

Consultation response

The Deposit and Return Scheme for Scotland
Regulations 2020: accompanying statement and
proposed regulations

October 2019



Introduction

The Law Society of Scotland is the professional body for around 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Environmental Law sub-committee welcomes the opportunity to consider and respond to the Environment, Climate Change and Land Reform Committee's inquiry on *The Deposit and Return Scheme for Scotland Regulations 2020: accompanying statement and proposed regulations*¹. We have the following comments to put forward for consideration.

Consultation questions

1. Scope (materials) – the types of container proposed to be covered and excluded and any specific issues.

The Law Society of Scotland supports the principles underlying a deposit return scheme (DRS). However, in order to ensure continuity, we are of the view that such a scheme should be introduced as part of a wider UK-wide extended producer responsibility (EPR) reform and not as a stand-alone Scottish measure dealing with some packaging only.

2. Scope (retailers) – implications of the scheme applying to all retailers selling single-use drinks containers, including online retailers, and exclusion of businesses such as pubs and restaurant that sell drinks for on-site consumption.

We are keen to ensure that the practical implications of any online return system are carefully considered.

¹ <https://consult.gov.scot/environment-forestry/deposit-scheme-for-scotland/> and <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/112956.aspx>

3. Costs and operational impacts – costs anticipated for your business, service or sector and the appropriateness of the proposed financing model (that the scheme will be funded via unredeemed deposits, revenue from the sale of materials and a producer fee).

We have the following concerns regarding the potential costs and operational impacts:

- (a) assuming the DRS proceeds as a stand-alone measures, how will cross-border operations be dealt with – i.e. containers brought into Scotland from elsewhere and vice versa? It would be prudent for there to be liaison between the UK and Scottish Governments in relation to the DRS to be introduced in England which is currently going through the consultation process;
- (b) DRS will directly compete, in respect of included containers, with the existing recycling collection systems in place in Scotland. Has consideration been given to how the two systems will interact? We note that systems in other countries may be helpful in exploring this dynamic further.
- (c) the removal of the included containers from the recycling streams which are collection by local authorities will have a significant impact on the value of their collected material. Has the impact, from both a costs and operational perspective been factored into local authority budgets following the introduction of DRS?
- (d) has consideration been given to whether there is sufficient reprocessing infrastructure within Scotland for the volumes of included materials expected to avoid them having to be dealt with further afield (which would reduce the positive environmental impact of the scheme)?

4. Environmental impacts – whether the proposed scheme will have the desired impact on increasing recycling rates and reducing littering, and how that impact can be maximised. What key environmental risks need to be considered and mitigated? Will the scheme incentivise producers to change or modify materials/packaging?

We consider that DRS may have a positive environmental impact on littering and recycling in relation to included containers purchased and used ‘on the go’ rather than as part of normal domestic life. However, our view is that a DRS as part of a wider UK EPR regime would have a better and more significant environmental impact overall.

5. Level of deposit – implications and appropriateness of a charge being a uniform 20p.

We support the use of a uniform deposit amount in order to make it as easy as possible for consumers to understand. However, further consideration should be given to how the charge will be apply to multi-packs. The increased cost from a per unit deposit rate could have a negative impact on lower income households. At the same time, we note that multi-packs often generate an additional layer of packaging and an alternative approach to special offers (for example a discount for purchasing a particular number of units rather than buying those units pre-packaged) might also have a positive environmental impact.

6. Consumer and social impacts or risks – accessibility to consumers and what impacts are anticipated on different groups, including those with disabilities, those without private transport, and those living in rural areas.

We have no comment on this question.

7. Local authorities – implications of the proposed scheme for local authorities, including impacts on kerbside collections.

See comments at Q3 above.

8. Timing - implications of the proposed timeframe (a minimum 12-month implementation period from the passing of legislation).

From an overall perspective, see comments at Q1 above. In terms of implementation, we consider that 12 months is a fairly tight timescale for the implementation of DRS, particularly considering that many of the elements of administration will be wholly new to the markets involved.

9. Governance – how the scheme should be administered, and appropriateness of the proposal for scheme administrator that is industry-led, privately owned and operated on a not-for-profit basis.

We agree with the principle of the scheme administrator but consider that further detail is required as to how it will work in practice.

10. Broader waste policy context – will the scheme achieve its intended purpose in isolation, or does its success depend on the performance of broader measures? How should the scheme cooperate with any other proposed schemes in the UK?

See comments at Q1 and Q3 above.

11. Any further issues or views not falling under the above areas.

It would be helpful to clarify that SEPA are not going to consider the storage of the containers 'on site' as storage of waste requiring either a permit or exemption as this could frustrate the objective of the scheme.

For further information, please contact:

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