



The Scottish Parliament
Pàrlamaid na h-Alba

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

By email only

**Net Zero, Energy and Transport
Committee**

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
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23 April 2024

Dear Lorna,

Provisional Resources and Waste Common Framework

Thank you for your letter of 18 January 2023¹ on the publication of the provisional [Resources and Waste Common Framework \(RWCF\)](#). You invited the Committee to scrutinise this. The Committee agreed to do so as part of its work on the Circular Economy (Scotland) Bill which was introduced on 13 June 2023.

The Committee has concluded its Stage 1 deliberations on the Bill and its consideration of the provisional Resources and Waste Common Framework. The Annexe to this letter contains details of the evidence we received on the Framework, along with our conclusions and recommendations.

Yours sincerely,

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee

¹ [Letter](#) from the Minister for Green Skills, Circular Economy and Biodiversity on the provisional Resources and Waste Common Framework – 18 January 2023.

Annexe - Resources and Waste Common Framework

The Committee notes that in 2017, the UK and devolved Governments agreed—

"...to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. A framework will set out a common UK, or GB, approach and how it will be operated and governed."²

A key principle of common frameworks is to "enable the functioning of the UK internal market, while acknowledging policy divergence".³ It was also thought the frameworks should "lead to a significant increase in decision-making powers for the devolved administrations."⁴

The provisional Resources and Waste Common Framework (RWCF)⁵ was published in December 2022. Although provisional, it was through this framework the Scottish Government attempted to obtain exemptions to the UK Internal Market Act 2020 (UKIMA) for the ban on single use plastics⁶ and the operation of a deposit return scheme⁷. It has since been used to discuss a UK wide approach to banning single use vapes.⁸

As with other common frameworks, the Committee agreed to scrutinise the draft. The Committee sought views on its operation as part of its call for views on the Circular Economy (Scotland) Bill.

Views expressed included—

- Stakeholders, and in particular businesses, stated the importance of UK wide aligned approaches.⁹ In the specific context of the Circular

² UK Government (2017). [JOINT MINISTERIAL COMMITTEE \(EU NEGOTIATIONS\) COMMUNIQUE](#).

³ UK Government (2017). [JOINT MINISTERIAL COMMITTEE \(EU NEGOTIATIONS\) COMMUNIQUE](#).

⁴ UK Government (2017). [JOINT MINISTERIAL COMMITTEE \(EU NEGOTIATIONS\) COMMUNIQUE](#).

⁵ UK Government (2022). [Resources and Waste Provisional Common Framework Outline Agreement and Concordat](#)

⁶ Net Zero, Energy and Transport Committee, [Official Report](#), 14 March 2023, Col 58 (Lorna Slater MSP, Minister for Green Skills, Circular Economy and Biodiversity).

⁷ Net Zero, Energy and Transport Committee, [Official Report](#), 14 March 2023, Col 56 (Lorna Slater MSP, Minister for Green Skills, Circular Economy and Biodiversity).

⁸ [Letter](#) from the Minister for Green Skills, Circular Economy and Biodiversity on an exclusion for the sale and supply of single-use vapes from the market access principles of the UK Internal Market Act – 29 January 2024.

⁹ Net Zero, Energy and Transport Committee, [Official Report](#), 26 September 2023, Col 4 (Cat Hay, Food and Drink Federation Scotland), and written submissions from NFU Scotland, Scottish Grocers Federation, Aberdeenshire Council, Dundee City Council, West Lothian Council, East Ayrshire Council, Keep Scotland Beautiful, Aberdeenshire Council, Charity Retail Association, the Chartered Institute for Waste Management Scotland, McDonalds, British Soft Drink Association, Moray Council, Consumer Scotland and Scottish Retail Consortium.

Economy (Scotland) Bill, consistency and commonality at a UK, and international, level were considered helpful and something the Bill should facilitate.¹⁰ However, it was suggested the RWCF does not currently "... adequately emphasise cohesive collaboration during its policy design phase. This lack of focus can undermine initiatives like DRS by creating consumer confusion and increasing the risk of cross-border fraud."¹¹

- We heard that differing policy approaches could help elevate, or expedite elevation, of standards across the UK.¹² However, it was noted that UKIMA issues could arise where Scotland was ahead of the timetable of other nations for the introduction of waste reduction measures.¹³
- Coherent strategies and policies were thought necessary.¹⁴ Reasons for this included avoidance of unintended consequences¹⁵ and disproportionate impacts on certain sectors (such as agriculture).¹⁶ In the specific context of the Circular Economy (Scotland) Bill it was suggested more detail was required to facilitate analysis of the effects on different sectors.¹⁷
- The framework should support the principles of enabling the function of the UK Internal Market and of increasing the decision making powers for devolved administrations. The required levels of "cooperation and pragmatism" to achieve these were thought to be lacking.¹⁸ The success of the framework was described as reliant on "good faith"¹⁹ and "continuing investment and goodwill".²⁰ We heard calls for the framework to focus on "cross-governmental collaboration".²¹

¹⁰ Written submissions from Aberdeenshire Council, Dundee City Council and Resource Management Association Scotland.

¹¹ Written submission from the British Soft Drink Association.

¹² Net Zero, Energy and Transport Committee, [Official Report](#), 14 November 2023, col 42 (Kim Pratt, Friends of the Earth Scotland)

¹³ Written submissions from Keep Scotland Beautiful and Chartered Institute of Waste Management Scotland.

¹⁴ Written submission from the British Soft Drink Association.

¹⁵ Net Zero, Energy and Transport Committee, [Official Report](#), 26 September 2023, Col 8 (Ewan MacDonald-Russell, Scottish Retail Consortium).

¹⁶ Written submission from NFU Scotland.

¹⁷ Written submission from NFU Scotland.

¹⁸ [Food and Drink Federation Scotland](#) - Written Submission to the House of Commons Environmental, Food and Rural Affairs Committee May 2023.

¹⁹ Net Zero, Energy and Transport Committee, [Official Report](#), 14 November 2023, Col 42 (James Mackenzie, Action to Protect Rural Scotland)

²⁰ Written submission from Met4Tech.

²¹ Written submission from British Soft Drink Association.

- Stakeholders hoped the framework would provide stability and prevent a situation like the attempted implementation of a deposit return scheme in Scotland occurring again.²²
- The non-binding nature of the operation of the framework allowed for local flexibility.²³ The framework was described as "a statement of intent" which "enables devolved nations to share progress and create bills which will work best for their respective nation".²⁴
- The framework contains a limited dispute resolution mechanism but not a final arbiter.²⁵ The Committee notes the dispute resolution mechanism concludes with reference to the process outlined in the Memorandum of Understanding on Devolution²⁶ which involves reference to the Joint Ministerial Committee and will "result in a Ministerial decision".²⁷
- A circular economy, or specific policy measures, do not feature prominently in the RWCF. It was suggested the framework should spell out how policies such as Extended Producer Responsibility will be delivered in a coordinated way.²⁸

The Minister for Green Skills, Circular Economy and Biodiversity has said the common framework "worked well"²⁹ for the ban on single use plastics. But it was the Scottish Government's view it was "ignored"³⁰ during the process of negotiating an exemption for the deposit return scheme.

On 16 November 2022, the Committee wrote to the Scottish Government on its consideration of other draft environmental common frameworks operating on policy areas within the Committee's remit. We said—

"The Committee recommends for the Scottish Government to work with the UK Government to provide clearer guidance for how Common Frameworks will operate within the current regulatory landscape in Scotland, particularly with regards to its interaction with the UK Internal

²² Written submissions from Stirling Council, West Lothian Council, East Ayrshire Council and British Glass.

²³ Written submission from the UKRI CircularChem Centre.

²⁴ Written submission from the UKRI CircularChem Centre.

²⁵ [Food and Drink Federation Scotland](#) - Written Submission to the House of Commons Environmental, Food and Rural Affairs Committee May 2023.

²⁶ UK Government (2013). [Memorandum of Understanding and Supplementary Agreements Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee.](#)

²⁷ UK Government (2022). [Resources and Waste Provisional Common Framework Outline Agreement and Concordat.](#)

²⁸ Written Submission from Keep Scotland Beautiful.

²⁹ Net Zero, Energy and Transport Committee, [Official Report](#), 14 March 2023, Col 58.

³⁰ UK Government (2023). [Inter Ministerial Group for Environment, Food and Rural Affairs \(IMG EFRA\) Communiqué: 22 May 2023.](#)

Market Act 2020, devolved competence, international trade treaties and the role of environmental oversight and enforcement bodies.”³¹

In her response, the then Minister for Environment and Land Reform said she intended to wait until the other UK legislatures had completed their scrutiny of these frameworks before providing a response to the Committee.³² The Committee notes that in December 2023, the Scottish Government said it did not believe Common Frameworks should be reviewed and called for more consistent application of existing agreed approaches.³³

Conclusions

The Committee notes the Resources and Waste Common Framework is still provisional to allow for parliamentary scrutiny around the UK. However, it is operating. Given the situation which has arisen in attempting to implement a deposit return scheme in Scotland, it does not appear to the Committee it is operating optimally. The Scottish and UK Governments have different opinions on the reasons for that. The UK Internal Market Act 2020 is a complicating factor in the operation of this and other common frameworks.

In light of this, the Committee believes it necessary to consider whether the Resource and Waste Common Framework contains sufficient guidance on how Governments should work together to navigate the UK Internal Market Act 2020 challenges.

The Committee maintains its recommendation made on previous common frameworks that the Scottish Government must seek to work with the UK Government "to provide clearer guidance for how Common Frameworks will operate within the current regulatory landscape in Scotland, particularly with regards to its interaction with the UK Internal Market Act 2020, devolved competence, international trade treaties and the role of environmental oversight and enforcement bodies.”³⁴

³¹ [Letter](#) from the Convener to the then Minister for Environment and Land Reform on provisional environmental common frameworks - 16 November 2022.

³² [Letter](#) from the then Minister for Environment and Land Reform to the NZET Committee on provisional environmental common frameworks, 30 January 2023.

³³ [Letter](#) from the Cabinet Secretary for Constitution, External Affairs and Culture to the Convener of the Constitution, Europe, External Affairs and Culture Committee in response to its report on How Devolution is Changing Post EU Exit - 21 December 2023

³⁴ [Letter](#) from the Convener to the then Minister for Environment and Land Reform on Provisional Environmental Common Frameworks - 16 November 2022