen, and I hope that we can now move on from this and agree an exclusion promptly.

I welcome your commitment in your letter of 21 April to work together on solutions which work for business and consumers. We remain committed to sharing all our lessons learned with UK Government and the other devolved governments to support the roll out of future schemes across the rest of the UK and to the constructive on-going work on interoperability of schemes.

In your letter you said that once our policy is finalised you would be able to fully consider our proposed exclusion. For the avoidance of doubt our DRS policy is final. Recognising that Scotland's DRS regulations and implementation are matters of devolved competence, I trust that the details of our announced measures and our continuing commitment to collaborative working on DRS will enable the UK Government to conclude your considerations positively.

On 18 April, I announced that we will delay the launch of our DRS to 1 March 2024. This gives businesses a full 10 months from now to get ready for launch. On 20 April, Lorna Slater set out to the Scottish Parliament a further package of measures (**Annex A**) to simplify the scheme and to support all businesses to participate. We also set out our continued commitment to the environmental ambition for the scheme, including the inclusion of glass as the most carbon intensive scheme material, and one of the most problematic litter items on our streets and beaches. Including glass increases the estimated economic benefits of the scheme by £300m over 25 years. Investments totalling over £200m have already been made to integrate glass collection into the infrastructure for DRS across Scotland.

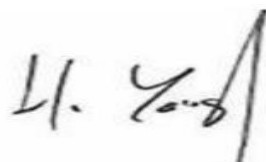
Following our announcements, Lorna Slater and I met with a wide range of producers, retailers and other businesses. They confirmed that they are keen to work with us at speed to resolve all remaining outstanding operation issues by mid summer to enable them to accelerate their preparations for launch by 1 March 2024. They were also clear that the uncertainty created by the absence of an exclusion from the Internal Market Act is undermining this. More broadly, this impacts investor confidence in Scotland's DRS and the UK schemes planned for 2025.

**I would therefore be grateful for your assurance that the UK Government will confirm its intention to agree the exclusion by the end of April** to remove the current uncertainty for business, and that you will move quickly to ensure that the necessary Statutory Instrument is progressed before the start of the UK Parliament summer recess.

In addition to the IMA exclusion, Scottish Government is also working with UK Government on issues related to Trading Standards which are important for producers and retailers.

Businesses need clarity and a consistent approach to deposit pricing across the UK and so we have requested amendments to the 2004 Price Marking Order to state clearly that deposits should not be considered as part of the final selling price. I seek the UK

Government's support in working with us, business and regulators to resolve these critical issues, and would appreciate your support in making this happen.



## **Deposit Return Scheme package of simplification & business support**

On 20 April 2023, the Circular Economy Minister, Lorna Slater, announced (<https://www.gov.scot/news/changes-to-deposit-return-scheme/>) a package of business support for drinks producers and retailers to prepare for and participate in Scotland's Deposit Return Scheme, while ensuring delivery of environmental benefits. The measures simplify and de-risk the scheme and support small businesses and hospitality in particular.

In addition to the new launch date of 1 March 2024, as announced by the First Minister on 18 April 2023, the measures Scottish Government will be taking forward are:

- **exclude drinks containers under 100ml**; this will benefit businesses in the soft drinks, wine and spirits industries who have raised concerns on miniatures, while removing just 0.2% of articles from the scheme.
- **exclude products that sell fewer than 5,000 units per 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. These producers will still need to register with SEPA so they can verify their exclusion.
- **exempt hospitality premises which sell the large majority of their drinks productions 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. Where hospitality businesses also sell a small proportion of drinks to takeaway, we agree it is disproportionate to ask them to operate as a return point given they will 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 business and accessibility for consumers.
- in partnership with Zero Waste Scotland, **simplification of the online application process for retailers to apply for an exemption from operating a return point**, in response to business feedback

- Circularity Scotland, the scheme administrator, will also consider creating a **short- form producer agreement** to help reduce the burden on businesses with limited resource

These measures 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 to the £22m package of support put in place earlier this year by the scheme administrator, Circularity Scotland, to improve cashflow for producers.

The fundamentals of Scotland's DRS are not changing. It 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.

Rt Hon Humza Yousaf MSP  
First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1  
3DG  
T: 0300 244 4000

Rt Hon Rishi Sunak Prime Minister  
10 Downing Street London  
SW1A 2AA

02 June 2023

02 June 2023

Dear Rishi

On Friday 26 May the secretaries of state for DEFRA, LUHC and Scotland wrote to me indicating the UK Government is not prepared to agree a full exclusion from the Internal Market Act for Scotland's Deposit Return Scheme (DRS), and instead insist on the exclusion of glass, among other conditions.

These conditions will have a stark environmental impact and detrimentally impact businesses based in Scotland.

Specifically, the letter sets out that the UK Government is only prepared to agree to a temporary exclusion if we remove glass, agree a UK-wide cap on deposit levels, achieve reconciliation between scheme administrators to ensure fair distribution of payments, have one administration fee per participating company, and agreement of a single common UK logo. The removal of glass fundamentally threatens the viability of Scotland's DRS with reduced revenue for the scheme administrator.



Removing glass will also have a significant impact on business. For example, C&C Group – owners of the iconic Tennent's brand – has been explicit that the decision by the UK Government to remove glass threatens investment and jobs. Other Scottish businesses have raised similar concerns privately with us.

We cannot – and will not – put Scottish businesses at a competitive disadvantage by the UK Government's eleventh hour changes to the range of materials included, impacting Scottish jobs, inward investment and potentially reducing choice for consumers in Scotland.

The UK Government had intended to include glass in the English DRS from 2019 right up until March 2022 – two years after our Regulations were passed by the Scottish Parliament, and we planned our scheme on this basis. As late as January 2023, the UK Government confirmed that it was for devolved governments to decide the scope of their DRS. The Welsh Government's stated intention has been to include glass in their DRS, meaning that it is the English scheme which is out of step with the design of other UK schemes.

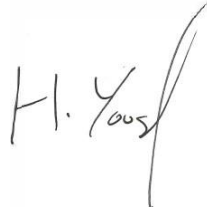
In relation to interoperability, we have already been working with your officials to ensure alignment and we agree in principle that this is desirable. The conditions imposed by your letter of 26 May, however, are so lacking in detail as to make this requirement effectively impossible to meet. The reality is that your scheme is at such an early stage of development that you are unable to provide the operational details required to allow the schemes to be interoperable. Businesses need certainty and they need it now – not in two years' time when the UK Government scheme potentially, hopefully launches. The UK Government has significantly undermined the clarity and certainty that businesses unanimously tell us they need.

Businesses need firm evidence that the UK scheme will actually launch in 2025. There is no UK legislation in place yet or scheme administrator appointed. Until the full design and timescales of your DRS are in place it is unclear what operational detail we are being asked to align with or agree to.

In essence your letter asks the Scottish Government to either remove glass and sign up to a list of unfinalised and vague conditions to allow us to proceed in March 2024 or delay and align with a more limited UK Government scheme that is, frankly, unlikely to proceed in October 2025.

There are much wider consequences of the decision. This UK Government intervention at such a late stage demonstrates a major erosion of the devolution settlement. I urge you to revoke the conditions set out in your letter and grant a full exclusion for Scotland's DRS, to be implemented as per the regulations agreed by the Scottish Parliament in this area of devolved competence. Without this, the Scottish Government is not prepared to put Scottish businesses at a competitive disadvantage due to the last minute demands the UK Government has made. There is little doubt your Government's action have put the future of DRS in grave danger not only in Scotland but also in the rest of the UK due to the damage to consumer and investor confidence.

I would be grateful for a reply by close on Monday 5 June to enable my Cabinet to consider the matter and the Scottish Parliament to be updated thereafter.



**HUMZA YOUSAF**

Copied to:  
Cabinet Secretary for Net Zero and Just Transition  
Minister for Green Skills, Circular Economy and  
Biodiversity Deputy Prime Minister  
Secretary of State for Leveling Up, Housing and  
Communities Secretary of State for Environment, Food  
and Rural Affairs Secretary of State for Business and  
Trade  
Secretary of State for Scotland  
Cabinet Secretary and Head of the  
Civil Service First Minister of Wales



Department for Levelling Up,  
Housing & Communities



**Rt Hon Michael Gove MP**

*Secretary of State for Levelling Up, Housing and  
Communities  
Minister for Intergovernmental Relations*

***Department for Levelling Up, Housing and  
Communities***

2 Marsham Street London, SW1P 4DF

**Rt Hon Alister Jack MP**

*Secretary of State for Scotland*

***Office of the Secretary of State for Scotland***

Dover House Whitehall

London, SW1A 2AU

**Rt Hon Dr Thérèse Coffey MP**

*Secretary of State for Environment, Food and Rural  
Affairs*

***Department for Environment, Food and Rural  
Affairs***

2 Marsham Street London, SW1P 4DF



Department  
for Environment  
Food & Rural Affairs

**Rt Hon Humza Yousaf MSP**

*First Minister  
Scottish Government*

St Andrew's House  
Regents Road  
Edinburgh, EH1 3DG

26 May 2023

Dear First Minister,

Thank you for your recent letters to the Prime Minister of 16 and 23 May requesting an exclusion from the UK Internal Market Act 2020 for the Scottish Government's Deposit Return Scheme (DRS). This letter sets out the Government's response to your request.

We have shared ambitions to increase recycling rates and reduce litter, ensuring resources are protected and kept in use for as long as possible, and waste is minimised. We should continue to work closely together on these shared objectives. It is also essential to cooperate closely to protect our shared market and avoid unnecessary barriers to trade, particularly in the context of the current cost of living pressures. The free flow of trade across the United Kingdom is vital to businesses and consumers, and it is right that the law creates a strong presumption of mutual recognition and non-discrimination across our shared market.

The UK Government notes the widespread and serious concerns expressed by businesses in Scotland about the development of different approaches to DRS across the UK. Consultation with businesses and a rigorous focus on making proposals work for consumers remains essential across the UK. Despite our shared and separate responsibilities for economic growth, we nonetheless recognise that the implementation of this scheme is a matter for the Scottish Government and we have considered your request with respect to its impact on the UK internal market as a whole.

The information provided by the Scottish Government to support our decision making estimates that the majority of producers affected by the Scottish Government DRS are based outside Scotland. The proposals you have put forward will impact thousands of businesses in England, Wales and Northern Ireland as well as those based in Scotland. This will be particularly acute for small producers outside of Scotland who may choose to stop selling their products in Scotland. The UK Government also notes the powerful representations made by a broad range of businesses across the UK that interoperability of schemes is critical to avoiding unnecessary barriers to trade. These are significant public interest considerations that must be taken into account alongside the Scottish Government's legitimate objectives in seeking to reduce and manage waste within its area of devolved competence.

Balancing these considerations carefully, the Government is prepared to agree to a temporary exclusion under section 10 of the UK Internal Market Act 2020 to enable the Scottish Government's DRS to launch next year, ahead of schemes planned for the rest of the UK, subject to a number of critical business and consumer safeguards. Specifically this means:

- The temporary exclusion will cover the period from the launch of the Scottish Government DRS until planned schemes are in place in the rest of the UK, at which point there will need to be maximum alignment and interoperability as a safeguard for businesses and consumers;
- Schemes across the UK will need to align on which containers are in scope. The temporary exclusion will enable your existing scheme to go ahead next year, covering PET plastic, aluminium, and steel cans only.
- A condition of this exclusion is that a maximum cap on deposit levels will have to be agreed with the rest of the UK before the Scottish scheme launches to ensure maximum interoperability and ease of use for consumers.

We are agreeing to this temporary exclusion in good faith and on the assumption that we will work together to ensure our schemes operate seamlessly to ensure a solution that works for businesses and consumers across the UK. To provide the necessary safeguards to avoid creating trade barriers across the UK, this means that the permanent, interoperable solution must ensure:

- Containers in scope are consistent across all schemes, with materials covering PET plastic, aluminium, and steel cans only;
- Processes are in place for collections and refunds of scheme items sold and returned in any part of the UK, with scheme administrators reconciling to ensure fair distribution of payments;
- Processes are in place to minimise the registration and reporting burden for producers, including only one administration fee required per participating company, and producers not required to join multiple schemes separately; and
- One marking (e.g. barcode) for use throughout all parts of the UK, and a single common UK logo, recognisable across all systems;

We recognise that you sought to include glass within your scheme, which would have created a potentially permanent divergence from the schemes planned for England and Northern Ireland. The UK Government notes the strong representations made by relevant businesses, including distillers and the hospitality sector, about the impact on trade and in particular consumer choice created by permanently different arrangements on glass within the UK internal market. Our view is that this type of permanent divergence would be a very significant step for businesses and consumers, and there is insufficient justification for such an approach.

We hope that this decision provides you with the clarity that you sought, and we of course stand ready to discuss these issues further if that would be helpful. I am also copying this letter to the Deputy First Minister and the Minister for Green Skills in the Scottish Government.



**Rt Hon Michael Gove MP**  
*Secretary of State for Levelling  
Up, Housing and Communities  
Minister for Intergovernmental  
Relations*



**Rt Hon Alister Jack MP**  
*Secretary of State for  
Scotland*



**Rt Hon Dr Thérèse  
Coffey MP** *Secretary of  
State for Environment,  
Food and Rural Affairs*



Department  
for Environment  
Food & Rural Affairs

**The Rt Hon Therese Coffey MP**  
**Secretary of State Environment, Food & Rural Affairs**

Seacole Building 2 Marsham Street London  
SW1P4DF

T: +44 (0) 3459 335577

E: [correspondence.section@defra.gov.uk](mailto:correspondence.section@defra.gov.uk) W: [gov.uk/defra](http://gov.uk/defra)

Rt Hon Humza Yousaf MSP

First Minister of Scotland  
St Andrew's House  
Regent Road  
Edinburgh  
EH13DG

Our ref: PO2023/09972/JM

24<sup>th</sup> May 2023

Dear First Minister,

Thank you for your letters to the Prime Minister of 16 and 23 May 2023, following up on the Scottish Government's request for an exclusion from the UK Internal Market Act for your Deposit Return Scheme (DRS). The Prime Minister asked me to respond on his behalf as the Secretary of State with responsibility for this policy area.

I want to assure you that we are continuing to carefully consider your exclusion request and will continue to engage with your officials on ensuring DRSs work for consumers and businesses across the UK.

We will come back to you with next steps

shortly. Yours sincerely,

*Therese Coffey*

Humza Yousaf MSP  
First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1  
3DG  
T: 0300 244 4000

Rt Hon Rishi Sunak Prime Minister  
10 Downing Street London  
SW1A 2AA

23<sup>rd</sup> May 2023

Dear Rishi,

Further to my letter to you on 16 May regarding the timescales of an Internal Market Act (IMA) exclusion for Scotland's Deposit Return Scheme (DRS), I am seeking further urgent clarity on this issue.

I understand that policy divergence is one of your concerns and you have previously raised with me the issue of glass being within scope of the DRS. Removing glass at this late stage of the scheme would not only compromise the scheme as a whole but risk investment already made which has been estimated by business to be over £300m, and would put future schemes at risk. Even just considering the investments made preparing for inclusion of glass in the scheme, Circularity Scotland (CSL) has already invested at least £21 million in capital expenditure costs and it is estimated that businesses have already invested around £45 million specifically to deal with glass and millions more have been committed.

The environmental benefits of including glass are significant. Glass is one of the most common items to pollute our beaches and public spaces - with litter causing most concern, particularly among parents and pet owners, due to its potential to cause injury. Forty five out of 51 DRS schemes worldwide include glass as this is the best way to raise glass recycling levels. In the case of Scotland, this will be from 63% to a regulated 90% collection rate (by the end of year two). More than a quarter of all the containers due to be included in Scotland's DRS will comprise of glass. Capturing 90% of the glass bottles in the scope of the scheme would enable Scotland to recycle nearly 626 million glass bottles each year, saving around 1.3 million tonnes of CO2 equivalent over 25 years - which is over 30% of the total emissions savings of the scheme.

I attach a copy of the correspondence received from David Harris, Chief Executive Officer at CSL who has raised serious concerns on the implications of excluding glass. CSL assess that removing glass now will reduce their income by 25%. Conversely glass-related costs are largely sunk and will need to be recovered by increasing costs for producers of cans and plastic bottled drinks by about 50%. Those non-glass producers will face a double competitive disadvantage compared with those selling glass bottled drinks: (i) pay up to 50% higher producer fees; and (ii) having to charge 20p deposit on each container. In addition, removing glass could result in compensation claims for costs in preparing for DRS. Finally, the removal of glass further incentivises switching to using the least eco-friendly material in the scheme, glass. PET and aluminium are easily, efficiently and cheaply transported and recycled compared with glass.

The Scottish Government has been following the agreed and published process for excluding DRS from the Internal Market Act and it has been the subject of discussion with the UK Government for nearly two years. It is imperative that we obtain a full IMA exclusion as we have sought over that lengthy period, as soon as possible, to enable CSL to continue to operate. My Circular Economy Minister wrote to the Secretary of State for Environment, Food and Rural on 19 May on this issue and a copy of the correspondence is attached.

The UK Government would be putting the entire scheme, and other schemes across the UK, at risk by excluding glass at this late stage. This is not in anyone's interest, particularly businesses that have already invested millions of pounds preparing for the launch on 1 March 2024.

I urge you to consider the concerns raised by CSL and provide an exclusion for Scotland's DRS by the end of May to give businesses the certainty they need.



**HUMZA YOUSAF**



Department  
for Environment  
Food & Rural Affairs



**Rt Hon Michael Gove MP**

*Secretary of State for Levelling Up, Housing and Communities*  
*Minister for Intergovernmental Relations*

***Department for Levelling Up, Housing and Communities***

2 Marsham Street London, SW1P 4DF

**Rt Hon Alister Jack MP**

*Secretary of State for Scotland*

***Office of the Secretary of State for Scotland***

Dover House Whitehall  
London, SW1A 2AU

**Rt Hon Dr Thérèse Coffey MP**

*Secretary of State for Environment, Food and Rural Affairs*

***Department for Environment, Food and Rural Affairs***

2 Marsham Street London, SW1P 4DF

**Rt Hon Humza Yousaf MSP**

*First Minister*

Scottish Government  
St Andrew's House  
Regents Road  
Edinburgh, EH1 3DG

5 June 2023

Dear Humza,

Thank you for your letter to the Prime Minister of 2 June, we are responding on his behalf.

As set out in our letter of 26 May, we have carefully considered the information received from the Scottish Government, as well as wide ranging representations from industry and consumer groups in reaching our decision to agree to a limited exclusion from the UK Internal Market Act. This decision is the best way of ensuring simplicity and interoperability, as has been widely called for by businesses in Scotland and those affected across the UK. The limited exclusion provides a practical solution to proceed with the Scottish Government's scheme, balanced with the need to uphold the UK's Internal Market, ensuring a level playing field for all British businesses and consumers as we maximise the benefits of aligned schemes across the UK in the future.



Whilst you described your letter to the Prime Minister as a 72 hour “effective ultimatum”, our view is that it is better for us to work together sensibly to ensure the rollout of deposit return schemes across the UK is as effective as possible.

In your letter of 2 June you note that Scottish businesses may face a competitive disadvantage due to the exclusion of glass from the scheme. Interoperability of schemes across the whole UK ensures all manufacturers, whether in Clydebank, Carlisle, Cardiff, or Carrickfergus, have the same access to sell their products across the UK internal market. The exclusion of glass also ensures consumer choice is not restricted in Scotland, given the risk that differences in scope would have led to some producers choosing not to supply Scotland through online or physical sales. As we have granted a UKIM exclusion, there is nothing to prevent you from proceeding with your own scheme next March, on the basis that it would form part of a UK- wide solution to protect our shared market and increase recycling from 2025.

As you know, the schemes planned for introduction in England, Wales, and Northern Ireland are due to rollout from October 2025. As set out in our consultation response, this is a stretching, but achievable, target date and we will continue to work with industry to assess the feasibility of this date.

Government officials will continue to work with their counterparts from the devolved administrations, including Scottish Government officials, to achieve our shared ambitions to increase recycling across the whole of the UK. We stand ready to continue our engagement to support your scheme launching next year, ahead of a UK-wide solution the following year, in line with the ask from businesses for consistency in all parts of the country.

I am copying this letter to the Deputy First Minister and the Minister for Green Skills in the Scottish Government.

**With every good wish,**



**Rt Hon Michael Gove MP**  
*Secretary of State for  
Levelling Up, Housing and  
Communities  
Minister for  
Intergovernmental Relations*



**Rt Hon Alister Jack MP**  
*Secretary of State for  
Scotland*



**Rt Hon Dr Thérèse Coffey  
MP** *Secretary of State for  
Environment, Food and  
Rural Affairs*

**Correspondence between the Minister for Green Skills, Circular Economy and Biodiversity and the Westminster Government over the scheme since 28 March 2023 and 16 June 2023:**

Minister for Green Skills, Circular Economy and Biodiversity  
Lorna Slater MSP

T: 0300 244 4000  
E: scottish.ministers@gov.scot

**Rt Hon Michael Gove MP**  
*Secretary of State for Levelling Up,  
Housing and Communities  
Minister for Intergovernmental Relations*

**Rt Hon Alister Jack MP**  
*Secretary of State for Scotland*

**Rt Hon Dr Thérèse Coffey MP**  
*Secretary of State for Environment, Food and Rural Affairs*

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27 May 2023

Dear Secretaries of State for DEFRA, Scotland and Levelling Up

Thank you for copying me into your letter of 26 May. It is most disappointing that this arrived with the First Minister at 9.45pm on a Friday evening while press reports covering its contents had been running for over 12 hours.

Your letter sets out a response to the First Minister's letters of 16 and 23 May on the Internal Market Act exclusion for Scotland's Deposit Return Scheme (DRS), although, of course, we have been engaging on that exclusion since July 2021, following the common frameworks process in good faith over that time.

I am deeply disappointed that you have not agreed to a full Internal Market Act exclusion for Scotland's DRS: the DRS for which the Scottish Parliament voted.

There are a number of issues around inter-operability on which I will ask my officials to engage with you further. My initial response today focuses on your decision to take glass out of the Scottish scheme.

We have provided a significant amount of evidence around the inclusion of glass in

the scheme. This showed:

- In line with international experience, DRS is the best way to increase the levels of glass recycling, which are currently stuck at 63%, up to 90%.
- There is a net benefit (NPV) in the inclusion of glass in the Scottish DRS of around

£310 million over 25 years.

- The inclusion of glass will save around 1.3 million tonnes of CO2 equivalent over 25 years – this is over 30% of the total emissions savings of the scheme.
- 85% of the public in Scotland support the inclusion of glass in the DRS. Environmental groups also strongly support the inclusion of glass.
- Glass is one of the most common items to pollute our beaches and public spaces and the litter item that causes most concern - particularly among parents and pet owners - because of its potential to cause injury.

Indeed, the UK Government's own 2021 analysis of deposit return schemes across the UK showed that the social and economic benefits of reduced litter and emissions saved are increased by 64% when glass is included (from £3.6bn to £5.9bn).

The UK government proposed the inclusion of glass in the consultation on the UK-wide deposit return scheme and we proceeded with the understanding that all nations of UK would include glass. As recently as January this year, in your own DRS consultation response, you acknowledged that the Welsh scheme would include glass and that it is the responsibility of each nation of the UK to decide the scope of its own DRS. Therefore, it is incredibly unhelpful that you are changing the goalposts at this late stage.

Worldwide DRSs are proven to be best way to drive up glass recycling rates to around 90%. That is why all but 6 of the 51 DRSs worldwide include glass (and those that do not, such as the Netherlands, have long established separate glass bottle return arrangements).

So, in light of what seems to me to be compelling evidence for a DRS which includes glass – environmentally, socially and economically – I am at a loss to understand your decision which stands in stark contrast to that evidence. Global best practice includes glass. Within the UK, both Scotland and Wales want to include glass. And, in a scheme which engages individual consumer behaviour, public opinion supports inclusion of glass.

It is also incredibly unhelpful to have eleventh hour demands placed on us when we have been in discussion with you about our DRS scheme for almost two years. That is why I am so disappointed that you are seeking to remove our ability

to include glass in this scheme and therefore our ability to realise these benefits.

As above I will ensure that my officials engage in further detail with your officials on matters of alignment and seek clarity if and when the UK Government progresses its commitment to implement a deposit return scheme.

I remain committed to the benefits of a DRS, but now need to fully consider the implications of your decision and discuss these with businesses and delivery partners before deciding how to proceed. Your demands not only undermine devolution but present a severe challenge to the viability of Scotland's DRS.

Alternatively, given the evidence I have cited above there is still an opportunity for the UK Government to immediately reverse its decision and enable Scotland to pave the way for the all-in DRS scheme including glass. All the evidence says that this is the right course of action.

Kind regards



**LORNA SLATER**

Minister for Green Skills, Circular Economy and Biodiversity  
Lorna Slater MSP

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

The Rt Hon Thérèse Coffey MP  
Secretary of State for Environment, Food and Rural Affairs  
Seacole Building 2 Marsham Street London  
SW1P 4DF  
United Kingdom

19 May 2023

Dear Thérèse

Further to the letter the First Minister sent the Prime Minister on the 16 May, I understand the UK Government's concerns for market alignment and interoperability across the nations of the UK. As you will be aware Scottish Government officials continue to work very closely with DEFRA and other UKG officials and I am confident there is a very high level of interoperability. Furthermore, Scotland's deposit return scheme (DRS) will work with all the major UK wide

producers and suppliers and thus will also provide a real world test bed for other UK schemes.

The main area of divergence is glass which England proposes to exclude and Wales to include. After extensive debate the Scottish Parliament voted in 2020 to include glass as it is the material with the strongest environment benefits (with DRS driving up glass recycling rates from c.63% to 90%), is the more problematic litter and avoids market distortion between packaging types.

I understand that the UK Government is now considering an exclusion from the UK Internal Market Act (IMA) which would mean that Scotland's DRS would be operable for metal and PET plastic containers but not glass. You will know that UK Government officials requested further information which I have appended at Annex A setting out the multiple disadvantages of not including glass in Scotland's DRS at this very late stage. In summary:

- Removing glass at this stage would likely compromise the scheme as a whole, would compromise the viability of CSL and would put future DRS Schemes at risk.
- The scheme in Scotland failing would result in around £300m of wasted investment across producers and retailers.
- CSL have already invested at least £21m in capital expenditure costs in preparation for handling glass. It is estimated that businesses have already invested around £45m to deal with glass and millions more have been committed. This expenditure is wasted if glass is removed.
- Removing glass will reduce CSL's income by 25% but conversely glass related costs are largely sunk and will need to be recovered by increasing costs for remaining producers of cans and plastic bottled drinks by 50%
- Remaining producers will face a double competitive disadvantage compared with those selling glass bottled drinks: (i) pay higher producer fees; and (ii) having to charge 20p deposit on each container.
- Removing glass could result in compensation claims for costs in preparing for DRS.
- The removal of glass further incentivises the use of the least eco-friendly material in the scheme, glass. PET and aluminium are easily, efficiently and cheaply transported and recycled compared with glass.

I believe this policy divergence between the nations on glass is manageable. I draw your attention to your own government's [response to its DRS consultation](#) (20 January 2023) which notes:

- *Since waste management is a devolved policy area, it is the responsibility of each nation of the UK to decide the scope of its own DRS in a way that fits its policy needs; and*

- *Welsh Government is therefore progressing with the option as set out in the consultation to introduce an all-in DRS in Wales which includes polyethylene terephthalate plastic, steel and aluminium cans, and glass bottles*

Arrangements for this policy divergence are also discussed in that document:

- *Before the DRS commences, glass bottles which will be included in the DRS in Wales once the scheme goes live will be covered by the disposal cost obligations under Extended Producer Responsibility, making this consistent with the requirements for glass bottles in England and Northern Ireland. When the DRS in Wales goes live, glass drinks bottles in Wales will be exempt from disposal cost payments*

Including glass has already been tested in national and sub-national schemes across the world. Of the 51 countries or territories operating deposit return schemes, 45 include glass. I can commit that the officials in the Scottish Government will continue to work very closely with the UK and devolved governments and will do an early impact assessment of the inclusion of glass to inform the design of other UK schemes.

I would welcome an urgent, discussion with you on the above in light of the criticality of securing an exemption for Scotland's DRS by the end of May to avert the collapse of Circularity Scotland Limited, Scotland's DRS and the ensuing damage to further DRS schemes across the UK.

I have copied in the First Minister of Wales given that a UK government decision to effectively prohibit the inclusion of glass in Scotland's scheme would have direct implications for their plans. I have also copied in the Prime Minister, Deputy Prime Minister and relevant Secretaries of State.

Kind regards



LORNA SLATER

Copied to:  
First Minister  
Cabinet Secretary for Net Zero and Just  
Transition Prime Minister  
Deputy Prime Minister  
Secretary of State for Business  
and Trade Secretary of State for  
Scotland  
Cabinet Secretary and Head of the  
Civil Service First Minister of Wales

## Annex A

### Summary

#### *Context*

- Waste management is a devolved policy area and it is the responsibility of each nation of the UK to decide the scope of its own Deposit Return Scheme (DRS) in a way that fits its policy needs, as stated by the UK Government in [Introducing a Deposit Return Scheme for drinks containers in England, Wales and Northern Ireland - government response \(publishing.service.gov.uk\)](#).
- Glass has been in the Scottish Scheme since the regulations were introduced in March 2020 and voted through by the Scottish Parliament in May 2020.
- The Welsh Government intends to include glass in its DRS.

#### *Benefits of Including Glass in the DRS Scheme*

- In line with international experience DRS is the best way to drive up glass recycling rates which are stuck at 63% up to 90%.
- There is a net benefit (NPV) in the inclusion of glass in the Scottish DRS of around £310 million over 25 years.
- The inclusion of glass will save around 1.3 million tonnes of CO<sub>2</sub> equivalent over 25 years. This is over 30% of the total emissions savings of the scheme.
- 85% of the public in Scotland support the inclusion of glass in the DRS. Environmental groups also strongly support the inclusion of glass.
- Glass is one of the most common items to pollute our beaches and public spaces and the litter items that causes most concern - particularly among parents and pet owners - because of its potential to cause injury.

#### *Challenges with Removing Glass at this late stage*

- As glass makes up more than 25% of all containers in the scheme, its inclusion will play an important part in changing behaviour and increasing capture rates.
- Removing glass from the scheme may have been viable at the outset but glass is now baked into business models and committed investment.
- The removal of glass further incentivises the use of the least eco-friendly material in the scheme, glass. PET and aluminium are easily, efficiently and cheaply transported and recycled compared with glass.

- Removing glass now will significantly impact the financial viability of the scheme. Our assessment is that if glass is removed there is a material risk that Circularity Scotland (CSL) will be unable to deliver effectively in this scenario.
- Removing glass will reduce CSL's income by 25% but conversely glass related costs are largely sunk and will need to be recovered by increasing costs for remaining producers of cans and plastic bottled drinks by 50%.
- Remaining producers will face a double competitive disadvantage compared with those selling glass bottled drinks: (i) pay higher producer fees; and (ii) having to charge 20p deposit on each container.
- Producers have been adamant that they want a level playing field and there is a very significant risk that a late exclusion of glass (even temporary) will unravel the consensus and confidence essential for the scheme to work.
- Producers with sales volumes of more than 10m units have contractually committed to provide CSL with interim loans to allow them to stay financially viable between now and the new go live date. With the elimination of glass, the financial contractual commitment of those producers drops by more than 20% and will be irreplaceable commercially.
- [Redacted]
- The removal of glass will put the whole scheme at risk which would result in around

[Redacted]

- [Redacted]
- DRS will create hundreds of jobs across Scotland – in retailers, in reverse vending machines (RVM) service centres and at CSL. A material number of these jobs will be cancelled if glass is removed.
- [Redacted]

## **Contents**

1. Scheme Viability if Glass is Removed
2. Sunk Costs
3. Impact of the Removal of Glass on Business
4. Compensation
5. Benefits of Including Glass
6. Consensus of Stakeholders



## 7. Impact on the Drinks Market

## 8. Material Switching

## 9. Additional Information

### 1. Scheme Viability if Glass is Removed

- Producers with sales volumes of more than 10m units have contractually committed to provide CSL with interim loans to allow them to stay financially viable between now and the new go live date. With the elimination of glass, the financial contractual commitment of those producers drops by more than 20%.
- Our assessment is that CSL may not receive sufficient loans from those producers to meet its financial commitments up to go live. There is a material risk that they will be unable to deliver effectively in this scenario.
- CSL's income will drop by about 25% (£19m) as a result of the loss of revenue from unredeemed deposits and the reduction in the sale of material.
- There are limited opportunities to reduce operating costs, since very little of CSL's operation is solely dedicated to the management of glass.
- CSL are already having to renegotiate financing. The removal of glass from the scheme at this late stage will make this negotiation tougher and may compromise the ability to obtain appropriate finance.

### 2. Sunk Costs

- [Redacted]
- CSL have spent millions of pounds on the development of system and process functionality

– some of that is dedicated to the management of glass. That sunk cost will have to be borne by producers selling metal and plastic containers, and we do not expect them to accept that situation lightly.

- Many retailers who have chosen to operate automatic return points have purchased RVMs with the functionality to collect glass. We estimate the committed expenditure associated with handling glass, and the additional container volume associated with glass, is at least

£45m.

### 3. Impact of the Removal of Glass from DRS at this stage

- Most producers have already built the previous value into their pricing forecasts (the majority will pass it through to customers) and it is to be expected that this increase will also be passed on.

- The cancellation of this investment will destroy industry's confidence in investing in any deposit return scheme in the UK.
- Of the hundreds of jobs CSL and its suppliers will create, more than 100 will no longer be required (these are mainly for drivers and operatives, and CSL have already announced in the press the intent to create some of these roles)

### *Impact on Other Businesses*

- [Redacted]
- [Redacted]
- More broadly, producers have already spent or committed investment in preparing for DRS (through labels, changes to plant/process and changes to product mix) – that investment will be wasted.
- Many hospitality providers have begun preparation for the transition to DRS by giving notice to their waste collectors and making changes to their premises to allow secure storage of DRS materials. Much of those changes will need to be reversed, with time and cost implications.
- Note also that the benefit of free collections of scheme materials will now largely be withdrawn, given the high volume of glass sold through the hospitality sector.
- Many providers of RVMs have established offices and service centres in Scotland and are recruiting more than a hundred staff. Some of that recruitment will be cancelled as a result of the removal of glass and its associated volume reduction.

#### 4. [Redacted]

- [Redacted]
- [Redacted]
- [Redacted]

#### 5. Benefits of Including Glass

### *Emissions*

- The Strategic Environmental Assessment Addendum<sup>1</sup> we published in December 2021 shows that glass will account for 1.3 MtCO<sub>2</sub>e carbon savings over 25 years, this is almost 32% of the total carbon savings the scheme.<sup>2</sup>

- Glass drinks bottles that are included in Scotland's Deposit Return Scheme represent an estimated 696 million containers that reach the Scottish market each year. This is more than a quarter of all the containers due to be included in the scheme.

### *Litter*

- In Scotland glass accounts for 9% of litter stream by weight and is therefore DRS is an appropriate mechanism to address littering of glass.
- Glass is one of the most common items to pollute our beaches and public spaces. It's also one of the litter items that causes most concern - particularly among parents and pet owners - because of its potential to cause injury.
- Broken glass poses a real hazard to local authority, private sector and voluntary clean-up crews and can contribute disproportionately to other litter-related damage, such as punctures.
- £46m of public money is spent every year removing litter and fly tipping from the Scottish environment.

### *Recycling Rate*

- Capturing 90% of the glass bottles in the scope of the scheme would enable Scotland to recycle nearly 626 million glass bottles each year.
- We do not believe an enhanced kerbside scheme could deliver the level or rate of improvement that we will see through DRS.
- Packaging recycling rates have stalled, including for glass which is currently at around 63%, and is not expected to rise above 64% recycling rate by 2043 without intervention.<sup>3</sup>
- Scotland's DRS should deliver at least an 90% collection rate for glass by the second full year of operation at the latest.
- The current Extended Producer Responsibility (EPR) system is not driving improvement and EPR is unlikely to deliver the same increase in the quantity of material that will be realised through DRS, and that progress would be much slower.
- EPR will not involve the same consumer participation incentives as DRS and is unlikely to fully address the challenges associated with contamination of material captured through kerbside.
- The quality of DRS glass is higher (food grade, no contamination) and wastage is lower (no crushing), so wastage through colour sorting is much lower, reducing waste at transfer points.

## *Economic Benefit*

- The DRS business case estimates that the inclusion of glass in the DRS increases the net present value (NPV) of DRS by £310 million over 25 years compared to excluding glass.<sup>4</sup> The total NPV of the scheme is estimated to be £615 million over 25 years.
- CSL's financial model is predicated on the sale of the returned containers to recycling companies. By removing over 25% of the available material it is likely to endanger the scheme's financial viability through a substantial reduction in CSL's revenue by unredeemed deposits and when so many preparations are made already.

## 6. Consensus of Stakeholders

- There is broad public support for the inclusion of glass in the DRS in Scotland. An August 2019 survey published by Zero Waste Scotland demonstrated strong public support (85%) for the inclusion of glass.
- A number of environmental groups support the inclusion of glass in DRS and have criticised the UK Government's decision to exclude glass from their DRS.
- Kat Jones, director of the Association for the Protection of Rural Scotland, which has led the campaign for the introduction of deposit return in Scotland, said: "It's time for Rishi Sunak to end the uncertainty and bring glass into the English deposit system, in line with an explicit Conservative manifesto promise. [18 May 2023]"
- Allison Ogden-Newton, chief executive of Keep Britain Tidy, said: "England urgently needs a deposit return scheme that includes glass. [18 May 2023]"
- The Association for the Protection of Rural Scotland: "Westminster's intention to exclude glass from the English system is a backward step... We urge the UK Government to follow Scotland's lead and to keep up with Wales by committing to deposit return for glass as well as cans and plastic bottles." [20 Jan 2023]"
- Greenpeace: "In what kind of world is collecting glass drinks containers not an essential part of a system designed to collect drinks containers?" [20 Jan 2023]"
- A poll of over 2000 adults has shown that the overwhelming majority of UK consumers want glass to be incorporated within all UK DRSs.<sup>5</sup>

## 7. Impact on the Drinks Market

- We would expect there to be potentially significant implications of excluding glass from our scheme it would mean some producers will not only be attaching a 20p deposit to their product (which may make it less desirable for a consumer when faced with a choice between that and a similar product in glass

that wouldn't have the 20p attached) but they would also be liable to pay for a handling fees on their products that the similar glass products would not.

- The removal of glass will place a disproportionate competitive disadvantage on many brewers and bottlers based in Scotland. Tennent Caledonian Breweries produce millions of cans of beer and other alcoholic drinks from their facility in Scotland. Hundreds of craft brewers based in Scotland use cans for their products because of the availability of outsourced canning capability in the UK. The predominantly imported glass-bottled competitor products will not face the additional cost of the handling fees, nor will consumers be required to pay the deposit, and so Scottish-based drinks producers using cans are likely to see sales drop as a result.
- While there will be an impact on any sales of products made using materials which are currently in scope of DRS, this impact is justified by the various environmental benefits that DRS will achieve (as set above). These various environmental benefits outweigh any possible impacts on the sales of these products. If glass is removed from DRS, then the amount of environmental benefits achieved by it are reduced and this potentially affect the justification for DRS with the materials remaining in it.

#### *Wider Recycling Organisations*

- According to UK Government figures in 2019, there were 2.6m tonnes of glass packaging waste generated across the UK.
- We estimate that Scotland's Deposit Return Scheme will collect 170,000 tonnes of glass annually, which is only a small portion of this total figure.

#### 8. Material Switching

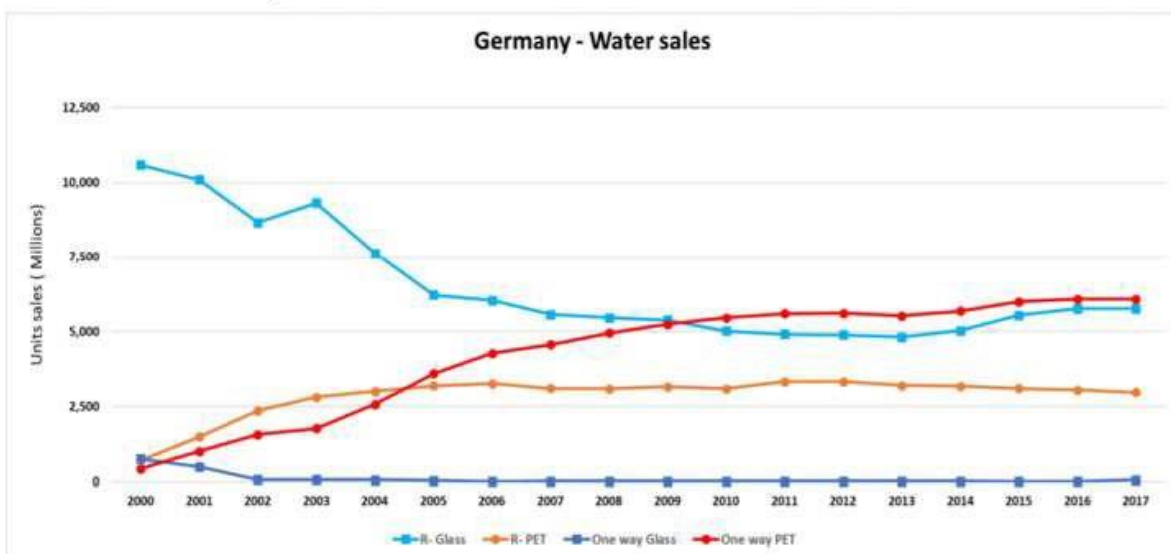
- Including glass within the same scheme as PET plastic and aluminium is expected to minimise the risk of market distortion by material switching.
- If glass is excluded from the DRS, we expect many producers to move their packaging from metal or plastic to glass, to avoid the requirements of the scheme. Those decisions will gradually reduce the effectiveness and efficiency of Scotland's DRS.
- The removal of glass further incentivises the use of the least eco-friendly material in the scheme, glass. PET and aluminium are easily, efficiently and cheaply transported and recycled compared with glass.
- Feve (The European Container Glass Federation) commissioned a [report by Oakdene Hollins](#) (published in October 2018). In terms of the market share of packaging it states:

“Figure [1] shows the market share of the water sales in Germany by packaging format. This shows that the market share of one-way glass dropped significantly pre- 2003, before the one-way DRS was implemented. Originally retailers were only obliged to take back their own containers and this led to the so called ‘island solution’ in which retailers, especially the discounters, were heavily selective on the containers they would stock. This suggests that it is in the glass manufacturers’ interest to support the development of an effective glass collection scheme, since mandatory collection systems can affect market share.”

- N.B. This is only looking at water sales and in Germany the retailer owns the material it collects and keeps the money for selling them on. Also, as the text above states retailers only had to take back containers they sold (not something we are suggesting), so they had more reason not to sell glass.

Figure 1:

Germany – bottled water sales between 2000 and 2017.



Source: Produced by Oakdene Hollins using data from Global Data

## 9. Additional Information

### Inclusion of glass is standard practice in DRS

- The inclusion of glass in other Deposit Return Schemes is normal, of the 51 countries or territories currently operating deposit return schemes, 45 include glass.
- We are pleased that Wales will also include glass in their scheme.
- Not including glass in the scheme will result in a narrower scheme in England and runs counter to the Conservative’s own manifesto.
- 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's response to its consultation on deposit return scheme for England, Wales and Northern Ireland states "it is the responsibility of each nation of the UK to decide the scope of its own DRS in a way that fits its policy needs".<sup>6</sup> [Introducing a Deposit Return Scheme for drinks containers in England, Wales and Northern Ireland - government response \(publishing.service.gov.uk\)](#) -

#### *Scotland's DRS has been designed and built to include glass*

- We recognise that the costs of operating the scheme are higher when including glass, however the benefits of operating the scheme with glass are greater.
- The Environment, Climate Change and Land Reform (ECCLR) Committee report on the draft Deposit and Return Scheme for Scotland Regulations 2020 recognised that it would be difficult and more expensive to phase in glass at a later point.
- The ECCLR Committee report also stated that the scheme 'should be as comprehensive as possible' which is advice which we have followed.
- Circularity Scotland and their primary logistics partner, Biffa, have included glass in all their planning. For example, the machinery and sites required to process glass have been acquired, along with the personnel to operate them.
- Retailers who have decided to use RVMs have also already purchased units designed to process glass, as well as PET plastic and metal.
- Delaying or removing the inclusion of glass at launch would potentially result in financial liability on the basis of assurances that glass will be included in DRS.
- Including glass brings whole sectors of industry (e.g. wine, spirits) into the scope of DRS which makes the scheme further reaching and inclusive.

#### *DRS will take pressure off of Local Authority Waste Services*

- DRS 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.
- £46m of public money is spent every year removing litter and fly tipping from the Scottish environment.
- We are supporting local authorities to prepare for the introduction of the scheme and our £70m Recycling Improvement Fund<sup>7</sup> is delivering one of the biggest investments in recycling in Scotland in a generation.
- Many deposit return schemes in Europe operate alongside kerbside

collections including Germany and Croatia.

- Local authorities have a regulatory requirement to collect and carry dry recyclable waste, including glass. There is a derogation from the requirement for separate collections for glass, and co-mingling is acceptable under certain conditions.
- Overall the DRS with glass included is expected to lead to a NPV benefit of £173 million for local authorities over 25 years. While we would not necessarily expect this saving to be passed directly onto households, we expect that councils would be able to provide additional services (for example, new recycling collections) with no associated rise in council tax.
- Plans that local authorities have for the ceasing or substantial reduction of kerbside collection will have to be reversed. That will sustain the poor collection rate of around 63% for glass, and do nothing to address the blight of glass litter in Scotland.

#### *European Commission Guidance*

- When developing the DRS Regulation, we took into consideration the Commission guidance on setting up deposit return schemes.<sup>8</sup>
- The guidance addresses the issue of determining which types of materials to cover in a scheme and says:

*“Member States must ensure that there is no discrimination between those products that are exempt and those that are subject to the deposit requirement and that any differentiation is based on objective criteria. Therefore the Commission is of the opinion that the differentiation should in principle be based on the material used for the containers and not on the content of the beverages, for reasons that the content in itself is not related to the environmental performance of the packaging”.*

- Accordingly, decisions about the materials to be included in DRS were made taking into account the environmental impacts and benefits.

#### *Welsh Government Intends to Include Glass in its DRS*

- In the response to the DRS consultation for England, Wales and NI it is stated<sup>9</sup>: *“Welsh Government is therefore progressing with the option as set out in the consultation to introduce an all-in DRS in Wales which includes polyethylene terephthalate plastic, steel and aluminium cans, and glass bottles.”*

#### *Demand for Glass*



- A report at the beginning of 2019 indicated that glass remains in high demand, with glass shortages being experienced in the market due to unprecedented growth in sectors such as gin but also notably a switch by brand owners from plastic to glass<sup>10</sup>. This is backed up by figures reported by FEVE (Federation of European Manufacturers of Glass) which reported a 1% increase in volume and unit number in the first half of 2018, reflecting a continued upward trend dating back to 2012. Between 2012-2017, production increased by almost 1.7 million tonnes (8.3% increase) or 6.4 billion units (8.9% increase).
- Generally, all food and beverage market segments experienced a demand growth for glass, and the outlook is also very positive for the flaconnage sector for perfumery, cosmetics and pharmacy.
- The positive market dynamic for glass reflects an increasing consumer engagement with environmental causes. Due to the level of media and political attention on “marine littering”, not only plastics but all packaging materials have come under the spotlight, and consumers are more and more attentive to the way products are packed. In fact, this can drive product choice: Friends of Glass research revealed that 73% of Europeans rate glass as the most ocean-friendly packaging, 78% rank it amongst top packaging choices when buying their food and beverage products, and 1 in 2 consumers say they use more glass than three years ago<sup>11</sup>.

#### *Additional Considerations*

- The challenge of educating consumers about the scheme and supporting their required behaviour change is already significant with the implementation of Scotland’s DRS ahead of any other in the UK. The removal of glass will add to that challenge and could be expected to lead to lower overall return rates.
- Hundreds of retailers and other return points have been granted exemptions on the basis of the health and safety risks associated with handling glass. Those exemptions will have to be reversed, adding cost to the scheme and creating a new group of stakeholders unhappy with the scheme.
- A recent report by the British Retail Consortium (BRC)<sup>12</sup> made the statement that glass returns at ‘corner shops’ are seen by the public as the quintessential DRS and there may be increased confusion by consumers if glass is not included. It also suggested that including glass offers the most potential for increasing footfall as the quintessential container return model.

Minister for Green Skills, Circular Economy and Biodiversity  
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23 May 2023

Dear Thérèse

Scotland's Deposit Return Scheme – Internal Market Act Exclusion

I appreciated the opportunity to exchange views about matters of shared interest in yesterday's DEFRA Inter- Ministerial Group meeting.

In his letter of 16 May to the Prime Minister, the First Minister made clear that reaching a positive decision on an IMA exclusion by the end of May is critically important in order to provide clarity for businesses and consumers and to ensure that the scheme remains viable.

I must take issue with several statements made by the Secretary of State for Scotland relating to Scotland's Deposit Return Scheme during the meeting. The facts are these:

- The Scottish Government has followed at all times the process agreed between the four administrations to secure an exclusion through the Resources and Waste Common Framework – this was acknowledged to me directly by your ministerial colleague Rebecca Pow MP on 6 March. Far from being late to the matter, the Scottish Government has been pursuing an IMA exclusion since July 2021, and had proposed that our exclusion in respect of single use plastics (SUP) be widened to cover DRS, a proposal which was unilaterally rejected by UK Ministers.
- My letter of 9 December 2021 and George Eustice's reply clearly do not represent a "formal request": they would not, as no such requirement exists as part of the exclusions process. The UK Government is committed to securing IMA exclusions through the agreed frameworks process, in line with the assurances offered by Ministers in both Houses of Parliament in December 2020, and in the Written Ministerial Statement of December 2021.
- The four UK governments were collaborating effectively on Common

Frameworks to manage by agreement post-EU regulatory divergence and market impact before the Internal Market Bill was introduced: the Act radically undermines their ability to do that as intended. But this does not mean that Act should override the work of common frameworks, and the agreed exclusion process offers a model for doing so. Mr Jack's assertion that he is still waiting for more information is at odds with the requirements of the exclusions process: all relevant evidence has been provided through that mechanism.

- The IMA does not simply replicate in a UK setting the principles and operation of European Single Market in the EU/EEA. The European Single Market applies the broad legal principles of mutual recognition and non-discrimination in a measured and proportionate way, and protects member states' autonomy with clear grounds for derogation in the Treaties and in EU case law. The IMA replaces this with unworkably rigid statutory requirements that automatically apply in almost every case, that are entirely lacking in any proportionality principle, and that offer no protection for the powers of the devolved institutions. The Scottish and Welsh Governments warned in 2020 that the result of the IMA would be not just an undermining of devolution but confusion and uncertainty for businesses and consumers, which is exactly what we have seen in the case of DRS.

You are aware that an Internal Market exclusion is a critical factor in the delivery of Scotland's Deposit Return Scheme: without an exclusion many millions of pounds of investment is at risk. This would come as a hugely damaging blow to industry and retailers who have invested so much in the scheme and is likely to have longer term impact on industry engagement with schemes in other parts of the UK. The Scottish Government is confident that we have followed the exclusions process at all times, and can demonstrate that we have done so, and I would be grateful for your assistance in expediting this issue to a conclusion.

Given the scope of my comments above I am copying this to Michael Gove, Alister Jack, Mick Antoniw, Julie James, and Angus Robertson.

In the interests of clarity, the Scottish Government will also be adding the letters mentioned above to the correspondence already published on our website on 28 February. The most cursory inspection of this correspondence will make clear that the Secretary of State for Scotland's comments are without foundation.

Kind regards

A handwritten signature in dark ink, appearing to read 'Lorna Slater'. The signature is written in a cursive, flowing style.

LORNA SLATER

Minister for Green Skills, Circular Economy  
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Lorna Slater MSP

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Rt Hon Dr Thérèse Coffey MP  
Secretary of State for Environment, Food and  
Rural Affairs

Rt Hon Rebecca Pow MP  
Parliamentary Under Secretary of State (Minister  
for Environmental Quality and Resilience)

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6 June 2023

Dear Secretary of State for Environment, Food and Rural Affairs and  
Minister for Environmental Quality and Resilience

As set out in the First Minister's letter to the Prime Minister on Friday 2<sup>nd</sup> June and my letter to you on Saturday 27<sup>th</sup> May, we are extremely disappointed that UKG has not agreed to a full exclusion from the Internal Market Act for Scotland's Deposit Return Scheme (DRS). The Scottish Government engaged in this process in good faith with the expectation that Scotland's devolved powers would be respected. I continue to believe that this is the wrong decision for the Scottish DRS, for future DRS across the UK and ultimately for the environment.

I have also previously made it clear that I believe that the UK Government has often acted in way which is contrary to good collaboration in relation to the DRS Internal Market exclusion.

I recognise, however, that you have made and now re-iterated your decision on IMA and however disappointing I believe that to be, I am determined to continue to work collaboratively to share experience and explore what that means for the scope, timing and terms of our Scottish DRS. I do not doubt that we share recognition of the significant benefits to our environment and the quality of our neighbourhoods that are at stake.

As the First Minister set out in his letter of 2 June, the Scottish Deposit Return Scheme in Scotland is in genuine jeopardy due to the decision not to provide a full exclusion. The removal of glass is a significant risk to the scheme. However, for present purposes I wish to highlight the wider uncertainty around interoperability

conditions and the challenge they pose for the delivery of a Scottish Scheme.

The number one request from businesses is to have certainty to allow them to plan and prepare for the scheme. I am sure you will appreciate that it is impossible to provide that certainty to business if we are required to align to other UK schemes that are not yet defined could be subject to multiple changes before they go live.

However, I want to continue to do all that we can to try and provide businesses with the certainty they need to allow us to develop our DRS plans and benefit from increased recycling and reduced litter. If the UK Government does genuinely wish Scotland to act as a “pilot” for the UK scheme from March 2024, as has been suggested in some media, you will, I am sure, recognise the need to provide us with operational certainty on issues around interoperability.

I am aware officials have ramped up the engagement on interoperability in recent days. However, I believe that a ministerial level meeting on Wednesday morning would be hugely helpful to understand what confidence you can give me around putting in place a process to work through the interoperability conditions in a collaborative way.

In particular, I would like to discuss whether it would be possible in a very short timescale to agree:

- The approach to a maximum deposit level which would avoid an increased risk of fraud while also avoiding the need for our scheme administrator and businesses to adjust their business models significantly when the England, Wales and Northern Ireland schemes launch;
- The size threshold for items in the scheme – noting that we have recently announced a move to 100ml as the minimum size of container, providing evidence as to why this is a sensible approach, while parts of the UK are suggesting 150ml as the minimum;
- The approach to low volume sales given that we have worked hard with the sector to identify an approach which maximises scheme articles while also minimising the impact on small producers (i.e. setting the low volume threshold at 5,000 units per annum); and
- What is meant by the requirement for businesses to only register once for the scheme and the practical implications of this, given that only one Scheme Administrator currently exists.

I would also welcome a discussion on other ongoing issues such as issues related to trading standards rules, which businesses need to be able to prepare for a March 2024 launch and have noted that they would need this at least 6 months

before launch.

If there is a genuine will to see Scotland as a pathfinder in developing DRS in the UK, I know that you will appreciate that the norm would be for the that pathfinder to then inform subsequent schemes based on experience, evaluation and shared learning. Above all the way that schemes evolve would be based on agreement. That is very different from embarking on a scheme and then finding the ground rules changed and imposed on it after the scheme is up and running, forcing Scottish businesses to comply with a totally different set of regulations, unconnected to the evidence gathered by the Scottish scheme itself. If there is a will to take the former approach then I believe that the detailed work that we have carried out could be valuable throughout the UK. But I would need very firm assurances on that, as you will recognise.

I am sure that there are further issues that might emerge as we seek to work through all the implications of alignment and interoperability. Just as important as the specific details is also agreeing a process by which we can share experience and crucially agree alignment in a collaborative way.

There is prize on offer here. DRS is a proven way of improving our environment. There is, even at this critical moment, an opportunity to build on the considerable experience we have developed in Scotland, to provide businesses with the certainty they need, and to deliver the scheme with due heed to the regulations approved by the Scottish Parliament, which can in turn be springboard for DRS across the UK.

I will make myself available at any point tomorrow morning to have this discussion. I look forward to your response.

Kind regards



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8 June 2023

Dear Minister Slater,

Thank you for your letter on 6 June 2023 regarding the Scottish Deposit Return Scheme and your request for a meeting to discuss how we can collaboratively work to ensure interoperability and alignment between deposit return schemes across the UK.

I note that yesterday afternoon, you announced that the Scottish Government will be delaying the launch of your deposit return scheme until the rest of the UK launches their scheme.

I welcome the announcement and your commitment to interoperability. I look forward to working collaboratively with you, and Ministers from the other devolved administrations, on a UK-wide deposit return solution.

I propose we meet next week, on 15:15-15:45 Wednesday 14 June, to discuss further, including how we ensure there is alignment and interoperability as a safeguard for businesses and consumers, and to uphold the UK's internal market.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca Pow', is centered below the text.

**REBECCA POW**