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## **Net Zero, Energy and Transport Committee**

# **Net Zero, Energy and Transport Committee report on the Deposit and Return Scheme for Scotland Amendment Regulations 2025 and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025**



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# Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport and the Cabinet Secretary for Net Zero and Energy, with the exception of matters relating to just transition; and on matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands.



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# Committee Membership



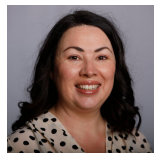
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# Introduction

1. The Deposit and Return Scheme for Scotland Amendment Regulations 2025 [draft] ("the Regulations") and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 [draft] ("the Order") were laid before Parliament on 2 May 2025 and are subject to the affirmative procedure. Both were referred to the Net Zero, Energy and Transport Committee for consideration.
2. It is for the Net Zero, Energy and Transport Committee to recommend to the Scottish Parliament whether the draft instruments should be approved. The Acting Cabinet Secretary for Net Zero and Energy lodged motion [S6M-17469](#) which recommended the Committee approve the draft Regulations and motion [S6M-17470](#) which recommended that the Committee approve the draft Order.
3. The policy note accompanying the Regulations explains that their purpose is to amend the Deposit and Return Scheme for Scotland Regulations 2020 "to alter the full implementation date for Scotland's Deposit Return Scheme ("DRS") to 1 October 2027 and to make other amendments designed to support delivery and operation of a successful DRS, and technical amendments".
4. A DRS would work by charging a small deposit when purchasing a drink in a single-use container. The deposit would be refunded when the empty container is returned. The aims behind a DRS are to increase recycling, reduce litter and meet climate change targets.
5. The Regulations would amend the 2020 Regulations to align them with schemes due to be introduced in England and Northern Ireland on 1 October 2027. The Scottish Government, UK Government and the Department of Agriculture, Environment and Rural Affairs for Northern Ireland (DAERA), have agreed to proceed with DRS on a three-nation basis, with the UK Government setting up the scheme for England. (Wales is continuing to develop a separate scheme that will include glass).
6. The Regulations would amend the 2020 Regulations so that:
  - The launch date is moved from October 2025 to October 2027. (The policy note says this will allow the Scheme Administrator (see below) time "to establish itself as an organisation to run DRS on behalf of industry and to set up the necessary infrastructure it needs to operate DRS, as well as to provide businesses with the information needed to prepare for DRS launch".)
  - Glass single-use drinks containers will no longer be part of the Scottish DRS. (The policy note says the Scottish Government still believes that glass should be included but "is keen to progress with DRS and it is therefore accepted that having a scheme with a more limited scope is better than having no DRS at all".)
  - Groceries retailers with a limited retail space (less than 100m<sup>2</sup>) that are situated in an urban area will be automatically exempt from having to provide a return point. Other groceries retailers can apply for an exemption if there is an alternative return point within reasonable proximity; or if the location, layout, size, design, or construction of the retail premises does not permit, or cannot

reasonably be altered to permit, the operation of a return point.

- Groceries retailers who sell single-use drinks containers online will no longer have to provide a takeback service.
  - The minimum size of "scheme article" (i.e. article to which the DRS applies) has increased from 100ml to 150ml.
7. The policy note for the Order explains that its purpose is to designate a Scheme Administrator to operate the DRS in Scotland and to confer functions on the Scheme Administrator to enable it to operate the DRS.
  8. The Order designates the UK Deposit Management Organisation Limited as the Scheme Administrator for Scotland. The policy note says that the Scottish Ministers made the decision to designate them following an administrative application and assessment process during which the Scottish Ministers worked cooperatively with the Department for Environment Food and Rural Affairs and DAERA .
  9. The functions conferred on the Scheme Administrator include:
    - submitting its operational plan to SEPA by 31 March 2026 for approval,
    - determining the payment to be paid to each return point operator,
    - reviewing return points at such intervals as it considers appropriate.
  10. The policy note states that the functions conferred on the Scheme Administrator “are broadly consistent with those given to the Deposit Management Organisation (DMO) for DRS in England and Northern Ireland”. The DMO for England and Northern Ireland is the equivalent body to the Scheme Administrator in Scotland. The UK Deposit Management Organisation Limited is to be DMO in England and Northern Ireland.

## Previous consideration

11. The laying of these Regulations and the Order follow abortive efforts to set up a Scottish DRS that would have started earlier than DRS in the rest of the UK and would have been in some respects different from the one intended for England. The Scottish Government initially announced the design of a DRS on 8 May 2019 and published draft Regulations on 10 September 2019. These were approved by the Scottish Parliament on 13 May 2020.
12. The initial launch date of the DRS was July 2022. However, the Scottish Government then delayed the scheme's launch to August 2023, citing the Covid-19 pandemic and EU exit as reasons for a 2022 launch being impractical.
13. In April 2023, the launch was delayed again, to March 2024, to allow “for confirmation of the Internal Market Act exclusion, resolution of outstanding operational issues and extensive testing of IT and logistic systems”.
14. In June 2023, the then Minister for Green Skills, Circular Economy and Biodiversity informed the Committee that the UK Government had decided to grant only a temporary and partial exclusion from the UK Internal Market Act 2020, which she

considered made the scheme “unworkable”. The Scottish Government laid Regulations setting a revised launch date of 1 October 2025, matching the UK Government’s planned date for DRS operating across other parts of the UK.

15. A timeline on the progress towards Scotland’s DRS is set out below.

**13 May 2020**

[Deposit and Return Scheme for Scotland Regulations 2020](#) approved by the Scottish Parliament allowing for the proposed DRS to launch on 1 July 2022.

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**15 December 2021**

[Deposit and Return Scheme for Scotland \(Amendment\) Regulations 2022](#) laid in the Scottish Parliament with the purpose of delaying the scheme’s launch until 16 August 2023.

**23 February 2022**

Deposit and Return Scheme for Scotland (Amendment) Regulations 2022 approved by the Scottish Parliament.

**14 March 2023**

NZET Committee [evidence session](#) with the Scottish Government.

**28 March 2023**

NZET Committee [evidence session](#) with senior executives of Circularity Scotland Ltd.

**18 April 2023**

The [Minister for Green Skills, Circular Economy and Biodiversity wrote to the NZET Convener](#) giving details of the Scottish Government’s intention to delay the Scheme’s launch to 1 March 2024 – to allow “for confirmation of the Internal Market Act exclusion, resolution of outstanding operational issues and extensive testing of IT and logistic systems”.

**17 May 2023**

[Deposit and Return Scheme for Scotland \(Amendment\) Regulations 2023](#) laid in the Scottish Parliament to delay the scheme’s launch until 1 March 2024.

**7 June 2023**

The [Minister wrote to the NZET Convener](#) notifying that an exclusion from the Internal Market Act had not been secured in full (the agreed exclusion did not include glass).

**9 June 2023**

The [Minister wrote to the NZET Convener](#) setting out the Scottish Government’s

intention to delay the launch of the Scheme to 2025 – citing issues of interoperability across the UK and securing an exclusion from the Internal Market Act. The letter also set out the Scottish Government’s intention to bring forward further legislation to delay the launch date to 1 October 2025 – following recent discussions with the UK Government.

**13 June 2023**

NZET Committee [evidence session](#) with the Scottish Government.

**28 June 2023**

Deposit and Return Scheme for Scotland (Amendment) Regulations 2023 approved by the Scottish Parliament – delaying the launch of the scheme until 1 March 2024.

**30 June 2023**

[Deposit and Return Scheme for Scotland \(Miscellaneous Amendment\) Regulations 2023](#) laid in Scottish Parliament – to delay the scheme to October 2025 as announced in June by the Scottish Government.

**26 September 2023**

NZET Committee [evidence session](#) with the Scottish Government.

**25 October 2023**

Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 approved by the Scottish Parliament – further delaying the launch of the scheme to October 2025.

**2 May 2025**

[The Deposit and Return Scheme for Scotland Amendment Regulations 2025](#) (draft) and [The Deposit and Return Scheme for Scotland \(Designation of Scheme Administrator\) Order 2025](#) (draft) laid before the Scottish Parliament.

# Consideration by the Delegated Powers and Law Reform (DPLR) Committee

16. The DPLR Committee considered the instruments on 20 May 2025 and reported on them in its [35<sup>th</sup> Report, 2025](#). The DPLR Committee raised points in relation to both instruments.

[Read the Official Report - 20 May 2025.](#)

17. The DPLR Committee reported 7 drafting issues with the Regulations under the general reporting ground. Many of these the Scottish Government committed to correcting. However, it did not commit to undertake corrective action on two matters:
1. New schedules 1A, 1B and 1C specify information to be provided in various applications under the regulations. One such bit of information is: “Where the [body] is a company, the company registration number as kept by Companies House, if applicable”. The DPLR Committee considered it to be more in line with standard drafting practice to stop the sentence after “number”. Their report stated that “If applicable” is redundant if the body is a company, and the company’s registered number is not normally described in legislation as being “kept by” Companies House. The Scottish Government considered that the drafting is acceptable, citing the same drafting in the 2020 DRS regulations. However, the DPLR Committee considers that the wording, while not likely to cause confusion, is not in line with standard drafting practice and highlights that there is time to make changes to the drafting in both instances before the DRS comes into operation.
  2. Regulation 31(7A) (inserted by regulation 28(f) of the instrument) creates an offence of failure by the scheme administrator to comply with a request for payment by SEPA of SEPA’s costs under new regulation 30A. New regulation 30A provides that the payment is to be made in a way that is to be agreed between SEPA and the Scheme Administrator. The DPLR Committee report states that “It is relatively unusual that the person whose failure to comply would constitute an offence is given power to agree the terms with which it must comply”. The Scottish Government accepted that the wording of the provision may be unusual but explained that it is the policy intention for the deposit and return scheme to be run by industry through the body that industry has set up as the scheme administrator and the Government does not want to specify how costs are to be paid. The Government considers this an operational matter that would be included in the operational plan that has to be approved by SEPA. The DPLR Committee report states that the Committee “notes the unusual nature of this aspect of the new offence. As this is bound up with policy decisions this is something that the lead Committee may wish to pursue”.
18. The DPLR Committee also reported this instrument under reporting ground (i), “defective drafting”. This indicates a more serious drafting concern than those reported under the general reporting ground, one which could impact on the operability of the instrument. The error related to applications for exemptions for

operating a return point. Exemptions can be given on the basis of “location, layout, **size**, design or construction” (emphasis added). However, in Schedule 1C there is a list of information that a groceries retailer who wishes to apply for an exemption must provide in their application. This includes information to demonstrate that the premises are unsuitable on the basis of their: “location, layout, design, or construction”. “Size” is missing from this list. The Scottish Government has advised it will take corrective action on this point.

19. In respect of the Order, the DPLR Committee reported two drafting issues under the general reporting ground; one more serious drafting issue under reporting ground (i), “defective drafting” (the same issue as set out above in respect of “size” being missing from a list of grounds which the Scheme Administrator is to consider); and one issue under reporting ground (h), “meaning could be clearer”. The Scottish Government has undertaken to take corrective action on all of these points.

# Consideration by the Net Zero, Energy and Transport Committee

20. At its meeting on 27 May 2025, the Committee took evidence on the draft Regulations and draft Order from—
- Gillian Martin, Acting Cabinet Secretary for Net Zero and Energy, Scottish Government;
  - Giles Hendry, Policy Officer, Deposit Return Scheme;
  - Ailsa Heine, Solicitor, Scottish Government; and
  - Haydn Thomas, Producer Responsibility Unit Head, Scottish Government.

21. The evidence taken and debate held at that meeting regarding this instrument can be found in the Official Report.

[Read the Official Report - 27 May 2025.](#)

22. In her opening statement, the Cabinet Secretary stated the Scottish Government's commitment to a DRS to improve recycling rates and outlined the work that had been undertaken "with industry, stakeholders, the UK Government and other devolved Governments to agree the principles of a DRS that will operate compatibly". She said these instruments will enable DRSs in Scotland, England and Northern Ireland to "operate seamlessly with each other and launch jointly on 1 October 2027". She said she wanted to "continue to engage constructively with industry and with the other nations across the UK to support the successful delivery of our DRS in 2027".<sup>1</sup>

23. In response to a question about the substantive changes being made to the Scottish DRS to align it with the other nations, the Cabinet Secretary listed the revised launch date, the increase in the minimum container size, the removal of glass and the exemption for retailers with small premises (matters highlighted earlier) as well as:
- Producers being required to register with the scheme administrator rather than SEPA;
  - Take-back services may be provided voluntarily and organisations must register to operate take-back services;
  - The scheme administrator will have additional functions, including - issuing a logo and a machine-readable code, determining the deposit level, and determining applications for an exemption from operating a return point.<sup>2</sup>

24. The Cabinet Secretary said she thought the exclusion of glass was the most significant change. She re-iterated the Scottish Government's views that: "a deposit return scheme that deals with aluminium cans and plastic bottles but without glass is better than no scheme at all". She considered that this scheme would still "make a substantial difference to recycling rates" and reduce litter.<sup>3</sup>

25. The Committee asked how excluding glass affects the economics of the scheme. The Cabinet Secretary said this would be variable across Scotland as some local authorities collect glass and others do not. Whilst the Scottish Government had wanted glass included, she said the scheme would still be economical without it:
- ” the biggest saving relates to the materials—the recovery of the plastics and aluminium that will be associated with the deposit and return scheme... There will be a material impact on the amount of litter and the amount of clean-up that local authorities are charged with doing. <sup>4</sup>
26. A Scottish Government official added that the net present value for the amended scheme, excluding glass, "is estimated to be £366 million over 10 years, so it still has a clear net present value and economic benefit". He said that with glass included "... there was a higher net present value, which is why including glass was originally our preferred option, but the removal of glass still leaves a significant benefit". <sup>5</sup>
27. How the DRS sits alongside extended producer responsibility ("EPR") was also discussed. EPR requires producers to cover the costs of managing packaging waste. Glass is covered by EPR, so the "polluter pays" principle applies and producer covers the cost of managing the waste. A Scottish Government official stated that:
- ” The DRS offers producers a way to have a separate system that is outside EPR. That is what we have now for metal and plastics. Glass would have been taken out of the EPR system and into the DRS. Taking glass out of the DRS means that it goes back into EPR, so those costs are still covered. <sup>6</sup>
28. The Committee asked the Cabinet Secretary the about the decision of the Welsh Government to pursue its own DRS, not aligned with the other governments and including glass and her understanding of how this would work in the context of the UK Internal Market Act 2020. She said she understood that the Welsh Government was still in negotiation with the UK Government about an exclusion under the Internal Market Act:
- ” It will be very interesting for Scotland, the UK and Northern Ireland to look at what happens in Wales, because if it is able to have its own scheme that includes glass, it will give us a template. We will be able to look at how it works and at the recycling rates and learn from them. <sup>7</sup>
29. The Committee queried what had changed between now and June 2023 when the UK Government granted a temporary and limited exclusion under the Internal Market Act for a Scottish DRS without glass. The Cabinet Secretary re-iterated that the Parliament had passed the initial DRS regulations with glass included, as the Scottish Government had wanted, but when that option was closed down, the Scottish Government had entered into intergovernmental discussions about a UK-wide scheme. The interoperability of the Scottish scheme with the proposed UK scheme, in particular differing deposit levels, was also highlighted as an issue that arose in June 2023. <sup>8</sup>
30. The Committee asked how the Scottish Government had engaged with stakeholders about the revised scheme now being proposed and whether any

particular concerns been raised by smaller producers, local authorities or non-governmental organisations. The Cabinet Secretary said that the Government has "been having a great deal of discussion with stakeholders on all of this". She stated that one of the concerns of small producers was having mandatory take-back schemes. With the changes being made by these Regulations, this would be voluntary. She said the Scottish Grocers Federation still had questions about handling fees. The Scottish Government wants these to be proportionate but the Federation want assurances on this from the Scheme Administrator.<sup>9</sup>

31. A Scottish Government official added that these Regulations: "leave the scheme as a whole substantially unchanged" and the principles of the scheme were consulted on "in depth before laying the original regulations". He said many of the changes being made by the Regulations were "operational" rather than fundamental. He said the exclusion of glass was the key change and has "probably been the main point on which we have engaged with businesses over the past five years or so, and it is also something that the UK Government consulted on as part of its consultation".<sup>10</sup>
32. The Committee also sought clarifications about how a groceries retailer would to apply for an exemption from operating a return point on the ground of there being an alternative return point within reasonable proximity. The Cabinet Secretary confirmed that exemptions would be determined by the Scheme Administrator, with an appeal process (a new addition under the Regulations).<sup>11</sup>
33. The Committee asked how the Regulations would ensure a good distribution of return points, especially in rural areas and on the islands. The Cabinet Secretary said this is something the Scheme Administrator will take into account. She acknowledged a potential issue in rural areas with no large supermarkets. There would be an exemption for smaller retailers in urban areas but not in rural areas:
  - ” In a rural area, there will be an expectation that a convenience store—which might be the only such store on, say, an island—will have a return point. After all, we do not want to disenfranchise people living in island communities; they will be paying the deposit on their drinks containers, so they will want to get that back. The scheme administrator will be working with small vendors to ensure they have that capacity.<sup>12</sup>
34. The Committee also discussed "closed-loop venues" where single use items are not expected to leave the premises (for example pubs). The ability to have closed-loop premises remains the same as the previous Regulations. A Scottish Government official explained:
  - ” In that situation, the pub does not need to charge you the 20p when it hands you the can or pours it behind the bar; that 20p never does the loop through your hands. You do not have to worry about what happens to that can.

It can, in theory, be argued that if you have not been charged the 20p at the bar, you can pocket the can and take it somewhere else. That can always happen, and there might be leakage, but it is then for the business to decide how it deals with people potentially taking their Coke cans home at the end of the night.<sup>13</sup>
35. The Committee also asked about how the Scheme Administrator had been chosen.

The Cabinet Secretary explained that:

” Interested parties were invited to submit applications to be designated as the scheme administrator for the DRS in Scotland, and that window was open from 2 December to 3 February. The application process requested essential information about the applicant and information on operational plans, financial management and cross-cutting issues. Officials assessed the applications in accordance with the three-nation process. All three nations were involved in deciding on which applicant became the scheme administrator. Based on the assessment of the applicants, ministers from the three nations concluded that the UK DMO Ltd application was successful. <sup>14</sup>

36. An official expanded that officials from the Scottish Government, UK Government and Northern Irish Administration were all involved in developing the assessment process, contributing "questions for the applicant about what mattered to each Administration". He said that this included questions about "how applicants planned to make sure that rural and island areas would be well served by return points". <sup>15</sup>
37. The Committee questioned what happens if problems come to light with the Scheme Administrator in Scotland in future now that there is an aligned approach with England and Northern Ireland. The Cabinet Secretary confirmed that the Scheme Administrator is answerable to the Scottish Government for how the scheme operates in Scotland and so it would be possible to make changes if that was considered necessary. She also clarified that while the Scottish, English and Northern Irish systems are linked in terms of operability, and have the same Scheme Administrator, they are three separate systems.
38. Following the conclusion of evidence taking, the Cabinet Secretary moved motion S6M-17469 in her name—

That the Net Zero, Energy and Transport Committee recommends that the Deposit and Return Scheme for Scotland Amendment Regulations 2025 [draft] be approved.

39. The points highlighted by Committee Members in the debate were:
- Douglas Lumsden stated that a lot of unknowns remain about the scheme - in particular, about closed-loop premises, what the deposit level will be and handling fees;
  - Douglas Lumsden also considered that there had been a lack of consultation on the changes to the scheme since the previous regulations and lack of clarity on why the position of the Scottish Government differs now than in June 2023 (when a limited exclusion to the Internal Market Act, to proceed with a DRS without glass, was granted);
  - Sarah Boyack considered that there have been too many delays to the DRS which has not been good for businesses, producers or the hospitality sector and there is a need to move forward;
  - Sarah Boyack also stated that there is a need to work with local authorities, and invest, to address issues with glass recycling;

- Mark Ruskell considered that it is regrettable that the scheme does not include glass but "we cannot let the perfect be the enemy of the good" as we are losing time in a climate emergency.<sup>16</sup>
40. The Cabinet Secretary responded to the debate to state that: "Douglas Lumsden has made it clear that he is not in favour of this, but the scheme administrator has the power to respond to a lot of his questions and to implement answers".<sup>17</sup>
41. The motion was agreed to on a division (For 5, Against 0, Abstentions 1).<sup>i</sup>
42. The Cabinet Secretary then moved motion S6M-17470 in her name—
- That the Net Zero, Energy and Transport Committee recommends that the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 [draft] be approved.
43. Douglas Lumsden contributed to the debate to clarify that he is not opposed to the scheme, stating: "My position is that, given that there is so much information that we do not have just now, it is too difficult to say whether I am in favour of the scheme".<sup>18</sup>
44. The motion was agreed to on a division (For 5, Against 0, Abstentions 1).<sup>ii</sup>

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<sup>i</sup> For: Sarah Boyack, Bob Doris, Ben Macpherson, Michael Matheson, Mark Ruskell.  
Abstention: Douglas Lumsden

<sup>ii</sup> For: Sarah Boyack, Bob Doris, Ben Macpherson, Michael Matheson, Mark Ruskell.  
Abstention: Douglas Lumsden

# Conclusion

The Net Zero, Energy and Transport Committee recommends that the Deposit and Return Scheme for Scotland Amendment Regulations 2025 [draft] and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 [draft] be approved.

## **Net Zero, Energy and Transport Committee**

Net Zero, Energy and Transport Committee report on the Deposit and Return Scheme for Scotland Amendment Regulations 2025 and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025,

- 1 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 21-22
- 2 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 23
- 3 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 24
- 4 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 30
- 5 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 31
- 6 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 31
- 7 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 33
- 8 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 34-35
- 9 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 25
- 10 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 25
- 11 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 26-27
- 12 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 27
- 13 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 29
- 14 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 36
- 15 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 37
- 16 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 40-41
- 17 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 41
- 18 Net Zero, Energy and Transport Committee, [Official Report, 27 May 2025](#) , Col: 42

