

**Partial Business and Regulatory
Impact Assessment (BRIA)**

Circular Economy Bill Proposals

November 2019



Scottish Government
Riaghaltas na h-Alba
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Title of Proposal: Circular Economy Bill

The circular economy bill proposes primary legislation supporting innovative approaches to reducing, reusing and recycling materials and helping to deal with items that cause environmental harm¹.

This partial Business and Regulatory Impact Assessment (BRIA) is published in conjunction with a Scottish Government consultation² which runs from 7 November to 19 December 2019. Responses to the consultation will help to inform the policy process.

The powers proposed for inclusion in the circular economy bill are primary (enabling) powers. Secondary legislation will be used subsequently to enact the policies detailed in the circular economy bill. Secondary legislation individual Business and Regulatory Impact Assessments and public consultation will be undertaken for each specific policy.

Background

In September 2019, the Scottish Government committed to a circular economy bill that would advance Scotland's ambitions for the circular economy through measures which will encourage reuse of products and reduce waste. The bill will also tackle our reliance on single-use items that are proven to cause environmental harm.

Prior to the 2019/20 Programme for Government³ announcement, The Scottish Government published, *Making Things Last: A Circular Economy Strategy for Scotland*⁴ in 2016. This overarching strategy integrated the key elements of the *Zero Waste Plan*⁵ and *Safeguarding Scotland's Resources*⁶ and built on Scotland's zero waste and resource efficiency agendas for:

- The environment – cutting waste and carbon emissions and reducing reliance on scarce resources;
- The economy – cutting waste and carbon emissions and reducing reliance on scarce resources; and
- Communities – more, lower cost options to access the goods we need with opportunities for social enterprise.

The Expert Panel⁷ on Environmental Charges and Other Measures was formed in May 2018. Its remit is to advise Scottish Ministers on charges or other measures which may be adopted in Scotland, within devolved competence, with the goal of encouraging the long-term and sustainable changes in consumer and producer behaviour required to move towards a circular economy. In July 2019 the Expert Panel set out its recommendations to tackle the dependence on, and environmental

¹ [Programme for Government 2019/20](#)

² [Delivering Scotland's circular economy consultation](#)

³ [Programme for Government 2019/20](#)

⁴ [Making Things Last](#)

⁵ [Zero Waste Plan](#)

⁶ [Safeguarding Scotland's Resources](#)

⁷ [Expert Panel](#)

impact of, single-use disposable beverage cups in Scotland⁸. The circular economy bill will enable Scottish Ministers to introduce charges on the provision of items, such as single-use disposable items, which are deemed unnecessary or can be replaced with sustainable alternatives, are problematic to recycle or harmful to the environment. These primary powers will allow Scottish Ministers to take forward recommendations made by the Expert Panel and also have an additional policy lever for future use.

The *Food Waste Reduction Action Plan*⁹ published in 2019 details measures that can work to deliver the commitment to reduce food waste by 33% by 2025. Four areas are identified as core in reaching the target:

- Improved monitoring and infrastructure
- Sector leadership
- Public engagement and communication
- Supporting delivery of a new approach to food waste

We propose that the circular economy bill will provide powers to Scottish Ministers to tackle food waste by enabling mandatory public reporting requirements.

Rationale for Government Intervention

The Scottish Government's circular economy objectives can be summarised as:

- Reducing waste
- Reducing litter
- Reducing carbon and resource footprint
- Increasing recycling rates and quality of recycle
- Maximising economic opportunities

Our work directly links to the UN Sustainable Development Goal 12: Ensure sustainable consumption and production patterns. Creating sustainable growth is a key part of the Scottish Government's Purpose and the circular economy particularly contributes to the Environment and Economy outcomes under the National Performance Framework. Progress is measured through the carbon footprint and waste generated indicators.¹⁰

Resource use and waste generation are recognised as key sources of greenhouse gas generation and the Scottish Government reports on progress against both territorial and consumption emissions.

On 31 October the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 received Royal Assent. Building on the Climate Change (Scotland) Act 2009, the 2019 Act sets a new target for net-zero emissions of all greenhouse gases by 2045. The act also sets new interim reduction targets of all greenhouse gases in 2020 (56%), 2030 (75%) and 2040 (90%). Implementing the policies proposed for the circular economy bill will contribute to delivering the net-zero emissions target.

⁸ [Expert Panel Recommendation](#)

⁹ [Food Waste Action Plan](#)

¹⁰ <https://nationalperformance.gov.scot/>.

In May 2018 the European Commission approved the Circular Economy Package¹¹ legislation which aims to move economies towards adopting more circular approaches was approved. In March 2019 the European Commission adopted the Circular Economy Action Plan¹². The action plan includes a balanced mix of voluntary initiatives and regulatory actions along production, consumption, waste management and secondary raw materials. It also identifies five priority sectors: plastics, food waste, biomass and bio-based products, critical raw materials and construction and demolition.

Consultation

Consultation within Government

The circular economy bill has been developed by the Scottish Government. A wide range of directorates within the Scottish Government, agencies and non-departmental public bodies have been consulted during the development of the bill, including:

- Economy Directorate
- Environment and Forestry Directorate
- Rural and Environmental Science and Analytical Services
- Scottish Environment Protection Agency
- Zero Waste Scotland

Public Consultation

The public consultation will last for 6 weeks and run between 7 November and 19 December 2019.

Proposed measures for the circular economy bill

Environmental charging

We propose that the bill will allow Scottish Ministers to introduce a charge for the provision of items. Scottish Ministers will be able to use these proposed enabling powers to introduce charges on the provision of items, such as single-use disposable items, which are deemed unnecessary or can be replaced with sustainable alternatives, are problematic to recycle or harmful to the environment.

In line with the recommendations of the Expert Panel on Environmental Charges and Other Measures, Scottish Ministers intend that the first items to which the charge will be applied are single-use drinks cups.

Any secondary legislation flowing from these powers will be accompanied by partial and full Business and Regulatory Impact Assessments (BRIAs) which will assess the impacts on business and consumers.

¹¹ [EU Circular Economy package](#)

¹² [EU Circular Economy Action Plan](#)

Mandatory reporting of waste and unwanted surplus

We propose that the bill will enable Scottish Ministers to mandate public reporting of waste and surplus (for items which would be specified through secondary legislation). Food and textiles are two priority areas under initial consideration.

At the point of specifying items through secondary legislation, partial and full BRIAs will be undertaken which will assess any costs of public reporting, particularly on business, and costs associated with enforcement. Definitions of which materials could fall within scope of mandatory reporting will be developed as well as consideration of any potential minimum threshold.

Strengthening approach to household recycling collection services

Within the context of the circular economy bill, we are considering the value of a move away from the voluntary approach to Scotland's Household Recycling Charter towards a more mandated approach, by enabling the Scottish Ministers to place further requirements on local authorities regarding household collection services. The intention is that such an approach would help increase the rate and quality of recycling and the provision of more consistent collections across the country. We are also interested in whether existing obligations on householders are sufficient to encourage engagement in recycling.

Any power in the bill would be an enabling power and secondary legislation would be required to bring any changes into force. This would follow consultation with local authorities, the Convention of Scottish Local Authorities (COSLA) and other relevant parties. Partial and full BRIAs will be completed in line with development of any secondary legislation, and these will assess the impacts accordingly.

Improved enforcement powers

We propose a power to enable the relevant Scottish authorities to seize vehicles suspected of waste crime. The intention is to ensure similar legislative provisions exist in Scotland to match those in England and Wales.

We also propose a new enabling power that will allow a fixed penalty notice to be issued to the registered keeper of a vehicle when a littering offence has been committed from that vehicle. This will both increase the deterrent effect and the options available to enforcement officers in tackling roadside littering.

Secondary legislation will be required in order to allow Scottish Ministers to implement the fixed penalty regime. At that stage, partial and final BRIAs will be undertaken which will assess the benefits that vehicle seizure could bring by deterring waste crime and the costs, including those to enforcement agencies, of enforcing a new regime. Full and partial BRIAs will also be undertaken to assess the benefits that a fixed penalty could bring by deterring littering behaviour, and any costs, including to local authorities, of enforcing a new regime.

Proposed Secondary Legislation

Increase the single use carrier bag charge to 10p

The current 5p charge on single use carrier bags will be increased to 10p using existing secondary regulations. The policy intention is that the higher charge will continue to motivate behaviour change and further reduce the use of single use carrier bags. A full BRIA, which will assess the impact of increasing the charge, will be published alongside regulations when laid in Parliament.

Require public bodies in Procurement Strategies to describe how they are supporting the circular economy

This provision is to ensure that public procurement maximises its contribution to addressing the global climate emergency. Public bodies already have a duty to consider in carrying out procurement how they will improve the economic, social and environmental wellbeing of their areas of responsibility. This provision requires public bodies to consider in carrying out procurements how to deliver against wider climate and circular economy obligations. The main impact of this provision will be on the balance that is struck in each procurement between, amongst other things, the quality and commercial aspects of a bid and climate and circular economy related benefits. A full BRIA will be published alongside regulations when laid in Parliament.

Declaration and Publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: 

Date: 31 October 2019

Minister's name: Roseanna Cunningham

Minister's title: Cabinet Secretary for the Environment, Climate Change and Land Reform



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