

The exceptions applied in this instance are:

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 confidential information on the development of any given policy.

In addition, some of the 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'.

Annex A

FUTURE OF SCOTLAND'S DRS

- We are now going to have to look very seriously at where this leaves the viability of the Scottish scheme and talk further to businesses, delivery partners and other organisations over the coming days and weeks. I met with retailers and producers this morning to listen to their views and that will continue.
- Industry has said above all else they need certainty, that is what Scottish Government is working to establish and which the UKG has undermined.
- The Scottish Parliament legislated to create a deposit return scheme in May 2020.
- Any changes to the scheme in relation to glass would need to be approved by the Scottish Parliament.

UNDERMINING DEVOLUTION

- The UK government's decision undermines the right of this parliament to pass and deliver regulations in clearly devolved areas.
- The Scottish Parliament approved the Deposit and Return Scheme for Scotland Regulations in 2020 – before the introduction of the Internal Market Act.
- The Regulations are wholly within devolved competence.
- The problem at the heart of this issue is the UK Government's hugely damaging Internal Market Act.
- The Internal Market Act radically undermines the powers of the Scottish Parliament, which is why this Parliament voted to withhold consent to it in 2020.

GLASS

Benefits of including glass

- Glass is one of the three main materials used to make single-use drinks containers and accounts for more than a quarter of all the containers due to be included in our Deposit Return Scheme.
- To put that into context, the Scottish DRS will include up to 600 million glass bottles that reach the Scottish market each year.
- Of the 51 territories and countries operating deposit return schemes, 45 include glass.
- The UK Government's own analysis of deposit return schemes across the UK showed that the social benefits of reduced litter, emissions saved and to the economy are increased by 64% when glass is included (from £3.6bn to £5.9bn).

Consequences of removing glass

- Removing glass means taking out up to 600 million bottles that would have been collected by the scheme, despite businesses in Scotland having invested millions of pounds in preparation to include them.
- Many of these bottles will unnecessarily end up as broken glass on our streets, our parks and our beaches.
- Glass is one of the most common items to pollute our beaches and broken glass poses a hazard to the public and wildlife.

- It also poses a threat to local authority, private sector and voluntary clean-up crews. Including it in DRS will help reduce the amount of littered glass.

[Redacted]

Support for including glass

- A number of environmental groups support the inclusion of glass in DRS and criticised the UKG's decision to exclude glass from their DRS.
- The Association for the Protection of Rural Scotland: **[QUOTE]** *"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: **[QUOTE]** *"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]

POLICY DEVELOPMENT/INTERACTION WITH UKG TIMELINE

- The UK government proposed the inclusion of glass in their 2019 consultation on the UK wide deposit return scheme therefore we proceeded with the understanding that all nations of UK would include glass.
- The Scottish Parliament legislated to create a deposit return scheme in May 2020.
- The UK Internal Market Act passed in December 2020 and did not receive consent from the Scottish or Welsh parliaments.
- The Scottish Government has engaged with the UK Government on securing an exclusion from the Internal Market Act since July 2021 and has followed the agreed process which UK Ministers have publicly acknowledged.
- In January this year, in their own consultation response, the UK government confirmed:
 - the Welsh scheme would include glass
 - the English scheme would not include glass
 - it is the responsibility of each nation of the UK to decide the scope of its own DRS.

UKG PLANS FOR DRS

- The UK Government's plans for a deposit return scheme is due to launch in October 2025.
- However, unlike most schemes worldwide, the English scheme excludes glass, which means they will miss out on many of the environmental benefits of the scheme.
- Even Conservative MPs agree that glass should be included in DRS with Philip Hollobone MP saying **[QUOTE]**: *"The omission of glass represents a real and serious threat to the effectiveness with which a DRS in England and Northern Ireland can realistically be delivered... represents the direct betrayal of a promise made by the Conservative Party to voters at the last general election."*
- Our scheme is ready to go, there is simply no need to wait for the UK Government to catch up.

- We have always said we will work closely with the UK and devolved governments to maximise interoperability of the schemes when they go live (such as already not requiring Scottish specific barcodes).
- We hope that the UK government will, over time, follow us and Wales and reconsider its decision to exclude glass.
- As it stands, however, the terms of the letter received on 26 May means that for as long as England excludes glass so does Scotland

COMPENSATION

- Given the 11th hour decision made by the UK late last Friday we are now exploring a number of options for ways forward.
- We are grateful to all businesses for the investment they have made in preparing for DRS and we remain committed to realising the benefits of a successful Deposit Return Scheme.
- We are looking very seriously at where this leaves the viability of the Scottish scheme and talking to businesses, delivery partners and other organisations over the coming days and weeks.
- We will provide a further update to parliament as soon as possible.

[Redacted]

INDUSTRY REACTION

Scottish Wholesale Association:

- *“The Scottish Wholesale Association welcome the news that the UK Government have agreed to a conditional IMA exemption. We see this as a positive move in the delivery of a successful Scottish DRS next year and its' future expansion UK wide...we have argued for several years that a UK wide approach made more sense and that including glass increased costs and complexity. Glass inclusion is currently the main difference between the Scottish and English schemes, so it represents a major change. This move will be particularly welcomed by licensed wholesalers who are wine and spirits importers and treated as producers under DRS regulations.”*

Tennent's and other Scottish businesses have said they support the introduction of a UK wide DRS but, if there is a Scotland only DRS, it must include glass.

- I take the views from business very seriously and I met industry stakeholders this morning again.
- I completely understand their need for certainty, which is what UKG has so badly damaged.
- That is why in my statement I challenged the UK Government to show its workings.
- Including glass in DRS does not just make environmental sense – it increases the economic benefits too.

Engagement with industry

- We are now looking very seriously at where this leaves the viability of the Scottish scheme and talking to businesses, delivery partners and other organisations over the coming days and weeks. I met with a range of businesses earlier today and will be continuing to do so.
- Officials have also been engaging with industry stakeholders and delivery partners over the weekend

English producers stopping selling products in Scotland

- It is a commercial decision for individual businesses whether they wish to participate in this important environmental scheme by selling products in the Scottish market.
- Scotland is the first nation in the UK introducing a DRS, so this is the new reality for producers, it's the right thing to do, and I encourage them to embrace it.
- More than 670 producers responsible for more than 2 billion drinks containers have already signed up with Circularity Scotland – this represents the full range of drink producers from global brands to small craft breweries and distilleries and means 95% of the annual total volume of products are already registered for the scheme.

GATEWAY REVIEWS

- There have been a series of independent Gateway Reviews undertaken throughout the design of the Deposit Return Scheme, with the most recent carried out in March.
- The Scottish Government is considering carefully the recommendations from this review, and will share these and its response with the Net Zero, Energy and Transport Committee soon and in light of the significant 11th hour changes by the UKG.
- Gateway Review teams normally speak with 12-15 interviewees including relevant commercial and external stakeholders (e.g. prime contractors and consultants).
- For the latest review, reviewers spoke to 45 people which included CSL, a range of producers, retailers, wholesaler, hospitality representatives, SEPA, Zero Waste Scotland and Scottish Government.